

In the Matter of DIAMOND CRYSTAL SALT DIVISION, GENERAL FOODS CORPORATION and SALT WORKERS UNION No. 19567

*Case No. R-694.—Decided May 31, 1938*

*Salt Manufacturing Industry—Investigation of Representatives:* controversy concerning representation of employees: employer's refusal to grant recognition of union until question of representation is determined by Board—*Unit Appropriate for Collective Bargaining:* production and maintenance employees, exclusive of clerical, supervisory, and temporary employees; no controversy as to—*Representatives:* proof of choice: comparison of pay roll with union list—*Certification of Representatives:* upon proof of majority representation.

*Mr. Earl R. Cross*, for the Board.

*Mr. Lester E. Waterbury*, of New York City, for the Company.

*Mr. J. N. Cummings*, of Detroit, Mich., for the Union.

*Mr. Willard Y. Morris*, of counsel to the Board.

DECISION

AND

CERTIFICATION OF REPRESENTATIVES

STATEMENT OF THE CASE

On November 3, 1937, Salt Workers Union No. 19567, affiliated with the American Federation of Labor, herein called the Union, filed with the Regional Director of the National Labor Relations Board for the Seventh Region (Detroit, Michigan) a petition alleging that a question affecting commerce had arisen concerning the representation of employees of Diamond Crystal Salt Company, St. Clair, Michigan, and requesting an investigation and certification of representatives pursuant to Section 9 (c) of the National Labor Relations Act, 49 Stat. 449, herein called the Act. On March 21, 1938, the National Labor Relations Board, herein called the Board, acting pursuant to Section 9 (c) of the Act and Article III, Section 3, of National Labor Relations Board Rules and Regulations—Series 1, as amended, ordered an investigation and authorized the Regional Director to conduct it and to provide for an appropriate hearing upon due notice.

On March 22, 1938, an amended petition was filed with the said Regional Director by the Union, substituting "Diamond Crystal Salt Division, General Foods Corporation" for "Diamond Crystal Salt Company." General Foods Corporation is herein called the Company.

On March 22, 1938, the Regional Director issued a notice of hearing, copies of which were duly served upon the Company and upon the Union. Pursuant to the notice, a hearing was held on March 31, 1938, at Detroit, Michigan, before Waldo C. Holden, the Trial Examiner duly designated by the Board. The Board and the Company were represented by counsel; the Union was represented by an official of the American Federation of Labor; and all participated in the hearing. Full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing upon the issues was afforded all parties. During the course of the hearing the Trial Examiner made several rulings on motions and on objections to the admission of evidence. The Board has reviewed the rulings of the Trial Examiner and finds that no prejudicial errors were committed. The rulings are hereby affirmed. Subsequent to the hearing the Company requested a hearing to present oral argument before the Board. The Board granted the request and set the date for the hearing. Before the date set, the Company notified the Board that it waived the hearing. The Union assented to the waiver of hearing.

## FINDINGS OF FACT

### I. THE BUSINESS OF THE COMPANY

Diamond Crystal Salt Division is a manufacturing unit of General Foods Corporation. It comprises two plants, one at St. Clair, Michigan, and one at Lyons, Kansas. Although both plants are under the supervision of Diamond Crystal Salt Division, separate pay rolls are maintained. The present controversy involves only the employees at the St. Clair Plant.

Approximately 99.69 per cent of the total raw materials used at the St. Clair plant are obtained within the State of Michigan. All the finished products of the St. Clair plant are sold to Diamond Crystal Salt Company, Inc., a sales corporation wholly owned by the Company. Diamond Crystal Salt Company, Inc., has 28 district sales offices among the several States, one of which is in Michigan. During 1937 the sales of Diamond Crystal Salt Company, Inc., totaled 371,039,300 pounds, at a gross sales value of \$3,678,440.72, including freight. Of this amount 85.6 per cent was shipped to customers outside the State of Michigan by motor truck, railroad, and boat.

### II. THE ORGANIZATION INVOLVED

Salt Workers Union No. 19567 is a labor organization affiliated with the American Federation of Labor, under whose charter it has operated from 1934 until the present time. It admits to membership all employees at the St. Clair plant except those of a clerical, supervisory, or temporary status.

## III. THE QUESTION CONCERNING REPRESENTATION

In October 1937, a committee composed of Union members presented a working agreement to officials of Diamond Crystal Salt Division. This agreement contained a request for exclusive bargaining rights. The committee claimed to represent a substantial majority of the production employees at the St. Clair plant, but refused to show written proof thereof to the company officials. The latter informed the committee that the Company would not recognize the Union until it had been certified by the National Labor Relations Board.

We find that a question has arisen concerning representation of employees of the Company at its St. Clair plant.

## IV. THE EFFECT OF THE QUESTION CONCERNING REPRESENTATION UPON COMMERCE

We find that the question concerning representation which has arisen, occurring in connection with the operations of the Diamond Crystal Salt Division described in Section I above, has a close, intimate, and substantial relation to trade, traffic, and commerce among the several States, and tends to lead to labor disputes burdening and obstructing commerce and the free flow of commerce.

## V. THE APPROPRIATE UNIT

The Company and the Union agree that the unit should include all the production and maintenance employees at the St. Clair plant, excluding those of a supervisory, clerical, or temporary status.

We find that the production and maintenance employees of the Company at its St. Clair plant, exclusive of clerical, supervisory, and temporary employees, constitute a unit appropriate for the purposes of collective bargaining and that said unit will insure to employees of the Company the full benefit of their rights to self-organization and to collective bargaining and otherwise effectuate the policies of the Act.

## VI. THE DETERMINATION OF REPRESENTATIVES

There was introduced in evidence at the hearing the company's pay roll at the St. Clair plant for the week ending November 6, 1937, the pay-roll period during which the petition was filed. The pay roll contains the names of 396 employees, including 51 clerical or supervisory and 31 temporary employees. Exclusive of the names of clerical, supervisory, and temporary employees, 23 names bearing the same "clock" number appear twice on the pay roll. Thus, the pay roll contains the names of 291 employees within the unit which we have found appropriate.

The Union introduced at the hearing a list of 169 signatures under the heading: "We the undersigned were members in good standing of the Diamond Crystal Salt Workers Union, Local 19567, affiliated with the A. F. of L. on November third, 1937." Evidence was introduced to show that this list was obtained in March 1938, for the express purpose of establishing proof of membership in preparation for the hearing of March 31, 1938. Representatives of the Union testified to the procurement of signatures. The Company did not dispute their genuineness.

Having checked the list against the pay roll for the week ending November 6, 1937, we find that the names of 164 of the said 169 persons signing the list submitted by the Union appear also on the pay roll of November 6, 1937.

We find that Salt Workers Union No. 19567 has been designated and selected by a majority of the employees in the appropriate unit as their representative for the purpose of collective bargaining. It is, therefore, the exclusive representative of all employees in such unit for the purposes of collective bargaining, and we will so certify.

Upon the basis of the above findings of fact and upon the entire record in the case, the Board makes the following:

#### CONCLUSIONS OF LAW

1. A question affecting commerce has arisen concerning the representation of employees in the plant at St. Clair, Michigan, of Diamond Crystal Salt Division, General Foods Corporation, within the meaning of Section 9 (c) and Section 2 (6) and (7), of the National Labor Relations Act.

2. The production and maintenance employees of the Company, excluding clerical, supervisory, and temporary employees, constitute a unit appropriate for the purposes of collective bargaining, within the meaning of Section 9 (b) of the National Labor Relations Act.

3. Salt Workers Union No. 19567 is the exclusive representative of all the employees in such unit for the purposes of collective bargaining, within the meaning of Section 9 (a) of the National Labor Relations Act.

#### CERTIFICATION OF REPRESENTATIVES

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 8, of National Labor Relations Board Rules and Regulations—Series 1, as amended,

IT IS HEREBY CERTIFIED that Salt Workers Union No. 19567 has been designated and selected by a majority of the production and maintenance employees of the plant in St. Clair, Michigan, of Diamond Crystal Salt Division, General Foods Corporation, excluding clerical, supervisory, and temporary employees, as their representative for the purposes of collective bargaining and that, pursuant to the provisions of Section 9 (a) of the Act, Salt Workers Union No. 19567 is the exclusive representative of all such employees for the purposes of collective bargaining in respect to rates of pay, wages, hours of employment, and other conditions of employment.