

STATE OF CALIFORNIA  
AGRICULTURAL LABOR RELATIONS BOARD

LEMINOR, INC.,	)	
	)	
	)	
Petitioner,	)	Case No. 92-AC-1-VI
	)	
and	)	
	)	
	)	
FRESH FRUIT & VEGETABLE VEGETABLE	)	19 ALRB No. 8
WORKERS, LOCAL 78-B, UFCW, AFL-CIO,	)	(June 11, 1993)
	)	
Certified Bargaining	)	
Representative.	)	
_____	)	

DECISION AFFIRMING DISMISSAL OF PETITION TO  
AMEND CERTIFICATION

Background

On May 7, 1992, the Acting Executive Secretary of the Agricultural Labor Relations Board (ALRB or Board) issued a certification of Fresh Fruit and Vegetable Workers, Local 78-B (FFVW or Union) as the representative of the agricultural employees of Lemnor, Inc., Sequoia Orange Co., Inc., et al. (Lerainor or Employer).<sup>1</sup> On August 7, 1992, Lemnor, Inc. filed a petition to amend the certification pursuant to Title 8, California Code of Regulations, section 20385. The petition sought to amend the certification to list only Lemnor, Inc. as the Employer and none of the other listed entities.<sup>2</sup>

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<sup>1</sup> The Employer's election objections were dismissed on April 24, 1992, and no timely request for review was filed.

<sup>2</sup> The Certification of Representative issued by the Acting Executive Secretary on May 7, 1992, inadvertently failed to list all the entities constituting the Employer in this matter. In order to correct this omission, the Board hereby issues the attached amended certification with the following designation for

(continued...)

Regional Director's Report

On April 15, 1993, the Visalia Regional Director (RD) issued a report and recommendation that the Employer's petition be dismissed. In his report, the RD noted that after the filing of the Petition for Certification herein, a determination regarding the employing entity was made on the basis of substantial documentation that had been previously provided by the various entities. In the RD's view, the documentation indicated that the various entities were in fact an single integrated enterprise providing services for and making sales to each other, with the product of the grower ranches being processed and marketed by the corporate-held packing sheds and marketing operations. The RD attached an appendix to his report demonstrating that the various entities shared common officers, directors, supervisors and management and shared common office facilities. The RD noted that although all parties had the opportunity to address the employer identity issue prior to the election, no party presented evidence at that time to contradict the single integrated enterprise nature of the operations.

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<sup>2</sup>(...continued)

the Employer: Leminor, Inc. and Sequoia Orange, Co.; Sequoia Enterprises; Sequoia Dehydrator, Inc., Tee Dee Ranch, Inc.; Merryman Ranch, Inc.; California Corporation, Cameo Ranches; Canal Ranch, Canyon Ranch, County Line Ranch, Enterprises II Ranch, JMW Ranch, Kern Ranch, Madera Ranch, North Slope Ranch, Oso Ranch, Panoche Ranch, Rolling Hills Ranch, Tropicana Ranch, California partnership a single agricultural employer. (See Notice and Direction of Election, dated 3/24/93.)

The RD also noted that Lemnor's petition to amend was filed pursuant to section 20385 of the Board's Regulations, which provides that a petition seeking unit clarification may be filed to resolve questions of unit composition which were left unresolved at the time of the certification or questions raised by changed circumstances. The RD found that Lemnor's petition set forth no such unresolved questions or changed circumstances, but sought only to object to the RD's original determination regarding the employing entity. Therefore, the RD concluded, Lemnor's objection does not fall within the purview of section 20385, but should have been raised as an objection to the conduct of the election pursuant to section 20365 of the Regulations.

For all of the foregoing reasons, the RD recommended that the petition to amend the certification be dismissed.

Request for Review

In its request for review, Lemnor contends that since FFVW sought only to represent workers employed in the Employer's packinghouses, the ranch entities should not have been included as part of the Employer. Lemnor further argues that while there is some overlap of ownership between the packinghouse owners and operators and the ranch entities, this overlap is not complete. Although the three packinghouse owners own percentages of each of the ranch entities, Lemnor asserts that they are not majority owners in most of the ranches. Further, Lemnor asserts, none of the packinghouse owners have sole power over management decisions and labor relations decisions in the packinghouses, and none of

the unrelated ranch owners have any power over management decisions or labor relations decisions in the packinghouses. Leminor states that the various entities have a common mailing address only because all the ranch bookkeeping is done at that address through a farm management company.

Leminor states that it did not raise the ownership issue by way of election objections because it was not challenging the composition of the unit but rather objected to the list of employers which the RD had certified. Leminor asserts that it did allege changed circumstances by pointing out that the original certification of the United Farm Workers of America, AFL-CIO, in the early 1980's was broader than that sought by FFVW in January 1992.

#### Discussion

The Certification of Representative issued May 7, 1992 by the Executive Secretary describes the unit as:

All Agricultural employees of the Employer working in [the] off the farm<sub>3</sub> packing houses in Terra Bella and Exeter (Tulare County).

Thus, as Leminor correctly states, FFVW did not seek to represent any employees other than those in the packing sheds, and in fact the certification is limited to packing shed employees and does not include any employees working on the

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<sup>3</sup> The certification actually reads "...working in and off the farm packing houses..." but this is a typographical error. The Notice and Direction of Election correctly describes the unit as the agricultural employees of the Employer "working in the off the farm packing houses in Terra Bella and Exeter (Tulare County)."

ranches. Lemnor's petition to amend thus does not seek to change the scope of the unit, but rather to change the entity named in the certification as the Employer.

Lemnor is not seeking to resolve questions of unit composition which were left unresolved at the time of the certification. The question of employer identity, as well as the scope of the unit, were resolved by the RD prior to the election. Further, Lemnor has not cited any changed circumstances since the date of the election. That is, Lemnor has not alleged that the scope of the unit or the ownership of the ranches and packinghouses has changed since the certification issued. Lemnor could have raised the employer identity issue in its election objections, but failed to do so.<sup>4</sup>

Title 8, California Code of Regulations, section 20385, provides that a petition seeking clarification of an existing bargaining unit may be filed in order to resolve questions of unit composition which were left unresolved at the time of certification or were raised by changed circumstances since certification. Since Lemnor is not seeking to resolve a question of unit composition and has not alleged any change in circumstances since the May 7, 1992 certification issued herein, it is inappropriate for Lemnor to seek amendment of the certification under section 20385. Lemnor is simply seeking to

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<sup>4</sup> Lemnor's only election objections alleged Board agent misconduct and use of a FFVW flyer containing an alleged misrepresentation. The election objections were dismissed on April 24, 1992, and no timely request for review was filed.

reargue an employer identity issue that has already been resolved, and which Lemnor could have raised, but failed to raise, in its election objections.

We therefore adopt the Regional Director's recommendation in this matter, and Lemnor's petition to amend the certification is hereby dismissed.

DATED: June 11, 1993

BRUCE J. JANIGIAN, Chairman

IVONNE RAMOS RICHARDSON, Member

LINDA A. FRICK, Member

## CASE SUMMARY

Leminor, Inc.  
(Fresh Fruit & Vegetable Workers)

19 ALRB No. 8  
Case No. 92-AC-1-VI

### Background

On May 7, 1992, the Acting Executive Secretary issued a certification of Fresh Fruit & Vegetable Workers (FFVW) as the representative of the agricultural employees of Leminor, Inc., Sequoia Orange Co., Inc., et al. On August 7, 1992, Leminor, Inc. filed a petition to amend the certification pursuant to section 20385 of the Board's Regulations to list only Leminor, Inc. as the Employer and none of the other listed entities.

On April 15, 1993, the Regional Director (RD) issued a report and recommendation that the Employer's petition be dismissed. The RD noted that the identity of the employing entity had been determined on the basis of substantial documentation previously provided by the various entities. The RD attached an appendix to his report demonstrating that the various entities shared common officers, directors, supervisors and management and shared common office facilities. The RD also noted that section 20385 of the Board's Regulations provides that a petition seeking unit clarification may be filed to resolve questions of unit composition which were left unresolved at the time of the certification or questions raised by changed circumstances. Since Leminor's petition set forth no such unresolved questions or changed circumstances, the RD concluded that Leminor's objection did not fall within the purview of section 20385, but should have been raised as an objection to the conduct of the election pursuant to section 20365 of the Regulations. The RD therefore recommended that the petition to amend the certification be dismissed.

### Board Decision

The Board affirmed the RD's conclusion that since Leminor was not seeking to resolve a question of unit composition and had not alleged any change in circumstances since the May 7, 1992 certification, it was inappropriate for Leminor to seek amendment of the certification under section 20385 of the Regulations. The Board concluded that Leminor was simply seeking to reargue an employer identity issue that had already been resolved, and which it could have raised, but failed to raise, in its election objections. The Board therefore adopted the RD's recommendation and dismissed Leminor's petition to amend the certification.

State of California  
AGRICULTURAL LABOR RELATIONS BOARD  
Estado de California  
CONSEJO DE RELACIONES DE TRABAJADORES AGRICOLAS

Case Nos. 92-R-1-VI  
Caso Num.

LEMINOR, INC. and SEQUOIA ORANGE, CO.; SEQUOIA ENTERPRISES; SEQUOIA DEHYDRATOR, INC., TEE DEE RANCH, INC.; MERRYMAN RANCH, INC.; California Corporation, CAMEO RANCHES; CANAL RANCH, CANYON RANCH, COUNTY LINE RANCH, ENTERPRISES II RANCH, JPW RANCH, KERN RANCH, MADERA RANCH, NORTH SLOPE RANCH, OSO RANCH, PANOCH RANCH, BOLLISG HILLS RANCH, TROPICANA RANCH, California partnership a single agricultural employer,

Employer,

and

FRESH FRUIT AND VEGETABLE WORKERS, LOCAL 78-B, UFCW, AFL-CIO,

AMENDED

**CERTIFICATION OF REPRESENTATIVE**

**CERTIFICACION DEL REPRESENTANTE**

An election having been conducted in the above matter under the supervision of the Agricultural Labor Relations Board in accordance with the Rules and Regulations of the Board; and it appearing from the Tally of Ballots that a collective bargaining representative has been selected; and no petition filed pursuant to Section 1156.3(c) remaining outstanding;

Habiendose conducido una election en el asunto arriba citado bajo la supervision del Consejo de Relaciones de Trabajadores Agricolas de acuerdo con las Regles y Regulaciones del Consejo; y apareciendo por la Cuenta de Votos que se ha seleccionado un representante de negociacion colectiva; y que no se ha registrado (archivado) una petition de acuerdo con la Seccion 1156.3(c) que queda pendiente;

Pursuant to the authority vested in the undersigned by the Agricultural Labor Relations Board, IT IS HEREBY CERTIFIED that a majority of the valid ballots have been cast for

De acuerdo con la autoridad establecida en el suscribiente por el Consejo de Relaciones de Trabajadores Agrícolas. por LA PRESENTS SE CERTIFICA que la mayoría de las balotas validas han sido depositadas en favor de

FRESH FRUIT AND VEGETABLE WORKERS, LOCAL 78-B, UFCW, AFL-CIO

and that, pursuant to Section 1156 of the Agricultural Labor Relations Act, the said labor organization is the exclusive representative of all the employees in the unit set forth below, found to be appropriate for the purposes of collective bargaining in respect to rates of pay, wages, hours of employment, or other conditions of employment.

y que, de acuerdo con la Seccion 1156 del Acto de Relaciones de Trabajadores Agricolas, dicha organization de trabajadores es el representante exclusivo de todos los trabajadores en la unidad aqui implicada, y se ha determinado que es apropiada con el fin de llevar a cabo negociacion colectiva con respecto al salario, las horas de trabajo, y otras condiciones de empleo.

UNIT: All Agricultural Employees of the Employer working in the off-the-farm

UNIDAD: packing houses in Terra Bella and Exeter (Tulare County).

Signed at Sacramento, California

On behalf of

On the 11<sup>th</sup> day of June 19 93

AGRICULTURAL LABOR RELATIONS BOARD

Firmado en \_\_\_\_\_

De parte del

En el \_\_\_\_\_ dia de \_\_\_\_\_ 19 \_\_\_\_\_

CONSEJO DE RELACIONES DE TRABAJADORES AGRICOLAS