

**STATE OF ILLINOIS
ILLINOIS LABOR RELATIONS BOARD
STATE PANEL**

County of Mercer and Mercer)
County Clerk, Mercer County Treasurer)
and Sheriff of Mercer County,)
)
Charging Parties,)
)
and)
)
International Union of Operating Engineers,)
Local 150,)
)
Respondent.)

Case No. S-UC-15-063

ORDER

On July 21, 2015 Administrative Law Judge Sarah R. Kerley, on behalf of the Illinois Labor Relations Board, issued a Recommended Decision and Order in the above-captioned matter. No party filed exceptions to the Administrative Law Judge's Recommendation during the time allotted, and at its September 9, 2015 public meeting, the Board, having reviewed the matter, declined to take it up on its own motion.

THEREFORE, pursuant to Section 1200.135(b)(5) of the Board's Rules and Regulations, 80 Ill. Admin. Code §1200.135(b)(5), the parties have waived their exceptions to the Administrative Law Judge's Recommended Decision and Order, and this non-precedential Recommended Decision and Order is final and binding on the parties to this proceeding.

Issued in Chicago, Illinois, this 9th day of September 2015.

**STATE OF ILLINOIS
ILLINOIS LABOR RELATIONS BOARD
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**Kathryn Zeledon Nelson
General Counsel**

STATE OF ILLINOIS
ILLINOIS LABOR RELATIONS BOARD
STATE PANEL

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|---|---|----------------------|
| County of Mercer and Mercer County Clerk, |) | |
| Mercer County Treasurer and Sheriff of Mercer |) | |
| County, |) | |
| |) | |
| Petitioner/Employer, |) | Case No. S-UC-15-063 |
| |) | |
| and |) | |
| |) | |
| International Union of Operating Engineers, |) | |
| Local 150, |) | |
| |) | |
| Labor Organization. |) | |

ADMINISTRATIVE LAW JUDGE'S RECOMMENDED DECISION AND ORDER

On November 18, 2014, Petitioner/Employer County of Mercer, Mercer County Treasurer, and Sheriff of Mercer County (collectively, "Mercer County") filed a unit clarification petition seeking to exclude the Animal Control Officer from a bargaining unit represented by International Union of Operating Engineers, Local 150, AFL-CIO ("Local 150"). Mercer County contended that the Animal Control Officer is a supervisory and managerial employee under the Illinois Public Labor Relations Act ("Act"). 5 ILCS 315/3(r) and 3(j). Local 150 objected, and the matter was set for hearing on March 19, 2015. Leading up to the hearing date, the parties engaged in settlement discussions regarding this matter as well as other pending matters. Consequently, the undersigned continued the March 19, 2015, hearing, and required the parties to report on the outcome of their settlement discussions. Subsequently, the parties advised the undersigned that they had reached a settlement agreement in this matter. Pursuant to their settlement, the parties agreed that, in lieu of proceeding to hearing in the present case, the undersigned would issue a Recommended Decision and Order on a stipulated record.¹

I. FINDINGS OF FACT

The parties stipulate and I find as follows:

1. At all times material, Mercer County has been a public employer within the meaning of Section 3(o) of the Act.

¹ A copy of the signed Stipulated Record is attached hereto as Appendix A.

2. At all times material, Mercer County has been subject to the jurisdiction of the State Panel of the Board, pursuant to Section 5(a-5) of the Act.
3. At all times material, Local 150 has been a labor organization within the meaning of Section 3(i) of the Act.
4. At all times material, Local 150 represents multiple bargaining units comprised of Mercer County's employees in the Mercer County Highway Department, County of Mercer Courthouse Division and the Sheriff's Department.
5. Mercer County filed a Unit Clarification Petition on November 18, 2014, seeking to clarify the Certification of Representative dated July 25, 1994, in Case No. S-RC-94-98, to exclude from that Unit the following title: Animal Control Officer who serves as supervisor and manager of the Office of Animal Control ("UC Petition").
6. Local 150 resisted the UC Petition by correspondence to Administrative Law Judge Sarah R. Kerley dated December 16, 2014.
7. Mercer County and Local 150 agree that the title of "Animal Control Officer(s)" should be included in the Unit. Mercer County and Local 150 hereby agree and stipulate that clarification of the Unit to include such title is appropriate under the circumstances.
8. Mercer County and Local 150 respectfully request that Administrative Law Judge Sarah R. Kerley clarify the bargaining unit as follows (change in italics):

UNIT

Included, all full and regular part-time administrative and clerical employees in the offices of the County Clerk and Recorder, County Assessor, County Treasurer, Animal Control, *including Animal Control Officer(s)*, County Sheriff, County Board and Probate and Court Services.

Excluded, all employees that are supervisory, confidential, managerial or short-term within the meaning of the Act.

II. DISCUSSION AND ANALYSIS

The Board is responsible for determining whether a petition to clarify an existing unit is appropriate. 5 ILCS 315/9(a-6). The Board investigates the petition, and where a party raises an issue for hearing, the matter is assigned to an administrative law judge for resolution. 80 Ill. Adm. Code §1210.170(e). The Board also encourages the voluntary efforts of parties to settle or adjust disputes involving issues of representation, so long as the resulting settlements are "in compliance with the provisions, purposes and policies of the Act." 80 Ill. Adm. Code §1200.120.

I find that the parties' settlement, resulting in the Stipulated Record, complies with the provisions, purposes, and policies of the Act, such that the parties alternately could have appropriately filed a stipulated unit clarification. *See* 80 Ill. Adm. Code §1210.175. Nonetheless, the parties' settlement agreement resolves the questions of propriety of the petition. Accordingly, I find that the Animal Control Officer is appropriately included in the existing bargaining unit.

III. RECOMMENDED ORDER

IT IS HEREBY ORDERED that the bargaining unit shall be clarified as followed:

INCLUDED: All full and regular part-time administrative and clerical employees in the offices of the County Clerk and Recorder, County Assessor, County Treasurer, Animal Control, including Animal Control Officer(s), County Sheriff, County Board and Probate and Court Services.

EXCLUDED: All employees that are supervisory, confidential, managerial or short-term within the meaning of the Act.

IV. EXCEPTIONS

Pursuant to Section 1200.135 of the Board's Rules and Regulations, 80 Ill. Admin. Code §§1200-1300, the parties may file exceptions no later than 14 days after service of this recommendation. Parties may file responses to any exceptions. In such responses, parties that have not previously filed exceptions may include cross-exceptions to any portion of the recommendation. Within five days from the filing of cross-exceptions, parties may file cross-responses to the cross-exceptions. Exceptions, responses, cross-exceptions, and cross-responses must be filed, if at all, with Kathryn Nelson, General Counsel, Illinois Labor Relations Board, 160 North LaSalle Street, Suite S-400, Chicago, Illinois, 60601-3103. Exceptions, responses, cross-exceptions, and cross-responses will not be accepted in the Board's Springfield office. Exceptions and/or cross-exceptions sent to the Board must contain a statement listing the other parties to the case and verifying that the exceptions and/or cross-exceptions have been provided to them. If no exceptions have been filed within the 14-day period, the parties will be deemed to have waived their exceptions.

Issued at Springfield, Illinois, this 21st day of July, 2015.

**STATE OF ILLINOIS
ILLINOIS LABOR RELATIONS BOARD
STATE PANEL**

/s/ Sarah R. Kerley

**Sarah Kerley
Administrative Law Judge**

**STATE OF ILLINOIS
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|---|---|----------------------|
| County of Mercer and Mercer County |) | |
| Clerk, Mercer County Treasurer and |) | |
| Sheriff of Mercer County, |) | |
| |) | |
| Employer/Petitioner |) | |
| |) | Case No. S-UC-15-063 |
| and |) | |
| |) | |
| International Union of Operating Engineers, |) | |
| Local 150, AFL-CIO, |) | |
| |) | |
| Labor Organization. |) | |

STIPULATED RECORD

NOW COMES, the County of Mercer and Mercer County Clerk, Mercer County Treasurer and Sheriff of Mercer County, Employer/Petitioner (“Mercer County”), and International Union of Operating Engineers, Local 150, AFL-CIO, Labor Organization (“Local 150”), and for their Stipulated Record, state as follows:

1. At all times material, Mercer County has been a public employer within the meaning of Section 3(o) of the Illinois Public Labor Relations Act (“Act”).

2. At all times material, Mercer County has been subject to the jurisdiction of the State Panel of the Board, pursuant to Section 5(a-5) of the Act.

3. At all times material, Local 150 has been a labor organization within the meaning of Section 3(i) of the Act.

4. At all times material, Local 150 represents multiple bargaining units comprised of Mercer County’s employees in the Mercer County Highway Department, County of Mercer Courthouse Division and the Sheriff’s Department.

5. Mercer County filed a Unit Clarification Petition on November 18, 2014 seeking to clarify the Certification of Representative dated July 25, 1994 in Case No. S-RC-94-98 to exclude from that Unit the following title:

Animal Control Officer who serves as supervisor and manager of the Office of Animal Control

("UC Petition").

6. Local 150 resisted the UC Petition by correspondence to Administrative Law Judge Sarah R. Kerley dated December 16, 2014.

7. Mercer County and Local 150 agree that the title of "Animal Control Officer(s)" should be included in the Unit. Mercer County and Local 150 hereby agree and stipulate that clarification of the Unit to include such title is appropriate under the circumstances.

8. Mercer County and Local 150 respectfully request that Administrative Law Judge Sarah R. Kerley clarify the bargaining unit as follows (change in italics):

UNIT

Included, all full and regular part-time administrative and clerical employees in the offices of the County Clerk and Recorder, County Assessor, County Treasurer, Animal Control, *including Animal Control Officer(s)*, County Sheriff, County Board and Probate and Court Services.

Excluded, all employees that are supervisory, confidential, managerial or short-term within the meaning of the Act.

WHEREFORE, the County of Mercer and Mercer County Clerk, Mercer County Treasurer and Sheriff of Mercer County, Employer/Petitioner, and the International Union of Operating Engineers, Local 150, AFL-CIO, Labor Organization, respectfully move Administrative Law Judge Sarah R. Kerley to enter an Order clarifying the Unit as requested above.

Respectfully submitted,

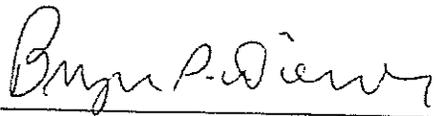
COUNTY OF MERCER AND MERCER COUNTY
CLERK, MERCER COUNTY TREASURER AND
SHERIFF OF MERCER COUNTY

By: 

Arthur W. Eggers

For: Califf & Harper, P.C.

INTERNATIONAL UNION OF OPERATING
ENGINEERS, LOCAL 150, AFL-CIO,



One of the Attorneys for Local 150