the Board has held that where under similar circumstances there is *prima facie* evidence of supervisory authority, the Board has no alternative but to direct a hearing to resolve this issue, despite a specific agreement to include such persons in the unit, because supervisors are expressly excluded from the coverage of the Act, and therefore a serious issue is raised which the Board cannot obviate because of technical, procedural, or other considerations.[11] It is clear, therefore, under this Board precedent, that despite the original agreement of the Petitioner to include Pressley and Roth in the unit, and despite any other technical or procedural considerations,[12] the newly discovered *prima facie* evidence submitted by the Petitioner requires the Board to reopen the record for further evidence on the supervisory status of Pressley and Roth, and if such evidence reveals that they were in fact supervisors or directors of the corporation prior to the election to sustain the challenges to their ballots. Accordingly, I would grant the petitioner's motion to reopen the record for this purpose.

[11] *New York Shipping Association,* 109 NLRB 791.

[12] Such as the fact, which is relied on by the majority, that the Board in the course of its regular procedure has already twice considered and determined the status of Pressley and Roth on limited and different evidence; or the fact, also relied on by the majority, that the Board has made its determination of the challenges and a certification of the results of the election has been issued on the basis of such limited and different evidence. Although the new evidence was earlier discovered and presented in the two cited cases, as noted by the majority, the principle laid down in them is none the less apposite here.

Wildwood Lumber Company *and* International Woodworkers of America, CIO, Petitioner. *Case No. 20–RC–2818. November 14, 1955*

DECISION AND DIRECTION OF ELECTION

Upon a petition duly filed under Section 9 (c) of the National Labor Relations Act, a hearing was held before Robert J. Scolnik, 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 this case, the Board finds:

1. The Employer is engaged in commerce within the meaning of the Act.[1]

2. The labor organizations involved claim to represent certain employees of the Employer.

[1] As set forth in the Decision, the Employer operates an integrated enterprise. For the first 6 months of 1955 the Employer made shipments directly out-of-State from its Red Bluff operations of products amounting in value to approximately $50,000. Projecting this amount for the entire year, it is clear that the direct outflow requirement established in the case of *Jonesboro Grain Drying Cooperative,* 110 NLRB 481, is met.

3. A question affecting commerce exists concerning the representation of employees of the Employer within the meaning of Section 9 (c) (1) and Section 2 (6) and (7) of the Act.[2]

4. The Petitioner and Northern California District Council Lumber and Sawmill Workers, AFL, the Intervenor, agree that the appropriate unit includes production, maintenance, and transportation employees at the Employer's logging and sawmill operation at and near Wildwood, California, about 12 miles west of Platina, California. The Employer contends that the unit must also include employees at its planing mill, drying yard, and storage shed near Red Bluff, California, about 55 miles east of Platina. The parties also fail to agree as to the unit placement of certain categories at Wildwood, which are discussed below.

The Employer is engaged in the lumbering business. At Wildwood, the Employer cuts lumber and sends it by independently owned trucks to other plants for further processing. About 55 percent of the lumber cut at Wildwood is sent to Red Bluff which, since December 1954, has received about 90 percent of its raw material from this source. At Wildwood, the logging operation runs from about April 1 until sometime in November; the sawmill runs from about March 1 until December 25. Red Bluff operates for approximately the same time, although it may run longer because of its storage facilities. Approximately 130 employees at Wildwood and 30 at Red Bluff work under the overall supervision of the Employer's resident manager but under separate immediate supervision. The resident manager, with the advice of the Employer's president, determines wages and working conditions at both plants. Sometime after December 1954, the Employer put into effect the same general wage increase at both plants. Of the approximately 30 employees at Red Bluff, only about 9 have jobs which are substantially similar to jobs held by employees at Wildwood and have similar wage rates. Employees at both locations are under the same workmen's compensation program and receive vacation pay at the same rates but at different times. The Employer maintains an office and issues pay checks at each plant, but the office at Red Bluff is the Employer's main office, and the Employer keeps all its records there. Each plant does its own normal maintenance work. There is little or no employee interchange between the two locations.

There is no bargaining history covering employees at Wildwood. As to Red Bluff, however, the bargaining history is extensive. On September 13, 1951, following a consent election held in consolidated Cases Nos. 20–RC–1510 and 20–RM–84, the Regional Director certi-

[2] Because we find appropriate a unit of employees limited to Wildwood, it is clear that a contract allegedly still in effect and covering employees at Red Bluff could not be a bar to an election in this proceeding.

fied Local 2850 of the Intervenor as the exclusive collective-bargaining representative of production and maintenance employees at Red Bluff. Thereafter, on October 15, 1951, the Employer and Local 2850 entered into a contract covering these employees, effective to May 1, 1952, and from year to year thereafter in the absence of notice. By written agreement, this contract was renewed so as to be effective from May 1, 1953, to May 1, 1954. On January 28, 1954, Local 2850 served notice of reopening with respect to certain items in the contract, and thereafter the parties conducted bargaining negotiations. However, no written agreement resulted and on June 21, 1954, Local 2850 began a strike at the Red Bluff plant.[3] On October 5, 1954, the Intervenor filed a civil action in a State court, alleging that the last contract between the parties was still in effect, and seeking its enforcement.

As noted, the Wildwood and Red Bluff plants are separated by a substantial distance. Employees at each plant work under separate immediate supervision. Each plant does it own normal maintenance work. There are differences in job categories, and there is virtually no employee interchange between the plants. The Employer and Local 2850 have bargained for employees at Red Bluff on a single-plant basis. No labor organization presently seeks to represent employees at both plants in a single, overall unit. In view of all these circumstances, and the entire record herein, we are persuaded that a unit of employees limited to the Employer's Wildwood operation is appropriate for the purposes of collective bargaining.[4]

There remains for consideration the unit placement of the categories at the Wildwood plant.

Cleanup men: The Petitioner and the Intervenor would include cleanup men. The Employer apparently agrees with the other parties on this point. These employees perform the usual duties of their classification. We shall include them in the unit.[5]

Foresters: The Petitioner and the Intervenor would exclude foresters. The Employer does not take a contrary position. These employees are graduates in forestry from the University of California. They mark timber, "supervise" construction, work at road locations and with the Forest Service, and engage in "professional forestry matters." In these circumstances we shall exclude foresters from the unit.

Watchmen: The Petitioner and the Intervenor would include watchmen. The Employer takes no clear position. The watchmen make rounds and punch clocks. Although they are not armed or uniformed,

[3] At the hearing a former president and general manager testified that the strike at the Red Bluff plant caused the closing of the Wildwood plant.

[4] Cf. *Ivory Pine Company of California*, 107 NLRB 19.

Ross Lumber Company, 94 NLRB 636, relied on by the Employer in support of its position is clearly distinguishable from the instant case.

[5] *The Stoll Lumber Company*, 96 NLRB 682.

it is there responsibility to protect plant property. We find that watchmen are guards within the meaning of Section 9 (b) (3) of the Act and exclude them as such from the production and maintenance unit.[6]

The foreman of the skidding crew and the night shift foreman: The Petitioner and the Intervenor would include the foreman of the skidding crew. The Employer takes no clear position. In the absence of the logging superintendent, the foreman of the skidding crew is in charge of the logging, which consists of the skidding and loading of logs. He directs the crew, may shut down the operation and correct any difficulty that may arise, and may remove a man from the crew until the superintendent or resident manager makes a final disposition of the matter. At the time of the hearing, he had not exercised his power to shut down the operation or to remove a man from the crew. He has no authority to discharge employees. He also works as a hoister. In all the circumstances, particularly in view of his apparent exercise of independent judgment in directing employees, we conclude that the foreman of the skidding crew has authority responsibly to direct employees.

The Petitioner would exclude the night shift foreman. The positions of the Employer and the Intervenor are not clear. The night shift foreman is in charge of a crew of approximately 25 employees. He "supervises," sees to it that the lumber is processed correctly and that all the Employer's equipment is running, and assists in doing repair work. He also does millwright's work and has the tools of a millwright. He has the authority to discipline, hire, and discharge employees working under him.

In these circumstances, we find that both the foreman of the skidding crew and the night shift foreman are supervisors as defined in Section 2 (11) of the Act, and we exclude them as such from the unit.

Upon the entire record herein, we find that the following employees of the Employer constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the Act:

All production, maintenance, and transportation employees at the Employer's logging and sawmill operation at and near Wildwood, California, including cookhouse employees and cleanup men, but excluding clerical employees, foresters, watchmen, and the foreman of the skidding crew, the night shift foreman, and all other supervisors as defined in the Act.

[Text of Direction of Election omitted from publication.]

MEMBER MURDOCK took no part in the consideration of the above Decision and Direction of Election.

[6] *Walterboro Manufacturing Corporation,* 106 NLRB 1383.