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AT SEATTLE  
CLERK U.S. DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
BY DEPUTY

9 UNITED STATES DISTRICT COURT  
10 WESTERN DISTRICT OF WASHINGTON

11 EQUAL EMPLOYMENT  
12 OPPORTUNITY COMMISSION,

Case No. C04-866 MJP

13 Plaintiff,

PROPOSED CONSENT DECREE  
AND ORDER DISMISSING ACTION

14 and

15 JILL HARP

16 Plaintiff Intervenor,



17 v.

04-CV-00866-ORD

18 UNION PACIFIC RAILROAD CO.,

19 Defendant.

20 I. INTRODUCTION

21 1. This action originated with a charge of employment discrimination filed  
22 with the EEOC by Jill Harp ("Charge"). The Charge alleged that Union Pacific Railroad  
23 ("the Company" or "UPRR") subjected Harp to sexual harassment because of her  
24 gender in violation of Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e ("Title

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1 VII"). EEOC found reasonable cause to believe the Charge to be true. The Company  
2 denies that it discriminated against Ms. Harp.

3 2. Following the issuance of a Letter of Determination and the failure of  
4 conciliation efforts, the Commission filed a lawsuit under Title VII against the Company  
5 on April 15, 2004.

6 3. The parties want to conclude the claims arising out of the charge, the  
7 Commission's determination with regard to the charge, and the lawsuit arising from the  
8 charge, without expending further resources in contested litigation.

9 **II. NONADMISSION OF LIABILITY AND**

10 **NONDETERMINATION BY THE COURT**

11 4. This Consent Decree is not an adjudication or finding on the merits of this  
12 case and shall not be construed as an admission by the Company of a violation of any  
13 law.

14 **III. SETTLEMENT SCOPE**

15 5. This Consent Decree is the final and complete resolution of all allegations  
16 of unlawful employment practices included in the Charge, in the Commission's Letter of  
17 Determination and in the Commission's complaint filed in the case, as well as claims by  
18 the parties and/or class members for attorney fees and costs. The injunctive relief  
19 provisions of this Consent Decree apply to all of the Company's intermodal facilities in  
20 the State of Washington and is final and binding as to all such issues and claims.

21 **IV. MONETARY RELIEF**

22 6. In settlement of this suit, the Company agrees to pay \$260,00 to Ms. Harp  
23 in settlement and satisfaction of all claims for monetary relief which were or could have  
24

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1 been asserted in the case by her. Ms. Harp and UPRR have executed a separate  
2 settlement agreement and release of claims to which the EEOC is not a party.

3 **V. INJUNCTIVE RELIEF**

4 **A. General Provisions**

5 7. The Company reaffirms its commitment to continue to comply with the  
6 requirements of Title VII and all other federal laws against discrimination in its  
7 employment decisions. To further this commitment, it shall monitor its affirmative  
8 obligations under this Consent Decree.

9 8. The Company shall not retaliate against any current or former employee  
10 for opposing any practice made unlawful by Title VII. Nor shall the Company retaliate  
11 against any current or former employee for making a charge or for testifying, assisting,  
12 or participating in any investigation, proceeding, or hearing associated with the case.

13 9. The Company will expunge from Jill Harp's records all references to her  
14 charge of discrimination or to its outcome. The Company will confirm dates of  
15 employment for Ms. Harp if requested by a potential employer and will not refer to Ms.  
16 Harp's charge of discrimination.

17 **B. Establishment of Policy and Procedures to Prevent Discrimination**

18 10. Within thirty (30) days after entry of this Decree by the Court, the  
19 Company shall reissue to all intermodal employees in the state of Washington, its anti-  
20 discrimination policy prohibiting discrimination on the basis of race, sex, national origin,  
21 color, religion, pregnancy, age, and disability, including a policy prohibiting sexual  
22 harassment, and shall post a copy of the policy on a centrally located bulletin board to  
23 which all staff at a particular location have access.

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1 **VI. ENFORCEMENT**

2 13. The United States District Court for the Western District of Washington  
3 shall retain jurisdiction over this matter for the duration of the Consent Decree. If the  
4 Commission concludes that the Company has breached any of the above provisions, it  
5 shall promptly notify the Company providing a written statement of the alleged breach.  
6 The parties shall attempt to resolve the dispute for a period not to exceed thirty (30)  
7 days after the Commission's notification of the alleged breach. If the Commission is  
8 unable to resolve the dispute to its satisfaction, the Commission may bring an action to  
9 enforce this Decree.

10 **VII. TERMINATION OF DECREE**

11 14. This Consent Decree shall be in effect for three (3) years commencing  
12 with the date the Consent Decree is entered by the Court. If the Commission petitions  
13 the Court and the Court finds the Company to have violated the terms of the Consent  
14 Decree, the Court may extend the period of the Consent Decree and award the  
15 Commission its costs in bringing an enforcement action.

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DATED this 6<sup>th</sup> day of April, 2005.

A. LUIS LUCERO, JR.  
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BY: /s/ A. Luis Lucero, Jr.

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Dated: April 4, 2005

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ORDER

The Court having considered the foregoing stipulated agreement of the parties, IT IS HEREBY ORDERED THAT the foregoing consent decree be, and the same hereby is, approved as the final decree of this Court in full settlement of this action. This lawsuit is hereby dismissed with prejudice and without costs or attorneys' fees to any party. The Court retains jurisdiction of this matter for purposes of enforcing the consent decree approved herein.

DATED this 8 day of April, 2005.

*Marsha J. Pechman*

HON. MARSHA J. PECHMAN  
UNITED STATES DISTRICT JUDGE

PRESENTED BY:

/s/ Lisa Cox  
LISA COX  
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