

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the matter of the petition of:

WASHINGTON STATE DEPARTMENT OF  
NATURAL RESOURCES

and

WASHINGTON PUBLIC EMPLOYEES  
ASSOCIATION

For clarification of an existing bargaining unit.

CASE 136675-C-23 and 136676-C-23

DECISION 13798 - PSRA

INTERIM ORDER CLARIFYING  
BARGAINING UNITS

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Washington Public Employees Association.

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for the Washington State Department of Natural Resources.

On May 22, 2023, the Washington Public Employees Association (WPEA) filed unit clarification petitions concerning certain employees at the Washington State Department of Natural Resources (employer). The WPEA's first petition asserts that the newly created nonsupervisory Wildland Fire Management Technician job class only shares a community of interest with the WPEA's nonsupervisory bargaining unit. Case 136675-C-23. The WPEA's second petition asserts that the newly created Fiscal Specialist 1 and 2 job classes only share a community of interest with the WPEA's nonsupervisory bargaining unit. Case 136676-C-23. The WPEA asserts the employer initially believed the at-issue positions belonged in a bargaining unit represented by the Washington Federation of State Employees (WFSE) based upon the existing WPEA and WFSE bargaining unit descriptions. WFSE asserts that the at-issue positions only share a community of interest with the WPEA's bargaining unit. Representation Case Administrator Dario de la Rosa conducted an investigation where the parties agreed that the at-issue position only share a community of interest with the WPEA's bargaining unit.

The request to modify the WPEA's nonsupervisory bargaining unit to include the Wildland Fire Management Technician and Fiscal Specialist job classes is granted. The WPEA's bargaining unit is the only appropriate bargaining location for the Wildland Fire Management Technician and Fiscal Specialist job classes.<sup>1</sup>

## BACKGROUND

The WPEA represents a bargaining unit of nonsupervisory employees at the Department. *Washinton State Department of Natural Resources*, Decision 13272 (PSRA, 2020); *State – Natural Resources*, Decision 10050 (PSRA, 2008). The WPEA's bargaining unit is described by job class and includes employees in multiple job classes who perform the Department's wildland fire operations. The WPEA's bargaining unit also includes Fiscal Technician 1, 2, and 3 job class who provide daily routine and repetitive fiscal duties that do not require any in-depth analysis and Fiscal Analysts 1, 2, and 3 job class who are professional employees that provide a variety of financial review and analysis of data to identify trends.

The WFSE's bargaining unit is described as a residual bargaining unit as opposed to being described by job class or work unit. *State – Natural Resources*, Decision 8458-C (PECB, 2005). The WFSE's bargaining unit includes all nonsupervisory employees of the Department who are not included in the WPEA's bargaining unit. *See also*, *State – Natural Resources*, Decision 10050.

### *Wildland Fire Management Technician*

In 2021, the legislature passed Laws of 2021 chapter 298 which provided additional funding to the Department for prevent and fight wildland fires. In September 2021, the employer announced that it was creating the Wildland Fire Management Technician job class. The employer intended hiring

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<sup>1</sup> A unit clarification petition filed by the employer concerning the WPEA's and WFSE's bargaining units is currently pending before the agency. Case 134287-C-21. That proceeding could modify the existing bargaining unit descriptions. Accordingly, the proceedings in these cases shall remain open and the WPEA's bargaining unit description shall be modified based upon the outcome of Case 134287-C-21 and the order issued in this case.

approximately 85 positions once the job classification became effective on January 1, 2022. The employer also requested feedback from WPEA and WFSE as to the proper bargaining unit placement for the Wildland Fire Management Technicians.

The WPEA initially asserted that current bargaining unit descriptions, the WPEA believed the Wildland Fire Management Technician be included in WFSE's residual bargaining unit. The employer initially announced that it would please the Wildland Fire Management Technicians WFSE bargaining unit. In July 2022 WFSE informed the employer and WPEA that the Wildland Fire Technician classification lacked a community of interest with WFSE's bargaining unit and that it believed the newly created positions shared a community of interest with the WPEA's bargaining unit.

The Wildland Fire Management Technician positions are entry level positions that perform fire prevention, suppression, and mitigation activities, provides non-wildfire and all-hazard incident response and support, and identify and communicate forest and fire conditions and safety considerations. The position works with other wildland fire management crews, including hand and fire engine crews represented by the WPEA.

#### *Fiscal Specialists*

In November 2022, the employer announced the creation of the Fiscal Specialist 1 and Fiscal Specialist 2 job classes. The Fiscal Specialist series is related to and sits between the existing Fiscal Technician and Fiscal Analyst job classes. The Fiscal Technicians perform daily routine and repetitive fiscal related duties. The Fiscal Specialist provides administrative support to the financial managers and higher-level staff. The Fiscal Analysts are professional positions that provide a variety of financial review and analysis of data. The employer created the Fiscal Specialist position following a review of its financial division to ensure that it has a well-rounded team utilizing three different levels of services.

The WPEA represents all nonsupervisory Fiscal Technicians and Fiscal Specialists 1, 2, and 3s within the Department. The parties agree that the administrative support work performed by Fiscal Specialist falls within the continuum of services provided by the Financial Division.

## ANALYSIS

### Applicable Legal Standard

The determination of appropriate bargaining units is a function delegated to this agency by the legislature. RCW 41.80.070; *City of Richland*, Decision 279-A (PECB, 1978), *aff'd*, *International Association of Fire Fighters Local 1052 v. Public Employment Relations Commission*, 29 Wn. App. 599 (1981), *rev. denied*, 96 Wn.2d 1004 (1981). The goal in making 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); *Quincy School District*, Decision 3962-A (PECB, 1993).

Included in this agency's authority to determine an appropriate bargaining unit is the power to modify that unit, upon request, through a unit clarification proceeding. *University of Washington*, Decision 11590 (PSRA, 2012), *aff'd*, Decision 11590-A (PSRA, 2013); *see also*, *Pierce County*, Decision 7018-A (PECB, 2001). Unit clarifications are governed by the provisions of chapter 391-35 WAC. The general purpose of the unit clarification process is to provide this agency, as well as the parties to a collective bargaining relationship, with a mechanism to make changes to an existing bargaining unit based upon a change in circumstances to ensure its continued appropriateness. *See, e.g., Toppenish School District*, Decision 1143-A (PECB, 1981) (outlining the procedures to remove supervisors from existing bargaining units).

A unit clarification petition that seeks to add employees to an existing bargaining unit requires a recent meaningful change in circumstances that alters the community of interest such that clarification is necessary. WAC 391-35-020; *University of Washington*, Decision 10496-A (PSRA, 2011) (*citing City of Richland*, Decision 279-A). Among the types of changes that can alter the existing community of interest and necessitate clarification are meaningful changes to job duties, reorganization of the workforce, or other significant changes to the workplace environment. *See Lewis County (Teamsters Local 252)*, Decision 6750 (PECB, 1999). A mere change in job titles is not necessarily a material change in working conditions that would qualify under chapter 391-35 WAC to alter the composition of a bargaining unit through the unit clarification process. *See University of Washington*, Decision 10496-A.

Determining if recent changes are meaningful rests upon whether the bargaining unit is appropriate absent the clarification. In determining if any existing bargaining unit remains appropriate in a unit clarification proceeding, the agency applies the same statutory unit determination criteria as RCW 41.56.060(1), which is used to establish the unit's initial appropriateness.

When a unit clarification petition proposes to add or accrete positions into the bargaining unit, it seeks to do so without a vote of the employees in the at-issue positions. An accretion may be ordered when changed circumstances lead to the existence of positions that logically belong in only one existing bargaining unit. *City of Auburn*, Decision 4880-A (PECB, 1995). An accretion is not appropriate if the positions could stand on their own in a separate bargaining unit or could appropriately be placed in any other bargaining unit. *Id.* For an accretion to be directed, the resulting unit must be appropriate. *Pierce County*, Decision 6051-A (PECB, 1998). An accretion cannot be ordered where the number of employees to be added to the bargaining unit is so large as to call into question the union's majority status in the enlarged unit. *Port of Seattle*, Decision 11131 (PORT, 2011).

#### Application of Standards

The employees in the Wildland Fire Management Technician and Fiscal Specialist 1 and 2 job classes only share a community of interest with the WPEA's existing nonsupervisory bargaining unit based upon the duties, skills, and working conditions and the avoidance of fragmentation. The Wildland Fire Management Technician positions are entry level positions that perform fire prevention, suppression, and mitigation activities, provide non-wildfire and all-hazard incident response and support, and identify and communicate forest and fire conditions and safety considerations. The position works with other wildland fire management crews, including hand and fire engine crews represented by the WPEA.

The Fiscal Specialist 1 and 2 job classes provide administrative support to the financial managers and higher-level staff. The Fiscal Specialist series is related to and sits between the existing Fiscal Technician and Fiscal Analyst job classes. The Fiscal Technicians perform daily routine and repetitive fiscal related duties. The Fiscal Analysts are professional positions that provide a variety of financial review and analysis of data. The employer created the Fiscal Specialist positions

following a review of its financial division to ensure that it has a well-rounded team utilizing three different levels of services. The WPEA represents all nonsupervisory Fiscal Technicians and Fiscal Specialists 1, 2, and 3s within the Department. The parties agree that the administrative support work performed by Fiscal Specialists falls within the continuum of fiscal services provided by the Financial Division.

The Wildland Fire Management Technician performs similar wildland firefighting duties as other WPEA represented employees within the employer's workforce. The Fiscal Specialist 1 and 2 job classes perform similar duties as the WPEA represented Fiscal Technicians and Fiscal Analysts. If either the Wildland Fire Management Technician and Fiscal Specialist 1 and 2 job classes were excluded from the WPEA's bargaining unit work jurisdiction issues would be created. The Wildland Fire Management Technician and Fiscal Specialist 1 and 2 job classes shall be added to the WPEA's bargaining unit without the need of an election.

#### FINDING OF FACTS

1. The Washington State Department of Natural Resources is an employer within the meaning of RCW 41.80.005(8).
2. The Washington Public Employees Association is an employee organization within the meaning of RCW 41.80.005(7).
3. The Washington Federation of State Employees is an employee organization within the meaning of RCW 41.80.005(7).
4. The WPEA represents a bargaining unit of nonsupervisory employees at the Department that is described by job class and includes employees in multiple job classes who perform the Department's wildland fire operations. The WPEA's bargaining unit also includes Fiscal Technician 1, 2, and 3 job class who provide daily routine and repetitive fiscal duties that do not require any in-depth analysis and Fiscal Analysts 1, 2, and 3 job class who are professional employees that provide a variety of financial review and analysis of data to identify trends.

5. The WFSE represents a residual bargaining unit that is not described by job class or work unit. The WFSE's bargaining unit includes all nonsupervisory employees of the Department who are not included in the WPEA's bargaining unit.
6. In 2021, the legislature passed Laws of 2021 chapter 298 which provided additional funding to the Department to prevent and fight wildland fires. In September 2021, the employer announced that it was creating the Wildland Fire Management Technician job class. The employer intended on hiring approximately 85 positions once the job classification became effective on January 1, 2022. The employer also requested feedback from WPEA and WFSE as to the proper bargaining unit placement for the Wildland Fire Management Technicians.
7. The Wildland Fire Management Technician positions are entry level positions that perform fire prevention, suppression, and mitigation activities, provides non-wildfire and all-hazard incident response and support, and identify and communicate forest and fire conditions and safety considerations. The position works with other wildland fire management crews, including hand and fire engine crews represented by the WPEA.
8. In November 2022, the employer announced the creation of the Fiscal Specialist 1 and Fiscal Specialist 2 job classes. The Fiscal Specialist series is related to and sits between the existing Fiscal Technician and Fiscal Analyst job classes. The Fiscal Technicians perform daily routine and repetitive fiscal related duties. The Fiscal Specialist provides administrative support to the financial managers and higher-level staff. The employer created the Fiscal Specialist position following a review of its financial division to ensure that it has a well-rounded team utilizing three different levels of services.
9. The WPEA represents all nonsupervisory Fiscal Technicians and Fiscal Specialists 1, 2, and 3s within the Department. The parties agree that the administrative support work performed by Fiscal Specialists falls within the continuum of services provided by the Financial Division.

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 6 and 7 the employees in the Wildland Fire Management Technician job class only share a community of interest with the bargaining unit described in finding of fact 4.
3. Based upon findings of fact 8 and 9 the employees in the Fiscal Specialist 1 and 2 job classes only share a community of interest with the bargaining unit described in finding of fact 4.

ORDER

1. The employees in the Wildland Fire Management Technician job class and the Fiscal Specialist 1 and 2 job classes shall be added to the bargaining unit represented by the Washington Public Employees Association described in finding of fact 4 without the need of an election.
2. This matter shall remain open pending the outcome of case 134287-C-21 and the order issued in that case.

ISSUED at Olympia, Washington, this 8th day of March, 2024.

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.





# RECORD OF SERVICE

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ISSUED ON 03/08/2024

DECISION 13798 - PSRA has been served by mail and electronically by the Public Employment Relations Commission to the parties and their representatives listed below.

BY: DEBBIE BATES

CASES 136675-C-23 and 136676-C-23

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