

**STATE OF ILLINOIS  
ILLINOIS LABOR RELATIONS BOARD  
STATE PANEL**

Metropolitan Alliance of Police, DuPage	)	
DuPage County Forest Preserve, Chapter 714,	)	
	)	
Charging Party	)	
	)	
and	)	Case No. S-CA-19-057
	)	
Forest Preserve District of DuPage County,	)	
	)	
Respondent	)	

**ORDER**

On January 16, 2020, Administrative Law Judge Anna Hamburg-Gal, on behalf of the Illinois Labor Relations Board, issued a Recommended Decision and Order in the above-captioned matter. No party filed exceptions to the Administrative Law Judge’s Recommendation during the time allotted, and at its June 18, 2020 public meeting, the Board, having reviewed the matter, declined to take it up on its own motion.

**THEREFORE**, pursuant to Section 1200.135(b)(5) of the Board's Rules and Regulations, 80 Ill. Admin. Code §1200.135(b)(5), the parties have waived their exceptions to the Administrative Law Judge’s Recommended Decision and Order, and this non-precedential Recommended Decision and Order is final and binding on the parties to this proceeding.

**Issued in Chicago, Illinois, this 18<sup>th</sup> day of June 2020.**

**STATE OF ILLINOIS  
ILLINOIS LABOR RELATIONS BOARD  
STATE PANEL**

/s/ Helen J. Kim  
**Helen J. Kim**  
**General Counsel**

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Forest Preserve District of DuPage County,	)	
	)	
Respondent.	)	

**ADMINISTRATIVE LAW JUDGE’S RECOMMENDED DECISION AND ORDER**

On December 3, 2018, the Metropolitan Alliance of Police, DuPage County Forest Preserve, Chapter 714, (Charging Party or Union) filed a charge with the Illinois Labor Relations Board’s State Panel (Board) alleging that the Forest Preserve District of DuPage County (Respondent or District) engaged in unfair labor practices within the meaning of Sections 10(a)(4) and (1) of the Illinois Public Labor Relations Act (Act) 5 ILCS 315 (2014), as amended. The charge was investigated in accordance with Section 11 of the Act. On June 13, 2019, the Board’s Executive Director issued a Complaint for Hearing.

A hearing was conducted on September 5, 2019, in Chicago, Illinois, at which time the Union presented evidence in support of the allegations and all parties were given an opportunity to participate, to adduce relevant evidence, to examine witnesses, to argue orally, and to file written briefs. After full consideration of the parties’ stipulations, evidence, arguments, and briefs, and upon the entire record of the case, I recommend the following:

**I. PRELIMINARY FINDINGS**

The parties stipulate and I find that:

1. The District is a public employer within the meaning of Section 3(o) of the Act.
2. The Union is a labor organization within the meaning of Section 3(i) of the Act
3. The District encompasses 26,000 acres of land that includes 145 miles of trails and 60 forest preserves, in addition to numerous recreational facilities, all within DuPage

County, Illinois. The District employs approximately 519 regular full-time and seasonal employees.

4. The District is governed by a seven-member Board of Commissioners. Voters in each of the six county districts elect one commissioner from each district. The seventh member, the President, is elected by the County at large by popular vote.
5. The Union represents District employees in the positions of Senior Ranger and Ranger.
6. The District currently employs five (5) Assistant Managers who are not part of the bargaining unit and report to the Manager of Site Operations.
7. The preserves were historically divided into East and West sectors, with a Manager and two Assistant Managers assigned to oversee each sector.
8. As part of a reorganization in 2018, the former East/West sector organizational structure was consolidated into one operation.
9. Prior to the reorganization, the Department's management group had six positions (two Managers, four Assistant Managers).
10. After the reorganization, the Department's management group has six positions (one Manager, five Assistant Managers).
11. The District announced plans to hire an employee to fill the fifth Assistant Manager position during an operations meeting on June 4, 2018, and the position was posted on July 27, 2018.
12. The fifth Assistant Manager began work on September 4, 2018.
13. The District decided not to fill an open Ranger position, which became vacant on May 16, 2018.
14. The number of Senior Rangers remained unchanged prior to and following the 2018 reorganization.
15. The parties' collective bargaining agreement, 2017-2020, is an initial contract. It was executed and effective on September 19, 2017.

## **II. ISSUES AND CONTENTIONS**

The issue is whether the Respondent violated Sections 10(a)(4) and (1) of the Act when it allegedly transferred bargaining work out of the unit, and thereby diminished unit work, without negotiating over the decision or its effects.

The Union argues that the Respondent violated the Act when it unilaterally transferred administrative duties formerly performed by senior rangers to a newly created assistant manager position. The Union asserts that the Respondent's decision to transfer bargaining unit work out of the unit is a mandatory subject of bargaining under the Central City test. The Union asserts that such a transfer concerns employees' terms and conditions of employment because it causes the unit to lose actual or potential work. The Union further argues that the transfer of bargaining unit work out of the unit is not a matter of inherent managerial authority because the Respondent did not do so as a part of a legitimate reorganization. In the alternative, the Union asserts that the benefits of bargaining over the Respondent's decision to transfer bargaining unit work out of the unit outweigh the burden that bargaining imposes on the Respondent's inherent managerial authority. Finally, the Union asserts that the Respondent also has an obligation to bargain over the impact of its decision to transfer bargaining unit work out of the unit.

The Respondent argues that it did not violate the Act by transferring bargaining unit work out of the unit. It asserts that the administrative duties identified by the Union were never performed exclusively by bargaining unit members and were instead historically performed by the assistant managers. The Respondent further argues that the Union failed to demonstrate that the Respondent's conduct diminished bargaining unit work. In the alternative, the Respondent argues that the Union waived the right to bargain over the Respondent's decision to transfer bargaining unit work to the assistant manager position by agreeing to the contract's management rights clause and zipper clause.

### **III. FINDINGS OF FACT**

The DuPage County Forest Preserves cover approximately 26,000 acres of land and include over 60 preserves. Anamari Dorgan is the Respondent's Director of Community Services and Education. She is chief executive of that division. This division is responsible for site operation of the DuPage County Forest Preserves, maintenance of the preserves, interfacing with the public, providing public programming, and offering educational opportunities. Director Dorgan oversees Manager of Site Operations, Jay Johnson. Johnson oversees five assistant managers. The assistant managers oversee the senior rangers and the rangers. There are currently 11 senior rangers and eight rangers.

The senior rangers and the rangers are represented by the Metropolitan Alliance of Police, DuPage County Forest Preserve, Chapter 714 (Union). The Union and the Respondent are parties to a collective bargaining agreement, which is effective from September 19, 2017, through December 31, 2020.

The agreement includes a management rights clause, which states the following in relevant part: “Except as expressly limited by the express provisions of this Agreement, the District retains all traditional rights to manage and direct the affairs of the District in all of its various aspects and to manage and direct its employees, including but not limited to the right to make and implement decisions with respect to the following matters without having to negotiate over such decisions or the effects of such decisions: to establish, plan, direct, control and determine the budget and all operations, services, policies and missions of the District...to determine the methods, means, organization and number of personnel by which departmental services shall be provided or purchased....to determine whether work and/or services are to be provided by employees covered by this agreement...or by other District employees or persons not covered by this agreement...”

The agreement also includes a zipper clause that states the following in most relevant part: “The parties acknowledge that during the negotiations which resulted in this Agreement, each had the unlimited right and opportunity to make demands and proposals with respect to any subject or matter not removed by law or ordinance from the area of collective bargaining, and that the understanding and agreements arrived at by the parties after the exercise of that right or opportunity are set forth in this Agreement. Accordingly, the Union and the District, for the duration of this Agreement, each voluntarily and unqualifiedly waives the right, and each agrees that the other shall not be obligated to bargain collectively with respect to any subject or matter, whether or not referred to or covered in this Agreement. The Association specially waives any right it may have to impact or effects bargaining for the life of this agreement.”

#### 1. Organization Prior to 2018

Prior to 2018, the preserves were divided into a west side, known as the Blackwell Site Operations (BSO) Division, and an east side, known as the Churchill Side Operations (CSO) Division. The BSO Division was comprised of approximately 14,500 acres, which included two boat rental operations, an archery range, a family campground, two youth campgrounds, and miles of trails. The CSO Division was comprised of 8000 acres, with fewer amenities than the BSO

Division. Each division had its own administrative structure. The preserves had a total of six managers—two managers and four assistant managers. Each division had a manager of site operations, with Jay Johnson serving as manager for the BSO Division. Each division also had two assistant managers. There were six senior rangers and five rangers on the west side. There were five senior rangers and four rangers on the east side.

The assistant manager title performs primarily administrative work. According to the title's job description, the assistant manager also "supervises assigned personnel." The assistant managers are responsible for administering special use permits and performing programming coordination.<sup>1</sup> A special use permit is a permit that the Respondent requires in cases where individuals request to use the premises for events beyond the normal uses such as camping or boating. Special use permit administration entails phone calls to the applicants, meetings in the field, and meetings with the representatives of different agencies and municipalities, and paperwork. The assistant managers make the ultimate decision on whether to grant the permit. They perform most of the special use permit work. However, Manager Johnson handles the more unique, atypical, and complicated special use permits.<sup>2</sup> Programming coordination includes the planning and scheduling of programs and the acceptance of requests for programming from outside parties such as municipalities and scout groups.

The ranger titles, by contrast, focus on field work. The rangers work earlier in the day and perform a lot of the maintenance work and field work to get the preserves ready for the public. The senior rangers likewise perform field work but work later in the day and have more interaction with the public. They open the preserves, perform minor maintenance, and troubleshoot in the field. Senior rangers also facilitate archery programs and fishing programs by working on the logistics of the operations on the day of the event.

In addition, the preponderance of the evidence demonstrates that some senior rangers on the west side regularly performed administrative work involving special use permit (SUP) administration and programming coordination. The witnesses disagree as to the nature and extent of the west-side senior rangers' administrative duties, but the preponderance of the evidence

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<sup>1</sup> The witnesses did not draw a distinction between the terms "programming coordination" and "program coordination." In the interests of consistency, this decision uses the term "programming coordination" throughout.

<sup>2</sup> These included a Naperville marathon and a Boy Scouts of America Camporall.

demonstrates some senior rangers performed such work consistently and performed work that extended beyond mere assistance.

Regarding SUP administration, Senior Ranger Mark Spencer asserted that the senior rangers who did such work performed it from the beginning through to permit approval. According to Spencer, the senior ranger receives an application from the visitor services department, contacts the applicant to discuss details and any additional requirements they might have for the event. He “compiles the fees” for the event and submits the application for preliminary approval. After the application receives preliminary approval, the senior ranger sends the application to the visitor services department for final approval. Spencer testified that the assistant manager oversees and mentors the senior ranger in performing the special use permit work by answering the senior rangers’ questions, acting as a sounding board, and providing feedback.<sup>3</sup>

In support of this testimony, the Union introduced duty sheets provided by management to staff in the west division from 2014 to 2018. They show that Senior Ranger David Sima served as an SUP mentor in 2017. Senior rangers served as leads in special use permit administration in 2016 (David Sima), 2017 (Christina Adcock), and 2018 (Mike Shannon). Senior rangers assisted in special use permit administration in 2014, 2016, and 2018.<sup>4</sup> In addition, every duty sheet states the following: “each of the larger duties has a Senior Ranger leading it, with another person assisting, and the former leader of the duty acting as a Mentor or sounding board for concerns and questions.” Senior Ranger Spencer was missing the 2015 duty sheets from his records and could not produce it at hearing; however, he testified that the senior rangers were primarily handling special use permit administration programs and programming coordination in that year.

Although Johnson testified that the senior rangers merely assisted in special use permit administration as needed to balance the workload when staffing was low and for professional development, the duty sheets and testimony offered by the Union’s witness undermine this claim. The document introduced by the Respondent listing some special use permits issued from 2002 through 2017 and the employees who worked on them does not support Johnson’s claim, because it is not a comprehensive list of SUPs issued by the Respondent during that time.

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<sup>3</sup> Senior Ranger Raymond Soszynski testified that on the west side, the senior rangers performed the bulk of the work involving special use permits, but the last time he worked on the west side was in 2001. Accordingly, this testimony is not granted great weight.

<sup>4</sup> Senior rangers Mark Spencer and Christina Adcock assisted in 2014. Senior Ranger Adcock assisted in 2016. Senior Ranger Jacob Vegter and Ryan Smith assisted in 2018.

Regarding programming coordination, some senior rangers on the west side regularly performed such work, and it rose above mere occasional assistance. Senior Ranger Spencer testified that senior ranger staff on the west side were responsible for programming coordination prior to the reorganization. The west division duty sheets show that certain senior rangers performed programming coordination in 2014, 2016, and 2018 and that some senior rangers served as programming coordination leads in 2016 and 2018.<sup>5</sup> In addition, Assistant Manager Jandura testified that he had some interactions with senior rangers on the west side when he was handling programs on the east side and that those senior rangers were responsible for the programming coordination. He also stated that it was not unusual for a west side senior ranger to have performed programming coordination that extended beyond merely carrying out the program on the day it occurred. Although Johnson testified that senior rangers assigned to the west side of the preserves merely assisted in programming administration, as needed, and for professional development, the preponderance of the evidence does not support this claim.

However, the preponderance of the evidence demonstrates that senior rangers on the east side did not regularly perform SUP administration and programming coordination. Regarding SUP administration, Assistant Manager Jandura testified that senior rangers on the east side assisted him only rarely in the performance of SUP administration. During the four years that Jandura performed such work (2015-present), only two or three senior rangers had ever assisted him. And of the hundreds of special use permits Jandura administered during that time, the senior rangers assisted with fewer than ten of them. Manager Johnson testified more broadly that assistant managers performed all SUP duties on the east side. Senior Ranger Raymond Soszynski confirmed that senior rangers on the east side lost their responsibility for handling special use permits several years ago.<sup>6</sup> Regarding programming coordination, Site Manager Johnson likewise testified that assistant managers on the east side performed all programming administrative duties. Assistant Manager Jandura similarly testified that the senior rangers assisted him only very

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<sup>5</sup> The duty sheets use the phrase “program coordination,” rather than “programming coordination,” but the witnesses used these phrases interchangeably.

<sup>6</sup> Although Senior Ranger Spencer testified that management informed staff that east division senior rangers would also have special use permit duties, this testimony is not granted great weight because the Union did not provide sufficient foundation for it. Senior Ranger Spencer testified that his first-hand knowledge is limited to the work performed on the west side of the preserve property. In addition, he did not explain which member of management informed him that east division senior rangers would perform special use permit administration or when that individual allegedly made such a statement.

minimally in any administrative tasks and that he does not push administrative tasks on senior rangers. Although the Union provided some evidence that senior rangers performed programming coordination in the past, between 2010<sup>7</sup> and 2013,<sup>8</sup> there is insufficient evidence that this practice has continued where the Respondent's witnesses offered evidence to the contrary.

## 2. Reorganization

In 2018, sometime prior to May of that year, Director Dorgan outlined a plan to consolidate the east and west divisions. The two divisions were operating under different policy manuals with different procedures and guidelines. Dorgan determined that consolidation would allow the Respondent to share human resources and physical resources and save money. She decided to eliminate the position of manager for the east (CSO) division and transferred the position holder to a different position in the planning department. She made Jay Johnson the Manager of Site Operations for the entire preserve.

In May 2018, Ranger Maria Galvan who had worked in the CSO Division voluntarily left her position. When Galvan left, the Respondent moved a ranger from the west division to work in the east division, leaving the west division short by one ranger. The Respondent did not fill that ranger position.

At some point during the reorganization process, the Respondent also decided to hire an additional assistant manager. Director Dorgan claimed that Galvan's departure was unrelated to the reorganization and that she had already decided to consolidate operation prior to Galvan's departure. However, Director Dorgan admitted that she took advantage Galvan's departure by reallocating the resources of that position to help achieve the objectives of the reorganization.

On June 4, 2018, the Respondent announced its decision to reorganize at a site operations quarterly idea exchange meeting at Herrick Lake Cabin. The meeting had the format of a town

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<sup>7</sup> Assistant Manager Jandura testified that when he was a senior ranger on the east side in 2010, he handled programming coordination and did not merely assist in that work.

<sup>8</sup> In 2013, the senior rangers of the east division jointly completed a position description questionnaire in which they collectively described the duties of their position. The senior rangers' response to the questionnaire indicated that they spent approximately 15% of their time engaged in programming administration, which includes the following "creating programs, grants proposals, coordinating with staff, assigning staff to present programs, working with the public to schedule their requested programs, coordinating with HR to receive waivers for programs, working with Public Affairs on Conservationist Calendar Listings, and proofing the Conservationist seasonal programs calendar and program descriptions."

hall event. Director Dorgan and Manager Johnson spoke at the meeting. Rangers and senior rangers also attended. The meeting covered a broad array of topics. During the meeting, Senior Ranger Jacob Nordmann asked Director Dorgan when the Respondent intended to fill the open ranger position vacated by Galvan. Dorgan informed the group that the vacant ranger position would not be filled. According to Johnson's notes of the event, Dorgan additionally stated, "however, we are in the process of creating a new 5th Assistant Manager position for Site Operations."<sup>9</sup>

Manager Johnson then spoke. He asserted that the new assistant manager position would assist him with all the administrative duties. He explained that it would "allow for direct oversight of tasks that are currently split among senior rangers." He further stated that doing so would "bring...the programming coordination and SUPs [special use permits] from the BSO senior ranger ranks and bring...them back to the assistant managers." He noted that this would "free up senior rangers to do more...field work."

Johnson continued by explaining the duties of all the assistant managers. He noted that the new assistant manager position would have the same job description as the other four assistant managers. Although each assistant manager would have a separate focus, the assistant managers' job duties would change over time so that they could become interchangeable. To start, assistant managers 1 and 2 would be responsible for full-time scheduling and daily operational planning. Assistant manager 3 would focus on facility operations. Assistant manager 4 would have the primary focus of performing special use permit administration. Prior to the reorganization, two assistant managers performed special permit administration, one worked on the west side and one on the east side. The new fifth assistant manager would have the primary focus of programming coordination.

On August 27, 2018, Raymond Garza, attorney for the Union sent a letter to the Respondent's counsel demanding to bargain over the Respondent's decision to "hir[e]...an assistant manager who will be performing substantially similar duties as bargaining unit members."

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<sup>9</sup> Assistant Manager Jandura testified that Johnson's notes of the meeting accurately reflected what he stated. Dorgan stated that the notes of the meeting are not verbatim, but that they reflect the most important elements of the meeting.

On September 5, 2018, the Respondent's attorney Lisa Callaway responded in a letter stating that the new assistant manager position would not be performing bargaining unit work and that, in any event, the Union had contractually waived the right to bargain such a change.

In September 2018, the Respondent hired the fifth assistant manager. Following the reorganization, the Respondent employs six managers, which includes one site manager and five assistant managers. Assistant Manager Jandura now handles special use permits for the entire preserve, and Assistant Manager Michael Shannon handles administration of programming for the preserve.

Senior Ranger Spencer testified that when the Respondent hired the fifth assistant manager, the Respondent removed the special use permit administration and programming coordination duties from the senior rangers. At hearing, Johnson confirmed that it was his intent to "bring [those duties] back" to the assistant manager position. Johnson testified that the Respondent intended to "pull back" the bulk of those duties so that the senior rangers could focus on field duties and assist with administration as needed.

Following the reorganization, the Respondent added language to the senior rangers' job description, which stated that they could be required to work on either side of the preserve, as needed, regardless of their primary location assignment. The Respondent made no other changes to the job description.

Dorgan testified that no senior rangers are currently performing special use permit administration and programming administration for professional development on a regular basis. She explained that the Respondent has not disallowed the senior rangers from assisting on these matters, but that not every senior ranger would have the opportunity to perform such work. Assistant Manager Jandura testified that if a senior ranger asked to perform special use permit work, he could give that senior ranger the opportunity to do so.

#### **IV. DISCUSSION AND ANALYSIS**

The Respondent did not violate the Act when it significantly diminished the west-side senior rangers' administrative duties and transferred such duties to the assistant managers. Although the Respondent's decision to diminish and transfer such work is a mandatory subject of bargaining under the Central City test, the Union clearly and unmistakably waived the right to

bargain over the Respondent's decision. The Union also clearly and unmistakably waived the right to bargain over the effects of that decision.

### 1. Central City Test

The Respondent's decision to significantly diminish the west-side senior rangers' administrative duties and transfer those duties to the assistant managers is a mandatory subject of bargaining under the Central City test.

An employer violates Sections 10(a)(4) and (1) of the Act if it makes a unilateral change in a mandatory subject of bargaining without granting prior notice to, and an opportunity to bargain with, the exclusive bargaining representative of its employees. Amalgamated Transit Union v. Illinois Labor Relations Bd., 2017 IL App (1st) 160999, ¶ 35; Chicago Transit Auth., 14 PERI ¶ 3002 (IL LLRB 1997); Vill. of Crest Hill, 4 PERI ¶ 2030 (IL SLRB 1988); City of Peoria, 3 PERI ¶ 2025 (IL SLRB 1987); State of Ill., Dep't of Cent. Mgmt. Servs., 1 PERI ¶ 2016 (IL SLRB 1985).

In Central City, the court set forth a three-part test to determine whether a matter is a mandatory subject of bargaining. The first question is whether the matter is one of wages, hours and terms and conditions of employment. Cent. City Educ. Ass'n, IEA-NEA v. Ill. Educ. Labor Rel. Bd. ("Central City"), 149 Ill. 2d 496, 523 (1992). If the answer to that question is no, the inquiry ends and the employer is under no duty to bargain. Central City, 149 Ill. 2d at 523. If the answer is yes, then the second question under the Central City test is whether the matter is also one of inherent managerial authority. Id. If the answer is no, then the analysis stops and the matter is a mandatory subject of bargaining. Id. If the answer is yes, the Board will balance the benefits that bargaining will have on the decision-making process with the burdens that bargaining will impose on the employer's authority. Id.

Here, the Respondent's decision to diminish the west-side senior rangers' administrative duties and transfer those duties to the assistant managers satisfies the first prong of the Central City test. A matter concerns wages, hours, and terms and conditions of employment if it (1) involves a departure from previously established operating practices, (2) effects a change in the conditions of employment, or (3) results in a significant impairment of job tenure, employment security, or reasonably anticipated work opportunities for those in the union. Int'l Bhd. of Teamsters, Local 700 v. Illinois Labor Relations Bd., Local Panel, County of Cook, 2017 IL App (1st) 152993, ¶ 33; Chicago Park Dist. v. Illinois Labor Relations Bd., Local Panel, 354 Ill. App.

3d 595, 602 (1st Dist. 2004) (citing City of Belvidere v. Illinois State Labor Relations Bd., 181 Ill. 2d 191, 208 (1998)). As discussed below, the Respondent both departed from its previously established operating practices and also effected a change in employees' conditions of employment.

The Respondent departed from previously established operating practices because it significantly changed the quantity and frequency of administrative work performed by senior rangers on the west side of the preserves. Prior to 2018, certain senior rangers on the west side of the preserves served as mentors and leads in the administration of special use permits (SUPs). Others had regular assignments to assist in the performance of that work, as demonstrated by witness testimony and the duty sheets created by the Respondent in 2014, 2016, 2017, and 2018. Likewise, certain senior rangers on the west side of the preserves served as programming coordination leads. Moreover, the Respondent maintained a system under which the senior rangers on the west side who assisted in an administrative task in one year would lead that task in the next year, and subsequently mentor other senior rangers in the following year, to perpetuate the performance of such lead work by senior rangers in SUP administration and programming coordination. Under this framework, the senior rangers who served as leads in SUP administration and programming coordination provided guidance to other senior rangers who performed such work in an assistive capacity. Even though assistant managers likewise performed such work, Manager Johnson acknowledged that programming coordination and SUP duties were also "split among senior rangers" prior to the reorganization. While not every senior ranger performed administrative tasks, the ones who did performed them regularly and engaged in more than merely ad hoc or insignificant assistance.

However, as of September 2018, the Respondent hired a new assistant manager and significantly diminished the west-side senior rangers' administrative work on SUP administration and programming coordination. The witnesses disagree as to whether the Respondent completely removed these administrative tasks from the senior rangers' purview, but the preponderance of the evidence nevertheless demonstrates a major shift in the Respondent's practices. After September 2018, senior rangers on the west side of the preserves no longer led or mentored other senior rangers in the performance of SUP administration and programming coordination, and none of them had regular assignments to perform that work. Senior Ranger Spencer, who is assigned to the west side, testified that no senior rangers performed SUP administration and programming

coordination after September 2018. Director Dorgan admitted that no senior rangers are currently performing special use permit administration and programming administration for professional development on a regular basis. Manager Johnson admitted that he intended to remove the “bulk” of the senior rangers’ administrative work so that they would have more time for field work. Finally, although Assistant Manager Jandura stated that he could still assign senior rangers administrative work, if they asked for it, there is no indication that he had done so.

The Respondent’s claim that it made no change to the senior rangers’ administrative duties is unpersuasive in three main respects. First, it rests on the subjective intent of its witnesses, which is inconsistent with their objective conduct. At hearing, Johnson and Dorgan claimed that they did not intend to remove the senior rangers’ administrative duties and contemplated that senior rangers would still assist, as they had done before. However, in June 2018, Johnson expressed the opposite in categorical terms, stating that he wanted to “bring...[those duties]...from the BSO senior ranger ranks ... back to the assistant managers.” Second, the Respondent’s claim is also inconsistent with the Respondent’s actual practices as described by both parties’ witnesses, which show that no senior rangers currently perform administrative work on a regular basis, though they had done so before. Finally, the Respondent’s position fails to acknowledge that, prior to September 2018, some senior rangers’ work on administrative tasks rose above mere assistance and extended to leadership and mentorship on such projects. Accordingly, even if senior rangers were still responsible for assistance in administrative tasks after the reorganization, as the Respondent claims, the Respondent nevertheless materially changed their work by eliminating their leadership and mentorship functions.

Given this evidence, the Union clearly demonstrated that the Respondent changed its previously established operating practices by eliminating the west-side senior rangers’ regular performance of administrative work and materially diminishing their administrative responsibilities. The Respondent complains that the Union did not call a senior ranger to testify that he personally performs less administrative work than he did before the reorganization, but this testimony is not essential where there is documentary evidence and testimony from the Respondent’s witnesses that support the Union’s position.

Contrary to the Respondent’s contention, the Respondent’s change is not nullified by the fact that the assistant managers were also responsible for SUP administration and programming coordination and had greater authority in these areas than the senior rangers. “Regular and

longstanding practices that are neither random nor intermittent become terms and conditions of employment” and cannot be changed without offering the unit employees’ collective-bargaining representative notice and an opportunity to bargain, absent clear and unequivocal waiver of this right.” Pub. Serv. Co. of New Mexico, 360 NLRB 573, 583 (2014). Here, the Respondent established an operating practice over a period of at least five years under which certain senior rangers on the west side regularly led, mentored, and assisted in both programming coordination and special use permit administration. The Respondent therefore changed the status quo when it eliminated the west-side senior rangers’ regular performance of this work and significantly diminished their administrative responsibilities.

Next, the Respondent’s decision also affected employees’ terms and conditions of employment because it transferred work out of the bargaining unit to a newly created assistant manager position. The transfer of bargaining unit work out of the unit affects the wages, hours and working conditions of the bargaining unit. City of Marengo, 20 PERI 99 (IL LRB-SP 2009); County of Cook and Cook County Sheriff, 12 PERI 3021 (IL LLRB 1996) aff’d by unpub. order, 14 PERI 4016 (1998); Illinois Department of Central Management Services (Department of Corrections), 17 PERI ¶2046 (IL SLRB 2001). It causes the unit to lose actual or potential work, wages, and hours. City of Marengo, 20 PERI 99; County of Cook and Cook County Sheriff, 12 PERI 3021; Illinois Department of Central Management Services (Department of Corrections), 17 PERI ¶2046. In addition, the diminution of unit work weakens the collective strength of the bargaining unit, impacts the union’s ability to effectively deal with the employer, and can adversely affect the unit’s viability. City of Marengo, 20 PERI 99; County of Cook and Cook County Sheriff, 12 PERI 3021. Indeed, “in the absence of an inherent managerial policy such as those enumerated in Section 4 of the Act, an employer’s decision to create positions in either a new or existing non-bargaining unit classification which results in the removal of duties then being performed by bargaining unit personnel is a mandatory subject of bargaining.” County of Cook and Cook County Sheriff, 12 PERI 3021.

Here, the preponderance of the evidence demonstrates that SUP administration and programming coordination was bargaining unit work regularly and consistently performed by certain senior rangers on the west side of the preserves for at least five years. The duty sheets submitted into evidence by the Union demonstrate that SUP leadership and assistance functions were part of the senior rangers’ normal duties. Senior rangers on the west side who performed

such duties received greater responsibilities in that area as the years progressed. “Senior rangers would lead the larger duties,” and the “former leader of that duty would act as a mentor or sounding board for concerns and questions.” The duty sheets likewise demonstrate that some senior rangers on the west side of the preserves regularly and consistently performed programming coordination. The Respondent contends that such work was mere implementation of the program on the day it occurred, but the preponderance of the evidence undermines this claim. Manager Johnson’s notes indicate that when he announced the Respondent’s decision to return administrative work to the assistant manager ranks, such work included “programming coordination.” The Respondent’s use of a nearly identical phrase on the duty sheets (“program coordination”) weighs in favor of finding that these terms have the same meaning and that they therefore both refer to administrative functions. Likewise, Assistant Manager Jandura, who interacted with west-side senior rangers, testified that it was not unusual for them to perform the administrative aspects of programming coordination, which extended beyond mere assistance or carrying out the program on the day it occurred.

Furthermore, it is clear that the Respondent transferred that work, previously performed by bargaining unit members, to the assistant managers, and that its creation of the fifth assistant manager position facilitated that change. Indeed, the Respondent’s agents admit to this conduct. Manager Johnson informed employees that the Respondent planned to create a new assistant manager position to “bring...the programming coordination and SUPs from the BSO [west-side] senior ranger ranks...back to the assistant managers.” He informed the employees that this change would “free up senior rangers to do more...field work.”

The Respondent contends that its actions, described above, were privileged under the Act because the SUP administration and programming coordination duties were not performed exclusively by bargaining unit employees and were instead performed mostly by the assistant managers. However, the lack of exclusivity does not preclude a finding that the Respondent changed the status quo where the Respondent cites no case in which the Board has adopted such an exclusivity rule.<sup>10</sup>

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<sup>10</sup> Some other public sector jurisdictions have applied such a rule. See Southfield Police Officers Ass'n v. City of Southfield, 433 Mich. 168, 172 (1989); Eureka City School Dist., 9 PERC ¶ 16060 (CA PERB 1985); American Federation of State, County and Municipal Employees, Council 13/Pennsylvania Labor Relations Board, 150 Pa. Cmwlth. 642, 616 A.2d 136 (1992).

The fact that the disputed work is performed by both bargaining unit and non-bargaining unit employees may be relevant to the analysis of the Respondent's bargaining obligation, but it is not alone dispositive. CMS and Employment Security, 5 PERI 2035 (IL SLRB 1989) (also considering other factors). Instead, the Board more broadly considers whether the employer's action caused the bargaining unit to suffer a significant loss or impact. CMS and Employment Security, 5 PERI 2035 (no significant impact); State of Illinois, Dep't of Cent. Mgmt. Servs., 17 PERI 2046 (IL LRB-SP 2001) (significant loss). To that end, the Board has held that "when an employer removes work from the bargaining unit and assigns it to non-unit employees, [it] will examine the effect of that decision to determine whether the bargaining unit has suffered a significant loss." State of Illinois, Dep't of Cent. Mgmt. Servs., 17 PERI 2046. The Board has observed that the more duties the employer removes from the unit, the more likely it is that it will be required to bargain. State of Illinois, Dep't of Cent. Mgmt. Servs., 17 PERI 2046. However, the Board has also cautioned that it does not focus on numerical considerations or whether the unit lost positions or "bodies," and that it instead "focus[es] on whether the removal of unit work was incidental to the creation of the non-unit position." Id.

Here, the loss to the bargaining unit is significant and quantifiable because it is equivalent to the work of one bargaining unit position. The senior rangers collectively performed enough administrative work that its removal allowed the Respondent to operate effectively with one less bargaining unit member. After the reorganization, the Respondent never filled the position vacated by Ranger Galvan. Although it did hire a senior ranger to replace the individual it promoted to assistant manager, Director Dorgan admitted that she reallocated the resources of the ranger position to achieve the reorganization's efficiency objectives. Moreover, it stands to reason that the Respondent redistributed the vacated ranger position's functions to the remaining bargaining unit employees, including the senior rangers, who were freed up to perform more field work after the Respondent significantly diminished their administrative duties. Indeed, Manager Johnson confirmed that the Respondent hired a fifth assistant manager so that the senior rangers could perform more fieldwork, the same type of work performed by the rangers.

These events also demonstrate that the Respondent's removal of unit work from the unit was not incidental to the creation of the fifth assistant manager position but was instead one of its main goals. The Respondent created that assistant manager position so that it could assume the senior rangers' administrative duties. As Manager Johnson freely admitted, the Respondent

created the fifth assistant manager position to “bring... the programming coordination and SUPs from the...senior ranger ranks and bring...them back to the assistant managers” and to thereby “free up senior rangers to do more...field work.”

Moreover, the Respondent’s concomitant abolishment of a bargaining unit position from a small unit of 20 renders the Respondent’s removal of unit work distinguishable from one arguably similar case in which the Board found that the employer could act unilaterally. In CMS and Employment Security the Board found that the employer was privileged to remove certain employees from the unit by rendering them supervisory because the employer had not thereby significantly impacted the unit. CMS and Employment Security, 5 PERI 2035. It reasoned that the employer replaced those removed positions with newly-hired bargaining unit employees. Id. It also reasoned that the large size of the unit (a broad-based unit of technical State employees), the diversity of functions performed by unit employees, and the potential overlap between duties performed by bargaining unit and non-unit employees all undermined the claim that the employer significantly impacted the unit. Id.

Here, by contrast, the Respondent did not cure its removal of bargaining unit work from the unit by replacing the lost positions. Although it hired a senior ranger to replace the one it promoted out of the unit, it “reallocated” the resources of another bargaining unit position to effectuate the goals of the reorganization—efficiency. And, as discussed above, it achieved such efficiency in part by transferring the west-side senior rangers’ administrative tasks out of the unit. Moreover, the impact on the unit in this case is significant because the unit is small, unlike the unit at issue in CMS and Employment Security. Cf. CMS and Employment Security, 5 PERI 2035. Although the transferred duties at issue in this case were shared by employees outside the bargaining unit, as they were in CMS and Employment Security, the Respondent’s removal of unit work and concomitant diminution of an already small unit warrants a different result. Cf. CMS and Employment Security, 5 PERI 2035.

The Respondent cannot deny the existence of a change by noting that the total number of managers remained the same both before and after the reorganization. Such an argument overlooks the Respondent’s transfer of work out of the unit, discussed above. It also overlooks the key fact that the eliminated site manager position did not share the work performed by bargaining unit members, whereas the newly-expanded assistant manager title did. Among the manager ranks, it was the assistant managers who predominantly performed programming coordination and SUP

administration. Site managers participated in the more atypical SUP work, but the senior rangers did not work on those.<sup>11</sup> Thus, the Respondent increased the number of management employees who performed the type of administrative work performed by senior rangers to facilitate the transfer of such work out of the unit.

Next, setting aside questions of contractual waiver, the Respondent's decision to transfer the west-side senior rangers' administrative functions to the newly-created assistant manager position and to other assistant managers is not a matter of inherent managerial authority. An employer's decision to transfer bargaining unit work to a newly created position is a matter of inherent managerial authority under two circumstances: (1) when it establishes a bona fide supervisory position or (2) when it has engaged in a legitimate reorganization. City of Marengo, 20 PERI 99; CMS and Employment Security, 5 PERI 2035; State of Illinois, Dep't of Cent. Mgmt. Servs., 17 PERI 2046.

To establish that the employer created a bona fide supervisory position, the employer must demonstrate that the newly created position is a statutory supervisor under Section 3(r) of the Act. State of Illinois, Department of Central Management Services (Department of Corrections), 18 PERI ¶ 2068 (IL LRB-SP 2001); State of Illinois, Dep't of Cent. Mgmt. Servs., 17 PERI 2046; CMS and Employment Security, 5 PERI 2035 n. 3; City of East St. Louis, 5 PERI ¶ 2034 (IL SLRB 1989).

To establish that its decision was a "legitimate reorganization," and thus a matter of inherent managerial authority, an employer must demonstrate one or more of the following: 1) that its organizational structure has been fundamentally altered; 2) that the nature or essence of the services provided has been substantially changed; or 3) that the nature and essence of a position has been substantively altered such that the occupants of that position no longer have the same qualifications, perform the same functions, or have the same purpose or focus as had the previous employees. State of Illinois, Dep't of Cent. Mgmt. Servs., 17 PERI 2046; County of Cook and Cook County Sheriff, 12 PERI ¶ 3021 (IL LLRB 1996), aff'd by unpub. order, 14 PERI ¶ 4016 (1998).

The Respondent has failed to claim that the fifth assistant manager position is a statutory supervisor. Indeed, the Respondent did not develop a record as to the position's supervisory authority. Although the record contains a job description for the assistant manager title, the record

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<sup>11</sup> There is no indication that the site managers participated in programming coordination.

contains no evidence concerning the extent of that position's discretion in performing supervisory indicia. State of Illinois, Dep't of Cent. Mgmt. Servs., 17 PERI 2046. Nor does the record contain evidence that assistant managers, as a class, have authority to impact their subordinates in areas most likely to fall within the scope of union representation, as is required of a statutory supervisor. Serv. Employees Int'l Union, Local 73 v. Illinois Labor Relations Bd., 2013 IL App (1st) 120279, ¶ 51 (noting such a requirement in establishing supervisory authority based on direction).

The Respondent has also not claimed that it engaged in a legitimate reorganization. Nor do the facts support such a finding. The Respondent did not fundamentally alter its organizational structure. It merely consolidated the highest level of management by eliminating a site manager position, and it expanded its middle management by adding an assistant manager, which is more akin to rearranging positions on an organizational chart than a fundamental restructuring. County of Lake, 28 PERI ¶67 (IL LRB-SP 2011); City of Peoria, 3 PERI ¶2025 (IL SLRB 1987); State of Illinois, Dep't of Cent. Mgmt. Servs., 17 PERI 2046 (reorganization not legitimate); cf. City of Evanston, 29 PERI ¶ 162 (IL LRB-SP 2013). In addition, the Respondent provided the same services both before and after the reorganization. Finally, it did not change the nature or essence of any of its positions to alter their functions, qualifications, or focus. The Respondent did not materially change any of its positions' job descriptions. Rather, the assistant managers simply absorbed the administrative functions previously performed by the west-side senior rangers. State of Illinois, Department of Central Management Services (Department of Corrections), 17 PERI ¶2046.

Even if the Board finds that the Respondent engaged in a legitimate reorganization, its decision to transfer bargaining unit work out of the unit was nevertheless a mandatory subject of bargaining under the Central City test because the decision was fundamentally economic. As a general matter, the balance favors bargaining where the issues are amenable to resolution through the negotiating process, i.e., where the union is capable of offering proposals that are an adequate response to the employer's concerns. Chief Judge of the Circuit Court of Cook County, 31 PERI ¶ 114 (IL LRB-SP 2014); Cnty. of St. Clair and the Sheriff of St. Clair Cnty., 28 PERI ¶18 (IL LRB-SP 2011), aff'd by unpub. ord., 2012 IL App (5th) 110317-U (union need not present evidence of its actual proposals). For example, there are significant benefits to bargaining where the employer's decision is economically motivated because the union can provide helpful suggestions to reduce labor costs. Chicago Park Dist., 354 Ill. App. 3d at 603; Chief Judge of the

Circuit Court of Cook County, 31 PERI ¶ 114; Vill. of Ford Heights, 26 PERI ¶145 (IL LRB-SP 2010); Vill. of Bensenville, 19 PERI ¶119; City of Peoria, 3 PERI ¶2025; State of Ill. (Dep't of Cent. Mgmt. Servs.), 1 PERI ¶2016 (IL SLRB 1985). By contrast, the balance favors unilateral decision-making where the employer's decision concerns policy matters that are intimately connected to its governmental mission or where bargaining would diminish its ability to effectively perform the services it is obligated to provide. Chief Judge of the Circuit Court of Cook County, 31 PERI ¶ 114; Vill. of Franklin Park, 8 PERI ¶2039 ("the scope of bargaining in the public sector must be determined with regard to the employer's statutory mission and the nature of the public service it provides"); State of Ill. Dep'ts of Cent. Mgmt. Servs. and Corrections, 5 PERI ¶2001 (IL SLRB 1988), affirmed, 190 Ill. App. 3d 259 (1st Dist. 1989). Consequently, the benefits of bargaining are minimal when the employer's decision effects a fundamental change in the manner in which the employer conducts its business. City of Evanston, 29 PERI ¶162.

Here, the Respondent's witnesses made clear that the chief goal of the reorganization was to save money and increase efficiency by allowing the two sides of the preserve to share human and physical resources. The transfer of work from the senior rangers to the assistant managers furthered that same goal by allowing senior rangers to focus on field work and permitting the Respondent to complete the same amount of field work with one less bargaining unit member. Indeed, after Ranger Galvan left her position, the Respondent did not see the need to fill it once the assistant managers assumed the west-side senior rangers' administrative duties and the senior rangers, in turn, increased their field work.

Finally, while there may have been some non-economic reasons for the reorganization, those were severable from the Respondent's economic decision to transfer the senior rangers' administrative tasks to the assistant managers. The Respondent consolidated its operations at least in part to ensure consistency in the policies applied on the two sides of the preserve. However, the Respondent could have achieved that end without transferring the senior rangers' administrative tasks to the assistant managers. See City of Peoria, 3 PERI ¶2025 (imposing a bargaining obligation over respondent's decision to transfer work out of the bargaining unit where that decision was severable from a reorganization aimed to increase standards of service).

Thus, the Respondent's decision to significantly diminish the west-side senior rangers' administrative functions and transfer administrative work out of the unit is a mandatory subject of bargaining under the Central City test.

## 2. Waiver of Decisional Bargaining

The Union waived the right to bargain over the Respondent's decision to significantly diminish the west-side senior rangers' administrative work and transfer that work out of the unit.

Evidence that a party intended to waive a statutory right must be clear and unmistakable. Forest Pres. Dist. of Cook County v. Illinois Labor Relations Bd., 369 Ill. App. 3d 733, 754 (1st Dist. 2006); Am. Fed'n of State, County & Mun. Employees, AFL-CIO v. State Labor Relations Bd., 190 Ill. App. 3d 259, 269 (1st Dist. 1989). It is the Respondent's burden to prove the existence of clear, unequivocal, and unmistakable waiver. Forest Preserve District of Cook County, 21 PERI ¶ 43 (IL LRB-LP 2005), aff'd, Forest Preserve District of Cook County v. Ill. Labor Rel. Bd., 369 Ill. App. 3d 733 (1st Dist. 2006).

A collective bargaining agreement is deemed to be a waiver of both parties' right to bargain over matters fully negotiated and covered by the agreement because parties are not required to discuss or agree to modify the terms of that agreement. Illinois Secretary of State, 24 PERI ¶ 22 (IL LRB-SP 2008); City of Chicago, 18 PERI ¶ 3025 (IL LRB-LP 2002); Ill. Dep't of Military Affairs, 16 PERI ¶ 2014 (IL SLRB 2000); City of Decatur, 5 PERI ¶ 2008 (IL SLRB 1989); Pembroke Comm. Consolidated School Dist. No. 259, 8 PERI ¶ 1055 (IELRB 1992). However, waivers by express agreement are construed as applicable only to the specific item mentioned. Illinois Secretary of State, 24 PERI ¶ 22. Where a contract is silent on the subject matter in dispute, a finding of waiver by contract is absolutely precluded. Id.

Here, the parties fully bargained the Respondent's authority to transfer bargaining unit work to non-bargaining unit employees, and the contract therefore waives the Union's right to bargain over that matter midterm. The parties' contract contains a detailed management rights clause that speaks directly to the conduct complained of in this case and permits the Respondent to take unilateral action. The agreement expressly provides that the Respondent retains the right "to determine whether work and/or services are to be provided by employees covered by [the parties'] agreement...or by other District employees or persons not covered by [the] agreement...." It further states that the Respondent can "make and implement decisions" on this issue "without having to negotiate" over them. The parties therefore negotiated to allow the Respondent to transfer work from senior rangers, who are employees "covered by [the] agreement," to assistant managers who are "other District employees or persons not covered by [the agreement]."

Although the management rights clause does not use the phrase “transfer of work,” it nevertheless demonstrates the parties’ unequivocal intent to grant the Respondent sole authority to decide whether work should be performed by bargaining unit employees or employees outside the unit. And it likewise demonstrates the parties’ unequivocal intent to grant the Respondent sole authority to unilaterally effectuate decisions on such matters. See Am. Fed’n of State County & Mun. Employees v. State Labor Relations Bd., 274 Ill. App. 3d 327, 335 (1st Dist. 1995) (finding waiver of right to bargain over decision to lay off employees where contract provided that respondent could “relieve employees from duty because of lack of work or other legitimate reasons”); Vill. of Elk Grove Vill., 13 PERI ¶ 2007 (contractual language identical to language here raised valid issues of waiver concerning the transfer of work out of the unit; remanding to Executive Director for further consideration).

Significantly, the Union has cited to no provision in the contract that limits the Respondent’s authority in this respect, and it has not acknowledged the management rights clause on brief or attempted to present counter-arguments to the Respondent’s claim of waiver.

Thus, the Union waived the right to bargain over the Respondent’s decision to significantly diminish the senior rangers’ administrative duties and transfer them to the assistant managers.

### 3. Waiver of Effects Bargaining

The Union also clearly and unmistakably waived the right to bargain over the effects of the Respondent’s decision to significantly diminish bargaining unit work and transfer it out of the unit.

As discussed above, a collective bargaining agreement is deemed to be a waiver of both parties’ right to bargain over matters fully negotiated and covered by the agreement because parties are not required to reopen bargaining over items to which they have already agreed. See cases supra.

Here, the detailed management rights clause demonstrates that the parties already negotiated over the effects of the Respondent’s decision to transfer work out of the unit. It states that the Respondent can exercise its management rights, including the transfer of work out of the unit (discussed above), “*without having to negotiate over...the effects of such decisions.*” (emphasis added). Furthermore, the management rights clause addresses at least one potential effect of the Respondent’s diminution of unit work—the corresponding elimination of unit positions that are no longer necessary to perform the work that remains. Indeed, it gives the

Respondent sole authority to “determine the number of personnel by which department services shall be provided.” Taken together, these provisions demonstrate the Union yielded its interest in bargaining over the effects of the Respondent’s decision to unilaterally transfer work from bargaining unit employees to non-bargaining unit employees. Vill. of Elk Grove Vill., 13 PERI ¶ 2007 (noting that identical contract language raised valid issues of waiver concerning the effects of a transfer of work out of the unit; remanding to Executive Director for further consideration).

The zipper clause further supports a finding of waiver. The broad language of most contractual “zipper” clauses will generally not evidence a clear and unequivocal intent to relinquish the right to bargain over a specific issue. City of Chicago, 18 PERI ¶ 3025; Illinois Department of Central Management Services (Department of Public Aid), 10 PERI ¶ 2006 (IL SLRB 1993) (finding waiver on other grounds) *aff’d*, American Federation of State, County and Municipal Employees v. Illinois State Labor Relations Board, 274 Ill. App. 3d 327 (1st Dist. 1995). “This is true specifically where the clause is being interpreted as a waiver of bargaining over the topics that could have been discussed and were not, or those that were discussed but not settled by the parties during negotiations.” City of Chicago, 18 PERI ¶ 3025. However, the Board has held that a zipper clause, in combination with other more specific contract language, may serve as an effective waiver of both decisional bargaining and effects bargaining. Id.

Here, the zipper clause is specific, and when viewed in combination with the management rights clause, strengthens the finding of waiver. The zipper clause states that the Union “waives any right it may have to impact or effects bargaining for the life of this agreement.” The management rights clause, discussed above, specifically lists the subjects over which the Union has expressly waived the right to bargain effects. This list includes an express waiver of the right to bargain the effects of the Respondent’s decision to “determine whether work and/or services are to be provided by employees covered by [the parties’] agreement...or by other District employees or persons not covered by [the] agreement....” It also demonstrates that the parties specifically negotiated over at least one potential effect of the transfer of work, the potential diminution of unit positions, as discussed above. The contract’s failure to address every potential effect of the Respondent’s decision does not undermine a finding of waiver where the contract shows that the Union bargained over at least one such effect and expressly relinquished the right to bargain other effects midterm. City of Chicago, 18 PERI ¶ 3025 n. 11.

Thus, the Union waived its right to bargain over the effects of the Respondent's decision to diminish the senior rangers' administrative work and transfer it to the assistant managers.

**V. CONCLUSIONS OF LAW**

1. The Respondent's decision to significantly diminish the senior rangers' administrative duties and transfer them to the assistant managers is a mandatory subject of bargaining under the Central City test.
2. The Union contractually waived its right to bargain over the Respondent's decision to significantly diminish the senior rangers' administrative duties and transfer them to the assistant managers.
3. The Union contractually waived the right to bargain over the effects of the Respondent's decision to significantly diminish the senior rangers' administrative duties and transfer them to the assistant managers.

**VI. RECOMMENDED ORDER**

The complaint is dismissed.

**VII. EXCEPTIONS**

Pursuant to Section 1200.135 of the Board's Rules, parties may file exceptions to the Administrative Law Judge's Recommended Decision and Order and briefs in support of those exceptions no later than 30 days after service of this Recommendation. Parties may file responses to exceptions and briefs in support of the responses no later than 15 days after service of the exceptions. In such responses, parties that have not previously filed exceptions may include cross-exceptions to any portion of the Administrative Law Judge's Recommendation. Within seven days from the filing of cross-exceptions, parties may file cross-responses to the cross-exceptions. Exceptions, responses, cross-exceptions and cross responses must be filed with the Board's General Counsel, at 160 North LaSalle Street, Suite S-400, Chicago, Illinois 60601-3103, or to the Board's designated email address for electronic filings, at ILRB.Filing@Illinois.gov. All filing must be served on all other parties. Exceptions, responses, cross-exceptions and cross-responses will not be accepted at the Board's Springfield office. The exceptions and/or cross-exceptions sent to the Board must contain a statement of listing the other parties to the case and verifying that the

exceptions and/or cross-exceptions have been provided to them. The exceptions and/or cross-exceptions will not be considered without this statement. If no exceptions have been filed within the 30-day period, the parties will be deemed to have waived their exceptions.

**Issued at Chicago, Illinois this 16th day of January, 2020**

**STATE OF ILLINOIS  
ILLINOIS LABOR RELATIONS BOARD  
STATE PANEL**

*/S/ Anna Hamburg-Gal*

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**Anna Hamburg-Gal  
Administrative Law Judge**