

Arkley Lumber Co. and Teamsters, Warehousemen and Auto Truck Drivers, Local No. 684, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America¹ and Lumber and Sawmill Workers, United Brotherhood of Carpenters and Joiners of America, AFL-CIO.² Cases 20-RC-7510 and 20-RC-7529

February 28, 1968

DECISION AND DIRECTION OF ELECTIONS

BY MEMBERS BROWN, JENKINS, AND ZAGORIA

Upon petitions duly filed under Section 9(c) of the National Labor Relations Act, as amended, a consolidated hearing was held³ in these cases before Hearing Officer Donald E. Twohey. The Teamsters Union and the Employer have filed briefs in support of their positions.

Pursuant to the provisions of Section 3(b) of the National Labor Relations Act, as amended, the National Labor Relations Board has delegated its powers in connection with this case to a three-member panel.

The Board has reviewed the Hearing Officer's rulings made at the hearing and finds that they are free from prejudicial error. They are hereby affirmed.

Upon the entire record in these cases, including the briefs, the National Labor Relations Board finds:

1. The Employer is engaged in commerce within the meaning of the Act, and it will effectuate the purposes of the Act to assert jurisdiction herein.

2. The labor organizations involved claim to represent certain employees of the Employer.

3. Questions affecting commerce exist concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.

4. The Teamsters in its petition seeks an election in a unit comprised of truckdrivers. The Lumber and Sawmill Workers' petition is for a production and maintenance unit, excluding the truckdrivers. The Employer contends that a single overall unit, including the truckdrivers, is appropriate. Also at issue is whether three employees, alleged to be guards, are to be included in any unit or units found appropriate.

The Employer operates a sawmill in Arcata, California. Although the Employer has been in operation for approximately 20 years, it has only a limited history of collective bargaining. A 1-year

contract was entered into in 1961 at which time there were only 34 employees and no truckdrivers. It was not until 1966 that the Employer began to lease trucks and employ truckdrivers. Prior to that time, the Employer's finished products were hauled by railroad or common carrier trucks.

The Employer's truck operation was initiated in 1966 when it began the sale of byproducts. The Employer now employs approximately 128 employees, including 7 truckdrivers. Of the seven truckdrivers, two drive "over the road," hauling finished lumber to San Jose and Sacramento. These seven have no fixed schedule. The two over-the-road drivers are dispatched by Powell, who is sales coordinator. The over-the-road trucks are loaded by forklifts and loading crews. As is traditional, the truckdrivers strap and mark their loads. Four drivers haul byproducts, sawdust, and chips to local customers. The round trip distance involved in these hauls is less than 15 miles. These four drivers work two on the day shift, and two on the night shift. The byproduct trucks are loaded by "gravity feed" from bins and the drivers do not participate in loading unless there is an emergency. The remaining driver is engaged in local haulage to the Eureka docks to random customers, and to the Eureka Cross Arm Company. The round trip to Eureka is about 35 miles. All of the trucks involved are leased by the Employer. Heavy maintenance on the trucks is done by the lessor and not the Employer. The truckdrivers are required to have a Department of Motor Vehicle Class I license. The truck lessor insists that the truckdriver applicants be given a test run on the leased equipment before they are hired and the lessor reserved the right to reject the drivers hired by the employer.

There is no interchange between the truckdrivers and the other mill employees. In emergency situations, truckdrivers will work with mill employees to clean up spilled byproducts which may occur from faulty operation of the bins, which are used to load the byproduct on the trucks. The trucks are equipped with "tachographs" which record the driver's driving time and speed, to see that he conforms to State Department of Motor Vehicles and Public Utility requirements with respect to speed, lunch periods, and rest periods. There appears to have been separate supervision of the truckdrivers from the beginning of the trucking operation. Lauren Pettit, who is still a driver for the Employer, was the first "truck boss." He was replaced by Peter Howley, who came to the Employer from the lessor of the trucks, and only a few days before the hearing in this case, Howley was replaced by Dubaldi, the general superintendent. Dubaldi directly supervises and dispatches the four byproducts

¹ Herein called Teamsters

² Herein called Lumber and Sawmill Workers

³ The captioned cases were consolidated for hearing by order of the Acting Regional Director dated April 18, 1967.

By letter dated November 27, 1967, counsel for the Employer has informed us that the Employer's name has been changed to Molalla-Arcata. The change is duly noted and any notice of election will be modified accordingly.

drivers, and the driver who hauls to the Eureka dock, and exercises ultimate control over the other two drivers. Although there has been some turnover in drivers, no replacements have come from the mill.

Other employees of the Employer are grouped into categories performing four major functions in and around the sawmill. These functions include the initial sawing of lumber, trimming and resawing, the green chain, the planer mill and byproducts, and a miscellaneous category.⁴ As to these employees, they work exclusively in and around the mill premises. They do not interchange with those employees driving trucks, and they have separate immediate supervision. All employees, including truckdrivers, have the same health and welfare plan and profit-sharing plan. They all have the same holidays and the same vacation plan.

Contentions of the Parties

The Employer contends that a production and maintenance unit should include truckdrivers, because they are part of an integrated process in that they deliver the Employer's end products to their final destination and, therefore, that only an overall production and maintenance unit including truckdrivers is appropriate.

In support of their respective petitions the Unions contend that the groups of employees in question have a separate community of interest and are more appropriately designated as separate bargaining units.

The Appropriate Unit or Units

We are not here concerned with severance of a truckdriver group from an overall production and maintenance unit, but rather with the initial establishment of bargaining units. In making unit determinations the Board considers whether the employees in the units petitioned for constitute functionally distinct and homogeneous groups so as

⁴ Some of the mill classifications and duties include the barker operator processes the logs by removing the bark and cutting the logs into the desired lengths; the sawyer reduces the logs to specific sizes and dimensions, the off-bearer distributes the pieces coming off the head rig to either the edger or the pony saw; the edger operates four saws and does selective cutting to get desired widths; the pony sawyer reduces the material that comes to him for further manufacture, for cutting specific sizes and grades; the trimmer spotter positions the pieces of lumber on link chains so they are carried through the saws, the trimmer cuts out the bad portions of the pieces of lumber; the grader grades the lumber into different categories according to the rule book, the resawyer further reduces and remanufactures the pieces of lumber that do not measure up to certain specifications, the filer files and sharpens saws; a planer man maintains the machines and sharpens the knives, the breakdown man receives the lumber in unit size and puts them through the machine one piece at a time; the yard expeditor tallies the lumber in the yard and keeps the yard in order; the trim sawyer will retrim for continually upgrading the piece of lumber; the trim puller pulls any piece of lumber marked for trim; planer chain crew and short chain crew remove lumber from the chain and put it into different lengths and grades, millwrights and helpers are responsible for the maintenance and construction in the sawmill or on the premises; a

to warrant the establishment of separate bargaining units.

In view of the absence of any overlapping work functions, the lack of interchange, and the fact that truckdrivers have little contact with plant employees because they spend a substantial part of their working time away from the plant and are subject to regulations affecting their hours and working conditions that plant employees are not, we conclude that the truckdrivers comprise a functionally distinct group of employees whose interests and conditions of employment differ from those of the production and maintenance employees.⁵ Contrary to the Employer, we do not find that the fact that truckdrivers haul away the Employer's products makes them such an integral part of the production process as to foreclose their separate representation in view of the other factors mentioned.⁶ In addition, there is no bargaining history with respect to truckdrivers and a union now only seeks to represent the truckdrivers separately. Accordingly, we conclude that the truckdrivers constitute a separate appropriate unit.

As to the plant employees, they all perform work in and around the plant premises, and are engaged in some aspect of processing logs into lumber. As previously noted, they do not interchange with truckdrivers, and they have separate immediate supervision. They have been previously represented in collective bargaining as a group. It is clear, therefore, and we find, that the production and maintenance employees, excluding the truckdrivers, also comprise an appropriate unit for bargaining.

Unit Placement Issue

The Employer has three employees who divide their time between cleanup work and making the rounds of the building with a time clock, which they punch during the rounds. The purpose of making the rounds is to reduce fire hazards and satisfy a requirement of the insurance carrier. These employees have no authority over any other em-

Wagner operator removes the logs from the trucks and designates them to certain areas of the yard; the log scaler scales logs coming in for grade and content; the chipper operator tends the chipper which is a machine that reduces the waste to a usable size; the carloader and assistant carloader load railroad cars, and they have loaded trucks, the carrier operators operate straddle trucks, the cat operator operates a caterpillar tractor; the lift truck operators stack lumber in the yard and carry it back and forth, two yard men take care of specialty items—stamping and strapping, an oiler oils the machines and keeps the drip feed oil filled; the cleanup men keep the area clean

⁵ Cf. *Clandge Logging Co.*, 164 NLRB 1068, *Boyden Logging, Inc.*, 164 NLRB 1069.

⁶ As set forth in *Mallinckrodt Chemical Works, Uranium Division*, 162 NLRB 387, the Board now considers the integrated aspects of an employer's operations as but one relevant factor in determining the appropriateness or inappropriateness of a proposed unit. While *Mallinckrodt* primarily concerned severance of unit or units from an existing unit, it did remove a long-standing bar against finding more than a single overall unit appropriate in the lumber industry.

ployees. They are not armed nor are they deputized. It takes approximately 20 to 25 minutes for each individual to make his round. The remainder of the time is spent doing cleanup work in the mill. The Employer contends that these employees should be included in the unit. The Petitioner, in 20-RC-7529, contends these employees are guards and should be excluded from the unit. On the foregoing facts, we find, contrary to the Petitioner, that these cleanup employees essentially perform janitorial-like maintenance service and are not guards. We shall, therefore, include them in the production and maintenance unit.⁷

⁷ See *Bear River Lumber Co., Inc.*, 150 NLRB 1295, 1297.

⁸ Election eligibility lists, containing the names and addresses of all the eligible voters, must be filed by the Employer with the Regional Director for Region 20 within 7 days of this Decision and Direction of Elections. The Regional Director shall make the lists available to all parties to the

elections. No extension of time to file these lists shall be granted by the Regional Director except in extraordinary circumstances. Failure to comply with this requirement shall be grounds for setting aside the elections whenever proper objections are filed. *Excelsior Underwear Inc.*, 156 NLRB 1236.

Accordingly, we shall direct separate elections, as sought by the Petitioners, in the following units at the Employer's Arcata, California, operation, which we find to be appropriate.

A. All truckdrivers, excluding all other employees, guards, and supervisors as defined in the Act.

B. All production and maintenance employees, including the cleanup employees, but excluding all truckdrivers, office clerical employees, guards, and supervisors as defined in the Act.

[Direction of Elections⁸ omitted from publication.]

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