

In the Matter of BLACK MAMMOTH CONSOLIDATED MINING COMPANY
and INTERNATIONAL UNION, MINE, MILL & SMELTER WORKERS

Case No. C-530.—Decided June 27, 1938

Gold and Silver Mining and Milling Industry—Settlement: stipulation providing for withdrawal of recognition from and disestablishment of company-dominated union—*Order:* entered on stipulation.

Mr. Weldon P. Monson, for the Board.

Mr. Lowell Daniels, for the respondent.

Mr. C. J. Powers, for the International.

Mr. Abraham J. Harris, of counsel to the Board.

DECISION

AND

ORDER

STATEMENT OF THE CASE

Upon charges duly filed by International Union, Mine, Mill & Smelter Workers, herein called the International, the National Labor Relations Board, herein called the Board, by Alice M. Rosseter, Regional Director for the Twentieth Region (San Francisco, California), issued its complaint dated January 14, 1938, against Black Mammoth Consolidated Mining Company, Silver Peak, Nevada, herein called the respondent. The complaint and notice of hearing thereon were duly served upon the respondent, the International, and the Silver Peak Mine and Mill Workers Association.

The complaint alleged that the respondent had engaged in and was engaging in unfair labor practices affecting commerce within the meaning of Section 8 (1) and (2) and Section 2 (6) and (7) of the National Labor Relations Act, 49 Stat. 449, herein called the Act.

On January 21, 1938, the respondent filed its answer to the complaint, denying that its operations affect interstate commerce within the meaning of the Act and that it had engaged in or was engaged in the alleged unfair labor practices. The respondent on the same date also filed a demurrer and a motion to strike the complaint.

On January 26, 1938, the Regional Director signed and duly served a notice of postponement of hearing. The hearing was postponed until further notice.

On February 1, 1938, counsel for the Board, the respondent, and the International entered into the following stipulation:

It is hereby stipulated by and between the Black Mammoth Consolidated Mining Company, the International Union, Mine, Mill and Smelter Workers and the National Labor Relations Board as follows:

1. The respondent, the Black Mammoth Consolidated Mining Company, is and has been since December 21, 1920, a corporation organized and existing under the laws of the State of Nevada. It is engaged in the mining, milling, sale and distribution of gold and silver, and in development operations. It has its mines and works in and near the vicinity of Silver Peak, Esmeralda County, Nevada, with its principal office in Tonopah, Nevada. The capital stock of respondent consists of 5,000,000 shares of common stock at 10¢ per share, making a total capital of \$500,000. The stock is listed on both the Los Angeles and San Francisco Mining Exchanges. From January 1, 1935 to January 1, 1938, over \$1,181,790.45 in gross value, principally gold, was recovered by the respondent from its mines. The respondent has seventy lode claims which cover approximately one thousand acres. It owns patented and unpatented mining claims and millsites, together with all property, facilities and equipment capable of treating ore at the sustained rate of 150 tons per day, and consisting of mills, machinery, equipment, haulage ways, etc., together with various accommodation buildings and equipment, all located at or near Silver Peak, Nevada. In the matter of tonnage of crude ore the respondent was the third largest gold producer in the State of Nevada during 1936. During 1937 the respondent ranked fourth. The entire amount of gold and silver ore milled by the respondent at its mills in Silver Peak is reduced to a form of bullion or slag, and precipitates, and in these forms are transported and sold to the American Smelting and Refining Company, at Selby, California. From Selby, California, it is transported and sold to the United States Mint at San Francisco, California, under and pursuant to the provisions of the Gold Reserve Act of 1934 (U. S. C. Title 31, Section 315b, 408a, 408b, 441 to 446, 821 and 822a), and the Provisional Regulations and amendments thereto and issued thereunder by the United States Treasury Department. A substantial portion of the steel, lumber, powder, carbide, various machines and power engines, pumps, bolts and nuts, chemicals and other equipment and materials used in the production of gold and silver at its said Silver Peak mining properties is purchased by the respondent in various

states of the United States other than the State of Nevada. The aforesaid operations of the company constitute trade, traffic and commerce among the several states and have a close, intimate and substantial relation thereto, as is contemplated and defined by Section 2, subsections 6 and 7 of the National Labor Relations Act and the decisions of the National Labor Relations Board rendered thereunder.

2. Black Mammoth Consolidated Mining Company, respondent in the above action, hereby consents to the issuance of an Order by the National Labor Relations Board in the terms stated below:

ORDER

On the basis of the above consent, and pursuant to Section 10 C of the National Labor Relations Act, the National Labor Relations Board hereby Orders that the respondent, Black Mammoth Consolidated Mining Company, Silver Peak, Nevada, and its officers, agent, successors and assigns shall:

1. Cease and desist from discouraging membership in the International Union of Mine, Mill, and Smelter Workers, or any other organization of its employees.

1B. From dominating or interfering with the administration of the Silver Peak Mine and Mill Workers Association, or with the formation or administration of any other labor organization of their employees, and by contributing financial or other support to the Silver Peak Mine and Mill Workers Association, or any other labor organization of their employees.

1C. In any other manner interfering with, restraining or coercing their employees in the exercising of the right of the Silver Peak Mine and Mill Workers Association; to form, join or assist labor organizations, to bargain collectively by representatives of their own choosing, and to engage in concerted activities for the purposes of collective bargaining, or other mutual aid or protection.

2. Take the following affirmative action which the Board finds will effectuate the policy of the Act.

a. Withdraw all recognition from the Silver Peak Union as representative of any of their employees, for the purpose of dealing with the respondent concerning grievances, labor disputes, wage rates of pay, hours of employment, or conditions of work, and disestablish the Silver Peak Union as such representative.

b. Post notices in conspicuous places throughout its properties stating that

(1) The respondent will cease and desist in the manner aforesaid.

(2) That the Silver Peak Union is so disestablished, on the order of the Board, as representative of employees for collective bargaining, and that the respondent will refrain from any recognition thereof; and

(3) That such notices will remain posted for a period of at least thirty (30) consecutive days from the date of posting.

c. In notifying the Regional Director for the Twentieth Region in writing, within ten days from date of this Order, the steps respondent has taken to comply herewith.

On April 20, 1938, the Board, acting pursuant to Article II, Section 37, of National Labor Relations Board Rules and Regulations—Series 1, as amended, ordered the proceedings in the case transferred to and continued before the Board.

On May 27, 1938, the respondent executed a stipulation whereby paragraph 1-C of the order contained in the stipulation of February 1 was amended to read as follows:

1C. In any other manner interfering with, restraining or coercing their employees in the exercise of their right to self-organization; to form, join or assist labor organizations, to bargain collectively by representatives of their own choosing, and to engage in concerted activities for the purposes of collective bargaining, or other mutual aid or protection.

Upon the stipulation and the entire record in the case, the Board makes the following:

FINDINGS OF FACT

I. THE BUSINESS OF THE RESPONDENT

The respondent, Black Mammoth Consolidated Mining Company, is a corporation, organized under the laws of the State of Nevada, with its principal office in Tonopah, Nevada, and its mines and works in and near the vicinity of Silver Peak, Esmeralda County, Nevada. The respondent is engaged in the mining, milling, sale, and distribution of gold and silver and in development operations. Measured by tonnage of crude ore, the respondent was, in 1936, the third largest gold producer in the State of Nevada and, in 1937, the fourth largest.

In the production of gold and silver the respondent uses steel, lumber, powder, carbide, various machines and power engines, pumps, bolts, nuts, chemicals, and other equipment and materials.

It purchases a substantial portion of these outside the State of Nevada.

From January 1, 1935, to January 1, 1938, over \$1,181,790.45 in gross value, principally gold, was recovered by the respondent from its mines. All the gold and silver ore milled by the respondent at its mills in Silver Peak, Nevada, is reduced to a form of bullion or slag, and precipitates, and in these forms is transported and sold to the American Smelting and Refining Company at Selby, California.

We find that the operations of the respondent constitute trade, traffic, and commerce among the several States.

ORDER

Upon the basis of the above findings of fact and stipulation, and pursuant to Section 10 (c) of the National Labor Relations Act, the National Labor Relations Board hereby orders that the respondent, Black Mammoth Consolidated Mining Company, Silver Peak, Nevada, and its officers, agents, successors, and assigns shall:

1. Cease and desist:

(a) From discouraging membership in the International Union, Mine, Mill & Smelter Workers, or any other organization of its employees;

(b) From dominating or interfering with the administration of the Silver Peak Mine and Mill Workers Association, or with the formation or administration of any other labor organization of its employees, and by contributing financial or other support to the Silver Peak Mine and Mill Workers Association, or any other labor organization of its employees;

(c) From in any other manner interfering with, restraining, or coercing its employees in the exercise of their right to self-organization; to form, join, or assist labor organizations; to bargain collectively through representatives of their own choosing, and to engage in concerted activities for the purposes of collective bargaining, or other mutual aid or protection.

2. Take the following affirmative action which the Board finds will effectuate the policies of the Act:

(a) Withdraw all recognition from the Silver Peak Union as representative of any of its employees, for the purpose of dealing with the respondent concerning grievances, labor disputes, wage rates of pay, hours of employment, or conditions of work, and disestablish the Silver Peak Union as such representative;

(b) Post notices in conspicuous places throughout its properties, stating that (1) the respondent will cease and desist in the manner aforesaid; (2) the Silver Peak Union is so disestablished, on the order.

of the Board as representative of employees for collective bargaining, and that the respondent will refrain from any recognition thereof; and (3) such notices will remain posted for a period of at least thirty (30) consecutive days from the date of posting;

(c) Notify the Regional Director for the Twentieth Region in writing, within ten (10) days from the date of this order, what steps respondent has taken to comply herewith.