

**RESOLUTION 00-609  
EMPLOYER-EMPLOYEE ORGANIZATION RELATIONS RESOLUTION  
BY THE  
BOARD OF DIRECTORS  
OF THE  
JOSHUA BASIN WATER DISTRICT**

**ARTICLE 1. GENERAL PROVISIONS**

***Section 1. Statement of Purpose.***

This Resolution implements Chapter 10, Division 4, Title 1 of the Government Code of the State of California (Sections 3500 et seq.) captioned "Local Public Employee Organizations," by providing orderly procedures for the administration of employer-employee relations between the District and its employee organizations.

It is the purpose of this Resolution to provide procedures for meeting and conferring in good faith with Recognized Employee Organizations regarding matters that directly affect and primarily involve the wages, hours and other terms and conditions of employment of employees in appropriate units and that are not preempted by federal or state law. However, nothing herein shall be construed to restrict any legal or inherent exclusive District rights with respect to matters of general legislative or managerial policy, which include among others: The exclusive right to determine the District's mission and direction; set standards of service; determine the procedures and standards of selection for employment; direct its employees; take disciplinary action; relieve its employees from duty because of lack of work or for other lawful reasons; maintain the efficiency of the District's operations; determine the methods, means and personnel by which the District's operations are to be conducted; take all necessary actions to carry out the District's mission in emergencies; and exercise complete control and discretion over the District's organization and the technology of performing its work.

***Section 2. Definitions***

As used in this Resolution, the following terms shall have the meanings indicated:

- a. "Appropriate Unit" means a unit of employee classes or positions, established pursuant to Article II.
- b. "District" means the Joshua Basin Water District, and where appropriate, refers to the Board of Directors or any duly authorized District representative.

- c. "Confidential Employee" means an employee who, in the course of his or her duties, has access to confidential information relating to the District's administration of employer-employee relations.
- d. "Day" means calendar day unless expressly stated otherwise.
- e. "Employee Relations Officer" means the Assistant General Manager of the District or any other person who is designated by the General Manager of the District as the representative responsible for employee relations.
- f. "Impasse" means that the representatives of the District and a Recognized Employee Organization have reached a point in their meeting and conferring in good faith where their differences on matters to be included in a Memorandum of Understanding, and concerning which they are required to meet and confer, remain so substantial and prolonged that further meeting and conferring would be futile, and the last, best and final offer has been refused.
- g. "Management Employee" means an employee having responsibility for formulating, administering or managing the implementation of District policies and programs.
- h. "Meeting and Conferring in Good Faith" means to communicate orally or in writing for the purpose of presenting and obtaining views or advising of intended actions regarding matters within the required scope of the meet and confer process.
- i. "Proof of Employee Support" means either (1) an authorization card personally signed and dated by an employee within the previous three months, (2) a verified authorization petition or petitions personally signed and dated by an employee within the previous three months, or (3) written authorization on a District-provided form for payment of dues via payroll deduction. The only authorization that shall be considered as proof of employee support hereunder shall be the authorization last signed by an employee.
- j. "Exclusively Recognized Employee Organization" means an employee organization that has been formally acknowledged by the District as the sole employee organization representing the employees in an appropriate representation unit pursuant to Article II, having the exclusive rights to meet and confer in good faith concerning statutorily required subjects pertaining to unit employees, and thereby assuming the corresponding obligation of fairly representing such employees.
- k. "Supervisory Employee" means any employee having authority, in the interest of the District, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or to responsibly to direct them, or to adjust their grievances. This also includes any employee having the authority to recommend such action if the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgement.

## **ARTICLE II. REPRESENTATION PROCEEDINGS**

### ***Section 3. Filing of Recognition Petition by Employee Organization***

An employee organization that seeks to be formally acknowledged as the Exclusively Recognized Employee Organization representing the District's employees in an appropriate unit shall file a petition with the Employee Relations Officer containing the following information and documentation.

- a. Name and address of the employee organization.
- b. Names and titles of its officers.
- c. Names of employee organization representatives who are authorized to speak on behalf of the organization.
- d. A statement that the employee organization has, as one of its primary purposes, the responsibility of representing employees in the employment relations with the District.
- e. A statement whether the employee organization is a chapter of, or affiliated directly or indirectly in any manner, with a local, regional, state, national or international organization, and, if so, the name and address of each such other organization.
- f. Certified copies of the employee organization's constitution and bylaws.
- g. A designation of those persons, not exceeding two in number, and their addresses, to whom notice sent by regular United States mail will be deemed sufficient notice on the employee organization for any purpose.
- h. A statement that the employee organization has no restriction on membership based on race, color, creed, sex, national origin, age, or physical disability.
- i. The job classifications or position titles of employees in the unit claimed to be appropriate and the approximate number of member employees therein.
- j. A statement that the employee organization has in its possession proof of employee support as herein defined to establish that a majority of the employees in the unit claimed to be appropriate have designated the employee organization to represent them in their employment relations with the District. Such written proof shall be submitted for confirmation to the clerk or secretary of the Board of Directors or to a mutually agreed upon disinterested third party.
- k. A request that the Board of Directors formally acknowledge the petitioner as the Exclusively Recognized Employee Organization representing the employees in the unit claimed to be appropriate for the purpose of meeting and conferring in good faith.

The petition, including the proof of employee support and all accompanying documentation, shall be declared to be true, correct and complete, under penalty of perjury, by the duly authorized officer(s) of the employee organization executing it.

#### ***Section 4. District Response to Recognition Petition.***

Upon receipt of the petition, the Employee Relations Officer shall determine whether:

- a. There has been compliance with the requirements of the Recognition Petition, and
- b. The proposed representation unit is an appropriate unit in accordance with Section 8.

If an affirmative determination is made by the Employee Relations Officer on the foregoing two matters, he/she shall so inform the Board of Directors, the petitioning employee organization, and shall give written notice of such request for recognition to the employees in the unit, and shall take no action on said request for thirty (30) days thereafter.

If either of the forgoing matters are not affirmatively determined, the Employee Relations Officer shall offer to meet and confer with such petitioning employee organization and, if such determination thereafter remains unchanged, shall inform that organization of the reasons therefor in writing. The petitioning employee organization may appeal such determination in accordance with Section 10.

#### ***Section 5. Open Period for Filing Challenging Petition.***

Within thirty (30) days of the date written notice was given to affected employees that a valid recognition petition for an appropriate unit has been filed, any other employee organization may file a competing request to be formally acknowledged as the exclusively recognized employee organization of District employees in the same or in an overlapping unit (i.e., one which corresponds with respect to some but not all the classifications or positions set forth in the recognition petition being challenged). The other employee organization shall do so by filing a petition evidencing proof of employee support in the unit claimed to be appropriate of at least thirty (30) percent and otherwise in the same form and manner as set forth in Section 4. If such challenging petition seeks establishment of an overlapping unit, the Employee Relations Officer shall call for a hearing before the Board of Directors on such overlapping petitions for the purpose of ascertaining the more appropriate unit, at which time the petitioning employee organizations shall be heard. Thereafter, the Board of Directors shall determine the appropriate unit or units in accordance with the standards in Section 8. The petitioning employee organizations shall have fifteen (15) days from the date notice of such unit determination is communicated to them by the Employee Relations Officer to amend their petitions to conform to such determination or to appeal such determination pursuant to Section 10.

#### ***Section 6. Election Procedures.***

The Employee Relations Officer shall arrange for a secret ballot election to be conducted by a party agreed to by the Employee Relations Officer and the concerned

employee organization(s), in accordance with its rules and procedures subject to the provision of this Resolution. All employee organizations that have duly submitted petitions that have been determined to be in conformance with this Article II, shall be included on the ballot. The ballot shall also indicate that the employees have the choice of voting for union or employee association representation, or voting against union or employee association representation. Employees entitled to vote in such election shall be those persons employed in regular permanent positions within the designated appropriate unit, who were employed during the pay period immediately prior to the date which ended at least fifteen (15) days before the date the election commences, including those who did not work during such period because of illness, vacation or other authorized leaves of absence, and who are employed by the District in the same unit on the date of the election.

An employee organization shall be formally acknowledged as the Exclusively Recognized Employee Organization for the designated appropriate unit following an election or run-off election if it received a numerical majority of all valid votes cast in the election. In an election involving three or more choices, where none of the choices receives a majority of the valid votes case, a run-off election shall be conducted between the two choices receiving the largest number of valid votes cast; the rules governing an initial election being applicable to a run-off election.

During the period of twelve (12) months after the an election is held, there shall be no recognition petitions filed for a unit that includes any of the employees or positions that were eligible to vote in the completed election.

In the event that the parties are unable to agree on a third party to conduct an election, the election shall be conducted by the State of California Mediation and Conciliation Service.

Costs of conducting such elections shall be borne in equal shares by the District and each employee organization appearing on the ballot.

### ***Section 7. Procedure for Decertification of Exclusively Recognized Employee Organization***

A Decertification Petition alleging that the incumbent Exclusively Recognized Employee Organization no longer represents a majority of the employees in an established appropriate unit may be filed with the Employee Relations Officer by one or more employees or their representative, an employee organization, or the Employee Relations Officer. No Decertification Petition shall be filed before the first anniversary of the organization's recognition by the District.

A Decertification Petition shall contain the following information and documentation declared by the duly authorized signatory under penalty of perjury to be true, correct and complete:

- a. The name, address and telephone number of the petitioner and a designated representative authorized to receive notices or requests for further information.
- b. The name of the established appropriate unit and of the incumbent Exclusively Recognized Employee Organization sought to be decertified as the representative of that unit.
- c. An allegation that the incumbent Exclusively Recognized Employee Organization no longer represents a majority of the employees in the appropriate unit, and any other relevant and material facts relating thereto.
- d. Proof of employee support that at least thirty (30) percent of the employees in the established appropriate unit no longer desire to be represented by the incumbent Exclusively Recognized Employee Organization. Such proof of employee support shall be submitted for confirmation to the clerk or secretary of the Board of Directors or to a mutually agreed upon disinterested third party within the time limits specified in the first paragraph of this Section.

An employee organization, may, in satisfaction of the Decertification Petition requirements hereunder, file a Petition under this section in the form of a Recognition Petition that evidences proof of employee support of at least thirty (30) percent that includes the allegation and information required under Section 7, paragraph (c), and otherwise complies with Section 3.

The Employee Relations Officer shall initially determine whether the Petition has been filed in compliance with the applicable provisions of Article II. If this determination is in the negative, he/she shall offer to meet and confer with the representative(s) of the petitioning employees or employee organization and, if the determination remains unchanged, shall return the Petition with a written statement of the reasons for rejection. The petitioning employees or employee organization may appeal such determination in accordance with Section 10. If the determination of the Employee Relations Officer is in the affirmative, or if his negative determination is reversed on appeal, he shall give written notice of the Decertification or Recognition Petition to the incumbent Exclusively Recognized Employee Organization and to the unit employees.

The Employee Relations Officer shall thereupon arrange for a secret ballot election to be held on or about fifteen (15) days after such notice to determine the wishes of unit employees as to the question of decertification and, if a Recognition Petition was duly filed hereunder, the question of representation. Such election shall be conducted in conformance with Section 6.

If pursuant to this Section 7, a different employee organization is formally acknowledged as the Exclusively Recognized Employee Organization, such organization shall be bound by all the terms and conditions of any Memorandum of Understanding then in effect for its remaining term.

### ***Section 8. Policy and Standards for Determination of Appropriate Units.***

The policy objectives in determining the appropriateness of units shall be the effect of a proposed unit on: (1) the efficient operations of the District and its compatibility with the primary responsibility of the District and its employees to effectively and economically serve the public and, (2) providing employees with effective representation based on recognized community of interest considerations. Factors to be considered shall be:

- a. Similarity of the general kinds of work performed, types of qualifications required, and the general working conditions,
- b. History of representation in the District and similar employment; except however, that no unit shall be determined to be an appropriate unit solely on the basis of the extent to which employees in the proposed unit have organized;
- c. Consistency with the management, supervisory and organizational structure of the District;
- d. Number of employees and classifications, and the effect on the administration of employer-employee relations created by the fragmentation of classifications and proliferation of units; and
- e. Effect on the classification structure and impact on the stability of the employer-employee relationship of dividing a single or related classification among two or more units.

Notwithstanding the forgoing provisions of this Section, managerial, supervisory and confidential employees, as defined in Section 2, may only be included in a unit consisting solely of managerial, supervisory or confidential employees, respectively. Managerial, supervisory and confidential employees may not represent, or be included in any employee organization that represents any other classification of employees.

The Board of Directors shall, after notice to and consultation with affected employee organizations by the Employee Relations Officer, allocate new classifications or positions, delete eliminated classifications or new positions, and retain, reallocate or delete modified classifications or positions from units in accordance with the provisions of this Section.

### ***Section 9. Procedure for Modification of Established Appropriate Units.***

Requests by employee organizations for modifications of established appropriate units may be considered by the Board of Directors at their discretion. Such requests shall be submitted in the form of a Recognition Petition and, in addition to the requirements set forth in Section 4, shall contain a complete statement of all relevant facts and citations in supports of the proposed modified unit in terms of the policies and

standards set forth in Section 8. The Employee Relations Officer shall process such petitions as other Recognition Petitions under Article II.

The Employee Relations Officer may on his/her own motion propose modifications to an established unit. The Employee Relations Officer shall do so by giving written notice of the proposed modification(s) to the Board of Directors for hearing at a regularly scheduled Board meeting, at which time all affected employee organizations shall be heard. Thereafter, the Board of Directors shall determine the composition of the appropriate unit or units in accordance with Section 8, and shall give written notice of such determination to the affected employee organizations.

### ***Section 10. Appeals***

An employee organization aggrieved by an appropriate unit or other determination of the Board of Directors may, within ten (10) days of notice thereof, request the intervention of the California Mediation and Conciliation Service pursuant to Government Code Sections 3507.1 and 3507.3.

An employee organization or employee aggrieved by a determination of the Employee Relations Officer may, within fifteen (15) days of notice of the determination, appeal the determination to the Board of Directors for final decision.

Appeals to the Board of Directors shall be filed in writing with the Board's clerk or secretary, and a copy thereof served on the Employee Relations Officer. The Board of Directors may, in its discretion refer the dispute to the California Mediation and Conciliation Service. Any decision of the Board of Directors determining the merits of the appeal shall be final and binding.

## **ARTICLE III. ADMINISTRATION**

### ***Section 11. Submission of Current Information by Recognized Employee Organizations.***

All changes in the information filed with the District by an Exclusively Recognized Employee Organization under items (a) through (h) of its Recognition Petition under Section 3 of this Resolution shall be submitted in writing to the Employee Relations Officer within fourteen (14) days of such change.

### ***Section 12. Payroll Deductions on Behalf of Employee Organizations.***

If the District has formally acknowledged an Exclusively Recognized Employee Organization under this Resolution, the employees represented by the organization may provide written authorization on forms provided by the District for payroll deductions of



membership dues. Such authorizations shall be contingent upon and in accordance with the provisions of a Memorandum of Understanding (hereafter MOU) and/or applicable District administrative procedures.

***Section 13. Employee Organization Activities – Use of District Resources.***

Access to District work locations and the use of District paid time, facilities, equipment and other resources by an Exclusively Recognized Employee Organization and those representing them shall be authorized only to the extent provided for in the MOU and administrative procedures, shall be limited to lawful activity consistent with the provisions of this Resolution that pertain directly to the employer-employee relationship, and shall not interfere with the efficiency, safety and security of the District's operations.

***Section 14. Administrative Rules and Procedures.***

The General Manager is hereby authorized to establish such rules and procedures as appropriate to implement and administer the provisions of this Resolution and meeting and conferring with any Exclusively Recognized Employee Organization.

**ARTICLE IV. IMPASSE PROCEDURES**

***Section 15. Initiation of Impasse Procedures.***

If the Meet and Confer process has reached impasse as defined in this Resolution, either party may initiate the impasse procedures by filing with the other party a written request for an impasse meeting, together with a statement of its position on all issues. An impasse meeting shall then be scheduled promptly by the Employee Relations Officer. The purpose of such meeting shall be:

- a. To review the position of the parties in a final effort to reach agreement on an MOU;  
or
- b. If the impasse is not resolved, to discuss arrangements for a hearing on the issue before the Board of Directors

***Section 16. Impasse Hearing Before the Board of Directors.***

The Employee Relations Officer shall notify the Board of Directors of the impasse within twenty-four (24) hours of its declaration, and shall cause the issue to be placed on the agenda of the next regularly scheduled meeting of the Board. The following format will be used to hear comments regarding this issue:

- a. At the meeting, the Employee Relations Officer shall first have an opportunity to present information pertaining to the current negotiations including the number and frequency of meetings, issues of agreement and disagreement, and staff recommendations. Such presentation shall take no longer than one-half (1/2) hour.
- b. One designated representative of the Exclusively Recognized Employee Organization shall have the opportunity to address the Board regarding the Union's position, the impasse, resolution and any other item directly pertaining to the impasse issue at hand. Such presentation shall take no longer than one-half (1/2) hour. Other employees wishing to speak on behalf of the issue may take no longer than 3 minutes to speak; a total time limit of 30 minutes of comments will apply to this issue.
- c. Each member of the public desiring to comment on the issue may take no longer than 3 minutes to speak, a total time limit of 30 minutes of comments will apply to this issue.
- d. The Employee Relations Officer shall be provided ten minutes to rebut assertions made by the Exclusively Recognized Employee Organization representative and employees.
- e. The Board of Directors shall have the opportunity to question meeting attendees regarding this issue at such length and duration as they deem appropriate.
- f. The Board of Directors may take such action regarding the impasse as it in its discretion deems appropriate and in the public interest. Any legislative action by the Board of Directors on the Impasse shall be final and binding.

Adopted this 15<sup>th</sup> day of March, 2000

By

  
Richard Fountain, President

Attest

  
Terry Lyons, Secretary

**Attachment "A"**

**Proposed Bargaining Units**

**Management, Supervisory & Confidential Unit**

**Assistant General Manager  
Engineer  
Superintendent  
Executive Secretary  
Accountant-Personnel Analyst  
Foreman**

**General Employees Unit**

**Account Clerk I  
Account Clerk II  
Accounts Receivable  
Customer Service/Cashier  
Part-Time General Office  
Pumpman  
Maintenance II/ Pumpman  
Maintenance II/ Support Services  
Maintenance II/ Equipment Operator  
Maintenance I**