

STATE OF CALIFORNIA  
AGRICULTURAL LABOR RELATIONS BOARD

R. C. WALTER & SONS,	)	
	)	
Employer,	)	
	)	
and	)	
	)	No. 75-RC-82-F
UNITED FARM WORKERS OF AMERICA,	)	
AFL-CIO,	)	
	)	2 ALRB No. 14
	)	
Petitioner,	)	
	)	
and	)	
	)	
FRESH FRUIT AND VEGETABLE	)	
PACKERS, AFL-CIO,	)	
	)	
Interested Party.)	)	

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R. C. Walter & Sons grows table grapes and wine grapes in Tulare County, and maintains a packing shed and cold storage operation for packing and storing the grapes it grows. In an election for a bargaining representative held on October 7, 1975, the United Farm Workers of America, AFL-CIO ("UFW"), received a majority of the votes<sup>1/</sup> in a unit which included the field workers, but did not include the packing shed workers. Since we find that it was error to exclude the packing shed workers from the bargaining unit, and since their votes might have affected the results of the election, we set the election aside.

The Employer operates a ranch devoted solely to the cultivation of grapes. The ranch includes approximately 375 acres

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<sup>1/</sup>The UFW received 41 votes and 17 voted for no union. There were no void ballots and no challenged ballots.

in cultivation on four parcels, two near Cutler and two near Exeter in Tulare County. The ranch also includes a cold storage and a packing shed, which is located adjacent to one of the parcels of land, north of Exeter. During the payroll period immediately preceding September 30, 1975, when the UFW filed a petition for certification, 75 workers were employed in the fields and 42 were employed in the packing shed.

The packing shed employees package grapes for shipment to market. They work solely with grapes grown by the employer on property owned by the employer. The work of the packing shed employees is geared to the work of the field employees. When there is a slowdown in field operations, a slowdown in packing operations will follow.

There is no question but that the packing shed workers are agricultural employees. Labor Code section 1140.4(a) includes "preparation for market and delivery to storage or to market" as agricultural employment, a definition which encompasses these workers.

The UFW filed a petition for certification requesting a unit of the agricultural employees of the employer, excluding packing shed workers.<sup>2/</sup> The Board agent conducted an investigation and determined that an election would be held in a unit consisting

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<sup>2/</sup>The copy of the petition served on the employer requested a unit of "all the employer's agricultural commodities" in Tulare County. When the Board agent discovered the discrepancy between the petition filed and the petition served, she requested that the employer correct his copy and waive his objections to improper service, which he did. We do not agree with the UFW that the waiver to defect in service constituted an agreement to hold an election in the unit requested by the UFW.

only of the field employees, and excluding the packing shed employees. She informed the parties accordingly. The basis of this decision does not appear from the record. 3/

Labor Code section 1156.2 states:

"The bargaining unit shall be all the agricultural employees of an employer. If the agricultural employees of an employer are employed in two or more noncontiguous geographical areas, the board shall determine the appropriate unit or units of agricultural employees in which a secret ballot election shall be conducted."

Although this language does not specifically refer to the status of workers in packing sheds, the Legislature considered the question at the time the Act was past. A Statement of Intent, published in the Senate Journal, Third Extraordinary Session, May 26, 1975, reads:

"It is the intent of AB 1533 and SB 813, that the Board, in exercising its discretion to determine bargaining units in noncontiguous geographic areas, may consider processing, packing, and cooling operations which are not conducted on a farm as constituting employment in a separate or noncontiguous geographic area for the purpose of Section 1156.2."

Since in this case the packing operations are clearly conducted on a farm, the Legislature did not intend the Board to have discretion to exclude the packing shed workers from the bargaining unit.

The statutory language supports the conclusion that agricultural workers working in packing sheds that are on farms must be included in bargaining units of other agricultural workers.

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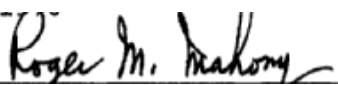
3/The employer suggests that the UFW may not have had a sufficient showing of interest in a unit that included the packing shed workers. Labor Code § 1156.3(a). If this was the case, the petition should have been dismissed.


Since the packing shed involved in this case is located on land adjacent to other farmland owned by the employer, it is "contiguous" for purposes of the statute. Failure to include all employees was an error. Since the number of workers in the packing shed could have affected the results of the election, we overturn the election.

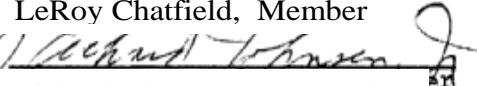
The UFW does not claim that the packing shed and the fields are not contiguous, but it claims that the grower waived its right to complain about the bargaining unit because it cooperated with the Board agents in holding an election in a unit of field employees and waived its objections to proper service of an accurate petition. The record does not reveal that the employer stipulated to the unit requested, but even if it did, such a stipulation could not be approved by the Board and would not be binding on it. This Board does not have the authority granted to the National Labor Relations Board to determine appropriate units except where employees work in noncontiguous geographical areas, and so decisions of the NLRB binding parties to stipulations regarding what constitutes an appropriate unit are not applicable to decisions regarding bargaining units under the ALRA.

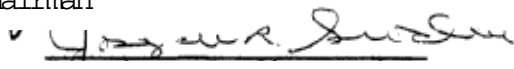
Accordingly, the election is overturned without prejudice to the filing of a new petition for certification.

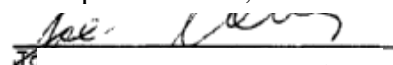
Dated: January 22, 1976

  
Roger M. Mahony, Chairman

  
LeRoy Chatfield, Member

  
Richard Johnsen, Jr., Member

  
Joseph R. Grodin, Member

  
Joe C. Ortega, Member