STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the matter of the petition of: WASHINGTON STATE DEPARTMENT OF NATURAL RESOURCES For clarification of existing bargaining units represented by: WASHINGTON PUBLIC EMPLOYEES ASSOCIATION and WASHINGTON FEDERATION OF STATE EMPLOYEES	CASE 134287-C-21 DECISION 13891 - PSRA ORDER CLARIFYING BARGAINING UNIT

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The Washington Public Employees Association (WPEA) represents nonsupervisory and supervisory bargaining units of specific listed job classes at the Washington State Department of Natural Resources (department or employer). The Washington Federation of State Employees (WFSE) represents a residual bargaining unit that includes those job classes not in the WPEA bargaining units. None of the unit descriptions make any reference to the actual work performed by bargaining unit employees.

In 2016, the employer reallocated employees from the Natural Resource Specialist 2 job class to the Natural Resource Specialist 3 and Property and Acquisition Specialist 3 job classes. Neither the Natural Resource Specialist 3 or the Property and Acquisition Specialist 3 job class is specifically included in the WPEA bargaining units. The parties disagree over the unit placement of the reallocated positions. The employer kept the positions in the WPEA bargaining unit after

reallocation because the employees in these positions continue to perform unit services forest work and aquatic lands management work like they did before the reallocation. The WPEA agrees with this position, while the WFSE contends that the reallocated positions belong in WFSE bargaining units given the unit descriptions.

The descriptions of these bargaining units have caused persistent issues for the parties and have been the subject of multiple cases before this agency. On June 21, 2021, the employer filed this unit clarification seeking a decision on the unit placement of these positions and guidance about the unit placement of any future reallocated positions. Hearing Officer Dario de la Rosa conducted hearings on January 19, 2023, and January 9 and 10, 2024, and the parties filed stipulations and post-hearing briefs.[1]

Unit service forest work and aquatic lands management work are part of the WPEA's historic work jurisdiction. The employer's decision to reallocate the disputed employees from the Natural Resource Specialist 2 job class to the Natural Resource Specialist 3 and Property and Acquisition Specialist 3 job classes did not create a change in circumstances that altered the community of interest for those positions. Absent a meaningful change in circumstances, unit service forest work and aquatic lands management work remain part of the WPEA's historic work jurisdiction, regardless of the job title.

BACKGROUND

The WPEA and WFSE represent four bargaining units that comprise most of the nonsupervisory and supervisory employees in the department. The WPEA's nonsupervisory and supervisory bargaining units are mixed class units. The WPEA bargaining unit descriptions specifically list the job classes that are either included in or excluded from the bargaining units. *State – Natural*

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[1] Following the January 19, 2023, hearing, it was determined that additional facts and evidence were needed to complete the record.

Resources, Decision 10050 (PSRA, 2008); *see also Washington State Department of Natural Resources*, Decision 13272 (PSRA, 2020).

The WFSE represents a residual bargaining unit of nonsupervisory employees at the department who are covered by chapter 41.80 RCW and not included in any other bargaining unit. *State - Natural Resources*, Decision 8458 (PSRA, 2004).[2] WFSE's bargaining units currently includes employees in the Natural Resource Specialist 3 and Property and Acquisition Specialist 3 job classes.

Unit Service Forest Work

The WPEA's supervisory bargaining unit includes employees in the Natural Resource Specialist 2 job class who perform unit service forest work. These employees work in the employer's six state upland regions and support contracts involving timber sales for a specific geographic unit within a given region. Supervisory employees in the Natural Resource Specialist 2 job class supervise the nonsupervisory employees in the Natural Resource Specialist 1 and 2 job classes that perform lower-level field foresters work in the state uplands regions. The nonsupervisory employees in the Natural Resource Specialist 1 and 2 job classes are included in the WPEA's nonsupervisory bargaining unit. The WPEA's supervisory and nonsupervisory bargaining units also include employees in other positions that perform forestry work, such as fire foresters, forest practice foresters, small landowner assistance program foresters.

In November 2016 the employer reallocated 48 Natural Resource Specialist 2 positions, with employees who performed unit service foresters work in state uplands, to the Natural Resource Specialist 3 job class. The employer made this reclassification in conjunction with the reclassification of the Field Foresters in state uplands (who were supervised by the Unit Service Foresters). The employer implemented a program where the newly hired employees performing unit field forest work would start work in the Natural Resource Specialist 1 job class in an

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[2] WFSE also represents a supervisory bargaining unit of employees. *State – Natural Resources*, Decision 8711 (PSRA, 2004).

"in-training" program. When the employee completed their training, they would automatically be promoted to the Natural Resource Specialist 2 job class. The employer also reclassified the supervisory Natural Resource Specialist 2 employees performing unit service forest work to the Natural Resource Specialist 3 job class. The overall purpose of the change was to improve recruitment and retention by creating a career ladder for professional foresters.

Following the reclassification, the work and working conditions of the Natural Resource Specialists performing unit service forest work remained the same. The employees remained responsible for managing timber sales contracts within their assigned geographic unit, and the employees enjoyed the same supervisory structure. There is no evidence demonstrating that WFSE-represented employees perform unit service forest work.

Aquatic Lands Management Work

The WPEA's bargaining unit also included 22 employees in the Natural Resource Specialist 2 job class who performed aquatic lands management work. In October 2016, the employer reallocated those positions to the Property and Acquisition Specialist 3 job class. The employer also made this change for recruitment and retention concerns and to adequately increase the salary for these positions commensurate with the aquatic lands management work the positions were actually performing.

The work of the Property and Acquisition Specialist 3 positions did not change following the reallocation from the Natural Resources Specialist 2 job class. The reallocated employees continue to perform aquatic lands management work. The supervisory structure for the employees remained the same, and the employees continued to report to district managers after the reallocation. Cindy Preston, an employee subject to this change in job title, testified that her work before the reallocation was the "same thing [she] do[es] now." Preston further testified that the reallocated employees' "jobs haven't changed over the years at all" and that she continued to "do the same work with the same people." The employees continued to work with the same groups following the reallocation, including employees in the Natural Resource Specialist 1 position that perform similar aquatics technical specialist work. There is no evidence demonstrating that WFSE-represented employees perform aquatic lands management work.

Previous Attempts to Clarify Unit Service Forest and Aquatic Lands Management Work

In 2016, the employer submitted a unit clarification petition, filed as case 128643-C-16, concerning the unit placement for Aircraft Mechanic and Aircraft Dispatcher positions. In 2017, the employer submitted a unit clarification petition, filed as case 128759-C-17, that was nearly identical to the instant petition and concerned the proper bargaining unit placement for employees recently reallocated to the Natural Resource Specialist 3 and Property and Acquisition Specialist 3 job classes.

In the unit clarification petitions in both case 128643-C-16 and case 128759-C-17, the employer expressed difficulty in determining the unit in which to place new or reallocated positions:

> The agency has subsequently viewed the bargaining units of reallocated positions through the filter of the bargaining unit clarification provided in the 2008 PERC decision. Additionally, the 2005 PERC decisions describe the WFSE bargaining unit as, "A RESIDUAL UNIT OF ALL EMPLOYEES OF THE WASHINGTON STATE DEPARTMENT OF NATURAL RESOURCES COVERED UNDER RCW 41.80, EXCLUDING SUPERVISORS, CONFIDENTIAL EMPLOYEES, WMS EMPLOYEES, AND EMPLOYEES IN EXISTING BARGAINING UNITS." Therefore upon reallocation to a class that was not specifically identified in the 2008 PERC decision describing WPEA's bargaining units the agency has considered the classification to be appropriately included in one of the WFSE bargaining units. The agency has made an exception when an existing position was re-allocated to a newly created classification that now represents a better fit, but the duties remained exactly the same. In those instances, while the job class was considered "new", the bargaining unit work stayed with the bargaining unit and the classification was determined to be a WPEA classification.
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> There is confusion in how to interpret and apply the previous PERC decisions. The WPEA has asserted that the work should remain in its bargaining unit. A clarification and more clear definition of the bargaining units is necessary, therefore, we respectfully request unit clarification of the agency's Non-Supervisory and Supervisory bargaining units and/or confirmation of the 2008 PERC Decision 10050 – PSRA.

The WPEA, WFSE, and employer met with agency staff to attempt to settle the dispute. In June 2019, the WPEA and WFSE notified the employer that the two employee organizations had reached a settlement agreement regarding the positions at issue in those petitions as well as larger

bargaining unit issues. The employer ultimately withdrew its petition, and cases 128643-C-16 and 128759-C-17 were closed without an order being issued. However, the agreement was never finalized.

In June and July 2020 WFSE and the employer continued to discuss the list of positions disputed by the WPEA and WFSE. The employer informed WFSE that the Natural Resource Specialist 3 and Property and Acquisition Specialist 3 job classes performing unit service forest work and aquatic lands management work would remain in the WPEA's bargaining unit, consistent with the agreement that the two employee organizations reached in 2019. WFSE asserted that the agreement was not applicable because it was never finalized and contended that the bargaining unit descriptions dictated that the reallocated positions should be moved to its bargaining unit. The employer then notified WFSE that it intended to file the instant petition to get clarity as to the proper bargaining unit placement for the disputed positions.

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).

This agency's role is to determine whether there is *a* community of interest, not what the *best* community of interest is. Consequently, the fact that other groupings of employees may also be appropriate, or even more appropriate, does not render another configuration inappropriate. *State – Secretary of State*, Decision 12442 (PSRA, 2015) (citing *Snohomish County*, Decision 12071 (PECB, 2014); *City of Winslow*, Decision 3520-A (PECB, 1990)).

In examining the community of interest for the purpose of making bargaining unit determinations, this agency considers "the duties, skills, and working conditions of the employees; the history of collective bargaining; the extent of organization among the employees; the desires of the employees; and the avoidance of excessive fragmentation." RCW 41.80.070. Bargaining unit determinations are made on a case-by-case basis, and the criteria are not applied on a strictly mathematical basis. *King County*, Decision 5910-A (PECB, 1997). Not all of the factors will arise in every case, and where they do exist, any one factor could be more important than another, depending on the facts. *Renton School District*, Decision 379-A (EDUC, 1978), *aff'd*, *Renton Education Association v. Public Employment Relations Commission*, 101 Wn.2d 435 (1984).

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).

Generally, established bargaining units present a stability and maturity that lead to sound labor relations. *City of Grand Coulee*, Decision 13806 (PECB, 2024). A unit clarification petition disrupts that status quo and stability. Accordingly, a unit clarification petition requires a recent, meaningful change in circumstances that alters the existing community of interest such that clarification is necessary. WAC 391-35-20.[3]; *University of Washington*, Decision 10496-A (PSRA, 2011) (citing *City of Richland*, Decision 279-A); *South Sound 911*, Decision 13736 (PECB, 2023). A change in circumstances is meaningful if the bargaining unit is no longer

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[3] In accordance with WAC-391-35-020(4)(c), parties may waive the timeliness requirement of WAC 391-35-020(4)(a).

appropriate without clarification. The question is not whether the purported changes result in other or more appropriate unit configurations. The question is whether the bargaining unit remains appropriate. If the bargaining unit remains appropriate, clarification under this process is not required. In conducting this examination, the agency applies the same statutory unit determination criteria as RCW 41.80.070, which is used to establish the unit's initial appropriateness. *See South Sound 911*, Decision 13736.

Among the types of changes that can alter an 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.

When modifying bargaining units, this Commission is mindful that a close relationship exists between a bargaining unit and the work jurisdiction of that bargaining unit. *Port of Seattle*, Decision 6181 (PORT, 1998) (citing *South Kitsap School District*, Decision 472 (PECB, 1978)). If an employer assigns new work to employees in a bargaining unit, that work becomes historical bargaining unit work unless there is a prior agreement between the employer and the exclusive bargaining representative to make the transfer of work temporary. *State – Social and Health Services*, Decision 9551-A (PECB, 2008) (citing *Kitsap County Fire District 7*, Decision 7064-A (PECB, 2001)). If a question exists regarding the assignment of new work or the reassignment of existing work to another bargaining unit following a meaningful change in circumstances, the unit clarification process is the proper forum to resolve the long-term placement of that work. *Clallam County Fire District 3*, Decision 12587 (PECB, 2016).

Application of Standard

The employer's 2016 reallocation of employees in the Natural Resource Specialist 2 job class to the Natural Resource Specialist 3 and the Property and Acquisition Specialist 3 job classes did not create a meaningful change in circumstances that requires removal of those positions from the

WPEA bargaining unit.[4] After the change in job title, the disputed employees have continued to perform bargaining unit work. They perform the same duties, have the same lines of supervision, and continue to work with the same WPEA-represented employees performing similar work. The unit service forest and aquatic lands management work performed by the employees in the WPEA bargaining unit continues to be part of the WPEA's historic work jurisdiction even after the decision to reallocate the job titles.[5]

The employer contends it is confused as to how to implement Decision 10050, where the WPEA bargaining unit was defined by job class or job title. The employer requests that the bargaining unit descriptions be modified so the agency can more easily determine bargaining unit placement if the employer creates new positions or reallocates positions to different job classes. The WPEA argues for preserving its historical work jurisdiction while WFSE argues for a mechanical reading of the bargaining unit descriptions.

This agency vigorously endeavors to discharge its statutory obligations according to the criteria set forth in RCW 41.80.070. *Central Washington University*, Decision 10215-A (PSRA, 2009). However, creating an appropriate bargaining unit is more art than science. No hard and fast rule exists proscribing how bargaining units should be described. *Central Washington University*,

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[4] WFSE is technically correct that the employer's petition is not timely for the purposes of adding or removing positions from either the WPEA's or WFSE's bargaining unit under WAC 391-35-020(3) or WAC 391-35-020(4). The decision to reallocate the positions occurred in 2016. The employer did not file its petition until 2021. The employer did not file its petition within a reasonable time period of the change in circumstances. *State – Corrections*, Decision 12005 (PSRA, 2014). However, the employer's petition does not actually seek to add or remove positions from the bargaining unit; rather, the employer seeks clarity as to the appropriate bargaining unit placement for the disputed positions. Indeed, since the positions are currently in the WPEA bargaining unit, a dismissal would leave the positions in the bargaining unit but would not resolve the larger and lingering issue.

[5] In contrast, in *University of Washington*, Decision 13888 (PSRA, 2024), the employer consolidated its cardiac monitoring functions at two hospitals. The positions at the facilities were in three separate bargaining units. All three units were described by location, and two were described by job title and location. The bargaining units were clarified to move all the positions performing cardiac monitoring functions to the WFSE unit at the Harborview Medical Center. While the positions continued to perform the same work, they moved locations, consolidated supervision under Harborview managers, and monitored patients at both hospitals. These changes altered the community of interest of the positions and necessitated clarification of the units. *Id.*

Decision 12650 (PSRA, 2017). While there are general constructs and guidelines, what may constitute an appropriate bargaining unit in one organization may not in another. That is why each unit description is examined individually and based upon the factual situation presented. *Id.*

Traditionally, this agency sought to define bargaining units in generic terms by the work done, not by the job title. *See, e.g., Central Washington*, Decision 10215-A; *State - Natural Resources*, Decision 9388-A (PSRA, 2006); *University of Washington*, Decision 8392 (PSRA, 2004); *City of Milton*, Decision 5202-B (PECB, 1995); *South Kitsap School District*, Decision 472. In *City of Milton*, the Commission discussed the hazards of describing bargaining units by job titles:

> If we were to limit the unit description to "department directors" in this case, the situation would be ripe for future conflict. For example, the employer could develop a position with similar duties, but call it something other than a "department director". Alternatively, a position given a "department director" title, but which does not exercise authority over subordinate employees, could be automatically (and inappropriately) included in this bargaining unit simply because of the job title.

City of Milton, Decision 5202-B. In foregoing that type of unit description for one including "all supervisors," the Commission noted, "We do see a potential for mischief and confusion under the collective bargaining law were we to deviate from our preference for generic terms in unit descriptions." *Id.*

There are countless types of bargaining unit configurations amongst the organizations under PERC's jurisdiction. Some are wall-to-wall units comprising all eligible employees working for an employer. Some may be vertical units comprised of all employees within a division or unit working for the employer while some may be horizontal units consisting of all occupational types across the employer. *See, e.g., City of Centralia*, Decision 3495-A (PECB, 1990).

However, it is not always possible to adhere to that traditional practice. Where employers are larger, include multiple divisions or work groups, where similar duties are performed by several groups of employees, and where one or more represented employees are performing similar functions in different bargaining units, a generically defined bargaining unit may not be possible.

Central Washington University, Decision 10215-A; *Central Washington University*, Decision 12650. In those instances where this agency has certified a unit more defined by position title than by generic terms, great care must be taken to prevent future work jurisdiction battles or manipulation.

The ultimate focus in developing a bargaining unit description is to define the scope of the work performed by the employees in the bargaining unit. *State - Natural Resources*, Decision 9388-A. Once a bargaining unit is formed, the work performed by the bargaining unit becomes bargaining unit work. *See, e.g., Kitsap County Fire District 7*, Decision 7064-A. Describing bargaining units by the work the employees perform ensures the duty to bargain is enforced if there is an attempt to transfer the work performed by bargaining unit employees outside of the bargaining unit. *University of Washington*, Decision 8392. Accordingly, a bargaining unit description should be unique to the bargaining unit involved and communicate the work jurisdiction. "An ideal bargaining unit description will unambiguously provide ongoing criteria to discern the borderlines between adjacent bargaining units as well as to distinguish between represented and unrepresented employees." *State - Natural Resources*, Decision 9388-A.

When ascertaining bargaining unit status, this agency looks to the actual duties performed by the employees in that position. A reallocation or change in job title does not presumptively or automatically result in an employee's removal from a bargaining unit if the employee continues to perform the same work. *Id.; Washington State Department of Social and Health Services*, Decision 13175 (PSRA, 2020); *University of Washington*, Decision 11590-A; *Clark County*, Decision 11886 (PECB, 2013). Needless and unwarranted manipulation of title and allocations designed to alter the configuration or composition of a bargaining unit are not allowed. *Central Washington University*, Decision 10215-A.

A change of classification title is irrelevant to the bargaining unit status of employees who continue to perform the same work. *State - Natural Resources*, Decision 9388-A; *Washington State Department of Social and Health Services*, Decision 13175. In Decision 13175, the WFSE opposed the employer's removal of a position from its bargaining unit after the position was reallocated to a position historically outside the bargaining unit. The WFSE pointed to the fact that the employee

in that position continued to perform bargaining unit work and performed the same duties as before the reallocation. The position remained in the unit based upon those reasons. *Id.*

The WPEA's bargaining unit in this case has a long and, some might say, tortured history. It was originally created in 1972, prior to PERC assuming jurisdiction over classified state employees. *State - Natural Resources*, Decision 8310 (PSRA, 2003). That unit included both supervisors and non-supervisory employees. *Id.* The bargaining unit was modified in 2003 to separate supervisors into their own bargaining unit. *Id.* Consistent with agency practice, the bargaining unit description did not utilize position titles. *Id.* The unit was nominally an agency-wide bargaining unit of all classified employees; however, the unit did not actually contain all non-supervisory classified employees. *State - Natural Resources*, Decision 9388-A.

In 2006, the WPEA filed a unit clarification following the Washington State Department of Personnel's reform of the classification system. Because position titles were changing and positions were being reallocated due to the reform, the employer and the WPEA sought to ensure that those changes did not alter the bargaining unit status of the employees. *Id.*

In that proceeding, the Executive Director expressed concern about the employer's bargaining units. The unit description in Decision 8310 had become "ambiguous" and could no longer "serve its intended purpose of communicating the scope of bargaining unit work to the employer, the incumbent union, and any other union that may have an interest in organizing (or already represent[ed]) other employees of the employer." *Id*. Concerns about clarity were exacerbated by the certification of the WFSE "residual" bargaining unit on March 15, 2004. *State - Natural Resources*, Decision 8458. Given all this, the Executive Director remanded for further proceedings to properly describe both the WFSE and WPEA nonsupervisory units. *Id.*

In *State - Natural Resources*, Decision 10050, the Executive Director accepted the stipulations of the parties and agreed to define the WPEA's bargaining unit by listing positions included and positions excluded. Consistent with all certifications, the work performed by those positions is attached to the bargaining unit.

The hoped-for clarity and stability for the employer and unions regarding which positions were in which unit did not last long. In 2016 and 2017, the employer submitted unit clarification petitions, filed as case 128643-C-16 and case 128759-C-17, seeking clarification from this agency on whether it needed to move positions from the WPEA bargaining unit to the WFSE bargaining unit whenever a position in the WPEA bargaining unit was reallocated to a position not listed in the inclusion of the unit description. In those petitions and now, the employer expresses confusion about how to interpret this agency's decision on the unit descriptions.

The continued confusion shows that this agency erred in describing the bargaining units the way it did in Decision 10050, particularly when the WFSE's residual unit description likewise contains no description of the work attached to that unit. Established bargaining units generally present a stability and maturity that further sound labor relations. *City of Grand Coulee*, Decision 13806. The history of difficulty and confusion surrounding these two units demonstrates a lack of stability and shows that the unit descriptions are hindering sound labor relations and not meeting their purpose.

The evidence in this case shows that the unit descriptions are resulting in exactly what this agency seeks to avoid. That is, a bargaining unit configuration where people are moved in or out of units without regard for historical work jurisdiction and solely based on job classification or job title.

There has been no meaningful change in circumstances to warrant removal of the positions from the WPEA's bargaining unit. The positions at issue continue to perform the same bargaining unit work. It would be inappropriate to remove these positions out of the WPEA unit, regardless of job title, without evidence of an alteration or disruption of the community of interest of those positions.

Of greater concern is the state of these two WPEA and WFSE bargaining units moving forward. Work performed by bargaining unit employees attaches to the bargaining unit. But the unit descriptions in this case, in particular the WPEA bargaining unit descriptions, are ambiguous and don't provide sufficient clarity about what work belongs to each unit. There must be some sufficient description of the work in question so that the parties are able to manage the units moving forward. A residual bargaining unit can only function properly in relation to other bargaining units

when at least one of the bargaining units describes the work attached to that unit so that it is clear on an ongoing basis what work is attached to each bargaining unit.

The parties need to go back to the drawing board to describe the bargaining units in terms that will sufficiently and clearly denote the work jurisdiction belonging to each bargaining unit. Accordingly, the matter is remanded back to the Representation Case Administrator to work with the parties on developing new bargaining unit descriptions in conformance with the above.

CONCLUSION

There has been no recent, meaningful change in circumstances altering the reallocated positions' community of interest with the WPEA bargaining unit. Accordingly, a clarification to remove those positions from the WPEA bargaining unit is not proper. However, the current unit descriptions are causing lingering confusion for the parties whenever there is a reallocation. Accordingly, the matter is remanded back to the Representation Case Administrator to work with the parties on developing bargaining unit descriptions that more clearly define the scope of the work performed by each bargaining unit.

FINDINGS OF FACT

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's nonsupervisory and supervisory bargaining units are mixed class units. The WPEA bargaining unit descriptions specifically list the job classes that are either included in or excluded from the bargaining units.

5. The WFSE represents a residual bargaining unit of nonsupervisory employees at the department who are covered by chapter 41.80 RCW and not included in any other bargaining unit.

6. The WPEA's supervisory bargaining unit includes employees in the Natural Resource Specialist 2 job class who perform unit service forest work. These employees work in the employer's six state upland regions and support contracts involving timber sales for a specific geographic unit within a given region.

7. Supervisory employees in the Natural Resource Specialist 2 job class supervise the nonsupervisory employees in the Natural Resource Specialist 1 and 2 job classes that perform lower-level field foresters work in the state uplands regions. The nonsupervisory employees in the Natural Resource Specialist 1 and 2 job classes are included in the WPEA's nonsupervisory bargaining unit.

8. In November 2016 the employer reallocated 48 Natural Resource Specialist 2 positions, with employees who performed unit service foresters work in state uplands, to the Natural Resource Specialist 3 job class. The employer made this reclassification in conjunction with the reclassification of the Field Foresters in state uplands (who were supervised by the Unit Service Foresters).

9. Following the reclassification, the work and working conditions of the Natural Resource Specialists performing unit service forest work remained the same. The employees remained responsible for managing timber sales contracts within their assigned geographic unit, and the employees enjoyed the same supervisory structure.

10. There is no evidence demonstrating that WFSE-represented employees perform unit service forest work.

11. The WPEA's bargaining unit also included 22 employees in the Natural Resource Specialist 2 job class who performed aquatic lands management work. In October 2016, the employer reallocated those positions to the Property and Acquisition Specialist 3 job class.

12. The work of the Property and Acquisition Specialist 3 positions did not change following the reallocation from the Natural Resources Specialist 2 job class. The reallocated employees continue to perform aquatic lands management work. The supervisory structure for the employees remained the same, and the employees continued to report to district managers after the reallocation. The employees continued to work with the same groups following the reallocation, including employees in the Natural Resource Specialist 1 position that perform similar aquatics technical specialist work.

13. There is no evidence demonstrating that WFSE-represented employees perform aquatic lands management work.

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 4 through 10, there has been no recent, meaningful change in circumstances altering the existing community of interest for the employees in the Natural Resource Specialist 3 job class performing unit service forest work. Those employees continue to share a community of interest with the WPEA's bargaining unit described in finding of fact 4.

3. Based upon findings of fact 11 through 13, there has been no recent, meaningful change in circumstances altering the existing community of interest for the employees in the Property and Acquisition Specialist 3 job class performing aquatic lands management work. Those employees continue to share a community of interest with the WPEA's bargaining unit described in finding of fact 4.

ORDER

1. The employees in the Natural Resources Specialist 3 job class performing unit service forest work shall remain in the bargaining unit represented by the Washington Public Employees Association described in finding of fact 4.

2. The employees in the Property and Acquisition Specialist 3 job class performing aquatic lands management work shall remain in the bargaining unit represented by the Washington Public Employees Association described in finding of fact 4.

3. This matter is remanded to the Representation Case Administrator for further proceedings consistent with this decision.

ISSUED at Olympia, Washington, this 28th day of June, 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.