In the Matter of GENEVA STEEL COMPANY *and* BROTHERHOOD OF LOCOMOTIVE FIREMEN AND ENGINEMEN

In the Matter of GENEVA STEEL COMPANY (KEIGLEY QUARRY) *and* UNITED STEELWORKERS OF AMERICA

In the Matter of GENEVA STEEL COMPANY *and* BROTHERHOOD OF RAILROAD TRAINMEN

In the Matter of GENEVA STEEL COMPANY *and* UNITED STEELWORKERS OF AMERICA

Cases Nos. 20-R-1025, 20-R-1039, 20-R-1040 and 20-R-1048 respectively.—Decided July 4, 1944

Mr. Merrill Russell, of Geneva, Utah, for the Company.

Mr. G. A. Meade, of Cleveland, Ohio, for the Enginemen.

Mr. Philip M. Current, of Pittsburgh, Pa., and *Mr. Varro C. Jones*, of Salt Lake City, Utah, for the U. S. A.

Mr. Lazell B. Duffin, of Salt Lake City, Utah, and *Mr. R. H. McDonald*, of Denver, Colo., for the Trainmen.

Mr. Aage H. Petersen, of Salt Lake City, Utah, for the Council and Steel Production Workers, Local #23589, A. F. of L.

Mr. W. O. Peters, of Salt Lake City, Utah, for the I. A. M.

Mr. A. L. Smith, of Denver, Colo., and *Mr. L. F. Anderson*, of Salt Lake City, Utah, for the I. B. E. W.

Mr. Clinton L. Casebolt, of Salt Lake City, Utah, for International Union of Operating Engineers, Local #3.

Mr. John H. McKean, of Salt Lake City, Utah, for International Association of Bridge and Structural Iron Workers, Local #27.

Mr. Spencer Madsen, of Provo, Utah, for United Brotherhood of Carpenters and Joiners of America, Local #1498.

Mr. William H. Fackrell, of Provo, Utah, for International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Local #222.

Mr. O. W. Mursener, of Salt Lake City, Utah, for International Brotherhood of Boilermakers, Iron Shipbuilders and Helpers of America, Local #182.

Mr. E. W. Erickson, of Salt Lake City, Utah, for International Brotherhood of Blacksmiths, Drop Forgers and Helpers of America, Local #42.

Mr. James Anderson, of Salt Lake City, Utah, for United Association of Plumbers and Steamfitters of the United States and Canada, Local #19.

Mr. Don R. Evans, of Salt Lake City, Utah, for Local #2, Bricklayers, Masons and Plasters International Union of America.

Messrs. Roy Larsen, *William I. Dix*, and *J. Ryman Petersen*, of Provo, Utah, for International Hod Carriers, Building and Common Laborers Union, Local 653.

Mr. C. R. Van Winkle, of Provo, Utah, for United Brotherhood of Painters, Paperhangers, and Decorators of America, Local #978, and International Union of Operative Plasterers and Cement Finishers of America, Local #505.

Mr. R. S. Roberts, for Sheet Metal Workers Local Union #312.

Mr. Robert E. Tillman, of counsel to the Board.

DECISION
DIRECTION OF ELECTIONS
AND
ORDER

Statement of the Case

Upon petitions duly filed by Brotherhood of Locomotive Firemen and Enginemen, herein called the Enginemen, by United Steelworkers of America, herein called the U. S. A., and by Brotherhood of Railroad Trainmen, herein called the Trainmen, each alleging that a question affecting commerce had arisen concerning the representation of employees of Geneva Steel Company, Provo, Utah, herein called the Company, the National Labor Relations Board consolidated the cases and provided for an appropriate hearing upon due notice before John Paul Jennings, Trial Examiner. Said hearing was held at Salt Lake City, Utah, on May 1 and 2, 1944. The Company; the Enginemen; the U. S. A.; the Trainmen; and Utah Metal Trades Council, herein called the Council; International Association of Machinists, District 114, herein called the I. A. M.; International Brotherhood of Electrical Workers, Local Union 354, A. F. of L., herein called the I. B. F. W.; Steel Production Workers, Local #23589, A. F. of L.; International Union of Operating Engineers, Local #3; International Association of Bridge and Structural Iron Workers, Local #27; United Brotherhood of Carpenters and Joiners of America, Local #1498; International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Local #222; International Brotherhood of Boilermakers, Iron Shipbuilders and Helpers of America, Local #182; International Brotherhood of Blacksmiths, Drop Forgers and Helpers of America, Local #42; United Association of Plumbers and Steamfitters of the

United States and Canada, Local #19; Local #2, Bricklayers, Masons and Plasterers International Union of America; International Hod Carriers, Building and Common Laborers Union, Local 653; United Brotherhood of Painters, Paperhangers, and Decorators of America, Local #978; and International Union of Operative Plasterers and Cement Finishers of America, Local #505, 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 rulings of the Trial Examiner made at the hearing are free from prejudicial error and are hereby affirmed.[1] All parties were afforded opportunity to file briefs with the Board.

The U. S. A. moved at the hearing that the petitions filed by the Enginemen and the Trainmen be dismissed. Ruling on this motion was reserved for the Board. In view of our findings in Section IV, *infra*, this motion is hereby granted.[2]

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

Findings of Fact

I. THE BUSINESS OF THE COMPANY

Geneva Steel Company, a Delaware corporation, is a wholly owned subsidiary of United States Steel Corporation. It operates and manages certain steel producing facilities in the State of Utah owned by the Defense Plant Corporation.[3] These facilities consist of a coal mine, located about 40 miles outside of Price, Utah; the Keigley Quarry, situated near Payson, Utah; and the Geneva Plant, near Provo, Utah. Only the quarry and the plant are involved in the instant proceeding. Construction is still in progress at the plant. The capacity production of limestone and dolomite at the Keigley Quarry is estimated at 663,800 net tons per year. The entire output, except for waste, will be consumed at the plant. The iron ore used by the Company is purchased from mines located within the State of Utah. At the plant, the Company produces coke, pig iron, steel ingots, and structural steel products. It anticipates selling certain types of coke to customers located within the State of Utah. Most of the pig iron will

[1] Sheet Metal Workers Local Union #312 petitioned to intervene late in the hearing Its petition was denied by the Trial Examiner. It is clear that the Sheet Metal Workers' contentions were adequately presented by the Council.

[2] The U. S. A. also moved to dismiss the "interventions" of the several labor organizations affiliated with the American Federation of Labor Ruling on this motion was likewise reserved for the Board We are of the opinion that the granting of this motion would serve no useful purpose Accordingly, it is hereby denied

[3] The contract between the Company and the Defense Plant Corporation provides that the former will manage the steel facilities for the account of the latter, will sell the products, and will remit all proceeds to the latter. The Company is paid no fee or compensation for its service in this connection.

be used in the production of steel; any surplus will be sold to customers in the States of Washington, Oregon, and California. Likewise, most of the steel ingots will be processed at the plant. The plant's plate mill has an estimated annual productive capacity of 700,000 net tons. Plates produced will be used exclusively in building ships at West Coast ports. The plant's structural mill has an estimated annual productive capacity of 200,000 net tons. Its products, likewise, will be used exclusively in building ships at West Coast ports. Byproducts, such as tar, ammonium, sulphate, zyluol, toluol, and benzol, will be sold to customers throughout the 11 western States.

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

II. THE ORGANIZATIONS INVOLVED

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

Brotherhood of Locomotive Firemen and Enginemen is a labor organization admitting to membership employees of the Company.

Brotherhood of Railroad Trainmen is a labor organization admitting to membership employees of the Company.

International Association of Machinists, District 114, is a labor organization affiliated with the American Federation of Labor, admitting to membership employees of the Company.

International Brotherhood of Electrical Workers, Local Union 354, is a labor organization affiliated with the American Federation of Labor, admitting to membership employees of the Company.

Utah Metal Trades Council comprises several craft labor organizations affiliated with the American Federation of Labor, which admit to membership employees of the Company.[4]

III. THE QUESTIONS CONCERNING REPRESENTATION

On or about December 14, 1943, the Enginemen and the Trainmen sent a joint letter to the Company, requesting bargaining rights for certain railway employees. The Company replied on or about December 29, 1943, contending that the units requested were not appropriate for collective bargaining purposes, and, in effect, refusing to extend recognition in the absence of certification by the Board.

[4] With respect to the appropriate unit at the Keigley Quarry, the Council apparently represented all the labor organizations involved herein which are affiliated with the American Federation of Labor. With respect to the Geneva Plant, the Council represented all the organizations involved herein which are affiliated with the American Federation of Labor, except the I A M and the I B E W.

On or about February 18, 1944, at a meeting attended by representatives of the U. S. A. and labor organizations affiliated with the American Federation of Labor, requests were made of the Company to recognize the several contending unions as representatives of employees at the Keigley Quarry and the Geneva Plant. The Company declined to recognize any of the labor organizations for reasons similar to those given the Enginemen and the Trainmen.

A tabulation of the Trial Examiner concerning the representation showings of the various unions, made and introduced into evidence subsequent to the hearing with the consent of the parties, and statements of a Field Examiner of the Board, introduced into evidence at the hearing, are summarized in a footnote below.[5] The tabulation and statements indicate that the U. S. A. and the several affiliates of the American Federation of Labor considered jointly, each represents a substantial number of employees at both the Keigley Quarry and the Geneva Plant. They also indicate that the Enginemen and the Trainmen represent a substantial number of employees in the units they contend to be appropriate.

We find that questions affecting commerce have 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 UNITS

A. *The Keigley Quarry*

The Company, the U. S. A., and the Council, speaking for its craft affiliates, agree that a single unit of production and maintenance employees is appropriate at the Keigley Quarry.[6] The only disagreement between the interested parties involves the supervisory status of the head powderman and a millwright, the Company and the U. S. A. contending that these employees should be excluded from the unit, and the Council contending that they should be included.

The *head powderman* directs the work of approximately 14 employees who are engaged in the drilling and blasting of stone. He works with these employees a portion of the time, but his recommenda-

[5] See table below:

Type of unit	Number employees in unit	Representation showing in units			
		U S A.	A F of L	Enginemen	Trainmen
Quarry (prod and maint unit)	48	32	27		
Plant					
a Prod and maint unit	1,876	562	500		
b Enginemen's unit	54	2	0	26	
c. Trainmen's unit	82	8	8		38

[6] The Enginemen and the Trainmen do not claim to represent any employees at the quarry

tions concerning their discharge and discipline are given consideration by the Company. He reports directly to the general foreman. His pay amounts to 8 cents an hour more than the highest paid man in his crew, and 14 cents an hour more than the remainder of the crew. In view of the above indicia of supervisory status, we shall exclude the head powderman from the unit.

The *millwright* is in charge of the crushing mill, having four or five employees under his direction. Although he works manually a portion of the time, his recommendations concerning the discharge and discipline of employees under his supervision are also given consideration by the Company. His rate of pay is 32 cents an hour more than that of the men he directs. We shall exclude him from the unit for the same reason we exclude the head powderman.

We find, in accordance with the agreement of the interested parties and the foregoing determinations, that all hourly rated employees of the Company employed in and about the Keigley Quarry near Payson, Utah, including watchmen,[7] but excluding salaried employees, confidential clerical employees regardless of method of compensation (but not excluding other clerical employees on an hourly wage rate basis), superintendent, general foreman, head powderman, millwright, 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.

B. *The Geneva Plant*

The Geneva Plant is new, with no prior history of collective bargaining. The Company and the U. S. A. contend that a single unit of production and maintenance employees at the plant is appropriate for collective bargaining purposes. The various affiliates of the Council, the I. B. E. W., the I. A. M., the Enginemen, and the Trainmen, all seek separate craft units.[8] Putting aside for the present the claims of the Enginemen and the Trainmen, it appears that the unit issue herein is the same as that which was resolved by the Board in *Matter of Tennessee Coal, Iron and Railway Company*[9] by a find-

[7] The Company does not employ armed, deputized, or militarized watchmen at the Keigley Quarry At present, the Company does not employ guards at the Keigley Quarry, although, as hereinafter indicated, guards are employed at the Geneva Plant

[8] The Council proposes as an alternative position that two units be found appropriate, one consisting of production employees, the other of maintenance employees, excluding those employees whom the I A M and the I B E W seek to represent This alternative position was not developed at the hearing. We find it has no merit See *Matter of Monsanto Chemical Company*, 55 N L R. B 1452.

[9] 39 N L R B 617 See also *Matter of Sheffield Steel Corp of Texas, et al*, 43 N L R B 956; *Matter of Tennessee Coal, Iron and R R Co, et al*, 45 N L R B 423; and *Matter of Laclede Steel Company*, 49 N L R. B 1116

ing that an industrial type unit was appropriate in the basic steel industry. The record in the instant case unquestionably confirms our conclusion in the above case. Accordingly, we find no merit in the contentions of the several American Federation of Labor affiliates that the separate craft units which they seek are appropriate for the purposes of collective bargaining at the Geneva Plant.

The Enginemen and the Trainmen petition for separate units of the Company's railway employees. We note that the Company's railway is operated entirely within the plant area. Moreover, the work of the railway employees is closely correlated and integrated with the work of the various production departments. In view of the above facts, and since organization has proceeded upon a broader basis, we conclude, as we have under similar circumstances, that the Company's intraplant railway is more intimately associated with the production of steel than with the business of railway transportation.[10] We find, consequently, that separate units of the Company's railway employees are not appropriate for the purposes of collective bargaining, and we shall dismiss the petitions filed by the Enginemen and the Trainmen.

The Company and the U. S. A. would exclude from the unit the watchmen, who are not armed, uniformed, or militarized. The Council would include them. In the case of the quarry employees, as noted above, the parties agree to include similar watchmen. We find no basis in the record to justify the inclusion of watchmen in the unit of quarry employees and their exclusion from a unit of plant employees. Therefore, we shall include the watchmen.

We find, in accordance with the determinations made above and the agreement of the parties, that all hourly rated employees of the Company at the Geneva Plant, including watchmen, gang leaders,[11] and hourly rated recorders, but excluding salaried employees, confidential clerical employees regardless of method of compensation (but not excluding other clerical employees on an hourly wage rate basis), guards,[12] 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.

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[10] *Matter of Electro Metallurgical Company*, 54 N L R B 15; *Matter of Tennessee Coal, Iron and Railroad Company, Open Hearth Dept of Ensley Works*, 39 N L R B. 626, and *Matter of Wheeling Steel Corporation, Steubenville, Ohio*, 8 N L R B 102

[11] It is clear from the record that gang leaders are not supervisory employees within the meaning of our customary definition

[12] The guards are armed, uniformed, and militarized.

V. THE DETERMINATION OF REPRESENTATIVES

We shall direct that the questions concerning representation which have arisen be resolved by separate elections by secret ballot among the employees in the appropriate units who were employed during the pay-roll period immediately preceding the date of our Direction of Elections herein, subject to the limitations and additions set forth therein.

At the time of the hearing, the Company employed a number of part-time employees at the Geneva Plant who worked 3 days a week performing the same duties as full-time employees. All the interested parties agree that they are entitled to vote. We find that the part-time employees have a sufficient interest in the selection of a collective bargaining representative to entitle them to vote.[13]

Since the units sought by the Enginemen and the Trainmen have not been found to be appropriate, and these organizations claim no interest in the units found above to be appropriate, we shall not place their names on the ballots.[14]

DIRECTION OF ELECTIONS

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 Geneva Steel Company, Provo, Utah, separate elections by secret ballot shall be conducted as early as possible, but not later than thirty (30) days from the date of this Direction of Elections, under the direction and supervision of the Regional Director for the Twentieth 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 units found appropriate in Section IV, above, who were employed by the Company during the pay-roll period immediately preceding the date of this Direction of Elections, 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 pre-

[13] See *Matter of Southern Bell Telephone and Telegraph Company*, 55 N. L. R. B. 1058.

[14] The Council, on behalf of its affiliates, stated at the hearing that should an election be directed among the employees at the Keigley Quarry, it desired to appear on the ballot as "Metal Trades Council, A. F. of L." The I. A. M., the I. B. E. W., and the Council, on behalf of its affiliates, agreed at the hearing that, should a single unit be found appropriate at the Geneva Plant, and an election be directed, they desired to appear jointly on the ballot as "American Federation of Labor." The U. S. A. expressed a preference to appear on all ballots as "United Steelworkers of America, C. I. O." The requests of the above parties are hereby granted.

sent 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 elections, to determine, with respect to the employees in the unit found appropriate at the Keigley Quarry, whether they desire to be represented by United Steelworkers of America, C. I. O., or by Metal Trades Council, A. F. of L., for the purposes of collective bargaining, or by neither; and to determine, with respect to the employees in the unit found appropriate at the Geneva Plant, whether they desire to be represented by United Steelworkers of America, C. I. O., or by American Federation of Labor, for the purposes of collective bargaining, or by neither.

ORDER

On the basis of the foregoing findings of fact, the National Labor Relations Board hereby orders that the petitions for investigation and certification of representatives of employees of Geneva Steel Company, Provo, Utah, filed by Brotherhood of Locomotive Firemen and Enginemen and Brotherhood of Railroad Trainmen in Cases Nos. 20–R–1025 and 20–R–1040, respectively, be, and they hereby are, dismissed.