

In the Matter of JEFFERSON ISLAND SALT MINING COMPANY, INC. and  
CONGRESS OF INDUSTRIAL ORGANIZATIONS

*Case No. 15-R-1559.—Decided May 9, 1946*

*Mr. Jacob Landry*, of New Iberia, La., and *Messrs. W. H. Roll* and *Frank W. Wright*, of Jefferson Island, La., for the Company.

*Messrs. Robert Starnes, John A. Ritter, and Noah Ford*, all of New Orleans, La., for the CIO.

*Mr. Edward R. Moffett*, of Houston, Tex., and *Mr. Mancy Breaux*, of Delcambre, La., for the AFL.

*Mr. Frederick D. Vincent, Jr.*, of counsel to the Board.

DECISION  
AND  
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by Congress of Industrial Organizations, herein called the CIO, alleging that a question affecting commerce had arisen concerning the representation of employees of Jefferson Island Salt Mining Company, Inc., Jefferson Island, Louisiana, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before C. Paul Barker, Trial Examiner. The hearing was held at New Iberia, Louisiana, on March 14, 1946. The Company, CIO, and International Chemical Workers Union, Local No. 28, AFL, herein called the AFL, appeared and participated. At the close of the hearing the AFL moved to dismiss the petition. Ruling on this motion was reserved by the Trial Examiner for the Board. For the reasons which appear in Section III, below, this motion is denied. All parties 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 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

Jefferson Island Salt Mining Company, Inc., is a Delaware corporation with its principal office located in Kentucky. It is engaged in the mining and manufacturing of rock and evaporated salt at Jefferson Island, Louisiana. The Jefferson Island operations of the Company are solely involved in this proceeding. From July to December of 1945 the Company purchased a total of more than \$340,000 worth of raw materials, of which more than 30 percent was purchased and received from points outside the State of Louisiana. The Company's normal annual production prior to the war was approximately 200,000 tons of salt, of which approximately 90 percent was sold and shipped to points outside the State of Louisiana.

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

Congress of Industrial Organizations is a labor organization admitting to membership employees of the Company.

International Chemical Workers Union, Local No. 28, 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 CIO as the exclusive bargaining representative of its employees until the CIO has been certified by the Board in an appropriate unit.

The Company and the AFL entered into a contract effective February 1, 1945, to continue in operation until February 1, 1946, and for yearly periods thereafter unless either party gave notice of a desire to change the contract 30 days prior to any anniversary date. On November 29, 1945, the Company was notified by the AFL that it desired to negotiate a new agreement. On January 7, 1946, the CIO notified the Company by letter that it represented a "substantial number" of the Company's employees, and on the same day filed its petition herein. Following negotiations between the Company and the AFL, they executed a new agreement on February 1, 1946, to be effective until February 1, 1947.<sup>1</sup>

Inasmuch as the CIO, by its letter and petition of January 7, 1946, gave timely notice of its rival claim, insofar as the execution of the

<sup>1</sup> It contained the same provisions for automatic renewal as the 1945 contract

1946 contract is concerned, and because the AFL took effective action to prevent the automatic renewal of the 1945 contract, we find that neither the 1946 nor the 1945 agreement constitutes a bar to this proceeding.

A statement of a Board agent, introduced into evidence at the hearing, indicates that the CIO represents a substantial number of employees in the unit hereinafter found appropriate.<sup>2</sup>

We find that a question affecting commerce has arisen concerning the representation of the employees of the Company, within the meaning of Section 9 (c) and Section 2 (6) and (7) of the Act.

#### IV. THE APPROPRIATE UNIT

All parties agree to the establishment of a unit consisting of all production, processing, refining, packing, shipping, construction, and maintenance employees of the mine and evaporating plant of the Company, excluding office workers, stockroom clerks, guards, safety inspectors, chemists, engineers, and salaried supervisory employees. In addition, the parties would specifically include all hourly paid foremen. This unit conforms to that covered by the 1945 and 1946 contracts between the AFL and the Company.

Despite the agreement of the parties and the prior bargaining history, there is considerable indication in the record that the hourly paid foremen may be supervisory employees within the meaning of our customary definition whose exclusion is consequently warranted. We shall, therefore, examine the status of each category of hourly paid foremen.

*Mine foremen:* The mining operations of the Company, under the supervision of 1 mining engineer, are carried on in 1 department under 2 hourly paid foremen, 1 in charge of the day shift and 1 in charge of the night shift. At the time of the hearing there were about 22 employees in each shift. These foremen receive substantially higher pay than the average for their department, and have the power to recommend to their department head changes of status of the employees under their control. Under the circumstances we believe that the department head must necessarily rely upon recommendations of

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<sup>2</sup> The Field Examiner reported that the CIO submitted 216 cards, bearing the names of 171 employees listed on the Company's pay roll of February 1, 1946, and that the cards are dated October 1945 or January 1946. There are approximately 335 employees in the unit hereinafter found appropriate.

For its interest in this proceeding, in addition to its contracts with the Company, the AFL relies upon a petition signed by 128 employees indicating that they are members of the AFL in good standing; and affidavits of 190 employees to the same effect, stating in addition that the affiants repudiate any authorization of the CIO.

To support its motion to dismiss the petition, herein, the AFL points to the documentary evidence referred to above and contends that the CIO has no adequate showing of representation. Inasmuch as the CIO has submitted *prima facie* evidence of a substantial showing we believe that the issues of its actual representation can best be resolved by an election by secret ballot.

these individuals as to the discipline, discharge, and status of subordinate employees. Accordingly, we find that the hourly paid mine foremen are supervisory employees within the meaning of our customary definition and, therefore, we shall exclude them from the appropriate unit.<sup>3</sup>

*Loading, packing, and screening foremen:* Loading, packing, and screening each constitute separate departments of the Company. There are 2 hourly paid foremen in each of these departments, 1 in charge of each of the 2 shifts. The 3 departments come under the supervision of 1 salaried foreman who is responsible for the operations of all 3 departments. The record indicates that there are about 86 workers, counting both day and night shifts, under the control of this salaried foreman. The rate of pay of the hourly paid foremen in charge of the separate shifts is substantially higher than that received by the workers under their control. These hourly paid foremen also have the power to recommend changes in the status of employees. Under all the circumstances, it is apparent that their recommendations must necessarily carry considerable weight. Accordingly, we find that the hourly paid foremen in these departments are supervisory employees within the meaning of our customary definition and, therefore, we shall exclude them from the appropriate unit.

*Carpenter foreman:* The carpenter foreman is in charge of about 5 workers. He, too, has authority to recommend changes in the status of employees of the 12 separate departments of the plant and comes directly under the plant superintendent. Because this employee lacks direct supervision, except by the plant superintendent, whose control necessarily cannot be close or continuous, it appears that his recommendations concerning the status of subordinate employees must carry weight. Accordingly, we find that the carpenter foreman is a supervisory employee within the meaning of our customary definition, and, therefore, we shall exclude him from the appropriate unit.

*Printing and bag department foreman:* This foreman, in charge of a group of about 8 employees, also may recommend changes in the status of employees. He supervises printing and repair of bags under the control of the Company's purchasing agent. His rate of pay is substantially higher than that of the subordinate employees under his supervision, and his section is another one of the 12 departments of the plant. The fact that this foreman is responsible directly to an executive of the Company whose duties cannot permit close supervision of the foreman's department, indicates that the foreman's recommendations regarding the status of his subordinate employees must be given weight. Accordingly, we find that the printing and bag department foreman is supervisory within the meaning of our cus-

<sup>3</sup> See *Matter of Jasper Wood Products Company, Inc.*, 66 N. L. R. B. 333

tomary definition and, therefore, we shall exclude him from the appropriate unit.

We find that all production, processing, refining, packing, shipping, construction, and maintenance employees of the mine and evaporating plant of the Company, excluding office workers, stockroom clerks, guards, safety inspectors, chemists, engineers, all foremen (hourly paid and salaried), 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 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.

#### 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 Jefferson Island Salt Mining Company, Inc., Jefferson Island, Louisiana, 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 Fifteenth 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 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 Congress of Industrial Organizations, or by International Chemical Workers Union, Local No. 28, AFL, for the purposes of collective bargaining, or by neither.