

There remains for consideration the unit placement of six utility employees who perform the usual janitorial duties in the section or department to which they are assigned. Two are in the machine shop and two in the vehicle fabrication and service department. In addition to their regular duties, the utility men in the fabrication department run errands and occasionally drive the pickup truck. The remaining two utility men are under the supervision of the secretary-treasurer responsible for maintenance; they keep the lawns mowed and watered, and each morning wheel coffee around to all employees. We find that all the utility men belong in the production and maintenance unit.

We find that the following employees of the Employer at its plant at Fort Worth, Texas, constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the Act:

All production and maintenance employees, including all employees in the materials department, plant clericals, and utility men, but excluding the inspectors, experimental machinist, experimental electrician, office clerical employees, professional and technical employees, guards, and supervisors as defined in the Act.

[Text of Direction of Election omitted from publication.]

Eastern Sugar Associates (a Trust) d/b/a Central Juncos and Asociacion de Empleados Semanales de la Central Juncos de Juncos, Puerto Rico, Petitioner. Case No. 24-RC-1001. November 14, 1957

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 George A. Yager, hearing officer. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

Pursuant to the provisions of Section 3 (b) of the Act, the Board has delegated its powers in connection with this case to a three-member panel [Members Rodgers, Bean, and Jenkins].

Upon the entire record in this case, the Board finds:

1. The Employer is engaged in commerce within the meaning of the Act.
2. The labor organization involved claims to represent certain employees of the Employer.¹

¹The Employer would not stipulate that the Petitioner is a labor organization. Because the Petitioner exists for the purpose of bargaining collectively on behalf of its members with employers concerning hours, wages, and other conditions of employment,

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.

4. The Employer owns and operates several sugarcane plantations and four sugar mills located in Puerto Rico. At its sugar mills it processes into raw sugar and molasses sugarcane from its own plantations and from those of independent farmers. In connection with its sugar mills, the Employer also operates about 30 miles of railroad for transporting sugarcane from the plantations to the mills. Railroad employees, under the railroad and maintenance superintendent, comprise one department at the Central Juncos mill, and the factory production and maintenance employees make up the other department. Only the Central Juncos mill is herein involved.

The Petitioner seeks to represent all salaried railroad and production and maintenance employees excluded from the existing unit of hourly paid employees at the Central Juncos mill represented by Union Industrial de Trabajadores de la Central Juncos, the Intervenor herein.² The Employer contends that they are supervisory or confidential personnel and were excluded as such from the production and maintenance unit represented by the Intervenor. As the employees sought by the Petitioner comprise the only unrepresented railroad and production and maintenance employees at Central Juncos, and in view of our finding below that none of them are confidential employees or supervisors, we find that they constitute an appropriate residual unit.³

The parties are in agreement with respect to unit placement except as to the following categories.

The five cane weighers weigh sugarcane delivered by truck and train and prepare records and reports. They routinely direct the laborers or winch operators with respect to moving vehicles onto the scales. Although they can make recommendations affecting the status of employees, such recommendations are subject to an independent investigation. In these circumstances, we find that the cane weighers are not supervisors but are employees and we accordingly include them in the unit.

we find that it is a labor organization. *Wyman-Gordon Co., Ingalls Shepard Division*, 117 NLRB 75. As it was not in compliance with the filing requirements of the Act, Union Industrial de Trabajadores de la Central Juncos, the Intervenor, was permitted to intervene only to protect its contractual interest. Member Jenkins agrees with permitting the intervention since he has been administratively advised that the noncompliance of the Intervenor is a matter of happenstance and inadvertence and not the consequence of deliberate policy. The action taken in this case is not, therefore, inconsistent with the position taken in his dissent in *West Virginia Pulp and Paper Company*, 118 NLRB 1595.

²The Intervenor was certified under the name "Union Independiente de Trabajadores Industriales de Juncos, Inc." for all production and maintenance employees including railroad and maintenance-of-way employees pursuant to a consent election in Case No. 24-RC-138.

³*The Carborundum Company*, 115 NLRB 216; *The Yale and Towne Manufacturing Company*, 112 NLRB 1268, 1269-70; *Sealttest, Ohio Division of the National Dairy Products Corporation*, 117 NLRB 1628.

The traffic clerk was excluded from the existing unit on the grounds he is confidential. He is secretary to the railroad and maintenance superintendent, who, the record shows, attends union negotiations but does not dictate his comments regarding such negotiations to the traffic clerk. The superintendent handles grievances that are "local controversies of little importance." The traffic clerk prepares claims reports based only on number of hours worked. In these circumstances, we find that the traffic clerk does not act in a confidential capacity to a person who formulates, determines, and effectuates management policies in the field of labor relations.⁴ Accordingly, we include him in the unit.

The chief of the powerplant or chief electrician is in charge of the operation of the powerplant and of the installation and maintenance of motors and powerlines. He is the immediate supervisor of the electricians and their helpers, to whom he assigns work and gives instructions. He has effectively recommended the hiring of two electricians.

The mayordomo timekeeper acts as assistant to the chief mayordomo, an agreed supervisor who has authority to transfer and lay off personnel. He regularly substitutes 1 day a week for the chief mayordomo. The timekeeper keeps lists of employees, assigns employees to various types of work, and secures replacements.

The assistant engineer, directly responsible to the chief engineer, is in charge of the operation of plant machinery and of all personnel engaged in maintaining and repairing such machinery. He supervises 25 to 150 mechanics and operators per shift, depending on the season, and spends 95 percent of his time in supervision. He assigns work to the employees and recommends their hiring to the chief mayordomo.

The chief of the sugar warehouse is responsible for the proper functioning of the two warehouses and is in charge of work performed there, including the storing of sugar and the dispatching of molasses. In this connection, he directs the work of a driver, a sugar weigher, and a laborer and "tells them the better way to do their work." Although he works on only 1 shift, he leaves instructions for the employees on the other 2 shifts, and the next day "supervises" to see that such instructions have been carried out.

The chief of materials and supply warehouse and clerks is in charge of and is custodian of the supply warehouse of the mill and in this connection has 3 to 5 employees, including the weekly paid warehouse clerk, under his direction during the grinding season.⁵ He assigns work to and checks the work of the warehouse clerk. He

⁴ *The B. F. Goodrich Company*, 115 NLRB 722.

⁵ The parties stipulated that the warehouse clerk, the only salaried employee, was not a supervisor and that he be included in the unit.

effectively recommended the transfer of one employee and may effectively recommend the assignment of employees. He hires clerical personnel and has the authority to grant time off.

The chief of railroad maintenance and repair is in charge of maintenance and repair of railroad tracks and way. He has under his supervision several crews of about seven employees each, to whom he assigns work. His recommendations concerning discharges and discipline of personnel are followed.

The train dispatchers in the railroad department are in charge of train traffic. They receive cane delivery quotas for pickup, make the necessary distribution of railroad carts, and assign routes and see that they are followed. Each train dispatcher has a crew of 12 men to whom he gives orders and instructions and assigns work. He also makes effective recommendations for discharge.

The telephone system supervisor is in charge of the operation and maintenance of the Employer's telephone system which services its mills and plantations. Normally he has one linesman under his direction to whom he assigns work and gives instructions and whom he reprimands for faulty job performance. During a period of approximately a month each year, the telephone system supervisor directs 10 men in replacing wooden poles with concrete poles. He can effectively recommend hiring during an emergency.

In view of the above facts and upon the record as a whole, because the above-described individuals either responsibly direct or make effective recommendations affecting the status of employees under their supervision, we find that they are supervisors and exclude them from the unit.

The analysts perform laboratory analysis under the supervision of the laboratory head. Their work consists of chemical analysis of sugarcane juices, sugar, bagasse, molasses, syrup, and filter cake. They are required to be specialized workers or graduate or licensed chemists. Although none of the analysts has a chemistry degree, all have "vast experience." In these circumstances, we find that the analysts are technical employees⁶ and because the parties disagree as to their unit placement, we shall not include them in the unit.⁷

We find that the following employees constitute a unit appropriate for purposes of collective bargaining within the meaning of Section 9 (b) of the Act: All cane weighers, the traffic clerk (secretary to the railroad and maintenance superintendent), and the weekly paid warehouse clerk employed by the Employer at its Central Juncos sugar

⁶ *United States Gypsum Company*, 116 NLRB 1939, 1943; *General Foods Corporation, Northland Dairy Division*, 115 NLRB 263, 265-6.

⁷ *Hancock Electronics Corp.*, 116 NLRB 442, 443.

mill at Juncos, Puerto Rico, but excluding analysts, the chief mayordomo, the assistant engineer, chief of the powerplant or chief electrician, mayordomo timekeeper, chief of the sugar warehouse, chief of materials and supply warehouse and clerks, the sobrestante, chief of railroad carts maintenance and repair, chief of railroad way maintenance and repair, the railroad timekeeper, train dispatchers, telephone system supervisor, all professional, administrative, and executive personnel, office clerical employees, watchmen, and supervisors as defined in the Act.

[Text of Direction of Election omitted from publication.]

Pavel Corporation and Textile Workers Union of America, AFL-CIO, Petitioner. *Case No. 1-RC-4979. November 15, 1957*

DECISION AND DIRECTION

On July 30, 1957, pursuant to a stipulation for certification upon consent election, an election by secret ballot was conducted under the direction and supervision of the Regional Director of the First Region among the employees in the stipulated unit. Following the election, the parties were furnished with a tally of ballots which showed that of 20 votes cast, 10 were for the Petitioner, 8 were against the Petitioner, and 2 were challenged by the Petitioner.

No objections to the election or to the conduct of the election were filed. As the challenges are sufficient in number to affect the results of the election, an investigation was made pursuant to Section 102.61 of the Board's Rules and Regulations by the Regional Director, who on August 21, 1957, issued his report on challenged ballots recommending that the two challenges be overruled. The Petitioner filed timely exceptions to the report and the Employer filed a reply to the exceptions.

The Board¹ has considered the Regional Director's report, the Petitioner's exceptions thereto, the Employer's reply to the exceptions, and the entire record in this case and finds:

1. The Employer is engaged in commerce within the meaning of the Act.
2. The labor organization involved claims to represent certain employees of the Employer.

¹ Pursuant to the provisions of Section 3 (b) of the National Labor Relations Act, the Board has delegated its powers in connection with this case to a three-member panel [Members Murdock, Rodgers, and Bean].