

STATE OF WISCONSIN  
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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In the Matter of the Petition of  
**WISCONSIN COUNCIL 40, AFSCME, AFL-CIO**  
Involving Certain Employees of  
**WOOD COUNTY**

Case 122  
No. 51353  
ME-3422

**Decision No. 28172-B**

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Appearances:

**Mr. Gerald D. Ugland**, Staff Representative, Wisconsin Council 40, AFSCME, AFL-CIO, P.O. Box 44, Stevens Point, WI 54481-0044, appearing on behalf of Wood County Park and Forestry Employees, Local 344, AFSCME, AFL-CIO.

Ruder, Ware & Michler, S.C., by **Attorney Dean R. Dietrich**, 500 Third Street, P.O. Box 8050, Wausau, WI 54402-8050, appearing on behalf of Wood County.

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

Wisconsin Council 40, American Federation of State, County and Municipal Employees, AFL-CIO, having on March 20, 2000, filed a petition requesting that the Wisconsin Employment Relations Commission, hereinafter the Commission, determine whether the Construction and Special Projects Coordinator (Supervisor-Parks Construction) should included in the existing collective bargaining unit of Wood County employees represented by Wood County Park and Forestry Employees, Local 344, AFSCME, AFL-CIO. Contrary to Local 344, Wood County maintains the Supervisor-Parks Construction is both a supervisor and a managerial employee within the meaning of the Municipal Employment Relations Act and, therefore, should continue to be excluded from the unit.

Dec. No. 28172-B

Hearing was held on October 30, 2000, and November 8, 2000, in Wisconsin Rapids, Wisconsin, before Examiner Stephen G. Bohrer, a member of the Commission's staff. Wood County filed a post-hearing brief on February 12, 2001. The Union elected not to file a post-hearing brief.

Having reviewed the record and being fully advised in the premises, the Commission makes the following

### **FINDINGS OF FACT**

1. Wood County Park and Forestry Employees, Local 344, AFSCME, AFL-CIO, hereinafter the Union, is a labor organization having its principal offices c/o Gerald D. Ugland, Staff Representative, Wisconsin Council 40, AFSCME, AFL-CIO, P.O. Box 44, Stevens Point, Wisconsin 54481-0044.

2. Wood County, hereinafter the County, is a municipal employer having its principal offices at Wood County Courthouse, 400 Market Street, Wisconsin Rapids, Wisconsin 54495-8095.

3. As described in the parties' January 1, 1998, through December 31, 2000 collective bargaining agreement, the Union is the exclusive bargaining representative of a bargaining unit described as follows:

. . . all regular full-time and regular part-time employees of the Wood County Park and Forestry Department, including the Maintenance Lead Worker, Maintenance Worker, Equipment Maintenance/Repair Technician, and Campranger positions, but excluding the Parks and Forestry Administrator, Maintenance Supervisor, Construction and Special Projects Coordinator, office clerical personnel, and temporary and seasonal employees.

The unit description specifically excludes the Construction and Special Project Coordinator which is the former title of the Supervisor-Parks Construction.

4. The County operates a joint Parks and Forestry Department which maintains the County's parks and forests. The Parks Department is comprised of a Park Administrator, a Secretary/Bookkeeper, a part-time Clerk Typist, a Supervisor-Parks Maintenance (previously named Maintenance Supervisor), a Supervisor-Parks Construction (previously named Construction and Special Projects Coordinator), an Equipment Maintenance/Repair Technician, three Lead Maintenance Workers (sometimes referred to as Park Managers), three Maintenance Workers, and about fourteen seasonal employees. The fourteen seasonal employees consist of three Campkeepers (sometimes referred to as Camprangers), nine Summer Caretakers, and two Ski Patrol. The Supervisor-Parks Maintenance and Supervisor-Parks Construction titles became effective following the execution of the 1998-2000 agreement in April of 1998.

In addition to the maintenance and upkeep of the County parks, the Department also operates a weekend winter sports area called Powers Bluff where there are tow lines for public downhill skiing and snow tubing. Powers Bluff typically operates eight to sixteen continuous weekends, depending upon the winter weather conditions.

The Department's main office and shop is located at the County Courthouse. There are three outstationed shops each located within a County park. The Park Administrator and Supervisor-Parks Maintenance positions are based at the Courthouse. There is a Lead Maintenance Worker and a Maintenance Worker, as a pair, based at each of the three outstationed shop locations. The incumbent Supervisor-Parks Construction and the Equipment Maintenance/Repair Technician are based at the shop at North Park.

5. Ron Arendt has held the position of Park Administrator since 1986. Reporting to Arendt are the Secretary/Bookkeeper, the part-time Clerk Typist, Supervisor-Parks Maintenance Larry Francis, and Supervisor-Parks Construction Don Pelot.

Francis is generally responsible for the maintenance of the parks. Reporting to Francis are the three Lead Maintenance Workers, the three Maintenance Workers, and the fourteen seasonal employees.

Don Pelot has been the Supervisor-Parks Construction for at least four years, has worked in the Department for twenty years, and is generally responsible for construction projects throughout the County parks. These projects include plumbing, electrical wiring, some carpentry work, landscaping, sign building and the erection of park buildings and shelters. These projects range in size from those completed only by Pelot to large projects utilizing up to six unit employees and costing hundreds of thousands of dollars. The frequency of projects where Pelot utilizes the six employees is about once every two or three years. The large projects take as much as a month to complete.

Although Pelot is based at North Park, unlike other employees based at outstations, his work is spread throughout the County's parks, dependent upon the project involved.

On winter weekends at Powers Bluff, Pelot and Francis are alternately in charge of a four to five person work crew. During his scheduled weekends, Pelot is responsible for the overall operation of the tow lines, placing straw in the outrun shoots to slow people down, road snow removal, road salting and sanding, cleaning and maintaining the bathrooms and shelters, and operating the fireplace areas.

One person formally reports to Pelot, the Equipment Maintenance/Repair Technician, Allan Zieher. Zieher has held this position since May of 1996 and is generally responsible for the maintenance and repair of the Department's mechanical equipment, including vehicles and small engines. Soon after Zieher was hired, Pelot informed him that he expected Zieher to take the initiative when performing his work. When Zieher was first hired, Zieher sought out

Pelot for decisions to subcontract out certain repairs. However, most decisions to subcontract out repairs are now done by Zieher. Zieher primarily works alone at the shop where Zieher is based and may not see Pelot for a month at a time, depending upon the location where Pelot is working. Zieher orders his own supplies and typically does not seek approval. Each fall, Pelot and Zieher sit down together and schedule the winter maintenance of equipment. Zieher does not work at Powers Bluff. Zieher has been the Union Steward for the past three years.

During the construction season, employees who normally report to Francis temporarily report to Pelot when needed for construction projects. Normally, these employees are the six outstationed staff. For example, when Dexter Park needed a retaining wall built, a Lead Maintenance Worker and a Maintenance Worker reported to work each day and worked under Pelot's direction. Pelot would direct where employees would pick up and drop off materials, would oversee the entire project, and would be responsible for getting the materials and equipment on site. Pelot would often instruct employees on the proper methods and techniques of skilled labor. If a Lead Maintenance Worker or a Maintenance Worker was known to have particular skills which Pelot deemed helpful to the project, Pelot would request the use of that employee from the Supervisor-Parks Maintenance. Such requests were generally honored. For most projects, Pelot has utilized the Lead Maintenance Worker and the Maintenance Worker who are based at the park in which a project is being done.

When Park Administrator Arendt is absent, the Parks Department's employees report to Supervisor-Parks Maintenance Francis. When both Arendt and Francis are absent, the Department's employees report to Pelot. This occurs approximately once per year.

6. Pelot's Position Description, dated March, 1997, states, *inter alia*, the following:

#### **Purpose of Position**

The purpose of this position is to plan, implement and supervise buildings, equipment and grounds construction and repair work. The work is performed under the direction of the Parks Administrator.

#### **Essential Duties and Responsibilities**

**The following duties are normal for this position. These are not to be construed as exclusive or all-inclusive. Other duties may be required and assigned.**

- Prioritizes, assigns and supervises construction, maintenance and repair of department buildings, equipment and facilities. Schedules building and equipment maintenance.

- Plans projects. Determines equipment, supplies, materials and labor needs.
- Supervises and performs construction, repair and maintenance work to buildings, building systems, equipment and facilities. Provides assistance to subordinate workers and instructs workers in tool use and techniques.
- Participates in hiring construction/maintenance employees. Recommends employee discipline, promotion and discharge. Evaluates work performance of subordinates.
- Prepares construction and maintenance reports. Completes time and material sheets, cost estimates, building maintenance reports, vehicle reports.
- Inspects buildings, equipment and facilities and recommends repairs and replacement.
- Attends department and other meetings as required.
- Supervises Powers Bluff Winter Recreation Area operation as required.

. . .

### **Language Ability and Interpersonal Communication**

Ability to analyze and categorize data and information in order to determine the relationship of the data with reference to established criteria/standards. Ability to compare, count, differentiate, measure, assemble, copy and record and transcribe data and information. Ability to classify, compute and tabulate data.

Ability to counsel, mediate and/or provide first line supervision. Ability to persuade, convince, and train others. Ability to advise and provide interpretation regarding the application of policies, procedures and standards to specific situations.

Ability to utilize a variety of advisory data and information such as time sheets, vehicle maintenance report, bids, blueprints, electrical diagrams, maps, schedules, technical operating and repair manuals, warranties, building codes, material safety data sheets, procedures, policies and guidelines.

Ability to communicate effectively with Parks and Forestry personnel, contractors, materials/equipment suppliers and Highway Department personnel.

. . .

7. Pelot, along with Arendt and Francis, was involved in the hiring of Zieher, the Equipment Maintenance/Repair Technician, in May of 1996, and a Park Maintenance Worker in October of 1998. These were the last two non-seasonal unit positions filled in the Parks Department. As a part of the hiring process for both positions, Pelot, Arendt and Francis, on a consensual basis, developed about 40 written questions to be used as a written test for the purpose of narrowing the initial pool of applicants. Pelot personally created some of the questions that were eventually used on the tests. For example, and with regard to Zieher's position, Pelot's questions were used on subjects such as welding and mechanical repair. On the subject of welding, Pelot consulted with a local vocational school for the content of the welding questions. With regard to the Park Maintenance Worker position, some of Pelot's questions were used on subjects calling for information relating to carpentry, plumbing and electrical work. These written questions were submitted to the County's Human Resources Department for approval. Human Resources administered and scored the written tests prior to the interviews.

With regard to the interview process, Pelot, Arendt and Francis, as a panel, interviewed the narrowed pool of applicants for both positions. Each person on the panel independently used an Interview Report form which called for a rating of characteristics such as "capability," "experience," "potential" and "overall impression." The form also asked each panel member to indicate whether the applicant should be further considered for hiring. The interview panel, as a group, discussed each applicant, ranked them from best to worst on a consensual basis, and collectively recommended to Human Resources which applicant to hire. Human Resources then checked references and extended an offer. Pelot's individual Interview Report for Zieher indicated that Zieher was satisfactory or above in all listed characteristics and that Zieher should be further considered.

8. Pelot has conducted an annual performance evaluation of Zieher for each year since Zieher's hire. For 1996, 1997, 1998, 1999 and 2000, Pelot completed a Performance Review form each of which includes a ranking of Zieher's level of performance in such areas as "organizational ability," "judgment," "job knowledge," "quality of work," "dependability," "initiative," and so forth. In addition, there are spaces submitted within each form for written comments for "evaluation comments," "goals for specific improvement" and "employee comments."

All of the Performance Review forms regarding Zieher were filled out and signed by Pelot, whose position is stated as "Supervisor," and were signed by Zieher. Further, all of the forms indicate that Pelot discussed their contents with Zieher. None of the forms include any written employee comments. All of the forms indicate that Pelot considers Zieher to be working at a satisfactory or an above average level. However, Pelot wrote on the 1998 evaluation under the "goals for specific improvement" section that "some of [Zieher's] telephone time may be reduced by giving and getting only pertinent facts or information." Pelot specifically discussed this topic with Zieher during his 1998 evaluation and told Zieher to curb the amount of time spent on the telephone. Subsequently, Zieher's amount of time spent was decreased. Pelot also wrote on the 1999 evaluation for Zieher that he "needs to set better goals for repairs of the seasonal equipment."

Both Pelot and Supervisor-Parks Maintenance Francis send completed evaluation forms to Arendt before they are given to and discussed with employees. In no instance was the content of any of the evaluations regarding Zieher changed after Arendt received them from Pelot and prior to Arendt sending them back to Pelot. None of the evaluations regarding Zieher were signed by any "Supervisor" other than Pelot. All of the evaluations regarding Zieher were permanently placed in Zieher's personnel file. Evaluations have not been used for any merit pay adjustment since Department employees' wages are set by a schedule within the parties' collective bargaining agreement.

9. Pelot has not issued any written reprimands. Francis also has not issued any written reprimands to the six full-time employees that report to him in the three outstationed shops (three Lead Maintenance Workers and three Maintenance Workers) but has issued some written reprimands to seasonal Camprangers that report to him, one of which was based upon Pelot's observation of the Campranger working out of uniform. Pelot's input with regard to that Campranger's written reprimand did not include the level of discipline to be administered.

Pelot has given verbal reprimands to employees. Once within the last five years, an employee allowed a nonemployee to drive a snowmobile at the Powers Bluff facility which resulted in damage to the snowmobile. In that instance, Pelot called the employee in, asked what happened, and told the employee that such behavior was unacceptable and that Pelot would not allow it. On another occasion, and over ten years ago, an employee working under Pelot's direction at a park refused to drive a tractor from one park to another. When Pelot informed the employee that his refusal would result in the employee going home until that employee was ready to work, the employee complied. No one else reprimanded that employee. Neither of the above two scenarios resulted in any written documentation going into the employee's personnel file.

Pelot meets very occasionally with Arendt and Francis to discuss departmental issues. On occasion, potential employee discipline will be discussed. On one occasion, Pelot's opinion was sought regarding an employee's behavior and whether discipline should be given. Pelot's opinion was not sought as to the form of the discipline to be administered. On a different occasion, and separate from any group meeting, Arendt contacted Pelot and asked him for Pelot's input as what to do regarding an employee who damaged a County facility and door.

According to Step 1 of the Grievance Procedure within the 1998-2000 collective bargaining agreement, all grievances initiate with the grievant's immediate supervisor. For the last two to three years, the only grievances that have been filed by Parks Department employees were those employees who report to Supervisor-Parks Maintenance Francis. Zieher has not filed any grievances.

Pelot has not promoted, laid off or discharged any employees or effectively recommended such actions.

10. When Pelot directs the work of employees on projects at the parks, those employees typically do more than 50% of the manual work. Thus, the majority of Pelot's time is spent supervising others on such things as the proper methods or technique of work, doing the layout and an analysis of the plans, setting landscaping grades and directing the delivery of materials and the traffic of vehicles. Pelot does not typically determine the hours for those employees doing project work, but he has on occasion independently authorized employees to work an hour of overtime such as when there is a late delivery. In those instances, Pelot's decision to have employees work beyond their regularly scheduled hours is based on whether it is more efficient to continue than to start up again the next day. Pelot has authority to send assigned employees home if an employee is not performing work properly, but this has not occurred. Pelot is also responsible to see that assigned employees report to work at a construction project on time.

With regard to Zieher's overtime, Zieher sometimes works more than eight hours in one day when Zieher is working at a remote location. Zieher generally decides when to do this and does not seek anyone's approval. However, Pelot reviews Zieher's time cards and, if there is a question relating to overtime, Pelot will ask Zieher the reason for such overtime hours. In addition, if Zieher's overtime hours are known well in advance, Pelot authorizes such hours.

Once in 1999, Zieher requested to carry over some vacation hours into 2000 and to not use them up in 1999. Pelot discussed the issue with Arendt and Arendt asked Pelot if such action was necessary. Pelot said that Pelot did not think so, to which Arendt informed Pelot to handle the situation. Pelot then informed Zieher that he would not be allowed to carry over vacation hours.

With regard to work at Powers Bluff, Pelot decides when straw is needed to be placed in the outruns to slow people down, when to have snow removal or salting and sanding for the roads, when bathrooms and shelters need to be cleaned and when to call an ambulance if there is an injury. Moreover, Pelot has in the past independently decided to call some of the crew members in early for snow removal. This occurred several times within the last year and resulted in overtime. If a crew member wants a day off on a particular weekend, that individual crew member is responsible for finding a replacement to work — not Pelot or Francis.

11. Pelot reviews and signs Zieher's Biweekly Time Report forms at the space for "Supervisor's Signature" every two weeks. Pelot then sends them directly to the County's Payroll Department without further departmental approval. If Pelot is on vacation or is absent and cannot sign the Report, Arendt signs Zieher's forms.

Department employees use a Request for Approval of Absence form for vacation, sick leave and other types of leave. It is Zieher's general practice to have Pelot sign the Absence form for vacation requests where Zieher could wait for Pelot to come to the North Park shop.



Alternatively, and when Pelot is not available, Zieher calls the office for approval from Francis or Arendt for unanticipated sick leave or compensatory time use. Francis and Arendt are generally in the office and can approve requests over the telephone.

12. On August 28, 1996, and on September 30, 1999, Zieher injured himself while working. On both occasions, Zieher filled out an Employer's First Report of Injury or Disease form describing the incident. With regard to the prior incident, Zieher called the office and discussed it with Francis. Francis then filled out a separate Accident Investigation form, which included a reference to the "Supervisor in charge" as Pelot. Zieher later discussed the incident with Pelot, and Pelot and Zieher signed that Accident Investigation form. Pelot's signature on that form indicates "Department Head or Supervisor." With regard to the later incident, Zieher also filled out and sent a Employer's First Report of Injury or Disease form to the office.

13. Pelot has completed two eight-hour supervisory training courses within the last three years.

14. Pelot's monthly salary was \$3,178.94 (\$18.34 hourly equivalent; \$38,147.20 annual equivalent) for the year 2000. The difference between Pelot's and Supervisor-Parks Maintenance Francis' salary is about \$500 per year. Zieher's hourly wage as of October, 2000 is \$15.79 (annual equivalent \$32,843.20).

Pelot receives no overtime pay, but receives straight time off, i.e., compensatory time, for hours worked above 40 hours per week which can accumulate beyond the period of time for which he is being paid. Pelot does not seek permission to work beyond a normal schedule or to use compensatory time.

15. Pelot possesses supervisory authority in sufficient combination and degree to be a supervisor.

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

### **CONCLUSION OF LAW**

The incumbent in the position of Supervisor-Parks Construction, Donald Pelot, is a supervisor within the meaning of Sec. 111.70(1)(o)1, Stats., and therefore is not a municipal employee within the meaning of 111.70(1)(i). Stats.

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

**ORDER CLARIFYING BARGAINING UNIT**

The Supervisor-Parks Construction shall continue to be excluded from the bargaining unit described above in Finding of Fact 3.

Given under our hands and seal at the City of Madison, Wisconsin this 2<sup>nd</sup> day of August, 2001.

**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

WOOD COUNTY

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

**The County**

Regarding alleged supervisory status, the County contends that Pelot possesses supervisory authority in sufficient combination or degree to make him a supervisor within the meaning of the Municipal Employment Relations Act (MERA). Pelot's job description includes the essential duties of assigning and supervising employees in their work, participation in the hiring of employees, the recommendation of employee discipline, and the evaluation of other's work performance as required. Specifically, Pelot participated in the hiring process of the last two positions filled within the Department, including being on the interview panel and completing an individual report based upon that interview. In addition, Pelot drafted some of the written test questions used. Further, Pelot recommended the hire of Zieher when Pelot gave Zieher favorable ratings.

Pelot has disciplined employees and has recommended discipline of employees to other supervisors. Fortunately, the Department does not have a significant problem with employee discipline issues and does not receive many union grievances. However, if Zieher were to file a grievance, the grievance would be required by contract to be submitted to Pelot in Step 1 of that procedure. Pelot also prepared and signed Zieher's evaluations each year and completes accident investigation reports.

Pelot assigns work to and supervises Zieher, the employees at Powers Bluff and the Lead Maintenance Worker and Maintenance Worker during projects as needed. Pelot often needs additional workers based upon their skill and ability and may supervise up to six employees at one time during a large project. Moreover, and with regard to all projects, Pelot is responsible for instructing employees on the proper procedure and the majority of his time is spent supervising others, as opposed to Pelot doing manual work himself at projects. Pelot also has the authority to change work schedules of five employees at Powers Bluff, to call in workers there, and to approve overtime on construction projects as needed.

Pelot signs Zieher's time cards and approves or denies Zieher's requests for time off. With respect to the level of pay, Pelot and Francis earn within \$500 of each other annually. Pelot and Zieher, however, earn \$18.34 per hour and \$15.79 per hour, respectively. Further, Pelot has taken several supervisory classes throughout his career at the County's request. Moreover, in the absence of both Arendt and Francis, Pelot is in charge of all operations of the Department.

Regarding alleged managerial status, the County contends that Pelot provides both input to managerial staff and makes independent managerial decisions on a regular basis.

Pelot is responsible, from the beginning to the end, for construction projects and regularly identifies the scope of those projects in determining the materials to be ordered, the equipment needed and the employees to be assigned. He attends monthly Parks and Forestry Committee Meetings and prepares a report for that meeting as to the status of construction projects. At that meeting, Pelot gives input on projects or repairs that may exceed the Department's budget. Department employees other than Arendt and Francis do not attend.

Pelot also meets occasionally with Arendt and Francis where the three discuss projects, the budget process or the general operation of the Department. In addition, Pelot uses his authority to bid on services or materials needed for projects and on behalf of the County. Pelot is responsible for staying within the budget of each construction project.

### **The Union**

As previously noted, the Union did not submit a brief. However, the Union takes the position that Pelot does not possess supervisory authority in sufficient combination or degree to make him a supervisor within the meaning of MERA. The Union also takes the position that Pelot is not a managerial employee within the meaning of MERA.

### **DISCUSSION**

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, layoff, recall, promote, discharge, assign, reward or discipline other employees, or to adjust their grievances or effectively 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 or assign the workforce;
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 supervision of employees;

5. Whether the supervisor is supervising an activity or is primarily supervising employees;
6. Whether the supervisor as a working supervisor or whether he spends a substantial majority of his time supervising employees; and
7. The amount of independent judgment exercised in the supervision of employees.

RICE LAKE HOUSING AUTHORITY, DEC. NO. 30066 (WERC, 2/01).

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 support supervisory status in sufficient combination and degree to warrant finding an individual to be a supervisor. RICE LAKE HOUSING AUTHORITY, SUPRA.

We agree with the County that the factors set forth above exist in sufficient combination and degree to qualify the Supervisor-Parks Construction as a supervisor.

The record establishes that Pelot meaningfully participated in the hiring of Zieher in 1996, Pelot's eventual subordinate, and that Pelot meaningfully participated in the hiring of a Park Maintenance Worker in 1998. These were the last two non-seasonal unit positions filled in the Department. Although the interviews for both occasions were conducted by a panel, and the applicants were reviewed and recommended on a consensual basis, the record shows that Pelot individually drafted some of the written questions which were used to narrow the applicants. Further, and during the subsequent interviews, forms were used where Pelot individually recommended applicants.

The record demonstrates that Pelot has independent authority to administer discipline. Pelot has issued verbal reprimands, one of which occurred during a construction project and with regard an employee that usually reports to Francis. A verbal discussion between Pelot and Zieher resulted in behavioral improvement by Zieher. This low frequency of reprimands is not unusual considering that Francis has not issued any written reprimands to the six full-time employees that report to Francis.

Pelot's yearly evaluations of Zieher establishes Pelot's ability to independently evaluate Zieher.

Pelot also is responsible for Zieher's time records, for Zieher's requests for scheduled time off, and for reviewing the investigation of Zieher's accident reports. Although Zieher essentially works alone, he still deals directly with Pelot, and not with Francis, for approval of these items. Moreover, Pelot and Francis each supervise separate areas with some crossover when Pelot utilizes employees on construction projects that normally report to Francis. Pelot's

supervision of those employees during construction projects is independent of Francis. While we are mindful that Pelot's supervision during construction projects fluctuates, it is not an insignificant part of Pelot's position.

In addition, Pelot and Francis alternate winter weekends at Powers Bluff and supervise a crew of five employees. Pelot makes independent decisions of when to conduct snow removal, salting and sanding, when to maintain the bathrooms and shelters and fireplaces, and when to call an ambulance, if necessary. Pelot calls employees in early for snow removal which results in overtime for those affected employees. Standing alone, the amount of Pelot's supervision of employees at Powers Bluff may seem small in that it is for four to eight weekends a year. But when combined with the above described supervisory indicia in the other areas of his position, Pelot's supervision of employees, on an overall basis, is significant.

Further, the similarity of Pelot's wages to that of Francis and the difference of Pelot's wages from Zieher's also supports a finding of supervisory status.

As held in WHITEHALL SCHOOL DISTRICT, DEC. NO. 29286-B (WERC, 7/99), VILLAGE OF NECEDAH, DEC. NO. 28192-B (WERC, 10/95), and CITY OF ASHLAND, DEC NO. 18808-A (WERC 7/86), even where the number of employees that are supervised is small, a finding of supervisory status is warranted where, as here, the supervisor has significant authority in the hiring and exercises independent authority in the discipline, direction and assignment of employees.

Given the foregoing, we are persuaded that Pelot, as Supervisor-Parks Construction, possesses supervisory authority in sufficient combination and degree to be a supervisor. Therefore, we have ordered that the Supervisor-Parks Construction position continue to be excluded from the bargaining unit. Having reached that conclusion, we need not and do not address whether or not he is also a managerial employee.

Dated at Madison, Wisconsin this 2<sup>nd</sup> day of August, 2001.

#### WISCONSIN EMPLOYMENT RELATIONS COMMISSION

James R. Meier /s/

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James R. Meier, Chairperson

A. Henry Hempe /s/

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A. Henry Hempe, Commissioner

Paul A. Hahn /s/

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Paul A. Hahn, Commissioner

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