

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 19

ALYESKA PIPELINE SERVICE CO.

Employer

and

Case 19-RC-14600

UNITED STEELWORKERS, LOCAL 4959,
AFL-CIO

Petitioner

SECOND SUPPLEMENTAL DECISION AND DIRECTION OF ELECTION

The Petitioner filed the above-captioned petition¹ seeking an election among employees in the unit described below, in order to determine whether the Petitioner represents a majority of said employees. On December 10, 2004, I issued a Decision and Direction of Election, finding that the appropriate unit of employees of the Employer to be:

All full-time and regular part-time operations, maintenance and laboratory technicians working at the Employer's Valdez Marine Terminal in Valdez, Alaska; excluding all office clerical employees, guards and supervisors as defined by the Act and all other employees.

On December 22, 2004, the Employer filed a Motion Requesting Reopening of the Record in order to introduce evidence concerning the Employer's alleged public utility status. On February 9, 2005, I issued a Supplemental Decision and Direction of Election in which I found the petitioned-for technicians at the Valdez Marine Terminal constitute a presumptively appropriate single-facility unit and that the Employer failed to rebut that presumption. On February 22, 2005, the Employer filed a timely Request for Review of my Supplemental Decision and Direction of Election.

By Order dated April 6, 2005, the Board granted the Employer's Request for Review and issued a notice and invitation to file briefs to afford the opportunity to interested amici to address the issues raised in this case.

On September 29, 2006, the Board issued a decision finding the system-wide presumption should apply and that the presumption had not been rebutted by the evidence.

¹ Petitioner originally filed its petition as Paper, Allied-Industrial, Chemical and Energy Workers, Local 8-0369, AFL-CIO. Since then, Petitioner has merged with the Steelworkers and changed its name to United Steelworkers, Local 4959, AFL-CIO.

Accordingly, the Board found the unit limited to the employees of the Employer's Valdez Marine Terminal was not appropriate.

Following the Board's decision, the Petitioner indicated that it remains willing to proceed to an election in the expanded, system-wide unit found appropriate by the Board. An investigation into Petitioner's showing of interest revealed that the Petitioner has a sufficient showing of interest to proceed to an election in the larger unit.

Accordingly, I find that the following employees of the Employer constitute a unit appropriate for collective-bargaining within the meaning of Section 9(b) of the Act and shall direct an election be held in that Unit:

All full-time and regular part-time operations, maintenance and laboratory technicians employed by the Employer; excluding all office clerical employees, guards and supervisors as defined by the Act.

There are approximately 327 employees in the Unit.

DIRECTION OF ELECTION

An election by secret ballot shall be conducted by the undersigned among the employees in the Unit found appropriate at the time and place set forth in the notice of election to be issued subsequently, subject to the Board's Rules and Regulations. Eligible to vote are those in the Unit who were employed during the payroll period ending immediately preceding the date of this Decision, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off. Employees engaged in any economic strike, who have retained their status as strikers and who have not been permanently replaced are also eligible to vote. In addition, in an economic strike, which commenced less than 12 months before the election date, employees engaged in such strike who have retained their status as strikers but who have been permanently replaced, as well as their replacements are eligible to vote. Those in the military services of the United States may vote if they appear in person at the polls. Ineligible to vote are employees who have quit or been discharged for cause since the designated payroll period, employees engaged in a strike who have been discharged for cause since the commencement thereof and who have not been rehired or reinstated before the election date, and employees engaged in an economic strike which commenced more than 12 months before the election date and who have been permanently replaced. Those eligible shall vote whether or not they desire to be represented for collective bargaining purposes by United Steelworkers, Local 4959, AFL-CIO.

A.) List of Voters

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 that may be used to communicate with them. *Excelsior Underwear*, 156 NLRB 1236 (1966); *NLRB v. Wyman-Gordon Co.*, 394 U.S. 759 (1969). Accordingly, it is hereby directed that an election eligibility list, containing the alphabetized full names and addresses of all the eligible voters, must be filed by the Employer with the Regional Director of Region 19 within 7 days of the date of this Decision

and Direction of Election. *North Macon Health Care Facility*, 315 NLRB 359, 361 (1994). The list must be of sufficiently large type to be clearly legible. I shall, in turn, make the list available to all parties to the election.

In order to be timely filed, such list must be received in the Regional Office, 2948 Jackson Federal Building, 915 Second Avenue, Seattle, WA 98174, on or before November 7, 2006. No extension of time to file this list may be granted except in extraordinary circumstances, nor shall the filing of a request for review operate to stay the filing of such list. Failure to comply with this requirement shall be grounds for setting aside the election whenever proper objections are filed. The list may be submitted by facsimile transmission to (206) 220-6305. Because the list will be made available to all parties to the election, please furnish a total of 4 copies, unless the list is submitted by facsimile, in which case only one copy need be submitted.

B.) Notice Posting Obligations

According to Board Rules and Regulations, Section 103.20, Notices of Election must be posted in areas conspicuous to potential voters for a minimum of 3 working days prior to the date of election. Failure to follow the posting requirement may result in additional litigation should proper objections to the election be filed. Section 103.20(c) of the Board's Rules and Regulations requires an employer to notify the Board at least 5 full working days prior to 12:01 a.m. of the day of the election if it has not received copies of the election notice. *Club Demonstration Services*, 317 NLRB 349 (1995). Failure to do so estops employers from filing objections based on nonposting of the election notice.

C.) Right To Request Review

Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 14th Street Washington by November 14, 2006.

DATED at Seattle, Washington, this 31st day of October 2006.

/s/ [Richard L. Ahearn]
Richard L. Ahearn, Regional Director
National Labor Relations Board, Region 19
2948 Jackson Federal Building
915 Second Avenue
Seattle, Washington 98174