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OIL WORKERS

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From the Chair

Brothers and sisters, I've been on the road a lot this fall attending to our oil work. At the end of September, I traveled to The Netherlands to attend the second Shell Global Union Network meeting. It was a productive meeting with 50 other trade unionists from 18 nations, and I heard stories of how Shell is treating its workers worldwide. You can read more about the meeting on page three of this issue.

The meeting delegates produced an action plan designed to begin a dialogue between Shell and the network, so we all can work together on issues affecting the company's workers throughout the globe. In the next several months we will have a follow-up story on our progress.

Motiva Split

Motiva is expected to complete the split of its U.S. refining assets between Royal Dutch Shell Plc and Saudi Aramco on April 1, 2017. Shell will have the Norco and Convent, La., refineries and will keep the Norco chemical plant. Saudi Aramco will keep the Port Arthur, Texas, refinery, which is the largest U.S. refiner at 603,000 barrels-per-day. Distribution terminals and gasoline stations will be divided up as well.

Expect a name change for the properties, but everything else will pretty much stay the same. I've had conversations with both companies about our benefits, and I don't anticipate any changes. Read the article about the split on page four.

ExxonMobil Council

I attended the ExxonMobil council meeting, and the two major issues we discussed were the company's introduction of a new synthetic drug testing program for substances like "bath salts" and synthetic cannabis, and the inconsistent implementation of its Loss Prevention System (LPS) behavioral health and safety program.

During the past few months we've been negotiating with Exxon on the proposed changes to the drug testing program. This is new territory for our union and the company because there aren't any federal laws or drug enforcement regulations out yet.

At the ExxonMobil council meeting delegates told stories of how LPS is mandatory at one site, but workers don't have to comply with it in practice. At another location employees are told to observe their coworkers and not the equipment. Another plant has workers observing the equipment and not the employees. As you can see, inconsistency is a real problem, and the council wants implementation to be the same for all ExxonMobil locations.

Benefit Changes

During the past few months we've had to handle proposed benefit changes from a number of companies. If your local gets a proposal or notice from the company to change benefits, you need to notify your staff rep. and my office immediately because there are time limits as to when to enroll in the benefit programs, and it takes time for the International to do an evaluation. Both Chevron and Shell have initiated benefit changes corporate-wide, and we have exercised our right to bargain either the change or the effect of the change.

Policy Committee Calls Begin

In October, I began the quarterly phone calls with the National Oil Bargaining Policy Committee and alternates to touch base, offer assistance, and answer any questions. Expect to hear them report back to the locals in their regions if they haven't done so already.

Holiday Greetings

I want to wish everyone a very

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Arbitrator Orders Tesoro to Reinstate Discharged Worker

A Local 5 member returned to work with full back pay after an arbitrator determined that Tesoro fired him without just cause during the 2015 National Oil Bargaining Unfair Labor Practice (ULP) strike.

Criff Reyes, a super operator No. 1 in the alkylation (alky) unit at Tesoro's Golden Eagle refinery in Avon, Calif., was accused of making threatening and derogatory statements using a stolen radio.

Tesoro's Allegations

Tesoro conducted an investigation by having four managers listen to the taped statements and comparing them to a recording of a 911 call Reyes made previously. Those managers, along with others, claimed they were confident the voice belonged to Reyes.

Reyes denied Tesoro's allegations.

Tesoro fired Reyes on March 13, 2015, for misappropriation of company property, use of the property for an improper purpose, improper use of an emergency-only line, and dishonesty during the course of an investigation.

Reyes filed a grievance regarding his termination, and Local 5 moved it through the grievance process to arbitration. During the 10 days of arbitration hearings, much of the record concerned the reliability of "ear" witness testimony from laypersons and experts. Tesoro had to prove the voice on the transmission was that of Reyes for the termination to hold.

Identifying Voices Accurately

Both the company and the union brought in voice experts to testify, and they cited an article the company expert co-authored, which summarized the research on "ear" witness testimony. The arbitrator wrote that the research established a baseline for the consideration of evidence in this case, and he quoted different passages from the article.

Two of the four company witnesses who decided the recorded transmissions and Reyes' 911 call were the same did not testify. One of the two who testified did not hear the transmissions when they occurred.

The second company witness first testified she did not recognize Reyes' voice after comparing the transmissions with the 911 call, and noted she was not a voice expert.

Management Conclusions "Problematic"

Based on the research, the arbitrator concluded that the reliability of the company witnesses' conclusions were "problematic."

The arbitrator wrote that Tesoro either knew or should have known from its own recordings that the second transmission did not happen immediately after the first. He said the company wrote the discharge notice in a way to provide context for its view that Reyes made the transmissions.

"Without reliable evidence that the voice on the transmissions was that of the Grievant (Reyes), the discharge necessarily fails," the arbitrator wrote. "And, that would be the required conclusion if the Employer relied only on the four-person voice comparison, for it is unknown whether the identifiers are 'good' or 'terrible' at identifying voices."

No Credibility to Those Who Didn't Testify

The arbitrator did not give any weight to the statements of witnesses who did not testify because they could not be cross-examined to determine how familiar they were with Reyes' voice. Plus, Tesoro had not independently checked its records to verify when Reyes worked with those witnesses, which would have shown how long it had been since they regularly heard his voice.

Arbitrator's Final Determination

The arbitrator concluded that Tesoro's basis for firing Reyes, as stated in the discharge notice, was not proven by evidence presented at the arbitration, and, therefore, his discharge was not for just cause.

The arbitrator awarded Reyes reinstatement with full back pay and benefits, and all other rights as if he had not been terminated, less outside earnings.

From the Chair

(continued from page 1)

merry holiday season. My wish for y'all is that you take some time during this holiday and spend it with family and friends. We work grueling schedules that do not allow us adequate time away from work, and as we get older we find that there is much more to life than our job.

Family members, friends and coworkers can be taken from us suddenly, and we can only wish we spent more time with them. Tell those close to you how much you love them, and then show them.

Thank all of you in the oil sector for your patience with me and the support you have shown as my first year comes to a close. I think we had some accomplishments, and I look forward to the challenges ahead. I appreciate your help in making this industry safer and environmentally responsible.

We have much work to do leading up to our next contract, and we will begin getting ready soon. It seems like a long way off, but it will be upon us before we know it. We want to have all the systems in place to assure that the talks go in a direction that is favorable to us and to do that, we must have the support of all our members.

Here's hoping that 2017 finds you all healthy and happy, and that it continues through the year and for many years after.

In solidarity,

Kim Nibarger
Chair
National Oil Bargaining Program
knibarger@usw.org

Shell Global Union Network Creates Action Plan

Last fall, 50 trade unionists from 18 nations met Sept. 19-20 in Rijswijk, The Netherlands, for the Shell Global Union Network meeting to build solidarity, discuss concerns and share ideas. It was the network's second worldwide meeting.

"We formed this international network last year to take action globally on concerns affecting Shell workers around the world," said Kim Nibarger, head of USW's oil program, who attended the meeting. "The network's purpose is to get Shell to fulfill its code of conduct, the guidelines of the Organization for Economic Cooperation and Development (OECD) and other applicable standards.

"Shell refuses to talk with global unions, so our focus currently is to persuade the company to recognize us as an organized network and bargaining partner. At the meeting we drew up an action plan to tackle this problem head-on.

"Another goal is to strengthen the network, and everyone at the meeting was eager to participate," Nibarger said.

Sharing Concerns

Trade unionists from different countries reported on labor relations with Shell. In Belgium, for example, about 40-50 percent of the employees from the company's main office in Brussels have been terminated the past 10 years as part of the reorganization of its upstream and downstream businesses.

Mostly, the company is relocating to low-wage countries like South Africa, India, and Manila, as well as to "supercenters" in Kraków, Poland, or Glasgow, Scotland, that it created to handle its administrative duties—such as human resources, finance and credit control.

Shell is the second largest oil company after Petrobras in Brazil because of its oil production activities. Yet, the company contracts out most of its labor.

In Brazil, Shell has a joint venture with Cosan—a conglomerate producer of bioethanol, sugar, energy and foods—that is called Raízen. Brazilian trade union officials told the delegates that it is difficult for them to meet the Raízen workers because the company forbids them access to its workplace. Also, Raízen's union members are afraid of management pressure.

"Several unions are active at Raízen in the company's agriculture, food, harvesting and transport segments, but I heard these organizations are compromised," Nibarger said. "Delegates said that Shell Raízen tends to select these 'corrupt' unions to be a party to their labor agreements, which, obviously, leads to poor conditions for workers."

In the U.S., Shell increased its reliance on contract workers over the years. In most locations the number of contract workers outnumbers the proprietary workforce performing day-to-day maintenance work.

Shell is building a new, multibillion-dollar ethane cracker 30 miles north of Pittsburgh in Beaver County that will result in 6,000 construction jobs and 600 operations positions. Our union contacted Shell about accepting a neutrality clause—an agreement between the union and the company that each side will respect the other during an organizing drive—but management was unwilling to do so.

Shell in Africa

African delegates described the problems facing Vivo Energy workers. The company operates as a Shell licensee to distribute and market Shell-branded fuels and lubricants in Ghana, Uganda, Morocco and 13 other African nations. It is in a joint venture with Shell.

They said the Vivo workers do not know who to negotiate with at the company, and that the workers lack health and safety standards, workplace restrooms, and company uniforms and shoes. They also said the workers breathe in toxic substances at work.

In Ghana, the African delegates described how it is legal in that country to receive diesel that has up to 100 ppm (parts per million) of sulfur content. Nowhere else is this high sulfur diesel in common use. The delegates said this is not only bad for the workers, but also for the general population and environment. When they raised the issue, they were told it is Vivo, not Shell, marketing the fuel. The delegates said the same standards of finished product must be upheld around the world.

Shell sold its shares to Total in Egypt, and delegates said the temporary workers are afraid they will be fired if they join a union. Total only has lubricant operations and oil stations in Egypt.

Maintain Contact

The Shell Global Union Network plans to maintain contact through email, a Facebook group and a Skype conference if it's needed, Nibarger said.

"We had a productive meeting with many plans for the future," he said. "I am confident this network will help us build the solidarity we need to further the bargaining power of Shell workers in the U.S.," Nibarger added.

Motiva Breakup Unlikely to Create Drastic Change for Local 750 Members

When Motiva Enterprises LLC divides its U.S. refining assets between Royal Dutch Shell Plc and Saudi Aramco on April 1, 2017, not much will change for Local 750 members at the Norco, La., refinery and chemical plant, according to Local 750 President Marty Poche.

Under the terms of the split, Shell will be the sole owner of the Norco and Convent, La., refineries, and Saudi Aramco will keep the Motiva name and the 603,000 barrel-per-day Port Arthur, Texas, refinery, the nation's largest. Shell will continue to own the chemical plant on the Norco complex.

"The split will eliminate the Motiva and Shell contracts as they exist today," Poche said. "The company name at the top of the new contract has not been determined yet, but the new agreement will contain essentially the same contract language and terms as the two former contracts."

Back to the Future

Before the Motiva refining and marketing joint venture began in 1998, Shell owned both the Norco refinery and adjacent chemical plant. After the start of the joint venture in 1999-2000 at Norco, Motiva pushed Local 750 into two groups with two contracts, Poche said. The local filed an Unfair Labor Practice charge, but the National Labor Relations Board denied it. Then, the local filed an appeal, and during this time Motiva modified its proposal and the membership ratified it. This proposal specified the handling of job bidding and seniority.

Under that separation agreement, everyone hired before 2000 was in one, consistent seniority group; anyone could transfer from the Motiva refinery to the Shell chemical plant without losing their seniority. Anyone hired after 2000 only had seniority at the respective company where they hired in, Poche explained.

"It was a protection clause in case of layoff, plant closure or demotion," he said. "We probably will archive that agreement, and we are going to merge everyone's seniority into one group based on each person's actual hire-in date at that specific facility. It doesn't seem to be as much of a problem as we initially thought.

"So, we will go back to being one group, with one seniority and one contract," Poche added.

Hiring to Occur

Poche said Motiva owns the Convent refinery group, and when the plant is turned over to Shell there should not be any issues beyond changing the name of the facility, contract and the color of the work uniforms.

In 2017, the Norco refinery will hire three groups of new employees, most of who will arrive from the old Shell chemical plant down the road that Hexion now owns, Poche said. He began his career there in the early 1990s when Shell owned the facility, and now it is shutting down.

"We've hired about eight of their workers in the last few months. About 50 were laid off and hopefully, in 2017, our refinery will be able to hire some of those former Hexion employees. Shell/Motiva and Hexion have partnered together in seeing that we hire many of the laid-off workers," Poche said.

Please Share

The OilWorker with your union brothers and sisters.

Union Conducts January Process Safety Representative Training

The USW is conducting a 40-hour Process Safety Representative class the week of Jan. 9, 2017, at the USW Local 750 union hall in Norco, La.

The one-week class is open to Process Safety Management representatives and joint labor-management health and safety committee members, per the National Oil Bargaining Program (NOBP) pattern agreement.

Training is limited to 35 people. A call letter and registration form was sent to every NOBP local in late October.

Questions regarding the training should be directed to John Scardella from the Tony Mazzocchi Center, jscardella@uswtmc.org or 412-562-2582.