

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the matter of the petition of:	)	
	)	
WASHINGTON ASSOCIATION OF FISH	)	CASE 19586-E-05-3084
AND WILDLIFE PROFESSIONALS	)	
	)	DECISION 9041 - PSRA
Involving certain employees of:	)	
	)	
WASHINGTON STATE - FISH AND	)	ORDER AMENDING
WILDLIFE	)	CERTIFICATION
_____	)	

*Rhonda Fenrich*, Attorney at Law, for the Washington Association of Fish and Wildlife Professionals.

*Cindy Lerch*, Labor Relations Manager, for the employer.

The Washington Association of Fish and Wildlife Professionals (WAFWP) filed a petition with the Public Employment Relations Commission on June 23, 2005, seeking amendment of a certification issued by the Commission for a bargaining unit of certain employees within the Washington State Department of Fish and Wildlife. The organization claimed to be the successor (by change of name only) to the Washington Association of Professional Biologists (WAPB). On July 8, 2005, the Commission's Representation Coordinator invited the employer to respond to the WAFWP request. In a response filed on July 18, 2005, the employer accepted the proposed name change and noted that the new name reflects changed demographics within the department.

ISSUE

The sole issue to be determined in this case is whether bargaining rights be transferred by an internal union affairs transaction.

The Executive Director has considered the matter, and concludes that the request of the WAFWP should be granted.

APPLICABLE LEGAL PRINCIPLES

The parties to this case are covered by the Personnel System Reform Act of (PSRA), which created a new collective bargaining system for state civil service employees in Chapter 41.80 RCW. The resolution of questions concerning representation under that statute is a function delegated by the Legislature to the Public Employment Relations Commission. RCW 41.80.070 includes:

(1) A bargaining unit of employees covered by this chapter existing on June 13, 2002, shall be considered an appropriate unit, unless the unit does not meet all requirements of (a) and (b) of this subsection. . . .

(2) The exclusive bargaining representatives certified to represent the bargaining units existing on June 13, 2002, shall continue as the exclusive bargaining representative without the necessity of an election.

The name by which a labor organization will be known is a matter of internal union affairs that is not generally regulated by state law.<sup>1</sup> *Skagit Valley Hospital*, Decision 2509-A (PECB, 1986), aff'd *Skagit Valley Hospital v. PERC*, 55 Wn. App. 348 (1989), stand for the proposition that bargaining rights may be transferred by means of internal union affairs transactions in which "due process" and "continuity" concerns are satisfied.

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<sup>1</sup> Although not applicable in this case, the Executive Director reserves the authority to reject names or acronyms that are likely to confuse employees voting in a representation election, or are likely to provide basis for claims that one organization has usurped the identity of another.

ANALYSIS

The bargaining unit involved in this case was perfected by an order issued on May 27, 2004, as *State - Fish and Wildlife*, Decision 8577 (PECB, 2004). The bargaining unit was then described as:

All non-supervisory civil service employees of the Department of Fish and Wildlife:

In the Wildlife Program, all employees in the Biologist 1, Biologist 2, Biologist 3, and Biologist 4 classifications (except positions in the Wildlife Area Manager bargaining unit), all Research Scientists and Fish and Wildlife Health Specialists on the Westside Research Team, and the Lands Agent in Region 4;

In the Habitat Program, all employees in the Biologist 1, Biologist 2, Biologist 3, and Biologist 4 classifications (except those in Environmental Restoration), all Environmental Specialists in Technical Services and in Region 3 and Region 4, and all Fish and Wildlife Research Scientists in the Science Division;

In the Fish Program, all employees in the Biologist 1, Biologist 2, Biologist 3, and Biologist 4 classifications in the Inland Section of the Management Division, and all regional biologists in the Inland Section of the Science Division, all employees in the Biologist 1, Biologist 2, Biologist 3, and Biologist 4 classifications, all Scientific Technicians, and all Information Technology Application Specialists in the Marine Resources Unit, including those in Region 4 and Region 6 of the Shellfish Section;

Excluding confidential employees, internal auditors, supervisors, non-supervisory Washington Management Service employees (on and after July 1, 2004), and employees included in any other bargaining unit.

A deviation from normal Commission practice was deemed necessary because: (1) the bargaining unit predated the merger of two state agencies that had some similar generic functions, so that the existing scientist units are neither "vertical" nor "horizontal" in the usual sense; (2) the unit was described by the Commission's predecessor agency by means of the civil service classification titles of the employees included; and (3) the first clause in RCW

41.80.070(1) preserved the propriety of bargaining units that were in existence on June 13, 2002.<sup>2</sup>

In a letter filed with the Commission on July 18, 2005, the WAFWP supplied documentation showing that it is the successor to the WAPB, rather than a competing union. In particular, the WAFWP showed that 83 of the 90 WAFWP members voted in favor of changing the name of their organization.

While Chapter 391-25 WAC (which regulates the processing of representation cases by the Commission staff) does not contain any provision expressly authorizing the "amendment of certification" requested by the WAFWP in this case, RCW 41.80.070 through .080 inherently give the Commission authority to police its certifications. Granting the request in this case is also congruent with the Commission's responsibility for maintaining accurate records concerning the bargaining relationships that exist under the PSRA.

#### CONCLUSIONS

Based on the information provided, and in the absence of any objection from the employer, the name change requested by the incumbent exclusive bargaining representative should be granted.

NOW, THEREFORE, it is

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<sup>2</sup> Commission practice avoids the use of specific job titles in bargaining unit descriptions, and strongly prefers the use of generic terms to ensure, insofar as possible, that the nature of the work performed by the employees within the bargaining unit is clear. Against that background, the parties encountered great difficulty in attempting to re-describe the bargaining unit in generic terms (or even in terms more generic than those used in the past).

ORDERED

Washington Association of Fish and Wildlife Professional, is substituted for the "Washington Association of Professional Biologists" as exclusive bargaining representative of the bargaining unit perfected in *State - Fish and Wildlife*, Decision 8577 (PECB, 2004).

Issued at Olympia, Washington, on this 2nd day of August, 2005.

PUBLIC EMPLOYMENT RELATIONS COMMISSION

A handwritten signature in cursive script, appearing to read "Marvin L. Schurke", written over a horizontal line.

MARVIN L. SCHURKE, Executive Director

This order may be appealed by filing timely objections with the Commission under WAC 391-25-660.