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July 12, 2010

Brad Garrett
State of Washington
Labor Relations Office
P.O. Box 43113
Olympia, WA 98504

Re: WAFWP FURLOUGH MOU

Dear Mr. Garrett:

The Washington Association of Fish and Wildlife Professionals has taken the State's "final offer" regarding the temporary layoffs to its membership for review. As expected, the membership continues to object to the inequities of this pay reduction, as well as the State's apparent unwillingness to bargain in good faith concerning the impact of this legislation on its membership. Of particular concern to the Association is the State's apparent lack of regard for the actual impact of this legislation not only on the pay checks of our members, employees who are already paid less than other State employees performing the exact same function in the Department of Natural Resources, the Department of Ecology, as well as the Department of Transportation, but also the impact on the ability of the State to continue to receive federal funds and other soft monies due to the arbitrary reduction in these funding sources as well. Our membership continues to struggle with the wisdom of requiring a reduction in the salaries of those employees whose positions receive no State general fund monies; how does this positively impact the State's bottom line? In reality it actually worsens the State's economic position.

Contrary to assertions made by the State during the temporary layoff bargaining, our members have received notification from these non-General Fund sources that the State will lose more money in the future because of this ill advised action. The Association membership questions the apparent lack of research by OFM, as well as WDFW leadership, as to the true impact of these reductions. If the Legislature and Governor were truly aware of these impacts, we doubt that the across-the-board approach would have been the selected approach.

Of equal concern to our membership was the lack of any willingness on your office's behalf to truly implement the full scope of the legislation in this matter. The State's consistent focus on the impacts which had already been mitigated by the legislation (seniority dates, benefit accruals and the like) and its refusal to entertain proposals regarding legislature's directive to engage in impact bargaining has resulted in a failure of the parties to even attempt a meeting of the minds. The Association has proposed numerous ideas that would still negatively impact our membership through a pay reduction, but would allow for the continued high level of service to the State and its natural resources. The State's complete unwillingness to consider these plans begs

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the question of the true intention of the legislation. If the Association's proposal provides the same General Fund savings, why the opposition from the State? When we repeatedly asked this question in furlough negotiations, the only response we received was, "because that is what we have decided to do." Again, we ask the State to provide a reason for its position.

At this time, we ask that the State agree to implement the legislative changes regarding employee benefit accruals. We also ask the Agency to allow alternate workweek employees to modify their schedules in the week of the furlough to minimize the further disproportionate hit taken by those on an alternate workweek. We are enclosing a process Memorandum of Understanding which we believe accomplishes these items, however, we do not believe the Memorandum actually constitutes a settlement of the impacts of this legislation. To that end, the Association is willing to enter into this MOU as an implementation agreement. By entering into this MOU, the Association does not waive any rights to any litigation, grievances, unfair labor practices or other means of addressing the legality of the State's actions in this case. By entering into this MOU, the Association does not waive the right to continue impact bargaining with the State, should the State agree to bargain the actual impacts of this legislation.

Please let me know the State's position on this matter.

Sincerely,

GARRETTSON, GALLAGHER, FENRICH & MAKLER, P.C.

A handwritten signature in black ink, appearing to read 'R. Fenrich', with a long horizontal flourish extending to the right.

Rhonda J. Fenrich
Attorney at Law

Enclosure
c: Russell Rogers, WAFWP President

**MEMORANDUM OF UNDERSTANDING
BETWEEN
THE STATE OF WASHINGTON
AND
WASHINGTON ASSOCIATION OF FISH AND WILDLIFE PROFESSIONALS**

Given the decision of WDFW not to submit an alternate compensation reduction plan to OFM, and the parties' inability to agree upon impact reduction ideas, the parties agree to the following temporary layoff process:

1. For employees with approved alternative work schedules, for the temporary layoff date of July 12, 2010, employees will remain on their current schedules and will either take that date as temporary layoff leave without pay or an alternate temporary layoff date within that pay period as identified and directed by their Appointing Authority.

For the remaining identified temporary layoff days after July 12, 2010, those employees with approved alternative work schedules of four (4) ten (10) hour days, the employee's scheduled hours of work for only the workweek containing a scheduled temporary layoff day will be changed to five (5) eight (8) hour days. Employees on alternate workweeks may flex their schedule in the week of the temporary layoff in order to work a total of 32 hours in that work week. The four (4) ten (10) hour day work schedule will resume for the workweek following the workweek containing the temporary layoff day. In order for the agency to accomplish these changes, the Association waives the contractual notification of schedule changes provided to employees in Article 6 of the parties' Collective Bargaining Agreement.

2. For employees with a full-time equivalent salary of \$2500 or less a month:
 - a. Article 11.2 of the parties' 2009-2011 collective bargaining agreement is modified to allow these employees to use accrued vacation leave prior to six (6) months of continuous state employment as provided in ESSB 6503, Section 3(5)(b)(i).
 - b. Article 13 of the parties' 2009-2011 collective bargaining agreement is modified to allow these employees, if approved by the agency director, to be eligible for shared leave as provided in ESSB 6503, Section 3(5)(b)(ii). Employees will be required to exhaust vacation leave prior to receiving shared leave on a temporary layoff day.
- 3.. Article 13 of the parties' 2009-2011 collective bargaining agreement is modified to allow employees to donate shared leave as provided in ESSB 6503, Section 10.
- 4.. The State will acknowledge the pay reduction related to the temporary layoffs from ESSB 6503 in all analysis in terms of employee compensation for future classification and compensation proposals, as well as collective bargaining for future increases.

- 5.. For part-time employees:
 - a. Part-time employees will be subject to a proportionate number of hours of temporary layoff leave without pay during any week where a temporary layoff date occurs, similar to how holiday pay is calculated for part-time employment.
 - b. For purposes of determining holiday compensation under Article 10.2(G), part-time employees will receive credit for those hours they would have normally worked on the temporary layoff day. That article of the parties' 2009-2011 collective bargaining agreement is modified to reflect this agreement.
6. For employees who are not scheduled to work on a day of a temporary layoff, the Appointing Authority will designate either the immediate work day before or after as the day of the temporary layoff.
7. The parties agree that full and part-time employees' vacation leave and sick leave accrual will not be impacted because of a temporary layoff required by ESSB 6503. Articles 11 and 12 of the parties' 2009-2011 collective bargaining agreement are modified to reflect this agreement.
8. Article 30 of the parties' 2009-2011 collective bargaining agreement is modified and employees' seniority dates will not be impacted because of a temporary layoff required by ESSB 6503.
9. For overtime-exempt employees:
 - a. Pursuant to 29 CFR §541.710 (3) (b), the parties understand that during the pay periods of a temporary layoff, employees designated as overtime-exempt will become overtime-eligible. Therefore, during the weeks of a temporary layoff, the overtime-eligible provisions in the parties' 2009-2011 collective bargaining agreement will apply to overtime-exempt employees.
10. Employees will not be authorized to work beyond their work schedule during a workweek that has a temporary layoff day unless approved by the Appointing Authority.
11. The agency shall identify, through a discussion between the employee and his/her immediate supervisor, decreased work expectations during a temporary layoff week. The agency will not require the employee to work additional hours in any non-temporary layoff weeks in order to accomplish tasks which were left undone due to the temporary layoff days. Employees shall not be denied the ability to schedule leave solely due to the impacts of temporary layoff days.
12. The Agency shall ensure that employees will not be disciplined without just cause for any missed deadlines or unfinished work because of the temporary layoff days.

The parties agree that continued discussions concerning the impacts of the layoffs shall occur between the parties. The Association is not foreclosed by entering into this Agreement to seek redress through judicial or administrative avenues.

Dated _____, 2010

Brad Garrett, Negotiator
For the Employer

Date

Rhonda Fenrich, Attorney
For the Association

Date