

UNITED STATES OF AMERICA
FEDERAL LABOR RELATIONS AUTHORITY
OFFICE OF ADMINISTRATIVE LAW JUDGES
WASHINGTON, D.C. 20424

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BUREAU OF RECLAMATION,
LOWER COLORADO REGION,
YUMA PROJECTS OFFICE,
YUMA, ARIZONA

Respondent

and

Case No. 8-CA-70558

NATIONAL FEDERATION OF
FEDERAL EMPLOYEES

Charging Party

.....

Gerald J. Rachelson, Esq.
For the Respondent

Kenneth P. Russell, Esq.
For the General Counsel

Before: SALVATORE J. ARRIGO
Administrative Law Judge

DECISION

Statement of the Case

This case arose under the Federal Service Labor-Management Relations Statute, Chapter 71 of Title 5 of the U.S. Code, 5 U.S.C. section 7101, et seq. (herein the Statute).

Upon an unfair labor practice charge having been filed by the captioned Charging Party against the captioned Respondent, the General Counsel of the Federal Labor Relations Authority (herein the Authority), by the Regional Director for Region VIII, issued a Complaint and an Amended Complaint and Notice of Hearing alleging Respondent violated the Statute when Respondent refused to furnish the National Federation of Federal Employees (herein the Union) the names and home addresses of bargaining unit employees which the Union had requested. Respondent filed an Answer to the Complaint and Amended Complaint in which some of the allegations were admitted and others denied.

Subsequently, counsel for the General Counsel filed with the Regional Director a Motion for Summary Judgment with supporting documents. The matter was then transferred to the Office of Administrative Law Judges for ruling pursuant to section 2423.22(b) of the Rules and Regulations of the Authority. Thereupon, counsel for Respondent filed an opposition to counsel for the General Counsel's motion for summary judgment and a cross-motion for summary judgment and dismissal of complaint. Based upon my review and evaluation of the entire record before me, I make the following:

Findings of Fact

1. At all times material Respondent has been an agency within the meaning of section 7103(a)(3) of the Statute.

2. At all times material the Union has been a labor organization within the meaning of section 7103(a)(4) of the Statute.

3. At all times material the Union has been recognized by Respondent as the exclusive collective bargaining representative of an appropriate unit of employees consisting of various hourly employees engaged in operation and maintenance activities for Respondent's Yuma Projects Office, Lower Colorado Region.

4. On or about June 4, 1987, and continuing to date, the Union made a request to the Respondent that it furnish the Union with the names and home addresses of all employees in the bargaining unit described in paragraph 3, above.

5. On or about June 19, 1987, and continuing to date, Respondent failed and refused to furnish the Union the data described in paragraph 4, above.

6. The data described in paragraph 4, above is: normally maintained by Respondent in the regular course of business; reasonably available and necessary for full and proper discussion, understanding and negotiation of subjects within the scope of collective bargaining, and; does not constitute guidance, advice, counsel or training for management officials or supervisors relating to collective bargaining. Further, the disclosure of the data described in paragraph 4, above, is not prohibited by law.

Discussion and Conclusions

The General Counsel, relying on the Authority's decision in Farmers Home Administration Finance Office, St. Louis,

Missouri, 23 FLRA 788 (1986), enforced in part and remanded sub nom. U.S. Department of Agriculture and Farmers Home Administration Finance Office, St. Louis, Missouri v. FLRA, 836 F.2d 1139 (8th Cir. 1988), contends Respondent violated section 7116(a)(1), (5) and (8) of the Statute when it refused to furnish the Union with the names and home addresses of all bargaining unit employees. Respondent opposes summary judgment essentially contending that: section 7114(b) of the Statute does not require furnishing such information to the exclusive representative; alternative means exist for the Union to communicate with employees and therefore the information requested is not necessary for full and proper discussion, understanding, and negotiation of subjects within the scope of collective bargaining; and furnishing the information is prohibited by law (the Privacy Act, 5 USC 552a).

Section 7114(b)(4) of the Statute provides in relevant part:

(b) the duty of an agency and an exclusive representative to negotiate in good faith under subsection (a) of this section shall include the obligation

"(4) in the case of an agency, to furnish to the exclusive representative involved, or its authorized representative, upon request and, to the extent not prohibited by law, data--

"(A) which is normally maintained by the agency in the regular course of business; (and)

"(B) which is reasonably available and necessary for full and proper discussion understanding, and negotiation of subjects within the scope of collective bargaining"

In Farmers Home Administration Finance Office, supra, the Authority held: (1) the disclosure of the names and addresses of bargaining unit employees to the exclusive representative was not prohibited by the Privacy Act; (2) an agency's possession of Official Personnel Files wherein can be found employees' addresses satisfies the requirements of section 7114(b)(4)(A) and (B) of the Statute that such data

be normally maintained by the agency and reasonably available, and; (3) such data was necessary under section 7114(b)(4)(B) of the Statute for unions to meet their statutory obligation to represent the interests of all employees in the unit without discrimination as required by section 7114(a)(1) of the Statute, notwithstanding the existence of alternative means by which a union might communicate to unit employees. In subsequent decisions the Authority followed Farmers Home Administration in deciding numerous cases which involved similar issues. See United States Department of the Navy and Philadelphia Naval Shipyard v. FLRA, 840 F.2d 1131 (3rd Cir. 1988), enforcing Philadelphia Naval Shipyard, 24 FLRA 37 (1986); U.S. Department of the Air Force, Scott Air Force Base, Illinois v. FLRA, 838 F.2d 229 (7th Cir. 1988), affirming Department of the Air Force, Scott Air Force Base, 24 FLRA 226 (1986); Department of Health and Human Services, Social Security Administration v. FLRA, 833 F.2d 1129 (4th Cir. 1987), affirming Department of Health and Human Services, Social Security Administration, 24 FLRA 543 (1986); Defense Mapping Agency Aerospace Center, St. Louis, Missouri, 24 FLRA 43 (1986); Social Security Administration, Northeastern Program Service Center, 24 FLRA 108 (1986); Department of the Navy, Portsmouth Naval Shipyard, 24 FLRA 209 (1986); Department of Health and Human Services, Region V, 26 FLRA 460 (1987); Air Force District of Washington, 26 FLRA 542 (1987); Departments of the Army and Air Force, Army and Air Force Exchange Service Headquarters, Dallas, Texas and Army and Air Force Exchange Service, McClellan Air Force Base, California, 26 FLRA 691 (1987); and 831 Combat Support Group (TAC), George Air Force Base, California, 28 FLRA No. 16 (1987).

The facts presented herein and the arguments raised by Respondent are not significantly different from those considered by the Authority in Farmers Home Administration and cases which followed thereafter, supra. In view of the Authority's holdings in the above cases I conclude Respondent's defenses to the failure and refusal to provide the Union with the names and home addresses of unit employees as requested to be without merit. I further conclude Respondent was obligated under section 7114(b) of the Statute to furnish the Union with the names and home addresses of unit employees and accordingly, I conclude Respondent's refusal to furnish such data violated section 7116(a)(1), (5) and (8) of the Statute and grant counsel for the General Counsel's motion for summary judgment. Therefore I recommend the Authority issue the following:

ORDER

Pursuant to section 2423.29 of the Rules and Regulations of the Federal Labor Relations Authority and section 7118 of the Statute, the Authority hereby orders that Bureau of Reclamation, Lower Colorado Region, Yuma Projects Office, Yuma, Arizona, shall:

1. Cease and desist from:

(a) Refusing to furnish, upon request of the National Federation of Federal Employees, the exclusive representative of certain of its employees, the names and home addresses of all employees in the bargaining unit it represents.

(b) In any like or related manner, interfering with, restraining, or coercing its employees in the exercise of the rights assured them by the Federal Service Labor-Management Relations Statute.

2. Take the following affirmative action in order to effectuate the purposes and policies of the Statute.

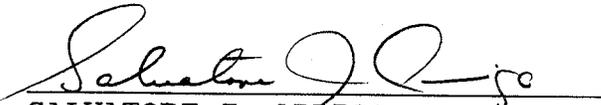
(a) Furnish the National Federation of Federal Employees, the exclusive representative of certain of its employees, the names and home addresses of all employees in the bargaining unit it represents.

(b) Post at all facilities where bargaining unit employees represented by the National Federation of Federal Employees, are located, copies of the attached Notice on forms to be furnished by the Federal Labor Relations Authority. Upon receipt of such forms, they shall be signed by a senior official of the Bureau of Reclamation, Lower Colorado Region, Yuma Projects Office, Yuma, Arizona, and shall be posted and maintained for 60 consecutive days thereafter, in conspicuous places, including all bulletin boards and other places where notices to employees are customarily posted. Reasonable steps shall be taken to ensure that such Notices are not altered, defaced, or covered by any other material.

(c) Pursuant to section 2423.30 of the Authority's Rules and Regulations, notify the Regional Director, Region VIII, Federal Labor Relations Authority, 350 South Figueroa

Street, Room 370, Los Angeles, CA 90071 , in writing,
within 30 days from the date of this Order, as to what steps
have been taken to comply herewith.

Issued, Washington, D.C., August 26, 1988


SALVATORE J. ARRIGO
Administrative Law Judge

NOTICE TO ALL EMPLOYEES

PURSUANT TO

A DECISION AND ORDER OF THE

FEDERAL LABOR RELATIONS AUTHORITY

AND IN ORDER TO EFFECTUATE THE POLICIES OF

CHAPTER 71 OF TITLE 5 OF THE

UNITED STATES CODE

FEDERAL SERVICE LABOR-MANAGEMENT RELATIONS STATUTE

WE HEREBY NOTIFY OUR EMPLOYEES THAT:

WE WILL NOT refuse to furnish, upon request of the National Federation of Federal Employees, the exclusive representative of certain of our employees, the names and home addresses of all employees in the bargaining unit it represents.

WE WILL NOT in any like or related manner, interfere with, restrain, or coerce our employees in the exercise of the rights assured them by the Federal Service Labor-Management Relations Statute.

WE WILL furnish the National Federation of Federal Employees, the exclusive representative of certain of our employees, the names and home addresses of all employees in the bargaining unit it represents.

(Agency or Activity)

Dated: _____ By: _____
(Signature)

This Notice must remain posted for 60 consecutive days from the date of posting and must not be altered, defaced or covered by any other material.

If employees have any questions concerning this Notice or compliance with any of its provisions, they may communicate directly with the Regional Director of the Federal Labor Relations Authority, Region VIII, whose address is: 350 South Figueroa Street, Room 370, Los Angeles, CA 90071, and whose telephone number is: (213) 894-3805.