

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

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DEPARTMENT OF THE INTERIOR .  
WASHINGTON, D.C. AND .  
DEPARTMENT OF THE INTERIOR .  
NATIONAL PARK SERVICE .  
WESTERN REGIONAL OFFICE .  
SAN FRANCISCO, CALIFORNIA .

Respondents .

and .

Case No. 9-CA-70387

NATIONAL FEDERATION OF .  
FEDERAL EMPLOYEES, .  
LOCAL NO. 1, INDEPENDENT<sup>1</sup>/ .

Charging Party .

. . . . .

Gerald J. Rachelson, Esq.  
For the Respondent

Susan E. Jelen, Esq.  
For the General Counsel

Before: WILLIAM NAIMARK  
Administrative Law Judge

DECISION

Statement of the Case

This case arises under the Federal Service Labor-  
Management Relations Statute, 5 U.S.C. 7101 et seq. (herein  
called the Statute). Pursuant to a first amended charge  
filed by the National Federation of Federal Employees, Local  
No. 1, Independent (herein called the Union), an Amended

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<sup>1</sup>/ The Complaint herein, as well as subsequent documents,  
referred to the Union as Local No. 1501, Independent. An  
Errata issued by the Region on January 11, 1988 corrected  
the Union's designation to Local No. 1, Independent.

Complaint<sup>2/</sup> and Notice of Hearing was issued on November 17, 1987 by the Regional Director, Region IX, Federal Labor Relations Authority, against the Department of Interior, Washington, D.C. and Department of the Interior, National Park Service, Western Regional Office, San Francisco, California ((herein called Respondents)).

The Amended Complaint alleged, in substance, that Respondent violated Section 7116(a)(1), (5) and (8) of the Statute by failing and refusing to provide the Union, upon request, with the names and home addresses of employees in two bargaining units in which the Union has been certified as the exclusive representative - as required by Section 7114(b)(4) of the Statute.

Respondent's Answer, to the Amended Complaint, which was duly served on December 10, 1987, admitted as to the Complaint: (a) the jurisdictional allegations therein; (b) that on or about March 20, 1987 the Union as the exclusive representative of appropriate units of both professional and non-professional employees of Respondent Western Regional Office, requested that Respondent Western Regional Office provide the Union with the names and home addresses of such bargaining unit employees; (c) that since on or about April 29, 1987 Respondent Western Regional Office has failed and refused to provide the data so requested; (d) that Respondent Department of Interior directed Respondent Western Regional Office to refuse to provide the requested data; (e) that the official personnel files of bargaining unit employees are under the custody of the Regional Personnel office and contain the names and home addresses on various documents which employees have completed at various times (e.g., filling out the original employment application)<sup>3/</sup>; (f) that the data requested is reasonably available; (g) that the data does not constitute guidance, advice, counsel or training provided for management officials or supervisors related to collective bargaining.

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<sup>2/</sup> An original Complaint was issued on October 6, 1987, and an Answer thereto was filed by Respondents on October 28, 1987.

<sup>3/</sup> Whole making such admission, Respondents continued to deny in its Answer that the data is normally maintained in the Regional Personnel office of Respondent Western Regional Office.

Respondent's Answer denied that the data requested is necessary for full and proper discussion, understanding and negotiation of subjects within the scope of collective bargaining. It also denied that the release of the said data is not prohibited by law. Further, the commission of any unfair labor practices was denied.

Under date of December 23, 1987, General Counsel filed a Motion For Summary Judgment together with a brief in support thereof.

In an order dated December 23, 1987, the Regional Director transferred the Motion to the Chief Administrative Law Judgment pursuant to Section 2423.22(b)(1) of the Authority's Rules and Regulations. The case was duly assigned to the undersigned for disposition.

Under date of January 11, 1988 Respondents submitted a memorandum in opposition to the Motion For Summary Judgment and a Cross-Motion For Summary Judgment and Dismissal of General Counsel's Complaint.

Respondents makes several contentions in asserting that it should not be required to furnish the information requested: (1) no attempt is made by the Colorado Regional office to "maintain" the currency of addresses in the personnel folders which contains the originally filed home addresses; (2) the Statute requires an agency to furnish "data" which is factual information, i.e., working conditions, but should not encompass names and home addresses of employees; (3) the information requested is not needed by the Union to carry out negotiations, and there are other means available to obtain the home addresses of employees; (4) the Privacy Act prohibits disclosure except under certain exceptions, i.e., 5 U.S.C. 552a(b)(2) and (b)(3); (5) the exemption of (b)(6) of the FOIA should be employed only where the agency is responding to a FOIA request.

The contentions and arguments made by Respondent herein were raised, and considered by the Authority, 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). The Authority held that the names and home addresses must be furnished and their release is not prohibited by law. Further, that such data is necessary for unions to fulfill their representational duties under the Statute, and all requirements are met under 7114(b)(4) of

the Statute. Its decision analyzed the two exceptions to the Privacy Act's bar to disclosure of personal information pertinent to the release of employees' names and home addresses: exception (b)(2), concerning the Freedom of Information Act; and exception (b)(3), relating to "routine use" of information. The Authority found that both exceptions applied so as to authorize release of the information under the Privacy Act.

Accordingly, it is concluded that Respondent's refusal to provide the Union with the names and home addresses violated Section 7116(a)(1), (5) and (8) of the Statute. See United States Department of the Navy and Philadelphia Naval Shipyard v. FLRA, 840 F.2d 1131 (3d 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, Illinois v. FLRA, 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); Department of Health and Human Services, Social Security Administration, and Social Security Administration Field Operations, New York Region, 24 FLRA 583 (1986); Department of Health and Human Services, Social Security Administration, 24 FLRA 600 (1986).

Based on the foregoing, the General Counsel's Motion For Summary Judgment is granted. It is recommended that the Authority issue the following:

#### ORDER

Pursuant to section 2423.29 of the Authority's Rules and Regulations and section 7118 of the Federal Labor-Management Relations Statute, the Department of the Interior, Washington, D.C. and Department of the Interior, National Park Service, Western Regional Office, San Francisco, California, shall:

1. Cease and desist from:

(a) Refusing to furnish, upon request of the National Federation of Federal Employees, Local No. 1, Independent, the exclusive representative of certain of its employees, the names and home addresses of all employees in the bargaining units it represents.

(b) In any like or related manner, interfering with, restraining or coercing its employees in the exercise of their 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 Federal Service Labor-Management Relations Statute:

(a) Furnish the National Federation of Federal Employees, Local No. 1, Independent, the names and home addresses of all employees in the bargaining units it represents.

(b) Post at its facilities where bargaining unit employees represented by the National Federation of Federal Employees, Local No. 1, Independent, 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 responsible official of Department of the Interior, National Park Service, Western Regional Office, San Francisco, California, 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 XI, Federal Labor Relations Authority, 901 Market Street, Suite 220, San Francisco, California 90071, in writing, within 30 days from the date of this Order, as to what steps have been taken to comply.

Issued, Washington, D.C., September 21, 1988

A handwritten signature in dark ink, appearing to read "William Naimark", written over a horizontal line.

WILLIAM NAIMARK  
Administrative Law Judge

NOTICE TO ALL EMPLOYEES

AS ORDER BY THE

FEDERAL LABOR RELATIONS AUTHORITY

AND IN ORDER TO EFFECTUATE THE POLICIES OF

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, Local No. 1, Independent, the exclusive representative of certain of our employees, the names and home addresses of all employee in the bargaining units 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, Local No. 1, Independent, the names and home addresses of all employees in the bargaining units 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 XI, whose address is: 901 Market Street, Suite 220, San Francisco, California 90071, and whose telephone number is: (415) 995-5000.