

In the Matter of WEYERHAEUSER TIMBER COMPANY and KLAMATH  
BASIN DISTRICT COUNCIL, LUMBER AND SAWMILL WORKERS UNION,  
A. F. OF L.

*Case No. 19-R-1489.—Decided July 6, 1945*

*Mr. C. L. Irving*, of Klamath Falls, Oreg., for the Company.

*Messrs. Don Gilman and William Wedel*, of Klamath Falls, Oreg., for  
the L. & S. W.

*Mr. George Brown*, of Portland, Oreg., and *Mr. Vernon N. Chase*, of  
Klamath Falls, Oreg., for the I. W. A.

*Miss Aida Casanas*, of counsel to the Board.

DECISION  
AND  
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by Klamath Basin District Council, Lumber and Sawmill Workers Union, A. F. of L., herein called the L. & S. W., alleging that a question affecting commerce had arisen concerning the representation of employees of Weyerhaeuser Timber Company, Klamath Falls, Oregon, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before John E. Hedrick, Trial Examiner. Said hearing was held at Klamath Falls, Oregon, on April 17, 1945. The Company, the L. & S. W., and International Woodworkers of America, C. I. O., herein called the I. W. A., appeared and participated. All parties were afforded full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing on the issues. At the end of the hearing the I. W. A. moved to dismiss the petition on the ground that the L. & S. W. did not show sufficient representation. In view of the findings of fact set forth in Section III, *infra*, the motion is hereby denied. The Trial Examiner's rulings made at the hearing are free from prejudicial error and are hereby affirmed. All parties were afforded an opportunity to file briefs with the Board:

Upon the entire record in the case, the Board makes the following:

62 N. L. R. B., No. 150.

## FINDINGS OF FACT

## I. THE BUSINESS OF THE COMPANY

Weyerhaeuser Timber Company is a Washington corporation engaged in mill operations near Klamath Falls, Oregon, the only branch with which we are concerned. The mill produces approximately 200,000,000 board feet of finished lumber per year. The logs or raw materials used for the milling operations originate within the State of Oregon; however, 95 percent of the products of the Company is shipped to points outside the State of Oregon.

The Company admits that it is engaged in commerce within the meaning of the National Labor Relations Act.

## II. THE ORGANIZATIONS INVOLVED

Lumber and Sawmill Workers Union, affiliated with the American Federation of Labor, is a labor organization admitting to membership employees of the Company.

International Woodworkers of America, Local No. 6-12, affiliated with the Congress of Industrial Organizations, is a labor organization admitting to membership employees of the Company.

## III. THE QUESTION CONCERNING REPRESENTATION

On January 29, 1945, the L. & S. W. requested recognition of the Company as collective bargaining agent for certain employees. The Company replied, denying the request unless the L. & S. W. be certified by the Board, and stating that I. W. A. had been certified as collective bargaining agent for its production employees.

On April 30, 1943, the Company and the I. W. A. entered into a contract covering the employees now requested by the L. & S. W. This contract was to remain in effect from year to year unless either party notified the other of a desire to negotiate changes therein not less than 60 days prior to April 1 of any year. The record does not indicate that either of the parties to the contract ever gave notice of a desire to change or terminate the contract. The petitioner's notice was timely, however, and none of the parties urges the contract as a bar to the present proceeding.

A statement of a Board agent, introduced into evidence at the hearing, indicates that the L. & S. W. represents a substantial number of employees in the unit hereinafter found appropriate.<sup>1</sup>

<sup>1</sup> The Field Examiner reported that the L. & S. W. submitted 107 designation cards dated as follows: 1 in April 1944, 1 in June 1944, 103 in 1945, and 2 undated. It appears that at the time of the hearing there were 447 employees in the unit hereinafter found appropriate.

The I. W. A. contends that the L & S W. has not made a sufficient showing of interest to warrant the conduct of an election in view of the existing contract between the Company and the I. W. A. The 1943 contract contains a maintenance of membership clause and in view of this fact we consider the showing made by the L. & S. W. sufficient to warrant an election. See *Matter of Gibbs Gas Engine Company*, 55 N. L. R. B. 492.

We find that a question affecting commerce has arisen concerning the representation of employees of the Company, within the meaning of Section 9 (c) and Section 2 (6) and (7) of the Act.

#### IV. THE APPROPRIATE UNITS

Pursuant to several decisions of the Board,<sup>2</sup> the following units have been established for the employees of the Company at its Klamath Falls operations, for the purposes of collective bargaining:

1. All conductors and brakemen employed in the logging trains, represented by the Brotherhood of Railroad Trainmen pursuant to a certification issued in May 1941.

2. All firemen, engineers and hostlers therein, represented by Brotherhood of Locomotive Firemen and Enginemen, pursuant to a certification issued on the same date.

3. All employees in the machine shop, including all electricians, car men, millwrights, and their helpers, represented by International Association of Machinists, pursuant to certifications issued in May 1941 and October 1942.

4. All employees in the logging operations, presently represented by the I. W. A., pursuant to a certification issued in June 1942.

5. All production and maintenance employees in the mill operations, presently represented by the I. W. A., pursuant to a certification issued in October 1942.

The L. & S. W. now seeks to represent all employees at the Company's mill operations. The I. W. A. contends that since it has been the bargaining agent for employees in both mill and woods operations, it has negotiated at the same time virtually identical contracts covering both these groups, and that, therefore, both groups together now comprise the appropriate bargaining unit. The Company urges the same contention that it made in the prior proceedings involving its employees, maintaining that all its employees at Klamath Falls<sup>3</sup> should be combined in a single bargaining unit. None of the interested labor organizations joins the Company in this contention, which envisages the merger of three craft units established by the Board and presently represented by labor organizations' not parties hereto. We, therefore, reject the Company's contention.

Notwithstanding the similarity of the I. W. A.'s contracts covering the mill and woods employees, respectively, the provisions thereof are not identical and we are of the opinion that a true consolidation of the two units has not been achieved. These two groups of employees are functionally different and can properly be represented separately, although we

<sup>2</sup> See *Matter of Weyerhaeuser Timber Company*, 30 N. L. R. B. 872, and 31 N. L. R. B. 843 (certification), 39 N. L. R. B. 48, and 41 N. L. R. B. 759 (certification); 42 N. L. R. B. 499, and 44 N. L. R. B. 1092 (certification).

have held that mill and woods employees may be combined in a single unit if that is the desire of the employees involved.<sup>8</sup> Under these circumstances we adhere to our prior determination and find that the millworkers are a functionally distinct group which constitutes an appropriate unit, apart from other employees of the Company.

There is no dispute among the parties as to the composition of the unit confined to the sawmill employees. In accordance with our previous determination and the agreement of the parties we find that all production and maintenance employees in the Company's mill operations at Klamath Falls, Oregon, but excluding employees in the machine shop, electricians, car men, millwrights and their helpers, conductors, brakemen, firemen, engineers and hostlers on the Company's logging trains, employees in the Company's logging operations, all clerical employees, and foremen and any other supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively recommend such action, constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the Act.

#### V. THE DETERMINATION OF REPRESENTATIVES

We shall direct that the question concerning representation which has arisen be resolved by an election by secret ballot among the employees in the appropriate unit who were employed during the pay-roll period immediately preceding the date of the Direction of Election herein, subject to the limitations and additions set forth in the Direction.

#### DIRECTION OF ELECTION

By virtue of and pursuant to the power vested in the National Labor Relations Board by Section 9 (c) of the National Labor Relations Act, and pursuant to Article III, Section 9, of National Labor Relations Board Rules and Regulations—Series 3, as amended, it is hereby

DIRECTED that, as part of the investigation to ascertain representatives for the purposes of collective bargaining with Weyerhaeuser Timber Company, Klamath Falls Branch, Klamath Falls, Oregon, an election by secret ballot shall be conducted as early as possible, but not later than thirty (30) days from the date of this Direction, under the direction and supervision of the Regional Director for the Nineteenth Region, acting in this matter as agent for the National Labor Relations Board, and subject to Article III, Sections 10 and 11, of said Rules and Regulations, among the employees in the unit found appropriate in Section IV, above, who were employed

<sup>8</sup> See *Matter of California Door Company*, 52 N. L. R. B. 68; *Matter of Siuslaw Forest Products Company, Inc.*, 55 N. L. R. B. 1115; cf. *Matter of Bethlehem-Fairfield Shipyard, Incorporated*, 58 N. L. R. B. 579.

during the pay-roll period immediately preceding the date of this Direction, including employees who did not work during the said pay-roll period because they were ill or on vacation or temporarily laid off, and including employees in the armed forces of the United States who present themselves in person at the polls, but excluding any who have since quit or been discharged for cause and have not been rehired or reinstated prior to the date of the election, to determine whether they desire to be represented by Lumber and Sawmill Workers Union, A. F. of L., or by International Woodworkers of America, Local Union 6-12, C. I. O., for the purposes of collective bargaining, or by neither.

CHAIRMAN HERZOG took no part in the consideration of the above Decision and Direction of Election.