

percent of his time. Mr. Brown indicates that he uses both established mathematical models and new mathematical models that he developed and argues that it is irrelevant that the Environmental Scientist 2, Water Resources title is in the "P" bargaining unit given the duties of his position. In this regard, he states that the employee that he supervises would be re-assigned to another Environmental Specialist 3 within the bureau if his position is reclassified to a non-supervisory title. The appellant contends that Environmental Scientist 2, Water Resources job specification definition accurately reflects his current duties that he performs and he ranked first on the certification that was issued from a promotional list for the title. Additionally, the appellant claims that he is aware of several individuals who were on the eligible list for the Environmental Scientist 2, Water Resources who were successful in their classification appeals and the fact that these individuals could or should have supervised staff and this was not held against them. Therefore, the appellant asserts that the Civil Service Commission (Commission) is applying standards for reclassification of titles in an arbitrary manner and that his position should be reclassified.

CONCLUSION

The definition section of the job specification Environmental Specialist 3 states:

Under the general supervision of a supervisory official in a State department or agency takes the lead or may supervise, organize and assign technical or scientific work, including field and office studies, surveys, inspections or investigations associated with the enforcement of laws and/or regulations and environmental review and control work, organizes and makes tests and reports to assess environmental impacts and investigates environmental complaints concerning projects; conducts or supervises the processing of contract, grant and/or loan applications; does related work as required.

The definition section of the job specification for Environmental Scientist 2, Water Resources states:

Under direction of an Environmental Scientist 1 or other supervisory official in the Department of Environmental Protection or in a local jurisdiction, assists in scientific projects or programs in water supply and/or water pollution control including water quality modeling and load allocations, computer applications, applied mathematics, thermodynamics, and/or other fields related to engineering and water quality management; does other related work.

The Commission agrees with CPM's determination that the appellant's position is properly classified as Environmental Specialist 3. In reviewing Mr. Brown's unit's organization chart, his supervisor's position, Environmental Specialist 4, is designated as class code 28. The appellant's requested title, Environmental Scientist 2, Water Resources is designated as class code 28. Consequently, Mr. Brown's position cannot be reclassified to the requested title since it would result in an inappropriate reporting relationship, i.e., a class code 28 cannot report to a class code 28. See *In the Matter of Celia D. Chee-Wah* (CSC, decided April 18, 2012). See also, *In the Matter of Joseph Stefanoni* (CSC, decided February 8, 2012). Further, the Environmental Scientist 2, Water Resources title is assigned to the "P" bargaining unit which is considered a professional title and does not have responsibility for supervising staff. Since the appellant is a supervisor to one Environmental Specialist 2, he is appropriately assigned to a title in the "R" bargaining unit as a first level supervisor of a non-supervisory employee. Moreover, the appellant's duties include reviewing and approving permits on the application of industrial/waste water treatment sludge, reviewing and verifying reports documenting the quality, quantity, and where sludge was sent, ensuring all the information/numbers provided are consistent, performing compliance inspections for permittees and prospective applicants, using mathematical equations in interpreting/using models, and is involved in the development, testing, and training as a member of the New Jersey Environmental Management Systems Water Quality Improvement Team. These duties and level of responsibility are consistent with an Environmental Specialist 3 classification.

With regard to the appellant's claim that he spends 62.5 percent of his time interpreting/using mathematical modeling, his PCQ mentions mathematical modeling in four separately listed work duties performed. When the percentages of time for each of these duties are added up, they do in fact equal 62.5 percent. However, in each of these duties, the appellant also lists a number of other duties in addition to mathematical modeling duties. Therefore, although the exact percentage of time that the appellant is spending on mathematical modeling is unclear, it is less than 62.5 percent based on his PCQ. Regardless, even if Mr. Brown is primarily performing higher level duties, his position cannot be classified as an Environmental Scientist 2, Water Resources due to the improper relationship that it would create as described above. See *In the Matter of John McGuire and Raymond Szpond* (CSC, decided July 22, 2009). In reference to the appellant's argument that the fact the Environmental Scientist 2, Water Resources is in the "P" bargaining unit is not relevant, as the appellant's position supervises a subordinate staff member, it cannot be classified to a title which is in a bargaining unit that does not supervise employees. Regarding the appellant's contention that the staff member he supervises could be reassigned, the purpose of a classification review is to ensure that the position is classified in the most appropriate title available within the State's classification plan and not to reassign duties to provide a career

path to the incumbent. *See In the Matter of Patricia Lightsey* (MSB, decided June 8, 2005), *aff'd on reconsideration* (MSB, decided November 22, 2005).

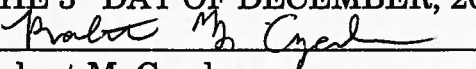
With respect to the appellant's assertion that others who were formerly Environmental Specialist 3s from within his bargaining unit were successful on their classification appeals, a classification appeal cannot be based solely on a comparison to the duties of another position. Rather, each classification appeal is decided based on an individual analysis of the duties and responsibilities of the position under review. Moreover, the fact that Mr. Brown was ranked first on a certification from a promotional eligible list for Environmental Scientist 2, Water Resources does not mean that his current position should be classified as Environmental Scientist 2, Water Resources.

ORDER

Therefore, the Civil Service Commission concludes that the position of Patrick Brown is properly classified as an Environmental Specialist 3.

This is the final administrative determination in this matter. Any further review is to be pursued in a judicial forum.

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 3rd DAY OF DECEMBER, 2014



Robert M. Czech
Chairperson
Civil Service Commission

Inquiries
and
Correspondence

Henry Maurer
Director
Division of Appeals
and Regulatory Affairs
Civil Service Commission
Written Record Appeals Unit
P.O. Box 312
Trenton, New Jersey 08625-0312

Attachment

c: Patrick Brown
Deni Gaskill
Kenneth Connolly
Joseph Gambino



CHRIS CHRISTIE
Governor
KIM GUADAGNO
Lt. Governor

STATE OF NEW JERSEY
CIVIL SERVICE COMMISSION
Division of Classification and Personnel Management
P. O. Box 313
Trenton, New Jersey 08625-0313

ROBERT M. CZECH
Chair/Chief Executive Officer

August 20, 2014

Mr. Patrick Brown
New Jersey Department of Environmental Protection
Division of Water Quality
Bureau of Pretreatment and Residuals
PO Box 420 Mail Code 401-02B
Trenton, New Jersey 08625-0420

Re: Classification Appeal
Environmental Specialist 3
Position #083698
CPM #12130068
Employee ID #000314589

Dear Mr. Brown:

This is to inform you, and the Department of Environmental Protection, of our determination concerning the classification appeal referenced above. Our review involved a detailed analysis of the Position Classification Questionnaire (DPF-44S); organization chart; your Performance Assessment Review (PAR); your statements; the statements of your supervisor, Division Director, and appointing authority; supplemental information provided and a desk audit that was conducted June 17, 2014.

Issue:

You requested that your position be audited to determine if you are performing out-of-title work for your title of Environmental Specialist 3. You have indicated that you believe your current duties and responsibilities are consistent with those associated with the Environmental Scientist 2, Water Resources title. The Bureau of Human Resources Operations agreed that an audit should be conducted in order to determine the appropriate classification of your position.

Organization:

The position is located in Water Resource Management, Division of Water Quality, Water Pollution Management Element, Bureau of Pretreatment and Residuals, Department of Environmental Protection. You are supervised by Timothy Doutt, Environmental Specialist 4 (S28) and you directly supervise one (1) Environmental Specialist 2.

Finding of Fact:

The primary responsibilities of the position include, but are not limited to, the following:

- Develops and implements environmental programs to protect water quality in the State.
- Performs environmental and technical reviews of soil and ground water data, environmental impact studies, and engineering plans associated with New Jersey Pollutant Discharge Elimination System (NJPDES) permits.
- Models and assesses ground and surface water nutrient impacts from the land application of sludge.
- Performs compliance and soil evaluations of permitted sites including site inspections and review of quarterly monitoring reports to determine compliance with applicable standards.
- Performs mass balance modeling of metals concentration on soils.
- Reviews, prepares recommendations, and approves nutrient and nutrient impact models proposed and/or developed by consultants.
- Serves as a member of the NJEMS Water Quality Implementation Team providing scientific advice and assistance to develop, test, and maintain the system.
- Develops and conducts training, and prepares SOPs for NJEMS.
- Represents the Bureau and Department on numerous committees and/or workgroups.

- Provides technical, scientific, and regulatory guidance to impacted groups and agencies.

Review and Analysis:

The duties and responsibilities of the position were compared to those described within the class specification for Environmental Specialist 3 and Environmental Scientist 2, Water Resources.

The definition section of the specification for the title, Environmental Specialist 3, (R25, 15854), states:

“Under the general supervision of a supervisory official in a state department or agency takes the lead or may supervise, organize and assign technical or scientific work, including field and office studies, surveys, inspections or investigations associated with the enforcement of laws and/or regulations and environmental review and control work, organizes and makes tests and reports to assess Environmental impacts and investigates environmental complaints concerning projects; conducts or supervises the processing of contract, grant and/or loan applications; does related work as required.”

An Environmental Specialist 3 provides technical guidance to assigned employees ensuring environmental standards are being met. Incumbents in this title gather technical or scientific data to assist in the assessment of social impact. Incumbents evaluate data determining the extent of impacts to ecosystems, and recommend techniques to mitigate those impacts. An Environmental Specialist 3 may plan, organize, and assign the work of the organizational unit and evaluate employee performance and conduct. An Environmental Specialist 3 is considered the primary or first level of supervision and as such, functions as a supervisor or lead worker. A supervisor or lead worker must oversee other permanent professional staff performing environmental specialist work which includes assigning and reviewing work on a regular and recurring basis.

Your position monitors and reviews the solid waste/sludge produced by waste water treatment plants throughout the State. Your position reviews and approves NJPDES permits for food processors, waste water treatment plants, and land application of sludge. Your position reviews reports required by the permit on the quantity and quality of sludge generated by waste water treatment plants and where the sludge is transported. Your position approves or denies application rates for sludge based upon pollution limits established to protect

surface and ground water. Your position takes on an advisory role in ensuring compliance with permit conditions. Your position serves as a member of work groups dealing with the effects of arsenic, radium, and mercury on the State's water quality. Your position directly supervises one (1) Environmental Specialist 2. Taking the aforementioned factors into consideration, the breadth and depth of your position aligns with the professional expectations of the Environmental Specialist 3 title.

The definition section of the class specification for the title, Environmental Scientist 2, Water Resources (P28, 15873D), states:

“Under direction of an Environmental Scientist 1 or other supervisory official in the Department of Environmental Protection or in a local jurisdiction, assists in scientific projects or programs in water supply and/or water pollution control including water quality modeling and load allocations, computer applications, applied mathematics, thermodynamics, and/or other fields related to engineering and water quality management; does other related work.”

An Environmental Scientist 2, Water Resources develops scientific programs for water quality and/or water resource management. An incumbent in this title organizes and conducts scientific and/or environmental engineering programs relating to water quality management. An Environmental Scientist 2, Water Resources reviews and prepares recommendations for water quality models proposed and/or developed by consultants. An incumbent in this title prepares reports of water quality modeling containing findings, conclusions, and recommendations. This title is assigned to the “P” bargaining unit which is considered a professional title and does not have responsibility for supervising staff.

Your position reviews and approves NJPDES permits on the land application of industrial/waste water treatment sludge. Your position reviews and verifies reports documenting the quality, quantity, and where the sludge was sent. Your position ensures all the information/numbers provided are consistent. Your position performs compliance inspections for permittees and prospective applicants. Your position uses established mathematical equations in interpreting/using models that have been developed approximately twenty (20) percent of the time as reflected on the DPF 44S. Your position is involved in the development, testing, and training as a member of the NJEMS Water Quality Improvement Team. Taking the aforementioned tasks into consideration, and the fact that the Environmental Scientist 2, Water Resources is in the “P” bargaining unit, this title fails to reflect the duties and level of responsibility currently being assigned. Therefore,

Name: Patrick Brown
Date: August 20, 2014

Page 5

Environmental Scientist 2, Water Resources is an inappropriate classification for the functions of this position.

Determination:

By copy of this letter, the Appointing Authority is advised that your position is properly classified as Environmental Specialist 3 (R25, 15854).

The Environmental Specialist 3 title is descriptive of the general nature and scope of the functions that may be performed by the incumbent in this position. However, the examples of work are for illustrative purposes and are not intended to restrict or limit performance of the related tasks not specifically listed.

Please be advised that in accordance with N.J.A.C. 4A:3-3.9, you may appeal this decision within twenty (20) days of receipt of this letter. The appeal should be addressed to the Written Records Appeals Unit, Division of Appeals and Regulatory Affairs, P.O. Box 312, Trenton, New Jersey 08625-0312. Please note that the submission of an appeal must include a copy of the determination being appealed as well as written documentation and/or argument substantiating the portions of the determination being disputed and the basis for the appeal.

Sincerely,



Martha T. Bell
Human Resource Consultant 5
Classification and Personnel Management

MTB/rej
C: Robin Liebeskind
Joseph Siracusa
CPM #12130068