

In the Matter of STANDARD OIL COMPANY OF CALIFORNIA *and* SAILORS' UNION OF THE PACIFIC, AFFILIATED WITH THE AMERICAN FEDERATION OF LABOR

In the Matter of STANDARD OIL COMPANY OF CALIFORNIA *and* SEAFARERS INTERNATIONAL UNION OF NORTH AMERICA, PACIFIC DISTRICT, ENGINE DIVISION, AFFILIATED WITH THE AMERICAN FEDERATION OF LABOR

In the Matter of STANDARD OIL COMPANY OF CALIFORNIA *and* SEAFARERS INTERNATIONAL UNION OF NORTH AMERICA, PACIFIC DISTRICT, STEWARDS' DIVISION, AMERICAN FEDERATION OF LABOR

*Cases Nos. 20-R-1287 through 20-R-1289, respectively.—Decided
July 10, 1945*

Pillsbury, Madison & Sutro, by Mr. Norbert Korte, of San Francisco, Calif., for the Company.

Mr. Charles J. Janigian and Mr. H. C. Banks, of San Francisco, Calif., for the S. U. P. and the S. I. U.

Mr. Thomas M. Carlson, of Richmond, Calif., for the S. M. E. A.

Mr. Herbert C. Kane, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTIONS

STATEMENT OF THE CASE

Upon separate petitions duly filed by Sailors' Union of the Pacific, by Seafarers International Union of North America, Pacific District, Engine Division, and by Seafarers International Union of North America, Pacific District, Stewards' Division, all affiliated with the American Federation of Labor, herein collectively called the S. U. P. - S. I. U., alleging that questions affecting commerce had arisen concerning the representation of employees of Standard Oil Company of California, San Francisco, California, herein called the Company, the National Labor Relations Board consolidated the cases and provided for an appropriate hearing upon due notice before Robert E. Tillman, Trial Examiner. Said hearing was held at San

62 N. L. R. B., No. 166.

Francisco, California, on April 3 and 5, 1945. The Company, the S. U. P. - S. I. U., and Standard Marine Employees Association, herein called the S. M. E. A., appeared, participated,¹ and were afforded full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing on the issues.² At the hearing, the Company and the S. M. E. A. moved for a continuance of the hearing for the purpose of holding a consent election in the units sought by the S. U. P. - S. I. U. The Trial Examiner denied the motions for a continuance, but referred the motions for a consent election to the Board for ruling thereon. We hereby deny the motion of the S. M. E. A. in view of our holding above that since the S. M. E. A. is company-dominated, its claims will not be considered. We also deny the Company's motion to the same effect, since it is clear that its motion was premised on the participation of the S. M. E. A. in such elections, and since it is apparent that subsequent to this motion, the Company changed its position as to the appropriate unit. 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:

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

Standard Oil Company of California, a Delaware corporation, maintains its principal offices in San Francisco, California. The Company is engaged in the production, refining, transportation, sale, and distribution of petroleum products. It and its subsidiaries and affiliates own, lease, or hold under contract extensive oil lands in the United States and foreign countries. The Company owns and operates refineries at Richmond, Bakersfield, and El Segundo, California, and, in addition to these operations, through subsidiaries, operates refineries in Texas and British Columbia. The Company also operates 15 seagoing tankers, and 11 inland vessels in San Francisco Bay and its tributaries. The present proceedings involve only those employees of the Company on its 11 inland vessels operating in San Francisco Bay and its tributaries. The inland vessels are used to transport petroleum products to customers, ships, and plants, and to company redistribution centers. During the year 1944, the Company produced approximately 90,000,000 barrels of refined petroleum products, of which 38.2 percent was shipped from the State of California to various other States of the United States and to foreign countries.

¹ At the hearing the Trial Examiner granted the motion of the S. M. E. A. to intervene. However, since the Board, thereafter, in Cases Nos. 20-C-1231 and 20-C-1274 found the S. M. E. A. to be company-dominated, we shall not afford it a place on the ballot in the elections hereinafter directed among the employees of the Company and we hereby deny its claim as to the appropriate unit.

² Although served with notice of hearing, National Maritime Union, C. I. O., and Inland Boatmen's Union of the Pacific did not appear.

The Company admits, for the purposes of this proceeding, and we find, that it is engaged in commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATIONS INVOLVED

Sailors' Union of the Pacific; Seafarers International Union of North America, Pacific District, Engine Division; and Seafarers International Union of North America, Pacific District, Stewards' Division are labor organizations affiliated with the American Federation of Labor, admitting to membership employees of the Company.

III. THE QUESTIONS CONCERNING REPRESENTATION

The Company refused to recognize the S. U. P. - S. I. U. as exclusive bargaining representative of its harbor boat employees within the units alleged by the S. U. P. - S. I. U. as appropriate herein until "so designated by election by secret ballot among such employees because the S. M. E. A. has a contract covering such employees."³

A statement of a Board agent, introduced into evidence at the hearing, indicates that S. U. P. - S. I. U. represents a substantial number of employees in the units alleged by it to be appropriate⁴

We find that questions affecting commerce have 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

The S. U. P. - S. I. U. requested that the Board find three separate units among the unlicensed personnel of the deck, engine, and stewards' departments, respectively, of the Company's vessels operating in San Francisco Bay and its tributaries to be appropriate. Although the Company had at first indicated by its motion for a consent election that the units sought by the S. U. P. - S. I. U. were appropriate, its final position at the hearing was that the appropriate unit should be a single unit including both licensed and unlicensed personnel.

³ The Company apparently does not urge this contract as a bar to the instant proceedings. In any event, our finding in Cases Nos. 20-C-1231 and 20-C-1274 that the S. M. E. A. was company dominated renders the contract ineffectual as a bar.

⁴ The following tabulation sets forth the statement of the Field Examiner concerning the authorization evidence submitted by the participating labor organization:

Unit	Organization	No employees in unit	No. designations submitted	No checked on Company's pay roll of January 1, 1945
Deck Dept	S. U. P.	54	40	30
Engine Dept	S. I. U. (Engine)	13	10	8
Stewards' Dept.	S. I. U. (Stewards')	7	8	4

The employees in the departments here in question do work which is connected only with the operations of their respective departments, except in case of emergencies. The S. U. P. - S. I. U. have contracts covering units of the type here sought with other companies in the same area, and the Board has, in a recent decision involving the Company's deep water tankers, directed elections in three similar departmental units.⁵

Since, as appears above, we have heretofore found appropriate units similar to those petitioned for, and since we have held units including both licensed and unlicensed personnel to be inappropriate,⁶ we are of the opinion that the departmental units sought by the S. U. P. - S. I. U. will effectively preserve the rights of employees therein to bargain collectively through representatives of their own choosing.

The bargemen are unlicensed and have traditionally been admitted to membership in maritime labor organizations composed of unlicensed personnel and have been traditionally bargained for in the same unit with other unlicensed personnel. All parties desire their inclusion in the unit. We shall include them in the deck departmental unit hereinafter found appropriate.

We find that the following groups, excluding, except as otherwise specified, all supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively recommend such action, constitute units appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the Act.

1. All unlicensed personnel in the deck department of the Company's vessels operating in San Francisco Bay and its tributaries including bargemen, tankermen, and deckhands, and operators who are not licensed.

2. All unlicensed personnel in the engine department of the Company's vessels operating in San Francisco Bay and its tributaries including pumpmen, firemen, and oilers, if any.

3. All unlicensed personnel in the stewards' department of the Company's vessels operating in San Francisco Bay and its tributaries including cooks and mess boys.

V. THE DETERMINATION OF REPRESENTATIVES

We shall direct that the questions concerning representation which have arisen be resolved by elections 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 Elections herein, subject to the limitations and additions set forth in the Direction

⁵ *Matter of Standard Oil Company of California*, 58 N. L. R. B. 554. The Board held in the cited case that depending upon the desires of the employees, they could either function together or in separate departments for the purposes of collective bargaining.

⁶ *Matter of Steamer Service Company*, 58 N. L. R. B. 632, citing *N. L. R. B. v. Delaware-New Jersey Ferry Co.*, 128 F. (2d) 130 (C. C. A. 3), *en'g* as modified *Matter of Delaware New Jersey Ferry Co.*, 30 N. L. R. B. 820.

DIRECTION OF ELECTIONS

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 Standard Oil Company of California, San Francisco, California, elections 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 Twentieth 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 units found appropriate in Section IV, above, who were employed 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 those employees who have since quit or been discharged for cause and have not been rehired or reinstated prior to the elections, and, except as otherwise specified, further excluding all supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively recommend such action; (1) to determine with respect to the employees described in paragraph 1, of our finding in Section IV, *supra*, whether or not they desire to be represented by Sailors Union of the Pacific, affiliated with the American Federation of Labor, for the purposes of collective bargaining; (2) to determine with respect to the employees in the unit described in paragraph 2 of our finding in Section IV, *supra*, whether or not they desire to be represented by Seafarers International Union of North America, Pacific District, Engine Division, affiliated with the American Federation of Labor, for the purposes of collective bargaining; and (3) to determine with respect to the employees in the unit described in paragraph 3 of our finding in Section IV, *supra*, whether or not they desire to be represented by Seafarers International Union of North America, Pacific District, Stewards' Division, affiliated with the American Federation of Labor, for the purposes of collective bargaining.

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