

BACKGROUND

On November 5, 1997, State Employees Association, Local 1984 filed a petition to certify a bargaining unit of Coos County employees involved with the corrections system operated by the County. On November 18, 1997, Coos County filed its objections to the inclusion of certain positions in the bargaining unit. A hearing on the petition was held on December 17, 1997, and March 13, 1998. A decision was issued on a related controversy on February 26, 1998, Decision No. 1998-015. The record was held open until March 20, 1998, for the submission of evidence. Briefs were received on March 27 and March 30, 1998.

FINDINGS OF FACT

1. Coos County (County) employs correction officers and others to operate its correctional facilities in West Stewartstown and so is a public employer within the meaning of RSA 273-A:I X.
2. State Employees Association, Local 1984 (Association) seeks the formation of a twenty-one member bargaining unit to consist of corrections officers (10), sergeants (shift supervisors) (3), corporals (shift supervisors) (3), corporal (outside maintenance supervisor) (1), recycling supervisor (1), corporal (barn supervisor) (1), and barn workers (herdsmen) (2). The County objects to the inclusion of sergeants, corporals, corporal in charge at outside maintenance, recycling supervisor, barn supervisor and barn workers.
3. All positions in question are located at County facilities, within a one-quarter mile area, on County property off Route 3 in West Stewartstown. Superintendent Norman Brown is in charge of the County Corrections facility, as well as the County Farm and the Recycling Center. The latter two operate independently of the Coos County Department of Corrections. The County Farm came under the authority of Norman Brown in 1994, when a move was made to do away with it as a cost cutting measure. Superintendent Brown reports to Suzanne Collins, who is County Administrator. (County Exhibit No. 35.)
4. Personnel policies governing all positions are described in the Coos County Employee Policy Handbook. (Joint Exhibit No. 1) All positions in question are for regular County employees who are subject to the same personnel policies, are paid according to the same step system and receive the same benefits package. Working with prisoners to some

degree is a condition of employment that all positions have in common.

5. Sergeants lead most shifts at the correctional facility. They initiate discipline and carry out performance reviews of corrections officers and shift corporals. (County Exhibit No. 14). Sergeants advise corporals who also do performance reviews of correction officers. Reviews are signed by Superintendent Brown. Superintendent Brown averred that he gives weight to these reviews and may add a comment but he never changes the contents of reviews. Sergeants participate in hiring new employees and make recommendations on the retention of probationary employees. Sergeants construct work schedules and review each others' schedules for conflicts between shifts before sending their schedules to Superintendent Brown.
6. Sergeant McKeage testified that his immediate supervisor is Superintendent Norman Brown. (County Exhibit No. 14). Sergeant McKeage works the day shift and performs a routine of rounds and briefings, supervision of the line staff and other work assigned by Superintendent Brown. A decision from Sergeant McKeage is the initial step in grievance process after which his decision may be appealed in writing to Superintendent Brown. When discipline is necessary; he writes a report, decides the form of discipline, and forwards it to Superintendent Brown for action. Rarely, has a change been made. A warning written by a sergeant will become part of an employee's personnel file.
7. The three corporals who are shift supervisors head six of the eighteen shifts scheduled each week. The three sergeants supervise the remaining twelve shifts. When these three corporals are not acting as the actual shift supervisor, they are second in command to the sergeant in charge. Superintendent Brown testified that these corporals are "sergeants in training" and their jobs description gives them actual authority for "direct supervision of all staff and inmates within the facility." (County Exhibit No. 20). Corporals have responsibility to ensure that disciplinary policies are administered properly. (County Exhibit No. 29). When policies are not adhered to, a corporal might alert the superintendent by memorandum as was done by Corporal Morann when a security leak was detected. (County Exhibit No. 11). Corporals often, assist sergeants with the writing of performance reviews. But sometimes, corporals are given authority to perform reviews of probationary and regular correctional officers. Superintendent Brown signs reviews and adds comments whether the

review is completed by a corporal or sergeant. (County Nos. 9, 18, 19, 22). Corporals are provided training in supervision by the County at the First Line Supervisor Academy. (County Exhibit No. 33.)

8. Corporal Morann testified that he has input into written performance reviews and that he attends meetings with employees at which reviews are discussed with employees. Corporal Morann testified that he has the authority to initiate discipline, but would do so under the supervision of the sergeant whom he would call for direction immediately after initiating discipline. Corporal Morann works closely with the sergeant on matters such as discipline.
9. One corporal is in charge of outside maintenance and does not supervise correction officers. He performs outside maintenance tasks, with or without inmates, under the direction of Superintendent Brown or Administrator Collins. He does supervise inmates when they work on the grounds and is certified as are other corrections officers. On the rare occasion, when he is working inside, he is authorized to supervise correctional officers. The Superintendent's Report, (Association Exhibit No. 7), contains a commendation of a number of members of the correctional staff including Corporal Brousseau, who holds the position in question.
10. The recycling manager or operator, Robert R. Brown, collects recyclables from six towns beginning at 4:30 or 5 a.m. At 7:00 a.m., he picks up the four inmates whom he supervises through the day as they sort and bale the materials. He does his own marketing and prepares paperwork including a monthly report. He supervises no Corrections Department employees. He is supervised and evaluated by Norman Brown who has told him that he receives wages similar to correction officers. He takes lunch at the Coos County Nursing Home after returning inmates to the correctional facility for their noon meal. He interacts with correction officers, sergeants and corporals when he collects or returns inmates. He works different hours from employees at the correctional facility and is the only full-time employee of the recycling operation. He punches the clock at the correctional facility twice a day and a correctional officer substitutes for him when he is not working.

11. The farm manager or supervisor holds the rank of corporal. He "[p]erforms responsible supervisory farm management work concerned with general farming duties required in the operation of a diversified County Institution Farm with the responsibility of milk, beef, pork and vegetable production and the utilization of prisoners in farm activities for training purposes." (County Exhibit No. 36). This position recommends hiring and firing, evaluates and supervises two herdsman, farm workers. This position is responsible for farm workers who are prisoners and is responsible for record keeping and planning for the farm. A two year college program in farming is required and he is salaried.

12. The two herdsman are supervised by the farm manager. They work split shifts in order to properly tend the animals on schedules set by the farm manager. Scott Grassette testified that he begins work at 2:30 a.m. After doing chores, he picks up an inmate and returns to the farm for milking. After breakfast, at 6:30 a.m., he brings additional inmates to work with the herd. He finishes at about 10:30 a.m. when he leaves for the day. He has an opportunity to discuss problems regarding inmates with correction officers, when prisoners are exchanged.

DECISION AND ORDER

RSA 273-A:8 empowers the Public Employee Labor Relations Board to determine the composition of bargaining units and to certify such units. The statute establishes a standard under which a bargaining unit is to be reviewed. The statute proscribes inclusion in the bargaining unit of employees who exercise significant supervisory authority over bargaining unit positions, RSA 273-A:8 II, and dictates that the Board be mindful of the community of interest among potential bargaining unit positions, RSA 273-A:8 I.

The sergeants and corporals, the shift supervisors, work together in exercising sufficient discretionary authority to require their exclusion from the proposed bargaining unit. Both positions carry out daily supervision, periodic reviews and discipline of correction officers. Sergeants schedule and participate in hiring as well.

The herdsman lack a community of interest with the correction officers who make up the core of this bargaining unit. The herdsman work with inmates and under County policies, in a County institution and under the authority of Superintendent Brown. However, the setting, schedules, and nature of their work differ greatly from those of employees in the bargaining unit. Most important, their work centers narrowly on animal maintenance itself and not the correction of inmates. All other positions in the bargaining unit contribute to a corrections purpose in a way that the herdsman do not

The corporal in charge of the County Farm is a certified correctional employee whose job description assigns a role in the rehabilitation of prisoners through training in farm work. (County Exhibit No. 36). The supervision he performs does not preclude membership in the bargaining unit because those supervised will not be members. His training and rank, as well as the mandate of his job description, the physical location and purpose of the farm, are evidence of a community of interest with others in the bargaining unit.

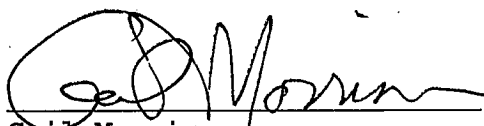
The corporal in charge of outside maintenance is similarly situated to the above position, in that he is a ranked employee who does not supervise those who will be bargaining unit members. This Corporal is a member of the corrections team who was commended for his actions when a prisoner threatened the safety of the facility. He does not exercise prohibited supervisory discretion and does share a community of interest with others in the bargaining unit.

The recycling center operator is not a ranked member of the correctional community and his relationship is different from the above two positions in that regard. As the only full-time employee of the recycling center, he works directly with three prisoners five days a week and their labor contributes to the success of the operation which superintendent Brown has called "a valuable component" of the County work programs. (Association No. 3). The recycling center serves a correctional goal and its manager oversees its workings toward that goal. There is a community of interest with correction officers and others in the bargaining unit above and beyond the geographical proximity, common County policies, benefits package and organizational flow-chart.

The appropriate bargaining unit for these Coos County employees consists of the ten correction officers, the corporal in charge of outside maintenance, the farm manager and the recycling center operator. The sergeants and shift corporals are excluded for reason of the supervisory nature of their work. The herdsmen are excluded because of an absence of community of interest with others in the bargaining unit.

So ordered.

Signed this 20th day of April, 1998.


Gail Morrison
Hearing Officer