

King's River Pine, a Unit of Wicks Forest Industries, a Division of Wicks Forest Industries and Central California District Council of Lumber, Production and Industrial Workers on Behalf of Local Union 3184, United Brotherhood of Carpenters and Joiners of America, AFL-CIO, Petitioner. Case 20-RC-12886

December 15, 1976

DECISION AND CERTIFICATION OF REPRESENTATIVE

The National Labor Relations Board has considered objections to an election held on September 10, 1975,¹ and the Regional Director's report recommending disposition of same. On November 24, 1975, the Employer filed timely exceptions to the Regional Director's report with respect to all of the Regional Director's conclusions and his recommendations that the objections be overruled, and the Union be certified.

On January 28, 1976, the Board ordered that a hearing be held for the purpose of receiving evidence to resolve the issues raised by the Employer with respect to the adequacy of the posting of the notice to employees of the opportunity to vote and the time and date of the election, and the failure of the Regional Office to make available to the employees bilingual notices and ballots.

Pursuant thereto, a hearing was held and, on March 25, 1976, the Hearing Officer issued her Report on Objections. In her report, the Hearing Officer recommended to the Board that the Employer's objections be overruled.

Thereafter, on April 12, 1976, the Employer filed timely exceptions to the Hearing Officer's conclu-

¹ The election was conducted pursuant to a Stipulation for Certification Upon Consent Election. The tally was: 39 ballots for, and 32 against, the Petitioner, there was 1 void ballot and no challenged ballots.

² As to the Employer's objection that the Regional Director failed to furnish bilingual notices and ballots for the election, we find that the Employer has failed to present evidence that a substantial number of Spanish surnamed employees could not read or understand English, and therefore,

sions contained in her report, and a brief in support of its exceptions.

The Board has duly considered the Hearing Officer's Report on Objections and is of the opinion that the Employer's exceptions raise no material or substantial issues of fact or law which would warrant reversal of the Hearing Officer's recommendation that the Employer's objections be overruled.² Accordingly, we shall issue the following:

CERTIFICATION OF REPRESENTATIVE

It is hereby certified that a majority of the valid ballots have been cast for Central California District Council of Lumber, Production and Industrial Workers on behalf of Local Union 3184, United Brotherhood of Carpenters and Joiners of America, AFL-CIO, and that, pursuant to Section 9(a) of the National Labor Relations Act, as amended, said labor organization is the exclusive representative of all the employees in the following appropriate unit for the purposes of collective bargaining with respect to rates of pay, wages, hours of employment, or other conditions of employment:

All hourly production and maintenance employees employed by the Employer at its Auberry, California plant, but excluding office clerical employees, truck drivers, confidential employees, guards and supervisors as defined in the Act.

MEMBER PENELLO, dissenting:

For the reasons set forth in my dissent in *Norwestern Products, Inc.*, 226 NLRB No. 127 (1976), I disagree with my colleagues that there is a burden on any party — here the Employer — to present evidence that a substantial number of Spanish surnamed employees could not read or understand English.

the absence of bilingual ballots did not constitute sufficient grounds for setting aside the election. See *Alamo Lumber Company*, 187 NLRB 384 (1970), where the Board found that neither party requested Spanish-English ballots prior to the election, distinguishing *Marriott-In-Flite Services Division of Marriott Corporation v. N.L.R.B.*, 417 F.2d 563 (C.A. 5, 1969), and *Fibre Leather Manufacturing Corporation*, 167 NLRB 393 (1967)