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 JAMES D. MOORE,
 Appellant,
 v.
 Secretary, DEPARTMENT OF
 NATURAL RESOURCES, and
 Secretary, DEPARTMENT OF
 EMPLOYMENT RELATIONS
 Respondents.
 Case No. 92-0761-PC
 * * * * *

INTERIM
 DECISION
 AND
 ORDER

This is an appeal pursuant to §230.44(1)(b), Stats., of the denial of a request for reclassification of appellant's position from Natural Resource Administrator 2 (NRA 2) (PR 01-17) to Natural Resource Administrator 3 (NRA 3) (PR 01-18).

Appellant is employed in a position in the Lake Michigan District (LMD) of DNR with the working title of District Fisheries Supervisor. Respondent DNR denied his November 29, 1990, request for reclassification of his position to NRA 3 on June 25, 1992, precipitating this appeal.

Appellant's November 29, 1990, position description (PD) (Respondent's Exhibit 3) essentially accurately summarizes the duties and responsibilities of his position. The "position summary" and "goals" on this PD are as follows:

14. POSITION SUMMARY - James D. Moore

Supervise, administer and direct the District Fisheries Program, including: Waters Classification Section, District Operations, Oshkosh Area, Marinette Area, Green Bay Area, and Lake Michigan Work Units. Develop, plan and coordinate District Fish Management Program to fully integrate with other Department programs. Provide direction and assistance in the development and implementation of the Department's AA/EEO Program.

15.

TIME % GOALS AND WORKER ACTIVITIES

40% A. Develop, plan and coordinate District Fish Management Program.

- 25% B. Supervision and direction of Oshkosh, Marinette and Green Bay area Fisheries programs. Supervise the activities necessary to complete the Lake Michigan Management Plan, Area Management Plans, and the Winnebago Comprehensive Management Plan.

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- 20% C. Supervision and direction of District Operations Program.

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- 12% D. Supervision and direction of District Waters Classification Program.

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- 3% E. Provide directions and assistance in the development and implementation of the Department's Affirmative Action/Equal Employment Opportunity Program.

As a result of a DNR reorganization that eliminated its 15 area director positions, respondents conducted a study in 1989 on the effect of this change on a number of positions, including appellant's. As a result of this study, his position was reclassified from Natural Resources Supervisor 5 - Management (PR 01-16) to NRA 2 (PR 01-17). Appellant appealed this reclassification, contending that his position should have been reclassified to the NRA 3 level. The Commission rejected his appeal, see Moore v. DER, 90-0142-PC (1/24/91). Appellant's current appeal relies primarily on four areas of responsibility that are relatively recent in origin, or that have been expanded recently:

1. Lake Winnebago Comprehensive Master Plan (WCMP). This project encompasses all DNR programs, not just fish management, and is a major effort to integrate all programs into the DNR planning process. This project originally had been supervised by the Assistant District Director for Resource Management, William Selbig, who had been appellant's immediate supervisor when he held this position, which had been classified at the NRA 3 level. The WCMP project was approved conceptually in September 1989. In March, 1990, Mr. Selbig promoted to the District Director position, at which point the assistant director position was abolished. Appellant at that time was assigned to supervise the WCMP project. Part of the reason he was assigned this responsibility was because a number of the specific projects in the plan were in his fish management program, and because he had been involved

previously in planning activities in connection with the WCMP. As set forth in a February 13, 1990, memo from Mr. Selbig to James Addis, Administrator, Division of Resource Management (see Appellant's Exhibit 2): "Initiating the WCMP is a Lake Michigan District priority for 1991-93, as well as a significant step by all of us in pursuing the Department's strategic directions of integrated and innovated management, public involvement, and resource stewardship." Appellant also assumed responsibility for supervising the Winnebago System Biologist position (originally occupied by Ron Bruch), which had been supervised by Mr. Selbig as the assistant director, and which has a significant role with the WCMP. The addition of WCMP responsibility has had a significant impact on the complexity and level of responsibility associated with appellant's position.

2. Federal Energy Regulation Commission (FERC) relicensing program. This activity began in the 1987-1988 period. Approximately 40% of the statewide activity in this area is contained in the LMD (one of six in the state), which contains several major river systems with clusters of hydroelectric dams. A good deal of appellant's evidence concerning this area concerned increased workload after the effective date of this reclass request, and did not effectively refute the testimony of respondent's witness (Sue Steinmetz) that appellant only began spending a lot of his time in this area in 1992.

3. Construction and operation of the Keweenaw River Anadromous Fish Facility. This was a major undertaking in which appellant's operations crew played a major role.

4. Commercial fishing licensing and reporting program for Lake Michigan and Lake Superior. Responsibility for the work was reassigned to the districts from DNR's central office in Madison. Appellant is responsible for all Great Lakes commercial fishing licensing activity, (which involves three districts), which is carried out through a Sturgeon Bay office. This work began in 1989, but its extent has increased since then.

The NRA 2 and 3 class definitions in this case are of limited utility. They do not contain definitions per se, but state that: "[p]ositions allocated to this class typically function in one of the following capacities," and then enumerate five or six representative positions or allocations. Due to the organizational change referred to above, certain positions have been classified to the NRA 3 level despite not meeting any of the specified

allocations. This resulted from the study panel's determination that district program supervisors responsible for two major departmental programs should be at a higher level than those responsible for only one. This decision presumably was based on the general classification factors and provisions in the position standard such as the following:

This position standard does not attempt to cover every eventuality or combination of duties and responsibilities either as they currently exist or may exist in the future. Additionally, this position standard is not intended to restrict the allocation of representative positions to a specific class level if the functions of these positions change significantly in level of complexity and/or responsibility. It is intended, rather, to be a framework within which classifications can be applied equitably to the present programs and adjusted to equitably meet future personnel relationships and patterns that develop as a result of changing programs, organizations, and emphasis.

In the Commission's opinion, appellant has satisfied his burden of proof in this case by establishing that the changes in his position discussed above justify classification at the NRA 3 level based on the class factors.

The assignment to appellant of the WCMP project, which previously had been the responsibility of the assistant district director, is the most significant of these changes. Appellant's witnesses -- his district director, bureau director, and division administrator -- all testified to the significance of this project. Since the project involves multiple programs, it expands the scope and degree of coordination required of appellant's position. Appellant also presented testimony that contradicted respondent's assertion that this responsibility was not significantly underway at the time of the reclassification request.¹

Appellant's activities with respect to commercial fishing licensing is also of significance, particularly because they cross district boundaries and involve responsibilities for all of the Great Lakes.

These factors, involving significant multiprogrammatic and multidistrict responsibilities, serve to distinguish appellant's position from its prior configuration, as well as from other typical district program director positions referred to in the record.

¹ Appellant assumed this responsibility in March 1990, and submitted his reclass request in November 1990.

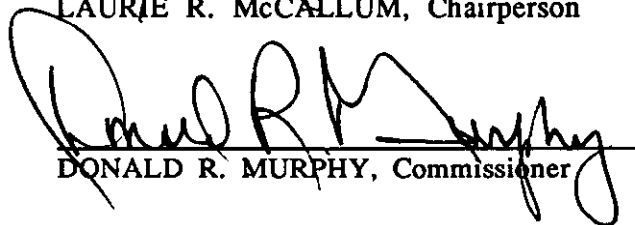
ORDER

Respondent's action rejecting appellant's request for reclassification of his position from NRA 2 to NRA 3 is rejected, and this matter is remanded for action in accordance with this decision.

Dated: May 2, 1994 STATE PERSONNEL COMMISSION


LAURIE R. McCALLUM, Chairperson

AJT:dkd


DONALD R. MURPHY, Commissioner


JUDY M. ROGERS, Commissioner

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