

IN THE MATTER OF THE LONG-BELL LUMBER COMPANY, WEED DIVISION,  
EMPLOYER and INTERNATIONAL WOODWORKERS OF AMERICA, C. I. O.,  
PETITIONER

*Case No. 20-R-1789.—Decided February 21, 1947*

*Mr. John Mantle*, of Weed, Calif., and *Mr. Clarence Vandercook, Sr.*, of Tennant, Calif., for the Employer,

*Mr. Claude Ballard*, of Portland, Oreg., and *Mr. Joe Huber*, of Klamath Falls, Oreg., for the Petitioner.

*Messrs. William F. Wedel* and *K. A. Gordon*, of Klamath Falls, Oreg., for the Intervenor.

*Mr. Morton B. Spero*, of counsel to the Board.

## DECISION

Upon a petition duly filed, hearing in the case was held at Weed, California, on September 17, 1946, before David Karasick, hearing officer. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

Upon the entire record in the case, the National Labor Relations Board makes the following:

### FINDINGS OF FACT

#### I. THE BUSINESS OF THE EMPLOYER<sup>1</sup>

The Long-Bell Lumber Company, a Missouri corporation, operates a sawmill, lumber yard, box factory, sash and door factory, planing mill, treating plant, and veneer plant in Weed, California, and logging operations in the vicinity thereof. We are here concerned solely with the logging operations of the Employer in its Weed Division. During the year 1945, the Employer manufactured at this division in excess of 55,000,000 board feet of rough and finished lumber, of which more than 50 percent was sold and transported to points outside the State of California.

The Employer admits and we find that it is engaged in commerce within the meaning of the National Labor Relations Act.

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<sup>1</sup> The name of the Employer appears in the caption as amended at the hearing  
72 N. L. R. B., No. 151.

## II. THE ORGANIZATIONS INVOLVED

The Petitioner is a labor organization affiliated with the Congress of Industrial Organizations, claiming to represent employees of the Employer.

Lumber & Sawmill Workers, Locals 2913 and 3016, herein called the Intervenor, is a labor organization affiliated with the American Federation of Labor, claiming to represent employees of the Employer.

## III. THE QUESTION CONCERNING REPRESENTATION

On December 19, 1941, the Intervenor was certified by the Board as the bargaining representative of employees of the Employer in substantially the same unit as the Petitioner seeks herein.<sup>2</sup> On August 5, 1942, a collective bargaining agreement was entered into between the Employer and the Intervenor.<sup>3</sup> This agreement provided that it "shall continue in effect for 1 year from date of signing, and shall continue from year to year thereafter unless either party notifies the other of a desire to change, terminate, or modify this agreement at least 60 days prior to termination date." Pursuant to its terms, the contract has been automatically renewed each year since 1942. On June 3, 1946, more than 60 days before the 1946 effective automatic renewal notice date, the Petitioner informed the Employer by letter that it represented certain of the employees of the Employer, and that it had filed a petition for certification of representatives with the Board. On June 4, 1946, the Employer acknowledged receipt of the Petitioner's letter. At the hearing the Employer indicated its refusal to recognize the Petitioner as the exclusive bargaining representative of certain of the employees of the Employer until the Petitioner has been certified by the Board in an appropriate unit.<sup>4</sup>

We find that a question affecting commerce has arisen concerning the representation of employees of the Employer, within the meaning of Section 9 (c) and Section 2 (6) and (7) of the Act.<sup>5</sup>

<sup>2</sup> 37 N. L. R. B. 807.

<sup>3</sup> The certified unit consisted of all production and maintenance employees of the Employer at Tennant and Modoc, Camp 1, California, excluding supervisory and clerical employees, and employees of the Employer connected with its railroad in the vicinity. Through an inadvertance, the certification failed to mention scalers among those included in the unit. However, the parties corrected this by including scalers in the contract unit.

<sup>4</sup> Although neither the Employer nor the Intervenor so contends, it is clear, under well-established principles of the Board, that the contract is not a bar to this proceeding. *Matter of United Cabinet Company*, 71 N. L. R. B. 650

<sup>5</sup> At the hearing and in its brief, the Intervenor moved to dismiss the petition on the ground that the Petitioner lacked a sufficient showing of interest among the employees in the unit sought. Inasmuch as we are administratively satisfied that the Petitioner has made an adequate showing of interest among the employees of the Employer in the requested unit, we shall deny the motion of the Intervenor. *Matter of O. D. Jennings & Company*, 68 N. L. R. B. 516

## IV. THE APPROPRIATE UNIT; THE DETERMINATION OF REPRESENTATIVES

The parties agree generally that the appropriate unit should consist of all production and maintenance employees at the Employer's Weed Division logging operations located in the vicinity of Tennant and Modoc, Camp 1, California, excluding clerical employees, and supervisory employees, and excluding further, the following employees employed on the Employer's railroad in the vicinity; locomotive engineers, firemen, hostlers, hostler helpers, conductors, and brakemen. The parties are, however, in dispute as to the scalers, and combination scalers and bull-bucks; the Petitioner desiring to include these employees; the Intervenor seeking to include the scalers, but to exclude the combination scalers and bull-bucks as having supervisory functions; and the Employer requesting the exclusion of both classifications on the ground that they are clerical, confidential, and supervisory employees. Both the Employer and the Intervenor, in support of their position with respect to the combination scalers and bull-bucks, point to the fact that they have been excluded from the contract unit.<sup>6</sup>

There are 2 employees classified as scalers. One works at Camp 1 and is subject to the supervision of the bull-buck at that camp; the other works at Wild Horse, near Weed, and is subject to the supervision of the superintendent of logging operations at Weed. The work of the former consists of measuring logs for a crew of 12 to 14 buckers and tallying the amount of work done by each of them for the purposes of determining their pay, and of maintaining a running inventory of logs cut and on hand. In addition, this scaler can effectively recommend changes in status of employees under his supervision. The other scaler measures logs for truck haulers, who are independent contractors. As this scaler has no employees of the Employer under his supervision, he exercises no supervisory authority. Both scalers are paid on an hourly basis and have the same working hours and the same vacations as other hourly employees. In view of the nature of their work, they do not appear to be either confidential or clerical employees. As noted above, these scalers have been covered under the contract between the Employer and the Intervenor, and, admittedly, the duties and authority of the scalers have not changed since 1941 when the Board indicated the propriety of their inclusion in a unit of production and maintenance employees.<sup>7</sup>

The Employer employs at least 2 individuals who are combination scalers and bull-bucks, and at least 1 employee who is a full-time bull-buck.<sup>8</sup> The combination bull-bucks and scalers are in fact bull-bucks,

<sup>6</sup> While the certification mentioned above excluded supervisory employees it made no specific mention of this category.

<sup>7</sup> 36 N. L. R. B. 664.

<sup>8</sup> The record does not clearly indicate the exact number of bull-bucks in the requested unit.

who have been assigned the additional task of scaling because the size of the operation in which they are now engaged does not warrant the services of a full-time scaler. The work of a bull-buck consists of overseeing, subject to the over-all supervision of the timber foreman, a crew of 12 to 14 employees. The authority of a bull-buck extends to hiring, discharging, and promoting employees in their respective crews. Each is paid on an hourly basis and has the same working hours and the same vacations as other hourly employees. Like the scalers, they are neither confidential nor clerical employees.

In *Matter of Coos Bay Lumber Company*,<sup>9</sup> the Board considered at length the issues posed herein with respect to the above 2 classifications of employees. We there concluded that in the average small or medium sized logging operations in the Northwest, we shall, in accordance with the industrial custom that prevails in that area, include these classifications of supervisory employees in the rank and file unit. We are persuaded that the criteria of that case are equally applicable to these employees, therefore warranting their inclusion in the unit. As noted above, the inclusion of the scalers would conform to the prior bargaining history, while the inclusion of the combination scalers and bull-bucks would contravene that history. Under these circumstances, we shall presently include the scalers in the production and maintenance unit, but shall, in the case of the others, conduct a separate election to determine their desires with respect to the matter of representation.<sup>10</sup> We shall, therefore, make no final unit determination at this time, but will be guided by the desires of the employees involved, as expressed in the elections to be directed in the following 2 voting groups:

1. All bull-bucks at the Employer's Weed Division logging operations located in the vicinity of Tennant and Modoc, Camp 1, California, including combination scalers and bull-bucks.

2. All remaining production and maintenance employees at the Employer's Weed Division logging operations located in the vicinity of Tennant and Modoc, Camp 1, California, including scalers, but excluding clerical employees, and all other supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively recommend such action, and excluding, further, the following employees employed on the Employer's railroad in the vicinity: locomotive engineers, firemen, hostlers, hostler helpers, conductors, and brakemen.

The Direction of Elections and the selection of a pay-roll period to determine eligibility to vote shall, however, have to abide a future

<sup>9</sup> 62 N. L. R. B. 93

<sup>10</sup> *Matter of Snow Peak Logging Company*, 69 N. L. R. B. 1144, *Matter of Pittsburgh Equitable Meter Company*, 61 N. L. R. B. 880, *Matter of Petersen and Lytle*, 60 N. L. R. B. 1070

event. For, since the hearing, the Board has been advised that the Employer has curtailed its operations for the winter season to such an extent that a representative vote is not presently possible. Under these circumstances, we shall withhold the issuance of a Direction of Elections and the determination of an eligibility period until such time as the Regional Director for the Twentieth Region shall advise us that The Long-Bell Lumber Company, Weed Division, Weed, California, has resumed normal operations, and that a representative number of persons are employed in the units found appropriate above.

MR. JAMES J. REYNOLDS, JR., took no part in the consideration of the above Decision.