In the Matter of BASIC MAGNESIUM, INCORPORATED *and* INTERNATIONAL UNION OF MINE, MILL & SMELTER WORKERS, FOR ITSELF AND ON BEHALF OF ITS LOCAL UNION NO. 641, C. I. O.

Case No. 20-R-884

SUPPLEMENTARY DECISION

AND

CERTIFICATION OF REPRESENTATIVES

May 9, 1944

On March 10, 1944, the National Labor Relations Board issued its Decision and Direction of Elections in this proceeding.[1] Pursuant to the Direction of Elections, elections by secret ballot were conducted on April 4, 1944, under the direction and supervision of the Regional Director for the Twentieth Region (San Francisco, California). Upon the conclusion of the elections, the Regional Director, pursuant to Article III, Section 10, of National Labor Relations Board Rules and Regulations, Series 3, issued and duly served on the parties Tallies of the Ballots. No Objections were filed by any of the parties within the time provided therefor.

As to the balloting and its results the Tallies show as follows:

GROUP 1

Approximate number of eligible voters	36
Valid votes counted	33
Votes cast for International Association of Machinists, A. F. L.	31
Votes cast for International Union of Mine, Mill & Smelter Workers, Local Union No. 641, C. I. O.	2
Votes cast against participating unions	0
Challenged ballots	2
Void ballots	0

GROUP 2

Approximate number of elegible voters	2
Valid votes counted	2
Votes cast for International Brotherhood of Painters, Decorators and Paperhangers, Local 567, A. F. of L.	2

[1] 55 N. L. R. B. 380.

Votes cast for International Union of Mine, Mill & Smelter Workers, Local Union No. 641, C. I. O.	0
Votes cast against participating unions	0
Challenged ballots	0
Void ballots	0

GROUP 3

Approximate number of eligible voters	9
Valid votes counted	9
Votes cast for United Brotherhood of Carpenters and Joiners of America, Local 632, A. F. of L.	9
Votes cast for International Union of Mine, Mill & Smelter Workers, Local Union No. 641, C. I. O.	0
Votes cast against participating unions	0
Challenged ballots	0
Void ballots	0

GROUP 4

Approximate number of eligible voters	10
Valid votes counted	10
Votes cast for International Brotherhood of Electrical Workers, Local 401, A. F. of L.	10
Votes cast for International Union of Mine, Mill & Smelter Workers, Local Union No. 641, C. I. O.	0
Votes cast against participating unions	0
Challenged ballots	0
Void ballots	0

GROUP 5

Approximate number of eligible voters	7
Valid votes counted	7
Votes cast for United Association of Journeymen Plumbers and Steamfitters, Local 350, A. F. of L.	6
Votes cast for International Union of Mine, Mill & Smelter Workers, Local Union No. 641, C. I. O.	1
Votes cast against participating unions	0
Challenged ballots	0
Void ballots	0

GROUP 6

Approximate number of eligible voters	21
Valid votes counted	14
Votes cast for International Brotherhood of Teamsters, Chauffeurs, Warehousemen, and Helpers, Local 533, A. F. of L.	14
Votes cast for International Union of Mine, Mill & Smelter Workers, Local Union No. 641, C. I. O.	0
Votes cast against participating unions	0
Challenged ballots	2
Void ballots	0

GROUP 7

Approximate number of eligible voters	100
Valid votes counted	78
Votes cast for International Union of Operating Engineers, A. F. of L.	27
Votes cast for International Union of Mine, Mill & Smelter Workers, Local Union No. 641, C. I. O.	51
Votes cast against participating unions	0
Challenged ballots	8
Void ballots	0

GROUP 8

Approximate number of eligible voters	48
Valid votes counted	27
Votes cast for Construction, General Open Pit, Quarry and Mill Workers, Local Union 313, A. F. of L.	14
Votes cast for International Union of Mine, Mill & Smelter Workers, Local Union No. 641, C. I. O.	12
Votes cast against participating unions	1
Challenged ballots	1
Void ballots	0

The results of the elections, except in Group 8, are conclusive. We shall, therefore, make no determination of the challenged ballots in the groups other than Group 8, for their resolution cannot affect the results of the elections.

With respect to the results in Group 8, the Regional Director reports that the challenged ballot was cast by an employee who at the time of the eligibility date under the Decision and Direction of Elections herein was working as a shovel apprentice and, as such, was eligible to vote with the employees in Group 7. Subsequent to the eligibility date, but prior to the date of the election, the employee was permanently transferred to work as a jack-hammer man, an eligible category in Group 8. It is the policy of the Board, as expressed in the recent *Manganese Ore* case,[2] that an employee transferred permanently from one voting group to another in the interim between the eligibility date and the date of the election be removed from the eligibility list for the first voting group but not added to the eligibility list of the second group, since as to the latter group he is in the same position as a newly hired employee. This principle is clearly applicable to the situation before us. We shall, therefore, uphold the challenge to the ballot cast by the jack-hammer man in Group 8, and the result, thereby, becomes conclusive.

In the Decision and Direction of Elections herein, we stated that we would make no final determination of the appropriate bargaining unit or units pending the results of the elections.

[2] *Matter of Manganese Ore Company*, 54 N. L. R. B. 1192.

The results of the elections reveal that the employees in Group 1 have selected the Machinists, in Group 2 the Painters, in Group 3 the Carpenters, in Group 4 the I. B. E. W., in Group 5 the Plumbers, in Group 6 the Teamsters, in Group 7 the Smelter Workers, and in Group 8 the Laborers. We shall find that the employees in each of these groups constitute an appropriate bargaining unit and shall certify as the statutory representative the union selected by the employees in each group.

Upon the entire record in the case and the results of the elections, the Board makes the following:

Supplemental Findings of Fact

We find that each of the groups of employees for which we hereinafter certify exclusive bargaining representatives constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the National Labor Relations Act.

CERTIFICATION OF REPRESENTATIVES

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, Sections 9, 10, and 11, of National Labor Relations Board Rules and Regulations, Series 3.

(1) It is hereby certified that International Association of Machinists has been designated and selected by a majority of all employees of Basic Magnesium, Incorporated, Gabbs and Luning, Nevada, performing the work of machinists, heavy duty mechanics, maintenance repairman, maintenance repairman helpers, blacksmith, blacksmith helpers, and welders, but excluding office and clerical employees, professional employees, technical employees, janitors, storekeepers, timekeepers, firemen, guards, foremen, and any other supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees or effectively recommend such action, as their representative for the purposes of collective bargaining, and that pursuant to Section 9 (a) of the Act the aforesaid organization is the exclusive representative of all such employees for the purposes of collective bargaining with respect to rates of pay, wages, hours of employment, and other conditions of employment.

(2) It is hereby certified that International Brotherhood of Painters, Decorators and Paperhangers, Local 567, A. F. of L. has been designated and selected by a majority of all employees of Basic Magnesium, Incorporated, Gabbs and Luning, Nevada, performing the work of painters, but excluding office and clerical employees, professional employees, technical employees, janitors, storekeepers, time-

keepers, firemen, guards, foremen, and any other supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees or effectively recommend such action, as their representative for the purposes of collective bargaining, and that pursuant to Section 9 (a) of the Act the aforesaid organization is the exclusive representative of all such employees for the purposes of collective bargaining with respect to rates of pay, wages, hours of employment, and other conditions of employment.

(3) IT IS HEREBY CERTIFIED that United Brotherhood of Carpenters and Joiners of America, Local 632, A. F. of L. has been designated and selected by a majority of all employees of Basic Magnesium, Incorporated, Gabbs and Luning, Nevada, performing the work of carpenters and bulkhead men, but excluding office and clerical employees, professional employees, technical employees, janitors, storekeepers, timekeepers, firemen, guards, foremen, and any other supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees or effectively recommend such action, as their representative for the purposes of collective bargaining, and that pursuant to Section 9 (a) of the Act the aforesaid organization is the exclusive representative of all such employees for the purposes of collective bargaining with respect to rates of pay, wages, hours of employment, and other conditions of employment.

(4) IT IS HEREBY CERTIFIED that International Brotherhood of Electrical Workers, Local 401, A. F. of L. has been designated and selected by a majority of all employees of Basic Magnesium, Incorporated, Gabbs and Luning, Nevada, performing the work of electricians, electrician helpers, and panel operators, but excluding communication equipment operators, office and clerical employees, professional employees, technical employees, janitors, storekeepers, timekeepers, firemen, guards, foremen, and any other supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees or effectively recommend such action, as their representative for the purposes of collective bargaining, and that pursuant to Section 9 (a) of the Act the aforesaid organization is the exclusive representative of all such employees for the purposes of collective bargaining with respect to rates of pay, wages, hours of employment, and other conditions of employment.

(5) IT IS HEREBY CERTIFIED that United Association of Journeymen Plumbers and Steamfitters, Local 350, A. F. of L. has been designated and selected by a majority of all employees of Basic Magnesium, Incorporated, Gabbs and Luning, Nevada, performing the work of plumbers, steamfitters, pipe fitters, and pipe fitter helpers, but excluding office and clerical employees, professional employees, technical employees, janitors, storekeepers, timekeepers, firemen, guards, fore-

men, and any other supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees or effectively recommend such action, as their representative for the purposes of collective bargaining, and that pursuant to Section 9 (a) of the Act the aforesaid organization is the exclusive representative of all such employees for the purposes of collective bargaining with respect to rates of pay, wages, hours of employment, and other conditions of employment.

(6) IT IS HEREBY CERTIFIED that International Brotherhood of Teamsters, Chauffeurs, Warehousemen, and Helpers, Local 533, A. F. of L. has been designated and selected by a majority of all employees of Basic Magnesium, Incorporated, Gabbs and Luning, Nevada, performing the work of flat rack truck drivers, heavy duty truck drivers, pick-up truck drivers, water wagon drivers, warehousemen, and service station attendants, but excluding truck drivers engaged in the transportation of concentrates from the mill to the loading dock who are employees of an independent contractor, office and clerical employees, professional employees, technical employees, janitors, storekeepers, timekeepers, firemen, guards, foremen, and any other supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees or effectively recommend such action, as their representative for the purposes of collective bargaining, and that pursuant to Section 9 (a) of the Act the aforesaid organization is the exclusive representative of all such employees for the purposes of collective bargaining with respect to rates of pay, wages, hours of employment, and other conditions of employment.

(7) IT IS HEREBY CERTIFIED that International Union of Mine, Mill & Smelter Workers, C. I. O. has been designated and selected by a majority of all employees of Basic Magnesium, Incorporated, Gabbs and Luning, Nevada, who operate power driven machinery, specifically ball mill operators, burnermen, furnacemen, churn drill operators, compressor operators, core drill operators, core drill operator helpers, crusher operators, crusher apprentices, diamond drill operators, diamond and churn drill apprentices, drier operators, filter operators, flotation operators, flotation helpers, loading dock operators, mill apprentices, oilers, pump operators, roaster operators, screen operators, shovel operators, shovel apprentices, stacker operators, and tractor operators, but excluding welders and heavy duty mechanics, office and clerical employees, professional employees, technical employees, janitors, storekeepers, timekeepers, firemen, guards, foremen, and any other supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees or

effectively recommend such action, as their representative for the purposes of collective bargaining, and that pursuant to Section 9 (a) of the Act the aforesaid organization is the exclusive representative of all such employees for the purposes of collective bargaining with respect to rates of pay, wages, hours of employment, and other conditions of employment.

(8) IT IS HEREBY CERTIFIED that Construction, General Open Pit, Quarry and Mill Workers, Local Union 313, A. F. of L. has been designated and selected by a majority of all employees of Basic Magnesium, Incorporated, Gabbs and Luning, Nevada, performing the work of chuck tenders, pump men, general laborers (production), high scalers, jack-hammer men, timber men, leyner operators, loading dock operator helpers, mill laborers, mine laborers, quarrymen, nippers, samplers, pitmen, powdermen, powdermen helpers, tailing pond operators, wagon drillers, wagon driller helpers, hodcarriers, weighmasters, and maintenance laborers, but excluding office and clerical employees, professional employees, technical employees, janitors, storekeepers, timekeepers, firemen, guards, foremen, and any other supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees or effectively recommend such action, as their representative for the purposes of collective bargaining, and that pursuant to Section 9 (a) of the Act the aforesaid organization is the exclusive representative of all such employees for the purposes of collective bargaining with respect to rates of pay, wages, hours of employment, and other conditions of employment.