

In the Matter of MONSANTO CHEMICAL COMPANY (LONGHORN ORDNANCE WORKS) and CHEMICAL WORKERS UNION #23505 (AFL)

Case No. 16-R-743.—Decided November 20, 1943

Messrs. D. L. Eynon and F. H. Sanders, both of Marshall, Tex., for the Company.

Messrs. Phil Taylor and Paul C. White, both of Marshall, Tex., for the Union.

Mr. David V. Easton, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon petition duly filed by Chemical Workers Union #23505 (AFL), herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Monsanto Chemical Company (Longhorn Ordnance Works), Karnack, Texas, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Robert F. Proctor, Trial Examiner. Said hearing was held at Marshall, Texas, on October 20, 1943. The Company and the Union appeared, participated, and were afforded full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing on the issues. 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.

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

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

Monsanto Chemical Company (Longhorn Ordnance Works) is a Delaware corporation with its general offices in St. Louis, Missouri, and is licensed to do business in the State of Texas where it operates several plants. We are concerned herein with that plant of the Company designated as the Longhorn Ordnance Works, which is located

53 N. L. R. B., No. 142.

near Karnack, Texas. This plant is engaged in the manufacture of explosives for the United States Government. Operations at the plant began on or about October 1, 1942, and it is now considered as being in normal operation. During the months of March, April, and May 1943, the Company received at its Karnack plant, approximately 75 percent of its raw materials from points outside the State of Texas; during the same period it shipped approximately 64 percent of the products manufactured at the plant to points outside the State of Texas.

The Company admits that it is engaged in commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATION INVOLVED

Chemical Workers Union #23505 is a labor organization affiliated with the American Federation of Labor, admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

On or about September 14, 1943, the Company, after an oral request by the Union, refused recognition to the latter as exclusive bargaining representative of certain of its employees unless and until the Union has been certified by the Board in an appropriate unit.

A statement of the Field Examiner, introduced into evidence at the hearing, indicates that the Union represents a substantial number of employees in the unit hereinafter found appropriate.¹

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 Union seeks to represent all production employees of the Company engaged in its TNT and Acid Departments,² exclusive of supervisory employees. The Company contends that the appropriate unit should consist of all its production and maintenance employees.

The record discloses that the employees in the departments which the Union seeks to represent are those who are directly engaged in

¹ The Field Examiner reported that the Union submitted designation cards in support of its allegation that it represents a majority of the employees of the Company in the unit which it considers appropriate, and that 40 percent of these designations bear apparently genuine original signatures corresponding to the names of persons appearing on the Company's pay roll of March 27, 1943.

² The Acid Department includes the following departments: (a) Ammonia Oxidation; (b) Nitric Acid Concentration; (c) Acid Mixing; (d) Sulphuric Acid Concentration; and (e) Sellite. The TNT Department includes (a) the box factory, and (b) the waste water disposal plant.

the manufacture of the finished products of the Company; that they have a close community of interest; and that they constitute a distinct and identifiable group. The Union has limited its organizational activities to these employees in a desire to avoid any jurisdictional conflict with other similarly affiliated labor organizations which accept for membership those employees whom the Union would exclude. Under these circumstances, we are of the opinion, and find, that the production employees of the Company engaged in the TNT and Acid Departments of the Company, constitute an appropriate unit.³

Attached to sections of the departments in the unit which we have hereinabove considered appropriate are certain employees classified by the Company as truck drivers and mechanics.⁴ The Union desires the exclusion of these employees on the same basis upon which it seeks the exclusion of employees in other departments of the Company. We are mindful of the fact that they are eligible for membership in other labor organizations affiliated with the American Federation of Labor and therefore presumably are ineligible for membership in the petitioning union—a ground of differentiation which would seem to warrant their exclusion. We shall, therefore, exclude them.

Several employees in the TNT Department, classified by the Company as senior clerks, are engaged in the operation of the nail house. As part of their duties they direct the work of certain employees as well as assist therewith. Although these persons have some clerical duties, neither the Company nor the Union considers them as purely clerical employees. Furthermore, both the Company and the Union agree that these individuals are not supervisory employees but are merely working leaders. In the absence of evidence indicating that these employees possess authority to hire, discharge, or recommend such action, and in accordance with the desires of the parties, we shall include them within the unit.

We find that all production employees of the Company engaged in its TNT and Acid Departments, including senior clerks, but excluding all employees engaged as truck drivers, mechanics, and all supervisory employees with 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.

³ See *Matter of Acme White Lead & Color Works*, 29 N. L. R. B. 1158; *Matter of Savannah Electric & Power Co.*, 38 N. L. R. B. 47; *Matter of Bagley & Sewall Co.*, 39 N. L. R. B. 67; *Matter of Grower-Shipper Vegetable Association of Central California*, 43 N. L. R. B. 1389.

⁴ The Company employs several workers classified as "utility mechanics" in the Ammonia Oxidation, Nitric Acid Concentration, Acid Mixing, and TNT Departments, and in the waste water disposal plant.

V. THE DETERMINATION OF REPRESENTATIVES

We shall direct that the question concerning representation which has arisen be resolved by 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.

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 Monsanto Chemical Company (Longhorn Ordnance Works), Karnack, Texas, 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 Sixteenth 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 have not been rehired or reinstated prior to the date of the election, to determine whether or not they desire to be represented by Chemical Workers Union #23505, affiliated with the American Federation of Labor, for the purposes of collective bargaining.