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Subject: **VACATIONS WITH PAY**

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Text:

ARTICLE X – VACATIONS WITH PAY

Section 1:

Employees with one (1) to two (2) years' continuous service shall receive two (2) weeks vacation with pay based on the greater of 5 percent (5%) or eighty (80) hours at the hourly rate of the employee's regular job.

Guidelines:

ARTICLE X – VACATIONS WITH PAY

Section 1:

Employees who have worked less than one year are not entitled to time off for vacation. Upon completion of one year of service employees are entitled to two (2) weeks vacation with pay; based on the greater of five (5) % of earnings during the first year, or the "option" of eighty (80) hours at the employee's regular job rate. Criteria to qualify for vacation pay under the "hours times regular job rate" method is outlined under Section 10 of this Article. Section 9 outlines the details for the calculation of vacation pay by the percentage (%) of earnings method.

Employees who have worked less than one year at the administrative cut-off date, or upon termination are only entitled to four (4) % (of earnings) vacation pay. Clearly understood industry practice has been to pay casuals four (4) % vacation pay and no vacation time off.



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Section 2: Two Years' Service

- a) Employees with two (2) or more years' continuous service with the company shall receive three (3) weeks' vacation with vacation pay based on the greater of seven percent (7%) of the total wages or salary earned by the employee during the working year or one hundred and twenty (120) hours at the hourly rate of the employee's regular job.
- b) The third week vacation as in a) above will be taken, but does not have to be consecutive with the vacation period provided for in the above Section, but at a time convenient to the company.

Section 3: Seven Years' Service

- a) Employees with seven (7) or more years' continuous service shall receive four (4) weeks' vacation with vacation pay based on the greater of nine percent (9%) of the wages or salary earned during the year of entitlement, or one hundred and sixty (160) hours at the hourly rate of the employee's regular job.
- b) The additional one (1) week will be taken when convenient for the company, but does not have to be consecutive with the vacation period provided for in Sections 1 and 2 herein.

Section 4: Fifteen Years' Service

- a) Employees with fifteen (15) or more years' continuous service shall receive five (5) weeks' vacation with vacation pay based on the greater of eleven percent (11%) of the wages or salary earned during the period of entitlement, or two hundred (200) hours at the hourly rate of the employee's regular job.
- b) The additional two (2) weeks will be taken when convenient for the company, but does not have to be consecutive with the vacation period provided for in Sections 1, 2 and 3 herein.

Section 5: Twenty-Four Years' Service

- a) An employee with twenty-four (24) or more years' consecutive service shall receive six (6) weeks' vacation with vacation pay based on the greater of thirteen percent (13%) of the wages or salary earned during the period of entitlement, or two hundred and forty (240) hours at the hourly rate of the employee's regular job.
- b) The additional three (3) weeks will be taken when convenient for the company, but does not have to be consecutive with the vacation period provided for in Sections 1, 2, 3 and 4 herein.



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Section 6: Thirty Years' Service

- a) Employees with thirty (30) years or more continuous service shall receive seven (7) weeks' vacation with vacation pay based on the greater of fifteen percent (15%) of the wages or salary earned during the period of entitlement, or two hundred and eighty (280) hours at the hourly rate of the employee's regular job.
- b) The additional four (4) weeks will be taken when convenient for the company, but does not have to be consecutive with the vacation period provided for in Sections 1, 2, 3, 4 and 5 herein.



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Guidelines:

ARTICLE X - VACATIONS WITH PAY

Sections 2 – 6:

Sections 2 through 6 outline increasing vacation with vacation pay entitlement based on continuous years of service with the Company.

	Length of Service	Vacation Entitlement	Vacation Pay
Section 2	2 years	3 weeks	Greater of 7% or 120 hrs x reg. rate
Section 3	7 years	4 weeks	Greater of 9% or 160 hrs x reg. rate
Section 4	15 years	5 weeks	Greater of 11% or 200 hrs x reg. rate
Section 5	24 years	6 weeks	Greater of 13% or 240 hrs x reg. rate
Section 6	30 years	7 weeks	Greater of 15% or 280 hrs x reg. rate

Each of these sections (2 through 6) contains a sub-section b), which addresses timing of utilizing increased entitlement. Each incremental week of vacation entitlement earned, if used, is to be taken at a time convenient for the Company and does not necessarily have to be at a time consecutive with other vacation entitlement. Section 8 of this Article has further implications regarding the timing of employee vacation scheduling.

Details and criteria for calculation of vacation pay at either percentage (%) of earnings, or hours x regular job rate method, are elaborated on under Section 9 and Section 10 guidelines.

The “carrying over” of vacation entitlement from one year to the next is not permitted. More specifically, employees cannot defer taking their vacation in a given year in order to take the vacation in question subsequently in conjunction with the next years’ entitlement.

When a Statutory Holiday occurs during a scheduled vacation period, it is not considered a regular vacation day, and the employee is ultimately entitled to use the “vacation day” either in concert with the current vacation period, or some other mutually agreed to time.



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Section 7:

Vacations with pay for employees engaged on piece work shall be based on the average daily earnings for the previous twelve (12) months, or such lesser period of time employed.



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ARTICLE X – VACATIONS WITH PAY

Section 8:

Vacations for employees shall be taken at such time as mutually agreed upon by the Union Committee and the Company when quantity and regularity of production shall not be impaired.

Guidelines:

ARTICLE X – VACATIONS WITH PAY

Section 8:

Section 8 has existed in the Collective Agreement for a very long time. This provision was in Northern Interior BC collective agreements prior to the formulation of the North Cariboo Forest Labour Relations Association (predecessor to CONIFER).

Many operations have established administrative policies governing the details of employee vacation scheduling and utilization. To a limited degree in the northern industry, actual Letters of Understanding have been negotiated at the mill site level outlining vacation administration protocol.

Typically, these systems include consideration of items such as:

- deadline for submission of holiday requests.
- limitation to duration of vacations at “prime time”.
- limits on the number of employees off at a given time.
- notice/procedure for canceling/re-booking vacation.
- clarification of other vacation issues specific to a particular operation.

Questions regarding the administration of this section can be directed to staff at CONIFER.



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ARTICLE X – VACATIONS WITH PAY

Section 9: Vacation Pay - Percentage of Wages Method

The following shall be considered as days actually worked for determining vacations with pay for an employee after one (1) continuous year of employment.

- a) Absence on Workers' Compensation up to a period of one (1) year, provided the employee returns to their employment.
- b) Absence due to illness up to a period of one (1) year, provided the employee returns to their employment. The Company shall have the right to require a certificate from a qualified medical practitioner. The employee shall have a reasonable period of time to present such medical certificate.
- c) Absence due to bereavement leave in accordance with the terms and conditions of the Agreement.
- d) Absence due to time served on Jury Duty in accordance with the terms and conditions of the Agreement.
- e) Any other absence duly approved by the Company in writing shall be credited towards entitlement for annual vacation, but time spent on such leave shall not be counted in computing vacation pay.

Section 10: Qualification for Vacation Pay - Regular Job Rate Method

- a)
 - i) In order for an employee to qualify for the amount generated by the hours times the regular job rate method, the employee must have worked a minimum of fifteen hundred (1500) hours in the employee's first year of service and a minimum of one thousand (1000) hours during the employee's succeeding years of entitlement.
 - ii) Where there is a common vacation pay cut-off date, for purpose of calculating minimum hours as in i) above, the calculation period shall be from the cut-off date in one year to the cut-off date in the succeeding year.
 - iii) Where there is no common vacation cut off date, for purposes of calculating minimum hours as in i) above, the calculation period shall be from the employee's anniversary date in one year to their anniversary date in the succeeding year.
- b) For purposes of computing the requisite hours the following will be included:
 - i) All hours worked;
 - ii) Statutory Holiday hours;



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- iii) Jury and Crown Witness duty;
- iv) Bereavement Leave;
- v) Vacation Hours;
- vi) Time not exceeding one (1) year, lost as the result of an accident recognized as compensable by the Worker's Compensation Board and suffered during the course of employment, shall be considered as time worked for the purpose of the qualifying for vacation, provided that the employee returns to their employment.
- vii) Time not exceeding one (1) year, lost as the result of a non-occupational accident or illness, shall be considered as time worked for the purpose of qualifying for vacation, provided that at the time of the accident or illness the employee has been on the payroll for not less than one (1) year and that they return to their employment. It is understood that the employer may require that the employee provide a certificate from a qualified medical practitioner.
- viii) Time lost as a result of lay-off shall not be considered as time worked for the purpose of qualifying for requisite hours.
- ix) Employees who report for work and who receive call time payment shall be credited with eight (8) hours for any such shift for purposes of computing requisite hours under this Section. Any employee who qualifies for call time in a day shall receive credit under this Section for eight (8) hours or credit for the hours for which wages were paid, whichever is greater.
- x) All hours worked in more than one (1) division of the parent company as a result of transfer or lay-off.

Guidelines:

ARTICLE X - VACATIONS WITH PAY

Section 9: Vacation Pay – Percentage of Wages Method and
Section 10: Qualification for Vacation Pay – Regular Job Rate Method

Section 9 and Section 10 must be examined and considered together in order to interpret and apply the language for administration purposes. Although not expressed in the contract language, the actual practice required by the Company is



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to calculate and compare vacation pay amounts under the percentage (%) of gross wages method, and the hours times the regular job rate method. The greater of the two amounts, subject to the meeting of qualifying criteria, is the amount of vacation pay paid to the employee.

For the purposes of further guidelines, the following definitions apply:

- **Vacation Pay:** The actual amount paid to an employee, derived from the employee's vacation entitlement outlined in Section 1 through Section 6.
- **Anniversary Date:** The date in the year that corresponds to the calendar anniversary relevant to an employee's actual hire date.
- **Vacation Pay Cut-off Date:** The date designated, for administration purposes, as the date at which vacation pay entitlement is actually "paid out" to employees. It is the date at which accrued vacation pay is paid out to the employees. These vary on a site-specific basis.

The following are considered days worked for determining vacations with pay, percentage of earnings method:

- WCB absence; up to 1 year; employee must return
- Illness; up to 1 year; employee must return
- Bereavement leave; hours paid for
- Jury duty

WCB absences and non-occupational illness are NOT considered as days worked if the employee would have otherwise been subject to layoff (*See Case Reference #1*).

This issue came before a CONIFER-USW Right of Reference Committee on October 7, 2008 in the context of the grievance of James Renwick, employee of Winton Global Ltd.. In the process of assessing the grievance, the CONIFER-USW Right of Reference Committee agreed to the applicability of Question 10 c) of the "Mackoff" coastal interpretation decision (same collective agreement content) of



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January 25, 1983 to the circumstances of the grievance. That interpretation decision concluded that employees off on WCB or non-occupational illness were not entitled to accumulate that time off as days worked for vacation pay purposes if the operation is shutdown and all other employees are laid off.

Other approved leaves apply to annual vacation entitlement but are not counted in computing vacation pay.

For the purposes of 9 a) and 9 b), a “return to their employment” is considered to be for a period of four (4) weeks. This four (4) week parameter has been established through past practice within CONIFER member companies.

For the purpose of the percentage of earnings calculation, earnings are an employee’s total (all inclusive) earnings in the relevant calculation period, and include vacation pay paid on the previous cut-off calculation.

Section 10 outlines the criteria and considerations for an employee to be paid vacation pay according to the hours time regular job rate method.

- must work 1500 hours in the first year to qualify
- must work 1000 hours in each subsequent year
- relevant period to determine required hours worked is from cut-off to cut-off, or anniversary date to next anniversary date

The following is considered time worked for determining requisite hours:

- hours actually worked
- statutory holidays
- jury and Crown witness duty
- bereavement leave
- vacation
- WCB absence, up to 1 year; employee must return
- Illness/injury, up to 1 year; after 1-year service; employee must return
- Any call time equates to eight (8) hours
- Hours worked in more than 1 division of parent company



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WCB absences and non-occupational illness are NOT considered as relevant to requisite hours if the employee would have otherwise been subject to layoff (*See Case Reference #1*).

An "Employee's regular job" is defined to be the employee's recognized full-time position. For the purpose of administration of the comparison calculation, the regular job rate utilized should be the employee's regular posted job, or the job occupied for the pay period preceding the cut-off date.

It is only the hourly rate used for the calculation, exclusive of any premiums or differentials.



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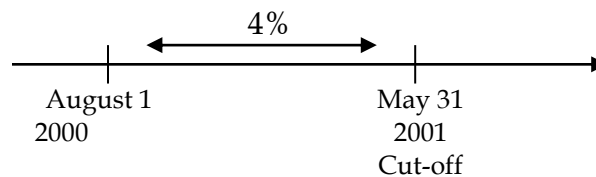
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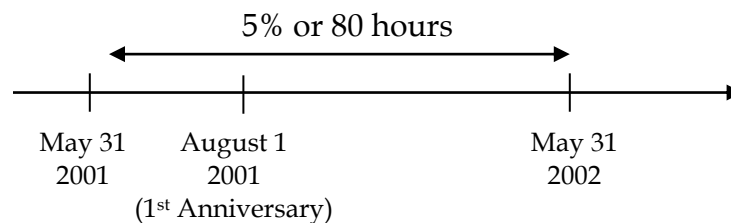
Vacation Pay Examples:

- 1) Employee hired August 1, 2000
Administrative vacation cut-off May 31, annually.
(See Section 1 guidelines)



- Employee worked less than one year.
- At May 31, 2001, cut-off, they are entitled to 4% of earnings from August 1, 2000 hire date to cut-off date.

- 2) Employee hired August 1, 2000
Administrative vacation cut-off, May 31, annually



- Employee is between 1 and 2 years service at May 31, 2002 cutoff
- At May 31, 2002, employee receives greater of:
 - 80 hours x regular rate, or
 - 5% of earnings from cutoff to cutoff
 - pending criteria for option is met

The same administrative principles apply for increasing levels of entitlement, with corresponding changes to percentage rates or hours.



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Case References – Article X, Vacations With Pay, Section 9 & 10:

1. FIR, IWA CANADA
(MACKOFF COASTAL INTERPRETATION)
January 25, 1983 Arbitrator AA Mackoff
[Click here to read this case reference](#)

CONCLUSION: The Arbitrator concluded that “the governing words are “time ... lost”. This can have only one meaning, namely, time lost from work. These subsections refer to periods of time when, had the employee not been on Workers' Compensation or been ill, they would have been at work. It is only such periods that are mandatorily indicated in the computation. However, when an operation is shut down and all other employees are laid off, there would have been no work for the employee had they been fit and able to return to work. As pointed out by counsel for the Industry, if the Union's position is to be adopted then the incredible result would be that while all other workers are denied a benefit because of a shut down, an injured or sick employee would receive a special benefit. The intent of the provision is to preserve rights which would otherwise be lost, and not to confer a special benefit on an employee who is sick or injured that is not enjoyed by all other employees.”



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ARTICLE X – VACATIONS WITH PAY

Section 11:

For the purposes of administration the Company cut-off date shall be deemed to be the employee's anniversary date for the vacation year. It is further agreed that the employee will be entitled to an adjustment of the appropriate percentage of vacation pay when they qualify for additional vacations for increased service with the Company as provided for under Sections 2 to 6 inclusive.

Guidelines:

ARTICLE X – VACATIONS WITH PAY

Section 11:

Section 11 pertains to the required administrative procedures and calculations applicable when employees reach length of service anniversary dates that alter their respective vacation with pay entitlement.

Where there is a common cut-off date, employees reaching their first, second, seventh, fifteenth, twenty-fourth, and thirtieth anniversary dates are entitled to a retroactive vacation adjustment, or "catch-up". Employees are entitled to the "catch-up" regardless of whether vacation pay was based on percentage of earnings, or hours x job rate method.

Regardless of whether there is a common cut-off date or the employee's anniversary date method, the catch-up adjustment is retroactive to the previous anniversary date of the employee, for example, a 7-year employee back to the 6th anniversary.

On the same anniversary date where employees are entitled to 2% "catch up", they are also entitled to an additional week of vacation.



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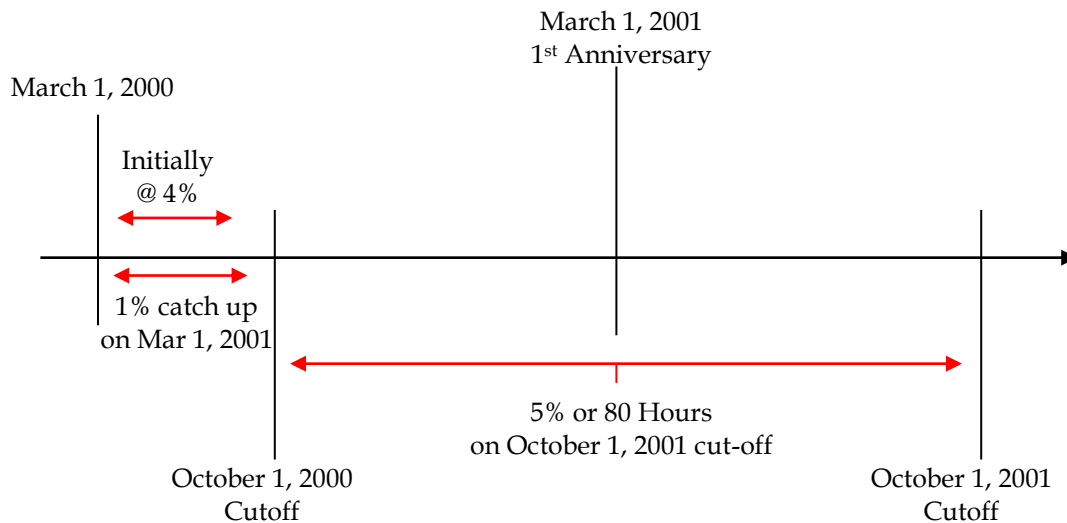
Vacations with Pay

Section 11 (catch up) examples:

Example #1: (Facts)

Employee hired March 1, 2000

Vacation cut-off date is October 1, annually



Calculations/Payout

- October 1, 2000, cutoff was initially calculated at 4%
- At March 1, 2001, anniversary, employee now entitled to 5%, therefore, 1% catch up is applicable
 - Additional 1% from March 1, 2000 to October 1, 2000 is calculated and paid to employee
- At October 1, 2001 cutoff, calculation is made at 5% or 80 hours from cutoff 2000 to cutoff 2001



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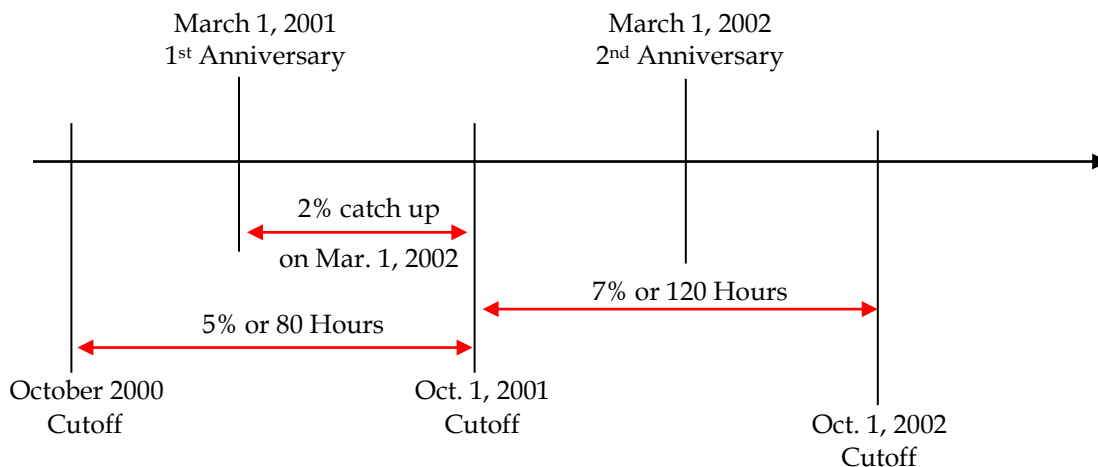
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Example #2: (Facts)

Employee hired March 1, 2000

Second Anniversary on March 1, 2002

Vacation cut off date is October 1, annually



Calculations/Payout:

- At March 1, 2002, employee completes 2 years of service and is therefore entitled to 3 weeks vacation (7% or 120 hours x regular job rate)
- 2% catch up is applicable
 - additional 2% from March 1, 2001 to October 1, 2001 is calculated and paid to employee
- At October 1, 2002 cut off, calculation is made at 7% or 120 hours from cut off 2001 to cut off 2002

The principles outlined in this example can be used for 7, 15, 24, and 30 year employees.

With no common cut-off date, the “catch up” is not as complicated, as the new % or hours calculation is simply applicable relative to the anniversary date.



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ARTICLE X – VACATIONS WITH PAY

Section 12: Employment Standards Act

Part 4 – Annual Vacation of the Employment Standards Act, S.B.C., 1980, C.10, and amendments thereto as consolidated December 1, 1983, except where varied or modified by the provisions herein, shall become a part of this Agreement.

Guidelines:

ARTICLE X – VACATIONS WITH PAY

Section 12: Employment Standards Act

This language is somewhat historical and is now interpreted to mean that Part 4 of the Act, **AS IT WAS AT THAT TIME (1983)**, is part of the Collective Agreement, except where varied or modified by the agreement, with the following implications:

- No vacation pay for a person “who has not completed five days of actual work in a calendar year”
- Vacation pay on vacation pay
- 4% vacation pay for an employee with less than one year’s service