



The Four Winds

National Weather Service Employees Organization

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FLRA JUDGE SLAMS NOAA FOR FAILING TO BARGAIN WITH NWSEO OVER SAFETY MEASURES ON HURRICANE FLIGHTS; ORDERS NOAA TO SUSPEND “CDO” MISSIONS

Calls management testimony “evasive.”

On Friday, June 30, FLRA Administrative Law Judge Richard Pearson issued a decision which found that management at NOAA’s Aircraft Operations Center violated Federal labor laws when it began flying its Gulfstream jet into the Central Dense Overcast and inner-cores of hurricanes and tropical storms without first bargaining with NWSEO over safety mitigation measures. Judge Pearson also held that NOAA illegally bypassed NWSEO by dealing directly with select AOC employees about what safety precautions should be taken on the new flights.

NWSEO represents the civilian crews at AOC, which fly hurricane surveillance and reconnaissance missions about two P-3 Orion turboprops and a Gulfstream “G-IV” jet aircraft.

Prior to the 2005 hurricane season, the G-IV flew reconnaissance missions around the periphery of hurricanes and tropical storms, and, with the exception of an experimental flight, did not intentionally enter the inner-core of tropical cyclones. Last year, in preparation for the installation of a tail-doppler radar aboard the G-IV, AOC began flying “inner-core” or “CDO mapping missions” which brought the G-IV closer to the center of tropical cyclones than before.

NOAA claimed that it had no duty to bargain with NWSEO because employees did not face any greater safety hazards on these new missions than on prior reconnaissance missions. Judge Pearson emphatically rejected this claim, finding that the new missions raised substantial new safety hazards, and that NOAA was required to bargain with NWSEO over ways to mitigate these hazards before beginning these flights.

“I conclude that the safety hazards likely to be encountered on CDO mapping missions are not simply the same problems that the crews have been working with for many years,” Judge Pearson wrote. “Given the high speed and altitude of the G-IV, the increased likelihood of convection, rain bands, warm air anomalies, and other hazards, in the area closer to the storm’s inner core, the lack of visibility in the CDO and the inability of instruments to detect all hazards, and the high percentage of time that the crew will be flying within the CDO, the safety issues posed by CDO mapping missions are both quantitatively and qualitatively different than those the employees are accustomed to.” The Judge cited an AOC memo that identified numerous safety hazards of the new missions as “critical” or potentially “catastrophic.”

Judge Pearson found that AOC Director, Capt. Stephen Kozak, “seems to be denying the obvious” when he claimed that NOAA did not change “the environment into which the flights were conducted.” “If Captain Kozak means that ‘the environment’ in which the G-IV flies is ‘the sky’ or ‘the tropical storm environment’ then he may be technically correct” wrote Judge Pearson.

Judge Pearson characterized the testimony of AOC Deputy Director Jim Dugranrut as “somewhat evasive.”

The Judge also held that AOC management illegally bypassed the union when it dealt directly with select AOC employees about what safety precautions should be taken on the new missions. AOC appointed an “Operational Risk Management” (ORM) team of both managers and unit employees to identify risks involved in these missions to ways to mitigate them. The Judge found that this team was illegally constituted because it was charged with making recommendations about personnel matters and other negotiable issues. “Many of the issues addressed by the ORM team in this case did involve matters within the scope of the union’s statutory role, and thus the union’s role was undermined,” wrote Judge Pearson.

“As far as the Agency was concerned, the in-depth participation of employees in the ORM process made the Union redundant. That is precisely what the Statute seeks to prevent.”

Judge Pearson ordered AOC management to cease bypassing NWSEO as the employees’ representative and to bargain with the union over the conduct of the CDO mapping missions. The Judge also ordered NOAA to “suspend flying any CDO mapping missions until bargaining with the Union concerning those missions are completed.”

The trial in this case was conducted in Tampa last January and lasted three days. It received wide attention in the Florida press and local television stations. NWSEO was represented by its General Counsel Richard Hirn of Washington, D.C.

Labor strife at AOC has continued without letup. Just days before the trial, AOC began proceedings to terminate the union's Steward and Vice Steward at AOC as being "medically unfit." Both employees were excused from flying several years ago due to medical conditions, but AOC is now using this as a basis to seek their removal.

AOC has resisted all attempts to deal with the union; after over three years of negotiations, it has yet to agree to a collective bargaining agreement with NWSEO.

Another safety case involving AOC is still pending before the Federal Labor Relations Authority. Two years ago, AOC reduced the flight-time qualifications for its pilots, all of whom are NOAA Corps Officers and who have been trained to fly at taxpayer expense. NWSEO proposed that AOC employees not be required to fly with any pilot who does not meet the same minimum flight time requirements set by OPM for pilots everywhere else in the Federal government. NWSEO filed a negotiability appeal with the FLRA when AOC refused to negotiate over that proposal as well.

Judge Pearson's decision can be read in full at NWSEO's website.