

APPENDIX

NOTICE TO ALL EMPLOYEES

Pursuant to the recommendations of a Trial Examiner of the National Labor Relations Board, and in order to effectuate the policies of the National Labor Relations Act, we hereby notify our employees that:

WE WILL NOT discourage membership in United Textile Workers of America and District 50, United Mine Workers of America, or in any other labor organization, by discharging employees, or in any other manner discriminating in regard to their hire or tenure of employment or any term or condition of employment.

WE WILL NOT discriminate against employees because they have filed charges or given testimony under the Act.

WE WILL NOT interfere with, restrain, or coerce employees in the exercise of the right to self-organization, to form labor organizations, to join or refrain from joining United Textile Workers of America and District 50, United Mine Workers of America, or any other labor organization, to bargain collectively through representatives of their own choosing, and to engage in concerted activities for the purpose of collective bargaining or other mutual aid or protection, or to refrain from any and all such activities, except that such rights may be affected by an agreement requiring membership in a labor organization as a condition of employment, as authorized in Section 8(a)(3) of the Act.

WE WILL offer to compensate Louise Shatley, Frank Perry, and Carrie DeLoach fully for 2 days lost while suspended and immediately reinstate them to their former or substantially equivalent positions without prejudice to their seniority and other rights and privileges, and will make them whole for any loss of pay incurred as a result of their suspension.

All our employees are free to become, or refrain from becoming, members of the above-named Unions or any other labor organization, except to the extent that this right may be affected by an agreement in conformity with Section 8(a)(3) of the Act

EAST TENNESSEE UNDERGARMENT COMPANY,
Employer.

Dated----- By-----
(Representative) (Title)

This notice must remain posted for 60 consecutive days from the date hereof, and must not be altered, defaced, or covered by any other material.

Employees may communicate directly with the Board's Regional Office, 528 Peachtree-Seventh Building, 50 Seventh Street NE., Atlanta 23, Georgia, Telephone Number, Trinity 6-3311, Extension 5357, if they have any question concerning this notice or compliance with its provisions.

Gulick Drilling Company and Millwrights and Machinery Erectors Local Union No. 2834, United Brotherhood of Carpenters and Joiners, AFL-CIO, Petitioner.¹ Case No. 27-RC-2294.
November 20, 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 J. Donald Meyer, hearing

¹The name of the Petitioner appears as corrected at the 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, motormen, derrickmen, and floormen employed by the Employer within the State of Wyoming. The Employer, a Delaware corporation with its main office in Denver, Colorado, is engaged in the business of drilling oil and gas wells for oil companies. It operates in seven States.³ Most of its drilling is exploratory rather than in developing existing oil and gas 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. When starting a particular well, the Employer will hire most of its drilling crews from the local area. Employees thus hired have an option of remaining on the payroll and following the rig, but most of them choose not to do so. However, the record shows that the Employer has a significant number of employees, now working or who have been laid off, who have worked for the Employer for over 6 months, and three or four of these same employees have worked for over a year. The record further shows that employees are hired for the duration of the drilling which varies from 24 to 51 days, and that during the past year the majority of the employees worked a minimum of 10 days or more 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

² The hearing officer referred to the Board the Employer's motion to dismiss the petition on the following grounds: (1) The alleged unit actually consists of a maximum of 24 employees instead of the 35 alleged in the petition; (2) the authorization cards in support of the Petitioner are "stale," undated, and failed to designate this particular company; and (3) the unit requested does not show sufficient continuity and stability of employment to justify the finding of an appropriate unit. As to (1), the error in the number of employees is of a minor nature and was corrected at the hearing. 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. Furthermore, we are administratively satisfied that Petitioner's showing of interest is adequate. Finally, as to (3), for reasons hereinafter set forth, we are finding 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.

³ These include the States of Wyoming, North Dakota, South Dakota, Montana, Colorado, Utah, and New Mexico.

operations, there is a sufficient element of stability in these operations to enable the Board to define a unit appropriate for collective-bargaining purposes.⁴ 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.

4. As indicated, the Petitioner seeks to represent a unit of all drillers, motormen, derrickmen, and floormen employed by the Employer within the State of Wyoming. The Employer, while taking no position as to what would be an appropriate unit, questions the appropriateness of the unit requested. There is no history of bargaining for any of the Employer's employees. Also, as indicated, the Employer employs a permanent nucleus of drilling crews which move with the Employer's drilling rigs from area to area and the skills utilized by the various classifications of employees are similar on all rigs. In addition, it appears that all phases of 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, and the maintenance of a permanent nucleus of employees who work in many areas, and the 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

⁴ *Sprecher Drilling Corporation*, 139 NLRB 1009; *Daniel Construction Company, Inc.*, 133 NLRB 264.

the meaning of Section 9(b) of the Act: All motormen, derrickmen, and floormen employed by the Employer in drilling operations, excluding all office clericals, professional employees, guards, drillers, and all other supervisors as defined in the Act.

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.⁵ In these circumstances we believe that only those employees who have worked 10 or more days during the year preceding the eligibility date provided in this Direction of Election have a substantial and continuing interest in conditions of employment with the 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 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.]

⁵ 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.

Pipefitters' Local Union No. 522, and Plumbers and Gas Fitters Local No. 107, United Association of Journeymen and Apprentices of the Plumbing and Pipefitting Industry of the United States and Canada, AFL-CIO and Brown & Williamson Tobacco Corporation. Case No. 9-CD-59-1. November 20, 1962

DECISION AND DETERMINATION OF DISPUTE

This is a proceeding under Section 10(k) of the Act, following a charge filed by Brown & Williamson Tobacco Corporation, herein called the Employer, alleging a violation of Section 8(b) (4) (D) by Pipefitters' Local Union No. 522, United Association of Journeymen and Apprentices of the Plumbing and Pipefitting Industry of the United States and Canada, AFL-CIO (UA), herein called Local 522, the Pipefitters or Respondent, and by Plumbers and Gas Fitters Local No. 107, UA,¹ herein called Local 107. Pursuant to notice, a

¹ Although Local No. 107 was not actively engaged in this dispute, members of Local 107 do backup work for members of Pipefitters Local 522. Locals 107 and 522 are parties to a collective-bargaining agreement with the Employer. Accordingly, Local 107 appeared at the hearing and agreed to be bound by any determination the Board might make.