

and prospective buyers, the Employers make all decisions concerning when and where major repairs are to be made to the vessels, and the Employers pay the expenses of the entire operation.

In view of the foregoing and the entire record in these cases, we conclude that the captains are not independent contractors, but employees of the Employers, as are the crewmembers.<sup>6</sup> We therefore find that questions affecting commerce exist concerning the representation of certain employees of the Employers within the meaning of Section 9(c) (1) and Section 2(6) and (7) of the Act.

4. The parties are otherwise in agreement and we find that the following employees of the Employers constitute separate units appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

(1) In Case No. 4-RC-6272, all employees aboard clamming vessels owned by William P. Riggin & Son, Inc., excluding the captains.

(2) In Case No. 4-RC-6273, all employees aboard clamming vessels owned by Robert Robbins, excluding the captains.

[Text of Direction of Elections omitted from publication.]

<sup>6</sup> *East Coast Trawling & Dock Company, Inc.*, 153 NLRB 1354; *Robert Casebeer & Herman Foland, d/b/a Casebeer & Foland, a Partnership*, 149 NLRB 742; *Southern Shellfish Co., Inc.*, *supra*, footnote 5.

**Humble Oil & Refining Company, Petitioner and Industrial Employees Association, Inc.,<sup>1</sup> and Local Union No. 553, affiliated with International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America.<sup>2</sup> Case No. 29-UC-2.**  
*July 8, 1965*

## DECISION AND ORDER

Upon a petition for clarification duly filed under Section 9(b) of the National Labor Relations Act, as amended, a hearing was held before Hearing Officer Jordan Ziprin. All parties appeared and were given full opportunity to participate at the hearing. Thereafter, Petitioner and Local 553 filed briefs in support of their respective positions.

The National Labor Relations Board has considered the Hearing Officer's rulings made at the hearing and finds that no prejudicial error was committed. The rulings 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 Fanning, Brown, and Jenkins].

<sup>1</sup> Hereinafter called Industrial.

<sup>2</sup> Hereinafter called Local 553.

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 organizations involved claim to represent certain employees of the Employer.

3. Petitioner, a Delaware corporation, is engaged in the production, refining, and distribution of petroleum products throughout the United States. Petitioner's employees in the New York State area currently are, and for a number of years have been, represented by Industrial in a unit of production and maintenance employees, including delivery truck operators, motor tank salesmen, plant men, sales agents, plant helpers, mechanics, and mechanical helpers. On August 7, 1964, Petitioner purchased the assets of Weber & Quinn and its subsidiary Burdi Fuel Co., Inc., Brooklyn, New York. At that time Local 553 represented Weber & Quinn's truckdrivers and mechanics under a collective-bargaining agreement to terminate in December 1965. Pursuant to its policy of integrating into its existing structure newly acquired smaller businesses, Petitioner closed Weber & Quinn's office on April 2, 1965. All panel and delivery trucks formerly owned by Weber & Quinn were repainted to delete the latter's name and were moved either to Petitioner's Brooklyn or Queens offices. Of Weber & Quinn's 14 mechanics and 10 drivers, 9 mechanics, including 8 burner service mechanics and 1 truck mechanic, and 4 drivers were employed by Petitioner. The four drivers and the truck mechanic were relocated at Petitioner's Brooklyn office where they work with Petitioner's other drivers and mechanics. Similarly, the eight burner service mechanics work out of Petitioner's Queens office. Thus, the former Weber & Quinn employees work out of the same locations, service the same accounts, work for the same supervisors, are subject to the same labor relations policies, are paid from the same office, and have the same interests in wages and working conditions as the other drivers and mechanics of Petitioner.

Petitioner now seeks to include in the existing contractual unit the above employees previously employed by Weber & Quinn. Local 553 has moved to dismiss the petition on the grounds that: (1) Petitioner, as successor to Weber & Quinn, is bound by the terms of the latter's contract with Local 553; and (2) Local 553 has filed a complaint with the United States District Court for the Southern District of New York, requesting the court to compel the Petitioner to arbitrate certain disputes arising out of its current contract with Local 553. For the reasons stated below, Local 553's motion is hereby denied.

It is clear from the record that Petitioner has effectively merged the former Weber & Quinn employees into the New York unit currently represented by Industrial. These employees cannot now be considered a separate appropriate unit. Whatever Petitioner's obligations with

respect to Local 553's contract with Weber & Quinn are, such obligations cannot operate as a bar to the inclusion of the former Weber & Quinn employees in the production and maintenance unit currently represented by Industrial on an exclusive basis. Similarly, Local 553's contractual right to arbitrate disputes arising from its relationship with Weber & Quinn does not preclude the Board from determining a question concerning the appropriateness of unit for the purposes of collective bargaining. We shall therefore grant the Petitioner's petition.

[The Board granted the Petitioner's petition for clarification.]

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**International Longshoremen's & Warehousemen's Union; and  
Locals 6, 10, 34, 54, and 91, International Longshoremen's &  
Warehousemen's Union and United States Steel Corporation.**  
*Case No. 20-CD-136. July 9, 1965*

DECISION AND ORDER

Upon a charge filed on May 13, 1964, and amended on June 8, 1964, by United States Steel Corporation, hereinafter called U.S. Steel, the General Counsel for the National Labor Relations Board, herein called the General Counsel, by the Regional Director for Region 20, issued a complaint, dated January 29, 1965, against International Longshoremen's & Warehousemen's Union; and Locals 6, 10, 34, 54, and 91, International Longshoremen's & Warehousemen's Union, herein called the Respondents, alleging that the Respondents had engaged in and were engaging in unfair labor practices affecting commerce within the meaning of Section 8(b)(4)(D) and Section 2(6) and (7) of the National Labor Relations Act, as amended. Copies of the complaint, the charge, the amended charge, and the notice of hearing were duly served upon the Respondents and U.S. Steel. Thereafter, on February 5, 1965, the Respondents filed an answer denying the commission of any unfair labor practices.

With respect to the unfair labor practices, the complaint alleged that: Pursuant to Section 10(k) of the Act, the Board had heard and made a determination of dispute out of which the charged unfair labor practice arose; the determination of the Board was that the Respondents were not lawfully entitled to force or require U.S. Steel to assign the work of unloading the Employer's cargo from the Employer's ships at the Pittsburg works dock to employees represented by Respondents rather than to employees represented by Local No. 1440, United Steelworkers of America, AFL-CIO, herein called Steelworkers; the Respondents have not complied with the terms of the