

In the Matter of NORTH WHITTIER HEIGHTS CITRUS ASSOCIATION *and*
PRODUCE DRIVERS & EMPLOYEES UNION, LOCAL NO. 630, AFL

In the Matter of UPLANDS CITRUS ASSOCIATION *and* PRODUCE DRIVERS
& EMPLOYEES UNION, LOCAL NO. 630, AFL

In the Matter of DAMEREL-ALLISON COMPANY, AZUSA AVENUE PLANT
and PRODUCE DRIVERS & EMPLOYEES UNION, LOCAL NO. 630, AFL

*Cases Nos. 21-R-2943, 21-R-2944, and 21-R-2961, respectively.—
Decided August 9, 1945*

Mr. Ivan G. McDaniel, by Mr. William R. James, of Los Angeles, Calif., for the Companies; Mr. C. P. Blatz for Whittier; Mr. C. H. Larson for Uplands; and Mr. J. B. Hightower for Damerel.

Messrs. Kenneth Weston and Charles A. Neal, both of Los Angeles, Calif., for the A. F. L.

Messrs. Sanford Goldner, Dave Forbes, and Lorena Jump, of Redlands, Calif., for the C. I. O.

Mr. David V. Easton, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTIONS

STATEMENT OF THE CASE

Upon three separate petitions duly filed by Produce Drivers & Employees Union, Local No. 630, AFL, herein called the A. F. L., alleging that questions affecting commerce had arisen concerning the representation of employees of North Whittier Heights Citrus Association, Puente, California, herein called Whittier; Uplands Citrus Association, Uplands, California, herein called Uplands; and Damerel-Allison Company (Azusa Avenue Plant), Covina, California, herein called Damerel, collectively referred to herein as the Companies, the National Labor Relations Board consolidated the cases by an order dated July 11, 1945, and provided for an appropriate hearing upon due notice before William T. Whitsett, Trial Examiner. Said hearing was held at Los Angeles, California, on July 18, 1945. The Companies, the A. F. L., and Citrus Workers Organizing Committee, Food, Tobacco, Agricultural and Allied Workers of America, CIO, herein

called the C. I. O., appeared,¹ participated, and were afforded full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing on the issues. 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 COMPANIES

North Whittier Heights Citrus Association, a cooperative membership association operating under the California Agricultural Code, is engaged in packing, selling, and shipping citrus fruits. During 1943-1944, Whittier sold and shipped to purchasers located outside the State of California 217 carloads of lemons, valued in excess of \$350,000, and 619 carloads of oranges, valued in excess of \$1,000,000. During the 1944-1945 season to date, Whittier sold and shipped to purchasers located outside the State of California 26 carloads of grapefruit, valued in excess of \$40,000, and 31 carloads of oranges, valued at more than \$40,000.

Uplands Citrus Association, a cooperative membership association operating under the California Agricultural Code, is engaged in packing, selling, and shipping citrus fruits. During the year 1944, Uplands sold and shipped to purchasers located outside the State of California 828 carloads of oranges, valued in excess of \$1,500,000.

Damerel-Allison Company, a copartnership operating under the California Agricultural Code, is engaged in the packing, selling, and shipping of citrus fruits. During 1944-1945, to date, the Company has sold and shipped to purchasers located outside the State of California 349 carloads of citrus fruits, valued in excess of \$700,000.

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

II. THE ORGANIZATIONS INVOLVED

Produce Drivers & Employees Union, Local No. 630, affiliated with the American Federation of Labor, and Citrus Workers Organizing Committee, Food, Tobacco, Agricultural and Allied Workers of America, affiliated with the Congress of Industrial Organizations, are labor organizations admitting to membership employees of the Company.

¹ The Trial Examiner granted the C. I. O.'s motion to intervene in this consolidated proceeding despite objections by the A. F. L. and the Companies.

III. THE QUESTION CONCERNING REPRESENTATION

Each of the Companies refused to recognize either of the labor organizations herein as the representative of certain of its employees in the absence of certification by the Board.

Statements of a Field Examiner for the Board, introduced into evidence at the hearing, indicate that the A. F. L. represents a substantial number of employees in the units hereinafter found to be appropriate.²

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

IV. THE APPROPRIATE UNITS

Substantially in accordance with the agreement of the parties, we find the following appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the Act.

1. All packers, graders, sorters, washers, lidders, car loaders, truckers, and general floor help of Whittier, excluding all clericals (except checkers) and supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively recommend such action.

2. All packers, graders, sorters, washers, lidders, car loaders, truckers, and general floor help of Uplands, excluding all clericals (except checkers), and supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively recommend such action.

3. All production and maintenance employees and ice house employees of Damerel at its Azusa Avenue Plant, excluding office and clerical employees, and all supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively recommend such action.

V. THE DETERMINATION OF REPRESENTATIVES

We find that the questions concerning representation which have arisen can best be resolved by means of elections by secret ballot.

² The Field Examiner's reports indicate the following:

Company:	<i>Approximate Number of Employees in unit</i>	<i>Number of Designations Submitted by A. F. L.</i>
Whittier.....	95	53
Uplands.....	90	53
Damerel.....	30	21

His reports indicate that, although requested to do so, the C. I. O. submitted no evidence of its interest among the employees of the Companies. However, at the hearing, evidence was adduced indicating that the Companies will engage transitory employees and that the C. I. O. has some interest among such workers.

The A. F. L. contends that Mexican Nationals employed by the Companies and engaged in classifications included within the appropriate units should not be permitted to participate in the elections; the C. I. O. contends to the contrary; and the Companies take no position with respect to their eligibility. In accordance with our prior determination with respect to this issue, we shall permit such employees to participate in the elections hereinafter directed.³

The Companies and the A. F. L. contend that the elections should be held at the present time; the C. I. O. contends that the elections should be postponed until March 1946, arguing that the Companies' personnel peak will be reached at that time. The record indicates, however, that the Companies are presently operating with more than half the number of employees who will be engaged during the peak of the current packing season.⁴ Accordingly, we find no merit in the C. I. O.'s contention.

The Companies and the A. F. L. contend that only those employees who were engaged by the Companies at the time of the filing of the various petitions herein and have been so engaged continuously since then should be eligible to participate in the elections. So to limit eligibility would not, in our opinion, permit a proper expression of choice by the Companies' employees. Accordingly, we shall adhere to our customary practice and direct that the employees of the Companies eligible to vote in the elections shall be those in the appropriate units 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

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 North Whittier Heights Citrus Association, Puente, California; Uplands Citrus Association, Uplands, California; and Damerel-Allison Company

³ See *Matter of Allen and Sandilands Packing Company, et al.*, 59 N. L. R. B. 724.

⁴ The record indicates that, within the next 60 days, Whittier expects an increase in personnel of approximately 15 percent, Uplands expects no increase, and Damerel expects a 33-percent increase.

⁵ The Companies and the A. F. L. object to the participation by the C. I. O. in the elections hereinafter directed since no evidence of interest among the Companies' employees was submitted by that organization. However, since we are conducting elections among the employees in the units claimed by the C. I. O. to be appropriate, and since the record indicates the possible employment by the Companies of transitory workers among whom the C. I. O. has substantial membership, we shall accord it a place upon the ballot. But cf. *Matter of Arena-Norton Co.*, 62 N. L. R. B., No. 133.

(Azusa Avenue Plant), Covina, 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 Twenty-first 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 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 date of the elections, to determine whether they desire to be represented by Produce Drivers & Employees Union, Local No. 630, affiliated with the American Federation of Labor, or by Citrus Workers Organizing Committee, Food, Tobacco, Agricultural and Allied Workers of America, affiliated with the Congress of Industrial Organizations, for the purposes of collective bargaining, or by neither.

MR. GERARD D. REILLY took no part in the consideration of the above Decision and Direction of Elections.