

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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In the Matter of the Petition of	:	
COUNTY OF MILWAUKEE	:	Case XXXIX
	:	No. 13657 ME-546
For Clarification of Existing	:	Decision No. 10172
Bargaining Units Involving	:	
Certain Employes of	:	
COUNTY OF MILWAUKEE	:	
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Appearances:

Mr. Robert G. Polasek, Assistant Corporation Counsel, appearing on behalf of the Municipal Employer.  
Goldberg, Previant & Uelmen, Attorneys at Law, by Mr. John S. Williamson, Jr. and Mr. Harold W. Schmidt, Assistant Director of Milwaukee District Council 48, AFSCME, AFL-CIO, appearing on behalf of the Union.

ORDER CLARIFYING BARGAINING UNIT

The Wisconsin Employment Relations Commission, pursuant to Section 111.70 of the Wisconsin Statutes, having heretofore certified Milwaukee District Council No. 48, American Federation of State, County and Municipal Employees, AFL-CIO (and its appropriate locals) as the collective bargaining representative for employes of the County of Milwaukee employed in the following appropriate collective bargaining unit:

All regular full time and regular part time employes of the County of Milwaukee, excluding fire fighting classifications, and other craft employes, registered nurses, and other professional employes, confidential employes, supervisors, department heads and exempt positions.

and said County of Milwaukee having filed a petition with the Commission wherein it attached a list of classifications which have been created in the County service since 1968, and requested that the Commission set hearing in the matter for the purpose of taking evidence in order that the Commission may determine whether such classifications should be included or excluded from the existing bargaining unit; and hearing in the matter having been conducted at Milwaukee, Wisconsin, on May 18, 1970, June 3, 1970 and July 2, 1970, before Robert B. Moberly, Examiner; and the Commission having considered the evidence and arguments of counsel, and being fully advised in the premises, makes and files the following

ORDER

IT IS ORDERED that the following classifications shall be, and hereby are, included in the collective bargaining unit described above:

11.7 Telephone Clerk\*  
 20.6 Checker Clerk II\*  
 20.7 Unit Service Manager\*  
 20.8 Park Sales Clerk\*  
 27.2 Duplicating Equipment Supervisor I\*  
 32 Programmer III\*  
 36.6 Photographer\*  
 36.7 Radiograph Processing Aide\*  
 36.8 Photographic Processing Aide\*  
 52.5 Securities Agent II\*  
 71 Real Estate Agent I\*  
 101.3 Administrative Assistant I (Accounts Receivable)\*  
 101.5 Administrative Assistant I (Pension System)\*  
 148.2 Baker III\*  
 159.6 Food Service Manager I\*  
 162.5 Clothing Supply Clerk\*  
 167.5 Laundryman II\*  
 181.5 Assistant Highway Maintenance Foreman\*  
 201.1 Laundry Equipment Serviceman\*  
 264.5 Hospital Equipment Machinist\*  
 282 Specification Writer (Automotive)\*  
 282.1 Service Writer (Automotive)\*  
 322 Assistant Power Plant Maintenance Engineer\*  
 352 Draftsman III (Civil Engineering)\*  
 409.5 Children's Zoo Attendant\*  
 417.5 Zoo Area Supervisor  
 418.7 Aquarium Supervisor  
 419.6 Reptile Supervisor  
 442.6 Recovery Room Aide\*  
 524.8 Clinical Technician\*  
 525.4 Urology Technician\*  
 527.1 Medical Electronics Technician\*  
 527.2 Television Technician\*  
 529.5 Medical Photographer II\*  
 533.6 Occupational Therapy Aide\*  
 555.3 Supervisor of Blood Donor Service\*  
 562.3 Case Aides\*  
 585.5 Correction Officer I (Recreation)\*  
 585.7 Correction Officer II\*  
 708.7 Sports Center Program Director

IT IS FURTHER ORDERED that the following classifications shall be, and hereby are, excluded from the collective bargaining unit noted above:

32.1 Programmer IV (s)\*\*  
 35.7 Assistant Central Reproduction Services Supervisor (s)  
 43.7 Accountant IV (Institutions) (s)\*\*  
 53 Securities Agent III (s)\*\*  
 83 Property Manager (k)\*\*  
 84 Relocation Administrator (s & m)\*\*  
 123.3 Research Analyst (c)  
 134.8 Custodial Work Supervisor II (s)  
 208 Cement Mason (k)\*\*  
 372.5 Electrical Utilities Engineer (k)\*\*  
 374 Communications Coordinator (k)\*\*  
 393 Hospital Engineer (s)\*\*  
 399 Toxicologist (k)\*\*  
 400 Chemist (half time) (k)\*\*  
 400.5 Air Pollution Chemist (k)\*\*  
 401 Biochemist (k)\*\*

418.3 Assistant Animal Supervisor (s)\*\*  
 424.4 Parking Service Foreman (s)\*\*  
 424.9 Assistant Botanical Gardens Director (s)\*\*  
 459.7 Assistant Director of Nursing (Psychiatry) (k)\*\*  
 505 Director of Extended Care (k)\*\*  
 508.5 Director of Intake Services (k)\*\*  
 508.7 Catchment Area Director (k)\*\*  
 517.1 Assistant Director of Medical Services (k)\*\*  
 534.6 Assistant Occupational Therapy Supervisor (k)\*\*  
 546.6 Allergy Technologist (k)\*\*  
 554.5 Home Management Supervisor (s)\*\*  
 554.6 Assistant Home Management Supervisor (s)  
 554.9 Food Stamp Program Supervisor (s)  
 569.6 Psychiatric Social Service Director I (s)\*\*  
 570.3 Research Psychologist (k)\*\*  
 708.5 Senior and Youth Program Director (s)  
 730.5 Archery Supervisor (x)\*\*  
 994 Information Officer (Public Works) (s)\*\*

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(c) Confidential  
 (s) Supervisory  
 (m) Managerial  
 (k) Craft or professional  
 (x) Seasonal

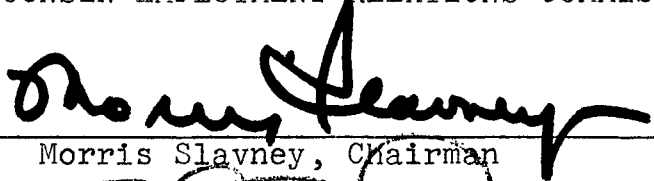
\*Stipulated during the course of the hearing as being properly included in the unit.

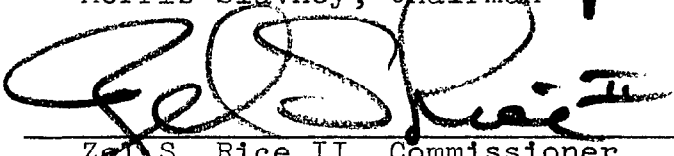
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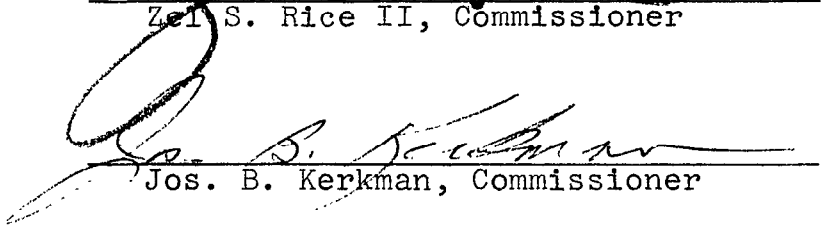
Given under our hands and seal at the City of Madison, Wisconsin, this 17<sup>th</sup> day of February, 1971.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By

  
Morris Slavney, Chairman

  
Zel S. Rice II, Commissioner

  
Jos. B. Kerkman, Commissioner

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

Case XXXIX  
No. 13657 ME-546  
Decision No. 10172

MEMORANDUM ACCOMPANYING ORDER CLARIFYING BARGAINING UNIT

Since 1968, Milwaukee County has created the seventy-four new positions set forth in the accompanying Order Clarifying Bargaining Unit. During the course of the hearing in the matter, the parties were able to resolve the status of all but ten of the new positions. Of the ten positions in dispute, the Employer claimed that nine positions are supervisory, one is confidential, and all ten therefore should be excluded from the bargaining unit. Milwaukee District Council 48 claimed that the positions should be included in the bargaining unit. The ten positions in dispute are as follows:

35.7	Assistant Central Reproduction Services Supervisor
123.3	Research Analyst
134.8	Custodial Work Supervisor II
417.5	Zoo Area Supervisor
418.7	Aquarium Supervisor
419.6	Reptile Supervisor
554.6	Assistant Home Management Supervisor
554.9	Food Stamp Program Supervisor
708.5	Senior and Youth Program Director
708.7	Sports Center Program Director

1. Assistant Central Reproduction Services Supervisor

The job description for this position sets forth its duties as follows:

"Under direction, to assist the Central Reproduction Services Supervisor in supervising the operations of the Central Reproduction Division; to plan, organize, lay out, schedule, and review the work of subordinate employees; to operate and direct the operation of a variety of duplicating and reproducing machines; to instruct and train employees in the operation of such machines; to prepare cost estimates on job orders; to confer with departmental personnel regarding job orders, layout, and requirements; to supervise the preparation of specifications for forms ordered from outside sources; to order supplies and confer with vendors regarding requirements; to schedule the use of equipment in the photographic equipment pool and to maintain such equipment in good operating condition; to maintain records and prepare reports; to assume the duties of the supervisor in his absence; and to perform such other duties as may be assigned."

There are nineteen employees working under the person holding this position and her superior. The Assistant Central Reproduction Services Supervisor assists in the hiring and discipline of employees, and also gives performance rating to employees. She does not operate the duplicating equipment except in special circumstances such as when confidential material is needed. She assists in the training of new personnel, schedules employees and makes arrangements for such things as days off and vacation selection. Because of these supervisory functions, we find that the position of Assistant Central Reproduction Services Supervisor should be excluded from the unit as a supervisor.

## 2. Research Analyst

The Research Analyst in question is employed in the Personnel Division of the Department of Public Welfare. The County claims that the position is confidential.

The job description lists the following work performed and time allocated to each function:

<u>"TIME</u> <u>%</u>	<u>WORK PERFORMED</u>
35	Develop management information systems
5	Prepare staff need forecasts
15	Compile, interpret and report departmental statistics
20	Prepare annual reports and other interpretative reports of the department for public and other governmental agencies
5	Research coordination of projects with staff of universities and governmental agencies
5	Develop and present fiscal data to maximize federal and state reimbursement
10	Coordinate data flow between department and other agencies
5	Prepare proposals designed to enhance community services offered by department."

The Director of Staff Development in the Personnel Division testified that the department relies on the Research Analyst to research projects and make recommendations with respect to the development of programs and staffing patterns for the department. He also testified that with this position,

"The focus has been to establish new program areas and, also, to establish the needs for additional positions and also the allocation of these positions by service programmer. For instance, what should be the components or personnel for the Adoption Section. In other words, what number of case workers are needed to carry out the adoption service."

Because of the Research Analyst's contribution to and participation in the decisions of management with respect to personnel policies as developed by the Personnel Division, this particular position of Research Analyst is confidential and should be excluded from the bargaining unit. In particular, we take note of his assistance to the department in determining the need for new positions, allocating these positions and determining the number of employees needed for functions within the department.

### 3. Custodial Work Supervisor II

The Municipal Employer contends this position is supervisory. There is one person in this classification, and the position description describes his duties as follows:

#### "TIME

#### WORK PERFORMED

Under general direction, to assign and supervise the work of other Custodial Workers and employees in the performance of a variety of semi-skilled tasks in the care and maintenance of buildings, grounds, equipment, fixtures, and facilities.

- 75% Supervise all Custodial Workers in the performance of general cleaning duties; to maintain work schedules and work standards; to estimate, requisition, and distribute supplies and equipment to subordinate employees; to check and report on the condition and need for repairs of buildings and equipment; and such other duties as may be assigned.
- 15% To supervise, orientate, and train new employees; supervise a work program for project workers and to train project workers in janitorial tasks as per developed training program; to assist in layout and follow-up of training program for all interested Custodial Workers under his jurisdiction.
- 10% To effect any needed repairs requiring attention after normal business hours; to maintain records on material, equipment, maintenance and advancement of personnel to report and/or correct any existing abnormalities that may occur."

The Custodial Work Supervisor II is responsible for the second shift of Custodial Workers at the Welfare Center. His superior works only on the first shift. The bulk of the cleaning is done on the second shift, and thirteen to fifteen custodial personnel work under the Custodial Work Supervisor II on the second shift. It was testified without contradiction that the Custodial Work Supervisor II schedules all the personnel as to the areas and kind and type of work they are to perform. His superior testified that the Custodial Work Supervisor II may do substantial amounts of custodial work when they are short-handed, but that at the present time they are fully staffed and about 80% of the time of the Custodial Work Supervisor II is spent on supervisory duties.

Because of the number of men under his supervision, his sole supervisory responsibility for seeing that the cleaning on the second shift is performed satisfactorily, and his other supervisory duties as set forth in the job description, we conclude that the position of Custodial Work Supervisor II is supervisory and should be excluded from the unit.

### 4. Zoo Area Supervisor

There are ten Zoo Area Supervisors, and their duties are described in their position description as follows:

"Under supervision of Director, Assistant Director and Zookeeper IV, are responsible for one of the following buildings or areas: (1) Monkey house and monkey island; (2) Bears, sea lions and North American mammals, (3) Hoofed stock, (4) Elephant house and giraffe house, (5) Lion house, (6) Small mammal building, and (7) Animal hospital. These employees supervise and work with Zookeeper I's assigned to their respective area or building and also supervise the care, feeding and handling of the specimens, are responsible for the cleanliness of exhibit areas, observe and report changes in feeding habits, behavior or physical condition of the animals, order food and supplies for respective buildings or areas, set up breeding programs, maintain animal records, submit reports, relieve other Zookeeper II's on their days off, promote good public relations, and perform such other duties as may be assigned."

The Municipal Employer admits that the Zoo Area Supervisor spends 80 to 85% of his time feeding and cleaning animals. They also maintain records on the animals, and work under close supervision themselves. On the basis of this record it is clear that the Zoo Area Supervisors generally perform unit work rather than supervisory duties, and should be included in the bargaining unit.

5. and 6. Reptile Supervisor; Aquarist

There is one Reptile Supervisor, and his duties are set forth as follows:

"Under direction, to have charge of a zoo reptile collection; to study and recommend techniques, procedures, conditions, and methods of exhibiting reptiles; in conjunction with the aquarium supervisor, to be responsible for the operation, maintenance, sanitation, and security of the reptile and aquarium building; to plan, schedule, assign, and supervise the work of zookeepers engaged in the cleaning, feeding, and care of reptile specimens; to determine the dietary need and to supervise the preparation of food for such specimens; to care for ailing and diseased specimens; to prepare educational material for the exhibits and to conduct tours and give lectures regarding reptiles; to recommend purchase of specimens; in the absence of the aquarium supervisor, to assume full responsibility for the aquatic life in the building; to prepare reports and make recommendations; and to perform such other duties as may be assigned."

There is also one Aquarist, whose duties are described as follows:

"Under general supervision, to have charge of a zoo aquarium housing fresh water fish including tropicals, some salt water fish, and reptiles; to assist in the development of the aquarium; to study and to recommend techniques, procedures, conditions, and methods of exhibiting the fish; to supervise the operation and maintenance of the aquarium; to be responsible for the sanitation and physical condition of the aquarium; to maintain the proper physical and chemical characteristics of the water in the display tanks; to plan, to schedule, to assign, and to direct the cleaning of the tanks and the feeding and care of aquatic specimens; to determine the dietary need and to supervise the preparation of food for such specimens; to care for ailing and diseased specimens; to prepare educational materials for the exhibits, to conduct tours of the aquarium, or to give lectures regarding the aquarium; to recommend purchase of specimens; to prepare reports; to do zoo attendant work in other assigned areas; and to perform such other duties as may be assigned."

The Aquarist and Reptile Supervisors were described in the testimony as "curators." They are responsible for taking care of the animals in their specific sections, doing the necessary research, making up diets of the animals under their supervision, keeping records, etc. The supervision exercised actually is over the reptiles and fish, rather than over persons. It constitutes supervision over an activity. While four Zookeepers work concurrently and interchangeably for the Reptile Supervisor and the Aquarist, their supervision consists only of minor directing and scheduling of work from time to time. The Reptile Supervisor and the Aquarist work under direction and under close supervision themselves. Under these circumstances the positions cannot be considered supervisory as contemplated by Section 111.70, and they are therefore included in the overall bargaining unit.

#### 7. Assistant Home Management Supervisor

The Assistant Home Management Supervisor is located in the Homemaker Service Department at the Welfare Center. The Department also contains the Home Management Supervisor, who is head of the Department, ten Homemakers, thirty-five Homemaker Aides and three clerical personnel. The duties of the Assistant Home Management Supervisor are described as follows:

"Under general direction, to assist in administering the home management service program in the public welfare department; to recruit and interview housekeepers; to assist in scheduling, training, and supervising the work of homemakers, homemaker aides and housekeepers; to assist in developing the conducting an in-service training program; to insure that standards of service are maintained in accordance with department policy; to answer questions of homemakers, homemaker aides, and housekeepers and to assist with problem cases in the field; to consult and confer with public and private agencies; to receive requests for domestic work and babysitting jobs and to refer the names of welfare recipients interested in such jobs; to assume the duties of the home management supervisor in her absence; to maintain records and prepare reports; and to perform such other duties as may be assigned."

It was testified, without contradiction, that the Assistant Home Management Supervisor assigns cases to the Homemakers in the Department who service families receiving welfare; participates in the interviewing and hiring of employees; effectively recommends discipline of employees in the Department; has a heavy responsibility in the training of new employees; supervises the Homemakers in various ways such as making checks in the field to help evaluate employees; and participates in the work of Homemakers only on an emergency basis. Because of these enumerated supervisory duties, we find the Assistant Home Management Supervisor to be a supervisor and therefore excluded from the bargaining unit. Moreover, her exclusion as a supervisor creates a more reasonable ratio of supervisory to nonsupervisory employees, whereas the ratio created by her inclusion would be unreasonable.

#### 8. Food Stamp Program Supervisor

The duties of this position are described as follows:

"Under general direction, to have responsible charge of the federal food stamp program in the public Welfare Department; to direct, supervise, and coordinate certification procedures; to advise and assist caseworkers in interpreting eligibility requirements; to review staff recommendations and make decisions in complex or unusual cases; to direct and supervise the sale of food stamp books; to maintain an adequate inventory of food stamps; to supervise the auditing of certifications and food stamp receipts and sales; to confer with state and federal



officials regarding the food stamp program; to interpret and explain the program to staff personnel, community groups, and the public; to coordinate the food stamp program with other aids; to conduct or participate in staff conferences; to supervise the maintenance of records; to prepare reports; and to perform such other duties as may be assigned."

The food stamp program is a program funded by the federal government whereby eligible employees are permitted to purchase food stamps which increase their purchasing power. The chief administrator of the program is the Food Stamp Program Supervisor. There are eight employees working under the Food Stamp Program Supervisor in two units. The certification unit has responsibility for certifying all of the people who come to the Welfare Department who are not on assistance but who are in need of help, and this unit has three case workers assigned to it. The second unit is the issuance unit, employing three tellers and two clerical personnel. These eight employees are all directly responsible to the Food Stamp Program Supervisor. He makes recommendations in hiring of persons within these classifications, and also has authority to recommend discipline. He assigns and directs the work of the employees. He decides when it is necessary to perform overtime, and what jobs the employees will perform when they do work overtime. He has authority to review and modify the judgment made by case workers in individual cases. It is true that especially in peak periods he sometimes performs work similar to that under his supervision (approximately 20%, according to the testimony), but his supervisory authority and supervisory responsibilities far outweigh this factor and require his exclusion from the bargaining unit.

#### 9. Senior and Youth Program Director

This position is located in the Recreation Division of the Park Commission, and its duties are described in the position description as follows:

"Under general direction, this employee interviews and trains recreation leaders, program instructors, senior citizen personnel and youth center specialized employees who are used in a variety of recreational programs and events.

He is in charge of the senior citizen building as well as the programs which are held for senior citizens at various park locations throughout the county. In cooperation with the recreation staff, he plans and modifies programs and evaluates their effectiveness for further continuation.

He makes budget recommendations for all activities and orders necessary supplies and equipment. He is in charge of all dances, travel events, exhibitions, tournaments and other senior citizen activities and supervises all youth center activities which include parties, dances, games, and tournaments. He supervises the Children's Home summer playground program in connection with Children's Home employees.

He assists in coordinating recreation activities with other departments and municipalities and serves as a speaker for youth and senior citizen groups where information regarding programs is desired.

He performs a variety of other related duties as needed."

The position description also states that the Senior and Youth Program Director supervises the following employees: one Recreation Leader III; one Senior Citizen Program Supervisor; seven Senior Citizen Program Instructors; ten Recreation Leaders I; and seven Recreation Leaders II.

We conclude that this position is supervisory. This position has complete responsibility for the operation of both the Senior-Citizen Program and the Youth Program at many locations throughout the County involving about forty full-time, part-time and seasonal employees at various times throughout the year. The Senior and Youth Program Director assigns employees to the various locations, and assigns and schedules work of employees at their locations. He effectively recommends discharge, and it was testified that he has made such recommendations in the past. He is also responsible for the supervision of several recreational and clerical employees at the building used as headquarters for the programs.

#### 10. Sports Center Program Director

The duties of the Sports Center Program Director include the following:

"Under general direction, to plan, organize, promote, and supervise the recreational program at the Wilson Park complex; to develop and prepare schedules of activity events for the sports center; to organize, schedule, and direct recreational and organized sports programs including ice skating, figure skating, hockey, roller skating, swimming, and water polo; to cooperate with groups, schools, and organizations in developing active recreational use of the facilities for hockey games, swimming meets, dances, and similar events; to guide and direct recreational workers in promoting and conducting recreational programs and activities; to study neighborhood and community recreational needs and to recommend plans for meeting them; to supervise the maintenance of records and the preparation of reports; and to perform such other duties as may be assigned."

The Sports Center Program Director works in the Wilson Park sports complex, a large year-round sports center currently under construction. At the time of hearing it included an indoor ice rink, and when completed it will contain an Olympic-sized swimming pool, a bicycle racing track, toboggan slides, tennis courts and the like. The person holding the position of Sports Center Program Director is in charge of the recreation program and the use of the building by various individuals and groups. About six employees are assigned to the building for the maintenance and operation of the building, but the Sports Center Program Director does not supervise these persons. The only person presently working under his direction is one clerk-stenographer.

In view of the limited supervisory tasks of the Sports Center Program Director, involving only one clerk-stenographer, we conclude

that he is not at the present time a supervisor and should be included in the bargaining unit. The Municipal Employer contends that his supervisory duties will increase as the various facilities are completed and more employes are hired; but if in fact the duties of the position should change, the Employer is not precluded from seeking a further determination of the employe's status.

Dated at Madison, Wisconsin, this 17<sup>th</sup> day of February, 1971.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By Thomas Slavney  
Morris Slavney, Chairman

Zel S. Rice II  
Zel S. Rice II, Commissioner

Jos. B. Kerkman  
Jos. B. Kerkman, Commissioner