

\* \* \* \* \*

DEAN R. MORGAN,

Appellant,

v.

Secretary, DEPARTMENT OF  
NATURAL RESOURCES and  
Administrator, DIVISION OF  
PERSONNEL,

Respondents.

Case No. 83-0028-PC

\* \* \* \* \*

DECISION  
AND  
ORDER

This case is an appeal from the denial of a reclassification request. The parties agreed to the following issue for hearing:

Whether the respondents' decision to deny the request for reclassification of appellant's position from Forest Fire Control Assistant 1 to Forest Fire Control Assistant 2 was correct.

After completion of the hearing, the parties filed briefs.

FINDINGS OF FACT

1. At all times relevant to this proceeding, the appellant has been employed as a forest fire control assitant at the Wisconsin Dells Range Station.

2. The appellant's first-line supervisor is Mr. Arvid Haugen, who is employed as the Area Forest Ranger for a four county area including the Wisconsin Dells Ranger Station. Mr. Haugen works in Wisconsin Rapids.

3. The Wisconsin Dells Ranger Station is staffed by four people, including the appellant. Mr. Robert Oxnem is the lead worker for the station. The appellant is one of two fire control assistants, the other being Mr. Duane Gilner. The station also employs a natural resources assistant.

4. The appellant's duties are accurately summarized in his position description, a copy of which is attached hereto and included as if fully set out below. The corrected percentages for the individual goals on the position description were derived from an analysis of a computerized printout of the daily time sheets submitted by the appellant over a four year period.

5. The class specifications for the Forest Fire Control Assistant (FFCA)1 and 2 levels provide, in part, as follows:

FOREST FIRE CONTROL ASSISTANT 1

Class Description

Definition:

This is semi-skilled work in forest protection. Employees in this class serve as operators of specialized, motorized fire fighting equipment and/or as crew chiefs or scouts during forest fires. Work is performed under the general guidance and direction of a Forest Ranger, Forester, or a higher level Forest Fire Control Assistant.

Examples of Work Performed:

Operates and assists in the dispatching of crawler tractors, pumpers, tankers and other motorized equipment units in suppressing forest fires.

Serves as crew chief or scout on forest fires.

Maintains and makes minor repairs to fire fighting equipment and facilities.

Constructs fire trails, issues burning permits and assists in other presuppression activities.

Maintains records and prepares routine reports.

Assists in law enforcement activities.

Other assigned work may include tasks not specifically enumerated above which are of a similar kind and level.

FOREST FIRE CONTROL ASSISTANT 2

Class Description

Definition:

This is responsible semi-skilled work in forest protection. Employees in this class have specific sub-area forest fire

protection program responsibility. Work is performed independently under the minimal supervision of a Forest Ranger or a Forester/Ranger.

Examples of Work Performed:

Plans, coordinates and directs fire control activities in a specific sub-area.

Operates and dispatches crawler tractors, pumpers, tankers and other motorized equipment units in suppressing forest fires.

Maintains and makes minor repairs to fire fighting equipment and facilities.

Constructs fire trails, issues burning permits and performs presuppression activities.

Conducts fire training sessions for concerned people in localities.

Assists in reviewing the district fire plan.

Maintains records and prepares reports.

Assists in law enforcement activities.

Other assigned work may include tasks not specifically enumerated above which are of a similar kind and level.

6. The appellant did not perform forest management functions and was not assigned a significant level of "sub-area forest fire protection program responsibility" beyond that contemplated within the FFCA 1 specification.

7. For those periods in which Mr. Oxnem is not in the Wisconsin Dells Station, Mr. Gilner, rather than the appellant, has been designated as the primary lead worker. Mr. Gilner was reclassified from FFCA 1 to 2 in September of 1982 as a direct consequence of being the lead worker in Mr. Oxnem's absence.

8. In classifying positions as either FFCA 1 or 2, the respondent DNR will typically grant reclassification to the higher level when the employe is designated as assuming the responsibilities for the ranger station in the absence of the ranger.

9. Position descriptions for positions at the FFCA 2 level show the incumbents performing lead work responsibilities on a substitute basis

and/or performing substantial levels of fire prevention and presuppression program responsibilities.

10. The appellant is certified by the respondent as a special conservation warden. As such, the appellant is empowered to enforce state conservation laws. Being a special conservation warden is not a prerequisite for employment as a FFCA. Approximately 10% of the appellants time as a FFCA is spent performing "law enforcement" work as a special conservation warden, usually by assisting the regular conservation warden in the Dells area. Generally, the appellant performed his law enforcement function under the direction of a conservation warden rather than independently.

11. The appellant's position is better described by the FFCA 1 class specification.

#### CONCLUSIONS OF LAW

1. This matter is appropriately before the Commission pursuant to §230.44(1)(b), Stats. (1981-82).

2. The appellant has the burden of proving that the respondents' decision denying the reclassification of the appellant's position from Forest Fire Control Assistant 1 to 2 was incorrect.

3. The appellant has failed to meet that burden of proof.

4. The respondents' decision not to reclassify the appellant's position was correct.

#### OPINION

The primary issues at the hearing in the above matter were the allocation of different time percentages to the appellant's duties and the weight that should be given to the appellant's role as a special conservation warden.

The evidence showed that the appellant is a long-time DNR employe. Over the three or four years prior to his reclassification request of August, 1982, the appellant had acquired increased independence of action and had increased the amount of time spent acting as a special conservation warden from approximately 50 hours per year (for assisting only during deer season) to approximately 200 hours per year (for providing occasional assistance during the remainder of the year, as well).

The class specification indicates that FFCA 2's are to have "specific sub-area forest fire protection responsibility." This provision is further described in the work examples for the class as "[p]lans, coordinates and directs fire control activities in a specific sub-area." The record fails to support the conclusion that the appellant has been assigned a significant level of fire control responsibilities in a sub-area beyond those activities contemplated in the FFCA 1 specifications. The majority of the fire suppression duties performed by the appellant fall within the FFCA 1 specifications. It is important to note that the appellant only functions as fire boss in the absence of both Mr. Oxnem and Mr. Gilner. The small percentage of time in which the appellant is responsible for performing fire prevention and enforcement activities is substantially less than is indicated on the position descriptions for FFCA 2's that were made part of the record. Therefore, based upon a reading of the class specifications alone, and in light of other position descriptions, the appellant is not entitled to reclassification to the FFCA 2 level.

The respondent DNR has, in practice, expanded the FFCA 2 allocation pattern to include those positions which have lead work responsibility over other employes during the absence of the Forester/Ranger. In the present case, that lead work responsibility has been assigned to Mr. Gilner rather

than to the appellant, as reflected in Mr. Gilner's recent (September, 1982) reclassification to the FFCA 2 level. The appellant does not have the primary lead work responsibility in the absence of Mr. Oxnem and, as a consequence, his position may not be reclassified by utilizing that theory. A review of the various FFCA 2 position descriptions entered into the record suggests that all have some lead work responsibility.

The respondent DNR has also developed a rating system applied by Mr. Dennis Dupor, a fire control planning analyst within DNR's Madison office, to any request for reclassification from the FFCA 1 to FFCA 2 level. This rating system, which has been in effect since approximately 1980, generates a recommendation to the DNR's Bureau of Personnel which then considers the recommendation in making a final decision with respect to the reclass request. The cut-off score generally used in the rating is 600, with a score above 600 usually resulting in a recommendation for reclassification. However, in deciding whether or not to recommend reclassification, Mr. Dupor considers the numerical score in conjunction with certain factors which he feels are representative of the higher classification level, i.e. whether the individual is acting as the lead worker in the absence of the forest/ranger and if not, whether the individual has been given a major assignment of a technical nature such as forest management<sup>FN</sup>

---

<sup>FN</sup>The appellant argued that because the ranger station in Fairchild had two positions at the FFCA 2 level, that the Wisconsin Dells station should have both Mr. Gilner and the appellant at that higher level. However, the appellant failed to rebut the respondent's testimony that the basis for the classification decision regarding the Fairchild station was due to the technical nature of the forest management responsibilities that represented approximately 20% of the duties for each position.

or parks responsibility. Because the appellant's conservation warden responsibilities are usually performed under the direction of a regular warden rather than independently and because they represent just 10% of the appellant's time, Mr. Dupor did not recommend reclassification. So, even though the appellant's duties were rated at 632 points, Mr. Dupor recommended denial of the request because he concluded that the appellant was not the primary lead worker in Mr. Oxnem's absence and he did not have a major assignment outside of the fire control area that would justify reclassification.

The use of the rating system does not appear to be inconsistent with the FFCA class specifications. The rating system is used merely for generating a recommendation to the Bureau of Personnel which is clearly not bound by the recommendation. The rating system is not used to restrict the reclassification standards set out in the FFCA specifications, and the Commission does not find its role to be inappropriate.

The ten percent of appellant's time that he spends as a special conservation warden (reflected on the appellant's position description as "law enforcement" work) was heavily relied upon by the appellant as a basis for his appeal. Testimony by Warden Planke, who often directed the appellant's work in this area, showed that the appellant had done an excellent job. However, it is clear that certification as a special conservation warden does not automatically generate reclassification to the FFCA 2 level. Given the low percentage of time allotted to this adjunct responsibility, at this time, it is not sufficient to justify reclassification to the higher level.

Testimony at the hearing established that the appellant set time percentages for the various assigned duties listed in his position description by reviewing the daily work reports over the prior two year period. When Mr. Dupor first saw the appellant's revised position description, he was concerned that the time percentages were not accurate. Appellant's supervisor subsequently reviewed the computerized totals for the appellant's work reports for a four year period and made some minor adjustments to the time percentages originally developed by the appellant. The differences in the two tabulations do not have an effect on the outcome of the instant appeal. The differences do not affect the rationale relied upon by the Commission in interpreting the class specifications and in making its determination.



ORDER

The respondents' reclassification decision is affirmed and this appeal is dismissed.

Dated: Nov. 23, 1983 STATE PERSONNEL COMMISSION

KMS:jmf

  
LAURIE R. McCALLUM, Commissioner

  
DENNIS P. MCGILLIGAN, Commissioner

Parties:

Dean Morgan  
DNR Ranger Station  
P. O. Box 31  
Wisconsin Dells, WI 53965

Carroll Besadny  
Secretary, DNR  
P. O. Box 7921  
Madison, WI 53707

Howard Fuller  
Secretary, DER\*  
P. O. Box 7855  
Madison, WI 53707

\*Pursuant to the provisions of 1983 Wisconsin Act 27, published on July 1, 1983, the authority previously held by the Administrator, Division of Personnel over classification matters is now held by the Secretary, Department of Employment Relations.

Respondent's Exhibit 3

1 Position No.	2 Cert/Reclass Request No <b>UPDATE</b>	3 Agency No
----------------	--------------------------------------------	-------------

4. NAME OF EMPLOYEE Dean R. Morgan	5 DEPARTMENT, UNIT, WORK ADDRESS Wisconsin Dells Ranger Station Box 31 Wisconsin Dells, WI 53965
6. CLASSIFICATION TITLE OF POSITION Forest Fire Control Assistant I	
7. CLASS TITLE OPTION (To be Filled Out By Personnel Office)	8. NAME AND CLASS OF FORMER INCUMBENT
9 AGENCY WORKING TITLE OF POSITION Fire Control Assistant	10. NAME AND CLASS OF EMPLOYEES PERFORMING SIMILAR DUTIES Kenneth J. Magnuson - Brule FFCA II Robert Yirkovsky - Mosinee FFCA II
11. NAME AND CLASS OF FIRST-LINE SUPERVISOR Arvid Haugen - Area Forest Ranger	12. FROM APPROXIMATELY WHAT DATE HAS THE EMPLOYEE PERFORMED THE WORK DESCRIBED BELOW? March 1956

13. DOES THIS POSITION SUPERVISE SUBORDINATE EMPLOYEES IN PERMANENT POSITIONS? Yes  No  IF YES, COMPLETE AND ATTACH A SUPERVISORY POSITION ANALYSIS FORM (DER-PERS-84).

14. POSITION SUMMARY - PLEASE DESCRIBE BELOW THE MAJOR GOALS OF THIS POSITION

This is responsible semi-skilled, technical work in the functions of Fire Control, Parks, Law Enforcement and assisting other DNR functions. Work is performed independently under the limited supervision of a Forest Ranger.

15 DESCRIBE THE GOALS AND WORKER ACTIVITIES OF THIS POSITION (Please see sample format and instructions on back of last page)

- GOALS: Describe the major achievements, outputs, or results. List them in descending order of importance
- WORKER ACTIVITIES Under each goal, list the worker activities performed to meet that goal
- TIME %: Include for goals and major worker activities

(Continue on attached sheets)

TIME %	GOALS AND WORKER ACTIVITIES
	(see attached addendum)

16. SUPERVISORY SECTION - TO BE COMPLETED BY THE FIRST LINE SUPERVISOR OF THIS POSITION (See Instructions on Back of last page)

- a The supervision, direction, and review given to the work of this position is  close  limited  general.
- b The statements and time estimates above and on attachments accurately describe the work assigned to the position (Please initial and date attachments.)

Signature of first line supervisor Arvid B. Haugen Date 7-14-82

17 EMPLOYE SECTION - TO BE COMPLETED BY THE INCUMBENT OF THIS POSITION

I have read and understand that the statements and time estimates above and on attachments are a description of the functions assigned my position (Please initial and date attachments)

Signature of employee Dean R Morgan Date 3-2-82

18. Signature of Personnel Manager [Signature] Date 1/10/83

DESCRIPTION ADDENDUM

2

Time %	15. Goals and Worker Activities
20%	<p>A. <u>Suppression of forest fires.</u></p> <p>A1. Operates crawler tractors, pumpers, tankers, and other motorized equipment units on initial attack and mop-up operations as a certified Fire Control Equipment Operator.</p> <p>A2. Make decisions on where to place fire control lines which meet DNR guidelines and construct them.</p> <p>A3. Direct fire operations in the role of fire boss in the absence of the Forest Ranger or more senior station employee.</p> <p>A4. Direct the suppression action of a crew as division or sector boss.</p> <p>A5. Prepare and collect suppression accounts, prepare fire reports in absence of Forest Ranger.</p>
5%	<p>B. <u>Prevention of forest fires.</u></p> <p>B1. Present prevention programs to individuals, adults, and youth groups.</p> <p>B2. Conduct inspections of properties, recreational areas, industrial sites, field operations and railroad right-of-ways to promote fire safety.</p> <p>B3. Distribute signs and literature to promote fire safety; post, maintain and renovate permanent style signing.</p> <p>B4. Promote and maintain efficient public contacts for fire prevention purposes.</p> <p>B5. Construct and maintain fire breaks on school forests and municipal public waste sites.</p>
5%	<p>C. <u>Enforcement of fire laws.</u></p> <p>C1. Issue and inspect regular and seasonal burning permits.</p> <p>C2. Maintain supplies and equipment for emergency fire fire wardens.</p> <p>C3. Investigate fire law violations.</p>
10% 15%	<p>D. <u>Maintenance of equipment.</u></p> <p>D1. Inspect, maintain and repair motorized and non-motorized fire equipment.</p> <p>D2. Conduct daily, operational and recurring maintenance checks on assigned equipment.</p> <p>D3. Inspect, maintain and repair fire hand tools.</p> <p>D4. Construct, install and maintain tool boxes and other accessories on equipment.</p>
25% 20%	<p>E. <u>Maintenance of buildings and grounds.</u></p> <p>E1. Conduct recurring routine facility and ground maintenance at assigned properties.</p> <p>E2. Rehabilitate and remodel assigned properties as required.</p> <p>E3. Design and construct cabinets, desks, etc. for other properties, as assigned by Area Ranger.</p> <p>E4. Conduct minor building construction as required.</p>

5870  
108

- F. Administration of Station and Sub-area operations.
- F1. Gather data, submit required reports, maintain records on assigned activities.
- F2. Maintain station and property inventory.
- F3. Review and update fire action plan.
- F4. Keep manual and administrative codes updated.

576  
108

- G. Management of Rocky Arbor State Park.
- G1. Operate equipment for development and maintenance of park operations. This would include stump removal and development of such facilities as snowmobile and hiking trails.
- G2. Inspect, maintain, remodel buildings and grounds at park.
- G3. Dismantle and bury remains of obsolete buildings at landscape to a natural condition.

570  
108

- H. Cooperation with other DNR functions and outside agencies.
- H1. Sell hunting, fishing and other licenses and maintain records of these sales.
- H2. Pick up and dispose of car killed deer and construct and maintain deer pit.
- H3. Assist fish management in electro-shocking, netting in lakes and streams and compiling related data.
- H4. Assist Emergency Government in such disasters as storm at Eau Claire.
- H5. Assist Fire Departments on building fires.
- H6. Assist local Sheriff Departments upon request.

108

- J. Law Enforcement.
- J1. Assist in enforcement and investigation of game, fish, boating, snowmobile, litter, and water regulation laws.
- J2. Make court appearances as required.
- J3. Attend annual 16 hour law enforcement training.

To changed based on  
revaluation of time, per H. Thoms  
P