

In the Matter of SHELL OIL COMPANY, INCORPORATED and INTERNATIONAL FEDERATION OF ARCHITECTS, ENGINEERS, CHEMISTS AND TECHNICIANS, CHAPTER 36, C. I. O.

Case No. 20-R-1525.—Decided March 11, 1946

Mr. A. F. Smith, of San Francisco, Calif., and *Messrs. I. M. Hemphill, E. A. Romer, and R. C. Barton*, of Martinez, Calif., for the Company.

Messrs. Harry Gonick, Donald M. Shea, and Bernard Young, of Oakland, Calif., and *Messrs. O. H. Parkinen, R. S. Urner, and F. A. Stevensen*, of Martinez, Calif., for the Union.

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

DECISION
AND
ORDER

STATEMENT OF THE CASE

Upon a petition duly filed by International Federation of Architects, Engineers, Chemists and Technicians, Chapter 36, C. I. O., herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Shell Oil Company, Incorporated, Martinez, California, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Wallace E. Royster, Trial Examiner. The hearing was held at San Francisco, California, on September 13, 1945. The Company and the Union appeared and participated.¹ All parties 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

¹At the hearing the Trial Examiner denied the motion to intervene of a committee which sought to assert the interests of a group of employees but which did not purport to be, or to function as, a collective bargaining representative. Inasmuch as this committee was not a necessary party to the proceeding, the ruling of the Trial Examiner denying the motion is hereby affirmed. See *Oughton v. N. L. R. B.*, 118 F. (2d) 486 (C. C. A. 3).

at the hearing are free from prejudicial error and are hereby affirmed. All parties were afforded 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

Shell Oil Company, Incorporated, a Virginia corporation, operates production fields, refineries, pipelines, and sales services in the State of California and in a number of other States in the United States. We are here concerned only with the Company's refinery at Martinez, California. The principal materials used or produced by the Company are crude oil, natural gasoline, fuel oil, kerosene, asphalt, road oil, and colas. During the calendar year 1944, the total value of products sold by the Pacific Coast territory of the Company, including the production of the Martinez refinery, was in excess of \$50,000,000, more than 26 percent of which represented shipments to points outside the State of California.

We find that the Company is engaged in commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATION INVOLVED

International Federation of Architects, Engineers, Chemists, and Technicians, Chapter 36, is a labor organization affiliated with the Congress of Industrial Organizations, admitting to membership employees of the Company.

III. THE ALLEGED APPROPRIATE UNIT

The Union seeks a unit of professional employees in the Technical Department of the Company's Martinez refinery, excluding supervisory employees. The Company contends that such a unit would be inappropriate unless professional employees in the Engineering Department were also included.

Some of the employees in the Technical Department are stationed in buildings devoted to their specific use, while others are housed in the Company's main office building along with the Engineering Department employees. Both departments, for the most part, employ professional employees; those in the Technical Department have degrees in either engineering or in chemistry, while the majority of those in the Engineering Department have degrees in engineering. Included in the latter department is 1 employee who has a degree

in chemistry and 10 employees who, although classified as professional, have no degrees. Although the employees in each department are under different supervision, the Technical Department being under the Chief Technologist, and the Engineering Department under the Chief Engineer, the employees in similar classifications in both departments are paid at the same wage rate and enjoy the same working conditions. Both departments do related and integrated work. The Technical Department is primarily concerned with the control aspect of the Company's operations and carries on fundamental research in the development and testing of the Company's products. The Engineering Department estimates the cost of approved projects relating to experimentation, production, oversees maintenance and construction operations in the operating field within the refinery. The record shows in this connection that both departments work together on problems relating to power plants and distilling systems. Thus, once the Engineering Department has obtained approval for the project, it submits the plan to the Technical Department where it is designed and "sized." Thereafter the Engineering Department completes the design in detail with the assistance of specially assigned Technical Department employees. It is the function of the latter to advise the Engineering Department regarding the technical details of the specific problems. In addition, the Technical Department employees who are assigned to trouble shooting in the operating field within the refinery apparently have contact with, and work in cooperation with, Engineering Department employees engaged in overseeing maintenance operations in the field. Further, it is clear from the record that there have been transfers between these departments on a permanent basis, an additional indication that the skills and creative abilities of employees in one department are, to a certain extent, comparable to those required of employees in the other department.

The Union seeks to justify its unit contention on the ground that it has organized the professional employees in the Technical Department but has been unsuccessful in organizing those in the Engineering Department, and that the employees in the former constitute a distinct group appropriate for collective bargaining. Although the Board has granted petitions for departmental units on the theory that organization has not extended beyond such department, it has never done so where the grouping is artificial and arbitrary. The Board has always held that the appropriate unit must be a readily delineable, functionally coherent, and distinct group. The instant record indicates that the integration and interrelation of the operations of these departments preclude the establishment of a unit restricted to professional employees in the Tech-

nical Department. That a union has limited its organizational activities to an arbitrary grouping of employees does not justify the creation of a separate bargaining unit for such employees where, as here, they are but an integral part of a larger appropriate unit. Accordingly, we find that the unit proposed by the Union is inappropriate for the purposes of collective bargaining, and we shall dismiss the petition filed herein.

IV. THE ALLEGED QUESTION CONCERNING REPRESENTATION

Because the bargaining unit sought to be established by the petition is inappropriate, as stated in Section III, above, we find that no question has arisen concerning the representation of employees of the Company, within the meaning of Section 9 (c) of the National Labor Relations Act.

ORDER

Upon the basis of the foregoing findings of fact, and the entire record in this proceeding, the National Labor Relations Board hereby orders that the petition for certification of representatives of employees of Shell Oil Company, Incorporated, Martinez, California, filed by the International Federation of Architects, Engineers, Chemists, and Technicians, Chapter 36, C. I. O., be, and it hereby is, dismissed.