

In the Matter of STANDARD OIL COMPANY OF CALIFORNIA and OIL  
WORKERS INTERNATIONAL UNION, LOCAL 299

*Case No. R-265.—Decided March 3, 1938*

*Oil Producing and Refining Industry—Investigation of Representatives:* Controversy concerning representation of employees; rival organizations; controversy as to appropriate bargaining unit—*Unit Appropriate for Collective Bargaining:* inability to determine the appropriate bargaining unit because of lack of clear definition of the meaning of "trade jurisdiction" set out in the Constitution and By-Laws of the various craft unions involved, and because of failure to enumerate employees of the Company included within the "trade jurisdiction" claimed; unit confined to employees of only one of Company's refineries is inappropriate—*Order:* dismissing Petition for Investigation and Certification of employees in one refinery only.

*Mr. David Sokol*, for the Board.

*Pillsbury, Madison & Sutro*, by *Mr. Felix T. Smith* and *Mr. J. Howard Marshall*, of San Francisco, Calif., and *Mr. Max Felix*, of Los Angeles, Calif., for the Company.

*Mr. Fred L. Phillips*, of Long Beach, Calif., for the Oil Workers Union.

*Mr. Thomas M. Carlson*, of Richmond, Calif., and *Mr. John McCormick*, of Oildale, Calif., for the S. E. A.

*Mr. C. E. Edmonds*, of Long Beach, Calif., for the I. A. M.

*Mr. Amos H. Feely*, of San Francisco, Calif., for the I. B. E. W.

*Mr. Thomas Crowe* and *Mr. George Hoffman*, of Kansas City, Kans., for the Boiler Makers.

*Mr. Hyman A. Schulson*, of counsel to the Board.

DECISION

AND

ORDER

STATEMENT OF THE CASE

On June 9, 1937, Oil Workers International Union, Local 299, herein called the Oil Workers Union, filed with the Regional Director for the Twenty-first Region (Los Angeles, California) a petition alleging that a question affecting commerce had arisen concerning the representation of employees employed at the El Segundo, California, refinery of Standard Oil Company of California, herein called the Company, and requesting an investigation and certification of rep-

representatives pursuant to Section 9 (c) of the National Labor Relations Act, 49 Stat. 449, herein called the Act. On July 24, 1937, the Oil Workers Union filed an amended petition. On August 2, 1937 the National Labor Relations Board, herein called the Board, acting pursuant to Section 9 (c) of the Act and Article III, Section 3, of National Labor Relations Board Rules and Regulations—Series 1, as amended, ordered an investigation and authorized the Regional Director to conduct it and to provide for an appropriate hearing upon due notice.

On August 19, 1937, the Regional Director issued a notice of hearing, copies of which were duly served upon the Company, upon the Oil Workers Union, upon the Standard Oil Employees' Association, herein called the S. E. A., upon the International Association of Machinists, herein called the I. A. M., upon the International Brotherhood of Electrical Workers, herein called the I. B. E. W., upon the International Brotherhood of Boiler Makers, Iron Ship Builders, Welders and Helpers of America, Local 351, herein called the Boiler Makers, and upon the Metal Trades Council of the American Federation of Labor, herein called the Council, labor organizations claiming to represent employees directly affected by the investigation. Pursuant to the notice a hearing was held on August 30 and 31 and September 1 and 2, 1937, at El Segundo, California, before Clifford D. O'Brien, the Trial Examiner duly designated by the Board. The Board, the Company, the Oil Workers Union, the S. E. A., the I. A. M., the I. B. E. W., and the Boiler Makers were represented by counsel and participated in the hearing. Full opportunity to be heard, to examine and to cross-examine witnesses, and to introduce evidence bearing on the issues was afforded all parties.

Pursuant to notice, a hearing was held before the Board on September 21, 1937, in Washington, D. C., for the purpose of oral argument. The Company and the S. E. A. appeared by counsel and participated in the oral argument. A brief was thereafter filed by the S. E. A., which has received due consideration.

During the course of the hearing at El Segundo the Trial Examiner made several rulings on motions and on objections to the admission of evidence. The Board has reviewed these rulings and finds that no prejudicial errors were committed. The rulings are hereby affirmed.

Upon the entire record in the case, the Board makes the following:

#### FINDINGS OF FACT

##### I. THE BUSINESS OF THE COMPANY

The Company is a Delaware corporation, organized on January 27, 1926, with its principal offices in San Francisco, California. It

is engaged in the production, refining, transportation, sale, and distribution of petroleum, oil, gas and the byproducts thereof. The Company owns or leases thousands of acres of oil producing lands in the United States and in foreign countries. From its oil fields it operates its own pipe lines to refineries within the State of California, at El Segundo, Richmond, and Bakersfield. The Company also owns a number of subsidiaries which operate refineries at El Paso and at Colorado, Texas. The Company itself operates 21 seagoing vessels, 12 harbor vessels, several railroad tank cars, and trucks, which aid in the transportation of its crude oil from pipe-line terminals to refineries and of its refined products from refineries to points outside the State of California. Numerous other vessels, both seagoing and harbor, are owned and operated by its subsidiaries as an integral part of its business.

During 1936 the Company produced approximately 52,050,000 barrels of refined petroleum products, of which approximately 14,800,000 barrels (about 28 per cent) were shipped by the Company out of California to other States, to Territories of the United States, and to foreign countries. Of the remainder, approximately 14,000,000 barrels, or about 37½ per cent of the total production, were shipped by others than the Company to States other than California. Thus, approximately 65 per cent of the Company's refined petroleum products were shipped to points outside of California. Figures are not available showing the exact proportions of the production of the El Segundo refinery moving to States other than California because the Manufacturing Department's figures for the refineries at Richmond, El Segundo, and Bakersfield are carried on a consolidated basis. The products moving into interstate and foreign commerce move indiscriminately from the three refineries.

The crude petroleum utilized by the Company in its production in 1936 was produced or purchased by it entirely in California. The Company itself shipped no crude petroleum outside of California. It delivered, however, during the year, approximately 3,731,000 barrels of crude petroleum to purchasers who transported it to States other than California.

The three refineries employ about 3,400 men, 1,300 at Richmond, 1,100 at El Segundo, and 1,000 at Bakersfield.

## II. THE ORGANIZATIONS INVOLVED

Oil Workers International Union, Local 299, is a labor organization affiliated with the Committee for Industrial Organization, admitting to its membership all employees of the Company at its El Segundo refinery engaged in the production, transportation, refining, and marketing of natural gas and petroleum products, excluding guards, clerical, and supervisory employees.

The Standard Oil Employees' Association is a labor organization admitting to its membership all persons employed by the Company for a period of 30 days or over, excluding supervisory employees and "chief clerks, assistant chief clerks, secretaries, and confidential clerks to the management."

International Brotherhood of Boiler Makers, Iron Ship Builders, Welders and Helpers of America, Local 351, is a labor organization affiliated with the American Federation of Labor, admitting to its membership all employees of the Company at its El Segundo refinery coming within its "trade jurisdiction" as defined in its Constitution and By-Laws.<sup>1</sup> The Boiler Makers has a local union at Richmond, California, admitting to its membership all employees of the Company at its Richmond refinery coming within its "trade jurisdiction" as defined in its Constitution and By-Laws. There is no Boiler Makers local at Bakersfield, but the local of another union at Bakersfield admits boiler makers at the Company's Bakersfield refinery and adjusts grievances for its members.

International Association of Machinists is a labor organization affiliated with the American Federation of Labor, admitting to its membership all persons coming within its "trade jurisdiction" as defined in its Constitution.<sup>2</sup> Employees of the Company's El Segundo refinery who are within the "trade jurisdiction" of the I. A. M. are eligible to membership in Local No. 1235 of the I. A. M. at Long Beach, California.

International Brotherhood of Electrical Workers is a labor organization affiliated with the American Federation of Labor, admitting to its membership persons employed at electrical work or in plants manufacturing electrical appliances. Employees of the Company's El Segundo refinery who are within the "trade jurisdiction" of the I. B. E. W. are eligible to membership of I. B. E. W. locals at Long Beach and Los Angeles, California.

### III. THE APPROPRIATE UNIT

The Oil Workers Union contends that all employees working at the Company's El Segundo refinery, excluding supervisory and clerical employees and guards constitute the appropriate unit. The Company takes the position that all employees in the three refineries at El Segundo, Richmond, and Bakersfield, excluding supervisory and clerical employees, constitute a single appropriate unit. The S. E. A. makes the same contention, subject to the qualification that, as it urges in its brief, the American Federation of Labor craft unions be permitted to continue to bargain for their members. The Boiler

<sup>1</sup> Boiler Makers' Exhibit No. 6 (pages 92-95).

<sup>2</sup> Machinists' Exhibit No. 1 (pages V-X).

Makers and the I. A. M. contend that all employees in the three refineries who are within their respective "trade jurisdictions" constitute separate bargaining units. The I. B. E. W. requests that all employees within its "trade jurisdiction" be excluded from the ballot in the event of an election.

Much substantial evidence was adduced in support of the contentions of the S. E. A. and the Company for a State-wide unit, comprising the employees in all three refineries. Since 1933 the S. E. A. has held several general conferences with the management of the Company at the latter's principal office in San Francisco, California, concerning rates of pay, wages, hours of employment, classifications, and other conditions of employment of employees in all three refineries. From time to time agreements have been arrived at covering these employees. The Company's three refineries operate as one unit. The volume and character of the products, the manufacturing operations, and the distillation, accumulation, and withdrawal of various types of stock of each refinery are centrally controlled through the Manufacturing Department's general manager's office in San Francisco. All accounting is upon the basis of the Manufacturing Department (consisting of the three refineries) as a unit. All matters of general policy are determined in the San Francisco offices. Wages, hours, working conditions, classifications, and processes are similar at all three refineries. There are frequent interchanges and transfers of employees between them. An employee qualified to work at a particular classification in one refinery has no difficulty in doing the work in the same classification in either of the other refineries. Other large integrated oil companies operating on the Pacific Coast, such as Shell Oil Company of California, Tide Water Associated Oil Co., of California, Richfield Oil Co. of California, Union Oil Co. of California, and the Texas Company, have conducted collective bargaining relationships with their employees on a State-wide basis.<sup>3</sup>

We are of the opinion, on the basis of the record, that a unit confined to employees at the Company's El Segundo refinery and excluding similar employees at the other refineries, is not appropriate for the purposes of collective bargaining.<sup>4</sup> Since the petition filed in this proceeding relates solely to employees at the El Segundo refinery, it is not necessary to determine what would be the appropriate unit if the petition were broader in scope.

As for the craft unions, it is clear that the I. B. E. W. is not seeking certification; and it is not clear that the other two, the I. A. M.

<sup>3</sup> See *Matter of Shell Oil Company of California and International Association of Oil Field, Gas Well and Refinery Workers of America, et al.*, 2 N. L. R. B. 835.

<sup>4</sup> Cf. *Matter of Swift and Company and Packing House Workers Union, Local No. 563*, 4 N. L. R. B. 779; *Matter of American Woolen Company, Nat'l and Providence Mills and Independent Textile Union of Olneyville*, 5 N. L. R. B. 144.

and the Boiler Makers, would desire an investigation and certification of representatives of employees in the units which they claim as appropriate if no other organization raised a question as to the representation of the employees in these refineries. Even if this were clear, there is again the obstacle that the petition upon which this case is based does not include, in the unit alleged appropriate, any of the employees in the Bakersfield and Richmond plants whom the craft unions claim as being subject to their jurisdiction and in the units for which they contend. Even if this difficulty could be circumvented, and even if we should hold that this case was a proper one for the application of the procedure set forth in *Matter of the Globe Machine and Stamping Co.*, and *Metal Polishers Union, Local No. 3, International Association of Machinists, District No. 54, Federal Labor Union 187881 and United Automobile Workers of America*,<sup>5</sup> there would remain the additional fact that the record fails to furnish us with any basis upon which we could determine the appropriate craft groups. It appears that, within single pay periods, men are frequently employed in numerous classifications, not only in different crafts, but even in different departments.<sup>6</sup> None of the representatives of the craft unions specifically described which employees or which classifications of work are included within the meaning of the term, "trade jurisdiction," as used in the Constitution and By-Laws of his craft union so that it might be possible to determine accurately the bounds of the craft unit contended for. Without a clear interpretation of the meaning of the "trade jurisdictions" set out in the Constitution and By-Laws of these craft unions or an enumeration of employees of the Company included within the "trade jurisdiction" claimed we cannot define the craft groups in which separate elections might be directed.

In short, within the scope of the unit proposed by the petition, no unit has been suggested that we can fix upon as appropriate.

#### IV. THE QUESTION CONCERNING REPRESENTATION

Since as stated in Section III we are unable to find an appropriate unit within the scope of that alleged in the petition filed in this case, we must find that no question has been raised concerning the representation of employees of the Company in an appropriate bargaining unit.

Upon the basis of the above findings of fact and upon the entire record in the case, the Board makes the following:

<sup>5</sup> 3 N L R B 294

<sup>6</sup> Board Exhibit Nos 15 and 16

## CONCLUSION OF LAW

No question concerning the representation of employees of Standard Oil Company of California in a unit which could be found appropriate for the purposes of collective bargaining has arisen, within the meaning of Section 9 (c) of the National Labor Relations Act.

## ORDER

Upon the basis of the foregoing findings of fact and conclusion of law the National Labor Relations Board hereby dismisses the Petition for Investigation and Certification filed by the Oil Workers International Union, Local 299.