

STATE OF MONTANA
DEPARTMENT OF LABOR AND INDUSTRY
BEFORE THE BOARD OF PERSONNEL APPEALS

IN THE MATTER OF UNIT CLARIFICATION NO. 1-91:

BUTTE-SILVER BOW GOVERNMENT,)	
)	
Petitioner,)	
)	
vs.)	FINDINGS OF FACT;
)	CONCLUSIONS OF LAW;
)	AND
DAN EVANS, FEDERATION OF)	RECOMMENDED ORDER
BUTTE-SILVER BOW PUBLIC)	
EMPLOYEES, MFSE, AFT, AFL-CIO,)	
)	
Respondent.)	

* * * * *

I. INTRODUCTION

On January 4, 1991, the Petitioner filed a petition with this Board for Unit Clarification of the existing bargaining unit. The Petitioner sought to exclude the District Judges' secretaries from the existing bargaining defined as, "Deputies and assistants of the following elected officials of the City and County of Butte-Silver Bow, State of Montana: Auditor, Clerk and Recorder, Clerk of the Court, Superintendent of Schools, and Treasurer; and all other secretarial, parking enforcement officers, booking, stenographic, and clerical employees of the Butte-Silver Bow Municipal government, excluding summer employees, elected officials, chief deputies, confidential employees, supervisory employees, management employees and all other persons as defined by the Act, 39-31-103, M.C.A.". The Petitioner contended that the District Judges' secretaries should be deemed "confidential employees", and therefore, be excluded from the existing bargaining unit.

On January 24, 1991, the Respondent filed a Response with this Board disagreeing with Petitioner's contention to exclude the District Judges' secretaries from the unit. The Respondent contended only those individuals found to be "confidential employees" pursuant to Section 39-31-103 MCA should be excluded from the bargaining unit.

1 The Parties to this matter filed a STIPULATION AND REQUEST FOR
2 ORDER with this Board stipulating that the secretaries for the
3 District Court Judges in Butte-Silver Bow are not confidential
4 employees as defined in Section 39-31-103 MCA. The Parties
5 requested this Hearing Examiner, without formal hearing, to make a
6 determination as to the inclusion or exclusion of the District
7 Court Judges' secretaries in the existing bargaining unit based
8 upon language of the current collective bargaining agreement,
9 Recognition Clause, Article 1, Section 1:

10 The Employer recognizes the Federation as the
11 exclusive representative of all Deputies and
12 Assistants of the following elected officials
13 of the City and County of Butte-Silver Bow,
14 State of Montana: Auditor, Clerk and Recorder,
15 Clerk of the Court, Superintendent of Schools,
16 and Treasurer; and all other secretarial,
17 parking enforcement officers, bookkeeping,
18 stenographic and clerical employees of the
19 Butte-Silver Bow Municipal Government
20 excluding summer employees, elected officials,
21 Chief Deputies, confidential employees,
22 supervisory employees, management employees,
23 and all other persons as defined by the Act
24 39-31-103, MCA.

25 II. ISSUE

26 Whether the District Court Judges' secretaries should be
27 excluded from the existing bargaining unit.

28 III. FINDING OF FACT

29 1. The District Court Judges' secretaries are not
30 confidential employees as defined in Section 39-31-103 MCA
31 (Stipulated Fact).

32 IV. DISCUSSION

The extent of this Board's jurisdiction in determining
confidential employees and their exclusion from an appropriate
bargaining unit is limited to the interpretation of the definitions
in Section 39-31-103 MCA. In light of the stipulation of the
Parties and pursuant to its terms, there are no other issues
remaining over which this Board has jurisdiction.

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V. CONCLUSION OF LAW

1. The District Court Judges' secretaries are not confidential employees as defined in Section 39-31-103 MCA.

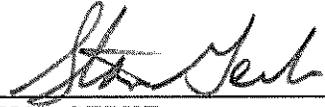
VI. RECOMMENDED ORDER

Unit Clarification No. 1-91 is dismissed.

DATED this 27th day of June, 1991.

BOARD OF PERSONNEL APPEALS

BY


STAN GERKE
Hearing Examiner

SPECIAL NOTICE

In accordance with Board's Rule ARM 24.25.107(2), the above RECOMMENDED ORDER shall become the FINAL ORDER of this Board unless written exceptions are filed within 20 days after service of these FINDINGS OF FACT, CONCLUSIONS OF LAW, AND RECOMMENDED ORDER upon the Parties.

CERTIFICATE OF MAILING

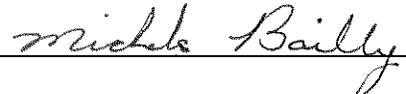
The undersigned hereby certifies that true and correct copies of the foregoing documents were, this day served upon the following parties or such parties' attorneys of record by depositing the same in the U.S. Mail, postage prepaid, and addressed as follows:

Tim Clark
Personnel Director
Butte-Silver Bow Government
Silver Bow County Courthouse
Butte, MT 59701

Dan Evans
Field Representative
Montana Federation of State Employees
P.O. Box 1246
Helena, MT 59624

Ross P. Richardson
P.O. Box 399
Butte, MT 59703

DATED this 27th day of June, 1991.


Michele Bailly

SD279

1 BUTTE-SILVER BOW GOVERNMENT

2
3 By *Jack Smith*

4
5 MONTANA FEDERATION OF
6 STATE EMPLOYEES

7 By *Michael Dahlem*

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9
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11 ORDER OF DISMISSAL

12 Pursuant to the Stipulation of the parties herein and good
13 cause therefore appearing;

14 IT IS HEREBY ORDERED that the above-entitled appeal and
15 all other proceedings shall be, and the same hereby are,
16 dismissed as fully settled.

17 DATED THIS 6th DAY OF December, 1991.

18 BOARD OF PERSONNEL APPEALS

19
20 By *John Brooks for*

21 Charles L. Hunter
22 Administrator

23
24
25 2. STIPULATION AND ORDER OF DISMISSAL