

STATE OF WASHINGTON

PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of:)
)
 WASHINGTON STATE COUNCIL OF)
 COUNTY AND CITY EMPLOYEES,)
 LOCAL NO. 1191 CD)
)
 Petitioner)
)
 and)
)
 COLUMBIA COUNTY (ROAD DEPARTMENT))
 DAYTON, WASHINGTON)
)
 Employer)
)

DECISION NO. 67 PECB
 140-CLE-052
 Case No. -UCE-052

FINDINGS OF FACT AND
 CONCLUSIONS OF LAW

THIS MATTER having come on regularly for hearing before the undersigned on April 5, 1976, upon petition by WASHINGTON STATE COUNCIL OF COUNTY AND CITY EMPLOYEES, LOCAL NO. 1191CD, dated January 29, 1976, requesting a Unit Clarification to determine whether or not the Road Superintendent and the Shop Superintendent are included in the existing Columbia County Road Department bargaining unit. The petitioner was represented by Mr. Dan Suttner, a Washington State Council of County and City Employees Staff Representative, and the employer was represented by Mr. Vernon Marll, Columbia County Commissioner, 1st District. Witnesses were sworn, testimony was adduced, and the hearing examiner having heard the argument of the respective representatives of the parties, and being fully advised of the premises now makes the following:

FINDINGS OF FACT

I

A petition for Unit Clarification was filed by WASHINGTON STATE COUNCIL OF COUNTY AND CITY EMPLOYEES, LOCAL NO. 1191CD on January 29, 1976, with the Public Employment Relations Commission. The Unit Clarification Petition requested the Commission to clarify the scope of the Columbia County Road Department bargaining unit;

i.e., whether or not the Road Superintendent and the Shop Superintendent are included in the bargaining unit.

II

The petition was filed on compliance with Public Employees Collective Bargaining Act, RCW 41.56 and WAC 296-132-151.

III

The Columbia County Road Department is a "public employer" within the meaning of RCW 41.56.020 and RCW 391-20-030 (1).

IV

WASHINGTON STATE COUNCIL OF COUNTY AND CITY EMPLOYEES, LOCAL NO. 1191CD is a "Labor Organization" within the meaning of RCW 41.56.010, and is a "bargaining representative" within the meaning of RCW 41.56.030 (3).

V

The Union has had a collective bargaining relationship for some nine (9) years. The recognition clauses of the collective bargaining agreement are as follows:

A) The Employer recognizes the Union as the sole collective bargaining agent for all Road Department employees with respect to wages, hours, and working conditions.

B) Each employee who is a member of the Union and each employee who becomes a member after that date, shall, as a condition of employment, maintain their membership in the Union for the length of this Agreement: Provided that this Union Security provision must safeguard the right of non-association of public employees based on bona fide religious tenets or teachings of a church or religious body of which such public employee is a member. Such public employee shall pay an amount of money equivalent to regular Union dues and initiation fee to a nonreligious charity or to another charitable organization chosen by the employee. The public employee shall furnish written proof that such payment has been made to the County

and Local #1191CD. Employees who fail to comply with this requirement shall be discharged by the employer within thirty (30) days after receipt of written notice to the employer from the Union. Further, nothing in this Article shall be construed as requiring the County Engineer, the Engineering and Administrative personnel, the Road Superintendent and the Shop Superintendent to hold membership in the Union.

(Emphasis supplied.)

VI

The Employer maintains that the underscored language in Findings of Fact V was put into the contract some years back for the express purpose of excluding the named positions from the bargaining unit and that the Union does not negotiate wages, hours or working conditions for any of the excluded classifications.

VII

The Road Superintendent reports directly to the County Engineer and has supervisory responsibility over the Road Foreman and Road Crew, Bridge Foreman and Bridge Crew, Special Equipment Operators and the Weed and Traffic Technicians. He is a member of the "Hire and Fire Committee" that makes recommendations directly to the Board of County Commissioners regarding the hiring and discharging of Road Department personnel. The other members of the Committee are the County Engineer and the Shop Superintendent. He directs the work of subordinates, 100% of his time being devoted to supervisory activities. He considers himself part of the management team.

VIII

The Shop Superintendent reports directly to the County Engineer. He has supervisory responsibility over the Crusher Foreman and Crusher Crew, and Mechanic and Service Personnel. He is a member of the "Hire and Fire Committee." He directs the work of his subordinates and monitors the results, making corrections if necessary. He considers himself and is considered part of the management team. Due to the size of the Shop Division, he spends approximately half of his time working side-by-side with subordinates.

IX

The County Engineer has traditionally negotiated the wages of the Road Superintendent, the Shop Superintendent and the Engineering and Administrative Personnel directly with the Board of County Commissioners.

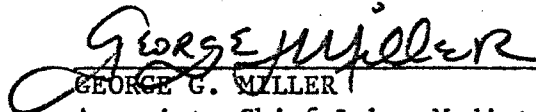
X

The Union argues that even though the job classifications of Road Superintendent and Shop Superintendent do not appear on Appendix A of the contract (wage rates), the Union did, in fact, represent the individuals.

XI

The Employer claims that the Road Superintendent and the Shop Superintendent are supervisors and, as such, are vested with the traditional supervisory responsibilities, thus they should be considered as part of the management team of the Columbia County Road Department.

DATED this 2^d day of June, 1976.



GEORGE G. MILLER
Associate Chief Labor Mediator
Public Employment Relations Commission

From the foregoing Findings of Fact, the Commission makes the following:

CONCLUSIONS OF LAW

I

The Public Employment Relations Commission of the State of Washington has jurisdiction over the parties and subject matter to this proceeding by virtue of Chapter 41.56 of the revised Code of Washington.

II


The two positions whose duties are described in Findings of Fact VII and VIII must be excluded from any bargaining unit to conform with decisions of appeal made in prior cases involving the Yakima Fire Fighters (SK-1395) and Bellevue Police Guild (O-1510). These decisions exclude employees with "supervisory responsibilities" and went on to say:

These responsibilities include, but are not limited to a position having the authority to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward or discipline other employees, or responsibility to direct them or to adjust grievances or to effectively or fully recommend such action if the exercise of such authority requires the use of independent judgment. The fact that an individual spends a substantial portion of his time on rank and file work would not deprive him of supervisory status as long as he possessed one or more of these specified powers.

III

The representation question raised by the petitioner is one which must be resolved by the Public Employment Relations Commission in compliance with RCW 41.56.060 and WAC 391-20-151.

DATED THIS 2^d day of June, 1976



GEORGE C. MILLER
Associate Chief Labor Mediator
Public Employment Relations Commission

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 COLUMBIA COUNTY (ROAD DEPARTMENT))
 DAYTON, WASHINGTON)
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140-CLE-052

Case No. UGE-052-

DECISION AND ORDER

THIS MATTER having come on regularly for hearing before the undersigned on the 5th day of April, 1976, upon petition by WASHINGTON STATE COUNCIL OF COUNTY AND CITY EMPLOYEES, LOCAL NO. 1191 CD requesting a Unit Clarification to determine whether or not the Road Superintendent and the Shop Superintendent are included in the existing Columbia County Road Department bargaining unit, the Union being represented by Mr. DAN SUTTNER, Washington State Council of County and City Employees Staff Representative, Columbia County, being represented by VERNON MARLL, County Commissioner, and the hearing examiner having heard all sworn testimony, considered all the evidence and having heretofore made and entered his FINDINGS OF FACT AND CONCLUSIONS OF LAW AND BEING FULLY ADVISED IN ALL PREMISES,

NOW, THEREFORE, IT IS DETERMINED THAT:

The positions of Road Superintendent and Shop Superintendent, Columbia County Road Department, shall be excluded from the existing bargaining unit.

DATED this 2^d day of June 1976.

George G. Miller

 GEORGE G. MILLER
 Associate Chief Labor Mediator
 Public Employment Relations Commission