

IN THE MATTER OF THE INTEREST) ARBITRATOR'S
)
ARBITRATION BETWEEN) OPINION
)
THE STATE OF WASHINGTON) AND
)
"THE STATE" or "THE EMPLOYER") AWARD
)
AND)
)
INTERNATIONAL ORGANIZATION OF)
MASTERS, MATES AND PILOTS)
)
"IOMM&P" OR "THE UNION")

HEARING: August 16 to August 20, 2010
Seattle, Washington

HEARING CLOSED: August 20, 2010

ARBITRATOR: Timothy D.W. Williams
2700 Fourth Ave., Suite 305
Seattle, WA 98121

REPRESENTING THE EMPLOYER:
Don Anderson, Attorney

REPRESENTING THE UNION:
Rhonda Fenrich, Attorney

APPEARING AS WITNESSES FOR THE EMPLOYER:

Steve Rodgers, Director of Operations
Jerry Holder, Chief Negotiator, OFM/LRO
Robin Rettew, Senior Transportation Budget
Advisor, OFM
Brad Killman, Compensation Analyst OFM/LRO
Robert Covington, Director of Accountability and
Financial Services
Pete Williams, Operations Center Port Capitan
Carrie Wood, Human Resource Consultant

APPEARING AS WITNESSES FOR THE UNION:

Tim Saffle, IOMM&P Branch Agent
Greg Faust, Relief Mate
Scott Braymer, Marine Operations Watch Supervisor
Lee Andersen, Regular Relief Master
Curt Larson, Relief Master
Richard Morvan, South Sound Master
David Lawton, Relief Master

EXHIBITS

Employer Exhibits - Both Hearings

SF-1 Background Information on Ferries
Rettew 1 Washington State Budget Process
Rettew 2 June 2010 Transportation Economic Forecast
Rettew 3 Background Information on Ferries
Rettew 4 Basic Budget Assumptions
MEBA 21 Wash. State Economic & Revenue Forecast, June 2010

Joint Exhibits Watch Supervisors

1. 2009-2011 MM&P/WSF CBA Watch Supervisors
2. Marine Employees' Commission Salary Survey 2/2010
3. Appendix to 2010 Marine Employee's Commission Salary Survey
4. Fleet Guide
5. Ferry Routes

Union Exhibits for Watch Supervisors

1. 2009-2011 Collective Bargaining Agreement
2. Interest Arbitration Award for 2009-2011 Agreement (Beck, 2008)
3. Correspondence regarding decision not to implement Beck Award
4. IOMMP Disputed Issue Submittal
5. MEC Arbitration Certification
6. Metal Trades Agreement regarding vacations
7. MEBA Agreement regarding vacations
8. FASPAA Agreement regarding vacations
9. IBU Agreement regarding vacations
10. MEBA latest Arbitration Award for 2009-2011 Collective Bargaining Agreement (Vivenzio 2008)
11. MMP Licensed Deck Officer Arbitration Award for 2009-2011 Collective Bargaining Agreement (Beck 2008)
12. MEC 2010 Salary Survey
13. MMP Proposal Cost-Summary
14. MEBA Contract concerning overtime
15. IBU Contract concerning overtime
16. MMP Licensed Deck Officers' Contract concerning overtime
17. CPI-W and CPI-U 6/16/10
18. Benchmark Job Descriptions
19. WSF Organizational Chart
20. Summer 2008 Deck Route List
21. Summer 2009 Deck Route List
22. Fall 2009 Deck Route List
23. Select Collective Bargaining Statutes
24. Long-Term Ferry Funding Study
25. 2010 Ferry Advisory Committee
26. Williams Jan. 20, 2010 Email to Steve Rodgers
27. Watch Supervisor Training

Employer Exhibits - MM&P Watch Supervisors

28. SWS-1 Rule 1 - Definitions
29. SWS-2 Rule 11 - Classifications
30. SWS-3 Rule 13 - Overtime
31. SWS-4 Rule 16 - Holidays and Compensatory Time
32. SWS-5 Rule 24 - Passes

Joint Exhibits Licensed Deck Officers

1. 2009-2011 MM&P/WSF CBA Licensed Deck Officers
2. Marine Employees' Commission Salary Survey 2/2010
3. Appendix to 2010 Marine Employee's Commission Salary Survey
4. Fleet Guide
5. Ferry Routes
6. MM&P Status Report

Union Exhibits for Licensed Deck Officers

1. 2009-2011 Collective Bargaining Agreement
2. Interest Arbitration Award for 2009-2011 Agreement (Beck, 2008)
3. Correspondence regarding decision not to implement Beck Award
4. IOMMP Disputed Issue Submittal
5. MEC History
6. 2009-2011 FASPAA Contract regarding Labor Management Committees
7. 2009-2011 Puget Sound Metal Trades Contract regarding Labor Management Committees
8. 2009-2011 IBU Contract regarding Labor Management Committees
9. 2009-2011 General Government Contracts regarding Labor Management Committees
 - 9a. WPEA Agreement
 - 9b. Teamsters 117 Agreement
 - 9c. IFPTE Local 17 Agreement
 - 9d. Coalition Agreement
 - 9e. WFSE Agreement
 - 9f. SEIU Local 1199 NW Agreement
10. IBU 2009-2011 Contract regarding crewing
11. 2009-2011 MEBA Contract regarding crewing
12. IBU Interest Arbitration Award for 2009-2011 Collective Bargaining Agreement (Beck 2008)
13. Metal Trades Agreement regarding vacations
14. MEBA Agreement regarding vacations
15. FASPAA Agreement regarding vacations
16. IBU Agreement regarding vacations

17. MEBA Interest Arbitration Award for 2009-2011 Collective Bargaining Agreement (Vivenzio 2008)
18. IBU Contract concerning grievances
19. MEBA Contract concerning overtime
20. IBU Contract concerning overtime
21. MEBA Contract concerning travel time
22. IBU Contract concerning travel time
23. FASPAA Contract concerning travel time
24. FASPAA Contract concerning passes
25. Teamsters Local 117 Contract concerning compensatory time off
26. MEC Salary Survey, February, 2010
27. TWIC Card Requirements and Costs
28. DOT travel reimbursement policies
29. Labor cost for the Bremerton route for all the MMP and IBU reliefs, as well as the on-call personnel, from Sept. 29, 2008 to Jan. 1, 2009
30. Labor cost for the Bremerton route for all the MMP and IBU reliefs, as well as the on-call personnel, from Sept. 29, 2009 to Jan. 31, 2010
31. Labor cost for the Bremerton route engine-relief personnel from Sept. 29, 2008 to Jan. 1, 2009
32. Labor cost for the Bremerton route engine-relief personnel from Sept. 29, 2009 to Jan. 1, 2010
33. CPI-W and CPI-U 6/16/10
34. Summer 2008 Deck Route List
35. Summer 2009 Deck Route List
36. Fall 2009 Deck Route List
37. Select Collective Bargaining Statutes
38. Long-Term Ferry Funding Study
39. 2010 Ferry Advisory Committee
40. Inlandboatmen's Union - MEC Decision Amending Final Impasse Issues for 2011-2013 Interest Arbitration
41. Arbitrator Ford's Decision re: Seniority Dispatch Interest Arbitration
42. Arbitrator Kreb's 6/13/05 Travel Compensation Arbitration Award
43. IRS Publication 15 B
44. Dispatch by Seniority - Post Hearing Brief of Employer
45. Inlandboatmen's Union 2009-2011 Collective Bargaining Agreement rules applying to dispatch by seniority

46. Mate to Mater: Travel Time During Pilot Program
47. OT Relief Master: Travel Time During Pilot Program
48. OT Relief Mate: Travel Time During Pilot Program
49. Overpayment Relief Mate: Travel Time During Pilot Program
50. Overpayment Relief Master: Travel Time During Pilot Program
51. Special Projects/Training Master: Travel Time During Pilot Program
52. special Projects/Training Mate: Travel Time During Pilot Program
53. Steilacoom/Lofall Master: Travel Time During Pilot Program
54. Steilacoom/Lofall Mate: Travel Time During Pilot Program
55. Pilot Program Overpayment Calculation
56. Reimbursement & Per Diem Rates
57. State Costing of Three Year Average for Daily Travel Hours
58. State supplied support data
59. Deck Officer Comp Time balances
60. LOU on COI
61. Total Hours and Costs for Reliefs, 07-09
62. Travel Time and Mileage Costs
63. Richard Morvan MOU
64. WSF Vessel Manning Requirements
65. Vessel Manning CFR
66. Letters of Agreement concerning COI and Vessel Manning
67. Vacation Costs
68. HRSM Job Descriptions
69. LOA Seniority Pilot Program 5/14/08
70. (Not Offered)
71. Travel Time Documents
72. Notes MM&P Negotiations - Day 7, 7/15/10

Employer Exhibits - MM&P Deck Hands

- S-1 Rule 5 - Manning of Vessels
- S-2 Rule 8 - Hours of Employment and Assignment
- S-3 Rule 9 - Overtime
- S-4 Rule 16 - Passes
- S-5 MOU on Touring Watches
- S-6 MM&P Union Proposal Costing
- S-7 WSDOT Data Analysis Team MM&P

- S-8 WSDOT Data Analysis Team IBU
- S-9 MM&P Guarantee Pay
- S-10 MM&P Comp Time
- S-11 MM&P Overtime Wages
- S-12 John Byrne Decision
- S-13 Number of MM&P Grievances

BACKGROUND

This is an interest arbitration proceeding that involves two separate collective bargaining agreements (CBAs). Both agreements are between the International Organization of Masters, Mates and Pilots (IOMM&P) and the Washington State Department of Transportation, Ferries Division (WSDOT/WSF). One agreement involves the Watch Supervisors and the second involves Deck Officers. This interest arbitration proceeding arose out of the negotiations for successor agreements to the 2009-11 contracts (U 1) that are currently in place. By statute, negotiations including interest arbitration proceedings must be completed by October 1st of the preceding year.

By mutual agreement of the parties, the unresolved issues for both labor contracts were presented to this Arbitrator during a bifurcated five day hearing that commenced on August 16, 2010 and concluded on August 20, 2010. During the hearing evidence and argument was received by the Arbitrator for both cases. The Arbitrator closed the hearing with the completion of oral arguments on August 20, 2010.

RCW 47.64.300 sets forth the procedures for a marine employee interest arbitration. The Parties can choose to use an arbitration panel or select a single arbitrator. The Parties chose Arbitrator Timothy Williams to hear both cases. Additionally, RCW 47.64.300 requires that "a recording... shall be taken" and a transcript was prepared by a certified reporter with a copy to the Arbitrator and both parties.

RCW 47.64.300 specifically limits the issues that can be submitted to interest arbitration to those certified by the Marine Employees Commission (MEC). The parties timely submitted to MEC and the Arbitrator their list of issues in dispute. Regarding case MEC IMP NO. 3-11: Watch Supervisors, the MEC certified as follows:

Pursuant to RCW 76.64.300(1), the Commission has reviewed the disputed issues submitted to Arbitrator Timothy Williams by IOMM&P and WSDOT/WSF for the Watch Supervisors contract and declares them certified for interest arbitration.

As to case MEC IMP NO. 3-11: Deck Officers, the Union raised an objection to the Employer's proposal identified as Rule 8.06 claiming that it had not been properly negotiated to impasse and therefore could not be submitted to interest arbitration. Ultimately, the MEC by notice dated August 13, 2010 proceeded as follows:

On August 12, 2010, AAG Morgan Damerow filed a request with the MEC on behalf of the parties which would allow them to proceed to interest arbitration August 16-20 and

participate in a MEC certification hearing shortly thereafter. They requested that the MEC certify all issues submitted by both parties regarding the Licensed Deck Officers with the following conditional certification regarding §8.06 Relief Assignments from Item 2 of WSDOT/WSF's list.

The conditional certification agreed upon is that the parties be allowed to present testimony and other evidence concerning §8.06 at the interest arbitration hearing; however, Arbitrator Williams will not rule on this section until MEC conducts a certification hearing and issues a decision addressing this section.

Pursuant to RCW 47.64.300(1), the Commission has reviewed the disputed issues submitted to Arbitrator Timothy Williams by IOMM&P and WSDOT/WSF for the Deck Officers contract and declares all certified for interest arbitration, with the above conditions contained in the parties' agreement governing the treatment of §8.06 Relief Assignments. The MEC will contact the parties with alternative dates for scheduling the certification hearing.

In a decision dated August 31, 2010 provided to the Parties and to the Arbitrator, the MEC provided the following:

Rule 8.06 is not certified as an appropriate issue for interest arbitration. The record shows that no discussion occurred regarding Rule 8.06 and therefore impasse was not reached.

As a result of the above decision, the Arbitrator removes the Employer's proposal with regard to rule 8.06 from the list of issues in dispute and will give no consideration to the evidence or arguments that pertain specifically to this item.

This award will first look at the issues as related to the Watch Supervisors and conclude with the issues as related to the Deck Officers. As provided in statute, the Arbitrator's decision for the Watch Supervisors and the Deck Officers is

given on an issue-by-issue basis and gives full consideration to the following statutory criteria:

(3) In making its determination, the arbitrator or arbitration panel shall be mindful of the legislative purpose under RCW 47.64.005 and 47.64.006 and, as additional standards or guidelines to aid it in reaching a decision shall take into consideration the following factors:

(a) Past collective bargaining contracts between the parties including the bargaining that led up to the contracts;

(b) The constitutional and statutory authority of the employer;

(c) Stipulation of the parties;

(d) The results of the salary survey as required in RCW 47.64.220;

(e) Comparison of wages, hours, employee benefits, and conditions of the involved ferry employees with those of public and private sector employees in states along the west coast of the United States, including Alaska, and in British Columbia doing directly comparable but not necessarily identical work, giving consideration to factors peculiar to the area and the classifications involved;

(f) Changes in any of the foregoing circumstances during the pendency of the proceedings;

(g) The limitations on ferry toll increases and operating subsidies as may be imposed by the legislature; and

(h) Other factors that are normally or traditionally taken into consideration in the determination of matters that are subject to bargaining under this chapter.

The record of these proceedings is voluminous consisting of four large notebooks full of documentary exhibits and a transcript of five days of testimony. The Arbitrator carefully reviewed this record in the context of the above criteria. As is almost always true of an interest arbitration proceeding of this magnitude, the award could easily reach several hundred pages. Time constraints obviously place a limitation on what

the Arbitrator can produce and he has chosen to provide an analysis focused specifically on those points which were the basis of the award.

For each issue the Arbitrator will begin by presenting the Parties' respective positions in the context of the language from the existing agreement. On some of the issues the Parties provided extensive argument while on others the argument came primarily in the form of the documents presented into evidence on the testimony of witnesses. Where appropriate the Arbitrator will outline the Parties' arguments in support of their positions and other wise provided insight into the Parties positions through the analysis. The Arbitrator concludes each issue by setting forth his award. The final section of this decision is a summary of the various awards and it is provided for the convenience of the Parties.

**POSITIONS, ARGUMENTS, OPINION AND AWARD FOR MARINE OPERATIONS
WATCH SUPERVISORS 2011-2013 COLLECTIVE BARGAINING AGREEMENT**

The following is a list of the issues that are in dispute for the Watch Supervisors 2011-2013 Collective Bargaining Agreement. The numeration is as provided by the Parties. The Arbitrator has made no effort to reconcile any inconsistencies in the numeration that are a result of the ways in which the Parties have set forth their proposals. His belief is that they are fully capable of constructing an appropriate numeration based on the substantive award.

Rule 1 Definitions

Rule 11 Classifications and Rates of Pay

Rule 13 Overtime

Rule 16 Holidays and Compensatory Time [No longer in dispute as Employer withdraws its proposal]

Rule 17 Vacations

Rule 24 Passes

RULE 1 - DEFINITIONS

Current Language:

Specific Definition

Unless the context of a particular Section of this Agreement clearly dictates otherwise, the following terms shall have the following meanings:

1.10 Year Around Employee

The term "year around employee" is any employee who is assigned to a year around position.

All regular full time employees in year around employment shall be guaranteed eighty (80) hours of work in a two (2) week work cycle at the Operations Center.

1.16 Spouse [Current agreement contains no definition of "spouse"]

State's Proposal:

Specific Definition

Unless the context of a particular Section of this Agreement clearly dictates otherwise, the following terms shall have the following meanings:

1.10 Year Around Employee

The term "year around employee" is any employee who is assigned to a year around position.

All regular full time employees in year around employment shall be offered eighty (80) hours of work in a two (2) week work cycle at the Operations Center.

1.16 Spouse

Spouse means all persons such as a wife, husband, or registered domestic partner as established by RCW 26.60.030.

Union's Proposal: [No change]

Analysis

The State's primary concern regarding rule 1.10 is the amount it is paying for hours not worked, thus it wants to

guarantee work and full pay is provided if work is performed. However, the State acknowledges that overtime compensation is not a problem for this small bargaining unit. More importantly, after carefully reviewing all of the evidence the Arbitrator is convinced that payment for unworked hours is a scheduling problem not a guarantee problem. In other words, it is often difficult to schedule regular employees so that their schedules equate to 80 hours in a two week. Changing the language from guarantee of pay to guarantee of work schedule will not make it any easier to create the schedules. Thus the Arbitrator concludes that the large amount of money paid for un-worked hours will not significantly change as a result of the change in language.

To the extent that there is a problem with employees refusing reasonable work assignments while collecting guaranteed pay, the Arbitrator's award retains the guarantee of pay but opens the door to withholding pay if reasonable offers of work are not accepted.

As to the State's request to include a new provision defining spouse, the Arbitrator is persuaded by the State's reasoning. There are provisions within the collective bargaining agreement that extend benefits to a spouse and therefore the definition of spouse is a helpful and necessary part of the agreement.

Award:

1.10 Year Around Employee

The term "year around employee" is any employee who is assigned to a year around position.

All regular full time employees in year around employment shall be guaranteed eighty (80) hours of work in a two (2) week work cycle at the Operations Center so long as the employee does not refuse a reasonable request, consistent with the terms of the collective bargaining agreement, to work.

1.16 Spouse

Spouse means all persons such as a wife, husband, or registered domestic partner as established by RCW 26.60.030.

RULE 11 - CLASSIFICATIONS AND RATES OF PAY

Current Language:

11.01 The basic wage rate for all Watch Supervisor classifications is twenty-seven dollars and eighty-one cents (\$27.81) per hour.

11.02 Shift premium will be as follows:

Effective July 1, 2008, the basic shift premium will be increased to sixty-five (\$0.65) cents per hour.

Union's Proposal:

11.01 The basic wage rate for all Watch Supervisor classifications is twenty-seven dollars and eighty-one cents (\$27.81) per hour.

The wage increases are as follows:

	7/1/11 (27%)	7/1/12 (27%)
Regular Watch Supervisor	\$35.32	\$44.86
Relief Watch Supervisor	\$35.32	\$44.86
On-call Watch Supervisor	\$35.32	\$44.86

11.02 Shift premium will be as follows:

Effective July 1, 2011, the basic shift premium will be increased to One dollar and fifty cents (\$1.50) per hour.

State's Proposal:

11.01 Effective July 1, 2011, and for the life of the agreement the basic wage rate for all Watch Supervisor classifications is twenty-seven dollars and eighty-one cents (\$27.81) per hour.

11.02 Shift premiums will be as follows:

Effective July 1, 2008, the basic shift premium will be increased to sixty-five (\$0.65) cents per hour.

Union's Position:

The Union argues that the State's position that it is unable to finance the pay increases proposed by the Union is meaningless. As explained by Ms. Rettew during her testimony, the Ferries are a dedicated fund source agency which are fairly well insulated from the overall state economy. The agency receives approximately 70 percent of its operating costs from the fares collected at the ferry box and the remaining 30 percent from gas taxes.

While the State itself is operating at a deficit, the Ferry system is actually operating in the black and has a significant carry-forward for the 2009-2011 biennium. There is an anticipated 13% increase in revenues for this agency, which the Union believes will actually be higher as the economy continues to improve.

Moreover, the Union argues that the State has more to spend because it over estimates costs. One such expense is fuel. The state has saved \$370,000 in fuel costs due to a \$.30 per gallon reduction in diesel prices experienced in this biennium according to the testimony of Ms. Rettew. Another area in which there will be savings previously unaccounted for is vacancy management. The agency is under the same no-hiring order by the Governor as general fund agencies, although they did get a special exemption to hire a new deputy director. Also, the

Unions received increases in wages from Arbitrator Beck for the 2009-2011 collective bargaining agreement. When the forecast for this biennium was made, it took those increases into account. However, in an effort to support the Governor's efforts to balance the budget, the Union willingly gave up those awards, saving the agency additional monies. There is no evidence that the ferry system itself is experiencing any financial difficulties - the State does not provide any data to that effect. On the contrary, as demonstrated in MEBA 21, the agency can be expected to experience \$30 million in savings over the last biennium or a total of 16% increased revenue.

Given the fact that the ferry system is not faced with a deficit, the Arbitrator should reject the State's inability to pay argument. As a dedicated fund agency, the Ferries are bound to spend the funds it receives on operational expenses. It is legislatively and constitutionally prohibited in this state for the Ferries to hand the monies saved over to the general fund. Anything that the State saves as a result of this arbitration will not go to balance the deficit currently faced by the general fund. As stated in the Unions' closing arguments, the State "shouldn't be allowed to rest on the general fund deficits" (Tr. 110).

The Unions already gave up pay increases awarded by Arbitrator Beck for 2009-2011 to the effect of 21% in order to

support the State budget, but giving up those awards may not have been necessary given its status as a non-general fund agency. The Unions' previous sacrifices did nothing to actually assist with balancing the general budget. There is no basis to treat bargaining unit members as might be reasonable in more difficult financial circumstances. The lack of any cost of living adjustments or any other sort of economic enhancements in the 2009-2011 Collective Bargaining Agreements is a reason to grant the pay increases proposed by the Union for the succeeding agreement.

As costed out by the State, the Union's proposals for both the agreements amount to \$550,000. The State itself has made a proposal regarding cashing out comp time which would cost \$811,000. Since the State feels itself able to afford its comp time proposal, the money is there to cover the Union's proposals. There is no basis for the State to claim an inability to pay for the Union's proposals when they are over \$200,000 less expensive than what the State evidently is able to expend on comp time.

Given the State's ability to fully finance the Union's proposals, it is the Arbitrator's task to determine where the money is best expended. From the Union's perspective, "the State has pretty much rested its bargaining hoping that the new statute will rescue it from itself" (Tr. 112). The Union is

frustrated by what it calls the "shotgun approach toward economic and benefit take-aways," whereby the State fails to bargain in hopes that some of its proposals will be upheld by the Arbitrator under the new statute which provides for discretionary awards on the different issues. The Union urges the Arbitrator to direct the State to spend the money it has available in the manner which most benefits the affected employees, particularly by increasing their wages.

The Union recognizes that its proposed wage increase of 27% per year, 54% over two years is a very significant increase. Seen in context, however, this is a reasonable request. At the time that the Unions gave up the wage increase awarded by Arbitrator Beck, the unit was 27-28% behind the comparables. Since then, the percentage that these employees trail their markets has about doubled to a lag of 55.4%. The Union sees the current contract as a point of no return where, if the wages lost are not offset, the State will probably be unable to ever bring the bargaining unit up to a comparable wage. While the State does face a deficit, it is important that it prioritizes its spending. The deficit does not equate to a zero increase cost to run the ferry system. Nowhere has the Washington State Ferries claimed an inability to pay. The cuts faced by other employees are not relevant to this Department.

The watch supervisors are in a particularly difficult situation with respect to their jobs. As recognized by the port captain, they are at a tipping point in terms of their ability to do their jobs as additional work has continuously been piled upon these workers. Basically, they are the heart and soul of the operation, the fixers, the ones who make sure that the ferry system continues working when others can't. They make it possible for the State to maintain the largest ferry system in the United States, a key portion of the economy of the state of Washington. The State attempted to minimize their importance by labeling them as "call-takers" or "facilitators," but the testimonies of the port captains and the director operations make it clear how important the work done by watch supervisors really is. Unlike terminal supervisors who are responsible for one terminal, a watch supervisor is responsible for all of the terminals, as well as all of the vessels and the day-to-day operations. While doing their own jobs as well as the work of terminal supervisor employees, they are behind the supervisor employees by at least 9%. A wage increase now would begin to address some of the internal inequities that the State has failed to take into consideration.

Lastly, the Union asks for an increase to the pay differential to the level recommended by the Department of Personnel for shift differential pay. Arbitrator Beck awarded

the shift differential based on the DOP's recommendation and the Union asks that that portion of his award be reinstated. This is also a comparability issue as deckhands, deck officers and the MEBA get a shift differential and the MEC salary survey shows that comparables for watch supervisors get the shift differential.

In the Union's opinion, the State's proposals for this group is "a sledgehammer to try and use it as a comparable against the other bargaining units" (Tr. 128). Evidence for this view comes from the States proposals regarding year-round employees, six-minute increments, and passes. The State admits that these portions of the contract are not a problem with this particular work group, yet it wants to put language in place to gain leverage in bargaining with other groups.

When the Arbitrator looks at employee retention, he should keep in mind that employees are unlikely to leave in a negative economy even when they do suffer at their current jobs. However, the testimony of bargaining unit members is that should the State's proposals be adopted they would leave their jobs must be credited.

The Arbitrator should not allow the State to prevail on the key issue of compensation.

State's Position:

The State's position is that "no one can claim that there's any ability for the State to pay any kind of raise here" (Tr. 130). The State's budget is very obviously dire. Although this factor concerns the department's financial ability, rather than the State's, every penny that was set aside for the budget got spent because that is how bad the financial situation is. As regards to the ferry systems' revenues, fares are decreasing and there is no inclination at this point to increase the amount of the fares. At the same time, expenditures don't go down as the State is under contract with vendors and must continue to pay them. While costs of fuel were lower than the projections, expenditures overall were just about on spot. The Arbitrator can come to no other conclusion than that the State's finances are too bleak to be able to afford any sort of pay increase at this time.

The Arbitrator also needs to consider the results of the salary survey done by the Haygroup. The MM&P did not request a salary increase because they are currently compensated approximately on par with the eight comparator unions included in the survey. While the survey indicates that the Watch Supervisors are 55.4% behind the comparables, the State submits that there are only two other employers who have a comparable job, five other employees. Considering that the issue involves

only eleven individual employees, it is difficult to quantify an appropriate rate of pay. It is especially difficult because no comparable information is available with regards to vacation accrual or comp time.

The State insists that its proposal is not offensive. Everybody has to contribute to solving the budget crisis at a time as difficult as the present. Any place that savings can be achieved must be taken advantage of and this is what the State has attempted to do at every negotiation - to get some kind of take-backs. The situation is so difficult that other government employees are being required to take temporary layoffs, also called furloughs. What the State is attempting to do is to solve the problem in small increments, requiring individuals to give up a day's pay so that the savings can add up. At such a time, the Union's proposal, which it characterizes as inexpensive, is nonetheless unrealistic. The more appropriate characterization of the Union's proposal, as advanced by the State, is "death by a thousand cuts. When does the bleeding stop?" (Tr. 136, 8/20/10).

The Unions' arguments regarding the "giving back" of the increases awarded by Arbitrator Beck should be rejected by the Arbitrator. The Unions are simply trying to create an environment which makes them look like the good guys. For example, the MM&P effectively gave up nothing in wages

considering they are at parity with their comparables. Now they wish to gain vacation pay back in exchange for giving up nothing. "They seem to think that every proposal requires a quid pro quo, and that's not always the case" (Tr. 146). In making his decision, the Arbitrator should ignore the Union's claims to the extent that they are based on the Beck award.

What the Arbitrator should consider is the ability of the State to retain its ferry employees. The evidence demonstrates that there has been no problem with retention. If the situation for the employees is really as dire as the Union would have the Arbitrator believe, these employees would be leaving, but that is clearly not the case.

The State emphasizes that the decisive factor on this issue is that the State lacks the ability to pay for the Union's proposal.

Analysis:

The Arbitrator's analysis on this Rule is divided into two parts. The first addresses the general question of the extent to which the Employer can pay for any increases in wages and benefits; often times referred to as the ability to pay. This section of the analysis is provided in the broad context of the entire award and serves as part of the analysis for many of the other issues. The second section of the analysis focuses

specifically on the question of whether the Watch Supervisors should receive a wage increase.

While a substantial portion of the testimonial and documentary evidence focused on the criterion of the State's ability to pay, after considerable reflection the Arbitrator can summarize his conclusions with three simple paragraphs. First, ability to pay has to be viewed in the context of the entire decision and the Arbitrator is convinced that this decision is fiscally responsible and within the ability of the ferry system to pay. This conclusion is based on a simple assessment of the costs associated with the existing agreement plus the additional costs that the State has offered to assume particularly with the cash-out of compensatory time. The combined impact of the Ford arbitration decision on the cost of relief assignments and the costs associated with this award will, in this Arbitrator view, show a savings for the State over the above figure.

Second, the State has made a solid case for holding the line against increased operating costs. While the Union is correct when it argues that the general fund deficits do not apply, there is no evidence that the ferry system will generate new revenues that justify any significant increase in wages and benefits. Thus, while overall the Arbitrator's award provides for some small gains, there are no significant cost increases.

Finally, the Arbitrator is mindful of the testimony of Robin Rettew who outlined a series of cost increases that the ferry system faces and that she will have to "build those in" (Tr 37, 8/18/10). In the Arbitrator's view, the cost increases associated with this award will have to be treated similar; built into the budget. The Arbitrator is convinced that the State does have the ability to adequately deal with what is a very conservative award.

As to the ability of the State to pay for any increase in the wages of the Watch Supervisors, the Arbitrator notes the obvious - a 54% wage increase in this economic climate is unheard of. Yet, the Union pursues this agenda knowing full well that there will be substantial resistance and, in the Arbitrator's view, for good reason.

Support for the Union's position is found in the salary survey conducted by the HayGroup (WS 12), a survey that the Arbitrator is required by statute to consider when he is formulating his award and from which the Union acquired the 54% figure. Moreover, the Arbitrator turns to the previously issued Beck award (WS 2) also involving Watch Supervisors in which he noted the following:

The Watch Supervisor job classification dates back to 1995. At that time the Watch Supervisors were paid pursuant to the general government employee schedule. In 2001 WSF applied to the Personnel Resources Board (Board) for a 10% increase for the Watch Supervisors, which was approved by

the Board but not granted by sf. The evidence indicates that the 1995 increase was not implemented by WSF for financial reasons relating to the impact of Initiative 695. (p 3)

Arbitrator Beck went on to award a significant increase in part because of the above. But Beck's award was never implemented again for financial reasons. This fact helps to explain why the salary survey shows such a negative figure (-54%).

Ultimately this Arbitrator concludes that the Union's request is not so much about what would be considered a regular wage increase, associated with cost of living, comparability and market conditions, but rather a matter of correcting an improper classification. While State witnesses attempted to justify the current classification of watch supervisors, the Arbitrator was simply not convinced and finds that their current wages are not properly situated and thus a reclassification increase is justified. More is sanctioned by the evidence but economic constraints led to the Arbitrator's award of 10% each year.

As to the Union's request to increase the shift differential premium, the Arbitrator found the State's death by 1000 cuts argument persuasive and did not award the increase.

Award:

11.01 Effective July 1, 2011 the basic wage rate for all Watch Supervisor classifications is thirty dollars and fifty-nine cents (\$30.59) per hour. Effective July 1, 2012 the basic wage

rate for all Watch Supervisor classifications is thirty-three dollars and sixty-five cents (\$33.65) per hour.

11.02 Shift premiums will be as follows:

Effective July 1, 2011 and for the life of the agreement the basic shift premium will be sixty-five (\$0.65) cents per hour.

RULE 13 - OVERTIME

Current Language:

13.02 An employee is required to work overtime when the overtime work is a result of an extended service run requirement, no other qualified replacement is available, or a bona fide emergency exists that requires said employee to work overtime.

State's Proposal:

13.02 An employee is required to work overtime when the overtime work is a result of an extended service run requirement, no other qualified replacement is available, or a bona fide emergency exists that requires said employee to work overtime.

When work is extended beyond the regular assigned work day, such time shall be paid at the overtime rate in six (6) minute increments.

Union's Proposal: [No change]

Analysis:

The State's proposal is to pay overtime to Watch Supervisors in six minute increments. In making this proposal, the State recognizes that there currently exist no problems with the payment of overtime within this bargaining unit. The reason for the proposal is the aim of achieving consistency between

this bargaining unit and others, such as the Licensed Deck Officers. The state points out that its computerized system of compensation can easily provide overtime pay in the six-minute increments.

After careful consideration of the arguments and evidence on the record, the Arbitrator has decided not to adopt the State's proposal for reasons more extensively set forth in the companion award that is part of this document.

Award:

No change in the language of Rule 13.

RULE 17 - VACATIONS

Current Language:

17.02 Vacation leave will be credited on the following basis: (1) the employee must be active at work for one hundred twenty (120) hours during the month; (2) any paid leave will count toward the one hundred twenty (120) hours eligibility requirement; (3) any leave without pay will not be counted toward the one hundred twenty (120) hours eligibility requirement; (4) holidays for which the employee might otherwise be eligible will count towards eligibility; (5) a work day is based on an employee's scheduled work day.

<u>Years of Service</u>	<u>Vacation Hours</u>
0-1	96
1-2	104
3-4	112
5-7	120
8-10	128
11	136
12	144
13	152
14	160
15	168

16-19	176
20	186
21	192

Union's Proposal:

17.02 Vacation leave will be credited on the following basis: (1) the employee must be active at work for one hundred twenty (120) hours during the month; (2) any paid leave will count toward the one hundred twenty (120) hours eligibility requirement; (3) any leave without pay will not be counted toward the one hundred twenty (120) hours eligibility requirement; (4) holidays for which the employee might otherwise be eligible will count towards eligibility; (5) a work day is based on an employee's scheduled work day.

<u>Years of Service</u>	<u>Vacation Hours</u>
0-1	96
2	104
3	120
4	136
5	160
15	168
16	176
17	186
18	192

State's Proposal: [No change]

Union's Position:

The Union's proposal leaves the cap at its present level, but increases the rate at which employees are able to accrue their vacation in an effort to bring them to a level comparable to other marine system unions. Under the current language, it takes employees almost 14 years to accrue four weeks of vacation per year. Under contracts with other marine systems unions, it takes their employees approximately 5 years to accrue four weeks

of vacation. Because the cap remains the same, at a level the State agrees is appropriate, the State's ultimate liability remains the same.

According to the Union, adopting this proposal is not a cost item to the State because the bargaining unit is not backfilled with overtime and a relief watch supervisor is available to backfill without additional cost which the State did not take into account when costing out this proposal. Also, since two of the six watch supervisors who comprise this unit are already at maximum vacation accrual, the State's liability is limited to only four employees. This is one area where the State can provide some sort of a benefit increase to a group even in hard economic times, "there is not a cost to giving them this additional vacation" (Tr 127, 8/20/10). Thus, the Union's proposal should be adopted.

State's Position:

The State believes that the Union's proposal to adopt a pro rata is a solution in search of a problem. The Arbitrator should reject the Union's argument that the proposal will cost nothing; any additional vacation time cost something. The Union is simply looking out for its own best interest and this is just another example of death by a thousand cuts.

Analysis:

The Arbitrator is granting the Union's request to increase the rate at which bargaining unit members accrue vacation while keeping the same cap on vacation hours in place. The Arbitrator granted the Union's request for two reasons.

First, Union exhibits demonstrate that this bargaining unit is behind the internal comparables with respect to vacation accrual rate. Four other bargaining units accrue 160 hours or 20 days of vacation at five years of employment: Metal Trades (Ex. U-6), MEBA (Ex. U-7), FASPAA (Ex. U-8) and IBU (Ex. U-9). The Arbitrator is adopting the Union's proposal to bring this bargaining unit on parity with others in terms of vacation accrual.

Second, the Arbitrator finds the testimony and arguments presented by the Union with respect to the cost of this proposal to be persuasive. Save for extensive illness or similar emergent event that may create the need for overtime, it appears that adopting the Union's proposal will not result in additional expenditures for the State. Considering the very small size of this bargaining unit and the number of members who are currently accumulating vacation at the maximum accrual rate, the need for additional relief as a result of adopting the Union's proposed language appears to be quite small. The Arbitrator is convinced that the additional need for relief can adequately be provided

by existing employees at straight time, barring extensive illness or similar emergent event. Thus, the adoption of the Union's proposal is unlikely to become a cost-item to the State.

Award:

17.02 Vacation leave will be credited on the following basis: (1) the employee must be active at work for one hundred twenty (120) hours during the month; (2) any paid leave will count toward the one hundred twenty (120) hours eligibility requirement; (3) any leave without pay will not be counted toward the one hundred twenty (120) hours eligibility requirement; (4) holidays for which the employee might otherwise be eligible will count towards eligibility; (5) a work day is based on an employee's scheduled work day.

<u>Years of Service</u>	<u>Vacation Hours</u>
0-1	96
2	104
3	120
4	136
5	160
15	168
16	176
17	186
18	192

RULE 24 - PASSES

Current Language:

24.01 The Employer shall, upon application, issue, to any employee continuously employed for at least six (6) months, annual passes authorizing free passage for the employee and the employee's spouse and dependents, as well as for the employee's motor vehicle and tow on all vessels of the Employer.

24.02 The Employer shall, upon application, issue to any employee continuously employed for at least two (2) years an additional vehicle pass authorizing free vehicle passage for the employee's spouse on all vessels of the Employer. Note: All

Watch Supervisors employed at the conclusion of negotiations shall fall under the provisions of Rule 24.

24.03 Any employee who leaves the service of the Employer shall immediately surrender to the Employer all passes held by the employee or dependents, except as otherwise provided in this Rule.

24.04 Every employee who is retired under the provisions of the State Employees Retirement System or who is disabled shall be issued annual passes authorizing free passage for such employee, spouse, and dependent members of their family, together with their motor vehicle, on all vessels of the Employer.

24.05 Passes of any kind shall not be used for purposes of commuting to or from employment other than employment with the Washington State Ferries. Vehicle passes shall be used only on a space available basis. Nothing contained in this Section shall be construed as applying to any employee engaged in traveling to or from work with the Employer.

24.06 All Supervisors employed at the time of ratification of this Agreement and listed on the Seniority List are considered to have met the criteria as set forth in Sections 24.01 and 24.02 to receive dependent and spousal passes.

State's Proposal:

Old language for 24.01, 24.02, 24.03, 24.04, 24.05, 24.06; add 24.07, 24.08 and 24.09 as follows:

24.07 Vehicle Passes

Vehicle ferry passes are intended to be used for vehicles that the employee and/or spouse have registered, leased or rented. The vehicle registration or lease/rental agreement shall be required to be shown when using passes if requested.

Vehicle passes will not be used to evade a ferry fare. A vehicle not registered, leased or rented by an employee and/or spouse shall be subject to verification by terminal staff. Any pass holder, who is uncooperative in the verification process, shall be subject to WSF code of conduct.

24.08 Violation of Pass Policies

Any employee, employee's spouse or the employee's dependent(s) who knowingly violates WSF Pass Use Policies will be subject to a three (3) month suspension of all pass privileges for a first offense, a one (1) year suspension of all pass privileges for a second offense and permanent revocation of all pass privileges for a third offense. The Employer shall publish and provide to the employees and the union a copy of the rules, regulations and policies concerning pass usage. These rules, regulations and policies shall not be subject to negotiation.

24.09 Taxability

The Employer will comply with all applicable federal and state tax regulations regarding the use of passes.

Union's Proposal: [No change].

Analysis:

Captain Saffle testified regarding the origin of the proposed language regarding the use and potential misuse of passes. According to Captain Saffle's testimony (Tr. 169 8/16/10), the State originally proposed to eliminate in its entirety the provision of the contract regarding passes because some abuse of this benefit had previously taken place. The Union was concerned that elimination of the current language would place employees in the position of having to pay out of pocket each time they used the ferries to get to or from their work assignments.

Rather than agreeing to eliminate the provision in its entirety, Captain Saffle on behalf of the Union, and in conjunction with other maritime unions, drafted a proposal

substantially similar to the proposal currently advanced by the State. The proposals drafted by the Union and that currently advanced by the State differ in two respects. One, the State added language which provides that "[t]hese rules, regulations, and policies shall not be subject to negotiations". And two, the State added language which provides that "[t]he Employer will comply with all applicable federal and state tax regulations regarding the use of passes." The Union is not agreeable to these two emendations.

Additionally, through its witnesses the State expressed a concern that the language might be too restrictive as relates to the proper discipline for pass use abuses. The language restricts the State to the ultimate penalty of a permanent revocation of a pass. Serious abuses, in the State's view, could warrant discipline beyond the revocation.

The Arbitrator has decided to award the proposed language except for both of the contested sections cited above. In addition, the Arbitrator has decided to add language which would provide a method by which the State can address especially egregious violations of rules regarding the utilization of pass privileges.

The Arbitrator has decided not to award that portion of the proposal which provides that "[t]hose rules, regulations, and policies shall not be subject to negotiations" because he agrees

with the Union's position on this language. It is commonplace in labor relations for an employer to have a set of work rules in place which goes uncontested by the union unless a specific problem arises with the application or interpretation of a rule. When such an issue does arise, the union can address it by demanding to bargain. In the current instance, it may turn out that the State's rules may never be revisited at the bargaining table. However, Captain Saffle voices the legitimate concern that "[t]he policies could change to be so onerous that it would be a mandatory subject to bargaining, and we (i.e. the Union) wouldn't want to give up that right" (Tr. 170 8/16/10). The Arbitrator is unwilling to close the door to what is, in his opinion, a common and widely accepted practice - the right of the Union to raise an issue at the bargaining table.

The Arbitrator has decided not to award that portion of the proposal which provides that "[t]he Employer will comply with all applicable federal and state tax regulations regarding the use of passes" due to similar considerations. The use of passes is a benefit to employees the monetary value of which it is possible to assess with considerable accuracy. Thus, the benefit may be taxable whether or not this language is included in the CBA. The Union cannot well oppose WSF's obligation to comply with federal and state tax regulations regarding the use of passes. The Union's concern, rather, is that the language as

proposed would close the door to impact bargaining in the event that tax regulations regarding the use of passes come into effect. The Arbitrator shares the Union's concern that the language potentially creates a problem in the future with respect to impact bargaining. As it is also a common labor relations practice to allow for impact bargaining as part of implementing a change in the conditions of employment, the Arbitrator is unwilling to close the door to this practice.

The proposed language of Rule 16 of the Masters, Mates & Pilots contract is identical to the State's proposed language of Rule 24. The State raised a concern over Rule 16, equally applicable here, that the provision regarding the consequences of knowingly misusing pass privileges creates an unreasonable limitation on management's right to issue discipline beyond what is spelled out in the Rule. The Arbitrator shares the State's position, also recognized by the Union, that in an unusual or egregious situation management must reserve the right to issue discipline commensurate with the level of offense. To address the State's concern, the Arbitrator has decided to award language which explicitly recognizes the Employer's right to apply progressive discipline to instances of pass-use violations, if the seriousness of the proven charges warrant such discipline.

Award:

24.07 Vehicle Passes

Vehicle ferry passes are intended to be used for vehicles that the employee and/or spouse have registered, leased or rented. The vehicle registration or lease/rental agreement shall be required to be shown when using passes if requested.

Vehicle passes will not be used to evade a ferry fare. A vehicle not registered, leased or rented by an employee and/or spouse shall be subject to verification by terminal staff. Any pass holder, who is uncooperative in the verification process, shall be subject to WSF code of conduct.

24.08 Violation of Pass Policies

Any employee, employee's spouse or the employee's dependent(s) who knowingly violates WSF Pass Use Policies will be subject to a three (3) month suspension of all pass privileges for a first offense, a one (1) year suspension of all pass privileges for a second offense and permanent revocation of all pass privileges for a third offense. Additionally, an egregious violation of WSF Pass Use Policy can result in progressive discipline including the possibility of termination. The Employer shall publish and provide to the employees and the union a copy of the rules, regulations and policies concerning pass usage.

**POSITIONS, ARGUMENTS, OPINION AND AWARD FOR LICENSED DECK
OFFICERS 2011-2013 COLLECTIVE BARGAINING AGREEMENT**

The following is a list of the issues that are in dispute for the Licensed Deck Officers 2011-2013 Collective Bargaining Agreement. The numeration is as provided by the Parties. The Arbitrator has made no effort to reconcile any inconsistencies in the numeration that are a result of the ways in which the Parties have set forth their proposals. His belief is that they are fully capable of constructing an appropriate numeration based on the substantive award.

- Rule 3 Union Recognition and Security
- Rule 5 Manning of Vessels [Employer withdraws its proposal]
- Rule 8 Hours of Employment and Assignment
- Rule 9 Overtime
- Rule 10 Health and Safety
- Rule 12 Vacations
- Rule 16 Passes
- Rule 17 Uniform Allowance and License Renewal
- Rule 21 Discipline
- Rule 22 Grievance Procedure

RULE 3 - UNION RECOGNITION AND SENIORITY

Current Language (as Rule 11.08):

A Labor-Management Committee shall be formed for the express purpose of making recommendations on means to improve operating efficiencies and safety on vessels of the Washington State Ferry fleet. General Provisions - See Addendum C.

Union's Proposal:

3.10 Labor Management Committee

A Labor-Management Committee shall be formed for the express purpose of making recommendations on means to improve operating efficiencies and safety on vessels of the Washington State Ferry fleet. General Provisions - See Addendum C. WSF will be responsible for paying wages of participating MMP members on the LMC. Employees will be paid eight (8) hours at the straight-time rate of pay. The Committee shall meet at reasonable times and places as mutually agreed, but shall make every effort to meet not less than once every three (3) months. Meetings will be limited to no more than four (4) hours in duration, unless otherwise agreed. Meetings will be held in state facilities or in other mutually agreed upon facilities which may be available at no cost to the parties. Every attempt will be made to adhere to the meeting schedule, realizing that some flexibility is necessary. The Committee shall have no power to contravene any provision of the parties' Labor Agreement, to enter into any agreements binding the parties, or to resolve issues or disputes surrounding the implementation or interpretation of the parties' Labor Agreement. Matters requiring contract modification shall not be implemented until a written agreement has been executed. The Committee shall forward written recommendations on modifications to the Labor Agreement to the MMP Delegates, the Branch Agent, along with the WSF Director. Recommendations made by the Committee will be considered during contract negotiations. The Committee will convene its review at the earliest mutually agreed upon date following the adoption of this rule.

State's Proposal: [No change]

Union's Position:

The Union is proposing to maintain an active and balanced labor management committee in order to promote better

communication between the Parties. As the State recognizes, the labor management committee is an important committee to both Parties. However, the balance of power in the committee is somewhat skewed under the current contract language.

Currently, management representatives attend meetings of the committee on State time, during their normal working hours. By contrast, Union representatives must use their union business leave bank which consists of employee contributions of their vacation time to compensate those who attend the meetings. Thus, Union attendance at the meetings is fully Union funded. The Union's proposal merely seeks to balance the playing field in this respect.

The Ferry system contract is the only one which does not provide State-paid time for committee business. The cost of compensating Union representatives for their time to attend the meetings would be minimal, approximately \$4,000 per year, and the benefit to labor relations would be substantial.

State's Position:

The State's position is that this is basically another cut in the death by 1000 cuts concern. The present system works well and changing it simply increases the State's cost. There is no reason to change it.

Analysis:

The Arbitrator is granting much of the Union's requested change in the language related to a labor-management committee. The change has in a minimal price, is supported by comparability data and is reasonable in the context of the work that is performed by a labor-management committee. At the bargaining table each Party represents its own interest and reasonably, therefore, the state should not pay for Union delegates. The labor management committee ought to be substantively different in that while both the labor and management are represented they have a common purpose. Their job is to proactively and collaboratively work on potential issues. The State as employer benefits from the input of labor and thus it makes sense that the wages of the participants be covered by the Employer.

Award:

3.10 Labor Management Committee

A Labor-Management Committee shall be formed for the express purpose of making recommendations on means to improve operating efficiencies and safety on vessels of the Washington State Ferry fleet. General Provisions - See Addendum C. WSF will be responsible for paying wages of participating MMP members on the LMC. Employees will be paid eight (8) hours at the straight-time rate of pay. WSF will not pay mileage to MMP members nor will it pay for travel time beyond the eight hours of pay.

The Committee shall meet at reasonable times and places as mutually agreed, but shall make every effort to meet not less than once every three (3) months. Meetings will be limited to no more than four (4) hours in duration, unless otherwise agreed. Meetings will be held in State facilities or in other

mutually agreed upon facilities which may be available at no cost to the parties. The Committee will serve as a conduit for communication between the bargaining unit and the State. It will pro-actively work to identify and resolve potential labor-management problems. The Committee will not function as a substitute for the regular collective bargaining process.

RULE 5 - MANNING OF VESSELS

Current Language: [No existing language on 5.06]

Union's Proposal: [New Section]

5.06 Quartermaster Familiarization

In the event the permanent quartermaster is not at work and either a regular crewmember, relief AB or oncall AB is promoted to the quartermaster position and has not worked with the permanent Master on that watch as quartermaster in the previous twelve (12) month period, the Master will be entitled to one (1) hour of overtime for training and familiarization of the new quartermaster.

State's Proposal: [No new language on 5.06]

Union's Position:

The Union's proposal is made in recognition of the importance of being familiar with one's quartermaster. The masters are responsible for a minimum \$80 million vessel as well as the safety of the staff and public riding those vessels. Captain Andersen testified to the substantial liability that the master takes on for the quartermaster. For example, because the quartermaster does not have a radio certification, he operates the radio under the master's license. The master is liable to

lose his license in the event that the quartermaster's actions violate the law in any way.

The quartermaster is an integral part of the bridge team. The State's argument that the quartermaster is an AB and receives similar training is an extreme oversimplification.

Captain Saffle testified that it takes at least half of a day to get on the same page with a particular master as regards his expectations. Being able to establish good communication, knowing what is expected of a quartermaster, is particularly important in the event of an emergency for the security of the vessel and the people on board. The State already pays for an hour of overtime for vessel familiarization in the event that an employee has not been on a vessel in a certain amount of time. The Union's position is that familiarization with the quartermaster is equally important. For the cost of one hour of overtime, the master would be ensured the security of having personally trained a key member of his bridge crew.

State's Position:

The State's position is that delegating duties is part of the master's job. It is unreasonable that the State should be required to pay for an hour of overtime for something that is already part of the job. Prior to the time that quartermasters were designated by way of seniority, there were occasions

involving new mates and new quartermasters and these occasions did not constitute a problem. From the State's perspective, the Union is attempting to "punish the employer by saying in order to fix a problem that doesn't exist, they ought to get an hour's worth of overtime" (Tr. 140). The masters simply don't like the fact that they no longer get to choose who to work with, because that choice is made on the basis of seniority.

Analysis:

The Arbitrator simply notes that it takes two to tango. While this language authorizes an hour of overtime for the master, what about the quartermaster? Should the quartermaster also be given an hour of overtime and if he is not interested should overtime be compelled? Basically the Arbitrator believes that while the hour of overtime is probably fully justified, the particulars for how one might go about ensuring that the time was acceptable to all and well spent have not been worked out and thus including this provision in the agreement at this time is premature.

Award: [No new language on 5.06]

RULE 8 - HOURS OF EMPLOYMENT AND ASSIGNMENT

Current Language:

8.01 Establishment of Work Periods

The eight (8) hour work day is hereby established, and eight (8) consecutive hours shall constitute one (1) work day. A scheduled work period shall consist of five (5) work days on duty followed by four (4) consecutive days off duty, or ten (10) days on duty followed by four (4) consecutive days off duty; provided, however, that the Employer may, only with the consent and agreement of the Union, schedule Deck Officers who are assigned to single crew extra service vessels to work four (4) consecutive ten (10) hour work days followed by three (3) consecutive days off duty. All Deck Officers working regular assignments shall receive in wages not less than eighty (80) times the base straight-time rate for each two (2) week work period; provided, however, that such Deck Officers are available for work at the time scheduled by the Employer. Travel time, if any, shall be included within the scheduled work day, to the extent possible, when Deck Officers are assigned to move vessels to a different terminal or to a repair yard, and such vessel moves do not occupy the entire work day.

8.02 In cases where running schedules of vessels will not permit relieving of Deck Officers at port of embarkation within the eight (8) hour day, the overtime penalty will not be incurred; provided, however, that no Deck Officer shall work more than eighty (80) hours in a two (2)-week work period at the straight time rate. Before the Employer changes any printed running schedules, the Union shall be consulted to arrange schedules reasonably consistent with the health and safety of Deck Officers, and with properly and conveniently serving the customer, and to provide shifts for Masters and Mates that are as close to eight (8) hours as possible along with convenient relieving times. The Employer and the Union will each name two (2) employees to a committee whose purpose will be to examine existing work schedules and recommend improvements therein to the Employer, considering and giving effect, as far as practicable, to the recommendations contained in the 1987 Literature Review and Survey of Masters, Mates and Pilots of the Washington State Ferries on health Indices Relevant to Shift Work. The said committee will meet within thirty (30) days of the execution of this Agreement and, thereafter, not less frequently than quarter-annually. Union members will be paid for eight (8) hours at their regular straight-time rate of pay for each committee meeting. Committee meetings will be scheduled to allow time for travel within the eight (8) hour shift. Mileage will be paid. if management extends the committee meeting time, then travel time will be paid as appropriate.

8.03 Relief at Terminal of Commencement

All Regular Deck Officers shall be relieved at the same terminal where they began their duties; and any such Deck Officer not so relieved shall be paid mileage and wages at the rate of pay applicable to the Deck Officer's classification, whether overtime or straight time, for the total detention time involved. In returning to the Deck Officer's terminal of commencement, the Deck Officer shall exercise the Deck Officer's best efforts to minimize the cost to the Employer for travel pay and mileage consistent with the Deck Officer's safety.

8.04 Establishment of Touring Watches

The Employer may establish touring watches with the reasonable consent of the Union. When a touring watch is established, the employment of Deck Officers assigned to such watches shall be at the straight time rate of pay for each such Deck Officer's classification. No tour may exceed a period of twenty-four (24) hours and there must be a minimum of six (6) hours off duty between work shifts, with the only exception stated in Addendum F (Vashon/Fauntleroy/Southworth #2 Vessel). Whenever the off duty time between work shifts is less than six (6) hours, the Deck Officer's compensation will be continuous at the applicable overtime rate of pay. Further, no touring watch may exceed five (5) consecutive tours to be followed by not less than four (4) consecutive days off duty. Whenever such a touring watch has been established, it shall be subject to change under the same conditions.

8.05 Removal From Regular Assignment

Whenever any Deck Officer is removed from the Deck Officer's regular assignment and temporarily assigned to a vessel on a different route, or if the Employer requires any Deck Officer to use the Deck officer's private vehicle for travel between the Deck Officer's terminal of commencement and the Deck Officer's temporarily assigned terminal of commencement, each such Deck Officer shall receive travel pay and mileage for the distance between the regular Deck Officer's regular relieving terminal or the terminal nearest the Deck Officer's home, and the temporary relieving terminal, whichever is less, in accordance with Schedule A.

Travel time for training purposes will be computed using Schedule A, and compensated from the terminal closest to the

employee's home to the terminal closest to the training location. Travel time and mileage from the terminal closest to the training location to the training facility will be paid.

8.06 Deck Officers Assigned to More than One (1) Route

Whenever any Deck Officer is assigned to more than one (1) route, the Deck Officer shall be assigned a primary terminal of commencement and shall be paid travel pay and mileage as required by Rule 7.01 and 7.02 of this Agreement, respectively, both to and from all such assignments, other than the Deck Officer's primary terminal of commencement. Such employees will be paid travel time and mileage to and from their primary terminal, regardless of the location of their home, to the location of their dispatched assignment which occurs someplace other than their primary terminal.

State's Proposal:

8.01 Establishment of Work Periods

1. The principle of the eight (8) hour day is hereby established. For all practical purposes, eight (8) consecutive hours shall constitute one (1) work day. Forty (40) hours shall constitute a work week, and eighty (80) hours shall constitute a two (2) week work schedule. The following work schedules shall be observed:

A. Five (5) consecutive eight (8) hour days followed by two (2) consecutive days off, or

B. Ten (10) consecutive eight (8) hour days followed by four (4) consecutive days off.

C. Four (4) consecutive ten (10) hour days followed by three (3) consecutive days off.

D. Eight (8) ten (10) hour days followed by six (6) consecutive days off.

E. Nine (9) consecutive nine (9) hour days followed by five (5) consecutive days off totaling eighty one (81) straight time hours.

F. Five consecutive nine (9) hours days followed by three (3) consecutive days and four (4) consecutive nine (9) hour days

followed by two (2) consecutive days off totaling eighty one (81) straight time hours.

G. By mutual agreement, additional work schedules may be observed.

H. Employees that are working a schedule as defined in C or D, above, shall be compensated at the straight time rate of pay. Employees that are schedule as defined in E or F, above, shall have the option of having the eighty-first (81st) hour worked in a two week period compensated at the straight time rate of pay or credited with one (1) hour of comp time at the straight time rate of pay.

I. Operating crews assigned to extra service vessels may be required to work four (4) consecutive ten (10) hour days followed by three (3) consecutive days off.

J. Deck Officers on Anacortes-San Juan Islands and Sidney routes may be scheduled to work up to ten (10) hours in one (1) day or eighty (80) hours in a two (2) week schedule on touring watches as defined in Rule 8.03 of this labor agreement, without incurring an over-time pay obligation.

In cases where running schedules of vessels will not permit relieving of crew members at port of embarkation within the eight (8) hour day, the overtime penalty will not be incurred; provided, however, that no employee shall work more than nine (9) hours in one (1) day or eighty one (81) hours in a two (2) week work schedule.

2. Limitations on Flexing Shifts

A. For shifts of 10 hours, working hours may flex up or down one half-hour or less in order to permit relieving of crew members at port of embarkation without incurring overtime, subject to committee process in paragraph 3.

B. If schedules include offsetting eight (8) hour shifts, the WSF agrees to pay, no less than eight hours pay for working the short shift for all employees on single day dispatch.

3. Committee Process

A. Before the Employer changes any printed running or crew schedules, the Masters, Mates and Pilots and the Inlandboatmen's Union (Unions) shall jointly be consulted to arrange crew

schedules reasonably consistent with the health and safety of Deck Hands, Masters, Mates and Pilots, and with properly and conveniently serving the customer, and to provide shifts for Deck hands, Masters, Mates and Pilots as provided above. The Unions will each name two employees to a committee whose sole purpose will be to examine proposed changes to crew schedules and recommend improvements therein to the schedule changes. Union members will be paid for eight (8) hours at their regular straight-time rate of pay for each committee meeting. Committee meetings will be scheduled to allow time for travel within the eight (8) hour shift. Mileage will be paid as appropriate. If management extends the committee meeting time, then travel time will be paid as appropriate.

B. Should the Employer and the Unions not reach agreement over the proposed crew deck schedules, the Unions may elect to jointly file a grievance and proceed to expedited arbitration based on whether the schedule(s) are reasonably consistent with the health and safety of Deck Hands, Masters, Mates and Pilots.

C. In the event of such a dispute, the parties agree upon the following process:

i. The Unions and the Employer shall select an Independent Standing Arbitrator (Arbitrator) as would be deemed qualified to serve as an arbitrator by the American Arbitration Association. The Unions and the Employer shall meet and each will submit a list of eleven (11) arbitrators using the strike method until an arbitrator has been selected.

ii. Within five (5) working days of receipt of a grievance being filed as referenced above, the parties shall schedule a meeting with the arbitrator selected. The meeting will be scheduled as expeditiously as possible, but in no event more than fifteen (15) working days from the receipt of the grievance unless otherwise mutually agreed to.

iii. At the arbitration hearing, the Arbitrator shall have the sole and unfettered discretion to consider any evidence that is presented by the representatives, as well as to limit the length or volume of information presented. The Arbitrator shall have the authority to question the representatives and their witnesses, and ask for further information, and to control the conduct of the meeting in any fashion.

iv. Within ten days of the conclusion of the meeting referred to in paragraph three (3) above, the Arbitrator shall inform the

parties in writing of his/her decision. The decision shall not alter or amend the terms and conditions of the Collective Bargaining Agreement. The Arbitrator will also include in his/her decision any analysis or reasoning on which the decision is based. Additionally, if the Arbitrator finds the schedule not reasonably consistent with health or safety standards, the arbitrator will provide the parties guidance as to the changes necessary to bring the schedule into compliance. The decision of the arbitrator shall be final and binding upon the Union, the employer and the grievant(s).

All Deck Officers working regular assignments shall be offered not less than eighty (80) hours of work at the base straight-time rate for each two (2) week work period; provided, however, that such Deck Officers are available for work at the time scheduled by the Employer. Travel time, if any, shall be included within the scheduled work day, to the extent possible, when Deck Officers are assigned to move vessels to a different terminal or to a repair yard, and such vessel moves do not occupy the entire work day.

8.02 Relief at Terminal of Commencement

All Regular Deck Officers shall be relieved at the same terminal where they began their duties; and any such Deck Officer not so relieved shall be paid mileage and wages at the rate of pay applicable to the Deck Officer's classification, whether overtime or straight time, for the total detention time involved. In returning to the Deck Officer's terminal of commencement, the Deck Officer shall exercise the Deck Officer's best efforts to minimize the cost to the Employer for travel pay and mileage consistent with the Deck Officer's safety.

8.03 Establishment of Touring Watches

The Employer may establish touring watches with the reasonable consent of the Union. When a touring watch is established, the employment of Deck Officers assigned to such watches shall be at the straight time rate of pay for each such Deck Officer's classification. No tour may exceed a period of twenty-four (24) hours and there must be a minimum of six (6) hours off duty between work shifts, with the only exception stated in Addendum F (Vashon/Fauntleroy/Southworth #2 Vessel). Whenever the off duty time between work shifts is less than six (6) hours, the Deck Officer's compensation will be continuous at the applicable overtime rate of pay. Further, no touring watch may exceed five (5) consecutive tours to be followed by not less than four (4)

consecutive days off duty. Whenever such a touring watch has been established, it shall be subject to change under the same conditions.

8.04 Removal From Regular Assignment

Whenever any Deck Officer is removed from the Deck Officer's regular assignment and temporarily assigned to a vessel on a different route, or if the Employer requires any Deck Officer to use the Deck Officer's private vehicle for travel between the Deck Officer's terminal of commencement and the Deck Officer's temporarily assigned terminal of commencement, each such Deck Officer shall receive travel pay and mileage for the distance between the regular Deck Officer's regular relieving terminal or the terminal nearest the Deck Officer's home, and the temporary relieving terminal, whichever is less, in accordance with Schedule A.

Travel time for training purposes will be computed using Schedule A, and compensated from the terminal closest to the employees' home to the terminal closest to the training location. Travel time and mileage from the terminal closest to the training location to the training facility will be paid.

8.05 Deck Officers Assigned to More than One (1) Route

Whenever any Deck Officer is assigned to more than one (1) route, the Deck Officer shall be assigned a primary terminal of commencement and shall be paid travel pay and mileage as required by Rule 7.01 and 7.02 of this Agreement, respectively, both to and from all such assignments, other than the Deck Officer's primary terminal of commencement. Such employees will be paid travel time and mileage to and from their primary terminal, regardless of the location of their home, to the location of their dispatched assignment which occurs someplace other than their primary terminal.

Union's Proposal:

8.01 Establishment of Work Periods.

1. The eight (8) hour day is hereby established and eight (8) consecutive hours shall constitute one (1) work day. Forty (40) hours shall constitute a work week, and eighty (80) hours shall constitute a two (2) week work schedule. The following work schedules shall be observed:

- A. Five (5) consecutive eight (8) hour days followed by two (2) consecutive days off, or
- B. Ten (10) consecutive eight (8) hour days followed by four (4) consecutive days off.
- C. Four (4) consecutive ten (10) hour days followed by three (3) consecutive days off.
- D. Eight (8) ten (10) hour days followed by six (6) consecutive days off.
- E. Nine (9) consecutive nine (9) hour days followed by five (5) consecutive days off totaling eighty one (81) straight time hours.
- F. Five consecutive nine (9) hours days followed by three (3) consecutive days and four (4) consecutive nine (9) hour days followed by two (2) consecutive days off totaling eighty one (81) straight time hours.
- G. By mutual agreement, additional work schedules may be observed.
- H. Employees that are working a schedule as defined in C or D, above, shall be compensated at the straight time rate of pay. Employees that are schedule as defined in E or F, above, shall have the option of having the eighty-first (81st) hour worked in a two week period compensated at the straight time rate of pay or credited with one (1) hour of comp time at the straight time rate of pay.
- I. Operating crews assigned to extra service vessels may be required to work four (4) consecutive ten (10) hour days followed by three (3) consecutive days off.
- J. Deck Officers on Anacortes-San Juan Islands and Sidney routes may be scheduled to work up to ten (10) hours in one (1) day or eighty (80) hours in a two (2) week schedule on touring watches as defined in Rule 8.03 of this labor agreement, without incurring an over-time pay obligation.
- In cases where running schedules of vessels will not permit relieving of crew members at port of embarkation within the eight (8) hour day, the overtime penalty will not be incurred;

provided, however, that no employee shall work more than eighty (80) hours in a two (2) week work schedule.

2. Limitations on Flexing Shifts

A. For shifts of 10 hours, working hours may flex up or down one half-hour or less in order to permit relieving of crew members at port of embarkation without incurring overtime, subject to committee process in paragraph 3.

B. If schedules include offsetting eight (8) hour shifts, the WSF agrees to pay, no less than eight hours pay for working the short shift for all employees on single day dispatch.

3. Committee Process

A. Before the Employer changes any printed running or crew schedules, the Masters, Mates and Pilots and the Inlandboatmen's Union (Unions) shall jointly be consulted to arrange crew schedules reasonably consistent with the health and safety of Deck Hands, Masters, Mates and Pilots, and with properly and conveniently serving the customer, and to provide shifts for Deck hands, Masters, Mates and Pilots as provided above. The Unions will each name two employees to a committee whose sole purpose will be to examine proposed changes to crew schedules and recommend improvements therein to the schedule changes. Union members will be paid for eight (8) hours at their regular straight-time rate of pay for each committee meeting. Committee meetings will be scheduled to allow time for travel within the eight (8) hour shift. Mileage will be paid as appropriate. If management extends the committee meeting time, then travel time will be paid as appropriate.

B. Should the Employer and the Unions not reach agreement over the proposed crew deck schedules, the Unions may elect to jointly file a grievance and proceed to expedited arbitration based on whether the schedule(s) are reasonably consistent with the health and safety of Deck Hands, Masters, Mates and Pilots.

C. In the event of such a dispute, the parties agree upon the following process:

i. The Unions and the Employer shall select an Independent Standing Arbitrator (Arbitrator) as would be deemed qualified to serve as an arbitrator by the American Arbitration Association. The Unions and the Employer shall meet and each will submit a

list of eleven (11) arbitrators using the strike method until an arbitrator has been selected.

ii. Within five (5) working days of receipt of a grievance being filed as referenced above, the parties shall schedule a meeting with the arbitrator selected. The meeting will be scheduled as expeditiously as possible, but in no event more than fifteen (15) working days from the receipt of the grievance unless otherwise mutually agreed to.

iii. At the arbitration hearing, the Arbitrator shall have the sole and unfettered discretion to consider any evidence that is presented by the representatives, as well as to limit the length or volume of information presented. The Arbitrator shall have the authority to question the representatives and their witnesses, and ask for further information, and to control the conduct of the meeting in any fashion.

iv. Within ten days of the conclusion of the meeting referred to in paragraph three (3) above, the Arbitrator shall inform the parties in writing of his/her decision. The decision shall not alter or amend the terms and conditions of the Collective Bargaining Agreement. The Arbitrator will also include in his/her decision any analysis or reasoning on which the decision is based. Additionally, if the Arbitrator finds the schedule not reasonably consistent with health or safety standards, the arbitrator will provide the parties guidance as to the changes necessary to bring the schedule into compliance. The decision of the arbitrator shall be final and binding upon the Union, the employer and the grievant(s).

All Deck Officers working regular assignments shall receive in wages not less than eighty (80) times the base straight-time rate for each two (2) week work period; provided, however, that such Deck Officers are available for work at the time scheduled by the Employer. Travel time, if any, shall be included within the scheduled work day, to the extent possible, when Deck Officers are assigned to move vessels to a different terminal or to a repair yard, and such vessel moves do not occupy the entire work day.

8.02 Relief at Terminal of Commencement

All Regular Deck Officers shall be relieved at the same terminal where they began their duties; and any such Deck Officer not so relieved shall be paid mileage and wages at the rate of pay applicable to the Deck Officer's classification, whether

overtime or straight time, for the total detention time involved. In returning to the Deck Officer's terminal of commencement, the Deck Officer shall exercise the Deck Officer's best efforts to minimize the cost to the Employer for travel pay and mileage consistent with the Deck Officer's safety.

8.03 Establishment of Touring Watches

The Employer may establish touring watches with the reasonable consent of the Union. When a touring watch is established, the employment of Deck Officers assigned to such watches shall be at the straight time rate of pay for each such Deck Officer's classification. No tour may exceed a period of twenty-four (24) hours and there must be a minimum of six (6) hours off duty between work shifts, with the only exception stated in Addendum F (Vashon/Fauntleroy/Southworth #2 Vessel). Whenever the off duty time between work shifts is less than six (6) hours, the Deck Officer's compensation will be continuous at the applicable overtime rate of pay. Further, no touring watch may exceed five (5) consecutive tours to be followed by not less than four (4) consecutive days off duty. Whenever such a touring watch has been established, it shall be subject to change under the same conditions.

Analysis:

A substantial amount of hearing time was spent on the employer's proposal for Rule 8.06. By agreement of all Parties concerned, the Arbitrator took this evidence in the event that MEC ruled that the matter was properly in interest arbitration. As previously noted, MEC ruled that the matter was not properly before the Arbitrator and thus no award should be made. Remaining is the fact that the Parties have primarily reached agreement on language to replace a substantial portion of that found in the prior agreement. The Arbitrator's study of the Parties proposed language found only some small differences. In

his view, the essentially similar language proposed by the State was somewhat more workable and thus the award utilizes the State's language.

Award:

8.01 Establishment of Work Periods

1. The principle of the eight (8) hour day is hereby established. For all practical purposes, eight (8) consecutive hours shall constitute one (1) work day. Forty (40) hours shall constitute a work week, and eighty (80) hours shall constitute a two (2) week work schedule. The following work schedules shall be observed:

- A. Five (5) consecutive eight (8) hour days followed by two (2) consecutive days off, or
- B. Ten (10) consecutive eight (8) hour days followed by four (4) consecutive days off.
- C. Four (4) consecutive ten (10) hour days followed by three (3) consecutive days off.
- D. Eight (8) ten (10) hour days followed by six (6) consecutive days off.
- E. Nine (9) consecutive nine (9) hour days followed by five (5) consecutive days off totaling eighty one (81) straight time hours.
- F. Five consecutive nine (9) hours days followed by three (3) consecutive days and four (4) consecutive nine (9) hour days followed by two (2) consecutive days off totaling eighty one (81) straight time hours.
- G. By mutual agreement, additional work schedules may be observed.
- H. Employees that are working a schedule as defined in C or D, above, shall be compensated at the straight time rate of pay. Employees that are schedule as defined in E or F, above, shall have the option of having the eighty-first (81st) hour worked in a two week period compensated at the

straight time rate of pay or credited with one (1) hour of comp time at the straight time rate of pay.

I. Operating crews assigned to extra service vessels may be required to work four (4) consecutive ten (10) hour days followed by three (3) consecutive days off.

J. Deck Officers on Anacortes-San Juan Islands and Sidney routes may be scheduled to work up to ten (10) hours in one (1) day or eighty (80) hours in a two (2) week schedule on touring watches as defined in Rule 8.03 of this labor agreement, without incurring an over-time pay obligation.

In cases where running schedules of vessels will not permit relieving of crew members at port of embarkation within the eight (8) hour day, the overtime penalty will not be incurred; provided, however, that no employee shall work more than nine (9) hours in one (1) day or eighty one (81) hours in a two (2) week work schedule.

2. Limitations on Flexing Shifts

A. For shifts of 10 hours, working hours may flex up or down one half-hour or less in order to permit relieving of crew members at port of embarkation without incurring overtime, subject to committee process in paragraph 3.

B. If schedules include offsetting eight (8) hour shifts, the WSF agrees to pay, no less than eight hours pay for working the short shift for all employees on single day dispatch.

3. Committee Process

A. Before the Employer changes any printed running or crew schedules, the Masters, Mates and Pilots and the Inlandboatmen's Union (Unions) shall jointly be consulted to arrange crew schedules reasonably consistent with the health and safety of Deck Hands, Masters, Mates and Pilots, and with properly and conveniently serving the customer, and to provide shifts for Deck hands, Masters, Mates and Pilots as provided above. The Unions will each name two employees to a committee whose sole purpose will be to examine proposed changes to crew schedules and recommend improvements therein to the schedule changes. Union members will be paid for eight (8) hours at their regular straight-time rate of pay for each committee meeting.

Committee meetings will be scheduled to allow time for travel within the eight (8) hour shift. Mileage will be paid as appropriate. If management extends the committee meeting time, then travel time will be paid as appropriate.

B. Should the Employer and the Unions not reach agreement over the proposed crew deck schedules, the Unions may elect to jointly file a grievance and proceed to expedited arbitration based on whether the schedule(s) are reasonably consistent with the health and safety of Deck Hands, Masters, Mates and Pilots.

C. In the event of such a dispute, the parties agree upon the following process:

i. The Unions and the Employer shall select an Independent Standing Arbitrator (Arbitrator) as would be deemed qualified to serve as an arbitrator by the American Arbitration Association. The Unions and the Employer shall meet and each will submit a list of eleven (11) arbitrators using the strike method until an arbitrator has been selected.

ii. Within five (5) working days of receipt of a grievance being filed as referenced above, the parties shall schedule a meeting with the arbitrator selected. The meeting will be scheduled as expeditiously as possible, but in no event more than fifteen (15) working days from the receipt of the grievance unless otherwise mutually agreed to.

iii. At the arbitration hearing, the Arbitrator shall have the sole and unfettered discretion to consider any evidence that is presented by the representatives, as well as to limit the length or volume of information presented. The Arbitrator shall have the authority to question the representatives and their witnesses, and ask for further information, and to control the conduct of the meeting in any fashion.

iv. Within ten days of the conclusion of the meeting referred to in paragraph three (3) above, the Arbitrator shall inform the parties in writing of his/her decision. The decision shall not alter or amend the terms and conditions of the Collective Bargaining Agreement. The Arbitrator will also include in his/her decision any analysis or reasoning

on which the decision is based. Additionally, if the Arbitrator finds the schedule not reasonably consistent with health or safety standards, the arbitrator will provide the parties guidance as to the changes necessary to bring the schedule into compliance. The decision of the arbitrator shall be final and binding upon the Union, the employer and the grievant(s).

All Deck Officers working regular assignments shall receive in wages not less than eighty (80) times the base straight-time rate for each two (2) week work period; provided, however, that such Deck Officers are available for work at the time scheduled by the Employer. Travel time, if any, shall be included within the scheduled work day, to the extent possible, when Deck Officers are assigned to move vessels to a different terminal or to a repair yard, and such vessel moves do not occupy the entire work day.

8.02 Relief at Terminal of Commencement

All Regular Deck Officers shall be relieved at the same terminal where they began their duties; and any such Deck Officer not so relieved shall be paid mileage and wages at the rate of pay applicable to the Deck Officer's classification, whether overtime or straight time, for the total detention time involved. In returning to the Deck Officer's terminal of commencement, the Deck Officer shall exercise the Deck Officer's best efforts to minimize the cost to the Employer for travel pay and mileage consistent with the Deck Officer's safety.

8.03 Establishment of Touring Watches

The Employer may establish touring watches with the reasonable consent of the Union. When a touring watch is established, the employment of Deck Officers assigned to such watches shall be at the straight time rate of pay for each such Deck Officer's classification. No tour may exceed a period of twenty-four (24) hours and there must be a minimum of six (6) hours off duty between work shifts, with the only exception stated in Addendum F (Vashon/Fauntleroy/Southworth #2 Vessel). Whenever the off duty time between work shifts is less than six (6) hours, the Deck Officer's compensation will be continuous at the applicable overtime rate of pay. Further, no touring watch may exceed five (5) consecutive tours to be followed by not less than four (4) consecutive days off duty. Whenever such a touring watch has

been established, it shall be subject to change under the same conditions.

RULE 9 - OVERTIME

Current Language:

9.01 Extended Work Days

When work is extended fifteen (15) minutes or less beyond the regular assigned work day, such time shall be paid at the overtime rate for one-quarter (1/4) of an hour. Should work be extended by more than fifteen (15) minutes, the time worked beyond the regular assigned work day shall be paid at the overtime rate in increments of one (1) hour. If the extended assignment exceeds five (5) hours, pay for such work shall be at the overtime rate with a minimum of eight (8) hours. Such extended work shifts shall not be scheduled on a daily or regular basis. The Employer shall not abuse the use of overtime to avoid scheduling another crew.

9.01.01 An employee may opt to accrue compensatory time off in lieu of overtime pay for any shift, or equivalent, which they would otherwise be guaranteed a full shift of overtime pay, as described in Rule 9. Employees may elect comp time, or overtime, or a combination thereof equivalent to the overtime rate of pay. If at any time the Union takes Rule 20.09 to arbitration (or interest arbitration) then WSF has the option of declaring Rule 9.01.01 null and void.

State's Proposal:

9.01 Extended Work Days

When work is extended beyond the regular assigned work day, such time shall be paid in six (6) minute increments. If the extended assignment exceeds five (5) hours, pay for such work shall be at the overtime rate with a minimum of eight (8) hours. Such extended work shifts shall not be scheduled on a daily or regular basis. The Employer shall not abuse the use of overtime to avoid scheduling another crew.

9.01.01 Compensatory Time

An employee may opt to accrue compensatory time off in lieu of overtime pay for any shift, or equivalent, which they would otherwise be guaranteed a full shift of overtime pay, as described in Rule 9. Employees may elect compensatory time, or overtime, or a combination thereof equivalent to the overtime rate of pay.

A. Maximum Compensatory Time

It's

Employees may accumulate up to but no more than two hundred forty (240) hours of compensatory time.

B. Compensatory Time Cash Out

The employee's compensatory time balance will be cashed out June 30th of each biennium. The employee's compensatory time balance will be paid in cash when the employee:

1. Leaves state service for any reason.
2. Transfers to another agency.

Union's Proposal: [No change].

State's Position:

The State's position is essentially two fold. First, throughout the interest arbitration proceedings, the State has looked to ensure that it pays for all hours worked but does not compensate for un-worked time. By capturing overtime in six-minute increments it will substantially reduce the amount of overtime compensation for unworked hours. Additionally, the State has a substantial concern over the high accumulation of compensatory time. Compensatory time is an unfunded future liability where the State often pays at a rate higher than that in place when the compensatory time was earned. To be fiscally

responsible, the State should pay as it goes and not accumulate large future liabilities.

Union's Position:

The reason bargaining unit members want to retain their compensatory time off is to backfill for the lack of sick leave and vacation. Because the employees are required to take all but four of their 24 days of vacation every year, they have very little opportunity to accrue authorized time off. Consequently, comp time is effectively their insurance policy against injury or illness.

The State's proposal is not based on need. Only 18 of the 190 employees concerned have more than 240 hours accrued. Rather, the Union argues, the proposal is driven by a desire to cut the employees as much as possible. The Union asserts that if the State can budget \$811,000 this biennium to buy out comp time, that money is better spent on raising wages for the employees to an appropriate level.

Regarding the issue of six-minute overtime, the Union's position is that there is no justification to change the system. Mr. Covington testified that the State can't even quantify if there will be a savings resulting from the State's proposal on this issue. According to the testimony of Captain Saffle, the current overtime structure was developed in 1974 when the Union

gave up a full hour of overtime for any minute worked over in exchange for a wage increase of approximately 30%. Currently, the State offers no tangible quid pro quo. Absent a tangible justification for the change or some real quid pro quo, the Arbitrator should reject the State's proposal.

Analysis:

The Arbitrator lauds the State for not wanting to pay for unworked hours. However, it seems to him that the State's proposal to pay in six-minute intervals has some significant downsides. For one, the fact that the State has a payroll system that can effectively implement a six-minute interval overtime payment program is only half of the equation. The other half is the precise capturing of starting and stopping times. The existing system where employees get paid for 15 minutes of overtime if their held over for a few minutes after the close of their shift and pays in hour increments if held past 15 minutes does not call for a precise record - manually filled out timecards work just fine. As the Arbitrator was told at hearing, the devil is in the details (Tr 8, 8/20/10) and for this reason he is not awarding the State's proposed language.

As to compensatory time cash out, both sides make a good argument and the Arbitrator finds that there is a reasonable solution that protects the State from incurring a large unfunded

future liability while giving employees a carryover of hours that should help to meet their need to have a bank of available time.

Award:

9.01 Extended Work Days

When work is extended fifteen (15) minutes or less beyond the regular assigned work day, such time shall be paid at the overtime rate for one-quarter(1/4) of an hour. Should work be extended by more than fifteen (15) minutes, the time worked beyond the regular assigned work day shall be paid at the overtime rate in increments of one (1) hour. If the extended assignment exceeds five (5) hours, pay for such work shall be at the overtime rate with a minimum of eight (8) hours. Such extended work shifts shall not be scheduled on a daily or regular basis. The Employer shall not abuse the use of overtime to avoid scheduling another crew.

9.01.01 Compensatory Time

An employee may opt to accrue compensatory time off in lieu of overtime pay for any shift, or equivalent, which they would otherwise be guaranteed a full shift of overtime pay, as described in Rule 9. Employees may elect compensatory time, or overtime, or a combination thereof equivalent to the overtime rate of pay.

At the end of the biennium (June 30th) the employee's compensatory time balance will be cashed down to 240 hours. The employee's compensatory time balance will be paid in cash when the employee:

1. Leaves state service for any reason.
2. Transfers to another agency.

RULE 10 - HEALTH AND SAFETY

Current Language:

10.03 Sleeping Rooms

With the exception of the HIYU, all vessels where the hours of assignment are such that a Deck Officer completes a work shift and will begin the next work shift within nine (9) hours, shall have separate and reasonably quiet sleeping environments for each Deck Officer so assigned. Possible crew sleeping areas are to be equipped to provide hot and cold running water, adequate heating and lighting, and meet WISHA air quality standards as determined by WSF's Industrial Hygienist. No Deck Officer shall be removed from the Deck Officer's appropriate quarter. Any failure to comply with the foregoing requirements shall entitle each Deck officer so assigned to reimbursement for the Deck Officer's actual expenses incurred for other sleeping accommodations as a result of such failure. Where no public accommodations are available within reasonable distance from the terminal and the above cannot be complied with, the Deck Officer, upon proper notification, shall be relieved after the commencement of the next assigned watch after completing one round trip, or as soon as possible thereafter at the overtime rate of pay.

10.05 Navigation Equipment Allowance

Each newly promoted Deck Officer, when the Deck Officer has established seniority, shall be reimbursed, on a one-time-only basis, the sum of two hundred fifty dollars (\$250.00) for navigational equipment, for the purchase of binoculars, dividers, parallel rules, and triangles; and the Employer shall issue annually to each Deck Officer tide and current tables. In addition, each Deck Officer shall be reimbursed one hundred fifty dollars (\$150.00) for navigational equipment in their fifth (5th) year in service as a Deck Officer and every five (5) years thereafter.

Union's Proposal:

10.03 Sleeping Rooms

Vessels where the hours of assignment are such that a Deck Officer must sleep on-board prior to or after the completion of a work shift shall have separate and reasonably quiet sleeping environments for each Deck Officer so assigned. Deck Officer sleeping areas are to be equipped to provide cold and hot running water, adequate heating and lighting, and meet WISHA air quality standards as determined by WSF's Industrial Hygienist.

No Deck Officer shall be removed from the Deck officer's appropriate quarter. Any failure to comply with the foregoing requirements shall entitle each Deck officer so assigned to reimbursement for the Deck Officer's actual expenses incurred for other sleeping accommodations as a result of such failure. Where no public accommodations are available within reasonable distance from the terminal and the above cannot be complied with, the Deck Officer, upon proper notification, shall be relieved after the commencement of the next assigned watch after completing one round trip, or as soon as possible thereafter at the overtime rate of pay.

10.05 Navigation Equipment Reimbursement

Each newly promoted Deck Officer, when the Deck Officer has established seniority, upon providing a written receipts, shall be reimbursed, on a one-time-only basis, a sum not to exceed one-thousand (\$1,000.00) for navigational equipment, for the purchase of binoculars, dividers, parallel rules, and triangles and other related equipment; and the Employer shall issue annually to each Deck Officer tide and current tables. In addition, upon providing a written receipts, each Deck Officer shall be reimbursed a sum not to exceed two hundred and fifty dollars (\$250.00) for navigational equipment in their fifth (5th) year in service as a Deck Officer and every five (5) years thereafter.

State's Proposal: [No change].

Union's Position:

The Union's proposal is to delete language which specifies that sleeping quarters are for employees on touring watches. Currently, almost all touring watches have been eliminated. There are still situations in which an employee feels it is unsafe for him to either drive home after work or to operate a vessel due to exhaustion or lack of sleep. The State does not appear to have any objection to allowing these employees to

sleep on the boat, and the suggestion that they do so was even voiced by the State's Counsel at the hearing. However, under the contract language as it is currently written, it is not permissible for a deck officer or a relief to sleep on the boat because they are not on a touring watch.

Given the State's concerns regarding crew endurance issues and the impact of exhaustion on the safety of operations, it would seem that the State should willingly adopt the Union's proposal. This is especially so considering that the Union's proposal does not cost the State any money since the sleeping quarters are already available. In addition, contractual language regarding the condition of the sleeping quarters is already in place.

The Union is frustrated with the State's lack of bargaining on this issue. From its perspective, the State has failed to bargain even this simple working condition language in the hopes that the Arbitrator would rewrite the contract on other issues. There is no basis to deny the employees the ability to rest on the boat, even though for the most part they are no longer serving on touring watches.

State's Position:

As the Arbitrator understands the State's position, it is not opposed to revising the language on this rule to allow

bargaining unit members to sleep on the boats. The State does want relief officers to have primary consideration and wants to minimize the possibility that it will have to pay for off boat accommodations when appropriate quarters are not available

Analysis

The Arbitrator's review of the evidence and arguments leads him to conclude that there is not much dispute on this issue. The Arbitrator believes that his award adequately addresses the concerns of all Parties.

As to the Union's request to increase the reimbursement for navigational and other equipment, the Arbitrator found the State's death by 1000 cuts argument persuasive and did not award the increase.

Award:

10.03 Sleeping Rooms

Vessels where the hours of assignment are such that a Relief Deck Officer must sleep on-board prior to or after the completion of a work shift shall have separate and reasonably quiet sleeping environments for each Deck Officer so assigned. Additionally, if overtime work establishes a need for bid Deck Officers to sleep on-board prior to or after the completion of a work shift they shall have separate and reasonably quiet sleeping environments. If available, separate and reasonably quiet sleeping environments will not be denied a bid Deck Officer who sleeps over as a matter of personal convenience. Deck Officer sleeping areas are to be equipped to provide cold and hot running water, adequate heating and lighting, and meet WISHA air quality standards as determined by WSF's Industrial Hygienist. No Deck Officer shall be removed from the Deck officer's appropriate quarter. Any failure to comply with the

foregoing requirements shall entitle each Deck officer so assigned to reimbursement for the Deck Officer's actual expenses incurred for other sleeping accommodations as a result of such failure. Where no public accommodations are available within reasonable distance from the terminal and the above cannot be complied with, the Deck Officer, upon proper notification, shall be relieved after the commencement of the next assigned watch after completing one round trip, or as soon as possible thereafter at the overtime rate of pay.

10.05 Navigation Equipment Reimbursement: [Retain the language from the existing agreement]

RULE 12 - VACATIONS

Current Language:

12.02 Table of Vacation Credits

Vacation leave shall be credited in accordance with the provisions of Rule 12.01 and in compliance with the following table:

6 months	=	6 working days	2 years	=	13 working days
7 months	=	7 working days	3 years	=	15 working days
8 months	=	8 working days	4 years	=	17 working days
9 months	=	9 working days	5 years	=	20 working days
10 months	=	10 working days	15 years	=	21 working days
11 months	=	11 working days	16 years	=	22 working days
12 months	=	12 working days	20 years	=	23 working days
			21 years		
			or more	=	24 working days

12.06 Vacation Pay Rate

Vacation pay shall be pro-rated for the time compensated for in various classifications by each Deck Officer, but shall be paid at the rate applicable to the period when the vacation is taken. After any Deck Officer has been continuously promoted for one (1) year, all vacation shall be paid at the rate of pay then applicable to the classification to which the Deck Officer has been so promoted.

12.07 Mandatory Vacation Leave

Every Deck Officer shall accrue vacation leave not used; provided, however, that every Deck Officer with more than five (5) years of service with the Employer shall take a minimum of twenty (20) days of vacation leave annually; and the Delegate Committee shall assign such vacation leave to any Deck Officer who fails to submit a vacation request. The Master with the most seniority (known as the Commodore - rule 2.01.06) may choose their vacation without submitting a bid. Vacation requests shall be prepared and submitted on or before September 15 for vacation periods from January through December. Provided, however, with the approval of the Delegate Committee, a Deck Officer may, for one (1) time only, defer a scheduled vacation.

12.10 Vacation to Coincide With Days Off

All vacations shall be scheduled to coincide with the Deck Officer's regularly scheduled days off, and shall begin only on the first work day following the Deck Officer's regularly scheduled days off. Any LDO whose work schedule has changed affecting their previously scheduled and approved vacation, and the LDO still wishes to begin and end their vacation to coincide exclusively with the work cycle (14 days), must inform dispatch a minimum of thirty (30) days prior to that work cycle. Regular Relief, Vacation Relief, and Extra Relief Deck Officers shall have an additional two days off without pay to coincide with their assigned scheduled vacation period, to have a total of at least sixteen (16) days off when taking a two (2) week vacation.

12.10.01 Regular Relief, Vacation Relief and Extra Relief Deck Officers shall notify the Dispatch Coordinator if they would like the first two (2) days off prior to the commencement of their assigned vacation, or the two (2) days off following their assigned vacation. Notification shall be made thirty (30) days of more in advance of the work period in which their vacation shall begin. If such notification is not made thirty (30) days or more in advance, Regular Relief, Vacation Relief and Extra Relief Deck Officers shall have their two (2) days off assigned.

Union's Proposal:

12.01 Accrual of Vacation Credits

Each Deck Officer with at least six (6) months continuous employment shall receive one (1) working day of vacation leave, with full pay, for each month of completed employment, up to and including twelve (12) months. In addition, vacation credits as set out in Rule 12.02 shall be pro-rated and credited on a monthly basis.

12.02 Table of Vacation Credits

Vacation leave shall be credited in accordance with the provisions of Rule 12.01 and in compliance with the following table:

For the period of time between July 1, 2011 to June 30, 2012

6 months	=	6 working days	2 years	=	13 working days
7 months	=	7 working days	3 years	=	15 working days
8 months	=	8 working days	4 years	=	17 working days
9 months	=	9 working days	5 years	=	20 working days
10 months	=	10 working days	15 years	=	21 working days
11 months	=	11 working days	16 years	=	22 working days
12 months	=	12 working days	20 years	=	23 working days
			21 years		
			or more	=	24 working days

For the period of time between July 1, 2012 to June 30, 2013

6 months	=	6 working days	9 years	=	22 working days
7 months	=	7 working days	11 years	=	23 working days
8 months	=	8 working days	13 years	=	24 working days
9 months	=	9 working days	14 years	=	25 working days
10 months	=	10 working days	16 years	=	26 working days
11 months	=	11 working days	18 years	=	28 working days
12 months	=	12 working days	20 years	=	29 working days
2 years	=	13 working days	22 years	=	30 working days
3 years	=	15 working days	24 years	=	31 working days
4 years	=	17 working days	26 years	=	32 working days
5 years	=	20 working days	28 years	=	33 working days
7 years	=	21 working days	30 years	=	34 working days

12.06 Vacation Pay Rate

A Deck Officers vacation pay shall be at the rate of pay for the classification of the Deck Officer. However, any LDO promoted to a permanent, extended temporary or temporary position in the previous twelve months will be compensated at the higher classification rate of pay for vacation that is to be taken.

After any Deck Officer has been continuously promoted for one (1) year, all vacation shall be paid at the rate of pay then applicable to the classification to which the Deck Officer has been so promoted.

12.07 Mandatory Vacation Leave

Every Deck Officer shall accrue vacation leave not used; provided, however, that every Deck Officer with more than five (5) years of service with the Employer shall take a minimum of one hundred sixty (160) hours in forty (40) hour segments of vacation leave annually; and the Delegate Committee shall assign such vacation leave to any Deck Officer who fails to submit a vacation request and is unreachable by phone. The Master with the most seniority (known as the Commodore - Rule 2,01.06) may choose their vacation without submitting a bid. Vacation picks will be done by phone by the delegate committee beginning no later than the first Monday in October, with employees being called in seniority order, until all Masters have been contacted. After all Masters have been contacted, the same process will begin for the Mates. All vacation bidding shall be concluded no later than October 15 of each year.

In order to complete the phone calling in a timely manner, and reduce the time the Deck Officers must be available by the phone, all Deck Officers must be available for a phone call. Once a Deck Officer has been called he or she will have a maximum of 15 minutes to declare his or her vacation selection. Extra time will not be given to any Deck Officer except in the case of a Deck Officer going to or from work or being at work and temporarily unavailable by phone.

Unavailable Deck Officers.

Any Deck Officer who may be out of town and unable to leave a contact phone number where he/she can be reached during the phone calling time period, must submit a vacation bid form on or before October 1 for the vacation periods from January through December.

Deferral.

With the approval of the Delegate Committee, A Deck Officer may, for one (1) time only, defer a scheduled vacation.

Vacation requests shall be prepared and submitted on or before September 30 for vacation periods from January through December. Provided, however, with the approval of the Delegate Committee, a Deck Officer may, for one (1) time only, defer a scheduled vacation.

12.10 Vacation Scheduling

Vacation Scheduling will commence no later than the first Monday in October for the succeeding year. Each employee will be sent a vacation request form to select a "minimum" of four (4) calendar weeks, of available vacation leave during the time period of the first work period of January through the last work period of December, consistent with the vessel work cycles. Vacation segments shall be selected concurrent with the employee's regular days off or free days, except in cases of ten (10) day or nine (9) day watches. In these instances, the vacation segment must begin or end with the employee's days off. Reliefs may choose to schedule their four (4) calendar weeks vacation segments to coincide with their free days or from Sunday to Saturday of the week selected. Any LDO whose work schedule has changed affecting their previously scheduled and approved vacation, and the LDO still wishes to begin and end their vacation to coincide exclusively with the seven (7) day vacation segment selected, must inform dispatch a minimum of thirty (30) days prior to that work cycle. However, the same number of vacation hours must be taken as reflected in the original bid.

12.10.01 Regular Relief, Vacation Relief and extra Relief Deck Officers shall notify the Dispatch Coordinator if they would like the first two (2) days off prior to the commencement of their assigned vacation, or the two (2) days off following their assigned vacation. Notification shall be made thirty (30) days or more in advance of the work period in which their vacation shall begin. If such notification is not made thirty (30) days or more in advance, Regular Relief, Vacation Relief and Extra Relief Deck Officers shall have their two (2) days off assigned.

State's Proposal: [No change]

Union's Position:

The Union is proposing the same vacation accrual rating that it has been awarded twice before. The first time, the Union voluntarily gave up its vacation proposal for the State's offer of a 5% wage increase. The second time, the State offered a 3.2% wage increase in exchange for the Union giving up its vacation proposal, but the Union refused. Unwilling to have a wage proposal on the table, State did not take either this wage proposal or the vacation proposal to arbitration. Arbitrator Beck awarded the Union's vacation proposal, swapping it for the 3.2% wage increase. The Union is now asking the Arbitrator to impose the additional vacation accrual again for two reasons.

First, the IBU and MEBA has the same vacation accrual schedule that this Union currently seeks. Granting the Union's proposal would bring the MM&P to a comparable level of benefit accrual.

Second, the Union's proposal would not increase the cost to the State. The State estimates a cost of \$200,000 to \$250,000 for this change provided that additional relief will be required to implement it. At the same time, State witnesses testified that additional relief will not be needed, so the cost is actually zero.

The affected employees will go four years without a cost of living increase. Absent an adoption of the Union's vacation accrual proposal, there would be nothing to award these employees for their dedicated and loyal service. Providing them additional time off is warranted under these circumstances.

As regards scheduling, the Union's proposal would actually save the State money because rather than requiring employees to take 20 days off, they would be required to take 160 hours off. Currently, employees are scheduled for ten-hour and nine-hour shifts which were not in place at the time that the current contract language was adopted. Should the employees be required to take 20 days off, additional relief will be necessary, as testified to by Captain Andersen. Under the Union's proposal, this additional relief would not be necessary.

In addition, the Union's proposal provides a methodology for bidding vacation which does not currently exist. Because the Union is actually responsible for vacation scheduling, adopting the Union's proposal would set down the rules as they are currently adhered to for vacation scheduling.

State's Position:

The State argues that the bargaining unit is on parity with their comparators with respect to vacation accrual. Employees in comparable positions accrue on average 25 days of vacation

after 20 years of service, ranging between 23 and 31 days. Thus 192 hours over 21 is not inappropriate. The Union would like to get 34 days of vacation to be on par with IBU, but this is not sufficient reason to change the vacation provision. Should the Arbitrator award 34 days, the bargaining unit would be well beyond any of the other comparators in the salary survey.

As regards scheduling vacation, the State takes no issue with changing the manner in which vacation is scheduled, but does not support adopting a proposal which is not specific enough and may create problems. The current scheduling process does not create problems; as such, the Union's proposal is a solution in search of a problem.

Analysis:

For two reasons the Arbitrator is awarding the language changes as requested by the Union. For one, since the Union undertakes the task of assigning vacation time, it seems to the Arbitrator that it makes sense to do it in a fashion that the Union believes will make the job as easy and as fair as possible. Second, the Arbitrator found nothing in the State's arguments that convincingly suggested that there was any problem with the approach the Union wants to use. Ultimately, all bargaining unit members with more than five years of seniority

will be scheduled for four weeks of vacation time each year; precisely what the CBA requires.

The Arbitrator will not award the Union's request for an increased vacation time accrual rate. This decision was based on three points of analysis. First, the Union contends that in the big picture of things it is trading a prior pay increase for an increase in vacation time accrual. The Arbitrator is convinced by the evidence and State arguments that the pay increase the Union references would never have occurred and therefore they have nothing to trade. Second, the MM&P represent two bargaining units. The other bargaining unit (Watch Supervisors) has already been awarded an improvement in the vacation time accrual, an improvement that now brings them into parity with this bargaining unit. The Arbitrator sees no reason to break that parity.

Finally, the Arbitrator has substantial concerns over the financial impact of the Union's proposal. The Union's proposal increases the maximum accrual from 24 days to 34 days; a two week improvement in vacation time. The Arbitrator's understanding is that this bargaining unit is a very senior weighted group in that an employee must first progress through the lower ranks in order to move to the position of master or mate. As such, a great number of this bargaining unit will immediately receive the full or almost full two week allotment,

a substantial increase in cost to the Employer and one difficult to award in these economic times.

Award:

12.02 Table of Vacation Credits [Retain existing language]

12.07 Mandatory Vacation Leave

Every Deck Officer shall accrue vacation leave not used; provided, however, that every Deck Officer with more than five (5) years of service with the Employer shall take a minimum of twenty(160) working days in five (5) working day segments of vacation leave annually; and the Delegate Committee shall assign such vacation leave to any Deck Officer who fails to submit a vacation request and is unreachable by phone. The Master with the most seniority (known as the Commodore - Rule 2,01.06) may choose their vacation without submitting a bid. Vacation picks will be done by phone by the delegate committee beginning no later than the first Monday in October, with employees being called in seniority order, until all Masters have been contacted. After all Masters have been contacted, the same process will begin for the Mates. All vacation bidding shall be concluded no later than October 15 of each year.

In order to complete the phone calling in a timely manner, and reduce the time the Deck Officers must be available by the phone, all Deck Officers must be available for a phone call. Once a Deck Officer has been called he or she will have a maximum of 15 minutes to declare his or her vacation selection. Extra time will not be given to any Deck Officer except in the case of a Deck Officer going to or from work or being at work and temporarily unavailable by phone.

12.10 Vacation Scheduling

Vacation Scheduling will commence no later than the first Monday in October for the succeeding year. Each employee will be sent a vacation request form to select a "minimum" of four (4) calendar weeks, of available vacation leave during the time period of the first work period of January through the last work period of December, consistent with the vessel work cycles. Vacation segments shall be selected concurrent with the

employee's regular days off or free days, except in cases of ten (10) day or nine (9) day watches. In these instances, the vacation segment must begin or end with the employee's days off. Reliefs may choose to schedule their four (4) calendar weeks vacation segments to coincide with their free days or from Sunday to Saturday of the week selected. Any LDO whose work schedule has changed affecting their previously scheduled and approved vacation, and the LDO still wishes to begin and end their vacation to coincide exclusively with the seven (7) day vacation segment selected, must inform dispatch a minimum of thirty (30) days prior to that work cycle. However, the same number of vacation hours must be taken as reflected in the original bid.

12.10.01 Regular Relief, Vacation Relief and extra Relief Deck Officers shall notify the Dispatch Coordinator if they would like the first two (2) days off prior to the commencement of their assigned vacation, or the two (2) days off following their assigned vacation. Notification shall be made thirty (30) days or more in advance of the work period in which their vacation shall begin. If such notification is not made thirty (30) days or more in advance, Regular Relief, Vacation Relief and Extra Relief Deck Officers shall have their two (2) days off assigned.

RULE 16 - PASSES

Current Language: [There is no provision in the existing agreement for 16.06, 16.07 or 16.08]

State's Proposal:

16.06 Vehicle Passes

Vehicle ferry passes are intended to be used for vehicles that they employee and/or spouse have registered, leased or rented. The vehicle registration or lease/rental agreement shall be required to be shown when using passes if requested.

Vehicle passes will not be used to evade a ferry fare. A vehicle not registered, leased or rented by an employee and/or spouse shall be subject to verification by terminal staff. Any pass holder, who is uncooperative in the verification process, shall be subject to WSF code of conduct.

16.07 Violation of Pass Policies

Any employee, employee's spouse or the employee's dependent(s) who knowingly violates WSF Pass Use Policies will be subject to a three (3) month suspension of all pass privileges for a first offense, a one (1) year suspension of all pass privileges for a second offense and permanent revocation of all pass privileges for a third offense. The Employer shall publish and provide to the employees and the union a copy of the rules, regulations and policies concerning pass usage. These rules, regulations and policies shall not be subject to negotiation.

16.08 Taxability

The Employer will comply with all applicable federal and state tax regulations regarding the use of passes.

Union's Proposal:

16.06 Violation of Pass Policy

Any employee who knowingly violates WSF Pass Use Policies will be subject to a three (3) month suspension of pass privileges for a first offense, a one (1) year suspension of pass privileges for a second offense and permanent revocation of pass privileges for a third offense. They employee will publish and provide to the employees and unions a copy of the rules, regulations and policies concerning pass usage.

Analysis

[See analysis for rule 24 on page 36 of this decision]

Award:

16.06 Vehicle Passes

Vehicle ferry passes are intended to be used for vehicles that the employee and/or spouse have registered, leased or rented. The vehicle registration or lease/rental agreement shall be required to be shown when using passes if requested.

Vehicle passes will not be used to evade a ferry fare. A vehicle not registered, leased or rented by an employee and/or spouse shall be subject to verification by terminal staff. Any pass holder, who is uncooperative in the verification process, shall be subject to WSF code of conduct.

16.07 Violation of Pass Policies

Any employee, employee's spouse or the employee's dependent(s) who knowingly violates WSF Pass Use Policies will be subject to a three (3) month suspension of all pass privileges for a first offense, a one (1) year suspension of all pass privileges for a second offense and permanent revocation of all pass privileges for a third offense. Additionally, an egregious violation of WSF Pass Use Policy can result in progressive discipline including the possibility of termination. The Employer shall publish and provide to the employees and the Union a copy of the rules, regulations and policies concerning pass usage. These rules, regulations and policies shall not be subject to negotiation.

RULE 17 - UNIFORM ALLOWANCE AND LICENSE RENEWAL

Current Language:

17.01 Required Uniform

Deck Officers are required to wear a standard uniform; which is as follows: black trousers, (sweat pants, denim are not allowed), all black shoes (sandals and clogs are not allowed), dark hosiery, white uniform shirt with shoulder boards, (polo shirts are not allowed), a black Eisenhower-type jacket with shoulder boards, and a regulation uniform cap or approved baseball cap with gold braid and WSF insignia may be worn as an optional part of the uniform. Deck Officers may purchase, at their own expense, a leather jacket from a mutually agreed upon sole source provider. Maintenance and cleaning of the leather jackets will be at the Deck Officer's expense. The Employer is the sole authority whether any leather jacket will be worn due to its condition. When needed for additional warmth, a black uniform military-type sweater with shoulder boards may be worn under the Eisenhower jacket, or a heavy-duty overcoat of the same color may be worn over it. During inclement weather black rain gear or a black heavy-duty overcoat may be worn over the

standard uniform. Uniforms shall be clean and neatly pressed at all times.

WSF and MM&P shall jointly design a baseball cap to be worn as an optional part of the uniform.

17.04 License Renewal

The employer shall reimburse the cost of all license and document renewal up to one hundred eighty-five dollars (\$185) at five (5) year intervals for license renewals associated with obtaining the Deck Officer's license and Merchant Mariner Credential (MMC) and Transportation Worker Identification Credential (TWIC) as required by any regulatory agencies.

Union's Proposal:

17.01 Required Uniform

Deck Officers are required to wear a standard uniform; which is as follows: black trousers, (sweat pants, denim are not allowed), all black shoes (sandals and clogs are not allowed), dark hosiery, white uniform shirt with shoulder boards, (polo shirts are not allowed), a black Eisenhower-type jacket with shoulder boards, and a regulation uniform cap or approved baseball cap with gold braid and WSF insignia may be worn as an optional part of the uniform. Deck Officers may purchase, at their own expense, a leather jacket from a mutually agreed upon sole source provider. Maintenance and cleaning of the leather jackets will be at the Deck Officer's expense. The Employer is the sole authority whether any leather jacket will be worn due to its condition. When needed for additional warmth, a black uniform military-type sweater or vest with shoulder boards may be worn under the Eisenhower jacket, or a heavy-duty overcoat of the same color may be worn over it. During inclement weather black rain gear or a black heavy-duty overcoat may be worn over the standard uniform. Uniforms shall be clean and neatly pressed at all times.

WSF and MM&P shall jointly design a baseball cap to be worn as an optional part of the uniform.

17.04 License Renewal

The employer shall reimburse the cost of all license and document renewal at five (5) year intervals for license renewals associated with obtaining the Deck Officer's license and Merchant Mariner Credential (MMC) and Transportation Worker Identification Credential (TWIC) as required by any regulatory agencies.

State's Proposal: [No change]

Union's Position:

The TWIC card is a requirement of TSA and necessary for employees to work on the state ferries. Only those workers that are actually on the ferries have to have one. The renewal is every five years so the cost is not excessive to the State. As such it is an expense that the State should reimburse.

State's Position:

The State is willing to pay for a specialized license that is necessary for some employees to perform their jobs. This is a cost of \$185 every five years per employee. The State is not willing to pay for renewal of the TWIC card as it is not specialized. The TWIC card is required to work as a maritime employee and, as such, has become a job qualification rather than a specialized license. Should the Arbitrator award the Union's proposal, the door would be open to all other maritime employees who are required to obtain these cards, somewhere between 15,000 and 17,000 individuals, according to the

testimony of Captain Williams. Now is not the time to open the door to such expenses.

Analysis:

After reflection, the Arbitrator ultimately determined that the TWIC card is similar to a commercial driver's license or other similar threshold requirement for a particular type of employment. Reasonable an employee should acquire and maintain it if he or she desires to work on an airline, ferry boat or other mode of transportation where the TWIC card has been required by TSA.

Award:

17.01 Required Uniform

Deck Officers are required to wear a standard uniform; which is as follows: black trousers, (sweat pants, denim are not allowed), all black shoes (sandals and clogs are not allowed), dark hosiery, white uniform shirt with shoulder boards, (polo shirts are not allowed), a black Eisenhower-type jacket with shoulder boards, and a regulation uniform cap or approved baseball cap with gold braid and WSF insignia may be worn as an optional part of the uniform. Deck Officers may purchase, at their own expense, a leather jacket from a mutually agreed upon sole source provider. Maintenance and cleaning of the leather jackets will be at the Deck Officer's expense. The Employer is the sole authority whether any leather jacket will be worn due to its condition. When needed for additional warmth, a black uniform military-type sweater or vest with shoulder boards may be worn under the Eisenhower jacket, or a heavy-duty overcoat of the same color may be worn over it. During inclement weather black rain gear or a black heavy-duty overcoat may be worn over the standard uniform. Uniforms shall be clean and neatly pressed at all times.

17.04 License Renewal

The employer shall reimburse the cost of all license and document renewal up to one hundred eighty-five dollars (\$185) at five (5) year intervals for license renewals associated with obtaining the Deck Officer's license and Merchant Mariner Credential (MMC) and Transportation Worker Identification Credential (TWIC) as required by any regulatory agencies.

RULE 21 - DISCIPLINE

Current Language:

21.07 Video Monitoring

Information obtained by means of WSF Video Monitoring devices will not be used to initiate or pursue any disciplinary action against a Deck Officer, except in cases involving reportable Marine incidents, or accidents. Information obtained by the Video Monitoring Devices may be released as follows:

21.07.01 To a government agency as required by law,

21.07.02 To a manufacturer, vendor or service provider of such devices or systems as necessary in the normal course of business, provided written agreement is obtained prohibiting release to a third party,

21.07.03 To other parties with the written consent of the employee.

Union's Proposal:

21.07 Video Monitoring/Security Equipment/Key Boxes

Information obtained by means of WSF Video Monitoring/Security Equipment/Key Box devices will not be used to initiate or pursue any disciplinary action against a Deck Officer, except in cases involving reportable Marine incidents, or accidents. Information obtained by the Video Monitoring Devices/Security Equipment/Key Boxes may be released as follows:

21.07.01 To a government agency as required by law,

21.07.02 To a manufacturer, vendor or service provider of such devices or systems as necessary in the normal course of business, provided written agreement is obtained prohibiting release to a third party,

21.07.03 To other parties with the written consent of the employee.

State's Proposal: [No change]

Union's Position: The Union's position is that key boxes are to be used for their intended purpose, which is not to keep track of when employees get on and off the vessels. For time-keeping purposes the Ferry System has time clocks, which are not used in any other place in the State except for accounting. Since employees are not obligated to check out keys until at least 30 minutes after they begin their shifts and can turn them in 30 minutes before the end of their shifts, this is not an accurate method of time-keeping.

State's Position: The State does not suggest that the reason key boxes ought to be maintained is to keep track of the employees' time. However, they are available as a mean of checking on potential abuse by employees. If no abuse is taking place, there should be no opposition to the State's using the means available to confirm that.

Analysis:

The State did not provide a persuasive argument as to why the Union's proposal should be denied.

Award:

21.07 Video Monitoring/Security Equipment/Key Boxes

Information obtained by means of WSF Video Monitoring/Security Equipment/Key Box devices will not be used to initiate or pursue any disciplinary action against a Deck Officer, except in cases involving reportable Marine incidents, or accidents.

Information obtained by the Video Monitoring Devices/Security Equipment/Key Boxes may be released as follows:

21.07.01 To a government agency as required by law,

21.07.02 To a manufacturer, vendor or service provider of such devices or systems as necessary in the normal course of business, provided written agreement is obtained prohibiting release to a third party,

21.07.03 To other parties with the written consent of the employee.

RULE 22 - GRIEVANCE PROCEDURE

Current Language:

22.03 Filing and Processing

A. Filing

A grievance must be filed within thirty (30) days of the occurrence giving rise to the grievance or the date the grievant knew or should reasonably have known of the occurrence. This thirty (30) day period may be used to attempt to informally resolve the dispute.

B. Processing

Step 1 - Director of Operations or Designee:

If the issue is not resolved informally, the Union may present a written grievance to the Director of Operations or designee with a copy to the WSF Labor Relations Office within the thirty (30) day period described above. The Director of Operations or designee will meet or confer by telephone with a union steward and/or staff representative and the grievant within fifteen (15) days of receipt of the grievance, and will respond in writing to the Union within ten (10) days after the meeting.

Step 2 - Ferries Division Assistant Secretary or Designee:

If the grievance is not resolved at Step 1, the Union may request a Step 2 meeting by filing it with the Ferries Division Assistant Secretary or designee, with a copy to the WSF Labor Relations Office, within fifteen (15) days of the Union's receipt of the Step 1 decision. The Ferries Division Assistant Secretary or designee will meet or confer by telephone with a union steward and/or staff representative and the grievant within fifteen (15) days of receipt of the appeal, and will respond in writing to the Union within ten (10) days after the meeting.

Step 3 - Union Delegate Committee Adjudication:

If the grievance is not resolved at Step 2 the grievant or grievants may request in writing a hearing before the Union Delegate Committee within fifteen (15) days of receipt of the Step 2 decision. Such hearing shall be held promptly in accordance with the rules of the Union Delegate Committee. Authorized Employer representatives will be given notice of and entitled to attend such hearing. A written opinion will be sent to all parties involved in the grievance.

Step 4 - Pre-Arbitration Review Meeting:

If the grievance is not resolved at Step 3, the Union may request a pre-arbitration review meeting by filing the written grievance including a copy of all previous responses and supporting documentation with the OFM Labor Relations Office (OFM/LRO) representative with a copy to the agency's Human Resource Office within fifteen (15) days of the Step 1 decision. Within fifteen (15) days of the receipt of all the required information, the OFM/LRO representative or designee will discuss with the Union:

1. If a pre-arbitration review meeting will be scheduled with the OFM/LRO representative or designee, an agency representative, and the Union's staff representative to review and attempt to settle the dispute.
2. If the parties are unable to reach agreement to conduct a meeting, the OFM/LRO representative or designee will notify the Union in writing that no pre-arbitration review meeting will be scheduled. Within fifteen (15) days of receipt of the request, a pre-arbitration review meeting will be scheduled. The meeting will be conducted at a mutually agreeable time. The OFM/LRO will notify the Union, in writing, of the results within ten (10) days of the conclusion of the pre-arbitration review meeting.

Step 5 - Arbitration

If the grievance is not resolved at Step 4, or the OFM/LRO representative or designee notifies the Union in writing that no pre-arbitration review meeting will be scheduled, the Union may file a request for arbitration. The demand to arbitrate the dispute must be filed with the Federal Mediation and Conciliation Service (FMCS) within fifteen (15) days of the Union's receipt of the written notification of results of a pre-arbitration review meeting or receipt of the notice no pre-arbitration review meeting will be scheduled. However, by mutual agreement the parties may instead refer the dispute to the Marine Employees Commission for final resolution.

C. Selecting an Arbitrator

The parties will select an arbitrator by mutual agreement or by alternately striking names supplied by the FMCS.

Union's Proposal:

22.03 Filing and Processing

A. Filing

A grievance must be filed within thirty (30) days of the occurrence giving rise to the grievance or the date the grievant knew or should reasonably have known of the occurrence. This thirty (30) day period may be used to attempt to informally resolve the dispute.

B. Processing

Step 1 - Director of Operations or Designee:

If the issue is not resolved informally, the Union may present a written grievance to the Director of Operations or designee with a copy to the WSF Labor Relations Office within the thirty (30) day period described above. The Director of Operations or designee will meet or confer by telephone with a union steward and/or staff representative and the grievant within fifteen (15) days of receipt of the grievance, and will respond in writing to the Union within ten (10) days after the meeting.

Step 2 - Pre-Arbitration Review Meetings:

If the grievance is not resolved at Step 1, the Union may request a pre-arbitration review meeting by filing the written grievance including a copy of all previous responses and supporting documentation with the OFM Labor Relations Office (OFM/LRO) representative with a copy to the agency's Human Resource Office within fifteen (15) days of the Step 1 decision. Within fifteen (15) days of the receipt of all the required information, the OFM/LRO representative or designee will discuss with the Union:

1. If a pre-arbitration review meeting will be scheduled with the OFM/LRO representative or designee, an agency representative, and the Union's staff representative to review and attempt to settle the dispute.

2. If the parties are unable to reach agreement to conduct a meeting, the OFM/LRO representative or designee will notify the Union in writing that no pre-arbitration review meeting will be scheduled. Within fifteen (15) days of receipt of the request, a pre-arbitration review meeting will be scheduled. The meeting will be conducted at a mutually agreeable time. The OFM/LRO will notify the Union, in writing, of the results within ten (10) days of the conclusion of the pre-arbitration review meeting.

Step 3 - Arbitration

If the grievance is not resolved at Step 2, or the OFM/LRO representative or designee notifies the Union in writing that no pre-arbitration review meeting will be scheduled, the Union may file a request for arbitration.

C. Selecting an Arbitrator

The parties will select an arbitrator by mutual agreement or by alternately striking names supplied by the FMCS.

If a grievance has been processed through Step 3 of the grievance procedure and the parties have not resolved such grievance the Union may select either the FMCS or the MEC to settle the dispute. This will apply to the first five grievance filed after July 1, 2011. The next five grievances not resolved at Step 3, in which the Union seeks arbitration to settle the dispute, the Employer will select either the FMCS or MEC. This approach will continue with the Union selecting between FMCS or the MEC on the next five consecutive grievances, followed by the Employer selecting on the next five grievances, unresolved at Step 3 and the Union desires to proceed to arbitration. Grievances settled between the parties, prior to an arbitration award, will not count as one of the five selections by either party.

The method described above will continue until July 1, 2012 at which time the alternating process will begin again with the Union selection of the first five grievances followed by the Employer and continue until June 30, 2013.

State's Proposal: [No change]

Union's Position:

The State has agreed to the step elimination, so the only issue regarding Rule 22 is whether the Union has the opportunity to take five grievances to MEC prior to going to arbitration. The Union's position is that this is a cost-saving measure for the State. The State does have to pay for MEC, but it has to pay for MEC regardless of whether the Union takes the grievance there or not as testified to by Mr. Covington. There is no basis for the State's being unwilling to adopt the Union's proposal if it wants to save money, as it repeatedly contends.

State's Position:

The State's position on the Union's proposal is that it is unnecessary because the current system of resolving grievances with a minimum of cost works. A review of the number of grievances initially submitted as compared to those which go to arbitration shows that complaints are being resolved with very few going to arbitration. Should the Union not have to help absorb the costs of arbitration, the number of cases that go to hearing would increase. The Union lacks any justification for its proposal other than that IBU has it. The Arbitrator should reject this as a reason to change a system which is currently functional.

Analysis:

Ultimately the Arbitrator found the above argument by the State persuasive, if it works why fix it? More importantly, the Arbitrator is also mindful of the State's concern that the MEC is made up of three commissioners one of which is neutral, one which is a labor representative and one which is a management representative. When the MEC works to resolve a grievance only one commissioner hears the dispute (TR 177, 8/220/10). If the Parties always were assigned the neutral, then the matter would not be particularly troublesome. One side or the other, however, will undoubtedly have difficulty believing that they will receive an impartial decision from a commissioner who is appointed as a representative of the other party.

Award:

22.03 Filing and Processing

A. Filing

A grievance must be filed within thirty (30) days of the occurrence giving rise to the grievance or the date the grievant knew or should reasonably have known of the occurrence. This thirty (30) day period may be used to attempt to informally resolve the dispute.

B. Processing

Step 1 - Director of Operations or Designee:

If the issue is not resolved informally, the Union may present a written grievance to the Director of Operations or designee with a copy to the WSF Labor Relations Office within the thirty (30) day period described above. The Director of Operations or

designee will meet or confer by telephone with a union steward and/or staff representative and the grievant within fifteen (15) days of receipt of the grievance, and will respond in writing to the Union within ten (10) days after the meeting.

Step 2 - Pre-Arbitration Review Meetings:

If the grievance is not resolved at Step 1, the Union may request a pre-arbitration review meeting by filing the written grievance including a copy of all previous responses and supporting documentation with the OFM Labor Relations Office (OFM/LRO) representative with a copy to the agency's Human Resource Office within fifteen (15) days of the Step 1 decision. Within fifteen (15) days of the receipt of all the required information, the OFM/LRO representative or designee will discuss with the Union:

1. If a pre-arbitration review meeting will be scheduled with the OFM/LRO representative or designee, an agency representative, and the Union's staff representative to review and attempt to settle the dispute.
2. If the parties are unable to reach agreement to conduct a meeting, the OFM/LRO representative or designee will notify the Union in writing that no pre-arbitration review meeting will be scheduled. Within fifteen (15) days of receipt of the request, a pre-arbitration review meeting will be scheduled. The meeting will be conducted at a mutually agreeable time. The OFM/LRO will notify the Union, in writing, of the results within ten (10) days of the conclusion of the pre-arbitration review meeting.

Step 3 - Arbitration

If the grievance is not resolved at Step 2, or the OFM/LRO representative or designee notifies the Union in writing that no pre-arbitration review meeting will be scheduled, the Union may file a request for arbitration.

C. Selecting an Arbitrator

The parties will select an arbitrator by mutual agreement or by alternately striking names supplied by the FMCS.

SUMMARY OF THE AWARD FOR MARINE OPERATIONS WATCH SUPERVISORS
2011-2013 COLLECTIVE BARGAINING AGREEMENT

Rule 1 Definitions

1.10 Year Around Employee

The term "year around employee" is any employee who is assigned to a year around position.

All regular full time employees in year around employment shall be guaranteed eighty (80) hours of work in a two (2) week work cycle at the Operations Center so long as the employee does not refuse a reasonable request, consistent with the terms of the collective bargaining agreement, to work.

1.16 Spouse

Spouse means all persons such as a wife, husband, or registered domestic partner as established by RCW 26.60.030.

Rule 11 Classifications and Rates of Pay

11.01 Effective July 1, 2011 the basic wage rate for all Watch Supervisor classifications is thirty dollars and fifty-nine cents (\$30.59) per hour. Effective July 1, 2012 the basic wage rate for all Watch Supervisor classifications is thirty-three dollars and sixty-five cents (\$33.65) per hour.

11.02 Shift premiums will be as follows:

Effective July 1, 2011 and for the life of the agreement the basic shift premium will be sixty-five (\$0.65) cents per hour.

Rule 13 Overtime

No change in the language of Rule 13.

Rule 17 Vacations

17.02 Vacation leave will be credited on the following basis:
(1) the employee must be active at work for one hundred twenty (120) hours during the month; (2) any paid leave will count

toward the one hundred twenty (120) hours eligibility requirement; (3) any leave without pay will not be counted toward the one hundred twenty (120) hours eligibility requirement; (4) holidays for which the employee might otherwise be eligible will count towards eligibility; (5) a work day is based on an employee's scheduled work day.

<u>Years of Service</u>	<u>Vacation Hours</u>
0-1	96
2	104
3	120
4	136
5	160
15	168
16	176
17	186
18	192

Rule 24 Passes

24.07 Vehicle Passes

Vehicle ferry passes are intended to be used for vehicles that the employee and/or spouse have registered, leased or rented. The vehicle registration or lease/rental agreement shall be required to be shown when using passes if requested.

Vehicle passes will not be used to evade a ferry fare. A vehicle not registered, leased or rented by an employee and/or spouse shall be subject to verification by terminal staff. Any pass holder, who is uncooperative in the verification process, shall be subject to WSF code of conduct.

24.08 Violation of Pass Policies

Any employee, employee's spouse or the employee's dependent(s) who knowingly violates WSF Pass Use Policies will be subject to a three (3) month suspension of all pass privileges for a first offense, a one (1) year suspension of all pass privileges for a second offense and permanent revocation of all pass privileges for a third offense. Additionally, an egregious violation of WSF Pass Use Policy can result in progressive discipline including the possibility of termination. The Employer shall publish and provide to the employees and the union a copy of the rules, regulations and policies concerning pass usage.

**SUMMARY OF THE AWARD FOR MM&P DECK OFFICERS 2011-2013 COLLECTIVE
BARGAINING AGREEMENT**

Rule 3 Union Recognition and Security

3.10 Labor Management Committee

A Labor-Management Committee shall be formed for the express purpose of making recommendations on means to improve operating efficiencies and safety on vessels of the Washington State Ferry fleet. General Provisions - See Addendum C. WSF will be responsible for paying wages of participating MMP members on the LMC. Employees will be paid eight (8) hours at the straight-time rate of pay. WSF will not pay mileage to MMP members nor will it pay for travel time beyond the eight hours of pay.

The Committee shall meet at reasonable times and places as mutually agreed, but shall make every effort to meet not less than once every three (3) months. Meetings will be limited to no more than four (4) hours in duration, unless otherwise agreed. Meetings will be held in State facilities or in other mutually agreed upon facilities which may be available at no cost to the parties. The Committee will serve as a conduit for communication between the bargaining unit and the State. It will pro-actively work to identify and resolve potential labor-management problems. The Committee will not function as a substitute for the regular collective bargaining process.

Rule 5 Manning of Vessels [No new language on 5.06]

Rule 8 Hours of Employment and Assignment

8.01 Establishment of Work Periods

1. The principle of the eight (8) hour day is hereby established. For all practical purposes, eight (8) consecutive hours shall constitute one (1) work day. Forty (40) hours shall constitute a work week, and eighty (80) hours shall constitute a two (2) week work schedule. The following work schedules shall be observed:

A. Five (5) consecutive eight (8) hour days followed by two (2) consecutive days off, or

- B. Ten (10) consecutive eight (8) hour days followed by four (4) consecutive days off.
- C. Four (4) consecutive ten (10) hour days followed by three (3) consecutive days off.
- D. Eight (8) ten (10) hour days followed by six (6) consecutive days off.
- E. Nine (9) consecutive nine (9) hour days followed by five (5) consecutive days off totaling eighty one (81) straight time hours.
- F. Five consecutive nine (9) hours days followed by three (3) consecutive days and four (4) consecutive nine (9) hour days followed by two (2) consecutive days off totaling eighty one (81) straight time hours.
- G. By mutual agreement, additional work schedules may be observed.
- H. Employees that are working a schedule as defined in C or D, above, shall be compensated at the straight time rate of pay. Employees that are schedule as defined in E or F, above, shall have the option of having the eighty-first (81st) hour worked in a two week period compensated at the straight time rate of pay or credited with one (1) hour of comp time at the straight time rate of pay.
- I. Operating crews assigned to extra service vessels may be required to work four (4) consecutive ten (10) hour days followed by three (3) consecutive days off.
- J. Deck Officers on Anacortes-San Juan Islands and Sidney routes may be scheduled to work up to ten (10) hours in one (1) day or eighty (80) hours in a two (2) week schedule on touring watches as defined in Rule 8.03 of this labor agreement, without incurring an over-time pay obligation.

In cases where running schedules of vessels will not permit relieving of crew members at port of embarkation within the eight (8) hour day, the overtime penalty will not be incurred; provided, however, that no employee shall work more than nine (9) hours in one (1) day or eighty one (81) hours in a two (2) week work schedule.

2. Limitations on Flexing Shifts

A. For shifts of 10 hours, working hours may flex up or down one half-hour or less in order to permit relieving of crew members at port of embarkation without incurring overtime, subject to committee process in paragraph 3.

B. If schedules include offsetting eight (8) hour shifts, the WSF agrees to pay, no less than eight hours pay for working the short shift for all employees on single day dispatch.

3. Committee Process

A. Before the Employer changes any printed running or crew schedules, the Masters, Mates and Pilots and the Inlandboatmen's Union (Unions) shall jointly be consulted to arrange crew schedules reasonably consistent with the health and safety of Deck Hands, Masters, Mates and Pilots, and with properly and conveniently serving the customer, and to provide shifts for Deck hands, Masters, Mates and Pilots as provided above. The Unions will each name two employees to a committee whose sole purpose will be to examine proposed changes to crew schedules and recommend improvements therein to the schedule changes. Union members will be paid for eight (8) hours at their regular straight-time rate of pay for each committee meeting. Committee meetings will be scheduled to allow time for travel within the eight (8) hour shift. Mileage will be paid as appropriate. If management extends the committee meeting time, then travel time will be paid as appropriate.

B. Should the Employer and the Unions not reach agreement over the proposed crew deck schedules, the Unions may elect to jointly file a grievance and proceed to expedited arbitration based on whether the schedule(s) are reasonably consistent with the health and safety of Deck Hands, Masters, Mates and Pilots.

C. In the event of such a dispute, the parties agree upon the following process:

i. The Unions and the Employer shall select an Independent Standing Arbitrator (Arbitrator) as would be deemed qualified to serve as an arbitrator by the American Arbitration Association. The Unions and the Employer shall meet and each will submit a list of

eleven (11) arbitrators using the strike method until an arbitrator has been selected.

ii. Within five (5) working days of receipt of a grievance being filed as referenced above, the parties shall schedule a meeting with the arbitrator selected. The meeting will be scheduled as expeditiously as possible, but in no event more than fifteen (15) working days from the receipt of the grievance unless otherwise mutually agreed to.

iii. At the arbitration hearing, the Arbitrator shall have the sole and unfettered discretion to consider any evidence that is presented by the representatives, as well as to limit the length or volume of information presented. The Arbitrator shall have the authority to question the representatives and their witnesses, and ask for further information, and to control the conduct of the meeting in any fashion.

iv. Within ten days of the conclusion of the meeting referred to in paragraph three (3) above, the Arbitrator shall inform the parties in writing of his/her decision. The decision shall not alter or amend the terms and conditions of the Collective Bargaining Agreement. The Arbitrator will also include in his/her decision any analysis or reasoning on which the decision is based. Additionally, if the Arbitrator finds the schedule not reasonably consistent with health or safety standards, the arbitrator will provide the parties guidance as to the changes necessary to bring the schedule into compliance. The decision of the arbitrator shall be final and binding upon the Union, the employer and the grievant(s).

All Deck Officers working regular assignments shall receive in wages not less than eighty (80) times the base straight-time rate for each two (2) week work period; provided, however, that such Deck Officers are available for work at the time scheduled by the Employer. Travel time, if any, shall be included within the scheduled work day, to the extent possible, when Deck Officers are assigned to move vessels to a different terminal or to a repair yard, and such vessel moves do not occupy the entire work day.

8.02 Relief at Terminal of Commencement

All Regular Deck Officers shall be relieved at the same terminal where they began their duties; and any such Deck Officer not so relieved shall be paid mileage and wages at the rate of pay applicable to the Deck Officer's classification, whether overtime or straight time, for the total detention time involved. In returning to the Deck Officer's terminal of commencement, the Deck Officer shall exercise the Deck Officer's best efforts to minimize the cost to the Employer for travel pay and mileage consistent with the Deck Officer's safety.

8.03 Establishment of Touring Watches

The Employer may establish touring watches with the reasonable consent of the Union. When a touring watch is established, the employment of Deck Officers assigned to such watches shall be at the straight time rate of pay for each such Deck Officer's classification. No tour may exceed a period of twenty-four (24) hours and there must be a minimum of six (6) hours off duty between work shifts, with the only exception stated in Addendum F (Vashon/Fauntleroy/Southworth #2 Vessel). Whenever the off duty time between work shifts is less than six (6) hours, the Deck Officer's compensation will be continuous at the applicable overtime rate of pay. Further, no touring watch may exceed five (5) consecutive tours to be followed by not less than four (4) consecutive days off duty. Whenever such a touring watch has been established, it shall be subject to change under the same conditions.

Rule 9 **Overtime**

9.01 Extended Work Days

When work is extended fifteen (15) minutes or less beyond the regular assigned work day, such time shall be paid at the overtime rate for one-quarter (1/4) of an hour. Should work be extended by more than fifteen (15) minutes, the time worked beyond the regular assigned work day shall be paid at the overtime rate in increments of one (1) hour. If the extended assignment exceeds five (5) hours, pay for such work shall be at the overtime rate with a minimum of eight (8) hours. Such extended work shifts shall not be scheduled on a daily or regular basis. The Employer shall not abuse the use of overtime to avoid scheduling another crew.

9.01.01 Compensatory Time

An employee may opt to accrue compensatory time off in lieu of overtime pay for any shift, or equivalent, which they would otherwise be guaranteed a full shift of overtime pay, as described in Rule 9. Employees may elect compensatory time, or overtime, or a combination thereof equivalent to the overtime rate of pay.

At the end of the biennium (June 30th) the employee's compensatory time balance will be cashed down to 240 hours. The employee's compensatory time balance will be paid in cash when the employee:

1. Leaves state service for any reason.
2. Transfers to another agency.

Rule 10 Health and Safety

10.03 Sleeping Rooms

Vessels where the hours of assignment are such that a Relief Deck Officer must sleep on-board prior to or after the completion of a work shift shall have separate and reasonably quiet sleeping environments for each Deck Officer so assigned. Additionally, if overtime work establishes a need for bid Deck Officers to sleep on-board prior to or after the completion of a work shift they shall have separate and reasonably quiet sleeping environments. If available, separate and reasonably quiet sleeping environments will not be denied a bid Deck Officer who sleeps over as a matter of personal convenience. Deck Officer sleeping areas are to be equipped to provide cold and hot running water, adequate heating and lighting, and meet WISHA air quality standards as determined by WSF's Industrial Hygienist. No Deck Officer shall be removed from the Deck officer's appropriate quarter. Any failure to comply with the foregoing requirements shall entitle each Deck officer so assigned to reimbursement for the Deck Officer's actual expenses incurred for other sleeping accommodations as a result of such failure. Where no public accommodations are available within reasonable distance from the terminal and the above cannot be complied with, the Deck Officer, upon proper notification, shall be relieved after the commencement of the next assigned watch after completing one round trip, or as soon as possible thereafter at the overtime rate of pay.

10.05 Navigation Equipment Reimbursement: [Retain the language from the existing agreement]

Rule 12 Vacations

12.02 Table of Vacation Credits [Retain existing language]

12.07 Mandatory Vacation Leave

Every Deck Officer shall accrue vacation leave not used; provided, however, that every Deck Officer with more than five (5) years of service with the Employer shall take a minimum of twenty(20) working days in five (5) working day segments of vacation leave annually; and the Delegate Committee shall assign such vacation leave to any Deck Officer who fails to submit a vacation request and is unreachable by phone. The Master with the most seniority (known as the Commodore - Rule 2,01.06) may choose their vacation without submitting a bid. Vacation picks will be done by phone by the delegate committee beginning no later than the first Monday in October, with employees being called in seniority order, until all Masters have been contacted. After all Masters have been contacted, the same process will begin for the Mates. All vacation bidding shall be concluded no later than October 15 of each year.

In order to complete the phone calling in a timely manner, and reduce the time the Deck Officers must be available by the phone, all Deck Officers must be available for a phone call. Once a Deck Officer has been called he or she will have a maximum of 15 minutes to declare his or her vacation selection. Extra time will not be given to any Deck Officer except in the case of a Deck Officer going to or from work or being at work and temporarily unavailable by phone.

12.10 Vacation Scheduling

Vacation Scheduling will commence no later than the first Monday in October for the succeeding year. Each employee will be sent a vacation request form to select a "minimum" of four (4) calendar weeks, of available vacation leave during the time period of the first work period of January through the last work period of December, consistent with the vessel work cycles. Vacation segments shall be selected concurrent with the employee's regular days off or free days, except in cases of ten (10) day or nine (9) day watches. In these instances, the

vacation segment must begin or end with the employee's days off. Reliefs may choose to schedule their four (4) calendar weeks vacation segments to coincide with their free days or from Sunday to Saturday of the week selected. Any LDO whose work schedule has changed affecting their previously scheduled and approved vacation, and the LDO still wishes to begin and end their vacation to coincide exclusively with the seven (7) day vacation segment selected, must inform dispatch a minimum of thirty (30) days prior to that work cycle. However, the same number of vacation hours must be taken as reflected in the original bid.

12.10.01 Regular Relief, Vacation Relief and extra Relief Deck Officers shall notify the Dispatch Coordinator if they would like the first two (2) days off prior to the commencement of their assigned vacation, or the two (2) days off following their assigned vacation. Notification shall be made thirty (30) days or more in advance of the work period in which their vacation shall begin. If such notification is not made thirty (30) days or more in advance, Regular Relief, Vacation Relief and Extra Relief Deck Officers shall have their two (2) days off assigned.

Rule 16 Passes

16.06 Vehicle Passes

Vehicle ferry passes are intended to be used for vehicles that the employee and/or spouse have registered, leased or rented. The vehicle registration or lease/rental agreement shall be required to be shown when using passes if requested.

Vehicle passes will not be used to evade a ferry fare. A vehicle not registered, leased or rented by an employee and/or spouse shall be subject to verification by terminal staff. Any pass holder, who is uncooperative in the verification process, shall be subject to WSF code of conduct.

16.07 Violation of Pass Policies

Any employee, employee's spouse or the employee's dependent(s) who knowingly violates WSF Pass Use Policies will be subject to a three (3) month suspension of all pass privileges for a first offense, a one (1) year suspension of all pass privileges for a second offense and permanent revocation of all pass privileges

for a third offense. Additionally, an egregious violation of WSF Pass Use Policy can result in progressive discipline including the possibility of termination. The Employer shall publish and provide to the employees and the Union a copy of the rules, regulations and policies concerning pass usage. These rules, regulations and policies shall not be subject to negotiation.

Rule 17 Uniform Allowance and License Renewal

17.01 Required Uniform

Deck Officers are required to wear a standard uniform; which is as follows: black trousers, (sweat pants, denim are not allowed), all black shoes (sandals and clogs are not allowed), dark hosiery, white uniform shirt with shoulder boards, (polo shirts are not allowed), a black Eisenhower-type jacket with shoulder boards, and a regulation uniform cap or approved baseball cap with gold braid and WSF insignia may be worn as an optional part of the uniform. Deck Officers may purchase, at their own expense, a leather jacket from a mutually agreed upon sole source provider. Maintenance and cleaning of the leather jackets will be at the Deck Officer's expense. The Employer is the sole authority whether any leather jacket will be worn due to its condition. When needed for additional warmth, a black uniform military-type sweater or vest with shoulder boards may be worn under the Eisenhower jacket, or a heavy-duty overcoat of the same color may be worn over it. During inclement weather black rain gear or a black heavy-duty overcoat may be worn over the standard uniform. Uniforms shall be clean and neatly pressed at all times.

17.04 License Renewal

The employer shall reimburse the cost of all license and document renewal up to one hundred eighty-five dollars (\$185) at five (5) year intervals for license renewals associated with obtaining the Deck Officer's license and Merchant Mariner Credential (MMC) and Transportation Worker Identification Credential (TWIC) as required by any regulatory agencies.

Rule 21 Discipline

21.07 Video Monitoring/Security Equipment/Key Boxes

Information obtained by means of WSF Video Monitoring/Security Equipment/Key Box devices will not be used to initiate or pursue any disciplinary action against a Deck Officer, except in cases involving reportable Marine incidents, or accidents. Information obtained by the Video Monitoring Devices/Security Equipment/Key Boxes may be released as follows:

21.07.01 To a government agency as required by law,

21.07.02 To a manufacturer, vendor or service provider of such devices or systems as necessary in the normal course of business, provided written agreement is obtained prohibiting release to a third party,

21.07.03 To other parties with the written consent of the employee.

Rule 22 Grievance Procedure

22.03 Filing and Processing

A. Filing

A grievance must be filed within thirty (30) days of the occurrence giving rise to the grievance or the date the grievant knew or should reasonably have known of the occurrence. This thirty (30) day period may be used to attempt to informally resolve the dispute.

B. Processing

Step 1 - Director of Operations or Designee:

If the issue is not resolved informally, the Union may present a written grievance to the Director of Operations or designee with a copy to the WSF Labor Relations Office within the thirty (30) day period described above. The Director of Operations or designee will meet or confer by telephone with a union steward and/or staff representative and the grievant within fifteen (15) days of receipt of the grievance, and will respond in writing to the Union within ten (10) days after the meeting.

Step 2 - Pre-Arbitration Review Meetings:

If the grievance is not resolved at Step 1, the Union may request a pre-arbitration review meeting by filing the written grievance including a copy of all previous responses and supporting documentation with the OFM Labor Relations Office (OFM/LRO) representative with a copy to the agency's Human Resource Office within fifteen (15) days of the Step 1 decision. Within fifteen (15) days of the receipt of all the required information, the OFM/LRO representative or designee will discuss with the Union:

1. If a pre-arbitration review meeting will be scheduled with the OFM/LRO representative or designee, an agency representative, and the Union's staff representative to review and attempt to settle the dispute.
2. If the parties are unable to reach agreement to conduct a meeting, the OFM/LRO representative or designee will notify the Union in writing that no pre-arbitration review meeting will be scheduled. Within fifteen (15) days of receipt of the request, a pre-arbitration review meeting will be scheduled. The meeting will be conducted at a mutually agreeable time. The OFM/LRO will notify the Union, in writing, of the results within ten (10) days of the conclusion of the pre-arbitration review meeting.

Step 3 - Arbitration

If the grievance is not resolved at Step 2, or the OFM/LRO representative or designee notifies the Union in writing that no pre-arbitration review meeting will be scheduled, the Union may file a request for arbitration.

C. Selecting an Arbitrator

The parties will select an arbitrator by mutual agreement or by alternately striking names supplied by the FMCS.

Respectfully submitted on this the of 23rd of September, 2010,
by,

Timothy D.W. Williams
Arbitrator