

Redwood Construction Co., Hoopa Division and Teamsters Union Local No. 684
Redwood Construction Co., Inc. and Brotherhood of Teamsters, Warehousemen & Auto Truck Drivers, Local 684, Petitioner
Redwood Construction Co., Hoopa Division and National Association of Independent Unions, Petitioner. Cases 20-RM-1601, 20-AC-22, and 20-RC-11317

August 27, 1973

**DECISION ON REVIEW, ORDER, AND
 DIRECTION OF ELECTION**

BY MEMBERS JENKINS, KENNEDY, AND PENELLO

On May 3, 1973, the Regional Director for Region 20 issued his Decision and Order in the above-entitled proceeding, in which he found that the Employer's Hoopa, California, operation was an accretion to an existing multilocation unit of truckdrivers represented by Brotherhood of Teamsters, Warehousemen & Auto Truck Drivers, Local 684, hereinafter called the Teamsters. Accordingly the Regional Director amended the Teamsters certification pursuant to the request in Case 20-AC-22 to include the Hoopa location, and dismissed petitions filed by the Employer and the National Association of Independent Unions, hereinafter called the Independent, for an election at the Hoopa location. Thereafter, in accord with National Labor Relations Board Rules and Regulations, the Employer and the Independent filed timely requests for review, in which they contended that the Regional Director erred in failing to find that a question exists concerning the representation of the employees at the Hoopa location. The Teamsters filed an opposition thereto.

By telegram dated June 4, 1973, the National Labor Relations Board granted the request for review and stayed the order amending the certification pending decision on review. Thereafter the Teamsters filed a brief on review.

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

The Board has considered the entire record in this case, including the brief on review, and makes the following findings:

The Employer, which is engaged in hauling logs and other wood products, has headquarters in Samoa, California. At all times until April 1, 1973, the Employer was contractually obligated to furnish all of its trucks to Louisiana Pacific Company, which is en-

gaged in logging operations in northern California, retaining the right to service other customers only when Louisiana Pacific had no need of its trucks. In addition to its Samoa operations the Employer also maintains operations in Dinsmore and Alderpoint, California, in connection with its work for Louisiana Pacific. In 1971, the Teamsters was certified in Case 20-RC-9453 for a single unit of drivers at, and working out of, the Samoa, Dinsmore, and Alderpoint locations.

The Cal-Pacific Manufacturing Company, hereinafter called Cal-Pac, operates a lumber mill on the Hoopa Valley Indian Reservation at Hoopa, California. During the summer of 1972, Cal-Pac commenced negotiations with the Employer to provide trucking services for it at Hoopa. As a result, the parties entered into a long term arrangement under which Cal-Pac, with certain minor exceptions, agreed to utilize only the Employer's trucking services. The Employer, in return, agreed that by the beginning of the 1973 logging season, it would purchase new equipment which it would make available to Cal-Pac whenever required, would establish a separate division to service Cal-Pac, and would comply with certain preferential hiring and other employment practices which were imposed upon Cal-Pac and its contractors by the Hoopa Tribe and which are intended to expand the employment opportunities of Indians. During the following months, Cal-Pac and the Employer obtained the consent of the Hoopa Tribe and of Louisiana Pacific to their arrangement. The Employer ordered the trucks and other equipment at a total cost of about \$600,000, established its Hoopa Division, appointed a division manager, and authorized him to deal with Cal-Pac and the Hoopa Tribe. The Hoopa Division commenced operation on April 1, 1973.

In the meantime, Cal-Pac was utilizing the service of several trucking contractors on a nonexclusive basis. During the fall of 1972 and the following winter, the Employer's business with Louisiana Pacific decreased substantially, and the Employer was accordingly enabled to transfer trucks and drivers to the Hoopa location. Because of the mildness of the fall and winter, Cal-Pac was able to utilize, in addition to those of other trucking contractors, as many as 15 of the Employer's trucks and drivers. During the period before April 1, 1973, the Employer complied substantially with the provisions of the Teamsters contract, including those permitting senior drivers to transfer to desirable locations, and to have their choice of runs.

During March 1973, the Employer announced its intent to limit the foregoing seniority provisions because they have the effect of denying new Indian employees employment opportunities, contrary to the Employer's contract with Cal-Pac. Thereafter the

union members met and voted to require the Employer to adhere to the terms of the contract. The Employer then announced that it would no longer operate under the contract and filed its RM petition. Shortly thereafter, the Teamsters filed its AC petition.

The Employer's Hoopa Division officially commenced its operation on April 1 and began to hire new drivers. All of the equipment utilized during the interim arrangement with Cal-Pac, as well as the drivers who so elected, were returned to the Employer's other operations. Thereafter the Independent filed its own petition. At the time of the hearing, the Hoopa Division employed 19 employees: 10 transferees from the Employer's other operations and 9 new hires.

In concluding that the Employer's Hoopa location constituted an accretion to the existing multilocation unit, the Regional Director failed, in our opinion, to make an appropriate distinction between the nature of the Employer's operational structure before and after April 1. Before that date Cal-Pac's trucking requirements were being satisfied on a temporary basis by several contractors, including the Employer, who then utilized equipment and personnel from its other locations in accordance with the bargaining contract covering those locations. However, in accordance with its long term arrangement with Cal-Pac, the Employer, on April 1, 1973, established a separate division at Hoopa with its own manager and newly purchased equipment to service only Cal-Pac's Hoopa operation and began to implement the mandatory labor relations policy with respect to the preferential hiring of Indians required of Cal-Pac and its contractors.

Under all the circumstances, we find, contrary to the Regional Director, that the Employer's Hoopa Division is a new and autonomous operation and not merely an extension of its preexisting locations and that therefore a question concerning representation exists within the meaning of Section 9(c) of the Act which may not be resolved in a clarification proceeding. Accordingly, we shall dismiss the petition in Case 20-AC-22.

At the hearing, the Teamsters and the Independent agreed that in the event an election was directed, it should include all the employees of the Hoopa Division. As such a unit is presumptively appropriate and as there is insufficient evidence in support of the Employer's contention that the unit should be limited to only the Employer's Hoopa drivers, we find that the following employees constitute a unit appropriate for purposes of collective bargaining within the meaning of Section 9(b) of the Act:

All employees of the Employer's Hoopa Division including drivers, mechanics, loaders and helpers but excluding office clerical employees, guards and supervisors as defined in the Act.

ORDER

It is hereby ordered that the petition filed by the Teamsters in Case 20-AC-22 to amend its certification be, and it hereby is, dismissed.

[Direction of Election and *Excelsior* footnote omitted from publication.]