



OFFICE OF THE ELECTION OFFICER
% INTERNATIONAL BROTHERHOOD OF TEAMSTERS
25 Louisiana Avenue, NW
Washington, DC 20001

Michael H. Holland
Election Officer

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October 21, 1991

VIA UPS OVERNIGHT

Rudy Hernandez
32276 Valiant Way
Union City, CA 94587

Cargill Co.
Leslie Salt Division
Attn: Linda Robertson,
Personnel Manager
7200 Central Ave.
Newark, CA 94560-4206

Re: Election Office Case No. P-973-IBT

Gentlemen:

A protest was filed pursuant to the *Rules for the IBT International Union Delegate and Officer Election*, revised August 1, 1990 ("*Rules*") by Rudy Hernandez, a supporter of the Ron Carey slate. In his protest, Mr. Hernandez contends that representatives of the Leslie Salt Division of the Cargill Company improperly prevented him from obtaining access to the company's premises on 7200 Central Avenue, Newark, California, to distribute campaign literature. Mr. Hernandez is not employed by Leslie Salt.

Article VIII, §10 of the *Rules* -- freedom to exercise political rights -- recognizes rights of candidates and members to distribute campaign literature on employer premises. The Advisory Regarding Political Rights, issued December 2, 1990, ("Advisory"), further provides that among these rights is, ". . . the right to have reasonable access to the target" of the activities, i.e. fellow IBT members. National Maritime Union v. NLRB 857 F.2d 767 (2nd Cir., 1989). The investigation of this protest was conducted by Regional Coordinator Donald Twohey and the Election Officer's Washington, D.C. office.

The investigation discloses the following. Entrance to the company's plant is by a private road which is accessed from directly off a highway. There are no sidewalks along the highway and vehicle standing or parking is prohibited.

The parking area for company employees and others is to the left of the private roadway and the company administration building is to the right. Access to the security station and area of the facility where IBT members work is further along the private road; the private road in effect "dead-ends" at the security station. Employees, after parking their where they work.

The Election Officer has contacted representatives of the company and a reasonable accommodation has been reached. The company has agreed, consistent with the position of the Election Officer, to allow Mr. Hernandez and other IBT members -- including those not employed by Leslie Salt -- to have access to the private road leading to the security station in order to distribute campaign literature. Since all IBT members employed by Leslie Salt must walk along this road prior to entering or upon leaving their work area, campaigning on this roadway -- in the area prior to the point where the road intersects with the security station -- affords all IBT members face to face campaigning contact with IBT members employed by Leslie Salt. The company has requested, and the Election Officer finds such request reasonable and therefore directs, that all IBT members seeking to campaign along the private roadway so notify the company prior to or at the time of their arrival. Such notice should be given to Charlie Westmoreland, Operations Manager, or Rodney Christiansen, Plant Manager, whose offices are located in the company's administration building situated to the right of the roadway.

This protest is resolved in accordance with the foregoing.

If any interested party is not satisfied with this determination, they may request a hearing before the Independent Administrator within twenty-four (24) hours of their receipt of this letter. The parties are reminded that, absent extraordinary circumstances, no party may rely upon evidence that was not presented to the Office of the Election Officer in any such appeal. Requests for a hearing shall be made in writing, and shall be served on Independent Administrator Frederick B. Lacey at LeBoeuf, Lamb, Leiby & MacRae, One Gateway Center, Newark, New Jersey 07102-5311, Facsimile (201) 622-6693. Copies of the request for hearing must be served on the parties listed above, as well as upon the Election Officer, IBT, 25 Louisiana Avenue, N.W., Washington, D.C. 20001, Facsimile (202) 624-8792. A copy of the protest must accompany the request for a hearing.

Very truly yours,



Michael H. Holland

MHH/ca

cc: Frederick B. Lacey, Independent Administrator
Donald E. Twohey, Regional Coordinator

Ron Carey
c/o Richard Gilberg, Esquire
Cohen, Weiss & Simon
330 West 42nd Street
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R. V. Durham
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