

Kennecott Copper Corporation and International Association of Machinists, AFL-CIO, Petitioner

Kennecott Copper Corporation and International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers, AFL-CIO, Petitioner

Kennecott Copper Corporation and United Association of Journeymen and Apprentices of the Plumbing and Pipe Fitting Industry of the United States and Canada, AFL-CIO, Petitioner

Kennecott Copper Corporation and United Brotherhood of Carpenters and Joiners of America, AFL-CIO, Petitioner

Kennecott Copper Corporation and Brotherhood of Painters, Decorators & Paperhangers of America, AFL-CIO, Local No. 596, Petitioner

Kennecott Copper Corporation and United Steelworkers of America, AFL-CIO, Petitioner. *Cases Nos. 28-RC-856, 28-RC-857, 28-RC-858, 28-RC-863, 28-RC-872, and 28-RC-974. August 13, 1962*

DECISION AND DIRECTION OF ELECTIONS

Upon petitions duly filed under Section 9(c) of the National Labor Relations Act, a consolidated hearing was originally held before James W. Cherry, hearing officer, on April 12, 1961. Thereafter, on January 23, 1962, the Board ordered that the record be reopened and remanded the proceeding for further hearing, such hearing being held on March 21 to 23, 1962, before Trial Examiner Thomas A. Ricci. The rulings of the hearing officer and Trial Examiner made at the hearings are free from prejudicial error and are hereby affirmed.

Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its powers in connection with these cases to a three-member panel [Members Rodgers, Leedom, and Fanning].

Upon the entire record in these cases, the Board finds:

1. The employer is engaged in commerce within the meaning of the Act.
2. The labor organizations involved claim to represent certain employees of the Employer.¹

¹ We shall hereinafter refer to the Petitioners as follows, listing them in the order in which they appear in the caption, i.e., Machinists, Boilermakers, Plumbers, Carpenters, Painters, and Steelworkers

International Union of Mine, Mill and Smelter Workers, herein called Mine-Mill, who presently represents production and maintenance employees at the reduction plant, intervened on the basis of its contractual interest. The Steelworkers, who represent production employees at the employer's smelter, built in 1958, intervened in Case No. 28-RC-856 at the original hearing, in support of the IAM position rather than to participate in the election. However, on the first day of the remanded hearing the Steelworkers filed its petition for a unit of the production and maintenance employees presently represented by Mine-Mill.

3. Questions affecting commerce exist 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 various craft Petitioners herein seek to sever from the existing production and maintenance unit a number of alleged craft units of employees at the Employer's Hayden, Arizona, reduction plant.² Mine-Mill, the incumbent certified bargaining agent for the production and maintenance employees, and the Employer oppose the establishment of the separate units sought. The Employer contends that in view of the highly integrated and continuous nature of its operations at Hayden, the severance principles established in the *American Potash*³ case should not be applied.

It appears from the record that the Employer's operations at Ray and Hayden, Arizona, are as contended highly integrated. Thus the copper ore is mined at Ray, loaded into a truck hopper, run through the primary crusher, and then loaded into railway cars and taken to Hayden about 20 miles away. At Hayden the ore is loaded into a track hopper and carried through a secondary crushing. From the secondary crushing the ore is carried to the tertiary crusher and from there it is conveyed up to the fine ore storage bin. From the fine ore storage bin the ore goes into the mill, the rod mill, and the ball mill grinding section. From the ball mill grinding section it goes to the flotation section. The concentrate resulting therefrom is then shipped to the smelter via pipeline where it is dewatered and discharged into the reverb furnace. It is then converted into the converters, pooled in the anode pool furnace, and cast into anodes, the final product. The entire process takes between 60 and 70 hours. The Employer contends that the integration here is even greater than that in *National Tube* and other cases where craft severance is denied.⁴ However, the Board has consistently adhered to its policy stated in the *American Potash* case, of permitting, except in certain industries not involved here, severance where otherwise proper, despite a high degree of integration of an employer's operations.⁵ Accordingly, we no merit in this contention.

² There is no contention to the contrary and we find that the existing production and maintenance unit represented by Mine-Mill is an appropriate bargaining unit.

The Steelworkers presently represents production employees at the smelter. See *Kennecott Copper Corporation, Ray Mines Division*, 122 NLRB 370.

³ *American Potash & Chemical Corporation*, 107 NLRB 1418.

⁴ *National Tube Company*, 76 NLRB 1199; *Corn Products Refining Company*, 80 NLRB 362; *Weyerhaeuser Timber Company*, 87 NLRB 1076; *The Permanente Metals Corporation*, 89 NLRB 804.

⁵ *Puerto Rico Glass Corporation*, 126 NLRB 102; *E. I. du Pont de Nemours and Company (Houston, Texas, Plant)*, 126 NLRB 885. In the latter case the Board acknowledged, but expressed disagreement with, the decision of the court of appeals in *NLRB v. Pittsburgh Plate Glass Company*, 270 F. 2d 167 (CA 4), cert denied 361 US 943.

Case No. 28-RC-856

The Machinists seeks a unit composed, with the usual exceptions, of all maintenance mechanics, machinists, mobile equipment mechanics, handymen, oilers, apprentices, and/or helpers in the smelter and sponge iron and acid plant, mill, and crusher at the Employer's Hayden operations. As indicated above, these employees are presently represented by Mine-Mill.

For maintenance purposes, the Hayden reduction plant is roughly divided into two areas, labeled repair area 1 and repair area 2. Maintenance mechanics work in both areas under repair foremen who report directly to the maintenance superintendent. Repair area 1 covers the concentrator and crusher while repair area 2 covers the smelter, the sponge iron and acid plant, the silica hopper, and the lime-burning plant. Mechanics who report to the crusher in area 1 repair and perform preventive maintenance work on the crushers, change bolts and screens, reline bearings, and work on rubber conveyors and other associated equipment. Mechanics who report to the concentrator repair and perform preventive maintenance work on heavy equipment, including rod and ball mills, flotation machines, and elevators. They replace liners, tighten liner bolts, check and maintain the gears and drives in the rod and ball mills on a scheduled basis. Mechanics in area 2 report to the smelter repair shop and the sponge iron and acid plant where they perform essentially the same type of maintenance and repair work as the mechanics in area 1.

Mobile equipment mechanics perform all repair and maintenance work on such mobile equipment as trucks, pickups, and other heavy-duty equipment. They work under a repair foreman who reports directly to the maintenance superintendent. The machinists, the highest paid classification in the mechanic-machinist category, work in the machine shop under a foreman who reports directly to the maintenance superintendent. They work with standard machine tools such as lathes, power mills, saws, etc. The oilers, classified as lead oiler, smelter oiler, and concentrator oiler, also work under a separate foreman who reports directly to the maintenance superintendent. Their principal function is to oil and lubricate the equipment on which the mechanics work on a 24-hour basis.

There is a 4-year apprenticeship program for maintenance mechanics and machinists which has been approved by the State apprenticeship indenture training program. An apprenticeship program for the mobile equipment mechanics is scheduled to have begun on May 1, 1961. On the basis of the entire record, we find that the maintenance mechanics, machinists, and mobile equipment mechanics sought herein are craftsmen. Thus, as the Machinists is an organiza-

tion which traditionally represents such craftsmen,⁶ we find further that these employees may constitute a single separate appropriate unit if they so desire.⁷ As the record does not show that the handymen, oilers, and helpers are currently in a direct line of progression to the job of maintenance mechanic, machinists, or mobile equipment mechanic, we shall exclude them from the unit.⁸

Case No. 28-RC-857

The Boilermakers seeks a unit consisting of all boilermakers, blacksmiths, welders, sheet metal workers, their helpers and apprentices in the maintenance division at the Employer's Hayden reduction plant. These employees work in a separate boiler shop which is composed of the foreman's office, a tool storage crib, a 12-foot roll, an 8-foot roll, an airhammer, a blacksmith forge, an anvil, a welder's shop, and a tinshop. Boilermakers also do fieldwork under the supervision of field foremen, but their seniority remains in the boiler shop. The boilermakers do their own layout work. Blacksmiths and hammermen do all the forge work and tool sharpening. Sheet metal workers work entirely on light metals in the boiler shop. There is a 4-year apprenticeship program for boilermakers. The welders weld, form, brace, heat, and cut metal in installing, maintaining, and performing repairs to structures and all machinery. They use electric welding machines and cutting equipment, gas cutting equipment, and other necessary equipment. They interpret engineering drawings and work both inside the shop helping the boilermakers and on assignments to various repair areas in the plant. From 80 to 90 percent of their time is spent with the boilermaker group either in the shop or elsewhere in the plant. On the basis of the evidence adduced it is clear that these employees constitute an identifiable, skilled, and homogeneous craft group.⁹ As the Boilermakers is a union that traditionally represents such employees, we find that they may constitute a separate appropriate unit if they so desire.¹⁰

Case No. 28-RC-858

The Plumbers seeks a unit composed of all pipefitters, apprentices, and helpers in the maintenance division. Ten pipefitters report to the pipefitter shop while several others report to the sponge iron acid

⁶ *International Harvester Company*, 119 NLRB 1709, *E. I. du Pont de Nemours and Company (Houston, Texas, Plant)*, 126 NLRB 885 *Kennecott Copper Corporation*, 125 NLRB 107.

⁷ Compare *San Manuel Copper Corporation*, 116 NLRB 1153, 1157-1158, *United States Potash Company*, 77 NLRB 947, 949-951

⁸ *American Potash & Chemical Corporation*, *supra*, at 1423

⁹ *San Manuel Copper Corporation*, *supra*, at 1158; *C. F. Braun & Co.*, 120 NLRB 282. As the helpers are not in a direct line of progression to the job of boilermaker, we shall exclude them from the unit

¹⁰ *Stauffer Chemical Company of Nevada*, 113 NLRB 1255, 1258

plant and smelter. There is a 4-year apprenticeship program for pipefitters who are admittedly craftsmen. However, the Employer appears to contend that a craft unit is inappropriate because all pipefitters are not centrally located and supervised. We find no merit in this contention.¹¹ Accordingly, as the Plumbers is the traditional representative of the employees it seeks,¹² we find that the pipefitters and their apprentices constitute a craft group which is entitled to separate craft representation if the employees so desire. As the helpers are not currently in a direct line of progression to the job of pipefitter, we shall exclude them.¹³

Case No. 28-RC-863

The Carpenters seeks a unit composed of all maintenance carpenters, apprentices, handymen, carpenter helpers, and matt changers in the maintenance division. There is a 4-year apprenticeship program for carpenters. Seven work regularly in the carpenter shop under a carpenter foreman and four are assigned to the mill of concentrator and work under the supervision of a repair foreman. The carpenter shop contains the usual carpenter shop tools and the carpenters perform typical functions of carpenters such as fabricating, assembling, and repairing various types of wood items, cabinets, screens, and doors. They also produce the normal things used in the construction, maintenance, and repair of the mills, and other structures and equipment.

The handyman classification is what is known as a "red circle" rate and as soon as the two present incumbents leave the Company's employ, this classification will be discontinued. It is essentially the same as that of the helper except that the incumbent performs additional duties such as running the jackhammer. Matt changers work in the mill under the field repair foreman. Their work is confined to what is known as the flotation machine. They cut large rolls of canvas to the proper size and shape, punch holes in the resulting matts for bolts to go through, and insert the matts in place in the floatation machine. Like any other employee in the plant, Matt changers can bid on the carpenter or any other apprentice program. On the basis of the entire record and as the Carpenters is the traditional representative of the employees it seeks, we find that the maintenance carpenters and their apprentices may constitute a separate appropriate craft unit if the employees so desire.¹⁴ However, as it is clear from

¹¹ In several of these cases the Employer contends that a craft group is inappropriate because the employees involved are subject to different supervision. However, the mere fact that craft employees have common supervision with employees outside their craft does not prevent craftsmen from being represented in a unit of their own craft. *B. H. Hadley, Inc.*, 130 NLRB 1622, and cases cited therein.

¹² *Stauffer Chemical Company of Nevada, supra*, at 1259.

¹³ *American Potash & Chemical Corporation, supra*, at 1423.

¹⁴ *Stauffer Chemical Company of Nevada, supra*, at 1261.

the record that the handymen, carpenter helpers, and matt changers are not in a direct line of progression to the carpenter classification, we shall exclude them from the unit.

Case No. 28-RC-872

The Painters seeks a unit composed of painters and sign painters¹⁵ in the maintenance division. The Employer contends that these employees are not craftsmen. The Employer employs two painters and one sign painter. The sign painter was originally hired as a laborer in February 1955 and was transferred to the painter classification in June 1955. The second painter was hired in 1946 as a handyman and transferred to the painter classification in 1947. The third employee was hired as a painter in 1950. The Employer's maintenance superintendent testified that there is no apprenticeship program for painters partly because it is not considered an apprenticeable trade in Arizona and also because it would not be economically feasible in view of the small turnover in painters. He stated, however, that he requires proof of journeyman status before hiring painters and there is nothing in the instant record to indicate that the present incumbents lacked that status when hired as painters. Accordingly, we find that the painters are craftsmen who may, as the Painters has traditionally represented the craft, be separately represented if they so desire.¹⁶

In view of the foregoing, we shall make no final unit determinations at this time, but shall direct that the questions concerning representations that have arisen be resolved by separate elections by secret ballot among employees in the following voting groups employed by the Employer at its Hayden, Arizona, reduction plant, excluding from groups (a) through (e) all other employees and supervisors as defined in the Act.

(a) All maintenance mechanics, machinists, mobile equipment mechanics, and their apprentices.

(b) All boilermakers, welders, blacksmiths, sheet metal workers, and their apprentices.

(c) All pipefitters and their apprentices.

(d) All carpenters and their apprentices.

(e) All painters and sign painters.

(f) All mill and maintenance department employees, including the assay section of the quality control department, but excluding power and water department employees, electrical maintenance employees represented by the IBEW, employees in voting groups (a)

¹⁵ At the time of the original hearing there were two painters and one sign painter. At the reopened hearing, the evidence disclosed that the sign painter was no longer employed.

¹⁶ *Stauffer Chemical Company of Nevada, supra*, at 1258-1259. There are no painter apprentices or helpers. If helpers are needed they are taken from a common labor pool.

through (e), all office clerical and professional employees, guards, watchmen, and supervisors as defined in the Act.¹⁷

If a majority of the employees in any of voting groups (a) through (e) select the Union seeking that group as a separate unit, those employees will be taken to have indicated their desire to constitute a separate bargaining unit, and the Regional Director conducting the elections is hereby instructed to issue a certification of representative to such union for such unit, which the Board under the circumstances finds to be appropriate for purposes of collective bargaining. If a majority in all the foregoing voting groups vote for separate representation, and if a majority in voting group (f) vote for Mine-Mill, or for the Steelworkers, the Union winning the election shall be certified as the representative of the employees in such group, which under these circumstances the Board finds to be an appropriate unit.

However, if the majority of the employees in voting groups (a), (b), (c), (d), or (e) do not vote for the Union which is seeking to represent them in a separate unit, their ballots shall be pooled with those for group (f).¹⁸ If a majority in the pooled group vote for Mine-Mill or the Steelworkers, the winning unit shall be certified as the representative of employees in the pooled group, which under those circumstances the Board finds to be an appropriate unit.

[Text of Direction of Elections omitted from publication.]

MEMBER FANNING, concurring:

I concur in the result reached by my colleagues in directing these severance elections at the Employer's Hayden reduction facility. I do so, not because I share my colleagues' view that the integrated and continuous nature of the Employer's mining and reduction process is immaterial to the decision on the desirability of craft severance,¹⁹ but because such factor is outweighed by the multiple-unit pattern of bargaining which exists at this and other facilities of the Employer.

The Employer bargains for two industrial type units: one represented by the Mine, Mill and Smelter Workers, and one—at the smelter—by the Steelworkers, as well as a unit of powerhouse employees and employees in the electrical department which the IBEW has represented since 1949. In addition, the evidence presented at

¹⁷ The description of this voting group follows substantially, except for the exclusion of voting groups (a) through (e), the description of the unit for which Mine-Mill was certified on March 19, 1959

¹⁸ If the votes are pooled, they are to be tallied in the following manner: The votes for the labor organizations seeking separate units in any of the groups shall be counted as valid votes but neither for nor against the labor organizations seeking to represent the production and maintenance unit. All other votes are to be accorded their face value.

¹⁹ See my concurrence in *Mallinckrodt Chemical Works, Uranium Division*, 129 NLRB 312, 315, footnote 3, stating my view as to the desirability of a reexamination of the Board's craft severance policies set forth in *American Potash & Refining Corporation*, 107 NLRB 1418. The Employer calls for such reexamination in this case. However, I do not regard such full-scale reexamination as necessary to a decision herein.

the reopened hearing held by the Board in this proceeding shows multiple-unit bargaining at other facilities. The Employer—at the Ray Mines Division, 23 miles from Hayden—bargains with five units in addition to a production and maintenance unit, and its three other western divisions engaged in copper mining and reduction operations—Nevada Mines, Chino Mines, and Utah Mines—are characterized by multiple units, including craft and departmental groups. Thus more than 10 different unions are involved in representing employees of these western divisions of the Employer, including the Hayden reduction facility. In these circumstances, it is noteworthy that there is no evidence before the Board suggesting that the Employer's operations have, as a result, been disturbed by jurisdictional disputes or that the employees, on their part, have not received proper and adequate representation in such units. Based upon this record I see no compelling reason for denying severance to the various craft groups now sought. They appear to be skilled employees with interests and duties sufficiently different from those of other employees of the Employer to warrant their representation in separate units—such as exist generally in the Employer's western divisions—if they so desire.

Frostco Super Save Stores, Inc. and Local 534, Amalgamated Meat Cutters & Butcher Workmen of North America, AFL-CIO, Petitioner

Sav-Co., a Corporation Operator of Sav-Mart and Local 229, Retail Clerks International Association, AFL-CIO, Petitioner

Illinois Catering Company, a Subsidiary of Topsy's International, Inc. for Topsy Catering Co., Inc. and Culinary Workers and Bartenders Local 755, Hotel & Restaurant Employees and Bartenders International Union, AFL-CIO, Petitioner.

Cases Nos. 14-RC-4180, 14-RC-4188, and 14-RC-4233. August 14, 1962

DECISION, ORDER, AND DIRECTION OF ELECTIONS

Upon separate petitions¹ duly filed under Section 9(c) of the National Labor Relations Act, a hearing was held before Thomas W. Seeler, hearing officer. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

¹ The petitions in Cases Nos 14-RC-4180 and 14-RC-4188 were consolidated for purposes of hearing. The petition in Case No 14-RC-4233 was filed after the consolidated hearing closed, but a stipulation was entered into setting forth agreed facts and providing for incorporation of the record in the consolidated hearing.

A notice to show cause issued by the Board on May 23, 1962, provided for this consolidation, and further provided, *inter alia*, that certain additional named companies who operated licensed departments in the Sav-Mart store should be made parties to these pro-