

[LABOR RELATIONS AGENCY STATIONERY]

February 23, 1977

ORDER AND DECISION NO. 26B PERTAINING
TO UNIT ALLOCATION OF INDIVIDUALS

FINDINGS OF FACT

The Division of Personnel, Department of Administration, State of Alaska proposed, based on questionnaires returned from the individuals concerned, to move certain persons to the Government Unit represented by the Alaska Public Employees Association from the Supervisory Unit, also represented by the Alaska Public Employees Association. Said questionnaires were designed to elicit sufficient information from the persons concerned to ascertain whether or not they met the criteria set forth in 2 AAC 10.220 (b) (3), the definition of supervisory employee in the regulations.

A number of persons concerned appealed to the Labor Relations Agency to reject the Division of Personnel's recommendations, whereupon the Agency appointed James R. Lucas as hearing officer to hear all material and relevant evidence and to make recommendations based upon such evidence to the Agency for its decision. Hearings were conducted by James R. Lucas in Juneau on August 23, 1976, in Anchorage on August 24 and 25, 1976, in Fairbanks on August 26, 1976, and in Anchorage on January 24, 1977.

The hearing was held in Anchorage on January 25, 1977 before a quorum of the Labor Relations Agency consisting of Chairman Hafling, and Member Henry. Hearing Officer Lucas' recommendations resulting from the hearings of August 23, 24, 25, and 26 of 1976 and of January 24, 1977, were adopted by the unanimous vote of the agency members present. A list of all such recommendations appears in the Order and Decision.

During the hearings of January 25, 1977, an unfair labor practice charge by the Alaska Public Employees Association against the State of Alaska was also heard. This charge alleged that the State had acted prematurely in moving people from one unit to another without either prior agreement with the APEA or the approval of the Labor Relations Agency. A consent agreement was entered into whereby the State, while being found innocent of any bad motives, nonetheless agreed that it had erred in making these moves prematurely due to a misunderstanding.

The State agreed that in the future no moves would be made from one unit to another without either the prior agreement of the collective bargaining representative or a decision by the Agency.

The Alaska Public Employees Association also requested retroactive adjustment for the difference in benefits for those people who had been improperly moved from the Supervisory

Unit to the General Government Unit. The issue is stated clearly in Counselor Murphy's letter of February 28, 1977 on page two, the two paragraphs headed as item three, which is quoted as follows:

"The retroactivity issue surrounding the improper movement of the employees must be dealt with. At the hearing there was considerable argument whether the retroactivity issue should be a "two way street" (that is, any persons removed from General Government to Supervisory should incur a retroactive loss of benefits). This issue, in reality, does not exist for the reason that none of the employees involved in the August 30, 1976 recommendation were moved from General Government to Supervisory. In each of these cases the hearing officer recommended that an employee already in the Supervisory Unit "should remain in the Supervisory Unit".

Therefore, the only question is whether the 15 employees improperly moved from Supervisory to General Government (see attached Exhibit "B") shall receive the benefits they are entitled to and which they were deprived of by the improper movement. At the hearing there appeared to be no question by the Board that these employees were entitled to retroactive benefits. Ken Kareen and I have not met to work out in detail the exact benefits (we have both been involved in negotiations); however, I believe these benefits are minor. I am asking the Board to make its ruling and Mr. Kareen and I can meet to implement the Board's ruling."

Subsequent to the Agency hearing on January 25, 1977, Hearing Officer Lucas conducted further hearings on January 25 in Anchorage, on January 26 in Fairbanks, on January 27 in Juneau.

Those persons with respect to whom recommendations were made to the Agency by Hearing Officer Lucas are included in the Order and Decision below.

CONCLUSIONS

With respect to those persons concerning whom hearings were held prior to the Agency hearing on January 25, 1977 it is not necessary to draw conclusions, since this Order and Decision is a confirmation of oral decisions that have already been reached by the Agency.

With respect to those persons concerning whom recommendations were made by Hearing Officer Lucas subsequent to the Agency Hearing on January 25, the Hearing Officer gave each party full opportunity to present all relevant and material evidence, and applied the criteria set forth in the regulations in making his recommendations to the Agency; therefore, his recommendations should be adopted.

With respect to the question of retroactivity for those fifteen employees who were improperly moved from the Supervisory to the General Government Unit, Mr. Murphy's reasoning should be adopted, and those persons should receive retroactive adjustment for the loss in benefits, if any, suffered by having been moved from the Supervisory to the General Government Unit.

ORDER AND DECISION NO. 26B

1. Retroactive adjustment for any loss of benefits suffered by approximately eleven to fifteen employees prematurely moved prior to 12:01 a.m., local time, on January 25, 1977, from the Supervisory to the General Government Unit should be paid upon presentation of proof of loss by either the employees involved

or their collective bargaining representative.

2. The status of the persons listed below is hereby ordered, effective at 12:01 a.m. on January 25, 1977, with respect to unit placement as indicated in the listing.

<u>NAME</u>	<u>PSN/TITLE</u>	<u>UNIT ALLOCATION</u>
Stanley Wells	064277 PO III	Supervisory
Don Ronken	142248 HEA II	Supervisory
Mike Tinker	142225 Env. Coordinator	Supervisory
Bob Thomas	142205 Env. Coordinator	Supervisory
Don Galbreath	142023 Supply Offcr. III	Supervisory
Frank Lee	141701 Dist. Maint. Sup.	Supervisory
Peter Vinson		
Ron Olmstead	CE II's	General Government
Dan Urbach		
(Note: the Division of Personnel agreed that these three persons are "lead" persons and that this "lead" time would count as supervisory time for purposes of advancement.)		
Eleanor Booth	068040 EQ IV	General Government
Harvey Davis	142243 HEA III (Review Engr.)	General Government
Justin Maile	141201 HEA III Project Engr.	Supervisory
Ralph Head	141621 HEA III	Supervisory
Walt Belsey	141348 HE III Asst. Dist. Constr. Engr.	Supervisory
Michael Fargo	141286 HEA III Project Engr.	Supervisory
Frank Narusch	141250 HE II	Supervisory
Ralph Gregory	141243 HE II	Supervisory
Donald Frost	141265	Supervisory
Lewis Sturges	140304	General Government
Bruce Milne	186005 Chief Utility, Finance & Accts., Util. Fin. Analyst IV	General Government
Russell Staley	086022 Utility Engr. IV	General Government
Robert Lindblom	086004 Tariff Spec. II	General Government
Maurice Oaksmith	086602 Deputy Dir. P.U.C.	Supervisory

Thomas Ward 143738 HMF III Supervisory
 Wilson Brown 143347 General Government
 Engr. Geol. II
 John Edwards 143206 HEA III Supervisory
 Asst. Dist. Constr. Engr.
 T.E. Trillingham 143201 General Government
 Right of Way Agent
 John Tiemessen Project Engr. Supervisory
 Rodney Anderson Project Engr. Supervisory
 Ronald Davis Project Engr. Supervisory
 George Vincent Design Engr. General Government
 at present
 Ken Leslie Design Engr. General Government
 at present
 Clyde Tillman 142268 HEA II General Government
 Charles Alling 143236 General Government
 Charles Gasparach 143303 General Government
 William Wright 105085 Park Ranger III, Supervisory
 Chief, Ala.Act.Conserv.
 Corp.
 Frank Hoffman 1244 HE II Supervisory
 Charles Henry 1294 HEA III Supervisory
 Kenneth Soule 1278 HEA III Supervisory
 Richard Coatney 141293 HEA III Supervisory
 Robert Finnerty 142233 HEA III Supervisory
 Dietrich Strohmayer HEA III General Government
 Dale Miller 140058 HEA II General Government

3. The status of the persons listed below is hereby ordered effective at 12:01 a.m. on May 1, 1977 with respect to unit placement as indicated in the listing:

NAME PCN/TITLE UNIT ALLOCATION

Gary Gerlitz	143326 HEA III	Supervisory
Gary Tyndall	141274 HE I	Supervisory
James Hayes	1295 HEA III	Supervisory
David Boyer	142214 HEA II	Supervisory
Lynn Harnish	142681 HE I	Supervisory
George Blum	2240 HEA III	General Government
Charles Hodges	143233 HEA III	Supervisory
Lavern Hirsch	143400	Supervisory
Steve Hirotsu	143225 HEA III	Supervisory
Barry Bergdahl	143257 HE II	Supervisory

SIGNED: _____
C. R. "Steve" Hafling, Chairman

DATED: April 29, 1977

SIGNED: _____
Ronald M. Henry, Member

DATED: _____

SIGNED: _____
Morgan Reed, Member

DATED: 5/10/77

[Signatures of Hafling and Reed On File]