

In the Matter of PITTSBURGH LIMESTONE CORPORATION (SUBSIDIARY OF U. S. STEEL CORPORATION) and UNITED CEMENT, LIME AND GYPSUM WORKERS INTERNATIONAL UNION, LOCAL UNION No. 207, AFL.

Case No. 5-R-1391.—Decided November 22, 1943

Mr. R. E. Larry, of Pittsburgh, Pa., for the Company.

Mr. Del Barr, of Martinsburg, W. Va., for the Union.

Miss Frances Lopinsky, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by United Cement, Lime and Gypsum Workers International Union, Local Union No. 207, AFL, herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Pittsburgh Limestone Corporation (Subsidiary of U. S. Steel Corporation), herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Robert A. Levett, Trial Examiner. Said hearing was held at Charlestown, West Virginia, on October 21, 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 an 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

Pittsburgh Limestone Corporation, a wholly owned subsidiary of United States Steel Corporation, is a Pennsylvania corporation. The Company is engaged in quarrying, mining and processing furnace-stone, limestone, and dolomite which are used in the production of iron

and steel. The only plant of the Company involved in this proceeding is located at Millville, West Virginia, and is known as the Moler plant. This plant quarries and processes dolomite. Much of the equipment and supplies used by the Moler plant originate outside the State of West Virginia. This plant produces dolomite at the estimated rate of 800,000 tons per annum, of which the larger portion is shipped to points outside the State of West Virginia.

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

II. THE ORGANIZATION INVOLVED

United Cement, Lime and Gypsum Workers International Union, Local Union No. 207, affiliated with the American Federation of Labor, is a labor organization admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

The Company has refused to grant recognition to the Union as the exclusive bargaining representative of its employees 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 requests a unit of all production and maintenance employees of the Moler plant at Millville, West Virginia, including watchmen and patrolmen, but excluding clerical, technical, medical, and supervisory employees.² The Company agrees that the unit requested is appropriate except for the inclusion of watchmen and patrolmen whom it classifies as confidential employees.

¹ The Field Examiner reported that the Union submitted 61 application-for-membership cards all of which bore apparently genuine original signatures; that the names of 59 persons appearing on the cards were listed on the Company's pay roll of September 25, 1943, which contained the names of 93 employees in the appropriate unit; that the cards were dated in the months of April through September 1943.

² The Company specified and the Union agreed that under these general headings, the persons holding the following positions with the Company should be excluded: (*asterisks* indicate positions unfilled at present) plant superintendent, assistant plant superintendent*, plant engineer*, general foreman, master mechanic, chief electrician, tippie foreman, chief clerk and paymaster, timetaker and clerk, stenographer and clerk, stenographer, storekeeper, assistant storekeeper, first clerk*, second clerk*, junior clerk*, and plant physician. The Company employs a labor foreman who is in charge of a small group of laborers. Both parties agree that he should be included in the unit because he has no power to discipline and is simply a gang leader.

The watchmen, like the production and maintenance employees, are under the supervision of the plant superintendent. They are paid, on an hourly basis, a wage comparable to that paid the production and maintenance employees. They work in three shifts, three men to a shift, patrolling the plant, performing minor maintenance work in the course of their rounds. They take turns performing stationary guard duty at specific posts. They are recruited from the ranks of the production and maintenance employees and sometimes return to those ranks. Although some of them are armed, they are neither militarized nor uniformed. They do not have access to confidential records bearing on labor relations of the Company. In view of the nature of their duties, the fact that they are not militarized and the interchange of personnel between the watchmen and the maintenance and production employees, it is our opinion that the watchmen do not constitute an occupational group distinct from maintenance and production workers. We shall, therefore, include watchmen and patrolmen in the unit.

We find that all production and maintenance employees of the Company's Moler plant at Millville, West Virginia, including watchmen and patrolmen, but excluding clerical, technical, and medical employees 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.

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 payroll 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 Pittsburgh Limestone Corporation (Subsidiary of U. S. Steel Corporation), 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 Fifth 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 those employees 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 United Cement, Lime and Gypsum Workers International Union, Local Union No. 207, affiliated with the American Federation of Labor for the purposes of collective bargaining.