

In the Matter of THE HARRIS CLAY COMPANY,¹ EMPLOYER and UNITED
STONE AND ALLIED PRODUCTS WORKERS OF AMERICA, C. I. O.,
PETITIONER

Case No. 34-RC-165.—Decided March 7, 1950

DECISION
AND
DIRECTION OF ELECTION

Upon a petition duly filed, a hearing was held before Henry L. Segal, hearing officer. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.²

Pursuant to the provisions of Section 3 (b) of the National Labor Relations Act, the Board has delegated its powers in connection with this case to a three-member panel [Chairman Herzog and Members Houston and Reynolds].

Upon the entire record in this case, the Board finds:

1. The Employer is engaged in commerce within the meaning of the National Labor Relations Act.³
2. The labor organization involved claims to represent certain employees of the Employer.
3. A question affecting commerce exists concerning the representation of employees of the Employer within the meaning of Section 9 (c) (1) and Section 2 (6) and (7) of the Act.
4. The appropriate unit:

The Petitioner seeks a single unit of production and maintenance employees at the Employer's plants at Kaolin, Gusher Knob, and Sparks, all in the vicinity of Spruce Pine, North Carolina. As an alternative, the Petitioner agrees with the Employer's position that each plant constitutes a separate unit.

¹ The Employer's name as amended at the hearing.

² As the adequacy of Petitioner's showing of interest is solely an administrative matter to be determined by the Board, the hearing officer properly rejected the Employer's offer of evidence pertaining to the authenticity of Petitioner's application cards. See *Henderson Lumber Company, Inc.*, 80 NLRB 1392.

³ We find no merit in the Employer's contention that it would not effectuate the policies of the Act to assume jurisdiction or direct an election because of asserted unstable employment conditions at its plants due to periodic shutdowns.

The Employer mines and processes clay at its plants at Kaolin, Gusher Knob, and Sparks.⁴ This product is used principally by manufacturers of china. At the first two plants, mica, a byproduct, is also mined and processed. The greatest distance between any two plants is approximately 11 miles. Each plant is supervised by a plant superintendent responsible to the general superintendent who has overall supervision of the three plants. The general superintendent maintains his office at the Kaolin plant, where the employee records for all the plants, including those relating to payrolls and social security and withholding taxes, are kept.

The skills exercised by the employees at the three plants are, for the most part, the same. All the employees work 48 hours a week and are comparably paid. The only evidence in the record of any interchange of employees in the past 11 years related to a transfer of employees from one plant to another in the summer of 1949 to avoid layoffs. Although each plant superintendent promulgates the working rules for his plant, he consults with the general superintendent with respect to general labor policies. There is no previous history of collective bargaining at any plant.

In view of the similarity of operations at the three plants, the close proximity of the plants, the similarity of the skills and working conditions of the employees, the centralized supervision, and the absence of any bargaining history, we are persuaded that a single unit covering the three plants is appropriate.

Accordingly, we find that all production and maintenance employees at the Employer's Kaolin, Gusher Knob, and Sparks plants, all situated in the vicinity of Spruce Pine, North Carolina, including so-called foremen,⁵ but excluding office and clerical employees, guards, professional employees, the plant superintendents, the mining foreman (Pitman), and all other supervisors as defined in the Act, constitute a unit appropriate for the purposes of collective bargaining.

DIRECTION OF ELECTION

As part of the investigation to ascertain representatives for the purposes of collective bargaining with the Employer, an election by secret ballot shall be conducted as early as possible, but not later than 30 days from the date of this Direction, under the direction and supervision of

⁴ The Employer's sales and executive offices are located at Dillsboro, North Carolina, approximately 100 miles from the plants.

⁵ The record discloses that the Employer has several employees designated "foremen" who possess no supervisory authority as defined in the Act but who are actually leadmen performing manual labor along with the other employees in their respective group. The Employer requests that these "foremen" be included in the unit. The Petitioner takes no position. We shall include them.

the Regional Director for the Region in which this case was heard, and subject to Sections 203.61 and 203.62 of National Labor Relations Board Rules and Regulations, among the employees in the unit found appropriate in paragraph numbered 4, above, who were employed during the payroll period immediately preceding the date of this Direction of Election, including employees who did not work during said payroll period because they were ill or on vacation or temporarily laid off, 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, and also excluding employees on strike who are not entitled to reinstatement, to determine whether or not they desire to be represented, for purposes of collective bargaining, by United Stone and Allied Products Workers of America, C. I. O.