UNITED STATES OF AMERICA

FEDERAL LABOR RELATIONS AUTHORITY

Office of Administrative Law Judges

WASHINGTON, D.C. 20424-0001

MEMORANDUM DATE: May 14, 2003

TO: The Federal Labor Relations Authority

FROM: RICHARD A. PEARSON
Administrative Law Judge

SUBJECT: DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF PRISONS
FEDERAL CORRECTIONAL INSTITUTION
SHERIDAN, OREGON

Respondent

and Case No. SF-CA-02-0674

AMERICAN FEDERATION OF GOVERNMENT
EMPLOYEES, LOCAL 3979, AFL-CIO

Charging Party

Pursuant to sections 2423.27(c) and 2423.34(b) of the Rules and Regulations, 5 C.F.R. §§ 2423.27(c) and 2423.34(b), I am hereby transferring the above case to the Authority. Enclosed are copies of my Decision, the service sheet, and the transmittal form sent to the parties. Also enclosed is the Motion For Summary Judgment and other supporting documents filed by the parties.

Enclosures

UNITED STATES OF AMERICA

FEDERAL LABOR RELATIONS AUTHORITY

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DEPARTMENT OF JUSTICE FEDERAL BUREAU OF PRISONS FEDERAL CORRECTIONAL INSTITUTION SHERIDAN, OREGON Respondent	
and AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, LOCAL 3979, AFL-CIO AN INDIVIDUAL Charging Party	Case No. SF-CA-02-0674

NOTICE OF TRANSMITTAL OF DECISION

The above-entitled case having been heard before the undersigned Administrative Law Judge pursuant to the Statute and the Rules and Regulations of the Authority, the undersigned herein serves his Decision, a copy of which is attached hereto, on all parties to the proceeding on this date and this case is hereby transferred to the Federal Labor Relations Authority pursuant to 5 C.F.R. § 2423.34(b).

PLEASE BE ADVISED that the filing of exceptions to the attached Decision is governed by 5 C.F.R. §§ 2423.40-2423.41, 2429.12, 2429.21-2429.22, 2429.24-2429.25, and 2429.27.

Any such exceptions must be filed on or before **JUNE 16, 2003**, and addressed to:

Federal Labor Relations Authority
Office of Case Control
1400 K Street, NW, 2nd Floor
Washington, DC 20424-0001

RICHARD A. PEARSON
Administrative Law Judge

Dated: May 14, 2003
Washington, DC

OALJ
03-27 **FEDE**

RAL LABOR RELATIONS AUTHORITY
Office of Administrative Law Judges
WASHINGTON, D.C.

DEPARTMENT OF JUSTICE FEDERAL BUREAU OF PRISONS FEDERAL CORRECTIONAL INSTITUTION SHERIDAN, OREGON Respondent	
and AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, LOCAL 3979, AFL-CIO Charging Party	Case No. SF-CA-02-0674

Stefanie Arthur, Esq.
For the General Counsel

Jennifer A. Spangler, Esq.
For the Respondent

Before: RICHARD A. PEARSON
Administrative Law Judge

DECISION ON MOTIONS FOR SUMMARY JUDGMENT

Statement of the Case

On October 23, 2002, the Regional Director of the San Francisco Region of the Federal Labor Relations Authority issued a Complaint and Notice of Hearing, which alleged that the Respondent violated section 7116(a)(1) and (5) of the Federal Service Labor-Management Relations Statute (the Statute) by implementing its Suicide Watch Procedural Guide (the Guide) prior to the completion of bargaining with the Charging Party. On November 18, 2002, the Respondent filed its Answer, in which it admitted implementing the Guide without agreement by the Union, but it denied that its actions constituted a failure to bargain in good faith or otherwise violated the Statute.

Subsequently, Counsel for the General Counsel filed a Motion for Summary Judgment, arguing that there was no

genuine issue of material fact and that the undisputed facts warranted a finding that Respondent had committed an unfair labor practice. Respondent opposed the General Counsel's Motion for Summary Judgment but submitted its own Cross-Motion for Summary Judgment; in this pleading, the Respondent agreed that there was no genuine issue of material fact, but it contended that the undisputed facts warranted the dismissal of the Complaint.

Based on the assertion by both parties that there is no genuine issue of material fact, the Chief Administrative Law Judge issued an Order on February 12, 2003, postponing the hearing indefinitely, so that the case can be decided based on the motions for summary judgment.

Discussion of Motion for Summary Judgment

The Authority has held that motions for summary judgment, filed under section 2423.27 of its Regulations, 5 C.F.R. § 2423.27, serve the same purpose, and are governed by the same principles as motions filed in United States District Courts under Rule 56 of the Federal Rules of Civil Procedure. *Department of Veterans Affairs, Veterans Affairs Medical Center, Nashville, Tennessee*, 50 FLRA 220, 222 (1995); *Department of the Navy, U.S. Naval Ordnance Station, Louisville, Kentucky*, 33 FLRA 3, 4-5 (1988). Appropriately, the parties in this case have submitted exhibits and affidavits in support of their motions, and after reviewing these documents fully, I agree that there is no genuine issue of material fact. The witnesses and parties agree on the pertinent events that occurred leading up to the Respondent's implementation of the Guide. The only material disagreement between the parties is whether the Respondent's implementation violated the Statute.

Accordingly, it is unnecessary to hold a hearing in this case, and it is appropriate to decide the case on the motion and cross-motion for summary judgment. Based on the entire record, I will summarize the material facts, and based thereon, I make the following conclusions of law and recommendations.

Findings of Fact

The American Federation of Government Employees, AFL-CIO (AFGE) is the exclusive representative of a nationwide consolidated unit of employees of the Federal Bureau of Prisons. American Federation of Government Employees, Local 3979, AFL-CIO (Charging Party/Union) is an agent of AFGE for the purpose of representing unit employees at the

Department of Justice, Federal Bureau of Prisons, Federal Correctional Institution, Sheridan, Oregon (Respondent/FCI).

In March of 2002,[1] the Union and the FCI engaged in "impact and implementation" negotiations over a Suicide Watch Procedural Guide, which had been proposed earlier by management. Dr. Benton C. Gordon, the Chief Psychologist at the FCI, served as management's lead negotiator, and Steven Bolgrin, a psychologist at FCI and the Union's steward for the Psychology Services department, served as the Union's lead negotiator. On March 26, the parties discussed management's proposal (Exhibit A to General Counsel's Motion for Summary Judgment) as well as the Union's proposal (Exhibit B), and at the conclusion of negotiations that day, they agreed to make specific changes to management's draft. Those changes were written in pen on management's draft, with Bolgrin and Gordon initialing and dating each page (Exhibit C). With these changes, it appeared that the parties had agreed on a final version of the Guide.

In the ensuing days, however, a dispute arose concerning the changes to paragraphs 2C and 4C of the Guide. Paragraph 2 relates in general to the procedures for initiating a suicide watch (including the preparation of a Suicide Risk Assessment [SRA] by a psychologist) and for notifying prison officials that a suicide watch has begun. Paragraph 4 relates in general to the procedures for terminating a suicide watch and for notifying other officials of this fact. Management's original proposal for paragraph 2C stated that the psychologist initiating the suicide watch should ensure that the following actions are accomplished:

> Notify the following people by GroupWise.[2] Notification should occur within 24 hours of the initiation of the Suicide Watch. . . [a series of officials were then listed].

Management's original proposal for paragraph 4C was similar to 2C, except that it applied to notification of officials about the ending of a suicide watch. It stated that the psychologist who ends a suicide watch will do the following:

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[1] All dates are 2002, unless otherwise noted.

[2] GroupWise is apparently FCI's internal e-mail system.

> Notify the following people by GroupWise. Notification should occur within 24 hours of the conclusion of the Suicide Watch. . . [the same officials were then listed].

The management proposal also included a paragraph 2I, which stated as follows:

> Send a copy of the Suicide Risk Assessment via GroupWise to the WXR Psych Svc Administrator. If you have questions about how to export the SRA to a text file and how to send it as an attachment to a GroupWise message, contact the Chief Psychologist.

At the negotiation meeting on March 26, the Union convinced the FCI representatives to add (or "import") the language in the second sentence of paragraph 2I to paragraphs 2C and 4C, just prior to the list of officials to be notified (see handwritten changes on pages 2 and 4 of Exhibit C). At the end of the March 26 session, Gordon agreed that he would incorporate these changes, as well as the other agreed-upon modifications, and submit a "final" version to the Union for review. Gordon did send a modified version of the Guide to Bolgrin the next day, but he admits that he did not incorporate the exact language of the second sentence of paragraph 2I into paragraphs 2C and 4C (see paragraphs 11 and 13 of the Respondent's Answer and paragraphs 2-4 of Benton's Declaration, Exhibit 4 to Respondent's Cross-Motion for Summary Judgment). Instead, he sought to "clarify" the language without changing its

substance. Rather than the "imported" sentence reading, "If

you have questions about how to export the SRA to a text file and how to send it as an attachment to a GroupWise message, contact the Chief Psychologist", Gordon's March 27 version read, "If you have questions about how to do this task using GroupWise, contact the Chief Psychologist." (See pages 2 and 4 of Exhibit D to General Counsel's Motion for Summary Judgment.)

On April 15, Bolgrin responded by e-mail to FCI's revised language for paragraphs 2C and 4C, and he suggested new, compromise language. Instead of "If you have questions about how to do this task using GroupWise, contact the Chief Psychologist", the Union proposed, "If you have questions about how to notify the following people by GroupWyse using GroupWyse, contact the Chief Psychologist." (Exhibit E to General Counsel's Motion for Summary Judgment.) In support of the Union's proposed language, Bolgrin said, "We think this reads a little easier and is consistent with the intent we had at the table." *Id.* In an e-mail dated April 16, Gordon rejected the Union's proposal and stated that the "guidelines that were agreed to on 3/26/02, will be implemented effective immediately." *Id.* In this e-mail he insisted that he had made the changes he had agreed to make, and that Bolgrin's April 15 offer had proposed "additional changes which were not discussed or agreed to during the negotiation process. Therefore, no further changes will be made." *Id.* The final version of the Guide was distributed to psychologists in the bargaining unit on April 23, and no further negotiations have occurred.

Discussion and Conclusions

1. Positions of the Parties

The General Counsel argues that FCI acted unilaterally and unlawfully by implementing its "final" version of the Guide at a time when bargaining had not been completed and an impasse had not been reached. The language incorporated by Gordon into his March 27 draft, which is the same language that was subsequently implemented by FCI, was not the language that had been agreed upon by the parties at their March 26 meeting; accordingly, the General Counsel

argues that FCI could not implement that provision without

the Union's agreement. Gordon's April 16 memo to Bolgrin accused the Union of proposing "changes which were not discussed or agreed to during the negotiation process", but the General Counsel notes that it was Gordon who actually changed the language. Gordon's refusal to consider the Union's comments or to bargain further constituted a premature termination of bargaining, and the Respondent's subsequent implementation was a violation of section 7116(a)(5) of the Statute.

In its Cross-Motion for Summary Judgment, the Respondent does not deny that the language of paragraphs 2C and 4C of the Guide, as implemented, is different from the language it agreed to on March 26. Instead, the Respondent submits that the change in paragraphs 2C and 4C

> is nothing more than a semantic change and does not amount to a change in how employees will be required to make notifications under the Suicide Watch policy. . . Because there was no change in how employees would be required to make notifications, there was no change in conditions of employment. Therefore, the Agency was not required to bargain further over the language in paragraphs 2c and 4c . . . .

The General Counsel responds to this last argument by contending that Respondent misrepresents the nature and extent of the obligation to negotiate changes in conditions of employment. According to the GC, the Guide itself clearly has a direct connection to the working conditions of unit employees (the psychologists), in that it directs that specific procedures be followed in conducting a suicide watch; more specifically, paragraphs 2C and 4C require that specific officials be notified, in a particular manner, of the beginning and end of a suicide watch. Therefore, the General Counsel says, the provision effectuates a change in the psychologists' conditions of employment. It is inappropriate, the GC argues, to focus only on the difference in language between that which was mutually agreed and that which was later implemented by management; instead, the proper focus should be on the negotiability of each paragraph in its entirety. Even if the difference in language is "merely semantic," the Respondent could not

lawfully implement its version over the Union’s objection.

Moreover, it argues, the specific language discrepancy between the Union and management does reflect a matter that affected employees' working conditions: the language in dispute identifies the "task" of notifying officials by GroupWise and allows employees to ask the Chief Psychologist for help if they have questions. The differing versions of the disputed sentence focus on how best to instruct employees as to when they should "contact the Chief Psychologist." Therefore, in the General Counsel's view, the dispute was not "merely semantic"; rather, it concerned a procedure for employees to perform a required task or an arrangement to provide assistance to employees, so that they are not adversely affected by their unfamiliarity with the GroupWise system.

2. Analysis

The dispute in this case involves a breakdown in negotiations that occurred just as the parties seemed to have reached agreement on the contents of a Suicide Watch Procedural Guide. The Guide represented an attempt by the FCI to codify procedures for conducting a suicide watch, from its initiation to its termination. It contained mandatory rules for bargaining unit employees such as the psychologists who perform suicide risk assessments and who must inform other staff officials of the contents of their assessment and of the status of the suicide watch at each stage.

There appears to be no disagreement among the parties that the Guide itself is a personnel policy affecting the working conditions of bargaining unit employees. As noted above, the Guide established mandatory procedures for employees to follow in carrying out their work duties in treating prisoners, and thus it has a direct connection to their work; accordingly, the Guide itself is a condition of employment, within the meaning of section 7103(a)(14) of the Statute. *Antilles Consolidated Education Association and Antilles Consolidated School System*, 22 FLRA 235, 237 (1986). Although many aspects of the Guide constitute FCI's exercise of its management right to assign work and determine the methods and means of performing work, and thus the substance of those decisions is not negotiable, Respondent was still obligated to negotiate procedures to

be used by management in exercising those rights and

appropriate arrangements for employees adversely affected thereby (i.e., the impact and implementation of the decisions), if the change has more than a *de minimis* effect on conditions of employment. *See*, *Federal Bureau of Prisons, Federal Correctional Institution, Bastrop, Texas*, 55 FLRA 848, 852 (1999); *Department of Health and Human Services, Social Security Administration*, 24 FLRA 403, 407-09 (1986).

In apparent recognition of these principles, FCI management did sit down with the Union to negotiate language for the Guide. The parties reached an agreement in principle on all issues on March 26, but that agreement proved to be elusive in regard to the language of paragraphs 2C and 4C. The Respondent now argues that the dispute over language was so trivial that it didn't constitute a change at all, and didn't require further negotiation. I do not accept the Respondent's arguments.

First of all, the "change" being implemented here was the Guide itself. Although psychologists had conducted suicide watches prior to April 23, there had been no specific, written policy or binding procedures for employees conducting a suicide watch. The reasonably foreseeable effect on employee working conditions of codifying such procedures is considerable. Although neither party in this case has offered evidence as to the specific impact (or lack thereof) of the new Guide on employees, it is clear that the formalization of such detailed procedures facilitates the ability of management to discipline employees for violations. The Respondent has chosen, in its motion for summary judgment, to focus on the "merely semantic" nature of the parties' dispute over the language of paragraphs 2C and 4C of the Guide, but FCI was not implementing those two paragraphs alone on April 23; rather, it was implementing the entire Guide, and it is the bargaining over the entire Guide that is relevant in evaluating its conduct.

FCI did bargain with the Union over the impact and implementation of the entire Guide, and it even negotiated over the language of paragraphs 2C and 4C, but then it chose to unilaterally discontinue bargaining when a dispute arose on these two provisions. After agreeing to "import" the language of paragraph 2I into paragraphs 2C and 4C, the

Respondent’s negotiator (Gordon) unilaterally decided that

the agreed-upon language was less than ideal; when he submitted it to the Union negotiator (Bolgrin) for review, and Bolgrin offered alternate language, Gordon accused the Union of demanding "additional changes which were not discussed or agreed to during the negotiation process." (Exhibit E.) In its pleadings, Respondent now admits that its own negotiator first offered "additional changes which were not discussed or agreed to", not the Union, but at the time of the events Gordon blamed the breakdown of negotiations on unilateral demands by the Union.

These events reflect several improper actions by Gordon. First, it appears that on March 27 he tried to "sneak" his unilateral modifications to paragraphs 2C and 4C past the Union. His March 27 message to Bolgrin, accompanying the revisions to the Guide "that were agreed to during I&I negotiations", made no mention of the fact that he had taken liberties with the "agreed to" language of paragraphs 2C and 4C (Exhibit E). If he had truly been acting in good faith in making minor "semantic" changes, he should have pointed out those changes in his cover letter to Bolgrin and allowed the Union to consider them directly. Then, when the Union noticed Gordon's "stealth" modifications, Gordon accused the Union of changing the agreement rather than accepting responsibility himself. Finally, when the Union offered compromise language, Gordon broke off negotiations and implemented his own language, rather than continuing the dialogue and trying to reach an accommodation. All of these actions demonstrate a failure to approach the negotiations with the "sincere resolve to reach . . . agreement" that is called for in section 7114 (b)(1) -- and in similar words in section 7103(a)(12) -- of the Statute.

While the Respondent (in its Cross Motion for Summary Judgment) now defends its unilateral implementation of the disputed language by asserting that it doesn't amount to a change in conditions of employment, because the dispute was "merely semantic," it is significant that no representative of FCI made such an assertion during the negotiations. If Respondent felt that the disputed language of paragraphs 2C and 4C was not negotiable, it should have made an assertion of nonnegotiability on or about April 16, so that the Union would have had the opportunity to modify its proposal or to

file a negotiability appeal. It cannot relieve itself of

liability by asserting for the first time in a ULP proceeding that the issue was nonnegotiable. *See, U.S. Department of Justice, Immigration and Naturalization Service*, 55 FLRA 892, 900, 914 (1999); *Department of the Air Force, Headquarters, Air Force Logistics Command, Wright-Patterson Air Force Base, Ohio*, 25 FLRA 541, 545, 555 (1987).

If the Respondent's current, unduly narrow focus on the negotiability of the parties' "semantic" dispute were accepted, bargaining could be terminated by agency employers at their own whim, and the entire nature of the process would be distorted. As parties negotiate over significant issues that affect employee working conditions, their disputes often narrow onto fine points of language. Under the theory espoused by FCI, there would be no need for mutual agreement on these fine points, as they are "merely semantic." Negotiations, even those which begin with a sincere intent to reach mutual agreement, would end with unilateral management imposition of any disputed language. This is not the collective bargaining process that is intended under the Statute.

Even looking at the dispute over paragraphs 2C and 4C in its narrowest sense, that dispute has a direct connection to employee working conditions and is not *de minimis*.[3] The language proposed by the Respondent on March 27 and implemented on April 23 was: "If you have questions about how to do this task using GroupWise, contact the Chief Psychologist." The alternative language proposed by the Union on April 15 was: "If you have questions about how to notify the following people by GroupWyse using GroupWyse, contact the Chief Psychologist." The difference between the proposals is that the Union's language contains an explanation of the "task" on which employees were instructed to consult the Chief Psychologist. However, the consequences of the two proposals were real and significant to employees, rather than "merely semantic." Paragraph 2C requires the psychologist who initiates a suicide watch to

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[3] Respondent did not expressly articulate its defense in terms of the *de minimis* nature of the unilateral change, but its motion could be understood in those terms, and therefore I address it.

notify ten different officials of this fact by email, and

paragraph 4C requires a similar action by the psychologist who terminates a suicide watch. The failure to properly notify all officials of these actions, besides having potential life-and-death importance to the inmate in question, may result in disciplinary or performance-based action against the psychologist or in some other action affecting his appraisal or promotion. While the Union's proposed language does not alter the underlying "task" assigned to the psychologist, it does specify more precisely when the psychologist is advised to contact the Chief Psychologist for assistance. It was management's statutory right to assign to psychologists the task of notifying specific people of the start and end of a suicide watch, and of doing so by the agency's computerized system. But in seeking to ensure that the affected employees understood how to use the computerized system and what type of questions to consult the Chief Psychologist about, the Union's proposal was an appropriate arrangement for employees affected by the work assignment. *See*, *National Association of Government Employees, Local R14-87 and Kansas Army National Guard*, 21 FLRA 24 (1986).

By finding that the Union's proposal is meaningfully different from management's, I am not passing judgment on whose proposed language is preferable. It is for the parties themselves to resolve that question or to reach a compromise, not me. I am merely stating that the dispute between the parties has a direct connection to the working conditions of bargaining unit employees, and was negotiable. When Gordon broke off negotiations on April 16, the parties had not reached impasse, and bargaining should have continued. It follows, therefore, that Respondent's unilateral imposition of its proposal violated section 7116 (a)(1) and (5) of the Statute.

The General Counsel is not seeking a *status quo ante* remedy in this case. Although Respondent unilaterally implemented the Guide before bargaining had been completed, the General Counsel does not request that the Guide be rescinded while the parties resume bargaining. Rather, it asks that FCI be ordered to resume negotiations with the Union over the Union's April 15 proposal, and that any subsequently negotiated revision to the Guide be incorporated therein, and an updated Guide be reissued at

that time. The Respondent did not address a possible remedy

in its pleadings, other than to seek the dismissal of the complaint. In the circumstances of this case, I find that the remedy proposed by the General Counsel is appropriate. Specifically, the Respondent must return to the bargaining table and negotiate with the Union concerning those issues that were still unresolved as of April 15, 2002 – i.e., the language of paragraphs 2C and 4C. When these issues are resolved, an updated Guide incorporating any negotiated revisions should be issued. It is also appropriate that the Respondent post the attached Notice to its employees.

Accordingly, I recommend that the Authority grant the General Counsel's motion for summary judgment and issue the following:

ORDER

Pursuant to section 2423.41(c) of the Authority's Rules and Regulations and section 7118 of the Federal Service Labor-Management Relations Statute (the Statute), it is hereby ordered that the Department of Justice, Federal Bureau of Prisons, Federal Correctional Institution, Sheridan, Oregon (the Respondent) shall:

1. Cease and desist from:

(a) Failing or refusing to bargain in good faith with the American Federation of Government Employees, Local 3979, AFL-CIO (the Union), the exclusive representative of a unit of employees, by implementing the Suicide Watch Procedural Guide prior to the completion of bargaining.

(b) In any like or related manner interfering with, restraining or coercing its employees in the exercise of their rights assured by the Statute.

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

(a) Resume negotiations with the Union in order to address the Union’s April 15, 2002 proposal; continue negotiations until a final agreement is reached; and reissue the Suicide Watch Procedural Guide to reflect any modifications negotiated with the Union.

(b) Post at its facilities copies of the attached Notice on forms to be furnished by the Federal Labor Relations Authority. Upon receipt of such forms, the forms shall be signed by an official of the Respondent and shall be posted and maintained for 60 consecutive days thereafter.

Reasonable steps shall be taken to ensure that such Notices are not altered, defaced, or covered by any other material.

(c) Pursuant to section 2423.41(e) of the Authority's Rules and Regulations, notify the Regional Director, San Francisco Region, Federal Labor Relations Authority, in writing, within 30 days from the date of this Order, as to what steps have been taken to comply.

Issued, Washington, DC, May 14, 2003.

RICHARD A. PEARSON
Administrative Law Judge

NOTICE TO ALL EMPLOYEES

POSTED BY ORDER OF THE

FEDERAL LABOR RELATIONS AUTHORITY

The Federal Labor Relations Authority has found that the Department of Justice, Federal Bureau of Prisons, Federal Correctional Institution, Sheridan, Oregon violated the Federal Service Labor-Management Relations Statute and has ordered us to post and abide by this Notice.

We hereby notify our employees that:

WE WILL NOT fail or refuse to bargain in good faith with the American Federation of Government Employees, Local 3979, AFL-CIO (the Union), the exclusive representative of a unit of employees, by implementing the Suicide Watch Procedural Guide prior to the completion of bargaining.

WE WILL NOT in any like or related manner interfere with, restrain or coerce employees in the exercise of their rights assured by the Statute.

WE WILL resume negotiations with the Union in order to address the Union's April 15, 2002 proposal, continue negotiations until a final agreement is reached, and reissue the Suicide Watch Procedural Guide to reflect any modifications negotiated with the Union.

(Activity)

Date: By:
(Signature) (Title)

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

If employees have any questions concerning this Notice or compliance with any of its provisions, they may communicate directly with the Regional Director of the Federal Labor Relations Authority, San Francisco Region, whose address is: 901 Market Street, Suite 220, San Francisco, California 94103, and whose phone number is (415) 356-5000.

CERTIFICATE OF SERVICE

I hereby certify that copies of this DECISION issued by RICHARD A. PEARSON, Administrative Law Judge, in Case No. SF-CA-02-0674, were sent to the following parties in the manner indicated:

CERTIFIED MAIL AND RETURN RECEIPT **CERTIFIED NOS:**

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Dated: May 14, 2003
Washington, DC