

STATE OF CALIFORNIA
AGRICULTURAL LABOR RELATIONS BOARD

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| In the Matter of: |) | |
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| LET-US-PAK, |) | No. 75-RC-45-M |
| |) | |
| Employer, |) | |
| |) | |
| and |) | 2 ALRB No. 60 |
| |) | |
| WESTERN CONFERENCE |) | |
| OF TEAMSTERS, |) | |
| |) | |
| Petitioner, |) | |
| |) | |
| and |) | |
| |) | |
| UNITED FARM WORKERS |) | |
| OF AMERICA, AFL-CIO, |) | |
| |) | |
| Intervenor. |) | |
| |) | |

Pursuant to our authority under Labor Code Section 1146, the decision in this matter has been delegated to a three-member panel of the Board.

The Western Conference of Teamsters ("Teamsters") received a majority of the votes cast in a representation election conducted on September 17, 1975.^{1/} Thereafter, the intervening United Farm Workers of America, AFL-CIO ("UFW") filed timely objections to the conduct of the election. Several objections were dismissed for procedural defects while three remaining objections alleging employer interference were heard in an evidentiary hearing on January 13, 1976. The three objections heard were:

^{1/} The petition for certification indicates that the approximate number of eligible voters was 60. A total of 56 votes were cast with the following results: Teamsters, 29; UFW, 25; No Union, 1. There was one void ballot and no challenged ballots.

1. The UFW alleged employer assistance in allowing Teamster organizers full access to employees during working hours.

A pre-existing bargaining agreement gave the Teamsters a contractual right of access to confer with employees in regard to contract matters during working hours and accounts for some discussions which witnesses agreed took place in the fields during August and September. In issue, however, is a meeting during work time at which Teamster representatives allegedly discussed the election (one witness said the meeting occurred while workers were changing from one field to another). Three witnesses placed the event in mid to late August; another believed it was four or five days prior to the election. According to the testimony, all from UFW witnesses, Teamster agents solicited employee signatures on cards "so that the union would know how many members to count on". Furthermore, the Teamsters reportedly advised employees that their right to vote in the election was contingent upon their signing cards and that declared UFW supporters need not sign as they would be dismissed should the Teamsters win the election. There is no evidence as to how many workers attended the meeting, but two of the witnesses who testified stated they walked away and did not hear all of what was said.

The facts in the present case make fully applicable the holding of this Board in Jack or Marion Radovich, 2 ALRB No. 12 (1976) , in which two employees who refused to sign UFW authorization cards were advised by the soliciting organizers that failure to do so would mean a loss of work if the UFW won the election. It was held that an alleged misrepresentation by a union organizer about the consequences of the defeat of the union did not warrant

setting aside the election since employees hearing the remark had no reason to suspect that the organizer had inside knowledge of the employer's plans. We find Jack or Marion Radovich controlling and dismiss the objection.

2. The UFW alleged that assistance was given to the Teamsters by company foreman Faustino Mora who allegedly promised a worker the benefit of a letter from the company to assist his family in immigrating on condition he vote for the Teamsters and in threatening other workers with denial of such letters if they failed to vote for the Teamsters.

This allegation is hereby dismissed for failure to submit evidence at hearing.^{2/}

3. The UFW alleged that threats were made by Mora to the effect that the company would stop growing lettuce.

The record contains some vague and confused testimony concerning alleged threats that the employer would stop growing lettuce. No specific date was given as to when the alleged threats occurred. There was no cross-examination on the point, and while the testimony seems to indicate that a corroborating witness was present, none was called. While we may normally consider such threats to be an interference with the election, this record does not permit a finding to that effect. We overrule this objection.

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^{2/}The only evidence before us is a declaration submitted with the UFW's objection petition which claims that foreman Mora had written a letter to the U. S. Immigration Service on behalf of an employee prior to the election. There is no evidence to establish that the letter was motivated by or in return for the employee's vote.

The Western Conference of Teamsters Agricultural Division, IBT and its affiliated local unions is certified as the exclusive bargaining agent of all agricultural employees of Let-Us-Pak, excluding shed workers, who are employed in the Salinas area.^{3/}

Dated: December 7, 1976.

Gerald A. Brown, Chairman

Richard Johnsen, Jr. , Member

Robert B. Hutchinson, Member

^{3/}The Teamster petition as filed with the Salinas Regional Office listed the employer's address as Salinas and requested a bargaining unit consisting of all agricultural employees of this employer in Monterey County and the Imperial Valley. On the face of the petition, the Teamsters also noted that agricultural employees in this matter are employed in two or more noncontiguous areas. The subsequent notice and direction of election as issued by the regional director called for balloting only at San Juan Bautista (San Benito County) by "all agricultural employees of Let Us Pak excluding shed workers".

We limit certification to the area encompassed by the employer's Monterey-San Benito Counties area operations for two reasons. First, it is not clear from the record whether there were agricultural employees employed in the Imperial Valley at the time of the election who did not vote in the representation election. Secondly, the Board has not considered the appropriateness of the unit or units in accordance with Labor Code Section 1157.