

STATE OF WASHINGTON  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the matter of the petition of: }

TIMBERLAND REGIONAL LIBRARY  
STAFF ASSOCIATION }

Involving certain employees of: }

TIMBERLAND REGIONAL LIBRARY }

Case No. 1759-E-78-323

Decision No. 555-A PECB

FINDINGS OF FACT,  
CONCLUSIONS OF LAW  
AND ORDER

APPEARANCES:

Ward Rathbone, Attorney at Law, for the petitioner.

Larry Yok, Labor Relations Consultant, for the employer.

PROCEDURAL BACKGROUND:

On October 3, 1978, the Timberland Regional Library Staff Association ("Association") filed a petition for investigation of a question concerning representation seeking certification as the exclusive bargaining representative of employees theretofore represented by the Washington State Council of County and City Employees, AFL-CIO. The petition was found by the Public Employment Relations Commission ("PERC") to be timely and supported by a sufficient showing of interest.

A pre-hearing conference was held in this matter on October 31, 1978, at which time the Washington State Council of County and City Employees, AFL-CIO, disclaimed the unit of employees it had been representing. The employer and the Association thereupon filed consent election agreements for unit determination and representation elections as well as an agreement for use of challenged ballot procedures for certain alleged supervisors.

The elections were conducted by mail ballot. Ballots on the representation question were sent to all full-time and regular part-time (one-half-time or more) salaried employees of Timberland Regional Library, excluding the Director, Associate Director, Assistant Director, Business Manager, Personnel Administrator and confidential clerical employees. An additional ballot was sent to each of the 18 professional employees to determine their desires on being commingled in the same bargaining unit with non-professional employees. The tally of ballots was conducted on November 30, 1978. The employer challenged the ballots of ten alleged supervisors, and challenged the ballots

of eight employees under the "one-half-time or more" criteria for eligibility. Since eight of the ten challenged supervisors were also among the professional group, the tally of the unit vote was deferred pending determination of the supervisor challenges. The challenges were not sufficient in number to affect the results of the representation election, and on December 11, 1978 a conditional certification was issued designating the Association as the exclusive bargaining representative of employees in the non-supervisory, non-professional unit, subject to later determination of the supervisory issues and professional preferences. A hearing on the challenged ballots was held on December 6, 1978 before Katrina Boedecker, Hearing Officer.

POSITIONS OF THE PARTIES:

Timberland Regional Library System

The employer argues that PERC has accepted the National Labor Relations Act definition and criteria for determining supervisory status, and that the ten voters challenged as supervisors do indeed hire, promote, discipline, adjust grievances, grant leave, effectively recommend discharges and assign work to other employees. The Library stresses these "supervisors" receive higher salaries, different vacation benefits, attend supervisor meetings, control overtime, implement and interpret policies, have separate working areas, must exercise independent judgment in their duties and they are not subject to routine review. Additionally, the Library points out "supervisors" do not work a standard work week, nor routinely perform clerical work. Finally, the employer argues that to include these claimed supervisors in the certified unit would create a conflict of interest and be contrary to RCW 41.56.060 as well as PERC precedent. The employer emphasizes that there was no evidence as to the extent of organization among these employees and the employer has historically excluded supervisors from collective bargaining units. Finally, the Library submits that to include the supervisors and their subordinates in one bargaining unit would endanger the effectiveness of the collective bargaining process as well as make the unit vulnerable to domination by the "supervisors".

As to the second group of challenges, the Library argues these voters worked less than one-half-time and therefore they were ineligible to vote under the agreed description of the bargaining unit.

Timberland Regional Library Staff Association

The Association submits that the ten voters challenged by the employer as "supervisors", are still employees within the meaning of RCW 41.56, as PERC

found in the City of Tacoma, Decision 95-A (PECB, 1977), and to exclude them would be placing decisive significance on mere titles. Additionally, the Association asserts that the claimed supervisors do not participate in final budgetary decisions, final policy adoptions or salary setting determinations, and argues that these people are not supervisors, but rather they are "working foremen" whose functions do not differ markedly from the group of professionals and other library employees except for paperwork relating to library operations. Finally, the Association asserts that since the duties, skills and working conditions of the alleged supervisors are comparable to non-supervisory employees and that since there is no claim the voters are confidential employees, all ten individuals challenged as "supervisors" are properly included within the scope of the bargaining unit.

The Association takes no position on the eight ballots challenged on the basis that the voters work less than one-half-time.

#### DISCUSSION:

The Timberland Regional Library is a county-by-county library system that was established a decade ago by a referendum of the voters of the unincorporated areas within Thurston, Mason, Lewis, Pacific and Grays Harbor counties. The Library was established to serve all unincorporated areas in this five county region. Cities within the region may contract with Timberland for library services. Where such a contract exists, it is Timberland's responsibility to provide staff and adequate material and services for that particular community. In turn, the contracting city basically provides the building, custodial services and utilities.

The system is headed by a seven member Board of Trustees, consisting of one member appointed from each of the five counties and two "at large" representatives. There is one Director, Louise E. Morrison. Reporting to Morrison are Associate Director Virginia Barton, Assistant Director for Public Service Mary Stough, Personnel Administrator Donna Schaan and a Business Manager. As the Assistant Director for Public Services, Stough is directly responsible for the functioning of the 26 libraries within the Timberland system.

Each of the ten voters challenged by the employer as a supervisor is responsible for the operation of one of the ten major libraries in the Timberland Regional Library system. Three different job titles are used among the ten challenges--"Senior Community Librarian", "Community Librarian" and "Senior Librarian Associate":

Margaret Coppinger, Senior Community Librarian	-- Olympia
Marian Osterley, Senior Community Librarian	-- Centralia
Rosalie Spellman, Senior Community Librarian	-- Aberdeen
Robert Zimmerman, Community Librarian	-- Chehalis
Judith Green, Community Librarian	-- Hoquiam
Mary Russel, Community Librarian	-- Lacey
Selma Nielsen, Community Librarian	-- Montesano
Vivian Fetty, Community Librarian	-- Raymond
Doris Whitmarsh, Senior Library Associate	-- South Mason
Joyce Nichols, Senior Library Associate	-- Tumwater

The record reflects that the differing titles are due to the quantity of work for which each is responsible, and not a varying scope of authority. The parties urge the group be treated as one class, "building supervisor", and that terminology is used herein with reference to the entire class.

The extent of authority each building supervisor has in the overall direction and control of the functions, activities and operations of their respective community library facilities as established in the record, substantiates the employer's claim that these people are, indeed, supervisors. Clearly, supervisors are public employees within the meaning of RCW 41.56.030(2). City of Tacoma, Decision 95-A (PECB, 1977); Municipality of Metropolitan Seattle v. Department of Labor & Industries; 88 Wn.2d. 930 (1977). Supervisors have a right to bargain collectively. Thus, the issue to be examined here is whether or not it is appropriate to place these supervisors in the same bargaining unit as the other employees of Timberland Regional Library.

Four statutory guidelines in RCW 41.56.060 must be considered when determining the appropriate bargaining unit: (1) duties, skills and working conditions of the public employees; (2) the history of collective bargaining by the public employees and their bargaining representatives; (3) the extent of organization among the public employees; and (4) the desire of the public employees.

Although some building supervisors do spend some time performing the same duties as their subordinates, the record evidences that the building supervisors have more extensive duties and responsibilities than the other employees. It is especially noteworthy that one duty of a building supervisor is to evaluate the other personnel within the building. When evaluators and evaluatees are commingled in one bargaining unit, care must be taken to avoid the unit's domination by the evaluators and avert a chilling effect on the freedom of expression of evaluatees. In this case, there is a pervasive sense of a "team work" concept, so that the hierarchy does not appear to dominate decisions as much as expertise and experience. However, testimony did establish substantially different working conditions between building supervisors and other Timberland employees in the areas of salary, overtime, working hours, vacation benefits and independent exercise of judgment.

In considering the history of collective bargaining between these parties, a prior collective bargaining agreement admitted at the hearing is informative. In the 1978 "Working Agreement" between Timberland Regional Library and Washington State Council of County and City Employees AFL-CIO, Local 2053, "Senior Library Associate", the one "non-professional" classification among the building supervisors, was specifically excluded. Apparently, all professional employees were excluded from that unit. No other evidence was offered that the building supervisor group had any past experience of collective bargaining with this public employer.

In considering the extent of organization among these employees, it becomes clear that there are two distinct groups: all the claimed supervisors and all the other staff employees of the Timberland Regional Library. There is no evidence that such grouping breeds unnecessary fragmentation or discriminatory splintering. Each group is all-inclusive and representative of the makeup of its membership. The employer would not be unduly burdened to have to bargain with two such groups, or even the three groups that could result if the professional employees vote not to commingle with the other Association members.

As for the desires of the employees, nothing in this decision would abridge the supervisors' right to bargain collectively with the employer after they had either presented the employer with a petition for voluntary recognition or brought PERC a sufficient showing of interest to activate representation procedures. However, the desires of the building supervisors cannot be the basis for their placement into a unit PERC has found to be inherently inappropriate. City of Tacoma, Decision 95-A (PECB, 1977); City of Richland, Decision 279-A (PECB, 1978). If a majority of the building supervisors should choose the Association as their exclusive bargaining representative, the Association would have to represent them in a separate supervisory unit.

In balancing the statutory mandates for determination of a bargaining unit and the facts of this case, it is evident that the building supervisors are supervising librarians and have such a distinct community of interest from the other employees of the Timberland Regional Library Staff Association that they must be excluded from the latter's bargaining unit.

The second issue considered at the hearing was whether challenges should be sustained to ballots voted by Elizabeth Bachman, Karen Creviston, Mary Jean Dunham, Mary Epperly, Diane Huff, Virginia Pennington, Virginia Squires and Dora Watts. Unrefuted testimony was recorded that these eight voters were salaried for less than one-half-time. Therefore, these ballots will not be counted in the final tally. Regular part-time employees are within the

scope of a bargaining unit of full-time employees. In this case, the parties stipulated between themselves in apparent good faith and without any evident discrimination, to define the dividing line between "regular" and "casual" as to "one-half-time or more". These eight employees were not within the agreed-upon unit.

#### SUPPLEMENTAL FINDINGS OF FACT

1. Senior Community Librarians, Community Librarians and Senior Library Associates are supervisory employees having authority in the interest of the employer to hire, suspend, lay off, recall, discharge, assign, discipline, evaluate, direct and adjust grievances of other employees; and share a community of interest among themselves as Building Supervisors.
2. Building Supervisors have substantially different duties, skills and working conditions and a separate history of collective bargaining from the non-supervisory employees of Timberland Regional Library.
3. Exclusion of the Building Supervisors from a unit of other employees of the Timberland Regional Library would neither isolate employees into a residual category nor fragment units to a point of being burdensome on any party.
4. Elizabeth Bachman, Karen Creviston, Mary Jean Dunham, Mary Epperly, Diane Huff, Virginia Pennington, Virginia Squires and Dora Watts are not full-time or regular part-time employees of the Timberland Regional Library system within the bargaining unit agreed by the parties to be appropriate.

#### SUPPLEMENTAL CONCLUSIONS OF LAW

1. Senior Community Librarians, Community Librarians and Senior Library Associates are public employees within the meaning of RCW 41.56.030(2).
2. A unit of all full-time and regular part-time (one-half-time or more) employees of the Timberland Regional Library system, excluding the Director, Associate Director, Assistant Director, Business Manager, Personnel Administrator, confidential clerical employees and supervisors, is an appropriate unit under RCW 41.56.060.
3. Elizabeth Bachman, Karen Creviston, Mary Jean Dunham, Mary Epperly, Diane Huff, Virginia Pennington, Virginia Squires and Dora Watts are not within the description of the bargaining unit agreed to by the Timberland Regional Library system and the Timberland Regional Library Staff Association.

NOW, THEREFORE, it is

ORDERED

1. The challenges to the ballots of Elizabeth Bachman, Karen Creviston, Mary Jean Dunham, Mary Epperly, Diane Huff, Virginia Pennington, Virginia Squires, Dora Watts, Margaret Coppinger, Marian Osterley, Rosalie Spellman, Robert Zimmerman, Judith Green, Mary Russel, Selma Nielsen, Vivian Fetty, Doris Whitmarsh and Joyce Nichols are sustained.
  
2. The unchallenged ballots involving the question of whether or not the professional employees of the Timberland Regional Library system desire to be commingled in the same unit with non-professional employees shall be opened and an amended Tally of Ballots issued.

Dated at Olympia, Washington this 4th day of April, 1979.

PUBLIC EMPLOYMENT RELATIONS COMMISSION

By: 

MARVIN L. SCHURKE, Executive Director