STATE OF MONTANA
BEFORE THE BOARD OF PERSONNEL APPEALS

IN THE MATTER OF UNIT CLARIFICATION NO. 17-2002:

MONTANA PUBLIC EMPLOYEES ASSOCIATION, Petitioner,	)	Case No. 2233-2002
vs.	)	**FINDINGS OF FACT, CONCLUSIONS OF LAW, AND RECOMMENDED ORDER**
CITY OF GREAT FALLS, Respondent.	)	

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I. INTRODUCTION

On June 5, 2002, the Montana Public Employees Association (MPEA) filed a petition for unit clarification contending that certain employees of the City of Great Falls should be included in the MPEA bargaining unit representing employees of the City. On July 24, 2002, the City filed a response to the petition in which it contended that two of the positions, both information services positions, should be exempt because they were professionals, and one of the positions should be exempt as confidential. On August 16, 2002, Vicki Knudsen, agent for the Board, transferred the case to the Hearings Bureau for a hearing.

Hearing Officer Anne L. MacIntyre conducted a hearing in the case on November 26, 2002. Carter N. Picotte represented MPEA. David V. Gliko, Great Falls City Attorney, represented the City. Richard Letang, Linda Williams, Jon Legan, Tom Pike, Martin Melander, Judy Hardinger, and Lora McWilliams testified as witnesses in the case. Exhibits 1 through 10, A-1, and B were admitted into evidence. Exhibits 11 (a 9-page summary of the City's factual contentions) and 12 (a page photocopied from the Board's index of decisions) were excluded because they were not exchanged before hearing and because they did not in fact constitute evidence. The Hearing Officer agreed to treat Exhibit 11 as a part of the City's opening statement. The parties also stipulated at hearing that the maximum salary for each pay range on the City pay matrix is higher than that shown on either exhibit A-1 or B, and that Legan is paid within the range 48 pay level.

The parties filed post-hearing briefs in the case on December 13, 2002.

II. ISSUE

The issue in this case is whether a unit established for collective bargaining purposes is appropriate pursuant to Mont. Code Ann. § 39-31-202. A full statement of issues is set forth in the prehearing order.

III. FINDINGS OF FACT

1. The Montana Public Employees Association is a "labor organization" within the meaning of Mont. Code Ann. § 39-31-103(6).

2. The City of Great Falls is a "public employer" within the meaning of Mont. Code Ann. § 39-31-103(10).

3. On February 7, 1984, the Board of Personnel Appeals issued its unit decision in the matter of Unit Determination No. 8-83 (Exhibit 1). On January 31, 2000, the Board of Personnel Appeals issued its Stipulation and Order of Dismissal of Unit Clarification No. 8-97 (Exhibit 2). Unit Clarification No. 17-2002 is the second unit clarification the MPEA has submitted to the Board.

4. The Board's original unit determination decision dated February 7, 1984, provides that the appropriate unit is "all Great Falls city office employees, including library employees, all housing technicians, clerks, cashiers, secretaries, lab technicians, library clerks, dispatchers, clerical aids and clerk typists . . . [with certain exceptions]." On January 31, 2000, the parties agreed to modify the unit to add an administrative assistant, a computer programmer-operator, and an account clerk. The Board approved the agreement of the parties.

5. The recognition clause of the collective bargaining agreement between the parties defines the unit as consisting of a number of clerical, technical, and paraprofessional positions. For the period July 1, 2000 to June 30, 2002, the agreement included, among other positions, the positions "Account Technician I & II" and "Computer Technician" within the bargaining unit. The recognition clause of the agreement for the period July 1, 2002 to June 30, 2004 included the following positions, among others:

Accounting Technician
Accounting Technician, Senior
Information Technology Database Technician
Information Technology Operations Technician
Information Technology Website Specialist

6. The MPEA seeks to add positions presently held by Lora McWilliams, Judy Hardinger, Jon Legan, and Tom Pike to the bargaining unit. All four of the positions are in the City's Department of Fiscal Services.

7. Both McWilliams and Hardinger are Accounting Technicians, Senior, in the Accounting Division of the Fiscal Services Department. Other positions in this Division include one other Accounting Technician, Senior, an Accounting Technician, and an Account Clerk. All of the positions are supervised by the Accounting Supervisor, Cheryl Lucas.

8. Legan is an Information Technology Network Administrator. Pike is an Information Technology Systems Analyst I. Both of these positions are in the Information Technology Division of the Fiscal Services Department. Other positions in this Division include an Information Technology Systems Analyst III, an Information Technology Database Technician, and an Information Technology Operations Technician. All of the positions, except the Database Technician, are directly supervised by Information Technology Manager, Martin Melander. The Systems Analyst III directly supervises the Database Technician. The Systems Analyst III is excluded from the unit on the basis of these supervisory responsibilities.

9. The primary responsibility of McWilliams is payroll. She has worked for the City for about 10 ½ years. For the first 9 years of employment, her position was assigned to the Human Resources office, and reported to Human Resources Manager Linda Williams. The position was moved to the Accounting Division in a City reorganization. In the Human Resources office, it was considered to be a confidential position, and not part of the collective bargaining unit. Even though the position is no longer in Human Resources, McWilliams still provides information to Williams for use in collective bargaining on the costs of various proposals that may arise in the negotiations. This information is developed through queries to and reports from the City's payroll and personnel software program. McWilliams has a high level of expertise in the payroll and personnel software program.

10. Hardinger's primary responsibilities are accounting responsibilities, including organizing and overseeing preparation for the City's audit, working with the

auditors, helping prepare financial statements, filing fiscal year end reports, responding to audit comments and to comments of the Government Finance Officials Association (GFOA), and implementing the recommendations of the auditors and the GFOA. She has worked in the City's finance department since 1980, and was an accounting supervisor for a period of time. She has no supervisory responsibilities at this time, however. Because of her long service with the City, she has knowledge of all areas of City accounting and its historical background.

11. Legan's primary responsibility is to administer the City's local area and wide area networks. He began his work for the City in June 2001. He manages the networks, maintains the servers, establishes user accounts, provides user support, and is responsible for security. The position requires expert knowledge in information technology. Legan has an undergraduate degree in journalism and is a Microsoft certified systems engineer. He works without close supervision, receiving no day to day direction from Melander. He works 8 - 9 hours per day, sometimes works late or on weekends, and is exempt from overtime. He has a key to the building. He takes on extra duties at his own initiative.

12. Pike's primary responsibility is as an analyst on the City's AS400 mainframe computer system. He has worked for the City since May 1995 when he was hired as a dispatcher for the City's 9-1-1 system. In September 1998, he moved to the position of Information Services Technician. In April 2002, he received a promotion to the position of Information Technology Analyst I. In the dispatcher and Information Services Technician positions, he was a member of the bargaining unit. In the Analyst I position, he manages applications that run on the AS400 system, maintains the system, and provides user support. The position requires expert knowledge, which Pike obtained partly through the other positions he held with the City, and partly through college courses he is taking in pursuit of a degree in computer science. The City eliminated the programmer operator position and created the Analyst I position after deciding it no longer required the operator. The operator position was responsible for the day to day operation of the AS400 itself, spooling files to fiche, sending print jobs to the correct locations, and backups. These duties require significantly less expertise than the Analyst I position. Pike's position also requires work outside of regular office hours, and he is exempt from overtime.

13. The collective bargaining agreement between the parties has a salary matrix with pay grades from 1 through 46. However, there are no unit members whose salaries are above grade 38. For "exempt" employees, the City utilizes the same matrix for pay grades 1 through 46, but then continues with pay grades 47 through 80. McWilliams and Hardinger are at pay grade 38. Legan and Pike are at

pay grade 48. The City provides a greater life insurance/disability benefit to its non-union employees than that provided under the collective bargaining agreement.

14. The salaries of the four employees are:

McWilliams	$30,804.18
Hardinger	$35,729.99
Pike	$35,215.14
Legan	$42,181.71

The pay range for an employee on the grade 38 pay range is $26,709.00 (entry) to $30,060.93 (step 4) . McWilliams's salary is 2.47% higher than the step 4 amount. Hardinger's salary is 18.86% higher than the step 4 amount.

The pay range for an employee on the grade 48 pay scale is $34,189.00 (entry) to $38,480.54 (step 4). Pike's salary is equal to the step 1 level on the scale. Legan's salary is 9.62% higher than the step 4 amount.

McWilliams and Hardinger are paid a salary higher than step 4 for their pay grades because of cost of living increments. Hardinger's higher salary is also due in part to the fact that the City did not reduce her salary when it reassigned her supervisory duties. Legan is a relatively new employee and is paid a higher salary due to market factors.

15. Among other positions, the bargaining unit includes the following positions at the following annualized salary levels:

Position	Pay Grade	Annualized Salary
account clerk, senior	28	$29,278.29
accounting technician	34	$29,278.29
account clerk II (2 positions)	34	$27,233.65
accounting technician	34	$28,152.18
accounting technician I	38	$28,152.18
code enforcement technician (2 positions)	37	$29,327.79

Position	Pay Grade	Annualized Salary
fair housing specialist	37	$29,327.79
housing specialist (3 positions)	36	$28,612.48
neighborhood liaison	37	$30,448.91
rehabilitation specialist	37	$30,448.91

(position titles, grades, and pay levels as reflected in first attachment to Exhibit 9).

16. The other Accounting Technician, Senior, in the Accounting Division, Kevin Gaare, is at pay grade 38.[1] He is a member of the bargaining unit.

17. McWilliams, Hardinger, Legan, and Pike wish to be excluded from the collective bargaining unit, on the grounds that they do not see any benefit to them individually in being part of the unit. Legan and Pike also view their education and backgrounds as significantly different from those of unit members.

IV. DISCUSSION

MPEA seeks to add the positions held by Lora McWilliams, Judy Hardinger, Jon Legan, and Tom Pike to a unit established for collective bargaining purposes covering all Great Falls city office employees. The City objects to inclusion of these employees in the unit on the grounds that they lack community of interest because they are professionals, and in the case of McWilliams, that she is a confidential employee.

Montana law governing collective bargaining for public employees provides:

> In order to ensure employees the fullest freedom in exercising the rights guaranteed by this chapter, the [Board of Personnel Appeals] or an agent of the board shall decide the unit appropriate for collective bargaining and shall consider such factors as community of interest, wages, hours, fringe benefits, and other working conditions of the employees involved, the history of collective bargaining, common supervision, common personnel policies, extent

[1]Exhibit 7 identifies Gaare as an Accounting Technician, Senior, while the attachments to exhibit 9 identify him as an "acct technician I."

> of integration of work functions and interchange among employees affected, and the desires of the employees.

Mont. Code Ann. § 39-31-202(1). The rights guaranteed by the act include the right of self organization, protection in the exercise of self organization, the right to form, join or assist any labor organization, the right to bargain collectively through representatives of the employees' choosing, and the right to engage in other concerted activities free from interference, restraint, or coercion. Mont. Code Ann. § 39-31-201.

The rules of the Board implementing Mont. Code Ann. § 39-31-202, provide:

> A unit may consist of all of the employees of the employer or any department, division, bureau, section, or combination thereof if found to be appropriate by the board.

Admin. R. Mont. 24.26.610.

In addition, because the statute excludes "confidential employee" from the definition of "public employee" (Mont. Code Ann. § 39-31-103(9)), a confidential employee does not have the rights guaranteed by Mont. Code Ann. § 39-31-201, and is not appropriately included in a unit for collective bargaining purposes. A confidential employee is "any person found by the [Board of Personnel Appeals] to be a confidential labor relations employee . . . ." Mont. Code Ann. § 39-31-103(3).

In analyzing this case, it is appropriate to consider cases decided under federal law. Section 9(b) of the National Labor Relations Act gives the National Labor Relations Board (NLRB) comparable authority to determine appropriate bargaining units. Thus, the Montana Supreme Court and the Board of Personnel Appeals follow federal court and NLRB precedent to interpret the Montana Act. *State ex rel. Board of Personnel Appeals v. District Court* (1979), 183 Mont. 223, 598 P.2d 1117; *Teamsters Local No. 45 v. State ex rel. Board of Personnel Appeals* (1981), 195 Mont. 272, 635 P.2d 1310; *City of Great Falls v. Young (Young III)* (1984), 211 Mont. 13, 686 P.2d 185.

A. Confidential employee status

Because Montana law specifically provides that confidential employees are not public employees for purposes of the act, a confidential employee may not be included in a unit established for collective bargaining purposes. Therefore, the first

issue to be resolved is whether any of the employees are confidential employees. The City maintains that McWilliams is a confidential labor relations employee.[2]

Unlike the Montana statute, the National Labor Relations Act contains no statutory provision for excluding confidential employees from bargaining units. However, the NLRB has historically excluded confidential employees when a labor relations nexus is present. The federal cases contain two distinct theories for excluding confidential employees:

1. Confidential employees are those "who assist and act in a confidential capacity to persons who formulate, determine, and effectuate management policies in the area of labor relations." *B. F. Goodrich Co.* (1956), 115 NLRB 722, 724 (footnote omitted, emphasis deleted). "[T]he test is whether [the employee] is expected to, and in fact does, act in a confidential capacity in the normal course of her duties." *Siemans Corp.* (1976), 224 NLRB 1579. Such employees are excluded from units established for collective bargaining purposes.

2. Employees who regularly have access to confidential information concerning anticipated changes which may result from collective bargaining negotiations are excluded from collective bargaining units. *Pullman Standard Division of Pullman, Inc.* (1974), 214 NLRB 762, 762-763.

In *NLRB v. Hendricks County Rural Electric Membership Corp.* (1981), 454 U.S. 170, the U. S. Supreme Court upheld the NLRB's practice of requiring that a "labor nexus" be present in order to exclude employees from collective bargaining units. The exception is construed narrowly in order not to deprive employees of their rights to bargain collectively. *Hendricks County*, 454 U.S. at 180-181, citing with approval *Ford Motor Co.* (1946), 66 NLRB 1317, 1322.

In UC 2-87, *Livingston School District No. 4 and 1 v. Montana Education Association/Livingston Classified Employees Association*, the Board adopted a hearing officer's decision which held that for an employee to be excluded, both tests must be met. In other words, to be a confidential labor relations employee, the employee must assist an official who formulates, determines, and effectuates labor relations

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[2]At hearing and in its posthearing brief, the City also presented evidence and argument which suggested that Hardinger is a confidential labor relations employee. This issue was not raised by the City prior to hearing, is not included in the issues agreed to in the prehearing order, and will not be addressed in this decision.

policies **and** must have access to confidential labor relations information in the normal course of employment.

Whether the tests are applied in the disjunctive or conjunctive, the result in this case is the same. The City contends McWilliams is a confidential employee because of work she performs for Williams. Unquestionably, Williams is a person who formulates, determines, and effectuates management policy in the area of labor relations. However, although McWilliams may have acted in a confidential capacity for Williams when her position reported directly to Williams, her current relationship to Williams is not that of a confidential assistant.

Further, McWilliams does not have access to confidential information in the course of her employment concerning anticipated changes which may result from collective bargaining negotiations.[3] Mere access to or handling of confidential material, even when it is confidential labor-related material, does not by itself confer confidential status upon the employee handling or having access to the material. ***See, e.g.***, *Greyhound Lines, Inc.* (1981), 257 NLRB 477, 480; *In the Matter of Unit Determination No. 24-79* (holding access to information that may be used during collective bargaining or responsibility for compiling labor relations information is not sufficient to confer confidential employee status). In this case, McWilliams has access to payroll and personnel information that allows her to provide projected costs to Williams. It is insufficient to hold that her position should be excluded from the unit.

McWilliams is not a confidential employee, and her position cannot be excluded from the unit on that basis.

B. Community of Interest

Like federal law, Montana law requires the Board to consider "community of interest" in determining an appropriate unit. Mont. Code Ann. § 39-31-202(1). However, the Montana statute enumerates a number of factors in addition to community of interest to be considered in determining when a unit is appropriate. Those factors, such as wages, hours, benefits, working conditions, and so on, are not

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[3]The proposition that collective bargaining proposals constitute **confidential** labor relations information in the context of public sector collective bargaining in Montana is dubious at best. The Supreme Court has held that the public's right to know extends to strategy sessions of public bodies involved in collective bargaining. *Great Falls Tribune Co., Inc. v. Great Falls Public Schools* (1992), 255 Mont. 125, 841 P.2d 502.

enumerated in the federal law but are by case law the factors evaluated to determine whether a community of interest exists. Thus, in this decision, the phrase "community of interest" is used as a shorthand to address all of the statutory factors.

The City contends that the four positions proposed for inclusion in the unit lack community of interest with positions in the bargaining unit. It emphasizes the unique qualities associated with each position, contending that McWilliams's position is distinct from all other functions of the unit, that Hardinger has a unique level of expertise and unique job functions with little or no interaction with unit members, and that Legan and Pike are professional employees with professional analytical and administrative duties distinct from unit members. In essence, the City argues that these employees lack community of interest because of their professional or technical character. It also contends that the positions lack community of interest because of their higher paid status, and specifically contends that Legan and Pike are exempt under the Fair Labor Standards Act, and are therefore exempt from the bargaining unit.

Unlike federal labor law, Montana law contains no restriction on including professional employees in units with other employees. Professional employees may therefore be included in a unit with other employees if they have a sufficient community of interest. *Unit Clarification 4-79*. Similarly, the standard for technical employees is community of interest.

1. Accounting Technician Senior Positions

In evaluating the community of interest factors, when a unit is defined by the type of work performed, the union has the initial burden of proving that the position is performing work included in the unit definition. If it does, a presumption of inclusion arises, and the burden shifts to the employer seeking to exclude the new employees to show that the new group of employees is sufficiently dissimilar from the unit employees so that the existing unit, including the new employees, is no longer appropriate. In determining whether the presumption of inclusion has been rebutted, community of interest factors will be considered. *See Glendive Federation of Teachers v. Dawson Community College*, Unit Clarification No. 1-99 (2000).

In this case, McWilliams and Hardinger each hold a position (accounting specialist, senior) which the collective bargaining agreement between the parties lists as included in the unit. The unit definition includes not only the type of work performed by these employees, but includes their specific positions by title. Because

of this, they are presumed to be properly included in the unit, and the City has the burden of proving a lack of community of interest for their positions.

The presumption that the positions of McWilliams and Hardinger should be included in the unit has not been rebutted in this case. They work in a unit in which all other non-supervisory employees are members of the unit. Although they may have specific assignments (payroll, audit preparation) which differ from the assignments of other unit members, the fact remains that they are working as accounting technicians in an accounting unit, where the other technicians are members of the unit. The unit also includes other technical employees. The fact that these various technicians have diverse assignments does not establish a lack of community of interest. Their hours, working conditions, supervision, and personnel policies are similar to that of unit members.[4]

The City argues that the factor of salaries establishes that these employees should not be included in the bargaining unit, noting that the average salaries of the four employees are 52.97% higher than the average salary for MPEA member, establishing an absence of community of interest. It is true that in *MPEA, MEA and Great Falls Public Schools*, Unit Determination No. 1-86 (1986), the Board concluded that adding employees with substantially higher wages to a bargaining unit would dilute the community of interest of those employees. In this case, however, it is inappropriate to compare the average salaries of all four employees to the average of the unit as a whole. The appropriate comparison is a position to position comparison. The salary level of McWilliams and Hardinger (pay range 38) is within the range for members of the bargaining unit. McWilliams's salary is close to that of a number of other unit members holding technical positions. Although Hardinger's salary is significantly above other unit members, this is apparently due to longevity and the fact she at one time held a supervisory position.

The City further contends that the existence of an additional insurance benefit and the desires of the employees establish that no community of interest exists. The insurance benefit is one that the City offers to all non-union personnel. If the receipt of this benefit were sufficient to defeat community of interest, an employee who moves from a non-union position to a union position would always be excluded from the union. The fact that they receive this benefit does not alter their community of

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[4]In its post-hearing brief, the City argues that the working conditions of McWilliams and Hardinger were different than unit members because McWilliams has her own office and Hardinger shares an office with another exempt employee. The record contains no testimony or other evidence of these facts, and they are not properly considered in deciding this case.

interest. Regarding the desires of the employees, this factor is intended to address collective interests, rather than individual interests. The testimony of McWilliams and Hardinger concerning their desires revealed nothing about collective interests. These factors are insufficient to overcome the presumption of community of interest.

In summary, the City has failed to rebut the presumption, based on the recognition clause of the collective bargaining agreement, that the Accounting Technician Senior positions should be included in the position. McWilliams and Hardinger have a community of interest with the members of the collective bargaining unit, and are properly included in the unit.

2. Information Technology Positions

The community of interest analysis differs for Legan and Pike. Neither of these positions nor any similar positions have ever been part of the unit. Thus, MPEA has the burden of proving community of interest.

The City contends that Legan and Pike should not be added to the unit because their positions are subject to 29 CFR 541.303, which defines certain computer related occupations as "professionals" for purposes of the Fair Labor Standards Act (FLSA). The effect of this rule is to render the computer related occupations exempt from the minimum wage and overtime provisions of the FLSA.

Whether these positions are exempt FLSA positions is outside the scope of this decision. Even if they were, the fact that an employee is exempt from the minimum wage and overtime laws does not, by itself, mandate a finding that the position should not be part of a bargaining unit. The Collective Bargaining Act controls whether employees are properly part of a unit established for collective bargaining purposes. As noted in the preliminary discussion about community of interest, above, Montana law allows professional employees to be included in collective bargaining units with other employees. The question is whether the professional employees have a community of interest with the other unit members. An exemption under the FLSA, while a factor to be considered as part of the overall community of interest, is not determinative.

The MPEA has failed in its burden of proof to establish that the Information Technology Network Administrator and Information Technology Systems Analyst I have a community of interest with the members of the unit. Legan and Pike perform professional tasks in the management of the City's information services systems. The

MPEA has failed to provide any comparative evidence of bargaining unit members who perform comparable kinds of work under comparable working conditions.

From the evidence in the record, the unit can best be characterized as comprised of employees in clerical, technical, and para-professional positions. The Network Administrator and Systems Analyst I position are involved in higher level work of a professional character. Legan is a Microsoft certified systems engineer[5] and Pike has significant background and training in the AS400 mainframe system. Both employees have high levels of expertise and work at their own initiative, without day to day direction from their supervisor.

Both Legan and Pike are paid more than members of the unit. Their pay grade, 48, is above the range provided for in the collective bargaining agreement and well above the range of any unit member. Pike's salary, as a relatively new employee to his position, is only about $500.00 less per year than Hardinger's. Hardinger has worked for the city for 20 years. Legan's salary, as a new employee to the City, is 39% higher than that of the highest paid member of the unit prior to the inclusion of McWilliams and Hardinger, and 20% more than Hardinger's.

Legan and Pike view their positions, background, experience, and other qualities as significantly different from those of the employees in the unit. Although their individual desires regarding union membership are not determinative, their views are indicative of the absence of community of interest with the bargaining unit.

The evidence established that Legan and Pike have regular interaction with unit members because they provide computer user support to unit members. However, the range of employees receiving user support extends well beyond MPEA unit members, and includes members of other bargaining units as well as non-union employees. This fact is insufficient by itself to establish the "integration of work functions and interchange among employees affected" factor to prove a community of interest with unit members.

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[5]The Collective Bargaining Act exempts professional engineers from inclusion in collective bargaining units pursuant to Mont. Code Ann. § 39-31-103(9)(b)(x). Neither party presented any argument about whether Legan's position would be exempt as a professional engineer and the hearing officer was unable to identify any authority addressing the definition of the term "professional engineer" or whether a computer engineer would fall within the definition.

In summary, no community of interest between the Information Technology positions and the MPEA's bargaining unit has been established, and they are not properly included in the unit.

V. CONCLUSIONS OF LAW

1. The Board of Personnel Appeals has jurisdiction of this case. Mont. Code Ann. § 39-31-207.

2. Lora McWilliams, in her position of Accounting Technician, Senior, for the City of Great Falls is not a confidential labor relations employee.

3. The Accounting Technician, Senior, positions in the City's Accounting Division of the Fiscal Services Department have a community of interest with the positions included in the bargaining unit. The positions are therefore properly included in the unit.

4. The Information Technology Network Administrator and Information Technology Systems Analyst I in the City's Information Technology Division of the Fiscal Services Department have no community of interest with the positions in the unit. The positions are not properly included in the unit.

VI. RECOMMENDED ORDER

The positions of Accounting Technician, Senior, shall be included in the MPEA collective bargaining unit for office employees of the City of Great Falls.

DATED this 24th day of January, 2003.

BOARD OF PERSONNEL APPEALS

By: Anne L. MacIntyre

Anne L. MacIntyre, Chief
Hearings Bureau
Department of Labor and Industry

NOTICE: Pursuant to ARM 24.26.215, the above RECOMMENDED ORDER shall become the Final Order of this Board unless written exceptions are postmarked no later than February 17, 2003. This time period includes the 20 days provided for in ARM 24.26.215, and the additional 3 days mandated by Rule 6(e), M.R.Civ.P., as service of this Order is by mail.

The notice of appeal shall consist of a written appeal of the decision of the hearing officer which sets forth the specific errors of the hearing officer and the issues to be raised on appeal. Notice of appeal must be mailed to:

Board of Personnel Appeals
Department of Labor and Industry
P.O. Box 6518
Helena, MT 59624-6518

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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:

Carter N. Picotte
Montana Public Employees Association
PO Box 5600
Helena, MT 59604-5600

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City of Great Falls
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DATED this 21st day of January, 2003.