R. P. Olinger, Lee Ray Olinger, and Norbert E. Olinger,[1] Copartners, d/b/a Olinger Construction Company *and* Local 841 and Local 181, International Union of Operating Engineers, AFL–CIO,[2] Petitioner. *Case No. 25–RC–1901. November 2, 1960*

DECISION AND ORDER

Upon a petition duly filed, a hearing was held before a hearing officer of the National Labor Relations Board. 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 National Labor Relations Act, the Board has delegated its powers in connection with this case to a three-member panel [Chairman Leedom and Members Rodgers and Jenkins].

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

1. The Employer is engaged in commerce within the meaning of the National Labor Relations Act.

2. The labor organization involved claims to represent employees of the Employer.

3. No question affecting commerce exists concerning the representation of employees of the Employer within the meaning of Sections 9(c)(1) and 2(6) and (7) of the Act, for the following reasons:

The Employer contends that the petition should be dismissed. The Petitioner seeks a unit of operating engineers, equipment mechanics and their helpers, oilers, and equipment servicemen of the Employer employed in governmental work projects within the State of Indiana. The Petitioner would exclude from such unit similar employees of the Employer employed on farms and private construction jobs, and all other employees, such as carpenters, laborers, gradecheckers, and truckdrivers. These employees are currently unrepresented. The Employer is engaged principally in road and bridge construction and maintenance. The employees sought operate and maintain power-driven equipment used in construction, such as cranes, bulldozers, tractors, dirt movers, graders, etc. Although the work done by these operators requires varying degrees of skill, some of which is not acquired without two to four seasons on the jobs, the Board has held that such employees do not constitute either a craft or departmental unit.[3] In

[1] The name of the Employer appears as amended at the hearing.

[2] The Employer objected to the hearing officer's granting of the motion to join Local 181 with Local 841 which filed the petition herein. However, in view of our dismissal of the petition on the ground indicated below, the hearing officer's ruling is not prejudicial to the Employer and we need not pass upon the issues raised by the objection thereto

[3] See *Lewis & Bowman, Inc*, 109 NLRB 796, 799 Although the Board granted a motion for reconsideration in that case (109 NLRB 1194) and directed an election in a unit of such employees, such decision was based upon other considerations, not present in the instant case. Cf. *Phelps-Dodge Corporation*, 60 NLRB 1431, 1442

the circumstances, as the proposed unit does not include other employees of the Employer who are currently unrepresented, we find that it is inappropriate, and we shall dismiss the petition herein.

[The Board dismissed the petition].

Faulhaber Company *and* International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Teamsters Local No. 20. *Case No. 8–CA–1960. November 3, 1960*

DECISION AND ORDER

On June 22, 1960, Trial Examiner Leo F. Lightner issued his Intermediate Report in the above-entitled proceeding, finding that the Respondent had engaged in and was engaging in certain unfair labor practices and recommending that it cease and desist therefrom and take certain affirmative action, as set forth in the copy of the Intermediate Report attached hereto. The Trial Examiner also found that the Respondent had not engaged in certain other unfair labor practices as alleged in the complaint, and recommended that these particular allegations be dismissed. Thereafter, the General Counsel and the Respondent filed exceptions to the Intermediate Report and supporting briefs.

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, Jenkins, and Fanning].

The Board has reviewed the rulings of the Trial Examiner made at the hearing and finds that no prejudicial error was committed. The rulings are hereby affirmed. The Board has considered the Intermediate Report, the exceptions and briefs, and the entire record in this case, and hereby adopts the findings, conclusions, and recommendations of the Trial Examiner.[1]

ORDER

Upon the entire record in this case, and pursuant to Section 10(c) of the National Labor Relations Act, as amended, the National Labor

[1] Respondent does not question the Trial Examiner's finding that it violated Section 8(a)(1) of the Act, but urges only that because this finding was based on a single act of surveillance no order should issue. We disagree Surveillance of a group of employees by taking motion pictures is not such conduct which is so limited or insignificant in its effect that it can be regarded as of an isolated nature Respondent's reliance here upon *Acro Division, Robertshaw-Fulton Controls Company,* 127 NLRB 64, is misplaced. In that case, no exceptions were filed to the Trial Examiner's Intermediate Report and Recommended Order, and the Board merely adopted *pro forma* the Trial Examiner's recommendation that no remedial order issue.