

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the matter of the petition of:

WASHINGTON ASSOCIATION OF  
FISH AND WILDLIFE  
PROFESSIONALS

For clarification of an existing bargaining  
unit of employees of:

STATE – FISH AND WILDLIFE

CASE 128483-C-16

DECISION 12636 - PSRA

ORDER CLARIFYING  
BARGAINING UNIT

*Sheila Smith*, President, for the Washington Association of Fish and Wildlife Professionals.

*Cindy Lerch*, Labor Relations Manager, for the Washington State Department of Fish and Wildlife.

*Mike Lucero*, President, for the Washington Association of Fish Hatchery Professionals.

On October 12, 2016, the Washington Association of Fish and Wildlife Professionals (WAFWP) filed a petition seeking to clarify the bargaining unit status of one position at the Washington State Department of Fish and Wildlife (employer). The position at issue is in the Fish Hatchery Specialist job class and is represented by the Washington Association of Fish Hatchery Professionals (WAFHP).

The WAFWP asserts that on March 1, 2016, the employer reallocated the Fish Hatchery Specialist to the Epidemiologist job class because the employer changed the position's duties. The WAFWP also asserts that it represents the employees performing the Epidemiologist work in the employer's workforce. The WAFWP claims that the at-issue position should be included in its bargaining unit because it has historically represented the Epidemiologists and the position now shares a community of interest with its bargaining unit. The WAFHP supports the WAFWP's petition and agrees that the position should be moved to the WAFWP's bargaining unit. The employer does not oppose the WAFWP's petition.

The issue to be decided is whether the WAFWP's bargaining unit should be clarified to include the recently reallocated Epidemiologist position. The parties' stipulations are accepted. The WAFWP's non-supervisory bargaining unit shall be clarified to add the Epidemiologist position because that position now shares a community of interest with the WAFWP's bargaining unit as a result of the new duties.

## DISCUSSION

### Applicable Legal Standard

The intent and purpose of Chapter 41.80 RCW is to implement the right of employees to join and be represented by labor organizations. The determination of appropriate bargaining units is a function delegated to this agency by the Legislature. RCW 41.80.070; *Central Washington University*, Decision 10215-B (PSRA, 2010). The goal in making bargaining unit determinations is to group together employees who have sufficient similarities (community of interest) to indicate that they will be able to bargain effectively with their employer. *Central Washington University*, Decision 9963-B (PSRA, 2010), citing *Quincy School District*, Decision 3962-A (PECB, 1993).

In making bargaining unit determinations, RCW 41.80.070 directs this agency to consider "the duties, skills, and working conditions of the employees; the history of collective bargaining; the extent of organization among the employees; [and] the desires of the employees." The statute also directs this agency to avoid excessively fragmenting when making bargaining unit determinations. RCW 41.80.070. The criteria are not applied on a strictly mathematical basis. *Central Washington University*, Decision 9963-B. Not all of the factors exist in every case, and where they do exist, any one factor could be more important than another, depending on the facts. *Id.* The criteria are applied collectively to discern the existence of a community of interest among the employees of a particular employer, and not one criteria is of greater import than the others. When making bargaining unit determinations, the Commission seeks to avoid fragmentation and potential work jurisdiction disputes. *University of Washington*, Decision 8315 (PECB, 2003). Bargaining unit determinations are made on a case-by-case basis. *Washington State University*, Decision 9613-A.

Application of Standard

The Epidemiologist position now shares a community of interest with the WAFWP's non-supervisory bargaining unit and that position appropriately belongs in that unit. The WAFWP's bargaining unit employees perform fish, wildlife and habitat sciences, and resource management activities. *State – Fish and Wildlife*, Decision 12141 (PSRA, 2014). The bargaining unit includes employees in the Epidemiologist job class.

The WAFHP's bargaining unit employees perform fish hatchery duties including employees in the Fish Hatchery Specialist job class. *State – Fish and Wildlife*, Decision 12368 (PSRA, 2015). The Fish Hatchery Specialists are responsible for fish health within the employer's Fish Program Hatchery Division. The fish health work closely aligns with the work being performed by other fish hatchery employees. None of the employees in the WAFHP's bargaining unit perform Epidemiologist work.

Starting in 2015, the employer began modifying the duties of one of the Fish Hatchery Specialists working at the agency's Olympia Headquarters.<sup>1</sup> The position now performs wildlife health duties similar to the duties being performed by the Epidemiologist in the employer's Wildlife Program. As a result of this change, the employer reallocated this position from the Fish Hatchery Specialist job class to the Epidemiologist job class. These new duties in combination with the job class reallocation resulted in a change in circumstances that altered the community of interest for the position. The position now shares a community of interest with the WAFWP's bargaining unit and is appropriately included in that unit.

FINDINGS OF FACT

1. The Washington State Department of Fish and Wildlife is an employer within the meaning of RCW 41.80.005(8).
2. The Washington Association of Fish and Wildlife Professionals (WAFWP) is an employee

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<sup>1</sup> Position #70067578.

organization within the meaning of RCW 41.80.005(7).

3. The Washington Association of Fish Hatchery Professionals (WAFHP) is an employee organization within the meaning of RCW 41.80.005(7).

4. The WAFWP currently represents a non-supervisory bargaining unit of employees described as follows:

All non-supervisory civil service employees covered by Chapter 41.06 RCW and Chapter 41.80 RCW who are employed by the Department of Fish and Wildlife and who are engaged in fish, wildlife and habitat sciences and resource management activities, including information technology positions that gather, interpret and analyze biological and resource management data, excluding confidential employees, supervisors, internal auditor, Washington Management Services employees, Wildlife Area Managers and Assistant Managers, Natural Resource Workers, Maintenance Mechanics, employees in other bargaining units, and all other employees.

5. Employees in the Epidemiologist job class who perform wildlife health duties are included in the bargaining unit described in Findings of Fact 4.

6. The WAFHP currently represents a non-supervisory bargaining unit of employees described as follows:

All non-supervisory civil service employees of the Washington Department of Fish and Wildlife working at the Fish Hatcheries, excluding confidential employees, internal auditors, supervisors, and employees included in any other bargaining unit.

7. Employees in the Fish Hatchery Specialist job class perform fish hatchery duties and are included in the bargaining unit described in Findings of Fact 6.

8. The bargaining unit described in Findings of Fact 4 currently includes Position #70067578 that works at the agency's Olympia Headquarters which historically has been in the Fish Hatchery Specialist job class and historically performed fish hatchery duties.

9. Starting in 2015, the employer began modifying the duties of the Fish Hatchery Specialist described in Findings of Fact 8. The position now performs wildlife health duties similar to the duties being performed by the Epidemiologist in the employer's Wildlife Program. As a result of this change, the employer reallocated this position from the Fish Hatchery Specialist job class to the Epidemiologist job class.

### CONCLUSIONS OF LAW

1. The Public Employment Relations Commission has jurisdiction in this matter pursuant to Chapter 41.80 RCW and Chapter 391-35 WAC.
2. Based upon Findings of Fact 9, the employee described in Findings of Fact 8 does not share a community of interest with the bargaining unit described in Findings of Fact 6.
3. Based upon Findings of Fact 9, the employee described in Findings of Fact 8 shares a community of interest with the bargaining unit described in Findings of Fact 4.

### ORDER

The Epidemiologist position described in Findings of Fact 8 shall be removed from the bargaining unit described in Findings of Fact 6 and included in the bargaining unit described in Findings of Fact 4.

ISSUED at Olympia, Washington, this 14th day of December, 2016.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



MICHAEL P. SELLARS, Executive Director

This order will be the final order of the agency unless a notice of appeal is filed with the Commission under WAC 391-35-210.



## PUBLIC EMPLOYMENT RELATIONS COMMISSION

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### RECORD OF SERVICE - ISSUED 12/14/2016

DECISION 12636 - PSRA has been mailed by the Public Employment Relations Commission to the parties and their representatives listed below:

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CASE NUMBER: 128483-C-16

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