

STATE OF WISCONSIN  
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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In the Matter of the Petitions of  
**GENERAL GOVERNMENT SUPPORT SERVICES  
LOCAL 576B, AFSCME, AFL-CIO AND  
LOCAL 576A, AFSCME, AFL-CIO**

Involving Certain Employees of

**ST. CROIX COUNTY**

Case 3  
No. 54800  
ME-868

**Decision No. 8932-M**

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Appearances:

**Steve Hartmann**, Staff Representative, Wisconsin Council 40, AFSCME, AFL-CIO, P.O. Box 364, Menomonie, Wisconsin 54751 appearing on behalf of General Government Support Services Local 576B, AFSCME, AFL-CIO.

**Victoria L. Seltun**, Weld, Riley, Prenz & Ricci, S.C., Attorneys at Law, 3624 Oakwood Hills Parkway, P.O. Box 1030, Eau Claire, Wisconsin 54702-1030, appearing on behalf of St. Croix County.

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

On November 26, 2002, General Government Support Services Local 576B, AFSCME, AFL-CIO, filed a petition to clarify bargaining unit with the Wisconsin Employment Relations Commission seeking to include the Recycling Technician and GIS Mapper in a unit of St. Croix County employees that Local 576B represents for the purposes of collective bargaining.

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On March 24, 2003, Local 576B amended the petition by withdrawing the requested inclusion of the GIS Mapper and adding the inclusion of the GIS Specialist.

On June 12, 2003, Local 576A, AFSCME, AFL-CIO filed a petition to clarify bargaining seeking to exclude the AODA Counselors from a unit of County employees that it represents for the purposes of collective bargaining.

Hearing on the petitions was held on March 11, 2004 in Hudson, Wisconsin by Commission Examiner Stuart Levitan. At hearing, the position titles of the Recycling and GIS employees in dispute were clarified to be Recycling Specialist and Planner/GIS Specialist. The parties filed post-hearing argument by June 3, 2004 and on August 20, 2004, Local 576A clarified its position as to the AODA Counselors.

As to the AODA Counselors, Local 576A seeks a ruling as to whether they should be excluded from the unit as professional employees. The County argues that they should be so excluded. As to the Recycling Specialist and Planner/GIS Specialist, the County opposes their inclusion in the Local 576B unit because they are allegedly managerial employees.

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

### **FINDINGS OF FACT**

1. St. Croix County, herein the County, is a municipal employer with offices at 1101 Carmichael Road, Hudson, Wisconsin.
2. General Government Support Services Local 576B, AFSCME, AFL-CIO, herein the Union, is a labor organization that serves as the exclusive collective bargaining representative of a unit of certain professional and non-professional County employees.
3. Local 576A, AFSCME, AFL-CIO, herein the Union, is a labor organization that serves as the exclusive collective bargaining representative of a unit of certain non-professional County employees.
4. The County employs four full-time Alcohol and Other Drug Abuse (AODA) Counselors/Prevention Specialists (certified), with the following job description:

**JOB DESCRIPTION**  
**ALCOHOL-DRUG ABUSE COUNSELOR/PREVENTION SPECIALIST (certified)**

**GENERAL STATEMENT OF DUTIES:**

Provides outpatient and outreach services related to alcohol and drug abuse. Develop and promote community prevention programs.

**DISTINGUISHING FEATURES OF THE CLASS:**

This position provides outpatient counseling services to chemically dependent clients and affected families member in accordance with the provisions of HFS 75 and 94 and the Medical Assistance Provider Handbook. Outpatient services include, but are not limited to, individual, group and family counseling as well as crisis intervention and case management. The counselor also provides outreach and prevention services to persons and communities.

This position is under the supervision of the Mental Health/AODA Clinical Services Supervisor.

**ESSENTIAL JOB TASKS (Illustrative Only):**

1. Conducts intake interviews for new clients and completes case related case documentation, including an admission history.
2. Performs assessment of chemical dependency treatment needs including related diagnostics and testing.
3. Develops and implements, in collaboration with client(s), a treatment plan with measurable goals.
4. Provides individual and group counseling sessions and completes related case documentation, including progress notes, aftercare plans and discharge summaries.
5. Completes Medicaid and other insurance forms when indicated in a timely manner.
6. Provides information, education and support to family members and collaterals and assists in intervention planning and activities.

7. Participates in weekly case staffings and review of client treatment and progress.
8. Participates in the provision of Emergency Services, including after-hours on-call coverage on a rotating basis.
9. Provides case management services for clients receiving treatment via purchase-of-service contracts with outside vendors as assigned.
10. Provides case management services for clients participating in county AODA outpatient services mandated by a driver safety plan, court order, etc.
11. Has a working knowledge of and adheres to State and Federal regulations governing confidentiality of AODA treatment records.
12. Participates in program planning and development for chemical dependency services.
13. Provides consultation to other departments within Human Service and external agencies as needed.
14. Develops and promotes community wide prevention programs.
15. Develops and maintains community networks for the purpose of promoting prevention activities.
16. Assist the MH/AODA Coordinator in writing proposals for grants.
17. Maintains a current knowledge of clinical practice.
18. Attends appropriate continuing education conferences.
19. Performs other related duties as assigned.

**NON-ESSENTIAL JOB TASKS (Illustrative Only):** None

**REQUIRED SKILLS, KNOWLEDGE, and ABILITIES:**

- Must be certified by the Wisconsin Alcoholism Counselor Certification Board.

- As required by HFS 75, must be able to document all work in a timely and accurate manner.
- Ability to manage treatment within the continuum of services available for chemically dependent clients with an emphasis on provision of services in the “least restrictive” setting.
- Ability to understand and follow complex oral and written instructions.
- Ability to communicate effectively orally and in writing.
- Ability to work independently and make decisions in accordance with AODA unit policy and procedures.
- Able to plan and implement diverse therapeutic approaches to engaging clients who present as resistant to treatment.
- Ability to effectively utilize and augment a multidisciplinary team approach to treatment.
- Ability to develop and coordinate community-wide coalitions for the purpose of developing and overseeing prevention/intervention activities.

**PREFERED SKILLS AND ABILITIES:**

- Knowledge of community resources.
- Previous work experience as an AODA counselor in a certified outpatient program.

In terms of the required certification from the Wisconsin Alcoholism Counselor Certification Board, the County hires AODA Counselors with the highest available certification level among the applicants. The highest certification is Level 3 which requires several years of work experience, 300 hours of core function training and 270 hours of education and training through workshops, courses, seminars and conferences.

The work of an AODA Counselor does not require knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study in an institution of higher education or a hospital.

None of the incumbent AODA Counselors have completed a prolonged course of specialized intellectual instruction and study in an institution of higher education or a hospital.

5. The County employs a Recycling Specialist, with the following job description:

**RECYCLING SPECIALIST**

General Statement of Duties: This is responsible, professional work managing the recycling and special waste programs in St. Croix County. Work is

performed under the general direction of the Director of Planning. The nature of the recycling program demands significant interaction between the specialist and others in the Planning Department, other County Departments, vendors, consultants, businesses, property owners and municipalities or other public entities.

Distinguishing Features of the Class: This position requires broad knowledge in the areas of recycling, general solid waste and local government, as well as excellent program management and customer service skills. The incumbent provides for program design, technical assistance, marketing and general information to the County, participating municipalities and the general public.

Examples of Work: (Illustrative Only)

Administer and enforce the County Recycling Ordinance;  
Provide technical assistance to member communities and affected organizations on applicable methods, procedures, and requirements for the collection and processing of recyclables;  
Provide staff assistance to the Resource and Education Committee and serve as liaison between the committee and local communities;  
Prepare and administer the Annual Wisconsin DNR Recycling Grant and other pertinent grants to support the recycling and special waste programs;  
Prepare and submit necessary recycling reports and financial records to the WI DNR;  
Administer the Community Recycling Grant Program and distribute available funds to member communities;  
Assist local communities with information regarding recycling and related special waste programs;  
Maintain the County's Marketing Directory, work with the necessary sources to encourage market opportunities;  
Produce semi-annual newsletters for distribution to County households and produce new releases on an as-needed basis;  
Prepare and staff recycling displays at the County Fair and similar community functions;  
Work with other County departments to plan and implement special recycling management programs such as "clean sweeps" for households, agriculture hazardous waste, tires, appliances, etc.;  
Perform related work as assigned.

Required Knowledge, Skills and Abilities: Extensive knowledge of recycling management, knowledge of state laws governing recycling planning; ability to

organize and coordinate activities; considerable skill in preparing and presenting oral and written reports; ability to establish and maintain cooperative relationships with the public and agencies; prefer knowledge of local and county government structure, functions, and operations.

Education and Experience: Experience in recycling programs including related waste management; general knowledge of County government; proven ability to deal with people in a service-oriented manner; bachelor's degree in a recycling-related field such as environmental science or resource management is required; an equivalent combination of work and educational experiences which provide the necessary knowledge, skills and abilities to perform the job duties as stated herein.

The Recycling Specialist position was created in 2002. The position is supervised by County Planning Director and Land Information Officer Fodroczi and reports to the County Planning and Zoning Committee. Jennifer Havens has been the Recycling Specialist since April, 2003.

The County is the contracting agency assisting 26 municipalities in setting up their recycling programs under a recycling grant from the Wisconsin Department of Natural Resources. Under the grant, Havens is the official responsible for the distribution of State recycling aids to County municipalities pursuant to a formula developed by Havens' predecessor and approved by the County oversight committee.

Subject to approval from Fodroczi and the Planning and Zoning Committee, Havens identifies recycling program needs, designs program specifics, and implements the program. Among the programs Havens has initiated are a cell phone recycling program and creation of an Environmental Education Recycling Fund.

Havens works independently, without much supervision, and with authority to make daily operational decisions affecting her program. She writes and submits grant applications on the County's behalf and writes and negotiates contracts for the programs she administers. Havens negotiates contractual agreements with the Northwest Regional Planning Commission. It is County policy to have Fodroczi sign the actual grant applications.

Havens prepares a proposed annual budget of about \$250,000 for submission first to Fodroczi and then to the relevant County committees. After budget adoption, Havens independent expenditure authority is limited to \$200.

Havens does not sufficiently participate in the formulation, determination and implementation of management policy or have sufficient authority to commit the County's resources to be a managerial employee.

6. The County employs a Planner/GIS Specialist, with the following job description:

### **PLANNER/GIS SPECIALIST**

GENERAL STATEMENT OF DUTIES: Perform a wide variety of research, analysis, plan development, technical assistance and administrative activities in support of the County's overall planning and land information programs; develops community and County comprehensive and functional plans; develops and manages land information projects and applications with various departments and municipalities to implement the County land information plan; provides technical and administrative support for implementation of the County's geographic information system (GIS); does related work as required.

DISTINGUISHING FEATURES OF THE CLASS: This is a professional planning position requiring considerable knowledge of the principles and practice of comprehensive planning and the design and management of geographic information systems (GIS). The employee must be able to perform research and analysis, prepare comprehensive and functional plans and studies, provide technical assistance to local communities, maintain and implement the County land information plan and provide technical and administrative support for a variety of land information projects with considerable independence and discretion. Work is performed under the general supervision of the County Planning Director/Land Information Officer.

#### EXAMPLES OF WORK (Illustrative Only):

Identify, obtain and review basic planning data from a variety of federal, state and private sources;

Conduct research activities for all Planning Department programs according to accepted and established methods;

Design, prepare and implement various technical studies and community surveys in support of plan and policy development for community and County planning projects;

Prepare draft and final planning documents for County comprehensive and functional plans for Committee and County Board approval;

Provide technical assistance to local communities for development and

implementation of comprehensive plans and GIS applications;  
Provide technical support to other County departments and staff in developing and managing GIS applications;  
Conduct GIS project development, data management and data conversion activities in cooperation with Computer Services department;  
Develop and maintain metadata standards and procedures for all County GIS data;  
Manage a variety of GIS development projects with contractors;  
Manage the County's planning, reporting and grants management responsibilities for the Wisconsin Land Information Program;  
Prepare grant applications for financial assistance from federal, state and private agencies and administer grant funds on behalf of the County;  
Develop and participate in various County programs and policies to implement County development and land information plans;  
Jointly develop and implement public information, education and technical assistance programs on planning and land information issues with the County Resource Agent;  
Provide data, information, policy interpretations and technical assistance related to Planning Department programs and projects to professional clients, local officials and the general public;  
Coordinate assigned projects and responsibilities with consulting engineers, surveyors, attorneys, planners and developers involved in County programs;  
Provide technical assistance and administrative support to County committees governing Planning Department programs;  
Assist with development and administration of Planning and Land Information budgets;  
Perform related duties as assigned.

**REQUIRED KNOWLEDGE, SKILLS and ABILITIES:** Knowledge of the comprehensive planning process as it is conducted at the local level; thorough knowledge of County and municipal government; knowledge of planning research and analysis methods; knowledge of the design and implementation of geographic information systems (GIS); knowledge of ArcInfo and ArcView software applications and data management in a network environment; effective written and oral communications skills; ability to establish and maintain productive working relationships with a variety of public officials and private clients; ability to work independently and manage a variety of concurrent work assignments; project management skills.

**ACCEPTABLE EXPERIENCE AND TRAINING:** Must have a Bachelor's Degree in Geography, Landscape Architecture, Resource Management,

Planning or related field; at least two years work experience with ESRI software products in a planning, resource management or land records work environment; strong communication skills and understanding of local government; and/or equivalent combination of training and experience which provides the required knowledge, skills, and abilities.

Brett Budrow has been the Planner/GIS Specialist since the position's creation in March 2001. Budrow and two other unrepresented employees, a planner and a mapping technician, are supervised by County Planning Director and Land Information Officer Fodroczi. Budrow's responsibilities have included working with the vendors and consultants on a \$150,000 project converting maps to a GIS database, working with towns developing long-range plans, developing and managing land information projects. He wrote the technical specifications for an RFP for an aerial mapping project, and recommended with whom the County contract. Budrow will oversee the \$45,000 in purchases to develop the GIS database. Since 2001, Budrow has drafted, applied for and administered approximately \$200,000 in grant funds, and has authority to block payments to vendors if disputes about performance arise.

Budrow's first task upon assuming his position was working on a project converting hand-drawn maps to a GIS database, overseeing a contract that had already been awarded. Budrow is currently working with five rural towns on their comprehensive plans, pursuant to the State "Growth Smart" statute. Under a \$96,000 grant, Budrow will collect data, attend meetings and draft each town's plan. Pursuant to other statutes, Budrow is also responsible for the update of the County's Land Information Plan, and developed a new land information access report. He has also developed computer programs for the County's Land Evaluation and Site Assessment. When administering contracts, Budrow receives the bills and reviews them to ensure their accuracy and appropriateness before forwarding them on for payment. He files final grant reports and performance reports.

Working with an outside GIS consultant, Budrow determined it was advisable for the County to move from its then-current mapping technology to a geodatabase model; he included the necessary \$55,000 in his budget request which was submitted to Fodroczi and the planning committee for their approval, which they gave. Budrow will oversee the purchases under the contract, as well as the ongoing relationship with the vendor. The result of the program will be to improve County efficiency in the fields of mapping and tax listing. Budrow was one of four County employees who made an effective recommendation on the technical specifications for the RFP for an orthoairal photography project, and will be responsible for quality control and assurance, he was not a County employee at the time the decision was made to undertake the project. Budrow can recommend the County not pay if the results are unsatisfactory.

Budrow does not have independent authority to spend County funds.

Budrow does not sufficiently participate in the formulation, determination and implementation of management policy or have sufficient authority to commit the County's resources to be a managerial employee.

Based on the above and foregoing Findings of Fact, the Commission makes and issues the following

**CONCLUSIONS OF LAW**

1. The AODA Counselors are not professional employees within the meaning of Sec. 111.70(1)(L), Stats.

2. The Recycling Coordinator and Planner/GIS Specialist are not managerial employees within the meaning of Sec. 111.70(1)(i), Stats.

Based on the above and foregoing Findings of Fact and Conclusions of Law, the Commission makes and issues the following

**ORDER**

1. The AODA Counselor shall continue to be included in the bargaining unit represented by Local 576A.

2. The Recycling Coordinator and Planner/GIS Mapper are hereby included in the bargaining unit represented by Local 576B.

Given under our hands and seal at the City of Madison, Wisconsin, this 18th day of January, 2005.

**WISCONSIN EMPLOYMENT RELATIONS COMMISSION**

Judith Neumann /s/

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Judith Neumann, Chair

Paul Gordon /s/

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Paul Gordon, Commissioner

Susan J. M. Bauman /s/

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Susan J. M. Bauman, Commissioner

**ST. CROIX COUNTY**

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

**AODA Counselors**

The issue before us as the AODA Counselors is whether they are professional employees.

Section 111.70(1)(L), Stats. defines a “professional employee” as follows:

1. An employee engaged in work:
  - a. Predominantly intellectual and varied in character as opposed to routine mental, manual mechanical or physical work;
  - b. Involving the consistent exercise of discretion and judgment in its performance;
  - c. Of such a character that the output produced or the result accomplished cannot be standardized in relation to a given period of time;
  - d. Requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study in an institution of higher education or a hospital, as distinguished from a general academic education or from an apprenticeship or from training in the performance of routine mental, manual or physical process;or
2. An employee who:
  - a. Has completed the courses of specialized intellectual instruction and study described in subd. 1.d.;
  - b. Is performing related work under the supervision of a professional person to qualify to become a professional employee as defined in subd. 1.

We have generally interpreted the Sec. 111.70(1)(L) 1.d., Stats. requirement of “a prolonged course of specialized intellectual instruction and study” as being a four year specialized degree. CITY OF STEVENS POINT, DEC. NO. 30941 (WERC, 6/04); MATC, DEC. NO. 6343-D (WERC, 10/89). Here, although the evidence establishes that the County has established a *de facto* requirement that its AODA Counselors hold a Level 3 certification, the educational

requirements for obtaining that certification fall short of being the equivalent to a four-year specialized degree. While evidence was presented that there are now four year specialized degrees in AODA counseling, the record does not establish that such degrees have become the “customary” source of the knowledge needed to be an AODA Counselor for the County. Thus, we find that the AODA Counselors are not professional employees. 1/

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*1/ The MILWAUKEE COUNTY decision (DEC. No. 10017-C WERC, 11/77) cited by the County does not support a contrary conclusion. The employee found professional in that proceeding performed work that required a four year specialized degree.*

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### **Recycling Specialist and Planner/GIS Specialist**

The issue as to these two employees is whether they are managerial employees who thus must continue to be excluded from the Local 576B unit.

A “managerial” employee is specifically excluded from the definition of “municipal employee” found in Sec. 111.70(1)(i), Stats. However, because there is no statutory definition of a “managerial” employee, that term has been defined by the Commission through case law. With judicial approval, the Commission has defined a “managerial” employee by considering the extent to which the employee participates in the formulation, determination and implementation of management policy or possesses the authority to commit the employer’s resources. CITY OF MILWAUKEE V. WERC, 71 Wis.2D 709 (1976); VILLAGE OF WHITEFISH BAY, 103 Wis.2D 443 (Ct. App. 1981); KEWAUNEE COUNTY V. WERC, 141 WIS.2D 347 (Ct. App. 1987); MANITOWOC COUNTY V. LOCAL 986A, 170 WIS.2D 692 (Ct. App. 1992); COUNTY OF EAU CLAIRE V. AFSCME LOCAL 2223, 190 Wis.2D 298 (Ct. App. 1994). To confer managerial status, the employee’s policy role must be “at a relatively high level”. MARINETTE COUNTY, DEC. NO. 26154-B (WERC, 3/92), or the employee’s authority to commit resources must involve allocation of resources in a manner which significantly affects the nature and direction of the municipal employer’s operations. VILLAGE OF JACKSON, DEC. NO. 25098 (WERC, 1/88).

The County has cited our decision in CHIPPEWA COUNTY, DEC. NO. 10497-E (WERC, 6/01), wherein we found the Solid Waste Program Assistant (Yohnk) to be a managerial employee, as supporting its contention that Havens is a managerial employee. In CHIPPEWA COUNTY, the incumbent’s duties included establishing recycling and solid waste programs for the County and overseeing the recycling contract with the City of Chippewa Falls; advising municipalities in setting up waste collection and recycling programs and also organizing programs for County-wide collection and disposal of tires, computers and hazardous waste;

and developing the annual budget for the Solid Waste Recycling Program, which was then forwarded to the Land Conservation Committee for review and approval, after which Yohnk had authority to reallocate and spend the budgeted monies as she determined necessary. She was also responsible for determining what recycling and collection programs the County needed, developing plans for implementation and presenting the programs to the Land Conservation Committee for approval. She negotiated contracts with private vendors for the provision of collection and recycling services to the County, identified potential sources of revenue and wrote grant applications to obtain them. On the basis of these facts, we found that “the combination of Yohnk’s program and budgetary authority qualifies her as a managerial employee.”

Clearly, the County cannot persuasively maintain that Havens has budgetary/financial authority approaching that held by Yohnk. Yohnk had authority to reallocate funds throughout her adopted budget; Havens testified that she would seek approval from Fodroczi and her committee for any transfer over about \$200.

Since Havens does not have meaningful authority to commit the County’s resources, the question to consider is whether she participates in the formulation, determination and implementation of management policy to a degree that warrants managerial status. Havens identifies recycling program needs, design program specifics, obtains necessary internal approvals, and implements the program. She took the initiative to create the recycling program for cell phones and the Environmental Education Recycling Fund.

While it presents a close question, we conclude Havens’ program responsibilities are not sufficient to warrant managerial status. She is a skilled professional using her skills and training to make a grant funded program function well. However, managerial status requires a level of influence greater than meeting one’s professional responsibilities. CITY OF MILWAUKEE, supra. As the Court noted in MILWAUKEE, the statutory exclusion for managerial employees reflects a legislative judgment that one must have a relationship to management that makes one “unique from co-workers” and “imbue(d) with interests significantly at variance with those of other employees.” Havens’ supervisor, Planning Director Fodroczi, has that relationship to management of the County, while Havens does not.

The same analysis is applicable to Budrow. He does not have significant authority to commit the County’s resources and thus his managerial status turns on the extent of his policy role. As with Havens, we conclude that Budrow is a skilled professional using skills and training to make a significant contribution to County programs but he does not have the type of policy role that warrants managerial status.

First, it is important to note that several of Budrow’s important activities are not managerial. When acting as a consultant to County municipalities developing their long range

comprehensive plans under Wisconsin's Smart Growth law, he is performing important and politically sensitive work but that work does not involve County policy. His work writing technical specifications also is not managerial activity.

Second, while some of Budrow's work involves implementation of County policy, it does not rise to the level of influence referenced in the MILWAUKEE decision. As was true for Havens, it is Budrow's supervisor who has that level of influence while Budrow does not. 2/

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*2/ In reaching our conclusion, we have considered the County argument that Commission decisions in DOOR COUNTY, DEC. NO. 24016-A (WERC, 3/88) and MONROE COUNTY, DEC. NO. 30037-B (WERC, 11/01) support a determination that Budrow is a managerial employee. However, unlike Budrow, the employees found managerial in DOOR COUNTY were department heads with substantial budgetary authority and in MONROE COUNTY the employee in question had substantial independent budgetary and expenditure authority.*

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Given our conclusions as to the managerial status of the Recycling Specialist and Planner/GIS Specialist, we have granted the Union's request that both be added to the Local 576B bargaining unit.

Dated at Madison, Wisconsin, this 18th day of January, 2005.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

Judith Neumann /s/

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Judith Neumann, Chair

Paul Gordon /s/

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Paul Gordon, Commissioner

Susan J. M. Bauman /s/

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Susan J. M. Bauman, Commissioner

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