

STATE OF WISCONSIN

PERSONNEL COMMISSION

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RONALD H. JONES,  
 Appellant,  
 v.  
 Secretary, DEPARTMENT OF  
 NATURAL RESOURCES and  
 Secretary, DEPARTMENT OF  
 EMPLOYMENT RELATIONS,  
 Respondents.  
 Case No. 85-0127-PC  
 \* \* \* \* \*

DECISION  
 AND  
 ORDER

This matter is before the Commission on consideration of the attached proposed decision and order of the hearing examiner. The Commission has considered the respondent's objections and arguments. The appellant declined to submit any response to the respondent's arguments. The Commission also has consulted with the examiner. The Commission now adopts the attached proposed decision and order as its final disposition of this matter and adds the following to further explain its decision, particularly in light of some of respondents' objections to the proposed decision.

The Commission first would like to make it clear that the use of a rating system for classification purposes is not suspect per se, but that, on the basis of this record in this case, the Commission could not find an adequate correlation between the factors measured by the rating system and the classification factors listed in the Natural Resources Specialist (NRS) position standard. Although respondent is correct in its contention that factors other than those listed in the NRS position standard may be considered in a classification review, it is clear that the rating system must

at least reflect the classification factors enumerated in the position standard, and that any additional factors may not be substituted for those enumerated classification factors, as has occurred here.

The appellant has made the point, with which the Commission agrees, that it is not self-evident that there is a necessary correlation between the 12 rating criteria and the classification factors, and the record contains no other adequate support for that correlation. Respondent argues in its objections that "the number of counties in a sub-area, the population thereof and the number of separate public officials, etc., has already been factored into the 12 rating criteria. More counties, people and groups are reflected in the more acres of ownership, number of landowners, acres of plantation, acres of timber stand improvement, acres of reforestation, acres of grazing cooperating state and federal programs, tax law applications and tree orders." Common sense dictates that this is not necessarily so. For example, it is possible that County A could have as many landowners as Counties B, C, and D put together; i.e., there is no necessary correlation between number of counties and number of landowners. County I could have the same number of landowners as County II but twice the population; i.e., there is no necessary correlation between the population of a county and its number of landowners. A similar analysis leads to the same conclusion in regard to each of the factors listed by respondent in regard to this objection.

Also in its objections, respondent contends that an increase in the resource base managed by appellant didn't increase the complexity of his position. However, the position standard specifically provides that an NRS 4 position is differentiated from an NRS 3 position by, among other factors, the extensiveness of the forest resource, the extensiveness of public

forest land in the sub-area, and the extensiveness of forest tax law entries and withdrawals. Each of these factors increases as the resource base increases. It is a necessary conclusion then that an increase in the resource base of a sub-area strengthens an assistant area forester position and must be considered in reviewing the appropriate classification to be assigned to such a position.

As stated in the decision, the PC agrees with respondent that the weight to be accorded the comparison of appellant's position and the Pike Lake position should be limited by the fact that certain comparison data was drawn from different sources and at different points of time. The primary purpose in comparing appellant's position and the Pike Lake position was to illustrate how appellant's position compared with an NRS 4 assistant area forester position which had undergone a classification review within 18 months of appellant's reclassification request (the resource base of a county is not likely to undergo a dramatic change in this period of time) on the basis of the classification factors listed in the NRS 4 position standard (see Finding of Fact 11). The data for this comparison was primarily drawn from identical sources--the position descriptions of the two positions--and, as stated above, an 18-month time differential isn't likely to result in dramatic changes in the factors compared. This comparison of these two positions serves as an example of the weakness of the agency's rating system, and aids appellant's contention that his position is more properly classified at the NRS 4 level.

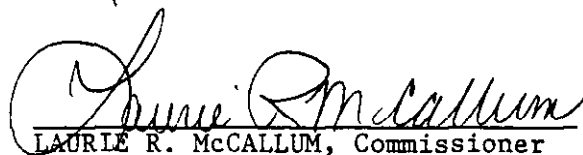
Thus the differences as to the comparison data may limit somewhat the weight of the comparison but do not mean it has no probative value.

Finally, the Commission notes the class specifications describe the NRS 3 representative positions as "responsible for the implementation of the fish wildlife, or forestry management programs in a sub-area (one or two counties)" (emphasis added), whereas the appellant's position is responsible for three counties.

Dated: January 24, 1986 STATE PERSONNEL COMMISSION

  
DENNIS P. MCGILLIGAN, Chairperson

  
DONALD R. MURPHY, Commissioner

  
LAURIE R. MCCALLUM, Commissioner

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STATE OF WISCONSIN

PERSONNEL COMMISSION

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RONALD H. JONES,  
 Appellant,

v.

Secretary, DEPARTMENT OF  
 NATURAL RESOURCES and  
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 EMPLOYMENT RELATIONS,  
 Respondents.

Case No. 85-0127-PC

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PROPOSED  
 DECISION  
 AND  
 ORDER

NATURE OF THE CASE

This is an appeal, pursuant to §230.44(1)(b), Stats., of a decision to deny appellant's request for reclassification of his position. A hearing was held on October 24, 1985, before Laurie R. McCallum, Commissioner.

FINDINGS OF FACT

1. At all times relevant to this appeal, appellant has been employed by respondent Department of Natural Resources (DNR) in the classified civil service as a Natural Resources Specialist 3 (NRS 3). Early in 1985, appellant requested a reclassification of his position from NRS 3 to NRS 4 and, in a memo dated May 22, 1985, respondent DNR denied such request. Appellant filed a timely appeal of such denial with the Personnel Commission.

2. Appellant's duties and responsibilities as an assistant area forester include the administration of the DNR's forest management program in Calumet, Outagamie, and Winnebago counties.

3. As a result of a 1984 reorganization, appellant was assigned responsibility for the administration of the DNR's forest management program in Winnebago County. This resulted in a significant increase in the scope (extensiveness) and complexity of the duties and responsibilities of appellant's position. Column 1 of the chart accompanying Finding of Fact 7 summarizes twelve areas of increased scope (extensiveness) and complexity. In addition, appellant's position assumed responsibility for forest management of several DNR properties, including the Wolf River, the Rat River Wildlife Area, and other scattered wildlife areas; for the cooperative fire control program in Winnebago county which requires cooperation with 18 fire departments and 16 town boards; and for liaison with public officials, public bodies citizens, and forestry-related groups in Winnebago County.

4. Although the additional duties and responsibilities referenced in Finding of Fact #3 came about as a result of reorganization, they constituted a logical and gradual change to the duties and responsibilities of appellant's position. Such additional duties and responsibilities constituted a logical change in that they do not represent a conceptual change in the nature of the duties and responsibilities appellant's position was performing. Such duties and responsibilities constituted a gradual change since counties are discrete units and it is not possible to add responsibility for additional counties more gradually than one at a time.

5. The assistant area forester assigned to Pike Lake Park is classified as a NRS 4 and is responsible for the administration of the DNR's forest management program in Washington and Waukesha counties. The position description offered in the record for purposes of comparing the Pike Lake position to appellant's position is dated June 9, 1983.

6. To classify assistant area forester positions, the DNR has employed a system under which each position is rated on the basis of 12 weighted factors. As of the date of appellant's request for the reclassification of his position, positions with a total rating of 487 or more were classified at the NRS 4 level. Appellant's position had a total rating of 455.

7. The following chart lists the 12 factors utilized by the rating system described in Finding of Fact #6 (Column 1), the raw data related to such factors for appellant's position (Columns 2 through 5), the sources of such data (Column 6), the raw data related to such factors for the Pike Lake Park assistant area forester position (Column 7), and the sources of such data (Column 8).

Column 1	Column 2	Column 3	Column 4	Column 5	Column 6	Column 7	Column 8
Rating Factor	Calumet Co.	Outagamie Co.	Winnebago Co.	Total for Appellant's Position	Source of Data	Total for Pike Lake Position	Source of Data
Acres of Ownership	25,500	69,100	20,700	115,300	1983 State Forest Survey Report - WFS	77,800	1983 State Forest Survey Report
Number of Landowners	1,750	3,560	1,660	6,970	1983 State Forest Survey Report - WFS	5,020	1983 State Forest Survey Report
Acres of Plantation	20	857	281	1,158	1979 Forest Plantation Survey	2,013	1979 Forest Plantation Survey
Acres of Timber Stand Improvement	2,300	7,000	1,000	10,300	Wis. Soil & Water Conservation Needs Inventory - 1979	6,300	Wis. Forest Resources Statistics - 1968
Acres of Reforestation	2,100	7,200	1,300	10,600	Wis. Soil & Water Conservation Needs Inventory - 1979	7,100	Wis. Forest Resources Statistics - 1968
Acres of Grazing	2,700	2,700	2,700	8,100	Wis. Soil & Water Conservation Needs Inventory - 1979	1,000	Pike Lake position description
Cooperative Federal/State Programs				7	DNR Bureau of Forestry	4 to 6	Pike Lake position description
Timber Types				9	DNR Bureau of Forestry & 1983 State Forest Survey Report	6	1983 State Forest Survey Report



Column 1	Column 2	Column 3	Column 4	Column 5	Column 6	Column 7	Column 8
Rating Factor	Calumet Co.	Outagamie Co.	Winnebago Co.	Total for Appellant's Position	Source of Data	Total for Pike Lake Position	Source of Data
Tax Law Applications	8	23	3	34	Forest Tax Unit Records	25	Pike Lake position description
Tree Orders	60	168	97	325	Bureau Nursery Report - Annual	260	Pike Lake position description
School Forest/DNR	10	6	7	23	UW-Ext. Report on School Comm. Forests	17	UW-Ext. Rpt. on School Comm. Forests
Supervision				1	DNR Personnel Records	0 to 1	Pike Lake position description

8. Certain factors which contribute to the scope (extensiveness) and complexity of the duties and responsibilities of an assistant area forester position are not measured by the system described in Finding of Fact #6.

These include:

(a) the number of counties served by the position (an increase in the number of counties increases the number of public officials and bodies the position must interact with including but not limited to state legislators; local elected officials and bodies on the county, city, village, and township levels; and fire departments),

(b) the population served by the position (a larger population results in a greater number of inquiries, requests for assistance, public education duties, and usage of forest land),

(c) the number of forestry-related bodies with which the position must interact (each county has its own ASCS Committee, SCS (Soil Conservation Service) office, SWCD (Soil and Water Conservation District) committee, LCC (Land Conservation) Committee, Park and Planning Committee, Extension Office, etc.).

9. The position standard for the NRS series includes the following:

Classification Factors

Individual position allocations will generally be based upon classification factors such as those listed below:

- A. The organizational status as it relates to level or responsibility assigned and accountability assumed for program development and/or implementation;
- B. The availability and applicability of established guidelines, procedures, precedents, and legal interpretations;
- C. The potential impact of policy and/or program decisions on the public, the State's natural resources, and other governmental entities;
- D. The degree of internal and external coordination required to accomplish objectives;

- E. The availability of non-subordinate staff having authority to make difficult program decisions or interpretations;
- F. The scope, variety, and complexity of decisions considering the number and nature of the variables that are relevant to the specific decision; and
- G. The extent and frequency with which problems or tasks of varying types occur.

NATURAL RESOURCES SPECIALIST 1 (PR15-01), 2 (PR15-02), and 3 (PR15-03)

Definition:

These three levels identify professional resource management work ranging from the entry to the basic objective level in an area, district, or central administrative office. The NRS 1 level is the basic entry level. The NRS 2 level is either an entry or progression level for employees who do not possess the qualifications which typically would indicate they could function with the degree of accountability and level of responsibility associated with the basic objective level. The NRS 3 level is the basic objective level for these positions. The individual types of tasks or duties performed at all three levels are substantially the same. Differences in position allocation are based primarily upon the complexity of the tasks and the level of accountability or responsibility assigned to the position as measured by the amount and type of supervision and direction received and authority assigned. Work performed at the objective (full performance) level is under general supervision.

Representative Positions:

Assistant Area Resource Manager - These positions report to the Area Resource Manager for Fish, Wildlife, or Forestry and are responsible for the implementation of the fish, wildlife, or forestry management programs in a sub-area (one or two counties). General activities for all areas of specialization include: writing environmental impact assessment narratives, reviewing environmental impact statements for content, responding to public inquiries, addressing public groups, and assisting in the writing of press releases. Examples of specific activities by area of specialization include:

Assistant Area Wildlife Manager - conducting wildlife surveys, developing short and long-term wildlife management plans, developing and implementing habitat improvement projects, and investigating animal damage complaints.

NATURAL RESOURCE SPECIALIST 4 (PR15-04)

Definition:

This is very responsible resource management work. Positions allocated to this class basically function as: 1) an assistant area resource manager responsible for the implementation of a complete resource management program (i.e., fish, wildlife, or restory) in a geographic sub-area where the extensiveness and complexity of the program easily distinguishes it from the basic objective assistant area manager at the NRS 3 level; 2) a district office specialist responsible for providing specialized resource management staff assistance to a county(s); or 3) an assistant staff specialist in the central office responsible for assisting in a specialized statewide resource program of standard scope.

Representative Positions:

Assistant Area Forester - reporting to the Area Forester, this position is responsible for the implementation of the forestry program in a sub-area of the State. This position is differentiated from lower level assistant area foresters by factors such as the extensiveness of the forest resource, the heavy emphasis on private forestry assistance (or a comparable specialization), the extensiveness and complexity of forest tax law entries and withdrawals, the extensiveness of public forest land in the sub-area, and the high degree of public involvement and pressure in decisions made regarding the sub-area's forest resources. In order for assistant area forester positions to be allocated to this level, it must be demonstrated that the factors used to justify identification at this level contribute significantly to the position's complexity.

10. The classification specifications for the NRS 3 classification (see description of representative position) specifically designate a sub-area managed by an NRS 3 assistant area forester as consisting of 1 or 2 counties. Appellant's position manages a sub-area consisting of three counties.

11. The classification specifications for the NRS 4 classification (see description of representative position) list the following factors by which NRS 4 level assistant area foresters are to be distinguished from lower level assistant area foresters:

- a. extensiveness of the forest resource -- this factor increased for appellant's position by 22% (115,300 acres vs. 94,600 acres) by the addition of responsibility for Winnebago County; comparing the sub-area assigned to appellant's position at the time of the subject reclassification request with the sub-area assigned to the Pike Lake position at the time the position description for such position was approved on June 9, 1983, the total forest resource of appellant's sub-area was 48% more extensive than the Pike Lake sub-area (115,300 acres vs. 77,800 acres).
- b. emphasis on private forestry assistance -- as of the date the position description for the Pike Lake position was approved, the Pike Lake sub-area included 74,800 acres of private forest land; as of the date of the subject reclassification request, the sub-area assigned to appellant's position included 108,700 acres of private forest land (45% more than the Pike Lake sub-area).
- c. extensiveness and complexity of forest tax law entries and withdrawals -- as of the date the position description for the Pike Lake position was approved, the position was responsible for an average of 25 tax law applications per year; as of the date of the subject reclassification request, appellant's position was responsible for an average of 34 tax law applications per year (36% more than the Pike Lake position).
- d. extensiveness of public forest lands -- as of the date the position description for the Pike Lake position was approved, the Pike Lake sub-area included 17,300 acres of public forest land; as of the date of the subject reclassification request, the

sub-area assigned to appellant's position included 4,600 acres of public forest lands.

- e. degree of public involvement and pressure in decisions made regarding the sub-area's forest resources -- it should be presumed that this is primarily dependent on the number of counties (which determines the number of public officials and bodies and other groups having input into the process and competing for resources) and the population of the sub-area. As of the date the position description for the Pike Lake position was approved, the Pike Lake sub-area consisted of two counties with a total population of 365,617. As of the date of the subject reclassification request, the sub-area assigned to appellant's position consisted of three counties with a total population of 296,030. The addition of Winnebago County to appellant's position's sub-area resulted in the addition of one county with a population of 132,811.

Appellant's position is significantly more extensive and complex than the Pike Lake position on 4 out of the above 5 factors.

12. The comparison of appellant's position to the Pike Lake position in the chart in Finding of Fact #7 is not as valid a comparison as that presented in Finding of Fact #11 because the sources of data used for the raw data for the Pike Lake position do not all reflect this data as of the date the Pike Lake position description was approved. However, the raw data for 9 of the 12 factors for the Pike Lake position (factors 1, 2, 3, 6, 7, 8, 9, 10, 12) is drawn from the appropriate sources and the totals for the appellant's position exceed the totals for the Pike Lake position on seven of these nine factors. It is not possible to conclude from this

that the DNR improperly rated appellant's position (see Finding of Fact #6) since it is not possible to compare the positions on each of the 12 factors and the record does not reflect how the factors are weighted. It is possible to conclude, however, that, in relation to 7 of the 12 factors which the DNR has decided shall determine the proper classification of an assistant area forester, the duties and responsibilities of appellant's position are more extensive and complex than those of a position classified at the NRS 4 level.

13. Due to the significant changes in the scope and complexity of the duties and responsibilities of appellant's position, resulting from the addition of Winnebago County to the sub-area for which appellant's position is responsible; to the fact that a sub-area, for purposes of classification at the NRS 3 level, consists of one or two counties while the sub-area for which appellant's position is responsible consists of three counties; and to the fact that, with respect to 4 of the 5 factors which the classification specifications for the NRS 4 classification designate as those distinguishing an NRS 4 position from a lower level NRS position, the duties and responsibilities of appellant's position are significantly more extensive and complex than the duties and responsibilities of an NRS 4 position offered for comparison purposes, appellant's position is better described by the classification specifications for the NRS 4 classification than those for the NRS 3 classification and is more appropriately classified at the NRS 4 level.

#### CONCLUSIONS OF LAW

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

2. The appellant has the burden of proving that respondent's decision denying the reclassification of appellant's position from NRS 3 to NRS 4 was incorrect.

3. The appellant has met that burden of proof.

4. Respondent's decision denying appellant's reclassification request was incorrect.

#### OPINION

The proper classification of a position involves the weighing of the class specifications and the actual work performed to determine which classification best fits the position. In appeals of reclassification denials, it is frequently the case that the duties and responsibilities of the subject position overlap in some respects both of the class specifications in question. The position is not entitled to reclassification because some aspects of the work involved fall within the higher classification, Kailin v. Weaver & Wettengel, 73-124-PC (11/28/75), particularly if those aspects constitute less than the majority of the total duties and responsibilities of the position, Bender v. DOA & DP, 80-210-PC (7/1/81).

Section ER-Pers. 3.01(3), Wis. Adm. Code, provides: "reclassification means the assignment of a filled position to a different class by the administrator as provided in §230.09(2), Stats., based upon a logical and gradual change to the duties and responsibilities of a position or the attainment of specified education or experience by the incumbent." As found in Finding of Fact #4 above, the duties and responsibilities of appellant's position did undergo such a logical and gradual change.

The language of the classification specifications governs the assignment of a position to a particular classification. Although the rating system employed by the DNR in classifying assistant area forester positions



(see Finding of Fact #6) can be a useful classification tool, it cannot be used to supplant or override the requirements of the classification specifications.

Although the duties and responsibilities of appellant's position, when rated by the DNR's 12-factor system, did not satisfy the system's requirement for classification at the NRS 4 level (a rating of 487 or above), such 12 factors did not recognize certain factors which the classification specifications specifically identify as contributing to the "extensiveness and complexity" of an assistant area forester position, i.e., the number of counties in a sub-area, the population of the sub-area and the number of separate public officials, public bodies, and other groups with which the position must interact.

When appellant's duties and responsibilities are compared to the classification specifications for the NRS series, not only is the sub-area for which appellant's position is responsible more extensive than that described in the NRS 3 classification specifications (see Finding of Fact #10) but the duties and responsibilities of appellant's position are significantly more extensive and complex than those of the NRS 4 Pike Lake assistant area forester position offered for comparison purposes on four of the five factors the NRS 4 classification specifications recognize as distinguishing NRS 4 positions from lower level assistant area forester positions (see Finding of Fact #11).

The Commission concludes, therefore, that appellant's position is better described by the classification specifications for the NRS 4 classification than those for the NRS 3 classification and that appellant's position is more appropriately classified at the NRS 4 level.

ORDER

The action of respondent is reversed and this matter is remanded for action in accordance with this decision.

Dated; \_\_\_\_\_, 1985      STATE PERSONNEL COMMISSION

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DENNIS P. MCGILLIGAN, Chairperson

LRM:jmf  
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DONALD R. MURPHY, Commissioner

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LAURIE R. McCALLUM, Commissioner

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