

STATE OF CALIFORNIA
PUBLIC EMPLOYMENT RELATIONS BOARD



PUBLIC EMPLOYEES UNION, LOCAL ONE,

Charging Party,

v.

WEST COUNTY WASTEWATER DISTRICT,

Respondent.

Case No. SF-CE-997-M

PERB Decision No. 2471-M

February 10, 2016

Appearances: Leonard Carder by Arthur Liou, Attorney, for Public Employees Union, Local One; Wiley Price & Radulovich by Richard M. Shiohira, Attorney, for West County Wastewater District.

Before Huguenin, Banks, and Gregersen, Members.

DECISION

HUGUENIN, Member: This case is before the Public Employment Relations Board (PERB or Board) on exceptions filed by Public Employees Union, Local One (Local One) to the proposed decision of a PERB administrative law judge (ALJ). The complaint issued by PERB's Office of the General Counsel alleged that the West County Wastewater District (District) violated sections 3503, 3505, 3506, 3506.5, subdivisions (a), (b) and (c), and 3509, subdivision (b) of the Meyer-Miliias-Brown Act (MMBA)¹ as well as PERB Regulation 32603, subdivisions (a), (b) and (c)² when it: (1) enforced its local rule regarding unit modifications to determine that certain classifications (associate engineer and shift supervisor) should be relocated from one bargaining unit (Managerial Employees Unit or MEU) to another

¹ The MMBA is codified at Government Code section 3500 et seq. Unless otherwise indicated, all statutory references herein are to the Government Code.

² PERB regulations are codified at California Code of Regulations, title 8, section 31001 et seq. and may be found on the internet at www.perb.ca.gov.

bargaining unit (Field Operations Unit or FOU);³ and (2) without affording Local One notice and an opportunity to bargain over the impact on employees, commenced applying to employees in the relocated shift supervisor and associate engineer classifications those terms and conditions of employment prescribed by the memorandum of understanding covering the FOU bargaining unit.

The ALJ concluded that the District did not unreasonably enforce its local rule regarding unit modifications and did not fail or refuse to meet and confer in good faith over the District's decision or the effects of its decision to modify both the MEU and FOU bargaining units. On March 17, 2014, Local One timely filed its exceptions. On April 11, 2014, the District timely responded. On April 22, 2014, PERB's Appeals Assistant informed the parties that the filings were complete and the matter was placed on the Board's docket.

On December 21, 2015, Local One notified the Board that the parties had resolved the underlying dispute in Case No. SF-CE-997-M, requested to withdraw its exceptions to the proposed decision, and requested that PERB dismiss its complaint. On December 29, 2015, PERB's Appeals Assistant notified both parties of Local One's requests, and of the Board's decision in *County of Fresno* (2014) PERB Decision No. 2352-M. The Appeals Assistant solicited responses from both parties no later than January 19, 2016. On January 6, 2016, the District notified PERB that the parties had resolved the underlying dispute, concurred with Local One's request to dismiss PERB's complaint, including withdrawing the charge with prejudice and vacating the proposed decision. Local One did not reply to the District's response.

³ Local One represents both bargaining units, MEU and FOU.

The Board has the discretion to grant or deny requests to withdraw and dismiss cases pending before the Board itself. (MMBA, § 3509, subd. (a); PERB Reg. 32320, subd. (a)(2) [“The Board itself may . . . take such other action as it considers proper.”]; *County of Fresno, supra*, PERB Decision No. 2352-M; *State of California (Department of Personnel Administration)* (2010) PERB Decision No. 2152-S; *Grossmont-Cuyamaca Community College District* (2009) PERB Order No. Ad-380; *Oakland Unified School District* (1988) PERB Order No. Ad-171a; *ABC Unified School District* (1991) PERB Decision No. 831b.)

Here, both parties to Case No. SF-CE-997-M have agreed to the disposition described above. The Board has a longstanding policy favoring the voluntary settlement of disputes. (*Dry Creek Joint Elementary School District* (1980) PERB Order No. Ad-81.) Based on the Board’s review of the parties’ requests and the entire record in this matter, the Board finds the requests to be in the best interest of the parties and consistent with the purposes of the MMBA to promote harmonious labor relations.

ORDER

The requests in Case No. SF-CE-997-M by Public Employees Union, Local One (Local One) and the West County Wastewater District (District) are hereby GRANTED. Local One’s exceptions to the proposed decision are deemed withdrawn, and its unfair practice charge is deemed withdrawn with prejudice. The complaint is DISMISSED and the proposed decision is hereby VACATED.

Members Banks and Gregersen joined in this Decision.