Weyerhaeuser Company *and* Western States Regional Council No. III, International Woodworkers of America, AFL-CIO, Petitioner. Case 19-RC-5000

June 20, 1969

DECISION AND DIRECTION OF ELECTION

By Chairman McCulloch and Members Brown and Zagoria

Upon a petition duly filed on January 17, 1969, under Section 9(c) of the National Labor Relations Act, as amended, a hearing was held before Hearing Officer Douglas B. Powell. Briefs have been filed by the Employer and Petitioner.

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 considered the Hearing Officer's rulings made at the hearing and finds that they are free from prejudicial error and they are hereby affirmed.

Upon the entire record in this case, including the briefs filed by the parties, the 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 organization involved claims to represent certain employees of the Employer.

3. The Petitioner seeks a unit of tree nursery employees at the Employer's Rochester, Washington, tree nursery. The Employer contends that these employees are agricultural laborers exempted by Section 2(3) from coverage under the Act. We find no merit in this contention.

The Employer is an integrated forest products company. It cuts mature timber on its own timberlands and, from such timber, produces a full line of wood products. Weyerhaeuser also engages in reforestation, by aerial seeding, and hand planting on its timberlands. Seeds for forest trees are generally obtained either from forest land of the Employer or from other forests. A small portion of these seeds are then sent to the Employer's nursery and planted, cared for, harvested, and ultimately shipped to one of the Employer's forests for replanting.

The employees in issue work at a nursery near Rochester, Washington. The nursery property consists of 159 acres and was devoted to agriculture prior to its purchase by Weyerhaeuser a few years ago. There is no forest or timber on the premises. The nursery product consists of tree seedlings and the output is used entirely by the Employer.

The nursery employees do the fertilizing, tilling, irrigating, planting, cultivating, harvesting, and processing, necessary to produce the seedlings. Usually, after 2 years' growth, the seedlings are harvested. They are removed from the soil and packaged and stored on the nursery premises in large paper bags and, eventually, delivered to Weyerhaeuser lands. Some seedlings are transplanted for additional periods of growth at the nursery.[1] The equipment used for these operations is, generally, farm equipment rather than equipment used in logging or forestry operations.

The Board's annual appropriation acts since 1947, including our present appropriation,[2] have contained a rider requiring the Board to follow the definition of the term "Agricultural" contained in Section 3(f) of the Fair Labor Standards Act.[3] Under Section 3(f) forestry or lumbering operations are not considered as agricultural in nature unless performed by a farmer, or on a farm, as an incident to or in conjunction with such farming operation. In Title 29, Part 780.177 CFR, the Department of Labor states that "Operations in a forest tree nursery such as seeding new beds and growing and transplanting forest seedlings are not farming operations." In agreement with the Department of Labor, we find that a tree nursery operation does not come within the ambit of the agricultural definition in Section 3(f) of the Fair Labor Standards Act, but is, rather, a forestry operation. The nursery employees therefore are not exempt from coverage under the National Labor Relations Act, as amended.

Accordingly, we find that a question affecting commerce exists concerning the representation of employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.

4. We find that the following employees constitute a unit appropriate for the purpose of collective bargaining within the meaning of Section 9(b) of the Act:[4]

> All employees of the Employer in its operation on Gate Road, N.W. of Rochester, Washington, excluding office clerical employees, professional

[1] In addition to growing seedlings directly in the soil, some seedlings are planted and grown in pots for periods of 1 month to 1 year, on an experimental basis.

[2] 29 U.S.C. 203.

[3] 81 Stat. 408 (1967)

[4] The Employer generally agrees with the scope of the unit found appropriate, but contends that it should be described as "all hourly paid employees" rather than "all employees" as sought by the Petitioner. In support of its contention the Employer asserts that its Rochester tree nursery is still under development and that future operations may entail the necessity to employ other classifications such as over-the-road truckdrivers, salaried technicians, laboratory employees, agronomists, plant clericals, outside salesmen, retail clerks and others, whom the Board might exclude from the unit herein found appropriate. We find no merit in the Employer's contention. The Board traditionally describes collective-bargaining units as they exist at the time of the hearing, and does not attempt to pass on the possible inclusion or exclusion of classifications which may or may not be employed in the future. We find that the description set forth above is adequate and appropriate to describe the collective-bargaining unit requested in this proceeding.

employees, guards and supervisors as defined in the Act.

[Direction of Election[5] omitted from publication.]

[5]In order to assure that all eligible voters may have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties to the election should have access to a list of voters and their addresses which may be used to communicate with them *Excelsior Underwear Inc*, 156 NLRB 1236, *N L R.B.* v. *Wyman-Gordon Company*, 394 U.S. 759. Accordingly, it is hereby directed that an election elegibility list, containing the names and addresses of all the eligible voters, must be filed by the Employer with the Regional Director for Region 19 within 7 days of the date of this Decision and Direction of Election. The Regional Director shall make the list available to all parties to the election. No extension of time to file this list shall be granted by the Regional Director except in extraordinary circumstances. Failure to comply with this requirement shall be grounds for setting aside the election whenever proper objections are filed