

A Message from General Counsel Richard Hirn

February 1, 2019

ARBITRATOR RULES THAT NWS VIOLATED CBA BY REDUCING HOURS OF OPERATIONS AT ALASKA WSOs

Today, Arbitrator John Paul Simpkins issued the attached decision sustaining the union's grievance over the reduction in hours of operations at numerous Alaska Region Weather Service Offices in August 2016 due to staffing vacancies. Specifically, he found that the agency's failure to conduct a LOT meeting to determine how to cover vacancies at five WSOs as required by section 15 of a March 2011 Memorandum of Understanding rather than unilaterally reducing hours of operations was a violation of that MOU and Article 8 of the parties' collective bargaining agreement. Section 15 states:

"Leave and vacancy-related absences at WSOs of up to two weeks may be covered by overtime. The LOT will meet to discuss coverage of leave or vacancies exceeding two weeks; the LOT will provide input with regard to MOBEU requests. Some WSOs may want more overtime than others, and the LOT will voice their preference."

As relief, the Arbitrator ordered the agency to restore 16x7 operations at WSOs Cold Bay, McGrath, Yakutat, Annette and St. Paul, and to pay the employees lost overtime, and Sunday and night differential they would have earned had the agency maintained 16x7 operations at those offices. Arbitrator Simpkins wrote that:

"The evidence is clear that the Agency violated the CBA and breached the MOU by failing to engage the LOT process to achieve management's intended result. It worked before and there is no reason to believe that it could not work in connection with the interests of the parties and the affected WSOs. The denial of pay albeit overtime pay to which an employee is entitled is not a de minimis event. The claim of the Union is sustained and the remedy requested is granted."