

In the Matter of THE NEW JERSEY ZINC COMPANY and DISTRICT 50,
UNITED MINE WORKERS OF AMERICA

Case No. 4-R-1509.—Decided December 13, 1944

Mr. Newell W. Ellison, of Washington, D. C., and Mr. L. F. Johnson, of New York City, for the Company.

Mr. Otto Hartmann, of Newark, N. J., for District 50.

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

DECISION

AND

ORDER

STATEMENT OF THE CASE

Upon a petition duly filed by District 50, United Mine Workers of America, herein called District 50, alleging that a question affecting commerce had arisen concerning the representation of employees of The New Jersey Zinc Company, Franklin, New Jersey, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Eugene M. Purver, Trial Examiner. Said hearing was held at Newark, New Jersey, on November 8, 1944. The Company and District 50 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 Company moved at the hearing for a dismissal of the petition herein. The Trial Examiner reserved ruling upon this motion for the Board. In view of our finding in Section III, *infra*, the motion is granted. 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. On November 29, the Company filed with the Board a motion to correct the record and a request for oral argument. In the absence of opposition by District 50, the motion to correct the record is granted and the record is hereby corrected in conformance with the proposed corrections set forth in the motion. The request for oral argument is denied.

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

59 N. L. R. B., No. 176.

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

The New Jersey Zinc Company, a New Jersey corporation, is engaged in mining and concentrating zinc ore. For this purpose, it owns and operates mines and plants located at Franklin and Ogdensburg, New Jersey, with which we are concerned herein. During the year 1943, the Company purchased supplies and materials for use at the above-named operations, from points outside the State of New Jersey, valued in excess of \$250,000 and, during the same period, almost 100 percent of the zinc concentrates produced at these operations, valued in excess of \$500,000, was shipped to points outside the State of New Jersey.

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

II. THE ORGANIZATION INVOLVED

District 50, United Mine Workers of America, is a labor organization admitting to membership employees of the Company.

III. THE ALLEGED APPROPRIATE UNIT

The parties are agreed that hourly paid production and maintenance employees, gatemen, and watchmen, excluding forestry service employees, sociological employees, technical employees in training, clerical employees, and all supervisory employees within the meaning of the Board's customary definition comprise an appropriate unit.¹ However, the parties disagree with respect to the scope of the unit; District 50 contends that the unit should be confined to employees in the afore-mentioned classifications who are engaged at the Ogdensburg mine and mill, whereas the Company contends that such employees at both the Franklin and Ogdensburg operations constitute the appropriate unit.

Franklin and Ogdensburg, New Jersey, are adjoining towns. At Franklin, the Company owns and operates a mine, mill, and powerhouse, together with various offices. At Ogdensburg, it owns and operates a mine and mill. Although these operations are between 2½ and 3½ miles apart, the Company owns either the surface and mineral rights or the mineral rights to the property lying between them. The same type of mining is conducted at both mines, the same type and quality of zinc ore is taken from each, and similar equipment is used

¹ The parties stipulated that gang bosses, shift bosses, mine bosses, mill bosses, shop bosses, and other employees rated as bosses, are supervisors. A disagreement exists with respect to employees who occasionally act as bosses. However, in view of our finding, *infra*, we deem it unnecessary to dispose of this issue.

in these operations by the two mines. The mills of each operation crush the ore, and the same processes are used at each operation to separate the ore particles. The products thus obtained are shipped to the Company's smelter in Pennsylvania. In the smelting of the ores, the produce of both mines is mixed in order to achieve a uniform maximum recovery of zinc and other products from the ores.

Both the Franklin and Ogdensburg operations are under the control of a single general superintendent, who is responsible for the mines, the mills, and the various service departments which service the mines and mills. Responsible to him are two mine superintendents, one in charge of the Franklin mine and the other in charge of the Ogdensburg mine. Also responsible to him is a plant division superintendent who is in charge of both mills, the power and shops department,² and the engineering department. Assisting the plant division superintendent are individual department heads in charge of each mill, the power and shops department, and the engineering department. There are 10 service departments,³ all of which serve both the Franklin and Ogdensburg operations without distinction. Each of these departments, with the exception of the power and shops department and the engineering department, is headed by a person responsible to the general superintendent.

Electric power used at both operations is generated at the Franklin powerhouse. The shops, consisting of general repair shops, electric shops, plumber shops, machine shops, and carpenter shops, have branches at each operation, although the main shops are located at Franklin. Since the shops of the two operations do not have the same equipment, some work is performed for the Ogdensburg operation at Franklin, and the contrary is also true.

The pay roll, accounting, and personnel records for both operations are kept, for the most part, at the main office or the personnel office, each of which is located at Franklin. All matters relating to employment for both operations are handled through the personnel office, and persons seeking employment at Ogdensburg must be hired at Franklin. The Company maintains a single pay roll which is divided into departments without distinction as to operation, and paymasters go from the main office to either operation. All transactions between the Company and outside parties are handled through the accounting office at Franklin, and all purchases and shipments for both operations are dealt with through the main supply house at Franklin, the subsidiary supply house at Ogdensburg receiving its supplies through the main supply house.

² This department consists of the power plant and the various maintenance shops

³ These departments are the geological, power and shops, engineering, personnel, accounting, real estate, supply, chemical, forestry, and servicing departments

Regular staff meetings are attended by the heads of the various operating departments of the two mines and mills as well as by the heads of the service departments. These meetings are held regularly for the purpose of integrating all operations of the Company.

Transfers of men and equipment from one operation to the other are directed by the general superintendent. The record indicates that between 48 and 50 persons were transferred between the Franklin and Ogdensburg operations during 1943 and up to November 9, 1944, some upon a permanent basis and others upon a temporary basis. The Company has in effect a policy of company-wide seniority. Positions at both operations are identical, and the rates of pay are the same at each for comparable work. Working hours and shifts are the same at both mines, as are vacations which are arranged through the main office at Franklin.

The Company's operations at both Franklin and Ogdensburg has been treated as a single enterprise by the War Manpower Commission which has set a ceiling fixing the number of employees which the Company as a whole may hire. An application to the National War Labor Board has been filed by the Company treating both operations as a single unit, and that agency has acted favorably upon this application.

In view of the foregoing, we are of the opinion that both mines and mills and the service departments of the Company are operated as a single, highly integrated enterprise. It follows, therefore, that the unit sought by District 50, confined solely to certain employees at the Ogdensburg operation, is inappropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the Act.

IV. THE ALLEGED QUESTION CONCERNING REPRESENTATION

Since, as indicated in Section III, *supra*, the bargaining unit is inappropriate for the purposes of collective bargaining, we find that no question affecting commerce has arisen concerning the representation of employees of the Company in an appropriate unit. Accordingly, we shall dismiss the petition.

ORDER

Upon the basis of the above findings of fact, the National Labor Relations Board hereby orders that the petition for investigation and certification of representatives of employees of The New Jersey Zinc Company, Franklin, New Jersey, filed by District 50, United Mine Workers of America, be, and it hereby is, dismissed.