

STATE OF WISCONSIN

PERSONNEL COMMISSION

 *
 DON JOHNSON, *
 *
 Appellant, *
 *
 v. *
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 Secretary, DEPARTMENT OF *
 NATURAL RESOURCES and *
 Secretary, DEPARTMENT OF *
 EMPLOYMENT RELATIONS, *
 *
 Respondents. *
 *
 Case No. 85-0206-PC *
 *

DECISION
AND
ORDER

NATURE OF THE CASE

This is an appeal of a decision by the respondents to deny appellant's request to reclassify his position from Natural Resources Assistant 2 (NRA 2) to Natural Resources Technician 1 (NRT 1). A hearing was held before Laurie R. McCallum, Commissioner, on March 20, 1986.

FINDINGS OF FACT

1. At all times relevant to this appeal, appellant has been employed by respondent Department of Natural Resources (DNR) in its Glacial Lakes Grantsburg Work Unit and has occupied a classified position in the NRA series. During 1985, appellant requested the reclassification of his position from NRA 2 to NRT 1. In a memorandum dated September 23, 1985, respondent DNR denied such request. Appellant filed a timely appeal of such denial with the Commission.

2. Appellant submitted as part of his request for the reclassification of his position a position description which he had signed on January

31, 1985. This position description described appellant's duties and responsibilities as follows:

30% A. Development and Maintenance of Farm Wildlife Habitat

- A1. Supervises field implementation of the Farm Habitat Program; is responsible for planting 300 acres a year on Crex.
- A2. Implements dense nest cover habitat work on GLG properties.
- A3. Implements experimental farm habitat techniques, and monitors and evaluates same.
- A4. Participates in development and monitoring of sharecrop agreements.

25% B. Development and Maintenance of Prairie Wildlife Habitat.

- B1. Implements prairie restoration program by clearing land with heavy equipment.
- B2. Constructs and maintains fuelbreaks by operating heavy equipment.
- B3. Participates in prescribed burning on GLG properties, as well as other state and county properties in the Cumberland Area. Is responsible for firebreak development prior to and during prescribed burns. Participates in evaluation of burning effects.
- B4. Supervises LTE and volunteer help during prescribed burns.

20% C. Development and Maintenance of Wetlands Wildlife Habitat.

- C1. Participates in the engineering, construction and maintenance of dikes and water control structures. Working independently, runs survey levels and installs new control structures.
- C2. Conducts water level control activities on GLG, including operation of diversion pump, monitoring of water level gauges, and manipulation of flowage levels.
- C3. Constructs potholes and is responsible for location, design and layout of potholes.

15% D. Development and Maintenance of Public Use and Department Support Facilities and Equipment.

- D1. Develops and maintains public use facilities including roads, trails, parking lots, picnic areas and associated buildings and structures. Installs and maintains gates and signs, and posts properties as required.
- D2. Develops and maintains department support facilities including buildings and roads.
- D3. Operates and maintains heavy equipment including D-6 and Fiat-Allis bulldozers, loader tractor, farm tractors and farm equipment, Skidozer, dump truck and backhoe, and light equipment including burning equipment and pumps, chainsaws and brushsaws.
- D4. Cooperates with Fire Control as a certified heavy equipment operator (TD 450 tractor and plow unit, 3 ton and 5 ton tanker units).

10% E. Surveillance of Wildlife Populations in Western Burnett County.

- E1. Conducts wildlife surveys on GLC and in western Burnett County to determine population status and harvest rates of ducks, geese, sharp-tailed grouse, prairie chickens, deer, furbearers, sandhill cranes, eagles and ospreys. Participates in hunter bag checks, deer aging, waterfowl banding, and sexing and aging waterfowl.
- E2. Participates in surveillance and monitoring of wildlife diseases.

3. Appellant subsequently prepared a revised position description as the result of agreement by respondent DNR at the December 9, 1985, prehearing conference to conduct further review of the subject reclassification decision. This revised position description differed from the January 31, 1985, position description in the following respects:

- a. The percentage of time assigned to section A was reduced from 30% to 25%.
- b. The following duty was added to section A:
 - A2. Annually monitors and evaluates farming practices on Crex, and recommends and implements changes in management techniques.
- c. The following new section was added:

15% C. Planning and Evaluation of Wildlife Habitat Development and Maintenance Projects.

- C1. Working independently, plans the design, layout and construction of new firebreaks, with special responsibility for Amsterdam Sloughs Wildlife Area.
- C2. Working independently, plans the design, location, and construction of potholes, with special responsibility for Amsterdam Sloughs Wildlife Area.
- C3. Working independently, plans the development of farm wildlife habitat on Amsterdam Sloughs Wildlife Area.

d. The percentage of time assigned to section C (section D on the revised position description) was reduced from 20% to 15%.

e. The percentage of time assigned to section D (section E on the revised position description) was reduced from 15% to 10%.

f. The following duty was added to section D (section E on the revised position description):

- E1. Designs and constructs displays for Crex Interpretive Center. Constructs bookcases, display racks and directional signs.

4. The position standard for the NRA 2 classification provides, in pertinent part:

Class Description

Definition:

This is semi-skilled work in the areas of fish, forest and game. Employees in this class function primarily as (1) assistants to professionals with area program responsibility; (2) working crew chiefs over a small crew; (3) equipment operators; or (4) any comparable [sic] combination of the above. Greater independence, initiative, and latitude in performance of duties distinguishes this class from the Natural Resources Assistant 1 class. Work is performed under the general guidance and direction of a Natural Resources Technician or Natural Resources Specialist.

Examples of Work Performed:

Program Assistant:

Assists in lake and stream mapping operations.

Assists in lake and stream water investigations.
Assist on or conduct segments of surveys designed to gather fish physical and biological data.
Assists on or conducts segments of game and range surveys.
Charts, maps and color codes streams, springs, and wet marsh areas for planning of chemical treatment programs.
Assists in cruising, scaling, marking, and estimating the volumn of timber tracts for possible sale.
Assists in gathering tree stand physical and biological data.
Investigate area soil, drainage conditions, topography, and general physical characteristics of the land that might have a bearing on a project.
Assists surveyors and do calculations necessary for land-subdivision.
Prepares charts, tables, and drawings depicting results of survey findings.
Assists with the administration of forest and woodland tax laws.
Inspects catches of commercial fishermen.
Monitors cooperative rearing and holding ponds in an area.
Inspects sharecropped lands, co-op pheasant rearing stations and logging operations for compliance with agreements.
Conducts a furbearer or beaver control program in a large geographical area.
Assists in licensing game farms and shooting preserves.

5. The position standard for the NRT 1 classification provides, in pertinent part:

Class Description:

Definition:

This is responsible technical work in the areas of fish, forest and game. Employees in this class function as: (1) special assistants to professionals with area program responsibility; (2) working crew chiefs over a large permanent crew; (3) district field crew chiefs; (4) specialized equipment operators; or (5) in fish operations, serves as an assistant in a large hatchery or rearing station; or directs a small combination hatchery and/or rearing station.

Examples of Work Performed:

May assist in forest fire control and law enforcement activities.

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

Program Assistant:

Conducts a furbearer or beaver control program in a district.

Directs an outlying rearing pond program attached to a major fish hatchery.

Coordinate all cooperative rearing pond operations in a district.

Conducts all private fish hatchery licensing in an area.

Assists on land acquisition negotiations.

Conducts timber sale activities.

Investigates timber sales contract compliance.

Makes recommendations to foresters concerning planning, scheduling and layout of forest projects.

Conducts surveys designed to collect forest stand physical and biological data.

Assists private land owners in reforestation and timber sales activities.

Implements federal and state tree stand tax programs.

Assists in the planning, development and maintenance of wildlife habitat areas.

Conducts game population surveys.

Conducts lake and stream water content surveys and surveys designed to collect fish physical and biological data.

Conducts management follow-up studies based on survey findings.

6. Appellant does not function as a working crew chief over a small or large permanent crew or as a district field crew chief, and does not work in a fish operation.

7. The primary distinctions between the NRA 2 classification and the NRT 1 classification for purposes of this appeal are:

a. The geographical scope of the duty or responsibility, e.g., an NRT 1 position would conduct a furbearer or beaver control program in a district whereas an NRA 2 position would conduct a furbearer or beaver control program in a large geographical area.

b. The level of program responsibility and independence, e.g., (1) an NRA 2 position would monitor cooperative rearing ponds in an area whereas an NRT 1 would coordinate all cooperative rearing pond operations in a district; or (2) an NRA 2 position would assist in gathering tree stand physical and biological data whereas an NRT 1 position would conduct surveys designed to collect forest stand physical and biological data; or (3) an NRA 2 position would prepare

charts, tables, and drawing depicting results of survey findings whereas an NRT 1 would conduct management follow-up studies based on survey findings.

8. Appellant's position does perform some NRT 1 level duties;

a. The planning duties described under section C on the revised position description involve the level of program responsibility and independence envisioned by the NRT 1 position standard. These duties consume 15% of appellant's position's time.

b. The diversion pump operation duty described under section D2. of the revised position description involves the operation of a specialized piece of equipment. This duty consumes only a very small percentage (less than 5%) of appellant's position's time.

c. The wildlife survey duties described under section F of the revised position description involve the level of responsibility envisioned by the NRT 1 position standard, i.e., appellant's position conducts such surveys, it does not assist in conducting such surveys. These duties consume 10% of appellant's position's time.

9. The primary emphasis of the remainder of the duties of appellant's position is the operation of equipment to carry out duties described as implementation, construction, maintenance, and monitoring duties on the revised position description. Such duties are clearly NRA 2 level duties.

10. The following positions were offered for comparison purposes in the hearing record:

a. Ralph Peterson and Robert Budzinski. These positions are classified at the NRT 1 level and the position descriptions for these positions are identical except for some slight variations in the time percentages assigned to the various duties and responsibilities. From

the language of the position descriptions, it appears that these positions perform duties comparable to those of appellant's position with the following exceptions:

i. Application of animal damage control programs consumes 15% of the Budzinski position's time and 9% of the Peterson position's time whereas appellant's position does not have this responsibility.

ii. Participation in intra-department and public cooperative assistance efforts and public information programs, accomplishment of necessary report and recordkeeping requirements, and completion of necessary training requirements consumes 5% of the Budzinski position's time and 8% of the Peterson position's time whereas appellant's position does not have these responsibilities.

iii. Certain planning duties (see Finding of Fact 8a.) consume 15% of appellant's position's time whereas the Budzinski and Peterson positions don't appear to have these responsibilities.

b. Carl Rattunde. This position is classified at the NRA 2 level and, from the language of the position description, it appears that this position performs duties comparable to those of appellant's position with the following exceptions:

i. Conducting managed hunts consumes 5% of the Rattunde position's time whereas appellant's position does not have this responsibility.

ii. Cooperation with other departmental programs (e.g., operating equipment on wild fires and aiding in the collection of

research data on deer and ruffed grouse) consumes 5% of the Rattunde position's time whereas it does not appear that appellant's position has these responsibilities.

iii. Certain planning duties (see Finding of Fact 8a.) consume 15% of appellant's position's time whereas the Rattunde position doesn't appear to have these responsibilities.

11. The NRT 1 level duties performed by appellant's position do not consume a majority of appellant's position's time and, therefore, appellant's position is more appropriately classified at the NRA 2 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 NRA 2 to NRT 1 was incorrect.

3. The appellant has not met that burden of proof.

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

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, Kaiflin v. Weaver and Wettengel, Case No. 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, Case No. 80-210-PC (7/1/81).

Although appellant's position does perform some NRT 1 level duties and responsibilities (see Finding of Fact 8), these do not constitute a majority of the duties and responsibilities of appellant's position. The primary emphasis of the remainder of appellant's duties and responsibilities is equipment operation and this is specifically enumerated in the NRA 2 position standard as an NRA 2 level responsibility (Finding of Fact 4).

A comparison of the duties and responsibilities of appellant's position with those of positions offered for comparison purposes in the record was inconclusive. A majority of the duties and responsibilities of appellant's position were comparable to a majority of the duties and responsibilities of positions classified at both the NRA 2 and NRT 1 levels (see Finding of Fact 10).

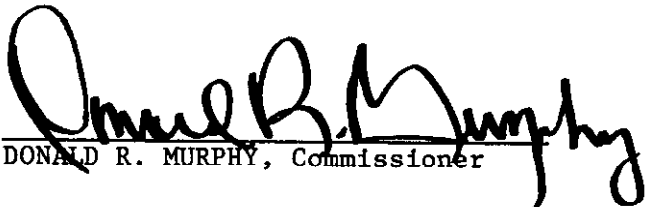
Since the majority of appellant's duties and responsibilities are better described by the NRA 2 position standard than the NRT 1 position standard, the Commission concludes that appellant's position is more appropriately classified at the NRA 2 level.

ORDER

The action of respondents is affirmed and this appeal is dismissed.

Dated: May 15, 1986 STATE PERSONNEL COMMISSION


DENNIS P. MCGILLIGAN, Chairperson


DONALD R. MURPHY, Commissioner

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