

STATE OF WASHINGTON  
BEFORE THE MARINE EMPLOYEES' COMMISSION

INLANDBOATMEN'S UNION  
OF THE PACIFIC,

Complainant,

v.

WASHINGTON STATE FERRIES,

Respondent.

MEC CASE NO. 14-07

DECISION NO. 503 - MEC

ORDER CLOSING  
SETTLED COMPLAINT

*Margaret Pelland*, Business Agent, appearing for the Inlandboatmen's Union of the Pacific.

Rob McKenna, Attorney General, by *David Slown*, Assistant Attorney General, appearing for the Washington State Ferries.

THIS MATTER came on regularly before the Marine Employees' Commission (MEC) on January 3, 2007, when the Inlandboatmen's Union of the Pacific (IBU) filed an unfair labor practice complaint, MEC Case No. 14-07, against the Washington State Ferries (WSF).

IBU's complaint charged WSF with engaging in unfair labor practices within the meaning of RCW 47.64.130(1) by interfering with, restraining or coercing employees in the exercise of rights; encouraging or discouraging membership in an employee organization by discrimination in regard to: hiring, tenure, any term or condition of employment; and refusing to bargain collectively with representatives of employees.

Specifically, IBU alleged that WSF refused to bargain with representatives of employees when it implemented a new respirator protection program requiring each employee to submit a completed medical questionnaire to a professionally licensed health care provider to be re-evaluated on a one, three or five year recurring cycle.

Following review of the IBU's complaint, the Commission determined that the facts alleged may constitute an unfair labor practice, if later found to be true and provable. Upon review of the facts and principles of law involved, the Commission ordered Case 14-07 consolidated with an earlier filed IBU complaint, Case 7-07. Both matters related to the WSF respirator policy/program.

A settlement conference was set for February 16, 2007 with Commissioner Elizabeth Ford assigned to serve as Mediator. Chairman John Swanson was designated to act as Hearing Examiner for the consolidated hearing scheduled on March 8, 2007.

During the February 16 settlement conference, the IBU and WSF resolved the two complaints, except for one issue which the parties agreed the MEC will decide in grievance arbitration under Case 7-07. A copy of the parties' signed settlement agreement, which includes withdrawal of Case 14-07, is appended to and becomes a part of this Order by reference.

### **ORDER**

It is hereby ordered that the unfair labor practice complaint, filed by the IBU against the WSF and docketed as MEC Case 14-07, is closed in acknowledgement of the parties' agreement.

DATED this 23rd day of March 2007.

MARINE EMPLOYEES' COMMISSION

/s/ JOHN SWANSON, Chairman

/s/ JOHN SULLIVAN, Commissioner

/s/ ELIZABETH FORD, Commissioner

**SETTLEMENT AGREEMENT**  
**MEC CASES 7-07 and 14-07**

IN FULL AND COMPLETE SETTLEMENT of MEC Cases 7-07 and 14-07, the Parties, The Inlandboatmen's Union of the Pacific, (IBU) on behalf of grievant Employee, and Washington State Ferries (WSF) do agree as follows:

1. The Ferry System agrees to reissue the Fleet Advisory of April 15, 2005, informing employees that the Respirator Policy is as provided in SMS procedures Deck Safe 0140 and Engineering Safe 0130, Respirator Protection Program and quoted in the mom of April 15, 2005. The re-issued Advisory will include attachment A from the 10/17/01 Fleet Advisory and will contain the following sentence, "Attachment A illustrates examples of the sealing surface and acceptable and unacceptable facial hair."
2. The Parties will stipulate to the following issue to be decided by the MEC in grievance arbitration:

Did WSF violate the WSF Respiratory Protection Program which was a product of negotiations and arbitration between the Parties by requiring Mr. Berryman to shave part of his mustache on April 29, 2006? If so, what is the remedy?

The Parties will stipulate that the issue is properly before the arbitrator and procedural requirements have been complied with. The WSF does not waive any arguments that it may make regarding remedy. The Parties will stipulate that WSF waived the 30-day filing requirement for grievance filings from April 29, 2006 until the date of this agreement.

3. The WSF agrees to meet and discuss with the IBU issues related to the current implementation of the Respiration Policy.
4. MEC Case 7-07 is converted to grievance arbitration and MEC Case 14-07 is hereby withdrawn.

Dated this 16<sup>th</sup> day of February, 2007.

For the IBU: /s/ Margaret Pelland

For WSF: David J. Slown