

In the Matter of ONSET WATER DEPARTMENT  
and

MASSACHUSETTS LABORERS' DISTRICT COUNCIL,  
LABORERS INTERNATIONAL UNION OF NORTH  
AMERICA

Case No. CAS-08-3736

33. *Consent Agreements and Stipulations*  
34.92 *clarification*

August 5, 2009

Marjorie F. Wittner, Chair  
Elizabeth Neumeier, Board Member

David T. Gay, Esq. *Representing the Onset Water  
Department*

Joseph T. McArdle, Esq. *Representing the Massachusetts  
Laborers' District Council*

#### ORDER PURSUANT TO STIPULATION

In July 2005, the Onset Water Department (Petitioner or Water Department) voluntarily recognized the Massachusetts Laborers' District Council, Laborers International Union of North America (Union) as the exclusive collective bargaining representative of a bargaining unit consisting of Water Department employees in the following titles: Officer Manager, Laborers/Water Techs, one part-time clerical assistant and the Superintendent. The parties entered into a collective bargaining agreement that was effective by its terms from July 1, 2005 through June 30, 2008. On September 30, 2008, the Water Department filed a petition with the Division of Labor Relations (Division) seeking to exclude the Superintendent from the recognized bargaining unit on grounds that the incumbent in the position managed the oversight of the entire Water Department and participated in collective bargaining with management. On October 10, 2008, the Petitioner filed a written submission with the Division in support of the petition. The Union did not file a reply to the Petitioner's written submission.

On July 20, 2009, the parties jointly filed a stipulation with the Division, agreeing that the position of Superintendent should be removed from the bargaining unit and made a management position for the reasons set forth in the Petitioner's written submission of October 10, 2008. The parties requested that the Division enter an Order pursuant to the stipulation.

The Commonwealth Employment Relations Board (Board) will adopt a parties' stipulation where the issues raised by a petition are resolved by agreement of the parties and the stipulation does not appear to conflict with the Law or with established Board precedent or policy. *Town of Hopedale*, 20 MLC 1059, 1067 (1993) (citing *Board of Trustees, State Colleges*, 4 MLC 1427, 1428 (1977)). Here, the parties' stipulation does not appear to involve any such conflict. Accordingly, we conclude that the position of Superin-

tendent is appropriately removed from the bargaining unit for which the Union is the exclusive representative.

SO ORDERED.

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