

In the Matter of JONES & LAUGHLIN ORE COMPANY and WATERTOWN
BUILDING & CONSTRUCTION TRADES COUNCIL, AFL

Case No. 3-R-866.—Decided November 11, 1944

Mr. James C. Beech, of Pittsburgh, Pa., for the Company.
Mr. Nathan H. Blitman, of Syracuse, N. Y., for the AFL.
Mr. Adron Coldiron, of Star Lake, N. Y., for the CIO.
Mr. Philip Licari, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by Watertown Building & Construction Trades Council, AFL, herein called the AFL, alleging that a question affecting commerce had arisen concerning the representation of employees of Jones & Laughlin Ore Company, Benson Mines, New York, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Milton A. Nixon, Trial Examiner. Said hearing was held at Star Lake, New York, on October 10, 1944. The Company, the AFL, and the United Steelworkers of America, CIO, herein called the CIO, appeared and participated. All parties were afforded full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing on the issues. Subsequent to the hearing, the parties stipulated to correct the record in certain respects. The stipulation is hereby approved and made part of the record. 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

Jones & Laughlin Ore Company, a Michigan corporation, is engaged at Benson Mines, New York, in the mining and processing of iron ore. During the 6 months ending September 30, 1944, the Company pur-

chased raw materials valued in excess of \$100,000, of which 85 percent was shipped from points outside the State of New York. During the same period the Company processed iron ore valued at approximately \$100,000, all of which was shipped to points outside the State of New York.

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

II. THE ORGANIZATIONS INVOLVED

Watertown Building & Construction Trades Council, affiliated with the American Federation of Labor, is a labor organization admitting to membership, through its affiliated organizations, employees of the Company.

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

III. THE QUESTION CONCERNING REPRESENTATION

On August 10, 1944, the AFL advised the Company that it represented a majority of the Company's production and maintenance employees, and requested that it be recognized as the exclusive bargaining representative of such employees. On August 16, 1944, the Company refused to recognize the AFL until it has been certified by the Board in an appropriate unit.

A statement of a Field Examiner for the Board introduced into evidence at the hearing, indicates that the AFL and the CIO each 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 parties agree that a unit of all the Company's production and maintenance employees at Benson Mines, New York, including the employees listed in Appendix A, annexed hereto,² but excluding office and

¹ The Field Examiner reported that the AFL submitted 207 authorization cards, of which 136 bear names of persons listed on the Company's pay roll of August 20, 1944, which contained the names of 278 employees in the appropriate unit; and that 97 cards were dated between January and September 1944, and 39 were undated. He also reported that the CIO submitted 102 authorization cards, of which 85 bear names of persons listed on the above-mentioned pay roll, and that 76 cards were dated between July and September 1944, and 9 were undated.

² The parties agree, and the record discloses, that the employees listed in Appendix A, annexed hereto, possess no supervisory authority. We shall include them.

clerical employees, uniformed guards, and the employees listed in Appendix B, annexed hereto,³ is appropriate. There are, however, certain employees concerning whose inclusion the Company and the AFL disagree, the CIO taking no position. The AFL would include these employees, while the Company would exclude them. They are discussed below.

The Company employs, among others, a shop foreman, a garage foreman, and a shovel maintenance foreman, all of whom work in the Company's shop department. They work with approximately 34 men whom they instruct in the proper maintenance and repair of mechanical equipment. They, as well as the other employees with whom they work, are paid on an hourly basis. The master mechanic's testimony shows that, while these three foremen have the power of recommending hiring or discharging of employees, such recommendations would be subject to an independent investigation conducted by him, and any action taken would be based upon the results of his investigation and not solely upon their recommendations. Moreover, the record does not indicate whether they actually have made recommendations concerning the hire or discharge of employees. We note, furthermore, that all the employees in the shop department, including these 3 foremen, are under the direct supervision of the master mechanic who is always present on the job. We shall, therefore, include the shop foreman, the garage foreman, and the shovel maintenance foreman.

We find, in substantial accordance with the agreement of the parties and our foregoing determinations, that all the Company's production and maintenance employees at Benson Mines, New York, including the employees listed in Appendix A, annexed hereto, the shop foreman, the garage foreman, and the shovel maintenance foreman, but excluding office and clerical employees, uniformed guards, the employees listed in Appendix B, annexed hereto, 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 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.

³ The parties agree that the employees listed in Appendix B, annexed hereto, are supervisory employees within the meaning of our customary definition. We shall exclude them.

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, as amended, it is hereby

DIRECTED that, as part of the investigation to ascertain representatives for the purposes of collective bargaining with Jones & Laughlin Ore Company, Benson Mines, New York, 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 Third 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 they desire to be represented by Watertown Building & Construction Trades Council, AFL, or by United Steelworkers of America, CIO, for the purposes of collective bargaining, or by neither.

APPENDIX A

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| <p>A. Concentrator</p> <ul style="list-style-type: none"> (1) Separator Foremen (2) Rod Mill Foremen (3) Filter Foremen | <ul style="list-style-type: none"> (4) Tailings Disposal Foremen <p>B. Sinter Plant</p> <ul style="list-style-type: none"> (1) Sinter Machine Foremen |
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APPENDIX B

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| <p>A. Coarse Crusher & Fine Dept.</p> <ul style="list-style-type: none"> (1) General Foremen (2) Shift Foremen (3) Crusher Foremen <p>B. Concentrator</p> <ul style="list-style-type: none"> (1) Shift Foremen (2) Repair Crush Foremen <p>C. Sinter Plant</p> <ul style="list-style-type: none"> (1) General Foreman (2) Shift Foremen (3) Repair Foremen | <p>D. Open-Pit Department</p> <ul style="list-style-type: none"> (1) General Foreman (2) Pit Foremen (3) Blasting Foremen (4) Drill Foremen <p>E. Shop Department</p> <ul style="list-style-type: none"> (1) Master Mechanic <p>F. Electrical Department</p> <ul style="list-style-type: none"> (1) Chief Electrician (2) Electrician's Foreman |
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