

In view of the foregoing, we find that the Intervenors' contract constitutes a bar to an election of representatives at this time.⁶

[The Board dismissed the petition.]

⁶ The contract has a termination date of June 20, 1963. Under the Board's current contract-bar rules, petitions filed on or after May 1, 1962, will be held timely if filed not earlier than 90 days, and not later than 60 days, prior to the termination date. See *Leonard Wholesale Meats, Inc.*, 136 NLRB 1000.

Sprecher Drilling Corporation¹ and Millwrights and Machinery Erectors, Local Union No. 2834, AFL-CIO, Petitioner. *Case No. 27-RC-2278. November 15, 1962*

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 F. T. Frisbey, hearing officer. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.²

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 Leedom, Fanning, and Brown].

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.
3. The Petitioner seeks to represent a unit of all drillers, motor men, derrick men, and floor men employed by the Employer in the State of Wyoming. The Employer is a Wyoming corporation engaged in the business of drilling oil wells for oil companies. With headquarters in Casper, Wyoming, it operates in an area covering six

¹ The name of the Employer appears as corrected at the hearing

² The hearing officer referred to the Board the Employer's motion to dismiss the petition on the following grounds: (1) The Employer's name was incorrectly stated on the petition; (2) the petition does not comply with the Board's Rules and Regulations because it is not sworn before a notary public or other authorized person, and does not contain a declaration by the person signing it under the penalties of the criminal code that its contents are true and correct to the best of his belief, (3) the Petitioner has not demonstrated a 30-percent showing of interest, and (4) there is not sufficient continuity and stability of employment to justify the finding of an appropriate unit. As to (1) the error in the Employer's name was of a minor nature and was corrected at the hearing. As to (2) the record shows that the petition did contain the necessary declaration that the contents were true and correct to the best of the knowledge and belief of the person signing it and that said petition was signed. As to (3) the sufficiency of the Petitioner's showing of interest is an administrative matter not subject to litigation. *O. D. Jennings & Company*, 68 NLRB 516. We are administratively satisfied that Petitioner's showing of interest is adequate. Finally as to (4) we are finding, for reasons hereinafter set forth, an appropriate unit. In view of the foregoing we find the Employer's contentions to be without merit. Accordingly, its motion to dismiss the petition is herewith denied.

States.³ Most of its drilling is exploratory rather than developing existing oil basins so that its business is of a transitory nature. After completing a particular project it is not uncommon for a drilling rig to be moved to another area 50 or more miles away. Each project may involve more than one drilling rig and may last for several months. In its operations, the Employer employs a permanent nucleus of operating employees who travel with the rigs from area to area.⁴ However, when starting a particular project, the Employer will hire most of its drilling crews from the local area, giving preference to former employees. Although employees thus hired have the option of remaining on the payroll and following the rig, most of them choose not to do so. Nevertheless, the record shows that the Employer has a number of people now working or in layoff status who have worked for the Employer with more or less frequency for several years, and it is estimated that approximately 65 percent of its employees have during the past year worked a minimum of 10 or more days for the Employer. In view of the fact that the Employer's operations are carried on within a fairly well-defined geographical area and fixed labor market and the fact that a substantial number of employees are employed on a regular and part-time basis, we believe that notwithstanding the transitory nature of the Employer's operations, these operations have a sufficient element of stability to them to enable the Board to define a unit appropriate for collective-bargaining purposes. We find therefore, that a question affecting commerce exists concerning the representation of certain employees of the Employer within Section 9(c) (1) and Section 2(6) and (7) of the Act.⁵

4. As indicated, the Petitioner seeks to represent a unit of all drillers, motor men, derrick men, and floor men employed by the Employer within the State of Wyoming. The Employer takes no position as to the appropriateness of the unit requested. As also indicated, the Employer employs a permanent nucleus of drilling crews which move with the Employer's drilling rigs from area to area and that the skills utilized by the various classifications of employees are similar on all rigs. In addition, it appears that the Employer's operations are centrally managed, and it further appears that there is no identifiable group of regular employees whose work is confined to the State of Wyoming. In view of the centralized control of management, the similarity of skills, functions, and working conditions, the maintenance of a permanent nucleus of employees who work in many areas, and the

³ These include the States of Wyoming, Montana, and Utah, and three other States not otherwise identified in the record

⁴ The record indicates that employees within the nucleus have remained with the Employer for several years and in some cases for as long as 10 years

⁵ *Daniel Construction Company, Inc.*, 133 NLRB 264

absence of any identifiable regular group working wholly in Wyoming, we find that only a unit coextensive with all the Employer's operations is appropriate.

The Employer contends that drillers are supervisors and should be excluded from any unit found appropriate. The Petitioner would include drillers in the unit. The record shows that each drilling crew works under the immediate direction of a driller. Drilling operations are conducted on an around-the-clock basis. When a drilling operation is about to start, the tool pusher, who is in charge of the entire drilling operation, will hire the necessary number of drillers. Because of the driller's familiarity with the local labor market, drillers are given full authority to hire other crew members; and they also have the authority to discharge any of these employees. Although drillers may on occasion work in nonsupervisory capacities when sufficient driller jobs are not available, we find, nevertheless, in view of the clear authority to hire and discharge other employees and the fact that they also responsibly direct the work of other employees, that drillers are supervisors within the meaning of the Act. Accordingly, we shall exclude drillers from the unit found appropriate 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 motor men, derrick men, and floor men employed by the Employer in drilling operations, excluding all office clericals, professional employees, guards, drillers, and all other supervisors as defined in the Act.⁶

5. Although the question of eligibility was at issue, neither party has taken any position with respect to it. While the record is not too specific on the point, it appears that the minimum time consumed in drilling a well is approximately 10 days and that a majority of the employees hired at the drilling site work 10 or more days a year for the Employer.⁷ In these circumstances we believe that only those employees who have worked 10 or more days during the year preceding the eligibility date recorded in this Direction of Election have a substantial and continuing interest in conditions of employment with this Employer, and that the selection of this figure will insure a representative vote. We therefore find that in addition to those in the unit who

⁶ Although the Petitioner requested a unit of only employees working in the State of Wyoming, we are administratively advised that it has a sufficient showing of interest in the larger unit herein found appropriate. However, if the Petitioner does not desire to participate in the election herein directed, it may withdraw upon proper notice to the Regional Director within 10 days from the date of the Direction of Election.

⁷ Testimony of the Employer shows that employees with lesser periods of employment than 10 days a year are usually those who for one reason or another are found unqualified for the job, leave the job before its completion, or apply for work near the completion of the job.

were employed during the payroll period immediately preceding the date of the Decision and Direction of Election, employees who have worked 10 or more days during the year preceding the eligibility date for the election herein directed are eligible to vote.

[Text of Direction of Election omitted from publication.]

Trade Winds Drilling Company and Millwrights and Machinery Erectors, Local Union No. 2834, AFL-CIO, Petitioner. Case No. 27-RC-2279. November 15, 1962

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 F. T. Frisbey, hearing officer. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.¹

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 Leedom, Fanning, and Brown].

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.
3. The facts in the record before us are substantially the same as the facts before us in the recently decided case of *Sprecher Drilling Corporation*.² The record here, as in *Sprecher*, indicates that the Employer is engaged in the business of exploratory oil drilling in approximately the same geographical area of Western States. It employs a small nucleus of regular employees, who travel with the rigs from one

¹ The hearing officer referred to the Board the Employer's motion to dismiss the petition on the following grounds: (1) The petition does not comply with the Board's Rules and Regulations because it is not sworn before a notary public or other authorized person, and does not contain a declaration by the person signing it under the penalties of the criminal code that its contents are true and correct to the best of his belief; (2) the Petitioner has not demonstrated a 30-percent showing of interest; and (3) there is not sufficient continuity and stability of employment to justify the finding of an appropriate unit. As to (1), the record shows that the petition did contain the necessary declaration that the contents were true and correct to the best of the knowledge and belief of the person signing it and that said petition was signed. As to (2) the sufficiency of the Petitioner's showing of interest is an administrative matter not subject to litigation: *O. D. Jennings & Company*, 68 NLRB 516. We are administratively satisfied that Petitioner's showing of interest is adequate. Finally, as to (3), we are finding for reasons hereinafter set forth, an appropriate unit. In view of the foregoing we find the Employer's contentions to be without merit. Accordingly, its motion to dismiss the petition is hereby denied.

² 139 NLRB 1009.