

In the Matter of UNIVERSAL ATLAS CEMENT COMPANY and UNITED  
STEELWORKERS OF AMERICA LOCAL 2776, C. I. O.

*Case No. 13-R-2044.—Decided February 23, 1944*

*Mr. Paul R. Conaghan*, of Chicago, Ill., for the Company.  
*Mr. Gustave E. Gadness*, of Gary, Ind., and *Mr. Nick Migas*, of  
East Chicago, Ind., for the Union.  
*Mr. Joseph E. Gubbins*, of counsel to the Board.

DECISION  
AND  
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon petition duly filed by United Steelworkers of America, Local 2776, affiliated with the C. I. O., herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Universal Atlas Cement Company, Buffington, Indiana, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Robert T. Drake, Trial Examiner. Said hearing was held at Chicago, Illinois, on December 22 and December 23, 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

Universal Atlas Cement Company, an Indiana corporation having its principal office in New York City, is engaged at Buffington, Indiana, in the manufacture and sale of Portland cement. During the past year, the Company has purchased substantial quantities of materials used in the manufacture of cement, a substantial portion

of which was shipped to the Company's Buffington plant from points outside the State of Indiana. During the same period, the Company had sold substantial quantities of products, a large percentage of which was shipped to points outside the State of Indiana.

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

## II. THE ORGANIZATION INVOLVED

United Steelworkers of America, Local 2776, is a labor organization affiliated with the Congress of Industrial Organizations, admitting to membership employees of the Company.

## III. THE QUESTION CONCERNING REPRESENTATION

The Union requested the Company to enter into a collective bargaining contract and the Company refused such request in the absence of certification by the Board.

A statement prepared by the Regional Director, introduced in evidence at the hearing, indicates that the Union represents a substantial number of the Company's employees in the unit hereinafter found to be appropriate.<sup>1</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 Union is seeking a unit comprised of clerical employees, and employees in the chemical, physical and research laboratories, excluding supervisors, and secretaries to the plant manager, the local auditor, and executives. The Company agrees generally with the scope of the unit requested by the Union, but contends that certain other classifications should also be excluded, i. e., administrative and confidential employees, technical employees not engaged in routine duties, and all employees in the safety and labor department. The parties are agreed that the various classifications of employees set forth in Appendix A should be excluded from the Unit. However, the Company would exclude and the Union would include certain other employees more particularly discussed below.

*Employees whose exclusion is requested solely by reason of their alleged supervisory and confidential status*

*Local Cashier:* This employee handles the pay roll and pay checks for the production and maintenance employees, has custody of the

<sup>1</sup> The Regional Director's statement shows that the Union submitted 40 membership cards, all of which bear apparently genuine signatures, and 37 of which bear names of persons whose names are listed on the Company's pay roll of November 1, 1943; there are approximately 80 employees in the appropriate unit.

petty cash account, has charge of garnishment proceedings, and makes the various deductions from employees' pay checks, including union dues. There is no showing that the local cashier has any employee under his supervision or that he has access to information pertaining to labor relations. We find that the local cashier has neither a confidential nor a supervisory status; we shall include him in the unit.

*Bookkeeper:* The normal duties of this employee have to do with keeping the Company's general ledger, compiling inventory data, and signing pay-roll checks; he is assisted by and supervises two cost clerks. He also assumes the duties of the chief clerk in the latter's absence, and is presently acting in such capacity, the chief clerk being absent because of a serious and prolonged illness. In view of the foregoing, we find that the bookkeeper is employed in a supervisory capacity; we shall exclude him from the unit.

*Distribution Clerk:* This employee compiles force reports, works on labor distribution and pay rolls, and assists the chief timekeeper generally. There is no evidence that he has supervisory duties or that he has access to information pertaining to labor relations. Under the circumstances, we find that the distribution clerk enjoys neither a supervisory status nor a confidential relationship to management. He will, accordingly, be included in the unit.

*Assistant Shipping Clerks:* This employee supervises the work of from two to four clerks employed in the shipping department and on occasion acts as chief shipping clerk in the latter's absence. The record shows that the shipping clerk does not possess authority to effect changes in the working status of the employees under his supervision, nor does he occupy a confidential status within our customary definition. We shall include him in the unit.

*Assistant Storekeeper:* The duties of this employee have to do with ordering and delivering supplies. He is assisted in his duties by several clerks over whom he has effective supervisory authority. In view of his supervisory status, we shall exclude the assistant storekeeper from the unit.

*Chief Tester in Physical Laboratory:* This employee conducts tests and makes observations in the laboratory with respect to laboratory control of miscellaneous production and cement shipments, and supervises the detail assignments of the laboratory staff. He devotes approximately 80 percent of his time to work similar in nature to that performed by the employees subject to his supervision. Since the evidence does not show that the chief tester has authority to effect or recommend changes in the status of the employees subject to his direction, and since the type of information to which he has access does not pertain to labor relations, we shall include him in the unit.

*Employment and Postal Clerk and Stenographer, Safety and Labor Department:* The two employees in question work with records relating directly to the problem of labor relations. We find that the employment and postal clerk and stenographer enjoy a confidential status; we shall exclude them from the unit.

*Cost Clerks and Invoice Clerk:* The cost clerks make up cost statements and are under the supervision of the bookkeeper. The invoice clerk orders stationery, is in charge of maintaining supplies, and keeps the cement sack record. Since it appears that the information which these employees may possess in no instance relates to the problem of labor relations, and since there is no showing that they exercise supervisory functions, we shall include them in the unit.

*Statistical Clerk:* The regular duties of this employee have to do with the maintenance of various records, none of which pertains to the problem of labor relations. Occasionally he serves as secretary to the plant manager in the absence of the regular secretary, which latter employee the parties have agreed should be excluded from the unit. However, since it appears that the employee in question does not have access to information pertaining to labor relations in the performance of his regular duties, and since it appears that only infrequently is he called upon to act as secretary, we are of the opinion that the statistical clerk does not occupy a confidential position with relation to management. We shall include him in the unit.

*Stenographers for Executives:* The employees, Mildred Bender and Lorraine Skibeli, serve as stenographers for the local auditor, plant manager, and other company officials. The record shows that during the normal course of their duties they have access to labor relations information and consequently we find that they are employed in a confidential capacity. We shall, therefore, exclude these stenographers from the unit.

*Stenographers in Research and Concrete Laboratories:* These employees, of whom there are three, do stenographic and clerical work, compile data for the heads of the laboratories, and have access to files and laboratories records. It does not appear that in the course of their duties these stenographers have access to information of a sufficiently confidential character, relating to the labor relations of the Company, to warrant their exclusion. We shall include them within the appropriate unit.

*Switchboard Telephone Operators:* These employees operate an automatic switchboard and handle all calls for executives of the Company. It does not appear, however, that these telephone operators in the normal course of their duties obtain information relating to labor relations and policies of the Company. We shall, therefore, include them.

*Employees whose exclusion is requested solely by reason of their alleged technical and confidential status*

*Technicians in the Research Laboratories:* There are four employees<sup>2</sup> in the research laboratories, loosely described as technicians, who perform tests and analyses on products and raw materials. While one of the employees in question is college trained, the others are qualified for their duties solely by reason of practical experience; all perform duties of a routine nature, unlike those of the more highly skilled technical employees whom the parties agreed should be excluded from the unit. In support of the Company's contention that these employees possess confidential knowledge, it was shown that such knowledge pertains only to various patented products of the Company.<sup>3</sup> Since all of these technicians perform work of a routine nature, and since the type of information to which they have access does not pertain to labor relations, we shall include them in the unit.

*Draftsman:* This employee is a college graduate in engineering and is primarily engaged in the making of blueprints, tracings, and drawings. Since it appears that his duties are of a highly skilled, technical nature, we shall exclude him from the unit.

We find that all office and clerical employees, and chemical, physical and research laboratory employees at the Company's Buffington, Indiana plant, including the local cashier, cost clerks, the distribution clerk, the invoice clerk, the chief tester in the physical laboratory, the assistant shipping clerk, the statistical clerk, technicians in the research laboratories, the stenographer and typist in the research laboratories, the typist in the concrete laboratory, switchboard telephone operators, excluding employees listed in Appendix A, the draftsman, stenographers for executives, assistant storekeeper, bookkeeper, employment and postal clerk and stenographer in the safety and labor department, and all other 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 em-

<sup>2</sup> Cordelia Brown, Fred Hoffman, Ronald Gilman, and Clair E. Minnich.

<sup>3</sup> The Company also contends that Gilman should be excluded from the unit by reason of his supervisory status. Although the record shows that occasionally Gilman is assisted in his duties by two laborers, the evidence does not show that he has authority to recommend or effect changes in the status of such employees

ployees 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 3, it is hereby

**DIRECTED** that, as part of the investigation to ascertain representatives for the purposes of collective bargaining with Universal Atlas Cement Company, Buffington, Indiana, 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 Thirteenth 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 United Steelworkers of America, Local 2776, affiliated with the C. I. O., for the purposes of collective bargaining.

### APPENDIX A

#### *Administrative and Supervisory*

Plant Manager  
 Assistant Plant Manager  
 Local Auditor  
 Chief Chemist  
 Superintendent of Research  
 Superintendent of Lumnite Plant  
 Chief Engineer of Concrete Laboratory  
 Chief Inspector  
 Power Engineer

*Accounting Department*

Chief Clerk  
Chief Timekeeper  
Chief Shipping Clerk  
Storekeeper

*Statistical and Record Department*

Secretary to Plant Manager

*Laboratories (Mill)*

Chemist

*Laboratories (Research)*

Assistant Manager  
Research Chemists  
Physicist  
Assistant Petrographer

*Central Testing Laboratory*

Assistant Engineer in Charge

*Safety and Labor*

Manager  
First Aid Nurse