

STATE OF WISCONSIN

PERSONNEL COMMISSION

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DENNIS LEITH, *

Appellant, *

v. *

Secretary, DEPARTMENT OF *

NATURAL RESOURCES, and *

Secretary, DEPARTMENT OF *

EMPLOYMENT RELATIONS, *

Respondents. *

Case No. 87-0154-PC *

* * * * *

DECISION
AND
ORDER

NATURE OF THE CASE

This is an appeal pursuant to §230.44(1)(b), Stats., of a reclassification of appellant's position from Natural Resource Supervisor 2 (NRS 2) (Pay Range 1-13) to Park Superintendent 4 (PS 4) (Pay Range 1-13) rather than to Park Superintendent 5 (PS 5) (Pay Range 1-14).

FINDINGS OF FACT

1. Appellant has at all relevant times been employed by respondent Department of Natural Resources (DNR), and is currently employed at the Northern Highland - American Legion (NH-AL) State Forest at Woodruff in a position with the working title of Recreation Specialist.

2. The current duties and responsibilities of appellant's position are accurately set forth in the position description signed by him on May 8, 1986, Respondent's Exhibit 4. The main "goals and worker activities" as set forth on that document are as follows:

"20% A. Supervision of all recreation employes and recreational activities on the Northern Highland - American Legion State Forest.

* * *

20% B. Administration of all recreational activities on the Northern Highland - American Legion State Forest.

* * *

15% C. Development and control of the recreational budget and revenue collection program.

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10% D. Direction of public contact, visitor protection, and interpretative programs.

* * *

5% E. Enforcement of state statutes and departmental administrative roles.

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5% F. Maintenance of grounds and facilities.

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5% G. Administration and supervision of all activities on the Bearskin State Park Trail.

* * *

5% H. Implementation of public relations program.

* * *

5% I. Development of recreational activities.

* * *

5% J. Management of lands.

* * *

5% K. Coordination of efforts within the DNR, the Forest Recreation Program, and the Bearskin State Park Trail....

3. Appellant supervises maintenance and law enforcement operations which are, in turn, supervised by PS 2's, William Eldred and Mark Brandt, respectively. Appellant supervises a total of 12 permanent employes and a larger number of limited term employes (LTE's) and interns.

4. Based on the official NH-AL Organization chart, which reflects the official DNR - prescribed organization for NH-AL, appellant is supervised by Floyd Reinemann, the Forest Superintendent, NRS 4 (PR1-15). Mr. Reinemann is supervised by the Woodruff Area Director, Pete Tyler.

5. In 1983, Mr. Tyler moved the location of appellant's position from Trout Lake to the Woodruff headquarters ago so appellant could coordinate better with the area managers and Mr. Tyler could have more direct contact with appellant. Mr. Tyler usually contacts appellant directly concerning recreation issues. Mr. Reinemann handles appellants' performance evaluations and leave approval, and is responsible for the forest budget and master plan, to which appellant contributes the parts relating to his program areas.

6. Appellant's position was reallocated from NRS 1 (Pay Range 1-12) to NRS 2 (Pay Range 1-13) effective April 14, 1985.

7. Over the period of about 4 years prior to the 1987 reclassification, appellant's position has experienced a logical and gradual change, in summary as follows:

a) Assumption of administrative and supervisory responsibilities for the Bearskin State Park Trail, an extensive snowmobile facility;

b) Appointment as the forest recreation specialist for the Bureau of Forestry;

c) Addition of new facilities to the recreation program, including (since 1982) 6 new cross-country ski trails, a 19-mile combination hiking and ski trail, 2 new shelter buildings, 14 new boat landings, new handicapped facilities in campgrounds and picnic areas, and 13 shore lunch picnic sites administered under a volunteer agreement but which still must be inspected by the recreation crews;

d) Since 1984, assumption of responsibility for preparation of the recreation budget, subject to the supervision and approval of Mr. Reinemann, whereas previously there had been just one budget for the forest which was handled by Mr. Reinemann;

e) Since 1983, assignment to coordinate the entire snowmobile program for the forest, which includes securing and updating land use agreements with numerous clubs and other snowmobile organizations, processing grooming services contracts, and meeting with various snowmobile organizations. There are approximately 400 miles of snowmobile trails on the NH-AL forest, covered by 22 land use agreements with 13 different organizations. Some of this snowmobile trail responsibility is outside the forest boundaries and to that extent entails area accountability;

f) Increase in maintenance and law enforcement workloads. The latter increased substantially, due to increased activities in connection with Native American treaty rights;

g) Assumption of responsibility for maintenance of the Youth Conservation Corps (YCC) camp at Statehouse Lake. This activity was made more complex when the camp became co-educational;

h) Addition of two supervisory positions for which appellant is responsible;

i) Additional responsibility to act as area recreation specialist to provide advice to other state programs as well as to the private sector;

j) In 1982, eight different wild resource protection zones totalling 43,848 acres were established on the Forest. These zones, consisting of wild/wilderness areas, 60 wild/wilderness lakes,

scientific areas, and public use natural areas present a unique challenge in enforcement and maintenance. The acreage involved in these zones alone far exceeds the acreage of any State Park.

8. DNR has developed various quantitative criteria (e.g., acreage, number of visitors, campsites, etc.) to evaluate its properties from a classification standpoint. State parks are rated from Class A (smallest) to Class E (largest). State forests are rated medium, large, or major. DNR has categorized NH-AL State Forest a major forest and considers it to be on an equivalent level to a Class E park.

9. The NH-AL State Forest recreation program is more extensive in scope than any state park recreation program as evaluated by various quantitative criteria, such as:

a) NH-AL has approximately 400 miles of snowmobile trails, of which 73 are directly administered and the remainder of which are under some kind of land use agreement, as compared to approximately 500 miles for all the state parks;

b) NH-AL has 61 miles of roads. State parks average 3-4 miles apiece;

c) NH-AL has over 100 canoe campsites; there are less than 12 in all the parks;

d) NH-AL has 162 islands which must be inspected twice a year; there are only one or two in all the parks;

e) NH-AL has 104 boat landings; state parks average 1 or 2 a piece.

f) A comparison of NH-AL to various parks whose recreation programs are administered by PS 5's was set out in Appellant's Exhibit 1. The accuracy of this data has not been challenged, and it is adopted as part of this finding as follows:

Statistics	Property			
	NHAL State Forest**	Lake Wissota Work Unit*	Bong Recreation Area	High Cliff State Park
Acres	220,000	1,875	4,515	1,140
Picnic area (acres)	82	27.7	17	45
Number of shelters	1	2	6	2
Beach area (feet)	5,430	350	400	500
Number of parking stalls	1,270	450	980	770
Nature trails (miles)	6.8	1	1	2
Snowmobile trails (miles)	73.2***	7.3	11.5	5
Hiking trails (miles)	18.5	32	13	5.2
Cross-country ski trails (miles)	60	31.5	13	4.2
Number of campsites	1,017	81	0	53
Outdoor group camp capacity	100	80	0	80
Number of launches	90	1	1	1
Miles of roads	61	4.5	6.5	4
Visitations	1,425,823	191,872	170,935	552,153
Campers	210,101	24,976	3,962	22,510
Classified employees supervised (according to Personnel Directory)	12	3	7	5

* Includes Lake Wissota State Park, Red Cedar Trails, Hoffman Hills Recreation Area, and Chippewa Moraine. I did not include Chippewa Moraine since I had no data on it.

** Figures do not include the Bearskin State Park Trail, which is a part of the recreation program of the Northern Highland-American Legion State Forest. Figures do not include land use agreements for trails; there are hundreds of miles of these which must be inspected as per Manual Code.

*** Contract groomed. There are 350-400 miles of additional snowmobile trail covered by 22 land agreements with 13 different organizations.

g) With respect to the parks set forth in finding 9. f), the PS 5's administer the entire property, including a land control function, which is something for which appellant is not directly responsible, although he is involved in some coordinative activities with the area land acquisition agents. These park positions also report directly to an area director or equivalent, whereas appellant reports to an intervening level of supervision (Floyd Reinemann), the forest manager.

10. The PS position standard, Respondent's Exhibit 2, includes the following:

A. Purpose and Use of This Position Standard

This position standard is the basic authority for making classification decisions relative to present and future positions implementing the programs and managing the property of state parks and/or forests in accordance with the rules and regulations of the Department of Natural Resources (DNR). This position standard will not specifically identify every eventuality or combination of duties and responsibilities of positions that currently exist, or those that may result from future changes. Rather, it is designed to serve as a framework for classification decision making in this occupational area.

B. Inclusions

This series encompasses superintendent and assistant superintendent positions which manage property and implement DNR programs in state parks and/or forests. Duties may include planning, coordinating and implementing grounds maintenance; building maintenance; equipment maintenance; park development; law enforcement; recreation programs; and training. Certain duties of these positions may be identified in other classifications, but they would not comprise a majority of these positions' work time.

* * *

E. Classification Factors

The following classification factors were considered during development of the Position Standard:

Factor 1 - Scope and Impact of Work:

- a. Scope (range or extent) of the goals and accomplishments;
and
- b. Impact of the work both internal and external to the work
unit.

Factor 2 - Complexity of Work:

- a. Difficulty in deciding what needs to be done; and
- b. Difficulty in performing the work.

Factor 3 - Discretion and Accountability:

- a. Extent to which the work is structured or defined; and
- b. Extent to which one is responsible to other authorities for
actions taken or decisions made.

Factor 4 - Knowledge and Skills Required:

Breadth (variety) of knowledge normally required and used in
completing acceptable work, and depth (degree of detailed under-
standing) of knowledge normally required and used in completing
acceptable work.

Factor 5 - Personal Contacts and Their Purpose:

- a. Nature of the contacts; and
- b. Purpose of the contacts.

Factor 6 - Work Environment:

Level and frequency of risks and discomforts in employes' normal
physical surroundings.

Factor 7 - Physical Effort:

Level and frequency of physical effort required of employes by
normal work assignments.

F. How to Use This Position Standard

This standard is used to classify entry, developmental and
objective level positions described under Section B of this
standard. In most instances, positions included in this series
will be clearly identified by one of the class descriptions.
However, if a position develops which is not specifically iden-
tified, classification analysis will be necessary to determine
the proper classification and level.

II. CLASS CONCEPTS AND REPRESENTATIVE POSITIONS

* * *

PARK SUPERINTENDENT 4

(PR1-13)

This is objective level park superintendent work performed under the direct supervision of a higher level Park Superintendent or Area Director. Positions at this level typically function as: 1) the Superintendent of a Class C park; or 2) the Assistant Superintendent of a Class E park.

Representative Position:

Assistant Superintendent, Penninsula State Park - This position serves as the Assistant Park Superintendent and is responsible for the administration of the daily activities within the park which includes supervision of personnel, planning, organization, and implementation of maintenance and development projects, and budget monitoring.

PARK SUPERINTENDENT 5

(PR1-14)

This is objective level park superintendent work performed under the general direction of an Area Director. Positions at this level typically function as the Superintendent of a Class D park.

Representative Position:

Superintendent, Yellowstone Work Unit - This position is responsible for supervising a large staff in the implementation of building and grounds maintenance programs, law enforcement functions, and park development projects; coordinating short and long term park planning; developing and controlling park budgets; and supervising sticker sales, camper registration and maintenance programs.

11. Appellant's position is more accurately described by the PS 4 than by the PS 5 description in the position standard, and is more appropriately classified as PS 4 than as PS 5.

12. By memo dated July 13, 1987, Respondent's Exhibit 3, respondent DNR denied reclassification of appellant's position to a higher level but reallocated it from NRS 3 to PS 4. Appellant then filed this appeal.

CONCLUSIONS OF LAW

1. This matter is properly before the Commission pursuant to §230.44(1)(b), Stats.
2. Appellant has the burden of proving that respondent's decision to reallocate his position from NRS 2 to PS 4 rather than to reclassify it to PS 5 was incorrect.
3. Appellant having failed to sustain his burden of proof, it must be concluded that respondent's decision to reallocate his position from NRS 2 to PS 4 rather than to reclassify it to PS 5 was not incorrect.

DISCUSSION

The Commission will first address appellant's contention that respondent's decision concerning the classification of his position was defective because the position standard was developed for state park positions and does not adequately cover state forest positions. The language of the position standard clearly states it was intended to be used for both forest and park positions. The categorization of properties by workload occurred with respect to both park and forest properties, and NH-AL was classified as a major (largest) forest and equated to a Class E park, the largest park category. While appellant argues that NH-AL should be awarded an F or G rating, the position standard does not recognize such a rating, so to do so would be to rewrite the position standard at the PS 5 level to read as follows: " ... Positions at this level typically function as the superintendent of a Class D park or as an assistant superintendent of a Class F or G park or equivalent forest." The Commission does not have the authority to rewrite a position standard, but must apply the existing standard to the duties and responsibilities of a position to determine the correctness of the decision it is reviewing. Zhe v. DHSS & DP,

No. 80-285-PC (11/19/81), affirmed, Dane Co. Circuit Court No. 81CV6492 (11/82).

There are cases where parts of a position standard become outmoded over the course of time and as circumstances change, and then classification decisions may be based on the more general concepts reflected in the position standard, as opposed to outmoded specific sections, such as allocation patterns. This is specifically recognized by the PS position standard, which states:

"A ... This position standard will not specifically identify every eventuality or combination of duties and responsibilities of positions that currently exist, or those that may result from future changes. Rather, it is designed to serve as a framework for classification decision making in this occupational area.

* * *

F. In most instances, positions included in this series will be clearly identified by one of the class descriptions. However, if a position develops which is not specifically identified, classification analysis will be necessary to determine the proper classification and level." (emphasis added)

However, in this case, the position standard was implemented in 1985. Appellant's disagreement with capping the property ratings at Class E (to which NH-AL, a major forest, has been equated) is a disagreement with a concept embodied in the position standard, and is not based on a theory that NH-AL went from a Class E to what should be recognized as a Class F or G property between 1985 and 1987, when this reclassification decision was made.

While appellant's position is more or less specifically identified at the PS 4 level: "Positions at this level typically function as ... the assistant superintendent of a Class E park [or its equivalent]," appellant has argued his position should be at the classification level (PS 5) of the park superintendents at certain parks identified in Appellant's Exhibit 1

as Lake Wissota Work Unit, Bong Recreation Area and High Cliff State Park. He asserts that NH-AL is much more extensive in terms of acreage, trail mileage, road mileage, etc., and that this contributes to a greater scope of responsibility for his position. These park positions are in properties that have apparently been identified as Class D properties by DNR, see Appellant's Exhibit 8, so the fact that they are quantitatively at a lower level than NH-AL is undisputed. The position standard specifically identifies superintendents of Class D parks at the PS 5 level, while superintendents of Class C parks, which are even smaller, are identified at the PS 4 level, the same as is appellant's position. Obviously, the position standard assigns additional credit to a position for administering an entire property rather than a program within a property, due to the property manager's responsibility for the added program (land control) and the greater independence and scope of budgeting, planning, etc. The latter point is related to another factor recognized by the position standard, that of reporting relationship. The superintendent of a Class D park reports to an Area Director, while appellant reports to a Forest Superintendent who, in turn, reports to an Area Director. This added layer of supervision diminishes the responsibility of the position.

While the Area Director has blurred the lines of supervision to some extent by bypassing the Forest Superintendent and providing direct supervision to appellant as to some matters, the fact remains that the Forest Superintendent is still officially the supervisor of appellant's position. The Area Director has attempted to have this changed, but higher level management has refused. The Forest Superintendent is responsible for appellant's leave and performance evaluation, and for the overall forest budget and master plan, with respect to which the recreation program is

only one component. Furthermore, as the DNR personnel specialist testified, the Forest Superintendent is dependent to some extent on his supervision of appellant for his (Reinemann's) class level. Under all these circumstances, while it may be said that appellant's level of supervision would be more favorable from a classification standpoint than another assistant Forest Superintendent who did not get as much direct control from the Area Director, it cannot be equated with reporting directly to an area director as the Class D park superintendents do.

In conclusion, while appellant's position has experienced some growth since it was reallocated, the position is still within the parameters of the PS 4 classification as an assistant superintendent of a Class E or equivalent property. It is possible that such a position could grow enough, particularly through the addition of programs, to reach the point where it could be concluded that it had outstripped the concept of an assistant Class E property superintendent embodied in the position standard, and should be placed at a higher level based on this language from the position standard:

"A ... This position standard will not specifically identify every eventuality or combination of duties and responsibilities of positions that currently exist, or those that may result from future changes. Rather, it is designed to serve as a framework for classification decision making in this occupational area.

* * *

F ... if a position develops which is not specifically identified, classification analysis will be necessary to determine the proper classification and level.

However, appellant's distinctly new responsibilities, such as serving as the forest recreation specialist for the Bureau of Forestry, constitute small percentages of the total job. With regard to increased workload, under this classification structure it has little significance except to

the extent it were of a nature that could move a property into a different category type, and NH-AL is already at the highest level. Therefore, it must be concluded that the changes in this position have not moved it outside its identification by the position standard at the PS 4 level.

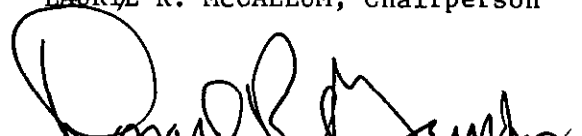
It appears that appellant's classification concerns, particularly as they relate to his contentions concerning the uniqueness of the NH-AL State Forest, could best be addressed through a revision in the position standard. While it cannot be said whether such a change would be justified, the Personnel Commission lacks the authority to make such a revision.¹

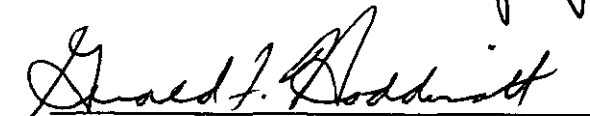
ORDER

Respondents' action reclassifying appellant's position from NRS 2 to PS 4 instead of PS 5 is sustained and this appeal is dismissed.

Dated: November 3, 1988 STATE PERSONNEL COMMISSION


LAURIE R. McCALLUM, Chairperson


DONALD R. MURPHY, Commissioner


GERALD F. HODDINOTT, Commissioner

AJT:rcr
RCR03/4

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¹ The Commission has revised the last sentence of the proposed decision and order by deleting language that was not necessary to rendering a decision in this matter.