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DUANE KETTER,

Appellant,

v.

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

Respondents.

Case No. 90-0342-PC

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FINAL  
ORDER

After reviewing the Proposed Decision and Order, the objections filed by the appellant, and the hearing record, and after consulting with the hearing examiner, the Commission adopts the Proposed Decision and Order with the following modifications and additions:

I. The seventh sentence of the final paragraph of the Decision section (beginning on line 18 of page 8 of the Proposed Decision and Order) is modified to read as follows:

Not only does the Johnson position supervise more and higher level permanent positions in a work unit (not necessarily a higher organizational unit than an area or even a sub-area), but it also has significant forest management duties unrelated to its wildlife habitat duties, independent wildlife management duties, engineering duties, and responsibility for assisting the work unit manager in project planning.

This change was made to correct an error and to clarify, based on witness Steinmetz's testimony, that a work unit is a different type of organizational unit than an area or sub-area and may not be equivalent to either.


II. The following language is added to the Decision section:

Although respondent's classification expert testified that the Johnson position was classified at the NRT 3 level based on her conclusion that it was equivalent to an NRT 3 position at a

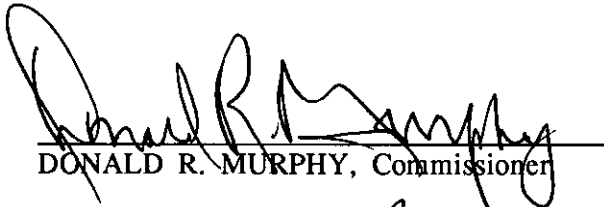
major fish hatchery, there is no evidence in the hearing record describing the duties and responsibilities of such fish hatchery position. As a result, it is not possible to make any direct or meaningful comparison between appellant's position and an NRT 3 position at a major fish hatchery.

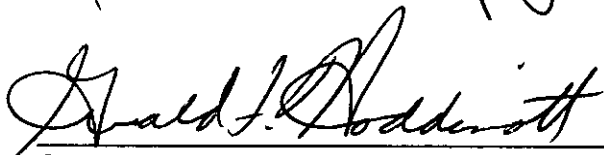
Finally, nothing in this decision is meant in any way to denigrate appellant's performance of the duties and responsibilities of his position. Respondent commented at the hearing that appellant was a very valued employee of the DNR. The conclusions reached relate only to the types of duties and responsibilities assigned to his position and to their proper classification within the state's classification system.

Dated: April 5, 1991 STATE PERSONNEL COMMISSION

  
LAURIE R. McCALLUM, Chairperson

LRM/lrm/gdt/2

  
DONALD R. MURPHY, Commissioner

  
GERALD F. HODDINOTT, Commissioner

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Scattered Wetlands, Extensive Wildlife Habitat Areas and one leased public hunting ground. Supervises 2 NRT 1's as well as LTEs, YCC crews, and volunteers. Of the 22 worker activities listed under this goal, the 4 primary ones are A8, A10, A11, and A17 which state as follows:

5% A8. Supervises and administers habitat development and maintenance activities of approximately 37 sharecroppers on 1772 acres.

10% A10. Operates and supervises operation of farm equipment.

10% A11. Operates and supervises operation of specialized heavy equipment such as dump trucks, semi-tractor and trailer, crawler tractors with blades or end-loaders, tractor back-hoes, all-terrain vehicles for facility and habitat development and maintenance.

5% A17. Administers maintenance of DNR and public use facilities and habitat including 12 miles of roads, 45 parking lots, 8 boat access points, 6 buildings, 3 miles of hiking trails, 6+ miles of dikes and 15 flowages. Recommends maintenance needs to wildlife manager. Plans maintenance activities.

20% B. Assists station wildlife manager in administration of wildlife management program; supervises maintenance of station equipment; performs personnel, reporting, and budget tasks related to activities of wildlife habitat field work crews.

6% C. Control of rough fish populations on waterfowl management properties. Of the 4 worker activities listed under this goal, the primary one is C1 which states as follows:

3% C1. Supervises and implements maintenance of the Horicon electric fish barrier and associated building/generator. Recommends electric fish barrier modifications to wildlife manager.

4% D. Provides technical assistance and public information regarding nuisance wildlife or wildlife programs to private landowners, other government agencies, and individuals.

4% F. Assists the station wildlife manager with the land acquisition program and supervises the implementation of the St. Cloud leased public hunting ground by Natural Resource Technician 1 and LTE's.

3% G. Assumes lead responsibility in providing for the maintenance needs of the Horicon Area Shop and Horicon Area Office.

2% H. Conducts wildlife and habitat surveys for population inventories and property management planning.

2% I. Supervision of the Public Hunting Ground stocking program in Dodge and Fond du Lac counties.

3. The position standard for the NRT 2 classification provides as follows, in pertinent part:

Definition

This is responsible technical work in the areas of fish, forest and game. Employees in this class (1) have specific sub-area program responsibility with minimal supervision available, (2) are responsible for planning, implementing and directing all district field crews on district fish, forest and game habitat improvement projects, (3) function as crew chiefs of a large rearing station, or (4) function as an assistant in a major fish hatchery or rough fish station.

Examples of Work Performed:

Program Assistant:

Independently coordinates, schedules and implements the specific sub-area program.

Maintains the sub-area grounds, facilities and equipment.

Directs crews in carrying out the sub-area programs.

Assists the area professional in planning the sub-area program.

Crew Chief:

Plans, implements, and directs the work on district construction and fish, forest and game habitat improvement projects.

Plans, schedules and assigns manpower and equipment needed to implement projects.

Prepares project activity and progress reports.

Prepares monthly payroll, time sheet and expense records.

4. The position standard for the NRT 3 classification provides as follows, in pertinent part:

Definition

This is responsible technical work in the areas of fish, forest and game. Employees in this class: (1) direct the operations at an area habitat management station, (2) function as the primary

district crew chief reporting directly to the district operations coordinator, (3) function as the chief para-professional with independent responsibilities for coordinating statewide projects, or (4) directs a major fish hatchery under minimal supervision.

Examples of Work Performed:

Area Habitat Management Station Director:

Plans, implements and coordinates all fish, forest and game habitat improvement projects in an area.

Schedules, assigns and reviews the work of crews working on area habitat management station projects.

Directs habitat management station crews in equipment maintenance and repair activities.

Inspects, as the Department of Natural Resources' representative, private power and pipeline construction projects that cross state-owned property.

Prepares the habitat management station work activity and progress reports.

Prepares, records and maintains the habitat management station monthly payroll, time sheets, and expenses and vehicle records.

Crew Chief

Plans, implements and directs the work on district construction and fish, forest and game habitat improvement projects.

Plans, schedules and assigns manpower and equipment needed to implement projects.

Prepares project activity and progress reports.

Prepares monthly payroll, time sheet and expense records.

5. The NRT 3 position held by Michael R. Johnson in respondent DNR's Northwest District was offered for comparison purposes. This position serves as the Glacial Lake Grantburg Work Unit Crew Chief and the assigned duties include overseeing the development and maintenance of wildlife habitat at Crex Meadows, Fish Lake, Amsterdam Sloughs and Danbury Wildlife Areas; overseeing general wildlife management work west of Highway 35 in Burnett County; setting up timber sales on state lands; developing public use and support facilities; ensuring all equipment is maintained (by leading the work of an Auto Mechanic, a classification in a pay range counterpart to that of an

NRT 2); assisting the work unit manager in project planning; full responsibility for the sharecropping program and water control activities; and conducting preliminary engineering work for wetlands habitat development. This position supervises four permanent employees as well as LTEs, work study employees and interns, and YCC crews.

6. The duties and responsibilities of appellant's position are better described by the language of the NRT 2 position standard than that for the NRT 3 position standard and are not comparable from a classification standpoint to those of the NRT 3 position offered for comparison purposes.

#### Conclusions of Law

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

2. Appellant has the burden to prove that respondent's decision denying the request for the reclassification of appellant's position from NRT 2 to NRT 3 was incorrect.

3. Appellant has failed to sustain this burden.

4. Appellant's position is more appropriately classified at the NRT 2 level.

#### Decision

It appears from the record that the majority of appellant's position's time is spent supervising the construction and maintenance of wildlife habitat improvement projects in a sub-area and the operation and maintenance of area equipment and facilities, i.e., this is the primary emphasis of Goals A

(55%), B (20%), and G(3%) of appellant's position description (See Finding of Fact 2, above).

In order to be classified at the NRT 3 level, the duties and responsibilities of a position must fit within one of the four allocations specified in the definition section of the NRT 3 position standard. Clearly, appellant's position does not fit within the third allocation, i.e., does not function as the chief para-professional with independent responsibilities for coordinating statewide projects; or the fourth, i.e., does not direct a major fish hatchery. In order to satisfy the requirements of the second allocation, a position must function as the primary district crew chief planning, implementing and directing the work on district construction and fish, forest and game habitat improvement projects. Not only does appellant's position function out of an area office, not a district office, which is a higher organizational unit than an area, but it is responsible only for wildlife habitat improvement projects, not for fish, forest, and wildlife habitat improvement projects. Appellant's position does not, therefore, satisfy the requirements of the second allocation of the NRT 3 position standard. In order to satisfy the requirements of the first allocation, a position must function as the area habitat management station director planning, implementing and coordinating all fish, forest and game habitat improvement projects in an area. Again, not only are appellant's position's primary responsibilities limited to a sub-area, not an area, but they are also limited to wildlife habitat improvement projects, not fish, forest, and wildlife habitat improvement projects. Appellant's position does not, therefore, satisfy the requirements of the first allocation of the NRT 3 position standard.

Turning to the NRT 2 position standard, appellant's position does not satisfy the requirements of the fourth allocation, i.e., does not function as an



assistant in a major fish hatchery or rough fish station; does not satisfy the requirements of the third allocation, i.e., does not function as the crew chief of a large rearing station; and does not satisfy the requirements of the second allocation, i.e., does not plan, implement and direct all district field crews on district fish, forest and game habitat improvement projects. Appellant's position does have particular sub-area responsibilities primarily related to equipment operation and maintenance, and construction and maintenance of facilities and wildlife habitat improvement projects. The duties and responsibilities assigned to appellant's position in addition to these crew chief-type duties and responsibilities include project planning and budgeting; vegetation control by burning, chemicals, or mechanical means; surveying; boundary posting; wildlife management; control of the rough fish population through supervision of the Horicon electric fish barrier and other means; technical assistance regarding nuisance wildlife programs; management of wildlife populations; land acquisition; wildlife surveys; and supervision of the sub-area stocking program. Appellant argues that these additional duties merit classification of his position at the NRT 3 level. However, this reasoning ignores the language of the NRT position standard. If appellant's positions' duties were limited primarily to crew chief-type duties, it would be hard to justify classification of appellant's position at even the NRT 2 level since NRT 2-level crew chief duties are performed on a district-wide basis and involve fish, forest, and wildlife projects as well as district construction projects. Appellant's duties are limited almost exclusively to the sub-area level and the addition of the sub-area program responsibilities listed above to the sub-area crew chief-type duties merit classification of appellant's position at the NRT 2 level, not the NRT 3 level.

Appellant is correct in asserting that respondents have not applied a strict interpretation of the language of the NRT position standard in classifying all NRT positions. This is demonstrated in the record by the classification of the Michael R. Johnson position at the NRT 3 level even though this position does not satisfy the literal requirements of any of the allocations within the NRT 3 position standard. In classifying this position at the NRT 3 level, respondents reasoned that it was strong enough from a classification standpoint to render it equivalent to an NRT 3 position at a major fish hatchery. This is not an unusual classification practice when the duties and responsibilities of a particular position do not fit neatly within the language of a position standard and more general characteristics such as scope, complexity, consequence of error, organizational level, independence, etc., are applied to reach a decision as to the equivalence of the subject position to positions identified within, or well-described by, the applicable position standard. In order for appellant to show that his position deserves classification at the NRT 3 level on the basis of the classification of the Johnson position, appellant must show, however, that his position is as strong as the Johnson position from a classification standpoint. Appellant has failed to do this. Not only does the Johnson position supervise more and higher level permanent positions in a work unit, which is a higher organizational unit than a sub-area or even an area, but it also has significant forest management duties unrelated to its wildlife habitat duties, independent wildlife management duties, engineering duties, and responsibility for assisting the work unit manager in project planning. The duties and responsibilities of the appellant's position which are unrelated to wildlife habitat improvement projects are not equivalent from a classification standpoint to these duties and responsibilities of the Johnson position, i.e., they do

not involve the degree of program involvement, the level of accountability within the organization, the variety, or the level of independence.

Order

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

Dated: \_\_\_\_\_, 1991      STATE PERSONNEL COMMISSION

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LAURIE R. McCALLUM, Chairperson

LRM/gdt/1

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DONALD R. MURPHY, Commissioner

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GERALD F. HODDINOTT, Commissioner

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