

**REVIEW COMMITTEE****PG and E****IBEW** 

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D.J. BERGMAN, CHAIRMAN

- DECISION  
 LETTER DECISION  
 PRE-REVIEW REFERRAL

General Construction Grievance No. 3-1175-83-18  
 P-RC 864

January 30, 1984

MR. R. S. BAIN, Chairman  
 General Construction  
 Joint Grievance Committee

MR. BOB CALLENDER, Chairman  
 General Construction  
 Joint Grievance Committee

Grievance Issue

Alleged improper decision to discontinue work because of inclement weather.

Facts of the Case

At approximately 8:30 a.m. on February 28, 1983, the Stockton area General Construction Gas General Foreman telephoned his Working Foreman at McDonald Island and discussed the conditions at the job site. (It was raining that morning, and the island had been recently flooded.) After reviewing the situation with the Working Foreman, the General Foreman decided that all employees at the site except the Working Foreman and two Welders should be sent home. All employees except the Working Foreman and one Welder departed the job site at approximately 9:00 a.m.; the other Welder who had been scheduled to continue working requested to be released at 9:00 because he was commuting with one of the other employees. Prior to their release from work, the employees were instructed to not return to the job until March 4, 1983.

On March 1, 1983, all of the employees who were sent home from McDonald Island on February 28 remained at home as instructed. However, during the afternoon of March 1, the employees were contacted at home and instructed to return to work the next day. The employees returned to work on March 2 as instructed.

The Union alleged that the General Foreman used a long-range weather forecast to justify sending the subject employees home on February 28; and that he did not comply with the intent or language of Section 303.5 of the Agreement, specifically, that he did not properly consult with the bargaining unit Foreman on the job or personally examine the job site.

The General Foreman told the Local Investigating Committee that it rained very heavily on February 28, and that it continued to rain heavily until the next morning, March 1. He stated that his decision to release the employees from the McDonald Island site on February 28 was based on his judgement of the situation after discussing the job conditions with the Working Foreman; that the

Working Foreman told him that the ground was very slippery and wet, and that the Working Foreman's recommendation was to send everyone home except for the two Welders who would be able to perform their work under cover. The General Foreman also stated that he visually inspected the job site on the afternoon of February 28, and found that there was approximately three inches of mud at the site and that it was difficult to walk, let alone work.

The Working Foreman denied that he recommended to the General Foreman that the crew members be sent home, since the work they were performing consisted of cleaning up the debris which had been scattered when the island was flooded; that the only other work being performed at that time was done by the two Welders, who were working on drainage screens; that the working conditions at the job site on February 28 were the same as they have been for at least the previous month; that it had been raining on and off for weeks; that in his opinion, there was no hazard or danger in allowing the crew to continue to work; that the crew could have worked as safely and at least as productively as they had in the weeks immediately prior to February 28.

### Discussion

Section 303.1 of the Agreement reads as follows:

"Regular employees who report for work on a workday, but are prevented from working in the field because of inclement weather or other similar cause shall, if practicable, be held pending emergency calls, or may be given first aid, safety or other instruction, or may be required to perform miscellaneous work at locations unaffected by inclement weather conditions."

Section 303.5 of the Agreement reads as follows:

"The decision to close down a job or a portion of a job and send employees home under this Title shall be made by a supervisor when, in his reasonable judgement, the weather, ground, or other conditions at the worksite make it impractical to work efficiently, productively or safely. The decision will be made by an exempt supervisor who personally examined the conditions at the worksite and who has evaluated the availability of other miscellaneous work or training as provided for in Section 303.1, except in those cases where such a supervisor is not able to personally examine such worksite. When the exempt supervisor is unable to personally examine such worksite, he shall consult with a bargaining unit supervisor who is familiar with such worksite. If an employee is sent home and conditions improve to the point at his worksite that work can be performed efficiently, productively and safely, the Company will make a good faith effort to call the employee back to work on the earliest workday possible regardless of the number of days off originally anticipated."

Despite the fact that the General Foreman and the Working Foreman gave conflicting testimonies to the Local Investigating Committee about whether the Working Foreman recommended that most of the employees at McDonald Island should be sent home on February 28, the Pre-Review Committee can find no indication in

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the record that the General Foreman violated the language of Section 303.5. That Section only requires that an exempt supervisor "consult" with a bargaining unit supervisor prior to deciding whether to send employees home; there is nothing in the Agreement which requires an exempt supervisor to solicit a recommendation from the bargaining unit supervisor in such cases, or to follow such recommendation if given.

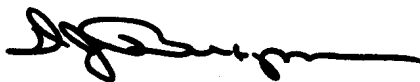
However, the Pre-Review Committee agrees that the intent of Section 303.5 is to provide an established method for exempt supervision to determine the actual conditions at the job site, and that this determination should be based on knowledge obtained, or recommendations made following an actual inspection of the job site by the exempt supervisor or the bargaining unit supervisor at the job site.

The Committee noted that, in response to a question from the Local Investigating Committee, the General Foreman stated that he did not seriously consider safety, first aid, etc., meetings or alternative work because there was no facility for such training at McDonald Island and definitely no other work was available on February 28. The record also indicates that the last first aid meeting in the area occurred on February 11, 1983.

Union members of the Pre-Review Committee opined that the language of Section 303.1 of the Agreement does not intend that the supervisor is excused from considering safety, first aid, or other instructional meetings because there is no "facility" available in which to conduct such meetings. Union opined that such meetings should be conducted in any crew assembly building, office trailer, tool room, or any other available covered area. In this case, had such meeting been conducted, it reasonably would have taken place on the morning of February 28. Inasmuch as the grievants were released at 9:00 a.m. and paid until 12:00 noon, no adjustment is necessary.

#### Decision

This case is closed without adjustment.



D. J. BERGMAN, Chairman  
Review Committee



R. W. STALCUP, Secretary  
Review Committee

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