

In the Matter of STANDARD OIL COMPANY OF CALIFORNIA and GENERAL TRUCK DRIVERS, WAREHOUSEMEN AND HELPERS, LOCAL 315, A. F. OF L.

In the Matter of STANDARD OIL COMPANY OF CALIFORNIA and LOCAL No. 21, INTERNATIONAL UNION OF OPERATING ENGINEERS, A. F. OF L.

Cases Nos. 20-R-1255 and 20-R-1485, respectively.—Decided April 9, 1946

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

Messrs. Charles J. Janigian and Charles P. Scully, of San Francisco, Calif.; and Mr. Allan Johnston, of Martinez, Calif., for the Teamsters.

Messrs. Charles J. Janigian, Charles P. Scully, and Victor Swanson, of San Francisco, Calif., and Mr. Jack Lloyd, of Richmond, Calif., for the Operating Engineers.

Mr. Lindsay P. Walden, of Fort Worth Tex., and Mr. N. J. Newman, of Richmond, Calif., for the Oil Workers.

Mr. Ronald D. Murray, of Richmond, Calif., and Mr. John P. McFarland, of San Francisco, Calif., for the Petroleum Workers.

Mr. Angelo J. Fumara, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTIONS

STATEMENT OF THE CASE

Upon petitions duly filed by General Truck Drivers, Warehousemen and Helpers, Local 315, A. F. of L., herein called the Teamsters, and by Local No. 21, International Union of Operating Engineers, A. F. of L., herein called the Operating Engineers, each alleging that a question affecting commerce had arisen concerning the representation of employees of Standard Oil Company of California, Richmond, California, herein called the Company, the National Labor Relations Board consolidated the cases and provided for an appropriate hearing upon due notice before Wallace E. Royster, Trial Examiner. The hearing was held at San Francisco, California, on

November 28 and 29, 1945. The Company; the Teamsters; the Operating Engineers; Oil Workers International Union, CIO, herein called the Oil Workers; and Independent Union of Petroleum Workers, herein called the Petroleum Workers, 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. The Trial Examiner's rulings made 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

Standard Oil Company of California, a Delaware corporation, is engaged in the production, refining, transportation, sale, and distribution of petroleum and petroleum products. The Company owns and operates refineries at Richmond, Bakersfield, and El Segundo, California, and through subsidiaries, it operates refineries in other States. During the year 1944, the Company produced in excess of 75,000,000 barrels of refined petroleum products, about 40 percent of which was shipped to points outside the State of California. During the same period, the crude petroleum utilized by the Company at its refineries was produced or purchased by it entirely within the State of California. Although the Company shipped no crude petroleum outside the State, it delivered to purchasers, including a subsidiary, more than 2,000,000 barrels of crude petroleum which were subsequently transported outside the State. The California Research Corporation, a totally owned subsidiary of the Company, carries on its functions at the Richmond refinery.

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

II. THE ORGANIZATIONS INVOLVED

General Truck Drivers, Warehousemen and Helpers, Local 315, is a labor organization affiliated with the American Federation of Labor, admitting to membership employees of the Company.

Local No. 21, International Union of Operating Engineers is a labor organization affiliated with the American Federation of Labor, admitting to membership employees of the Company.

Oil Workers International Union is a labor organization affiliated with the Congress of Industrial Organizations, admitting to membership employees of the Company.

Independent Union of Petroleum Workers is a labor organization admitting to membership employees of the Company.

III. THE QUESTIONS CONCERNING REPRESENTATION

The Teamsters and the Operating Engineers each requested recognition from the Company as the bargaining representative of certain of its employees. The Company, however, has refused to recognize either union in the absence of Board certification.

A statement of a Board agent, introduced into evidence at the hearing, indicates that the Teamsters and the Operating Engineers each represents a substantial number of employees in the respective units alleged by each to be appropriate.¹

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 Teamsters seeks a unit composed of all truck drivers, helpers, dispatchers, and utility service men in the Motor Transport Department at the Richmond refinery, excluding the timekeeper, executives, and supervisory employees.

The Operating Engineers desires a unit of all production and maintenance employees on the classified pay roll at the Richmond refinery and at the California Research Corporation, herein called the C. R. C., including shift foremen, but excluding certain employees covered by individual contracts severally executed between the Company and certain labor organizations,² those employees whom the Teamsters wishes to represent, telephone operators, cafeteria employees, office janitors, photo reproduction employees, militarized guards, technical and professional employees, office and clerical employees, and all supervisory employees.

The Company agrees with the unit description of the Operating Engineers except that it would also include therein employees in the Motor Transport Department who are not covered by existing contracts.

¹ The Field Examiner reported that in Case No. 20-R-1255, the Teamsters submitted 44 application cards; that in Case No. 20-R-1485, the Operating Engineers submitted 851 authorization and application cards; and that there are approximately 73 and 2,525 employees in the respective units alleged by each to be appropriate.

The Field Examiner further reported that the Oil Workers submitted application cards and a certified list of 682 names; that the Petroleum Workers submitted a certified list of 359 names; and that there are approximately 2,355 and 2,375 employees in the respective units alleged by each to be appropriate.

² These are International Association of Machinists; International Brotherhood of Boilermakers, Iron Shipbuilders, Welders and Helpers of America; and International Brotherhood of Electrical Workers

The Oil Workers contends that the appropriate unit should include all production and maintenance employees on the classified pay roll at the Richmond refinery, excluding employees covered by the contracts noted above, employees in the C. R. C., Motor Transport Department, Purchase and Stores Department, foremen operators A, B, and C, job foremen B, and all shift foremen.

The Petroleum Workers agrees with the Oil Workers' unit contention except that it would also include in the unit all shift foremen.

The Company operates within the State of California three refineries located at El Segundo, Bakersfield, and Richmond. The present petitions upon which the instant proceedings are based are directed to the Richmond refinery where employees are principally engaged in the Manufacturing, Purchase and Stores, and Motor Transport Departments of the Company, and in the C. R. C. The personnel employed in the individual departments and in the C. R. C. are listed on either one of two types of pay roll: one, the classified, chiefly contains the daily paid and salaried clerical employees, and the other, the unclassified, lists the salaried employees not subject to the Fair Labor Standards Act. None of the parties herein wishes to represent employees listed on the latter pay roll.

With respect to the Teamsters' petition, the record discloses that the truck drivers, helpers, dispatchers, and utility service men employed in the division of the Motor Transport Department at the Richmond refinery are under supervision separate and apart from that of employees engaged in other departments of the Company. Their collective duties consist of transporting by truck, bus, and passenger cars, materials, equipment, supplies, and personnel, almost exclusively within the geographic confines of the refinery. Upon the basis of the record we are satisfied that these employees constitute an identifiable and well-defined group of employees of a recognized craft, and that a unit comprising such employees would be feasible for collective bargaining.

As indicated above, the Operating Engineers seeks a unit of production and maintenance employees at the Richmond refinery and at the C. R. C. Although the Oil Workers and the Petroleum Workers agree that the production and maintenance employees in the Manufacturing Department should be included in such a unit, they would exclude therefrom production and maintenance employees at the Purchase and Stores Department and at the C. R. C.

The record reveals that the personnel employed in the Purchase and Stores Department procures and stores equipment and supplies used in the Company's manufacturing operations; that there has been some employee interchange between the Purchase and Stores and the Manufacturing Departments; and that their working conditions are substantially the same. Accordingly, we are of the opinion that the em-

ployees in both these departments have common interests, and that they may be bargained for together in some unit is consequently clear.³

The C. R. C. is a wholly owned subsidiary of the Company whose functions include providing technical guidance and assistance to the Company's operating departments. Despite its separate corporate existence, it appears that the activities of the C. R. C. are integrated with those of the Manufacturing Department. In a previous case⁴ involving the Richmond refinery, employees in the C. R. C. were included in the three voting groups of employees at that refinery, and certain craft employees of the C. R. C. were also included in appropriate craft units with employees of the Company. It seems, then, on the basis of that case and the present record, that the inclusion of employees of the C. R. C. working at the Richmond refinery in a unit with production and maintenance employees of the Company would not be inappropriate. However, on July 26, 1945, the Petroleum Workers filed a petition for investigation and certification of representatives in Case No. 21-R-2938,⁵ alleging that employees of the C. R. C. in a system-wide group constitute an appropriate unit apart from employees at the Company's refineries. Pending our investigation of that petition, we shall make no finding with respect to the unit or units appropriate for employees of the C. R. C., reserving our decision with respect to the inclusion of any such employees in the unit covering employees herein until we have fully considered the said petition. We shall, therefore, exclude employees of the C. R. C. from the unit of production and maintenance employees at the Richmond refinery.

There remains for consideration the following disputed categories of employees in the production and maintenance unit:

Shift foremen and job foremen B: The Company, the Operating Engineers, and the Petroleum Workers would include employees in these industrial classifications while the Oil Workers would exclude them apparently on the ground that they are supervisory employees. Shift foremen are designated on the pay roll as foremen operators A, B, and C, and the record is clear that they, as well as job foremen B, have no power effectively to recommend changes in the status of employees under them. Accordingly, we shall include them in the production and maintenance unit.

Plant guards: The Operating Engineers alone would include plant guards in a production and maintenance unit. Although the guards are not militarized, the record is not clear as to whether they are deputized or whether their work is essentially that of plant watchmen. In the absence of such evidence, we cannot make a definitive finding

³ See *Matter of Standard Oil Company of California*, 58 N. L. R. B. 560.

⁴ See *Matter of Standard Oil Company of California*, *supra*.

⁵ This petition was subsequently transferred to the 20th Region as Case No. 20-R-1527.

with respect thereto. Accordingly, we shall include watchmen, as such, and shall exclude deputized plant-protection personnel, if any.

Upon the basis of the entire record, we find that the following units are appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the Act:

Unit 1. All truck drivers, helpers, dispatchers⁶ and utility service men employed by the Company in the Motor Transport Department at the Richmond refinery, excluding the timekeeper, executives, 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:

Unit 2. All production and maintenance employees on the classified pay roll employed by the Company at the Richmond refinery, including those in the Purchase and Stores Department, shift foremen, job foremen B, and watchmen, but excluding employees of California Research Corporation, all employees represented by International Association of Machinists; by International Brotherhood of Boilermakers, Iron Shipbuilders, Welders and Helpers of America; and by International Brotherhood of Electrical Workers; telephone operators, cafeteria employees, office janitors, photo reproduction employees, technical and professional employees, deputized plant-protection personnel,⁷ 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

As appears in *Matter of Standard Oil Company of California*, 67 N. L. R. B. 132, issued this day, the Petroleum Workers petitioned therein for a unit composed of all employees of the Motor Transport Department in California on the Company's classified pay roll. In view of our finding in that case that such a unit may be appropriate for the purposes of collective bargaining and inasmuch as an election is to be conducted among the Motor Transport Department employees involved in this proceeding, we shall, as hereinafter provided, grant the Petroleum Workers' request to appear on the ballot with the Teamsters.

We shall direct that the questions concerning representation which have arisen be resolved by elections by secret ballot among employees in each of 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.

⁶ This does not include the head dispatcher, Hal Dimock, who is a supervisory employee within the Board's customary definition.

⁷ There are no militarized guards in the Company's employ.

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, Richmond, California, separate 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, and our determinations in Section V, above, among the following units of employees of the Company 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: (1) to determine whether the employees described in Unit 1 of Section IV, *supra*, desire to be represented by General Truck Drivers, Warehousemen and Helpers, Local 315, A. F. of L., or by Independent Union of Petroleum Workers, for the purposes of collective bargaining, or by neither; and (2) to determine whether the employees described in Unit 2 of Section IV, *supra*, desire to be represented by Local No. 21, International Union of Operating Engineers, A. F. of L.; by Oil Workers International Union, C. I. O.; by Independent Union of Petroleum Workers, for the purposes of collective bargaining, or by none of said organizations.

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