

In the Matter of BUCKEYE TRACTION DITCHER COMPANY and UNITED  
CONSTRUCTION WORKERS, UNITED MINE WORKERS OF AMERICA

*Case No. 8-R-1253.—Decided October 27, 1943*

*Mr. John P. Currie*, of Chicago, Ill., for the Company.

*Mr. Carl C. Schmidt*, of Toledo, Ohio, and *Mr. J. Fred Rousch*,  
of Columbus, Ohio, for the United.

*Mr. A. P. Nobozny*, of Lorain, Ohio, for the I. A. M. and the  
Molders.

*Mr. Louis Cokin*, of counsel to the Board.

DECISION  
AND  
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon petition duly filed by United Construction Workers, United Mine Workers of America, herein called the United, alleging that a question affecting commerce had arisen concerning the representation of employees of Buckeye Traction Ditcher Company, Findlay, Ohio, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before John A. Hull, Trial Examiner. Said hearing was held at Findlay, Ohio, on October 14, 1943. At the commencement of the hearing, the Trial Examiner granted motions of International Association of Machinists, Lodge 1194, herein called the I. A. M., and International Molders and Foundry Workers Union of North America, Local #250, herein called the Molders, to intervene. The Company, the United, the I. A. M., and the Molders appeared, participated, and were afforded full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing on the issues.<sup>1</sup> The Trial Examiner's rulings made at the hearing are free from prejudicial error and are hereby affirmed. All parties were afforded opportunity to file briefs with the Board.

<sup>1</sup> Although United Automobile, Aircraft & Agricultural Implement Workers of America, C. I. O., was served with notice of hearing, it did not appear.

Upon the entire record in the case, the Board makes the following:

### FINDINGS OF FACT

#### I. THE BUSINESS OF THE COMPANY

Buckeye Traction Ditcher Company is an Ohio corporation engaged in the manufacture of earth-moving machinery at Findlay, Ohio. During 1942 the Company purchased raw materials valued in excess of 5 million dollars, over 50 percent of which was shipped to it from points outside the State of Ohio. During the same period the Company manufactured products valued in excess of 10 million dollars, over 50 percent of which was shipped to points outside the State of Ohio. The Company admits that it is engaged in commerce within the meaning of the National Labor Relations Act.

#### II. THE ORGANIZATIONS INVOLVED

International Association of Machinists, Lodge 1194 and International Molders and Foundry Workers Union of North America, Local #250, are labor organizations affiliated with the American Federation of Labor, admitting to membership employees of the Company.

United Construction Workers, United Mine Workers of America, is a labor organization, admitting to membership employees of the Company.

#### III. THE QUESTION CONCERNING REPRESENTATION

On July 26, 1943, the United requested the Company to recognize it as the exclusive collective bargaining representative of the Company's employees. The Company did not reply to the request.

On October 30, 1942, the Company and the I. A. M. and the Molders entered into a closed-shop contract. The agreement provides that it shall remain in effect until October 1, 1943, and from year to year thereafter unless notice of a desire to terminate is given by either party thereto at least 30 days prior to any annual expiration date. As stated above, the United made its demand upon the Company on July 26, 1943. Inasmuch as the United made its demand upon the Company prior to September 1, 1943, the date upon which the contract would have automatically renewed itself, we find that the contract does not constitute a bar to a determination of representation at this time.

A statement of a Field Examiner of the Board, introduced into evidence at the hearing, shows that the United presented 216 membership application cards bearing apparently genuine signatures of persons

whose names appear on the Company's pay roll of September 28, 1943. There are approximately 839 employees in the appropriate unit.<sup>2</sup> We find that the United has made a sufficient showing of membership to warrant a determination of representatives in this case in view of the fact that the Company and the I. A. M. and the Molders were parties to a closed-shop contract.<sup>3</sup>

We find that a question affecting commerce has arisen concerning the representation of employees of the Company, within the meaning of Section 9 (c) and Section 2 (6) and (7) of the Act.

#### IV. THE APPROPRIATE UNIT

The United urges that all production and maintenance employees of the Company, including the watchman, but excluding supervisors, foremen, assistant foremen, timekeepers, draftsmen, guards, office janitors, and clerical employees, constitute an appropriate unit. The only controversy with respect to the unit concerns the watchmen.

The Company employs one person classified by it as a watchman. The watchman patrols the Company's premises, punches keys, and watches for fires. The watchman performs the customary duties of a watchman rather than those of a specialized plant-protection employee. Accordingly, we shall include him in the unit.

We find that all production and maintenance employees of the Company, including the watchman, but excluding clerical employees, timekeepers, draftsmen, guards, office janitors, foremen, assistant foremen, and any other supervisory employees who have authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively recommend such action, constitute a unit appropriate for the purposes of collective bargaining, within the meaning of Section 9 (b) of the Act.

#### V. THE DETERMINATION OF REPRESENTATIVES

We shall direct that the question concerning representation which has arisen be resolved by means of an election by secret ballot among the employees in the appropriate unit who were employed during the pay-roll period immediately preceding the date of the Direction of Election herein, subject to the limitations and additions set forth in the Direction.

<sup>2</sup> Neither the I. A. M. nor the Molders presented any evidence of representation but rely upon their contract as evidence of their interest in the instant proceeding.

<sup>3</sup> See *Matter of Oregon Plywood Company*, 33 N. L. R. B. 1234

## DIRECTION OF ELECTION

By virtue of and pursuant to the power vested in the National Labor Relations Board by Section 9 (c) of the National Labor Relations Act, and pursuant to Article III, Section 9, of National Labor Relations Board Rules and Regulations—Series 2, as amended, it is hereby

DIRECTED that, as part of the investigation to ascertain representatives for the purposes of collective bargaining with Buckeye Traction Ditcher Company, Findlay, Ohio, an election by secret ballot shall be conducted as early as possible, but not later than thirty (30) days from the date of this Direction, under the direction and supervision of the Regional Director for the Eighth Region, acting in this matter as agent for the National Labor Relations Board, and subject to Article III, Sections 10 and 11, of said Rules and Regulations, among the employees in the unit found appropriate in Section IV, above, who were employed during the pay-roll period immediately preceding the date of this Direction, including employees who did not work during said pay-roll period because they were ill or on vacation or temporarily laid off, and including employees in the armed forces of the United States who present themselves in person at the polls, but excluding any who have since quit or been discharged for cause and who have not been rehired or reinstated prior to the date of the election, to determine whether they desire to be represented by United Construction Workers, United Mine Workers of America, or by International Association of Machinists, Lodge 1194, A. F. L. and International Molders and Foundry Workers Union of North America, Local #250, A. F. L. for the purposes of collective bargaining, or by neither.