

In the Matter of POWHATAN LIME COMPANY *and* UNITED CEMENT,  
LIME AND GYPSUM WORKERS INTERNATIONAL UNION, A. F. OF L.

*Case No. 5-R-1541.—Decided May 17, 1944*

*Mr. Lacy I. Rice*, of Martinsburg, W. Va., for the Company.

*Mr. Del Barr*, of Harpers Ferry, W. Va., for the Union.

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

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon an amended petition duly filed by United Cement, Lime and Gypsum Workers International Union, A. F. of L., herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Powhatan Lime Company, Strasburg Junction, Virginia, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Earle K. Shawe, Trial Examiner. Said hearing was held at Winchester, Virginia, on April 21, 1944. 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

Powhatan Lime Company, a Virginia corporation, operates a plant located at Strasburg Junction, Virginia, where it is engaged in the manufacture of chemical lime, fluxing lime, building lime, hydrated lime, agricultural lime, and crushed stone. During the calendar year 1943, the Company purchased raw materials for use at the Strasburg

Junction plant having an approximate value of \$45,000, of which about 80 percent was received from points located outside the State of Virginia. During the same period, the Company's finished products amounted to approximately \$125,000 in value, of which approximately 80 percent was shipped to points located outside the State of 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 is a labor organization affiliated with the American Federation of Labor, 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 certain of its employees until the Union has been certified by the Board in an appropriate unit.

Statements of the Trial Examiner and the Field Examiner, introduced into evidence at the hearing, indicate that the Union represents a substantial number of employees in the unit hereinafter found 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

In substantial accordance with the contentions of the parties at the hearing, we find that all production and maintenance employees of the Company, including watchmen, but excluding salesmen, clerical employees, foremen, 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.<sup>2</sup>

<sup>1</sup> The Field Examiner reported that the Union submitted 40 designations, and that there were 50 employees in the proposed unit.

The Trial Examiner reported that the Union submitted 5 additional designations at the hearing, all of which contained the names of persons appearing on the Company's pay roll of April 15, 1944. He further reported that of the 40 designations mentioned by the Field Examiner, 39 contained the names of persons appearing upon the Company's pay roll of March 31, 1944.

<sup>2</sup> The Union had originally limited its definition of a supervisory employee to those persons who occupy the grade of foreman and above. Although at the present time, the Company employs no supervisory employees within our customary definition below this grade, it may do so in the future. We shall make no finding with respect to the status of employees engaged in the future but shall not limit our usual definition of a supervisory employee in the description of the appropriate unit.

## 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.<sup>3</sup>

## 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 Powhatan Lime Company, Strasburg Junction, Virginia, 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 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 Cement, Lime and Gypsum Workers International Union, affiliated with the American Federation of Labor, for the purposes of collective bargaining.

CHAIRMAN MILLIS took no part in the consideration of the above Decision and Direction of Election.

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<sup>3</sup> The Union requested that it appear upon the ballot as "United Cement, Lime and Gypsum Workers International Union, affiliated with the American Federation of Labor." This request is hereby granted.