

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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In the Matter of the Petition of

**ONEIDA COUNTY**

Involving Certain Employees of

**ONEIDA COUNTY**

Case 52  
No. 55822  
ME-921

**Decision No. 24844-G**

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Appearances:

**Mr. Thomas W. Bahr**, Business Agent, Wisconsin Professional Police Association/LEER Division, 9730 West Bluemound Road, Suite 21, Wauwatosa, Wisconsin 53226, appearing on behalf of the Wisconsin Professional Police Association/LEER Division.

**Mr. Carey L. Jackson**, Personnel Director, Oneida County, Oneida County Courthouse, P.O. Box 400, Rhineland, Wisconsin 54501-0400, appearing on behalf of Oneida County.

**FINDINGS OF FACT, CONCLUSIONS OF LAW  
AND ORDER CLARIFYING BARGAINING UNIT**

On October 29, 1997, Oneida County filed a Petition to Clarify Bargaining Unit with the Wisconsin Employment Relations Commission by which it sought the removal from an existing bargaining unit of the Assistant Solid Waste Administrator due to the incumbent's purported status as a supervisor. The bargaining unit's exclusive representative, Wisconsin Professional Police Association/LEER Division, opposed the petition. Hearing in the matter was held in Rhineland, Wisconsin, on February 4, 1998, before Hearing Examiner Stuart Levitan, a member of the Commission's staff. During the hearing, the County argued the Administrator was not only a supervisor, but also a managerial employee. A stenographic transcript of the hearing was available to the parties by February 24, 1998. The parties submitted written arguments and waived the filing of reply briefs on April 14, 1998.

The Commission, being fully advised in the premises, now makes and issues the following

**FINDINGS OF FACT**

1. Oneida County, herein the County, is a municipal employer with offices at 1 Oneida Street, Rhinelander, Wisconsin.

2. Wisconsin Professional Police Association/LEER Division, herein the Association, is a labor organization with offices at 9730 West Bluemound Road, Wauwatosa, Wisconsin.

3. At all times material, a collective bargaining agreement between the County and the Association identified the Association as the exclusive bargaining representative "for all regular full-time and regular part-time employees of the Oneida County Courthouse covered by this Agreement, but excluding all elected personnel, supervisory personnel, confidential personnel and managerial personnel, as defined by the Act."

4. Among the enterprises the County manages is a solid waste landfill, which it has operated as a separate department since 1994. Since March, 1993, Bart Sexton has been the Solid Waste Administrator. The adopted 1998 budget for the facility is \$1.9 million.

As of the date of hearing, the staffing composition at the landfill consisted of the Administrator, the Assistant Administrator, two Landfill Systems Technicians, a Scale Operator at 75% of a full-time position, an employee of the Highway Department assigned as the compactor operator, a 45% of full-time Recycling Assistant and three limited term employees. A proposal pending before the County Board at time of hearing would have increased the Scale Operator to full time and added a full-time Reclamation Technician position, while retaining the other positions.

5. Prior to 1994, the County operated the facility primarily as a sanitary landfill, administratively part of the Planning and Zoning Department. As of June, 1993, the County employed Heather Stein as the Landfill Account Technician, with a Position Classification Description that included a Job Summary as follows:

This position serves as the primary accounting, clerical and landfill related support to the Solid Waste Administrator. Duties include second in charge, scale operation, maintaining accounting records, working with the public and clerical support.

The position called for a high school degree, "two year post High School Degree in Accounting or related field," and one year accounting or secretarial experience. In order of time devoted, the essential job functions were as follows:

Performs scale operations including weighing vehicles, directing customers, printing invoices, making change and printing daily reports

Answers phone calls, provides public with information on recycling, hours and solid waste concerns

Posts invoices, maintains accounts payable, prepares/tracks vouchers and cover letters; tracks phone line item/project balances; prepares line item transfers

Prepares, mails, records and reconciles monthly accounts receivables for charge customers

Provides clerical assistance primarily as recording secretary for Committee meetings

Monitors recycling bins, checks loads for hazardous wastes, recyclables and proper cover

Educates and assists other landfill employees with computer hardware and software

Oversees and records employee health notes and exposures to hazardous waste and/or materials

Prepares quarterly DNR groundwater monitoring Turn Around Documents

Assists in monitoring of leachate levels and coordination of leachate hauling

Prepares monthly and annual summary reports of account activity, waste types, sources and tonnages

Assists Solid Waste Administrator in Public Education

Acting back-up for gas extraction and leachate collection systems

Assists Solid Waste Administrator in preparation of annual budget

Any other duty as assigned.

Under the heading of "Knowledge, Skills and Abilities," the Position Classification Description included the following:

Knowledge of and ability to apply accounting principles and procedures

Ability to use computer equipment including hardware and software

Ability to direct the work of other landfill workers

Ability to communicate both orally and in writing

Ability to maintain accurate and complete records and prepare records  
Ability to type and use a 10 key calculator.

6. In September, 1997, shortly before the County filed the petition in this proceeding, it recreated Stein's position as Assistant Solid Waste Administrator, with the following Job Description:

## ONEIDA COUNTY

### Job Description

**Job Title:** Assistant Solid Waste Administrator  
**Department:** Solid Waste  
**Reports To:** Solid Waste Administrator  
**FLSA Status:** Nonexempt  
**Prepared By:** Bart Sexton, Solid Waste Administrator  
**Prepared Date:** September 30, 1997  
**Approved By:** Carey Jackson, Personnel Director  
**Approved Date:** September 30, 1997

**SUMMARY** Under the general supervision of the Solid Waste Administrator, this position is second in command of the department and performs a variety of supervisory, accounting, training and solid waste operation duties.

**ESSENTIAL DUTIES AND RESPONSIBILITIES** include the following.  
Other duties may be assigned.

Performs all the duties of the Solid Waste Administrator in the Administrator's absence including managing the operation of the sanitary landfill, demolition landfill, burn pad, yard waste compost sites, source separated organic composting sites, and hazardous waste collections; prepares citations for violations of the County Solid Waste Ordinance.

Posts invoices, maintains account payable, prepares/tracks vouchers and cover letters; tracks line item/project balances; prepares line item transfers; prepares monthly and annual summary reports of account activity, waste types sources and tonnages.

Prepares, mails, records and reconciles monthly accounts receivable for charge and scale customers; collects overdrawn checks and nonpayment on credit accounts; reviews credit applications.

Acts as back-up to Scale Operator including weighing vehicles, directing customers, printing invoices, making change and printing and reviewing daily reports, monitors recycling bins, demolition landfill, checks waste loads for hazardous waste loads, recyclables and cover; answers phone calls.

Acts as recording secretary for Committee meetings.

Tracks recycling, waste reduction, hazardous waste and recycling Market Development Board grant expenditures of the County and member municipalities.

Assists the Administrator with the County hazardous waste collection program, in the preparation of the annual budget, in public education on waste reduction and alternative waste disposal options.

Oversees and records employee health notes and exposures to hazardous waste and/or materials.

Oversees preparation of Wisconsin DNR ground water monitoring Turn Around Documents (TADS).

Administers the County Sharps collection program.

**SUPERVISORY RESPONSIBILITIES** Supervises and coordinates activities of workers engaged in calculating, posting and verifying duties to obtain and record financial data for use in maintaining accounting and statistical records as well as the general operation of the landfill in the absence of the Solid Waste Administrator.

Compiles composite reports from individual reports of subordinates required by management or government agencies.

Determines work procedures, prepares work schedules, and expedites workflow.

Issues written and oral instruction.

Assigns duties and examines work for exactness, neatness, and conformance to policies and procedures.

Studies and standardizes procedures to improve efficiency of subordinates.

Maintains harmony among workers and resolves grievances.

Adjusts errors and complaints.

Trains new employees in departmental operations, procedures, rules, regulations and computer operations.

**QUALIFICATIONS** To perform this job successfully, an individual must be able to perform each essential duty satisfactorily. The requirements listed below are representative of the knowledge, skill, and/or ability required. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.

Ability to use computer equipment, software and accessories.

Ability to direct the work of subordinates.

Ability to maintain accurate and complete records and to prepare reports.

Ability to type (45wpm) and use a 10 key calculator.

**EDUCATION and/or EXPERIENCE**

High School degree or equivalent

Two year post High School Degree in Accounting or related field.

One year accounting experience.

One year supervisory experience.

**LANGUAGE SKILLS**

Ability to communicate both orally and in writing.

Fluent in English.

**MATHEMATICAL SKILLS**

Knowledge of and ability to apply accounting principles and procedures.

Good math skills.

**REASONING ABILITY**

Ability to evaluate situations and make good independent decisions based on County policy, practices, rules and/or procedures.

**CERTIFICATES, LICENSES, REGISTRATIONS**

License under NR 524 as a Facility Manager, Comprehensive Division.

**PHYSICAL DEMANDS** The physical demands described here are representative of those that must be met by an employee to successfully perform the essential functions of this job. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.

Ability to move around a Landfill Site including climbing, bending, twisting and walking.

**WORK ENVIRONMENT** The work environment characteristics described here are representative of those an employee encounters while performing the essential functions of this job. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.

Work is performed on a refuse and soil site. Outdoor work is subject to all the conditions found in northern Wisconsin (rain, snow, sun and wind). In addition, Landfill operations are inherently messy and odorous. Indoor facility is subject to fluctuations in temperature due to opening and closing of doors.

7. As the Assistant Solid Waste Administrator, Stein is at Pay Grade Level 7 on a 12-level scale, with such other Grade 7 positions as Assistant Property Lister, Computer Technician I, Deputy Register of Deeds II, Deputy Treasurer, Social Service Aide, Secretary III, Forestry Worker and Deputy Treasurer. Sexton is the only Department employee paid at a higher rate than Stein. In the 1995-1997 collective bargaining agreement, the 1997 pay level for Grade 7 employees ranged from \$9.80 per hour to start to \$11.268 after five years. The other Solid Waste employees whose wages are identified in the 1995-97 collective bargaining agreement are Systems Technician (Grade 5) and Assistant System Technician (Grade 3). The collective bargaining agreement does not reflect the change of the position to Assistant Solid Waste Administrator, or any related changes in hours, wages or conditions of employment. Stein and Sexton both satisfy the Department of Natural Resources certification as a Facility Manager for a comprehensive division. Sexton is not present at the landfill site approximately 40% of the time, under which circumstances Stein is in operational control.

8. Stein determines the work procedure and prepares the work schedule for the Scale Operator, and has the authority to reassign employees from their assigned jobs to other tasks. Pursuant to standard policy, she has authority to direct the Highway Department employee/compactor operator to report early to prepare the site for deliveries of asbestos, which reporting entitles the operator to overtime. Stein has the authority to release employees for lack of work. Stein has the authority, which she has exercised, to approve or deny sick leave, compensatory time or other paid time off, and can authorize overtime in Sexton's absence. Stein can grant or deny vacation leave for a period of one or two days; requests for leaves of longer duration go to Sexton. On one occasion, Stein recommended to Sexton the allocation of overtime in one way, but Sexton rejected that recommendation and allocated overtime in a contrary manner. Stein's authority to grant or deny paid time off does not extend to the Highway Department employee assigned to the landfill, whose leaves are regulated by a separate collective bargaining agreement.

Stein oversees such training programs as for the handling of hazardous materials, confined space entry and first aid/CPR.

The collective bargaining agreement provides that grievances are to be submitted in writing to the department head, Sexton. This bargaining unit has filed no grievances.

Stein is responsible for collecting certain reports from landfill technicians and submitting them to state regulators; if she were unsuccessful in getting a technician to complete the report in a timely manner, she would ultimately ask Sexton for assistance. Stein has independent authority to impose discipline up to a verbal reprimand. Stein once made a recommendation that a particular limited term employe be terminated for poor performance. Sexton elected to give the employe another chance, and engaged in some verbal counseling. Within a week or two later, Sexton discovered the employe sunning himself on top of the landfill, and terminated him. Stein did terminate some temporary workers from an outside agency, and inform the agency that the County would not pay because the workers performed no work.

9. The County has hired three Scale Operators, a Landfill System Technician and a Recycling Assistant during Stein's tenure. Stein's primary role was in developing job descriptions; she did not participate in any recruitment interviews. During the hire for one of the scale operator, Stein was on maternity leave. For the other two scale operator positions, there was initially an internal posting pursuant to the collective bargaining agreement. On one hire, there were no internal bidders, so the position was publicly advertised; Stein did not participate in the resulting interviews. For the second position, an offer was accepted pursuant to the posting procedure. For the Systems Technician position, there was an unsuccessful internal union posting, outside advertisement, screenings by the Personnel Department and an interview featuring Sexton and a current Systems Technician, a member of the bargaining unit. Sexton made the decision on who to hire. For the recycling position, the incumbent at the time the position was converted from an LTE to a permanent part-time position accepted the new position.

The County uses a Performance Appraisal and Progress Analysis Guide, which includes signature lines for Supervisor and Appraiser's Supervisor. Stein completed the performance evaluation for the scale operator, and submitted it to the Personnel Department without involvement of Stein. The County uses the performance evaluation process to assess employe performance and communicate the information to the employe; the evaluation is not used in considering promotions.

10. Sexton and Stein have authority to make recommendations to their oversight committee regarding transfer of funds between line items in an adopted budget to make recommendations to their oversight committee. Stein has authority to make unbudgeted expenditures to address emergency situations, such as a leachate seep. Stein administers the landfill's operating budget and maintains its accounting system, and has authorized modest expenditures for such things as office remodeling and equipment.



In conjunction with Sexton, Stein effectively recommended creating a part time scale operator position, and effectively recommended the eventual increase of the position to full-time. In conjunction with Sexton, Stein effectively recommended increasing the hours of an LTE recycling assistant position. Stein has exercised the authority to resolve disputes with landfill customers over minor amounts, including banning certain customers. Stein has formulated procedures for scale operations. The primary administrative work area for the landfill is a trailer; Sexton and Stein are the only two full-time employees who routinely work there. Stein can call in additional Highway Department employees to perform such tasks as snow plowing, maintenance of biopiles and handling compost piles. This involves extra charges for the landfill.

11. The Assistant Solid Waste Administrator does not possess supervisory authority in sufficient combination and degree to be deemed a supervisor.

12. The Assistant Solid Waste Administrator does not have sufficient participation in the formulation, determination and implementation of management policy or sufficient authority to commit the County's resources to be deemed a managerial employee.

On the basis of the above and foregoing Findings of Fact, the Commission hereby makes issues the following

### **CONCLUSION OF LAW**

The Assistant Solid Waste Administrator is not a supervisor within the meaning of Sec. 111.70(1)(o)1, Stats., or a managerial employee within the meaning of Sec. 111.70(1)(i), Stats., and therefore is a municipal employe within the meaning of Sec. 111.70(1)(i), Stats.

On the basis of the above and foregoing Findings of Fact and Conclusion of Law, the Commission hereby makes and issues the following

**ORDER**

The Assistant Solid Waste Administrator shall continue to be included in the collective bargaining agreement referenced in Finding of Fact 3.

Given under our hands and seal at the City of Madison, Wisconsin this 26<sup>th</sup> day of June, 1998.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

James R. Meier /s/

James R. Meier, Chairperson

A. Henry Hempe /s/

A. Henry Hempe, Commissioner

Paul A. Hahn /s/

Paul A. Hahn, Commissioner

**ONEIDA COUNTY**

**MEMORANDUM ACCOMPANYING FINDINGS OF FACT,  
CONCLUSION OF LAW AND ORDER CLARIFYING BARGAINING UNIT**

**POSITIONS OF THE PARTIES**

**The County**

In support of its position that the Assistant Solid Waste Administrator should be excluded from the bargaining unit on the grounds that she is a supervisor and/or a managerial employe, the County asserts the incumbent has effectively recommended promotions for landfill employes, including the creation of the Recycling Assistant, the creation of the part-time position of Scale Operator and that the Scale Operator be made full-time. The incumbent has the authority to discipline employes, which authority she has exercised by removing temporary employes, and which authority she is empowered to use in situations involving safety or danger.

The incumbent's authority to direct and assign the work force is shown by her daily direction of the work of the Scale Operator; her frequent reassignment of the compact operator; her authority to determine when work is completed and send employes home; her direction of the work of the Landfill Systems Technicians and limited term employes, and her authority to approve or deny employe use of paid time off, sick leave or compensatory time.

During the Administrator's absence from the landfill, which is approximately 40% of the time, the Assistant supervises nine employes, including the Highway Department equipment operator, 2 two Landfill Systems Technicians, the Scale Operator, Reclamation Technician, Recycling Assistant, Recycling/Compost Assistant LTE, enforcement LTE and laborer LTE. That the Assistant is the second-highest paid employe at the landfill, behind only the Administrator, is primarily due to her supervisory responsibilities.

The incumbent's supervisory status is further shown by the facts that her performance evaluation is the only one that the Administrator performs, and that she conducts the performance evaluation for the Scale Operator.

That the incumbent is also a managerial employe is shown by her authority to authorize overtime; to manage the program for tracking and collecting needles; to set policy for the scale operation section; and to establish and manage training programs as she determines are necessary.

Her authority to approve expenditures out of the various budget line items is shown by the current remodeling project and such other line-item transfers for several contractual services.

The incumbent represents the Department in the absence of the Administrator, providing input which affects the direction of the entity's operations, thus making her a managerial employe.

Accordingly, the Assistant Solid Waste Administrator should be excluded from the bargaining unit as a supervisor and/or managerial employe.

### **The Association**

In support of its position that the Assistant Solid Waste Administrator is a municipal employe, the Association contends the subject position does not have the authority to effectively recommend the hiring, promotion, transfer, discipline or discharge of employes. Neither the prior nor the revised position descriptions for the position indicate any duties or responsibilities in any portion of the hiring process, and the incumbent has neither hired any employes nor participated in any prospective employe's interviews. The incumbent's only involvement in the hiring of employes was the preparation of the job descriptions.

While the Assistant Solid Waste Administrator has evaluated at least one employe, the evaluations have no bearing on promotions, and the incumbent has no effective role in the promotion of departmental employes.

While the Assistant Solid Waste Administrator believes she has the authority to impose discipline on her own, she has no role in the discipline or discharge of employes. The temporary employes who the incumbent terminated were not County employes but were employes of a temporary help agency. Moreover, when the incumbent recommended the termination of a County limited term employe, the employe was not terminated for two to three weeks after such recommendation, and then only after the Administrator himself counseled the worker and subsequently observed him sunning himself rather than working.

The incumbent lacks sufficient authority to direct and assign the workforce to warrant exclusion from the bargaining unit. Her testimony as to her ability to approve or deny all requests for use of benefit days is in direct conflict with the testimony of the Administrator, who testified such approval is conditional on there being short notice for the request. The incumbent lacks the authority to direct or even compel other employes to submit necessary reports. One full-time employe at the solid waste site is a member of the Oneida County Highway Department, working under the terms of a different collective bargaining agreement. When this employe is unavailable, the incumbent does not have the authority to direct other employes to perform the requisite duties, but must request assistance from the Highway Department.

Based on the department organization in force at the time of hearing, the incumbent performs the functions of a lead worker for three full-time employes and an equivalent of 1.2 part-time employes. Exclusion of this position from the unit on the grounds of supervisory status would result in one supervisor for every two employes.

The incumbent's pay is comparable to that of other bargaining unit members, and also reflects her duties in accounts payable and receivable as well as her education level. There was no testimony supporting the notion that the incumbent actually supervises any employees, as opposed to being primarily engaged in the performance of work.

Nor does the incumbent exercise the degree and kind of independent judgment sufficient to support exclusion from the unit. While the Administrator may rely on the Assistant for recommendations in the areas of limited term employees, funding, billing or submission of reports, the Assistant's exercise of judgment is limited to recommending a plan, not unilaterally acting without prior approval.

Accordingly, the Commission should find the Assistant to be a municipal employee and deny the County's petition.

### **DISCUSSION**

The County contends that the Assistant should be removed from the collective bargaining unit on the grounds that she is a supervisor and/or a managerial employee.

Section 111.70(1)(o)1, Stats. defines a "supervisor" in pertinent part as:

. . .any individual who has authority, in the interest of the municipal employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward or discipline other employees, or to adjust their grievances or effectively to recommend such action, if in connection with the foregoing the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

When evaluating a claim of supervisory status under Sec. 111.70(1)(o)1, Stats., we consider the following factors:

1. The authority to effectively recommend the hiring, promotion, transfer, discipline or discharge of employees;
2. The authority to direct and assign the work force;
3. The number of employees supervised, and the number of persons exercising greater, similar or lesser authority over the same employees;
4. The level of pay, including an evaluation of whether the supervisor is paid for his/her skills or for his/her supervision of employees;

5. Whether the supervisor is supervising an activity or is primarily supervising employees;

6. Whether the supervisor is a working supervisor or whether he spends a substantial majority of his time supervising employees; and

7. The amount of independent judgement exercised in the supervision of employees. CHIPPEWA COUNTY, DEC. NO. 10497-A (WERC, 8/97).

Not all of the above-quoted factors need to reflect supervisory status for us to find an individual to be a supervisor. Our task is to determine whether the factors are present in sufficient combination and degree to warrant finding an employee to be a supervisor. WALWORTH COUNTY, DEC. NO. 29378 (WERC, 5/98).

Stein's authority on the first point is limited. During her tenure and availability, there have been at least two hires which involved interviewing applicants; Stein did not participate. Her authority to impose discipline is limited to verbal reprimands. The record regarding her involvement in a discharge does not support a finding that she can effectively recommend significant discipline in that Sexton waited, by his testimony two or three weeks, before terminating an employee whom Stein had previously recommended be fired – and then made that decision only after he, Sexton, saw the employee sunning himself while on duty. Stein's role in terminating temporary workers who were employees of an outside agency is also of no import in determining supervisory status. It is "a basic premise," reflected in both statute and Commission case law, that "supervisory status cannot be found through the supervision of non-employees." JACKSON COUNTY, DEC. NO. 17828-E (WERC, 3/91). As noted above, Sec. 111.70(1)(o)1., Stats., defines a "supervisor" in the context of authority over "other employees." The employee of an outside agency or contractor, by definition, is not an employee of the municipal employer.

The evaluation which Stein completed of another employee was not a factor in any possible promotion for that other employee.

Stein does have, and has exercised, considerable authority to direct and assign the work force, including assigning specific tasks and directing a change in normal hours. She exercises independent judgment when directing the work. However, direction of the work force does not constitute much of her work time.

Only Sexton has greater authority than Stein over the work force.

Stein is paid at a level higher than all other landfill employees other than Sexton, but at a level which is in the mainstream for several other non-supervisory employees covered by the collective bargaining agreement. Given her accounting responsibilities and her education level, and given that the revision of the position from Landfill Account Technician to Assistant Solid Waste Administrator was not accompanied by a proposal to increase her pay, we conclude her pay rate primarily reflects her accounting responsibilities and skills.

Reviewing the foregoing, we conclude that the Assistant does not possess supervisory responsibilities in sufficient combination and degree to be found a supervisor. While she exercises substantial authority in the direction of the land fill work force, the absence of any significant hiring or disciplinary authority persuades us that she is not a supervisor.

### **Managerial**

The Legislature has excluded "managerial employees" from the definition of "municipal employees" found in Sec. 111.70(1)(i), Stats., but has left the Commission to develop the parameters of the exclusion.

There are two analytical paths to assess claimed managerial status. One considers the degree to which individuals participate in the formulation, determination and implementation of management policy; the other considers the extent to which the individuals possess the authority to commit the employer's resources. MILWAUKEE V. WERC, 71 WIS. 2D 709 (1976); EAU CLAIRE COUNTY V. WERC, 122 WIS. 2D 363 (1984); KEWAUNEE COUNTY V. WERC, 141 WIS. 2D 347 (1987).

For an individual to assume managerial status based on participation in program and policy, such involvement must be "at a relatively high level of responsibility." VILLAGE OF JACKSON, DEC. NO. 25098 (WERC, 1/88); PORTAGE COUNTY, DEC. NO. 6478-C (WERC, 10/87); DOOR COUNTY (COURTHOUSE), DEC. NO. 24016-B (WERC, 8/88). Managerial status based on allocation of the employer's resources necessarily entails significantly affecting the nature and direction of the employer's operations, such as the kind and level of services to be provided, or the kind and number of employees to be used in providing services. VILLAGE OF JACKSON, supra; FOREST COUNTY, DEC. NO. 17528-B (WERC, 6/85); JACKSON COUNTY, DEC. NO. 17828-B (WERC, 10/86); CITY OF WHITEWATER, DEC. NO. 24354 (WERC, 3/87).

The record reflects that Stein plays an important role in determining how the landfill operates. For instance, she participated to a significant degree in the decision to recommend that the number and allocation of employees at the landfill be increased and modified. Stein also has limited authority to spend the County's money. However, as a general matter, we are persuaded that Stein's initiatives and authority are the result of close consultation with and ultimate approval by Sexton, the Administrator. On this record, we are persuaded that Sexton's involvement in policy and resource matters is too significant to warrant a conclusion that Stein is a managerial employee.

Given all of the foregoing, we conclude that Stein is a municipal employe who should continue to be included in the bargaining unit.

Dated at the City of Madison, Wisconsin this 26<sup>th</sup> day of June, 1998.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

James R. Meier /s/

James R. Meier, Chairperson

A. Henry Hempe /s/

A. Henry Hempe, Commissioner

Paul A. Hahn /s/

Paul A. Hahn, Commissioner



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