



Questions concerning strike issues answered

The following questions and answers were formulated and distributed August 16, 1988 by WSFPI management with assistance from their labor relations advisor Dave Asivido of the Timber Operators Council. Some employees have chosen to return to work, bringing the total to cross the picket line to just under 20.

1. Since I refused to come to work, am I still an employee of Warm Springs Forest Products Industries?

Yes, you are still our valued employee. Right now your job is still available if you choose to report for work.

2. Must I participate in the work stoppage?

The decision is an individual one, and it is illegal for the union or anyone else to interfere with your right to work, strike or no strike. Even if you voted for a strike at a union meeting, you are not bound by that vote and may return to work.

3. May I cross the picket line and continue to work?

We will operate and will return you to work if work is available when you decide to cross the picket line.

4. May I be fined by the union if I cross the picket line to work?

Yes, if you are a full member of the union, the union may fine

you if you cross the picket line and collect that fine in a court of law. If you have never joined the LPIW, you cannot be fined for crossing the picket line.

5. If I decide to cross the picket line, is there a way to avoid being fined?

Under the law a union can fine you for crossing the picket line only if you are a full union member, but not if you resign or become a financial core member prior to crossing the picket line. In addition, financial core membership is the only kind of membership which a union can demand of employees, according to the U.S. Supreme Court. In order to resign from the union or change your status to financial core membership, you merely need to deliver a letter to the union stating your resignation. You should keep a copy of the letter as proof that it was mailed. You should send it by registered or certified mail, or hand deliver it to the local union office.

6. Can the LPIW or any other union later blacklist me if I cross the picket line?

No. Neither the union nor anyone else can legally deny your future employment at Warm Springs Forest Products Industries or anywhere else or discriminate against you for crossing a picket line to reclaim your job.

7. If I decide not to return to work, can I be replaced at my job permanently?

Yes. The Company does have the right to hire permanent replacements. If a permanent replacement is hired to replace you and when the strike is over or when you want to return to work, you have no right to return to work at your old job until the permanent replacement leaves or until another opening occurs for which you are qualified.

8. Will replacements be hired?

Yes. As stated in our letter, we plan to continue to operate; replacements will be hired.

9. Are employees who refuse to work eligible to receive unem-

ployment compensation benefits?

The current state law disqualifies those who are unemployed due to a stoppage of work because of their participation in a strike or other labor dispute.

10. Should an employee remain off work?

Each employee must decide this individually. However, failure to report for work results in the loss of pay and certain benefits.

11. If I am still considering coming to work and want further information, who do I contact?

Please contact Woody at the Company office at 553-2100.



Tribal sovereignty challenged by union actions

Legal issues of critical importance to the future of the Confederated Tribes of Warm Springs and its people are involved in the current strike at Warm Springs Forest Products Industries. The union has, in effect, challenged the sovereignty of the Tribe and the ability to govern itself on the reservation.

On August 7, 1988, 43 members of the union voted to reject the mill's last offer and to go on strike. WSFPI, at the August 5 negotiations meeting, offered to the union representatives, a one-year extension of the present contract, citing that the mill could not afford to increase costs given the current and projected future financial standing of the tribally-owned enterprise.

At the same meeting, WSFPI management offered to "open the books" for an audit by union auditors. Union officials chose not to look at the books. At the conclusion of the meeting, management had the impression that WCIW would not sanction a strike and that discussions would continue," said Bob Macy, WSFPI general manager.

According to local union president Dave Coe, WSFPI "made no offer....they told us they were broke...." Union members were asking that their wages and benefits, cut during negotiations two years ago, be restored. Employees took a \$1.25 to \$1.55 per hour cut and lost two paid holidays. Most employees also lost paid vacations.

Once the strike was approved, things started to snowball. Pickets were set up, originally, at the two mill entrances and at the loading dock entrance in Madras. But, because of concerns about the safety of the strikers, tribal members and the traveling public along Highway 26, Tribal Council directed tribal officials to ask the picketers to move off the reservation. The Tribe, based upon their treaty, has the right to exclude non-members of the tribe from the reservation.

Pickets removed from reservation

Following this decision, Warm Springs chief of police directed his officers to ask the picketers to move their lines off the reservation. The strikers were given the option to leave. If they chose not to leave, non-Indian picketers were cited for criminal trespass. If, after being cited, the non-Indian picketers again chose not to leave, they were physically removed and cited again for criminal trespass. Twelve non-Indians were cited into Jefferson County District Court. Three Indian

pickers, including one tribal member, were arrested for unlawful assembly and taken to the Warm Springs jail where they were lodged until union officials could arrange for their release.

As a result of this action, union officials filed suit, with the National Labor Relations Board, against the Tribe, claiming that the mill had violated the National Labor Relations Act by interfering with the strikers' rights to picket. This complaint was later amended to include that employees were "coerced" by management when employees, after asking, were told that the union had been eliminated from the mill. The NLRB has yet to reach a decision on either matter.

These charges squarely raised the issue of whether or not the National Labor Relations Act applies to the Confederated Tribes.

NLRA does not apply to Tribes

The Act is a comprehensive federal law that governs collective bargaining between unions and employers in many circumstances. However, the Act generally does not apply to governmental employers. Thus, state and local governments. It is the position of the Confederated Tribes that they, being a sovereign and self-governing body, are exempt from the Act.

Support for this position is found in an earlier decision of the National Labor Relations Board in a case involving the Fort Apache Timber Company. In that case, the NLRB held that the Company, a lumber mill totally owned by the Apache tribe and located on the Ft. Apache Indian Reservation in east-central Arizona, was not subject to the provisions of the NLRA. The Confederated Tribes of Warm Springs believe that the Fort Apache decision correctly states the law as it applies to enterprises totally owned by tribes.

Another case upon which the union relies involves the Devil's Lake Sioux tribe. The Sioux tribe owned 51 percent of a state corporation with the remaining 49 percent being owned by the Brunswick Corporation. Brunswick also managed the company. The NLRA applied in this particular case because the company was jointly owned.

Although an initial decision by the NLRB on this issue is expected at the local level in the relatively near future, the final resolution of the case may not take place for many years; proceedings before the NLRB and in the federal courts often take a great

deal of time, said tribal legal counsel. However, when issues critical to the survival of the Confederated Tribes are raised, there are few alternatives but to litigate them. Because the mill is a key link in the management of the Tribes' forestry resources, its continued operation is necessary to ensure flows of revenue to the tribal government from stumpage sales.

Possible litigation important

The litigation that may ensue from the strike is probably the most significant litigation the Tribes have been involved in since the court battle of the last two decades concerning fishing and the PGE litigation that occurred during the late 1970s and the first half of this decade.

While the tribe and union consider their positions, union and non-union employees must consider theirs. Originally, approximately 200 union members were on strike. But as time has passed, a few union members have resigned their union membership and returned to work. As of Tuesday, September 6, about 15 union members had crossed the picket lines. However, other employees did not support the strike and continued to work. That small core of employees, primarily tribal members, those married into the tribe

and members of other tribes, has grown to about 130.

In a letter to employees, Macy stated that "commencing August 22, the company will begin filling vacancies created by the work stoppage." Many union employees thought this to be a scare tactic. However, some union employees wishing to return to work contacted the mill personnel office only to find that their jobs had been filled. "Some new employees have been hired," said Macy. Other positions have been filled by those employees who did not participate in the walk out.

WCIW makes recommendations

In the August 5 union meeting at which members voted to strike WSFPI, WCIW officials recommended to the union members that they not strike, but consider the mill's offer for an audit. It has also been reported that in another recommendation, WCIW advised the strikers return to work, continue the negotiations with the option to strike again. Staff representative for WCIW J.L. Perrizo, when asked about the report, stated he had "no comment" on the matter. He added that "it's not a simple yes or no answer....we talked about options, that's why the answer is not simple."

Union president:

"Strike will continue until we win."

"We'll continue the strike until we win," said local union president Dave Coe in an interview this week. That decision to remain on strike and not to return to work is keeping approximately 130 active union members off the job at WSFPI.

Local members of the Western Counsel of Industrial Workers #2941 voted August 7 to strike WSFPI causing a work stoppage effective August 8. Approximately 200 members of the union formed picket lines at the entrances to WSFPI until they were removed by tribal police that same evening. Tribal Council initiated the action to have the picket lines moved off reservation lands.

That exclusion was followed by a complaint filed with the National Labor Relations Board which stated that picketers' rights had been violated through the removal. The complaint was later amended to include "coercion" on the part of management. Those two issues are currently being considered by the NLRB and a decision is expected by the end of this week or early next week.

Union members meet weekly at the Mud Springs Grange Hall in Madras. Coe said that a WCIW representative was present at the September 4 union meeting to inform members of the options available to them. Coe declined

comment on the options presented, but said that the "majority wanted to stay out and accomplish what they set out to do."

Coe added that many are dedicated to the cause. Some members have taken part time jobs to "get by", while others have "moved away to take permanent positions elsewhere. If it lasts long enough, there will be more" moving away.

Coe explained that union members wishing to find employment have a choice: they can resign, or they can withdraw from the union. "If a member resigns, they intend to return to work at WSFPI. They are not in good standing with the union after their resignation." If a member withdraws, he is in good standing with the union, "but withdrew for reasons" other than returning to work at the mill.

Coe wanted to make clear the local union's position on the strike and why they initiated the work stoppage. They are calling for complete restoration of wages and benefits that were cut two years ago during negotiations. "The company has always followed the industry pattern.... until now," he said. And now that the industry pattern leans toward giving back those wages and benefits, "they're not willing to follow," Coe said. WSFPI, citing a near million

dollar loss by the end of this year, maintains they cannot afford to increase costs.

In a letter to employees, WSFPI general manager Bob Macy stated that if employees did not return to work, they would be replaced—a statement they have stood by. Truck drivers, a machinist, a sawyer and a filer, among others, have been hired during the last week. If an employee's position has been filled, he maybe eligible for unemployment benefits, for which many have filed.

Coe said the replacement policy is "pretty lousy....We have no control over that and there is nothing we can do." Continuing, Coe added that the company "has made every effort to break us down to get us back over there without the union. We're not happy about the replacements. Anyone who goes over there hurts our effort."

A meeting between union officials, tribal attorneys, a federal mediator and WSFPI representatives has been scheduled for September 12 in Portland. No one is speculating on the outcome of that meeting.

So far, Coe said, the demonstration across the river has been peaceful. "A few people holler for us to go back to work but many give us the 'thumbs up' signal" in support, he said.