

STATE OF WISCONSIN

PERSONNEL COMMISSION

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DEAN R. FARR

Appellant,

v.

Secretary, DEPARTMENT OF
EMPLOYMENT RELATIONS,

Respondent.

Case No. 92-0512-PC

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DECISION
AND
ORDER

This is an appeal of a decision to reallocate appellant's position to the Forester-Objective rather than the Forester-Senior classification. A hearing was held before Laurie R. McCallum, Chairperson, on February 24, 1994.

At all times relevant to this matter, appellant's position has functioned as a lead forester assigned to the Northern Highland-American Legion State Forest (NHAL). The duties and responsibilities of appellant's position during the time period relevant to the subject survey may be accurately summarized as follows:

40% A. Update forest reconnaissance records--this is the oversight of the inventorying and mapping of timber types, bodies of water, aesthetic zones, recreation areas, roadways, and managed areas; and make timber management recommendations based on the review and analysis of these reconnaissance records.

10% B. Adapt GIS (computerized mapping) system for NHAL; serve as resource for adaptation of GIS for other properties.

9% C. Assist in implementation of NHAL timber harvest establishment program, including integrating timber harvest, forest reconnaissance and GIS computer data; reviewing timber harvest plans; marking and designating timber for harvest with other foresters; and assisting forestry staff in the establishment of stand objectives and stand cutting prescriptions.

8% D. Assist in the implementation of NHAL timber harvest administration program, including assisting program staff in enforcement of harvest contract specifications and related requirements; determining cut volumes for billing purposes;

inspecting project close-out data for accuracy and completeness; and retrieving data from computer system.

2% E. Inventory pesticides stored on NHAL and prepare required records.

15% F. Assist in implementation of NHAL productivity (tree planting) program.

10% G. Implement NHAL YCC program, including recommending projects, directing hiring and training process for LTE and YCC youths, and supervising plantation release, pruning, site preparation, planting, timber salvage, and roadside improvement activities of LTE and YCC youths; and maintaining and reporting project data.

5% H. Direct the collection and compilation of insect and disease population and infection data and direct suppression field crews.

5% I. Participate in the forestry public awareness program.

1% J. Provide research project area location information for various university programs; assist the U.S. Forest Service in resource analysis programs; provide resource-related lecture tour services to Trees for Tomorrow; and serve on statewide committees, particularly as they relate to reconnaissance and GIS systems.

There are four other lead forester positions assigned to the NHAL. Each of these positions is assigned to direct a particular specialty area within the NAHL forestry management program and is supervised by a Forestry Supervisor 1 position. The NHAL is a unique and complex forest property due to its size; the number of lakes, streams, and roadways within its boundaries; the large variety of timber species; and the multiple uses to which the property is put, among other things.

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

a. Calvin Doering--Forester-Objective--NHAL: this position is a lead forester position assigned to the NHAL and is assigned primary responsibility for planning and directing timber harvest projects.

b. Terry Tappon--Forester-Objective--this position is responsible for A. (70%) providing technical assistance to the Rusk County Forest Program, including participating in 10-year annual planning activities; participating in field operations; cruising

and marking timber, establishing timber sale boundary, and preparing maps and appraisals in accordance with county and state procedures (50%); conducting timber sale inspections; conducting final silvicultural inspections with county forest personnel; identifying sites and making recommendations for cultural and regeneration work through use of compartment reconnaissance and field examinations; continuing development and maintenance of compartment reconnaissance on the county forest (10%); maintaining first-hand familiarity with county forest resources and management procedures. B. (25%) directing and implementing forest management on state lands in Rusk and Taylor Counties, including planning and implementing timber sales; identifying sites and making recommendations for cultural and regeneration work; recommending and implementing new technologies in cultural and regeneration work; refining and evaluating existing and developing data as necessary to identify trends, potential problems, and opportunities in managing state properties; continuing development and maintenance of compartment reconnaissance on state properties. C. cooperating with other DNR functions including registering deer during deer hunting season; assisting with controlled burns; fire suppression; providing information to the public.

c. Kathryn Nelson--Forester-Senior: this position is responsible for the forestry program in St. Croix County; provides technical forestry assistance to private woodland owners, including examining, mapping, and evaluating woodlands to determine management needs, preparing management plan with specific recommendations on harvests, reforestation, stand improvement practices and integrated land management practices involving all forest resources, establishing timber sales, instructing landowners in proper timber harvesting methods, log scaling and grading, educating private landowners in the proper management of woodlands, determining silvicultural prescriptions, analyzing forest land for protection needs and making recommendations on control and protection from insect and disease attacks, fire, and grazing; administers the Wisconsin Forest Tax Law program; provides technical forestry recommendations in inspecting and verifying the Federal Forestry Incentive programs; educates the public as to the wise use and management of natural resources; serves as the county co-op fire officer and is a member of the Area Fire Overhead team.

d. Blair Anderson--Forester-Senior: this position initiates, plans, and implements all aspects of the forest management program in portions of Sauk and Iowa counties; plans and carries out the professional forest fire prevention program in the Spring Green sub-area; conducts fire preparatory activities for the sub-area, including planning, training and other efforts related to forest fire suppression; directs professional fire suppression for all forest fires in the sub-area and cooperates in the suppression of any other fires as requested.

The classification specification for the Forester/Forester-Management series states as follows, in pertinent part:

FORESTER, OBJECTIVE

This is objective level professional forestry work. Positions allocated to this level perform a full range of work assignments, and typically function as a forester responsible for the implementation of the complete forestry program within an assigned geographic area or area of expertise. Positions at this level differ from the lower level in that most work objectives are longer-term in relation to the position's total assignments; broad guidelines are available, but may not be specific; and both routine and difficult assignments are completed without specific direction. Positions at this level and all subsequent levels may be responsible for guiding and reviewing the work of technicians, limited term and volunteer staff. Positions at this level differ from those at the Forester, Senior level in that the work responsibilities are narrower in scope and complexity and do not reflect the range of responsibilities reflected at the higher levels. These positions are at the full performance level, and function under general supervision.

Representative Positions

Forester - Northern Highland-American Legion State Forest -
Serve as lead forester responsible for the entire timber sale establishment program within a significant portion of the work unit. Participate in other work assignments such as timber sale, administration, insect-disease detection, timber stand improvement, tree planting, and reconnaissance. Function as fire overhead team member.

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FORESTER, SENIOR

This is senior level professional forestry work. Positions at this level develop and follow broadly defined work objectives with extensive authority in carrying out the assigned responsibilities. This involves independently implementing the assigned duties and may have area/program-wide expertise. The work performed at this level requires a high degree of interpretation and creativity in exercising independent forestry expertise in performing the complete range of responsibilities. Positions allocated to this level typically function as: (1) a senior forester responsible for developing, administering and evaluating the forestry program in the assigned geographic area; or (2) a senior forester responsible for developing, administering and evaluating a major portion of the forestry program being implemented district-wide; (3) a senior central office forester

responsible for serving as the assistant to a higher-level forester/supervisor having responsibilities for a major aspect of a program; or (4) as a program specialist responsible for the implementation of a program which is smaller in scope and complexity and does not have the interaction and policy development that is found at higher levels. In order to be designated at this level, positions must be differentiated from the objective level by their depth and extent of program involvement, the number and complexity of the program(s) managed, and the complexity and uniqueness of the program in the assigned area.

Representative Positions

County Forest Administrator - Coordinate and administer an intensive resource and recreation program on county forest lands, trails, and related county and private lands. Develop and administer leases, easements and agreements. Function as the department head for the county forestry department. Investigate, propose and negotiate land acquisitions and trades. Develop and control program budgets. Hire and supervise permanent and part-time county staff. Provide technical assistance for resource management activities within the forest and county parks.

Forester - Implement and develop the forest management program on the county forest and the private forest lands within the county. Establish and administer timber sales on DNR lands within the county. Administer the forest tax laws in the assigned work area and cooperate with other department functions, county, state and federal agencies.

The duties and responsibilities of appellant's position do not satisfy the requirements for classification at the Senior level, i.e., appellant's position does not develop, administer, and evaluate an entire forestry program in the NHAL or even in a portion of the NHAL; does not have districtwide responsibilities; is not assigned to the central office; and does not have responsibility for a number of complex programs. Although the NHAL is a complex and unique property, appellant's position has responsibility for only a narrow aspect of the NHAL's total forestry program. In addition, the narrowness of the specialty area to which appellant's position devotes the majority of its time, i.e., reconnaissance and GIS, does not compare favorably with the breadth and variety and complexity of the forestry management duties assigned to the Senior positions offered for comparison purposes; and the program implementation function for which appellant's position is primarily responsible does not compare favorably with the program

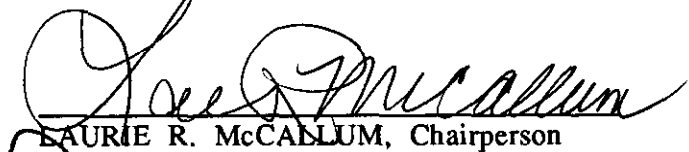
development, implementation, and evaluation functions for which Senior-level positions are primarily responsible.

In contrast, appellant's responsibility for the forestry program within his assigned area of expertise is consistent with the language of the Objective specifications; and is closely comparable to the nature and scope of the responsibilities delineated for the representative forester position described in these specifications.

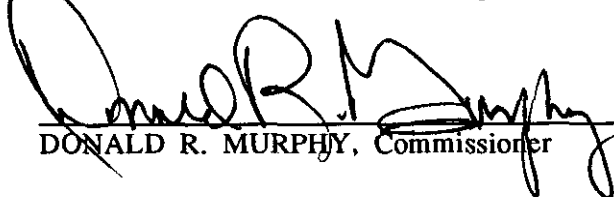
Order


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

Dated: May 2, 1994 STATE PERSONNEL COMMISSION


LAURIE R. McCALLUM, Chairperson

LRM:lrn


DONALD R. MURPHY, Commissioner


JUDY M. ROGERS, Commissioner

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NOTICE
OF RIGHT OF PARTIES TO PETITION FOR REHEARING AND JUDICIAL REVIEW
OF AN ADVERSE DECISION BY THE PERSONNEL COMMISSION

Petition for Rehearing. Any person aggrieved by a final order may, within 20 days after service of the order, file a written petition with the Commission for rehearing. Unless the Commission's order was served personally, service occurred on the date of mailing as set forth in the attached affidavit of mailing. The petition for rehearing must specify the grounds for the relief sought and supporting authorities. Copies shall be served on all

parties of record. See §227.49, Wis. Stats., for procedural details regarding petitions for rehearing.

Petition for Judicial Review. Any person aggrieved by a decision is entitled to judicial review thereof. The petition for judicial review must be filed in the appropriate circuit court as provided in §227.53(1)(a)3, Wis. Stats., and a copy of the petition must be served on the Commission pursuant to §227.53(1)(a)1, Wis. Stats. The petition must identify the Wisconsin Personnel Commission as respondent. The petition for judicial review must be served and filed within 30 days after the service of the commission's decision except that if a rehearing is requested, any party desiring judicial review must serve and file a petition for review within 30 days after the service of the Commission's order finally disposing of the application for rehearing, or within 30 days after the final disposition by operation of law of any such application for rehearing. Unless the Commission's decision was served personally, service of the decision occurred on the date of mailing as set forth in the attached affidavit of mailing. Not later than 30 days after the petition has been filed in circuit court, the petitioner must also serve a copy of the petition on all parties who appeared in the proceeding before the Commission (who are identified immediately above as "parties") or upon the party's attorney of record. See §227.53, Wis. Stats., for procedural details regarding petitions for judicial review.

It is the responsibility of the petitioning party to arrange for the preparation of the necessary legal documents because neither the commission nor its staff may assist in such preparation.

Pursuant to 1993 Wis. Act 16, effective August 12, 1993, there are certain additional procedures which apply if the Commission's decision is rendered in an appeal of a classification-related decision made by the Secretary of the Department of Employment Relations (DER) or delegated by DER to another agency. The additional procedures for such decisions are as follows:

1. If the Commission's decision was issued after a contested case hearing, the Commission has 90 days after receipt of notice that a petition for judicial review has been filed in which to issue written findings of fact and conclusions of law. (§3020, 1993 Wis. Act 16, creating §227.47(2), Wis. Stats.)
2. The record of the hearing or arbitration before the Commission is transcribed at the expense of the party petitioning for judicial review. (§3012, 1993 Wis. Act 16, amending §227.44(8), Wis. Stats.)