

Burris Chemical, Inc. and United Steelworkers of America, AFL-CIO-CLC, Petitioner. Case 11-RC-4733

October 22, 1979

DECISION AND CERTIFICATION OF
REPRESENTATIVE

BY CHAIRMAN FANNING AND MEMBERS JENKINS
AND PENELLO

Pursuant to authority granted it by the National Labor Relations Board under Section 3(b) of the National Labor Relations Act, as amended, a three-member panel has considered the objection to an election¹ held August 10, 1979, and the Regional Director's report recommending disposition of same. The Board has reviewed the record in light of the exception and brief and hereby adopts the Regional Director's findings and recommendations.²

CERTIFICATION OF REPRESENTATIVE

It is hereby certified that a majority of the valid ballots have been cast for United Steelworkers of America, AFL-CIO-CLC, and that, pursuant to Section 9(a) of the National Labor Relations Act, the

¹ The election was conducted pursuant to a Stipulation for Certification Upon Consent Election. The tally was: seven for, and three against, the Petitioner; there were no challenged ballots.

² The alleged threats of "violent reprisal" on which our dissenting colleague would set aside the election apparently refer to statements allegedly made by the local president at a meeting of unit employees. According to one employee witness who was present at the meeting, the local president

foregoing labor organization is the exclusive representative of all the employees in the following appropriate unit for the purposes of collective bargaining with respect to rates of pay, wages, hours of employment, and other terms and conditions of employment:

All warehousemen and truckdrivers located at the Employer's Charleston Heights, South Carolina, plant, excluding all office clerical employees and professional employees, guards and supervisors as defined by the Act.

MEMBER PENELLO, dissenting:

Contrary to my colleagues in the majority, I would find merit in the Employer's objection insofar as it alleges that the Petitioner threatened unit employees with violent reprisals should they attempt to cross any picket lines established by the Petitioner. For the reasons set forth in my dissenting opinion in *Hickory Springs Manufacturing Company*, 239 NLRB 641 (1978), I would find such threats, if made, constitute objectionable conduct warranting setting aside the election. I would, therefore, order that this objection be set for a hearing to resolve the Employer's claim that the Petitioner made such threats of picket line violence.

stated, "If anybody breaks the strike line, bust their ass and if you can't do that, at that time you can always find out where they live." According to the second employee witness, the local president said, "If someone crossed the picket line it would be stupid to try something there but we work with them and we knew where they lived, and he wouldn't say anymore about that . . . we knew what to do from there." We find these remarks are unrelated to the outcome of the election or to the way the employees voted in the election and, therefore, provide no basis for setting the election aside. *Hickory Springs Manufacturing Company*, 239 NLRB 641 (1978).