

March 24, 2009

Page 1

BEFORE THE STATE OF CALIFORNIA
PUBLIC EMPLOYMENT RELATIONS BOARD

In the Matter of:)
)
STATE OF CALIFORNIA, Employer,) Unfair Practice
and PEACE OFFICERS OF CALIFORNIA,) Charge No.
Petitioner, and CALIFORNIA) SA-SV-171-S
STATEWIDE LAW ENFORCEMENT ASSOC.,)

Exclusive Representative.)
)

)

MARCH 24, 2009

SHAWN CLOUGHESY
Administrative Law Judge

PUBLIC EMPLOYMENT RELATIONS BOARD
1031 18th Street, Room 214
Sacramento, CA

Transcribed by: Leisa M. Miller

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

APPEARANCES

Administrative Law Judge

SHAWN CLOUGHESY

Representing Employer:

SHANNAN TRUONG
Labor Relations Counsel

Department of Personnel Administration
1515 "S" Street, North Building, Suite 400
Sacramento, CA 95811

Representing CSLEA:

GARY MESSING, Esq.
Carroll, Burdick & McDonough, LLP
1007 7th Street, Suite 200
Sacramento, CA 95814-3409

Representing Peace Offices of California (POC):

JOE ROSE, Esq.
Peace Officers of California
2240 East Bidwell Street
Folsom, CA 95630

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

INDEX OF WITNESSES

--oOo--

Exclusive Representative's Witnesses	Page
DAVID JOHNSON	
Direct Examination by Mr. Messing	9
Cross-Examination by Mr. Rose	15
Cross-Examination by Ms. Truong	24
STEVEN M. BRADLEY	
Direct Examination by Mr. Messing	27
Cross-Examination by Mr. Rose	34
Cross-Examination by Ms. Truong	62
Redirect Examination by Mr. Messing	63
Recross-Examination by Mr. Rose	64
WILLIAM H. BONDSHU	
Direct Examination by Mr. Messing	68
Cross-Examination by Mr. Rose	99
Redirect Examination by Mr. Messing	110
TINA S. BRAZIL	
Direct Examination by Mr. Messing	85
Cross-Examination by Mr. Rose	90
LILLIAN HAYEK	
Direct Examination by Mr. Messing	112
Cross-Examination by Mr. Rose	125
Redirect Examination by Mr. Messing	140
Recross-Examination by Mr. Rose	144

1 Index of Witnesses (continued):

2 Exclusive Representative Witnesses Page

3 LYLE CURRY

4 Direct Examination by Mr. Messing 153

5 Cross-Examination by Mr. Rose 160

6 COBY PIZZOTTI

7 Direct Examination by Mr. Messing 173

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

INDEX OF EXHIBITS

--oOo--

Exclusive Representative's Exhibits	Ident.	Evid.
AA Declaration of Laura Campos		25
BB Declaration of David Johnson	7	25
CC Declaration of Steven Bradley	26	65
DD Declaration of Kasey C. Clark	44	
EE Supplemental of Kasey C. Clark	44	
FF Declaration of William Bondshu	67	110
GG Declaration of Tina Brazil	83	97
HH Declaration of Lillian Hayek	111	151
II Declaration of Lyle Curry	152	170
JJ Declaration of Coby Pizzotti	172	185
KK Declaration of Craig Brown	186	187

1 ADMINISTRATIVE LAW JUDGE CLOUGHESY: And I'll take
2 both of those documents. And thank you very much, sir.

3 THE WITNESS: Thank you.

4 ADMINISTRATIVE LAW JUDGE CLOUGHESY: We'll go off the
5 record.

6 (Off the record.)

7 ADMINISTRATIVE LAW JUDGE CLOUGHESY: All right.
8 We're back on the record. And Mr. Bradley has re-entered
9 the hearing room. I admonish you not to discuss your
10 testimony with any of the other witnesses. You're free
11 to discuss your testimony with anyone at these counsel
12 tables. Do you have any questions regarding that
13 admonishment?

14 THE WITNESS: I do not, sir.

15 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Thank you very
16 much. Off the record.

17 (Off the record.)

18 ADMINISTRATIVE LAW JUDGE CLOUGHESY: We're back on
19 the record. We have another witness called by the
20 Exclusive Representative. Sir, ask you to raise your
21 right hand.

22 (Witness sworn by the Judge.)

23 THE WITNESS: Yes.

24 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Please state
25 your name for the record, spelling your last name.

1 THE WITNESS: William H. Bondshu. B-O-N-D-S-H-U.

2 ADMINISTRATIVE LAW JUDGE CLOUGHESY: All right. I
3 got a couple preliminary questions. First of all, have
4 you received or read the transcripts of any prior
5 proceedings in this matter?

6 THE WITNESS: No.

7 ADMINISTRATIVE LAW JUDGE CLOUGHESY: All right.
8 Secondly, do you know an individual by the name of James
9 Cline?

10 THE WITNESS: No.

11 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Marking as
12 Exclusive Representative double F what appears to be a
13 Declaration of William Bondshu, last name B-O-N-D-S-H-U.

14 (Exclusive Representative's Exhibit FF marked
15 for identification.)

16 ADMINISTRATIVE LAW JUDGE CLOUGHESY: And sir, if you
17 could take a look at that and let us know what that is.

18 THE WITNESS: This is my Declaration. There is a
19 correction I need to make on that. Is this the time to
20 do that?

21 ADMINISTRATIVE LAW JUDGE CLOUGHESY: It is, sir.

22 THE WITNESS: On line 28 it shows that my position is
23 sworn, and it is non-sworn.

24 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Okay.

25 THE WITNESS: So should I mark that on here?

1 ADMINISTRATIVE LAW JUDGE CLOUGHESY: You should
2 insert it and then initial and date it. And any other
3 corrections?

4 THE WITNESS: No.

5 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Okay. All
6 right. But you do recognize that document; is that
7 correct?

8 THE WITNESS: Yes.

9 ADMINISTRATIVE LAW JUDGE CLOUGHESY: And could you
10 turn to the signature page? And is that -- on page
11 three, is that your signature?

12 THE WITNESS: Yes, it is.

13 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Did you sign it
14 on or about the date and location set forth therein?

15 THE WITNESS: Yes, I did.

16 ADMINISTRATIVE LAW JUDGE CLOUGHESY: All right.
17 Mr. Messing.

18 TESTIMONY OF

19 WILLIAM H. BONDSHU,

20 Having been duly and regularly sworn, testified as
21 follows:

22 BY MR. MESSING:

23 Q. Okay. In your Declaration you say you work with
24 the Law Enforcement Branch of OES; is that right?

25 A. That's correct.

1 Q. And that's on a frequent basis, or infrequent?

2 A. That's on a frequent basis.

3 Q. Okay. Now, in your Declaration on line 15 -- 14
4 and 15 you say, "All the Unit 7 members of the OES Law
5 Enforcement Branch share duty officer week with those of
6 us in Fire Branch on a rotational basis." Could you
7 explain that, please?

8 A. Sure. Each of the disciplines within OES, Fire,
9 Law, Recovery, Public Information, IT, share a weekly
10 duty officer rotation that starts on Thursday and
11 concludes on the following Thursday. And the purpose of
12 the duty officer is to provide the single point of
13 contact for in my case any fire emergency that were to
14 occur where mutual aid assets might be needed. In Law's
15 case, for example, any law enforcement mutual aid or a
16 search request or something would be handled by the
17 respective duty officer.

18 Q. Okay. Now, in that paragraph you say you "also
19 work side by side in incidents where the Law Enforcement
20 Manual Aid Plan has been put into effect to assist local
21 law enforcement of evacuations." When you say "we work
22 side by side," who are you referring to?

23 A. That would be the Law Enforcement Coordinators
24 with OES.

25 Q. Okay. And the Law Enforcement Coordinators with

1 OES, are they sworn or non-sworn?

2 A. I believe they're sworn.

3 Q. Okay. And let's see here. It says on line 18,
4 "It is not uncommon to have Unit 7 OES Law Enforcement
5 employee at the incident with me doing his job and
6 working the same hours." First of all, when you say the
7 same hours, what sort of hours are you referring to?

8 A. We would typically be together at an incident
9 briefing on a fire, for example. And, you know, those
10 usually are at six o'clock in the morning. And we would
11 attend planning meetings together, which are usually
12 around ten o'clock in the morning. And then we would
13 have an afternoon briefing at 6:00 p.m. And then we
14 would have an afternoon planning meeting at usually
15 around eight, nine o'clock in the afternoon.

16 Q. Okay. And --

17 A. And then that day just repeats itself.

18 Q. Okay. And these planning meetings, can you
19 describe briefly what goes on and how you work together
20 with a Law Enforcement employee?

21 A. Well, they basically -- the planning meetings are
22 to set the strategy and objectives for the work period
23 for the next day. So for fires, they would discuss the
24 fire's progression, where evacuations may need to occur,
25 where people are going to be on the line. And then

1 everybody has a chance for input as to recommendations,
2 or something they feel that they can't do. And then
3 that's built into the incident action plan. And then the
4 people are briefed on that at either the day shift or the
5 night shift briefing.

6 Q. Okay. So when you're meeting with the Law
7 Enforcement people at these meetings, in between the
8 meetings do you have occasion to communicate with the Law
9 Enforcement Coordinators?

10 A. Yeah. I mean we eat together. Sometimes we'll
11 get in the vehicle and travel and view the incident
12 together to -- you know, to see what they're talking
13 about. Look at a subdivision. See where the people are
14 actually working. Or it may be necessary to go around
15 and, you know, take care of issues that may come up. You
16 know, people that, you know, didn't get a lunch, or
17 didn't get their supplies, or if someone is sick or
18 injured.

19 Q. Okay.

20 A. But we're typically out in the field together. I
21 mean I do that very occasionally.

22 Q. In situations where somebody needs, for example,
23 medical attention you -- is one of the things you listed,
24 how does a decision get made between yourself and the Law
25 Enforcement Coordinator? Is there a chain of command

1 between you?

2 A. There's the incident command system that we use,
3 and any medical emergency would be vetted first through
4 the Safety Officer. And then it would end up eventually
5 at the Medical Unit Leader, and they're the ones that
6 arrange transportation or medical care on scene.

7 Q. Okay. So, for example, if you are out with the
8 Law Enforcement Coordinator and there's a question as to
9 whether people should be evacuated, is that something
10 that you would deal with?

11 A. That's something that he would deal with. He's
12 responsible for evacuations.

13 Q. Okay.

14 A. But he would certainly provide input back to the
15 incident command team as to whether an area may need to
16 be evacuated that was omitted. Or in some cases we will
17 go out into areas where we can allow the evacuees to come
18 back in and reoccupy their homes, you know, after the
19 fire's passed.

20 Q. Would you weigh in on those kind of decisions?

21 A. Sure. Yeah.

22 Q. Okay.

23 A. There's a lot of times where he relies on my
24 judgment in the fire field and, you know, he -- you know,
25 I'll take him out there and he can look at the area to

1 determine whether we need to move people out of there or
2 not.

3 Q. Okay. So the evacuation is an example of where
4 the Law Enforcement Coordinator has the ultimate
5 decision-making. What would be an area where you would
6 have the ultimate decision-making, but a Law Enforcement
7 Coordinator would weigh in on a decision?

8 A. The only thing I could think of would be maybe
9 perhaps if we didn't think a fire was going to move into
10 the area where he had concern, or the flip side, is it
11 safe enough around to move people back in and let them
12 repopulate their homes. So it's a -- it's a give and
13 take.

14 Q. Okay. All right. Now, there -- according to
15 your Declaration, there are other non-sworn folks in the
16 bargaining unit who work with OES Coordinators; is that
17 right?

18 A. Yes.

19 Q. Okay. So you refer here to a situation where you
20 responded to assist a Fish and Game Oil Spill Prevention
21 employee at the Costco Busson incident.

22 A. Yes.

23 Q. Okay. Now, are there sworn OES Coordinators who
24 also work with OSPR employees, to your knowledge?

25 A. The Law Enforcement Branch.

1 Q. Okay. So the type of things that you refer to in
2 your Declaration at the -- for example, the Costco Busson
3 incident, would those be incidents where a Law
4 Enforcement employee might be also involved?

5 A. From OES, yes, there would be. And then that
6 incident was pretty much headed up by Fish and Game, so
7 there were both sworn and non-sworn Fish and Game people
8 there.

9 Q. Okay. Now, as a non-sworn employee, you
10 reference other sworn employees that you might work with.
11 So, for example, the Basin Complex fire, which non-
12 sworn -- which sworn employees did you work with there?

13 A. There were primarily State Parks.

14 Q. Okay. Would those be Park Rangers or --

15 A. Yes.

16 Q. Okay. When did that fire take place,
17 approximately?

18 A. Jeez. I want to say I think that started in
19 July.

20 Q. Of what year?

21 A. Of last -- it was last summer.

22 Q. Okay. Okay. Now, in your Declaration you
23 mention the Alaska 269 crash off of Ventura County. Do
24 you recall approximately when that occurred?

25 A. I want to say it was either '99 or 2000.

1 Q. Okay. And is this an incident -- you
2 mentioned -- strike that.

3 Regarding the sworn employees that you work with, you
4 mentioned OES Law Enforcement people; is that right?

5 A. That's correct.

6 Q. Okay. You say here Fish and Game. Can you tell
7 me what classifications you were working with who were in
8 Fish and Game during that incident?

9 A. I believe they were both sworn and the OSPR
10 folks, because it was a off-shore event that they had,
11 you know, some jurisdiction or responsibilities in. But
12 they were all involved in the incident command structure
13 that we had there.

14 Q. Okay. The sworn folks were what classification?

15 A. Bargaining Unit 7.

16 Q. Okay. But what was their title?

17 A. Oh, I don't know.

18 Q. Were they -- were there Fish and Game Wardens at
19 the -- at this crash?

20 A. I believe so.

21 Q. Okay. Do you know if there are both sworn and
22 non-sworn OSPR employees?

23 A. I couldn't tell you. I don't know.

24 Q. Okay. Now, the OES Law Enforcement folks who
25 were at the scene, were they -- you mentioned also

1 Conservation Corps folks. Are those Conservationists?

2 A. Yeah. Those are the California Conservation
3 Corps.

4 Q. Okay. So are they working with OES Law
5 Enforcement people as well?

6 A. Yes.

7 Q. Okay. Now, you -- have you had any position
8 within CSLEA since you've been employed with the State?

9 A. Yes.

10 Q. Okay. What position have you had?

11 A. Currently right now I'm the President of our
12 affiliate FMESA.

13 Q. Okay. How long have you been President of FMESA?

14 A. For about five months.

15 Q. Okay. Prior to that did you have any -- so,
16 wait. As President of FMESA, that puts you on the Board
17 of Directors of --

18 A. CSLEA.

19 Q. -- CSLEA; is that right?

20 A. Correct.

21 Q. Okay. Prior to becoming President of FMESA, did
22 you have any other positions in either FMESA or CSLEA?

23 A. I was the Vice President prior to that.

24 Q. For how long?

25 A. Two years.

1 Q. Okay. Any other positions?

2 A. No.

3 Q. Okay. So between being President and Vice
4 President, it goes back two and a half years or so?

5 A. Approximately, yes.

6 Q. Now, in your capacity as Vice President or
7 President of FMESA, if there are people who have
8 complaints about CSLEA, would they be apt to bring them
9 to you, or would you be apt to learn about them?

10 A. In most cases.

11 Q. Okay. Can you characterize how people in FMESA
12 have -- well, wait. Let me go back for a second.

13 Who are -- what are the classifications in FMESA?

14 A. The Bargaining Unit 7 employees of OES, which is
15 now CALEMA, the State Fire Marshal's Office, and the
16 Comm. Operators with CAL FIRE.

17 Q. So you have both sworn and non-sworn employees in
18 FMESA?

19 A. Yeah. The Law Enforcement Branch, those would be
20 sworn employees, yes.

21 Q. Okay. About how many members are there in FMESA,
22 approximately?

23 A. Approximately, boy, I think we're in the 200, 220
24 range.

25 Q. Okay. Do you know about what percentage are

1 sworn and what percentage are non-sworn?

2 A. I could only speak to what's in the OES side, and
3 the Law Enforcement Branch I believe there's about eight.

4 Q. Okay. And how about in the non-sworn?

5 A. That would be the remainder.

6 Q. Which is how many?

7 A. Two hundred and something, I think.

8 Q. Okay. And the Comm. Operators that you
9 mentioned, how long have they been in the FMESA?

10 A. They just recently joined our affiliate about six
11 months ago.

12 Q. Okay. Now, how were they brought into the
13 affiliate?

14 A. I believe it was just because their discipline
15 shared, you know, our similar disciplines within the fire
16 service community as being dispatchers.

17 Q. Okay. so when you're involved in incidents, like
18 the ones that you've outlined in your Declaration, are
19 Comm. Operators involved as well?

20 A. Yes.

21 Q. Okay. And do the Law Enforcement Coordinators
22 deal with the -- or work with the Comm. Operators during
23 incidents?

24 A. Yes. They would have to.

25 Q. Okay. Now, during fire season are the Comm.

1 Operators ever put on scene with the incident command
2 post?

3 A. Yes.

4 Q. Okay. And can you just describe that briefly,
5 how that would work?

6 A. Typically they're used as incident dispatchers.
7 When we have an incident occur, we typically bring those
8 folks in to set up our own intra-communications for the
9 incident. And they're response to make sure that that's
10 all up and functioning and everybody has radios and
11 talking on the right frequencies and doing those kinds of
12 things.

13 Q. Okay. So they would be -- would they be
14 communicating with both the sworn and the non-sworn OES
15 Coordinators?

16 A. Yes.

17 Q. Okay. Would they be communicating with the sworn
18 and non-sworn other Bargaining Unit 7 personnel who are
19 involved in the incident?

20 A. Yes.

21 MR. ROSE: Objection. Leading.

22 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Sustained.

23 BY MR. MESSING:

24 Q. Who else -- well, who else would they be involved
25 with in Bargaining Unit 7 classifications?

1 A. GIS people. If we have an incident that has any
2 hazardous material problems, there would be hazmat folks
3 that are there. T-comm. Operators that help bring in
4 dial tone or satellite connections.

5 Q. Okay. I'm talking about Unit 7 positions.

6 A. Those are Unit 7 positions --

7 Q. They all are?

8 A. -- I'm talking about. Yeah.

9 Q. Okay. Thank you. Now, you indicated that you
10 would be in a position to hear complaints. First of all,
11 what have you heard, if anything, from your members about
12 the receptiveness and responsiveness of CSLEA folks to
13 problems of your members?

14 A. Generally I believe it's positive. There are
15 people that complain, and that just, you know, is
16 natural. But I think it's more positive than negative.
17 They've been very receptive to handling any of our issues
18 that we've brought forward so far.

19 Q. Speaking of issues, any issues that come to mind
20 that CSLEA has done a good job for your members?

21 A. We just recently are kind of in the process of
22 settling a grievance that we had with DPA over some
23 payment of overtime that is coming to an end that was
24 approximately a three-year life, I guess, that went along
25 with that.

1 The other thing that's been good for us is just last
2 year, effective January the 1st, we received cancer
3 presumption for us, which had been omitted in the past.
4 And CSLEA went to bat for us downtown and were successful
5 in getting that.

6 MR. MESSING: Well, I don't have anything further at
7 this time, but --

8 ADMINISTRATIVE LAW JUDGE CLOUGHESY: We'll
9 interrupt -- yeah. We'll go ahead. And let me admonish
10 you first. We're going to be interrupting your
11 examination because we need to take a telephone call.

12 THE WITNESS: Okay.

13 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Not take a
14 telephone call. Telephone witness.

15 THE WITNESS: Okay.

16 ADMINISTRATIVE LAW JUDGE CLOUGHESY: So I'm going to
17 admonish you not to discuss your testimony with any of
18 the witnesses in this case. You're free to discuss it
19 with anyone at these three counsel tables here. And so
20 as soon as we're done with this teleconference call,
21 we'll probably bring you back in --

22 THE WITNESS: Okay.

23 ADMINISTRATIVE LAW JUDGE CLOUGHESY: -- and finish
24 you up.

25 THE WITNESS: Very good.

1 ADMINISTRATIVE LAW JUDGE CLOUGHESY: So, with that,
2 we'll --

3 THE WITNESS: Do you want this back or --

4 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Yes, sir.

5 THE WITNESS: Okay.

6 ADMINISTRATIVE LAW JUDGE CLOUGHESY: All right.

7 (Off the record.)

8 ADMINISTRATIVE LAW JUDGE CLOUGHESY: All right.

9 We're now back on the record. We are taking a witness,
10 Tina Brazil, via telephonically pursuant to the section
11 of the Administrative Procedure Act as set forth in the
12 Temple City precedential decision case. This is going to
13 be a witness on behalf of the Exclusive Representative.

14 Mr. Rose, is there going to be any objection to
15 taking it by telephone?

16 MR. ROSE: No objection.

17 ADMINISTRATIVE LAW JUDGE CLOUGHESY: And on behalf of
18 the Employer?

19 MS. TRUONG: No objection.

20 ADMINISTRATIVE LAW JUDGE CLOUGHESY: All right. So,
21 Ms. Brazil, I'm going to ask you to raise your right
22 hand.

23 (Witness sworn by the Judge.)

24 THE WITNESS: Yes, I do.

25 ADMINISTRATIVE LAW JUDGE CLOUGHESY: All right.

1 back the phone number.

2 MR. MESSING: Oh, you know, I crumpled it up. Let me
3 just see if I have it here. (Number given.)

4 (Judge dialing telephone. Telephone ringing.)

5 THE WITNESS: Hello?

6 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Yeah.

7 Ms. Brazil? Tina?

8 THE WITNESS: Yes.

9 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Yeah. Shawn
10 Cloughesy again with PERB. We're back on the record. I
11 just needed to admonish you not to discuss your testimony
12 with any other witnesses.

13 THE WITNESS: Oh, no problem, sir.

14 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Okay. With
15 that, thank you very much.

16 THE WITNESS: Okay. Thank you.

17 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Bye.

18 THE WITNESS: Bye-bye.

19 (Off the record.)

20 ADMINISTRATIVE LAW JUDGE CLOUGHESY: We're back on
21 the record. And the record will reflect, Mr. Bondshu,
22 you've reentered the hearing room. I want to remind you
23 you're still under oath as having been previously sworn
24 in.

25 (William H. Bondshu retakes witness stand.)

1 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Ready for cross-
2 examination, Mr. Rose?

3 /////

4 /////

5 CROSS-EXAMINATION

6 BY MR. ROSE:

7 Q. Hello, Mr. Bondshu. Joe Rose, attorney for Peace
8 Officers of California.

9 A. Hi.

10 Q. Hi. Now, then, let me ask you. You mention in
11 your Declaration you have some prior local government
12 fire department work --

13 A. Yes.

14 Q. -- before you came to OES.

15 A. Correct.

16 Q. Is that typical of the Coordinators, OES
17 Coordinators, in the Fire and Rescue Branch to have prior
18 fire service experience?

19 A. Yes.

20 Q. All right. And let's talk about the law
21 enforcement branch of OES, the Coordinators in that
22 branch, is it typical for those Coordinators to have
23 prior law enforcement experience?

24 A. Most of them that are in OES Law Branch have come
25 from either county or city or other form of law

1 enforcement, yes.

2 Q. I see. So most of those employees are peace
3 officers from local agencies who are now working for OES
4 in a law enforcement capacity, true?

5 A. Correct.

6 Q. And then the same with respect to you, the fire
7 service folks tend to come under the Fire and Rescue
8 Branch?

9 A. Correct.

10 Q. All right. Now, when you perform your duties as
11 a Coordinator, you're primarily dealing with local law --
12 or excuse me, local fire agencies, true?

13 A. Correct.

14 Q. And then the Law Enforcement Coordinators are
15 primarily dealing with local law enforcement agencies?

16 A. Correct.

17 Q. Now, the organizational structure of OES, not
18 when you're in the incident command system on an
19 incident, but in your day-to-day operations, who do the --
20 who do you report to under the Fire and Rescue Branch as
21 a Coordinator?

22 A. The Branch Chief. The Branch Fire Chief.

23 Q. Okay. Is that his title, or her title, Fire
24 Chief?

25 A. I believe so. I think it's called the Fire

1 Branch Chief is the official position.

2 Q. And is that Chief a peace officer?

3 A. No.

4 Q. All right. And then the Law Enforcement Branch,
5 who do they report to, the Coordinators there?

6 A. That would be the Law Enforcement Branch Chief.

7 Q. Is that person a peace officer, the Branch
8 Chief --

9 A. I believe so.

10 Q. -- for the Law Enforcement side?

11 A. Yes.

12 Q. Yes? Okay. And then who do the Branch Chiefs
13 report to?

14 A. Currently right now they report to a -- I guess
15 they're called undersecretaries. Or I'm not sure.
16 Because we just reorganized from OES. Now we're all part
17 of CALEMA. So we've had kind of a complete restructuring
18 at the top. But there's several layers of command that
19 they, you know, report to all the way up to the Secretary
20 of the agency.

21 Q. I see. Do you -- do the Coordinators in the Law
22 Enforcement Branch wear a firearm?

23 A. Yes.

24 Q. Do they wear the same uniform you wear?

25 A. No. Typically they're in a suit and kind of

1 undercover, I guess, is what I always call them.

2 Q. Do they wear a badge?

3 A. Yes.

4 Q. Does the badge look the same as the badge you're
5 wearing now?

6 A. I believe it's a star-type badge.

7 Q. I see. Okay. Now, there are emergencies other
8 than fires at which -- with which OES would become
9 involved, correct?

10 A. Correct.

11 Q. Are there ever any law enforcement emergencies
12 that don't involve fire, but that would involve
13 deployment of OES?

14 A. OES Law Enforcement folks or --

15 Q. Well, I guess what I mean is, is there an
16 occasion for a local law enforcement agency to involve
17 OES in a multi-jurisdictional incident?

18 A. Yes.

19 Q. And that incident being strictly law enforcement?

20 A. Yes.

21 Q. Could you give me an example of what that kind of
22 incident would be?

23 A. The last largest deployment I can think of was
24 the LA riots.

25 Q. Now, do Fire and Rescue Branch Coordinators

1 deploy to a law enforcement incident such as the riots?

2 A. It would -- in the riots did. But it would just
3 depend on whether there's a fire issue at that particular
4 incident or not. I mean because I've been to the -- I
5 mean we've gone to floods, earthquakes, and usually all
6 those involve some form of deployment of both the fire
7 and rescue mutual aid system and the law enforcement
8 mutual aid system.

9 Q. Are there two separate systems for mutual aid,
10 one being law enforcement, one being fire?

11 A. Yes.

12 Q. Can you explain the differences?

13 A. Just the basic difference is just the different
14 disciplines. They all work on the premise that once a
15 local jurisdiction becomes overwhelmed because of an
16 incident, it's a process where they can ask for help from
17 their neighbors. Only in California it's on a statewide
18 scale. So if additional law enforcement people are
19 needed to come into a community to provide for security
20 or evacuation through the law enforcement mutual aid
21 plan, the various cities and counties that have peace
22 officers that they could send to assist those agencies do
23 that under the mutual aid plan.

24 Q. Does the activation of the mutual aid plan under
25 either the fire plan or the law enforcement tend to

1 dictate who will be the incident commander?

2 A. The incident commander is always the jurisdiction
3 that has the incident. That never changes.

4 Q. So, for example, in a fire would the local fire
5 agency be the incident commander?

6 A. Yes.

7 Q. And in the Los Angeles riots, would the
8 Los Angeles Police Department be the incident commander?

9 A. Yes.

10 Q. All right. And when you deploy or respond to
11 these multi-agency incidents, you work side by side not
12 only with Bargaining Unit 7 employees but other State
13 employees in other bargaining units, correct?

14 A. Correct.

15 Q. You work quite extensively, for example, with
16 employees of the California Highway Patrol?

17 A. Yes.

18 Q. Would you say that you more frequently work with
19 California Highway Patrol Officers than you do with Park
20 Rangers?

21 A. Yes.

22 Q. Would you say that if you were to allocate your
23 time, the amount of interaction you have with Park
24 Rangers versus CHP Officers, it would be about 10 percent
25 Park Rangers and 90 percent CHP Officers?

1 A. I don't know if I could characterize it in terms
2 of numbers, because each incident, you know, depending
3 upon where it's located, dictates who is going to be
4 there. But certainly CHP has a bigger involvement
5 statewide with road closures and things like that. It
6 just happened to be on the basis of my involvement with
7 State Parks, for example, because we were using a State
8 Park as our base camp, so they were there.

9 Q. And you're referring to one of the incidents in
10 your Declaration, the Basin Complex fire in Big Sur?

11 A. Yes.

12 Q. Now, other than that incident, what other
13 incidents have you had where you were working side by
14 side with State Park Rangers?

15 A. I can't think of any offhand, although I've been
16 to a lot of incidences with a lot of different, you know,
17 jurisdictions that are involved there. I'm trying to
18 recall whether they were at the Alaska 269 incident. I
19 don't believe so. I think that's -- I can't recall.

20 Q. Okay. You mentioned you were asked about your
21 interaction at work with the Law Enforcement Branch
22 Coordinators. And you mentioned several activities that
23 you might do together while a part of the incident
24 command system. You mentioned that you eat together,
25 drive around and view the incident together, in the field

1 together. Do you remember that kind of question and
2 answer?

3 A. Yes.

4 Q. All right. But you also do that with local
5 agency personnel as well, don't you?

6 A. Yes.

7 Q. Both -- well, primarily in the fire service,
8 correct?

9 A. It can be both.

10 Q. When you -- you mentioned in your Declaration
11 that personnel from the California Conservation Corps
12 were present at the Alaska 269 crash in County of
13 Ventura.

14 A. Uh-hmm.

15 Q. What classifications from the California
16 Conservation Corps were present, if you know?

17 A. It would be the Supervisors that are in charge of
18 the crews that are deployed. I typically work with them
19 just about on every fire incident in the state during the
20 summer. They're --

21 Q. Are you aware whether those employees are in
22 Bargaining Unit 7 or not?

23 A. Yes, they're in Bargaining Unit 7.

24 Q. You mentioned in your Declaration that you openly
25 discussed the fact that you were in Bargaining Unit 7 on

1 the Basin Complex fire in Big Sur in summer of '08.

2 A. Yes.

3 Q. And you did -- who did you discuss that with?

4 A. The two individuals that were assigned the
5 responsibility for the parks down there in the Big Sur
6 area. I think there were a Supervisor and then basically
7 a Line Officer, I guess is their title.

8 Q. Do you know whether those employees were sworn
9 peace officers?

10 A. Yes, they were.

11 Q. And who brought up the subject of being in
12 Bargaining Unit 7?

13 A. I did.

14 Q. And what did you say?

15 A. Just kind of welcomed them to the incident, and
16 let them know that they're a fellow Unit 7 employee, and
17 just kind of, you know, like an ice breaker.

18 Q. Oh, I see. Was there anything else discussed
19 about being in Bargaining Unit 7?

20 A. No. Uh-uh.

21 Q. Did they say anything to you about being in
22 Bargaining Unit 7 with you?

23 A. No.

24 Q. Could you tell me what FMESA stands for, the full
25 name?

1 A. Fire Marshal and Emergency Services Association.

2 Q. And you mentioned that you also represent
3 employees in the State Fire Marshal's Office?

4 A. Yes, that's part of our affiliate.

5 Q. The affiliate includes Deputy State Fire
6 Marshals, correct?

7 A. Correct.

8 Q. And the Deputy State Fire Marshal III
9 Specialists?

10 A. I believe so.

11 Q. Those are sworn peace officers, right?

12 A. I'm not sure.

13 Q. Have you ever had a conversation with anyone in
14 the State Fire Marshal's Office about peace officer
15 issues wearing your hat as the affiliate President?

16 A. No.

17 Q. Have you ever had anyone bring to your attention
18 peace officer concerns while wearing your hat as a -- as
19 a affiliate President?

20 A. From the OES Law Enforcement Branch I have.

21 Q. What have you heard from them?

22 A. Just issues regarding the current status of the
23 furloughs and the new change in the overtime computation
24 and how that's all going to be handled.

25 Q. Are they -- have the -- have any of the Law

1 Enforcement Coordinators expressed an opinion at all
2 about the concept of a bargaining unit composed solely of
3 peace officers?

4 A. No.

5 Q. You mentioned in response to whether you hear
6 complaints about the receptiveness and responsiveness of
7 CSLEA's representation that you -- it's generally
8 positive, but there are people that complain. Do you
9 remember that?

10 A. Yes.

11 Q. All right. And so what complaints have you
12 heard?

13 A. Lately the complaints, again, have been regarding
14 the furlough situation that's going on, where we're at
15 with our contract because it's expired, and, you know,
16 questions regarding, you know, when is that going to get
17 resolved, the pressure that's been put on because some
18 other units have settled their contracts and have gotten
19 things. And, you know, we kind of have -- there's talk
20 in the office of we got this, and you didn't get that,
21 typical, you know, discussion along that line.

22 MR. ROSE: Thank you, sir.

23 THE WITNESS: Okay.

24 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Ms. Truong?

25 MS. TRUONG: Nothing from us.

1 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Mr. Messing?

2 MR. MESSING: Yeah, just one thing.

3 /////

4 /////

5 REDIRECT EXAMINATION

6 BY MR. MESSING:

7 Q. Do you ever work with Deputy Fire Marshals who do
8 arson and bomb investigations?

9 A. Occasionally.

10 Q. Okay. And they're in Unit 7?

11 A. Yes.

12 Q. Okay. And they are sworn?

13 A. I believe -- I believe so. From what I
14 understand.

15 MR. MESSING: Okay. Nothing further.

16 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Mr. Rose?

17 MR. ROSE: Nothing further.

18 MS. TRUONG: Nothing.

19 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Give you an
20 admonishment one more time not to discuss your testimony
21 with any of the other witnesses, except for anyone at
22 these counsel tables. And with that, double F is
23 admitted.

24 (Exclusive Representative's Exhibit FF received
25 in evidence.)

1 ADMINISTRATIVE LAW JUDGE CLOUGHESY: And thank you
2 very much, sir.

3 THE WITNESS: Okay. Thank you.

4 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Off the record.
5 (Off the record.)

6 ADMINISTRATIVE LAW JUDGE CLOUGHESY: We're back on
7 the record. We have another witness called by the
8 Exclusive Representative. I'm going to ask you to raise
9 your right hand.

10 (Witness sworn by the Judge.)

11 THE WITNESS: Yes.

12 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Please state
13 your name for the record, spelling your last name.

14 THE WITNESS: Lillian Hayek. H-A-Y-E-K.

15 ADMINISTRATIVE LAW JUDGE CLOUGHESY: All right. And
16 I have a couple of preliminary questions. First of all,
17 have you read any of the transcripts of the previous days
18 of hearing in this case?

19 THE WITNESS: No.

20 ADMINISTRATIVE LAW JUDGE CLOUGHESY: And do you know
21 an individual by the name of James Cline?

22 THE WITNESS: No.

23 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Marking as
24 Exclusive Representative double H what appears to be the
25 Declaration of this witness.

CERTIFICATION AND
DECLARATION OF TRANSCRIBER

1
2
3
4 I, Leisa M. Miller, a duly designated transcriber of
5 Vine, McKinnon & Hall, do hereby declare and certify
6 under penalty of perjury that I have transcribed from a
7 CD recording the proceedings in the matter of STATE OF
8 CALIFORNIA, Employer, and PEACE OFFICERS OF CALIFORNIA,
9 Petitioner, and CALIFORNIA STATEWIDE LAW ENFORCEMENT
10 ASSOCIATION, Exclusive Representative, Unfair Practice
11 Charge No. SA-SV-171-S, which recording was duly recorded
12 at Sacramento, California on March 24, 2009, and that the
13 foregoing pages 1 through 189 constitute a true, complete
14 and accurate transcription of the aforementioned
15 recording to the best of my ability.

16 Dated this 14th day of April, 2009, at Dixon,
17 California.

18
19
20 _____
21 Leisa M. Miller, Transcriber
22 VINE, MCKINNON & HALL
23 Certified Shorthand Reporters
24
25