

Kennecott Copper Corporation, Chino Mines Division, Petitioner, and United Steelworkers of America Local 890, AFL-CIO and International Association of Machinists and Aerospace Workers Lodge 1563, AFL-CIO-CLC. Case 28-UC-28

May 21, 1969

DECISION AND ORDER CLARIFYING CERTIFICATION

BY MEMBERS BROWN, JENKINS, AND ZAGORIA

Upon a petition duly filed under Section 9(b) of the National Labor Relations Act, as amended, a hearing was held on October 10, 1968, before L. L. Porterfield, a Hearing Officer of the National Labor Relations Board. On December 2, 1968, the Regional Director for Region 28 transferred the case to the Board for decision.

Thereafter, the Employer-Petitioner, herein called the Employer, and the United Steelworkers of America Local 890, AFL-CIO, hereinafter called Steelworkers, filed briefs.

Pursuant to the provisions of Section 3(b) of the National Labor Relations Act, as amended, the Board has delegated its powers in connection with this case to a three-member panel.

The Board has reviewed the Hearing Officer's rulings made at the hearing and finds that they are free from prejudicial error. They are hereby affirmed.

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

The Employer is engaged in the mining, milling and distribution of ore materials. Its Chino Mines Division, located in New Mexico, is comprised of several facilities including an ore mine at Santa Rita and a reduction plant at Hurley some 8 miles away. Appended to the reduction plant is a lime quarry. The petition herein seeks a clarification of the unit of production employees at the Employer's reduction plant and the lime quarry operation currently represented by the Steelworkers.

In September 1968, the Employer established a new job classification at its lime quarry. Previous to that time there were two lime quarry employees, classified respectively as front end loader and production truck driver. The former employee was the sole employee at Hurley represented by the International Association of Machinists and Aerospace Workers Lodge 1563, AFL-CIO-CLC (hereinafter called Machinists) and the latter was represented by the Steelworkers.¹

¹The parties agree that in Cases 33-RC-31 through 35, and 33-RC-39 the Machinists was certified as bargaining representative of certain Santa Rita employees, including shovel runners at Hurley. The job description "shovel runner" was subsequently changed to front end loader when the Employer introduced new machinery years later; however the jobs are essentially the same. In Cases R-3014 and 16-R-1738 the Board certified the Mine, Mill and Smelter Workers, CIO, as bargaining agent for the production and

Basically, the front end loader's work entailed loading the trucks and on occasion clearing the pickup area of loose rubble while the truckdriver hauled the lime to the nearby reduction plant where it was used in the copper ore reduction process. On September 12, 1968, the front end loader was discharged for cause and the Employer, instead of assigning a replacement, created a new job classification of lime quarry equipment operator. This new job, in effect, combined the jobs previously performed by the front end loader and truckdriver. The Employer assigned the lime quarry equipment operator job to the truckdriver represented by the Steelworkers and since that time it has recognized that union as bargaining representative for this employee. The petition herein requests a clarification which would find that the work performed by the lime quarry equipment operator is production work and that the new classification should be included in the Steelworkers' production and maintenance unit. The Steelworkers agrees. Before the Hearing Officer, the Machinists moved to dismiss on several grounds² and, in the alternative, argued that if the petition were not dismissed the new job classification should be placed in its unit.

The record shows that all union represented employees at the reduction plant, which includes the lime quarry facility, are represented by the Steelworkers. Within this production and maintenance unit are bulldozer, grader, front end loader operators, truckdrivers and other heavy equipment operators. Likewise, all employees at the lime quarry operation of the reduction plant are presently represented by the Steelworkers. Among this latter group are quarrymen and the lime quarry equipment operator. Thus, in terms of work related contacts, all of the lime quarry equipment operator's union represented coworkers including truckdrivers and front end loaders, whether at the lime quarry or at the reduction plant itself, are represented by the Steelworkers. The nearest employees represented by the Machinists are employed at the Santa Rita ore mine located 7 miles from Hurley.

As for the lime quarry equipment operator job, it appears that the employee assigned to this classification spends most of his time hauling the lime stone to the reduction plant and his operation

maintenance employees at Hurley. This certification included the truck driver at the lime quarry. The Steelworkers, in July 1967, merged with the Mine, Mill and Smelter Workers, and has since served as collective-bargaining representative of those employees covered by the Mine, Mill and Smelter Workers' certification.

²Machinists argues, *inter alia*, as grounds for dismissal, that this matter raises a question of representation, that there is a possible work assignment dispute, and that a grievance has been filed. These arguments overlook the fact that the issue here is one of accretion — the addition of a newly created job — to an existing collective-bargaining unit. In this stance we consider *McDonnell Company*, 173 NLRB No. 31, to be inapposite. Finally, we perceive no reason for further delaying this matter pending the outcome of the grievance because the Steelworkers is not a party to it and would not be bound thereby. *Libbey-McNeil and Libbey*, 159 NLRB 677. Accordingly, the Machinists' motions to dismiss the petition are denied.

of the front end loader apparently occupies only a fraction of his time. In addition, with regard to supervision, there is a clear administrative separateness between the Santa Rita mine and the Hurley reduction plant. The record shows that the lime quarry equipment operator's foreman and general foreman and the superintendent in charge of the lime quarry and the lime plant division of the reduction operation all supervise employees represented by the Steelworkers and have no employees represented by the Machinists within their respective departmental jurisdictions.

Given these circumstances, and in particular, the integrated production processes at the reduction plant and lime quarry operations at Hurley, New Mexico, the close working relationship between the lime quarry equipment operator and other production employees represented by the

Steelworkers, the common supervision of all production workers and the equipment operator, we find that this newly created classification is an accretion to, and should be included in, the production unit at the reduction plant. We therefore conclude that the lime quarry equipment operator is an accretion to the Steelworkers' unit and we shall accordingly clarify its certification to include him.

ORDER

It is hereby ordered that the unit certified in Case R-3014, heretofore issued to the International Union of Mine, Mill and Smelter Workers CIO, since merged with the United Steelworkers of America Local 890, AFL-CIO, be, and hereby is, clarified by specifically including therein the job classification of lime quarry equipment operator.