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SHIRLEY HAIDINGER,
 Appellant,

v.

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

Case No. 95-0038-PC

* * * * *

DECISION
 AND
 ORDER

This matter is an appeal of a decision by the respondent, the Department of Natural Resources (DNR), denying reclassification of the position held by the appellant Shirley Haidinger from Air Manager Specialist, Senior to Air Manager Specialist, Advanced. A hearing was held on this appeal on September 14, 1995. Post-hearing briefs were filed completing the record on January 11, 1996.

The appellant's work place is DNR, Air Management Bureau/Monitoring Section/Data Subunit. In 1992, appellant's position was reallocated from an Environmental Specialist 5 to an Air Management Specialist (AMS), Senior as a result of the science survey conducted by the Department of Employment Relations. Appellant's position was designated as the representative position for Air Quality Data System Manager positions at the AMS, Senior level. Appellant's position description initialed by her on February 12, 1992, and used in reallocating her position showed the following:

- 30% A. Provision of work leadership for staff of Data Subunit.
- 30% B. Maintenance and enhancement of the central software component of the central office and Southeast district's Air Monitoring Section's Automatic Data Acquisition Systems (DNR-DAS).
- 20% C. Provision of systems management and expertise for U.S. EPA mainframe Aerometric Information and Retrieval System (AIRS).
- 10% D. Provision of systems analysis, recommendations, and implementation of auxiliary air data systems.

- 10% E. Provision of technical liaison with outside agencies concerning ambient air data matters.

In June, 1994, a request was made for reclassification of the Haidinger position to Air Management Specialist, Advanced. This request was denied by DNR on February 3, 1995. The position description dated June 21, 1994, signed by appellant and submitted with the request, in pertinent part, was:

- 20% A. Provide work leadership of Data Subunit Staff.
- 25% B. Oversee acquisition, storage, maintenance, and enhancement activities of the Air Monitoring Section's Automatic Data Acquisition Systems (DNR-DAS).
- 20% C. Provide systems management expertise for the U.S. EPA mainframe Aerometric Information and Retrieval System (AIRS). Act as the Bureau/Department expert on matters concerning the Air Quality (AQ) and AIRS Graphics (AG) Subsystems of AIRS. Provide input to EPA on matters concerning these systems.
- 25% D. Coordinate data management activities for auxiliary air data systems. Provide system analysis, make recommendations, and implement new data systems.
- 10% E. Act as technical liaison with outside agencies, industries, consultants, contractors, and the general public concerning ambient air data matter.

The applicable classification specifications, in pertinent part, are:

AIR MANAGEMENT SPECIALIST, SENIOR

Positions allocated to this level include senior Air Management Specialists. Positions at this level differ from lower level positions in that the specialist develops and follows broadly defined work objectives and the review of the work is limited to administrative evaluation by the supervisor. Positions at this level have extensive authority in carrying out their assigned responsibilities. This involves independent implementation of assigned duties and recognition of having developed specialized knowledge in a specific program area, or requiring coordination of diverse segments of the program to accomplish program specific objectives such as administrative rule development. Work performed at the senior level requires a high degree of coordination, interpretation and creativity in the application of scientific judgment . . . Senior level positions may also review the work products of other staff positions for completeness. Specialists at this level may be considered an authority for a specific segment of the program. Positions at this level typically function as: (1) a senior area/district air management specialist responsible for developing, administering and evaluating the

air management program in the assigned geographic area; (2) a senior district air management specialist responsible for developing, administering and evaluating a major portion of the air management program being implemented districtwide; (3) a senior central office air management specialist responsible for serving as the assistant to a higher-level air management specialist/supervisor having responsibilities for a major aspect of the 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

* * *

Air Quality Data Systems Manager - Provide work leadership for staff in the Data Subunit by defining goals, objectives and key result areas; overseeing work performance; and providing guidance. Maintain and enhance central software component of the central office and Southeast District's Air Monitoring Sections automatic data acquisition system. Provide systems management expertise for the U.S. EPA mainframe Aerometric Information and Retrieval System. Provide systems analysis, recommendations, and implementation of auxiliary air data systems. Provide technical liaison with outside agencies concerning ambient air data matters.

AIR MANAGEMENT SPECIALIST, ADVANCED

Positions allocated to this level include advanced Air Management Specialists. Positions typically serve as the (1) department expert for a significant segment of the air management program or (2) a districtwide expert with multi-faceted responsibilities (providing districtwide expertise and coordination for multiple and significant segments of the air management program). The area of responsibility includes a significant segment of the air management program and will normally cross program boundaries, require continually high-level and complex contacts with a wide variety of government entities, business, industry, and private citizens regarding highly sensitive and complex air management issues and have significant regulatory and programwide policy impact. The area of expertise will represent an important aspect of the program, involve a significant portion of the position's time and require continuing expertise. The knowledge required at this level is both more in-depth and of a wider range than that found at the Air Management Specialist-Senior level.

Positions at this level develop and follow broadly defined work objectives with the review of work being limited to broad administrative review. Positions have extensive authority to deal with top officials, both within and outside the department, especially in highly sensitive

and complex statewide, interstate and/or national issues. These positions are responsible for developing, implementing, monitoring, and evaluating statewide policies and programs, and function under general supervision, work independently, and are considered to be the statewide expert in their assigned program area. In order to be designated at this level, the position must be easily distinguishable from positions at the Senior level by the scope and complexity of the responsibilities.

Representative Positions

Photochemical Modeling Specialist (Central Office) - This position independently conducts research on the atmospheric phenomena associated with ambient ozone violations; develops ozone control strategies; evaluates and runs advanced photochemical, meteorological, and emissions models; acts as Bureau Ozone Forecasting Coordinator.

Special Assistant to Bureau Director - Direct the implementation of Wisconsin's requirements under the 1990 Clean Air Act Amendments in consultation with the Bureau Director and effectively implement the Air Management Program elements of the Recycling and Refrigerants Law. Direct program staff, serve as legislative contact, coordinate air management activities with other programs and agencies. Act as the department representative including serving as resource and liaison to the regulated community, the legislature, the public, other agencies and the department in these program areas. Estimate fiscal needs and other resources to implement these laws. Provide advice to the Bureau Director.

Appellant testified that several changes had occurred in her position since 1992. As indicated in the two PD's, those changes were as follows: the time percentage for Goal A decreased from 30% to 20%; the time percentage for Goal B decreased from 30% to 25%; regarding Goal B, appellant currently spends more time than in 1992 evaluating system requirements (B1) and coordinating data activities (B4), an approximate growth of 10-15%; under Goal C, C2 (Assure completeness, integrity, and security of all air data master files) was expanded in time percentages due to enhanced ozone monitoring and major changes in the EPA Air System--this change increased the time spent (C3) evaluating proposed changes in data submittal, storage and reporting requirements; time percentage in Goal D increased from 10% to 25% due primarily to the added responsibilities of (D2), coordinating data management activities for the new enhancement ozone monitoring program; and goal E changed in the amount and variety of outside contacts. These changes indicate an increased workload in activities previously assigned to this position in 1992.

Condensed, appellant argues her position "best fit(s)" the AMS, Advanced level because, as required by this classification, she serves as the department expert for a significant segment of the Air Management Program and has responsibilities for developing, implementing, monitoring, and evaluating statewide policies and programs; and that her position compares favorably to two AMS, Advanced positions in her bureau held by Jeffrey Simms and Steven Schuenemann.

The evidence shows appellant is the bureau expert on matters concerning air monitoring data management. As the manager of these systems, appellant is responsible for the completeness and integrity of inputting, storing, and retrieving the data. Appellant's decision-making activities are limited to her function as manager of the data systems. There is nothing in either of her position descriptions which support her claim that she develops statewide policies. If appellant does develop any policy, it is limited to her data systems managerial function.

Other evidence shows appellant's position fits four-square within the description of an Air Quality Data Systems Manager position, which is identified in the classification specifications as a representative position for AMS, Senior positions.

The evidence does not support appellant's claim that her position compares favorably with those of Schuenemann and Simms, which are classified AMS, Advanced. Schuenemann is the Quality Assurance Coordinator for the Air Monitoring Section. His position description position summary provides:

The Quality Assurance Coordinator for the Air Monitoring Section, as leadworker, is responsible for the administration of a statewide program of quality assurance for all air monitoring data related activities. This responsibility includes the development of policy, implementation of procedures, and oversight of quality assurance statewide for all activities associated with gathering, processing, and reporting of data such as: ambient air quality (monitoring) and meteorological data; wet and dry atmospheric deposition monitoring data; hazardous air contaminant (monitoring) data (including NMOC sampling in southeast Wisconsin); data from industrial and other private air monitoring systems, etc.

Clearly this position is distinguishable from appellant's by its scope and complexity.

Simms works in the Planning System of the Air Management bureau. The position summary in Simms' position description of August 1993,¹ provides:

Coordinates the development of the annual Wisconsin Air Emissions Inventory and works with other Department agencies to administer the program set forth in Ch. NR 101, Wis. Adm. Code. Conducts technical evaluations of ambient air quality through the use of air quality dispersion models. Reviews, processes, and recommends action on indirect source permit applications. Prepares emission inventories for use in the air quality models. Evaluates and recommends the technical appropriateness of those tasks described above to other section members and other air quality professionals outside the agency.

DNR Classification Specialist Sue Steinmetz testified this position is responsible for statewide coordination, evaluation and implementation of the Wisconsin NR 101 program for ambient air, and performs complex air quality modeling activities, determined through comparatives, to be at the advanced level. Steinmetz testified Simms' duties do not compare favorably with those of appellant's position. This testimony was uncontroverted.

From the evidence presented, it is clear in 1992, appellant's position was used as the model for the Air Quality Data Systems Manager position shown in the classification specifications as a representative position for the Air Manager Specialist, Senior. Since that time, appellant's position has expanded as testified, including data management activities for recent monitoring activities. Otherwise, the basic goals of this position remain substantially the same as in 1992. The evidence also shows appellant's position does not meet the standards set forth in the classification specifications for Air Management Specialist, Advanced positions. Among other requirements, as previously stated, this position does not develop statewide policy to the extent and level required of Advanced positions. Accordingly, this appeal is denied.

¹ This excerpt is from respondent's letter, dated February 3, 1995, denying reclassification (Respondent's Exhibit 4). The position description was not a part of the record.

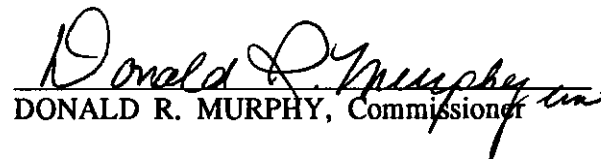
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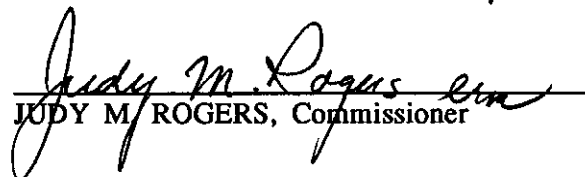
The action of the respondents is affirmed and this appeal is dismissed.

Dated: June 13, 1996. STATE PERSONNEL COMMISSION


LAURIE R. McCALLUM, Chairperson

DRM:pf


DONALD R. MURPHY, Commissioner


JUDY M. ROGERS, Commissioner

Parties:

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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 (except an order arising from an arbitration conducted pursuant to §230.44(4)(bm), Wis. Stats.) 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.)

2/3/95