B-47

STATE OF NEW JERSEY

In the Matter of Jane Uptegrove, Department of Environmental Protection	FINAL ADMINISTRATIVE ACTION OF THE CIVIL SERVICE COMMISSION
CSC Docket No. 2015-947	Classification Appeal

ISSUED: APR - 2 2015 (CSM)

Jane Uptegrove appeals the attached decision of the former Division of Classification and Personnel Management (CPM)[1] that the proper classification of her position with the Department of Environmental Protection is Research Scientist 2. The appellant seeks a Research Scientist 1 classification.

The record in the present matter establishes that at the time of the classification review, the appellant's permanent title was Supervising Geologist, Environmental Protection. She is assigned to the Division of Water Supply and Geoscience, Bureau of Water Resources and Geoscience, and reports to Helen Rancan, Section Chief, Environmental Protection. The appellant does not supervise any employees. The appellant requested a classification review of her position asserting that she was performing out-of-title work. In support of her request, the appellant submitted a Position Classification Questionnaire (PCQ) detailing the different duties she performs as a Supervising Geologist, Environmental Protection. CPM reviewed and analyzed the PCQ completed by the appellant. A telephone audit was conducted with the appellant and her supervisor at the time the PCQ was completed, David Pasicznyk, Manager 4, Environmental Protection. In its decision, CPM determined that the appellant's position would be properly classified as Research Scientist 2 and assigned her an effective date of January 25, 2014.

On appeal, the appellant states that the duties she performs warrant a Research Scientist 1 classification. In this regard, she states that her PCQ clearly indicated that 55% of her time is spent planning, directing, and managing the work

[1] Now the Division of Agency Services.

of the Offshore Resource Exploration team. The appellant exhaustively details her duties and notes that she also develops, correlates, and integrates offshore geologic data with existing onshore geologic maps and mentors college interns and junior staff. The appellant also states that the organizational chart submitted as part of her initial reclassification request does not reflect the numerous changes that have occurred in her work unit over the last year. In a supplemental submission, the appellant states that effective November 3, 2014, she will be supervising an Assistant Geologist. Therefore, the appellant maintains that her duties are consistent with a Research Scientist 1 classification.

CONCLUSION

The definition section of the job specification for Research Scientist 2 states:

> Under general supervision of a Research Scientist 1 or other supervisory official in a State department, institution, or agency, conducts and/or supervises a research or developed program in a specified professional field; assumes appropriate administrative and supervisory duties as delegated; supervises complex projects and makes recommendations to the supervisor; does other related work.

The definition section of the job specification for Research Scientist 1 states:

> Under general supervision of a division director or other supervisory official in a State department, institution, or agency, independently initiates and coordinates a research or developed program in a specified professional field; may supervise lower levels of Research Scientist and other technical staff, manages high level technical projects and reports results to designated officials for inter- and intra-agency response; does related work.

Initially, in making classification determinations, emphasis is placed on the definition section to distinguish one class of positions from another. The definition portion of a job specification is a brief statement of the kind and level of work being performed in a title series and is relied on to distinguish one class from another. On the other hand, the Examples of Work portion of a job description provides typical work assignments which are descriptive and illustrative and are not meant to be restrictive or inclusive. *See In the Matter of Darlene M. O'Connell* (Commissioner of Personnel, decided April 10, 1992).

Based on the information presented in the record, it is clear that the preponderance of the appellant's duties fall within the scope of a Research Scientist 2 classification. As noted in CPM's determination, incumbents in the Research Scientist 2 classification can lead and coordinate projects such as the offshore sand

resources for the New Jersey beach nourishment programs. The Research Scientist 2 title conducts and/or supervises a research or developed program or complex projects. As such, this is not a low level professional title, but has responsibility for a complicated program or project. The appellant's description of duties does not establish that the position is responsible for initiating and coordinating a research or developed program. Rather, she oversees and contributes to a developed program by implementing the work of the Offshore Resource Exploration team. The fact that she designs various research methodologies in order to implement the work of a developed program does not establish her position should have a Research Scientist 1 classification.

Moreover, it is irrelevant that supervisory responsibilities are permissive for incumbents in the Research Scientist 1 classification, as it is clear that the appellant conducts and/or supervises a research or developed program in a specified professional field. The employee relations group for the Research Scientist 1 title was changed in December 2010 from the professional to the primary level supervisory group. The primary level supervisory group is the first supervisory level, and incumbents in this group may supervise projects or subordinates. The employee relations group for the Research Scientist 2 title is in the professional bargaining unit, which does not supervise staff. Thus, in addition to the fact that the scope of her duties does not warrant a higher classification, the record fails to establish that the appellant has supervisory responsibilities which would place the position in the primary level supervisory group. In fact, the appellant could not remain in her former permanent title, Supervising Geologist, Environmental Protection, since she does not supervise subordinate staff. Additionally, the fact that she was assigned supervision of an Assistant Geologist after she submitted her PCQ does not change this outcome since classification reviews are performed on a current basis and any additional duties assigned after the review cannot be evaluated. However, the Commission notes that the subsequent assignment to supervise an Assistant Geologist may suggest that her position would be better classified in the Geologist, Environmental Protection title series rather than Research Scientist 2. Therefore, if the appellant continues to feel that her position is misclassified based on the subsequent assignment of supervisory responsibility, she should file a new classification appeal with the Division of Agency Services.

Additionally, the fact that some of an employee's assigned duties may compare favorably with some examples of work found in a given job specification is not determinative for classification purposes, since, by nature, examples of work are utilized for illustrative purposes only. Moreover, it is not uncommon for an employee to perform some duties which are above or below the level of work which is ordinarily performed. For purposes of determining the appropriate level within a given class, and for overall job specification purposes, the definition portion of the job specification is appropriately utilized.

ORDER

Therefore, it is ordered that this appeal be denied.

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 1st DAY OF APRIL, 2015

Robert M. Czech
Chairperson
Civil Service Commission

Inquiries
and
Correspondence

Henry Maurer
Director
Division of Appeals
& Regulatory Affairs
Civil Service Commission
Written Record Appeals Unit
PO Box 312
Trenton, New Jersey 08625-0312

Attachment

c: Jane Uptegrove
Robin Liebeskind
Kenneth Connolly

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

September 2, 2014
REVISED

Ms. Jane Uptegrove
[redacted]

Re: Classification Appeal
Supervising Geologist Environmental Protection
Position # 083545
CPM # 01140086
Employee ID # 000310244

Dear Ms. Uptegrove:

This is to inform you, and the Department of Environmental Protection, of our determination concerning the classification appeal referenced above. You requested that your position be audited to determine if you are performing out-of-title work for your title of Supervising Geologist Environmental Protection (03055C, S28). You have indicated that you believe your current work duties are equivalent to those of a Research Scientist 1 (03166, R30) title. The Bureau of Human Resources Operations agreed that an audit should be conducted in order to determine the appropriate classification of your position.

This office has conducted a review of the submitted information, including the Position Classification Questionnaire (DPF-44S); organization chart; your Performance Assessment Review (PAR) form; your statements; and the statements of your supervisor, division director, and appointing authority. A telephone audit was performed with you and David Pasicznyk, Manager 4, Environmental Protection. Mr. Pasicznyk was your supervisor at the time the position classification questionnaire was completed.

Organization:

The position is located in Division of Water Supply and Geoscience, Bureau of Water Resources and Geoscience. You are currently supervised by Helen Rancan, Section Chief, Environmental Protection (59985, S30). You have no supervisory responsibility.

Findings of Fact:

- Plans, conducts, and guides the work of the New Jersey Geological and Water Survey Element's Offshore Resource Exploration Team. These duties include locating, characterizing and quantifying offshore sand resources for New Jersey's beach nourishment program.

- Sets production goals, schedules work progress meetings and discussions, trains junior staff in methods and geologic background, and maintains contact with outside vendors for scheduling contract work and reporting to client agencies, including NJDEP, the U.S. Department of the Interior (U.S. D.O.I.), and the U. S. Army Corps of Engineers.

- Develops, correlates, and integrates offshore geologic data with existing onshore geologic maps, extending understanding of New Jersey's geology to encompass the Inner Continental Shelf. Prepares written application for offshore geologic map project approximately every other year as part of the annual application for United States Geological (USGS) STATEMAP funding. Combines the data in a series of geologic maps with surficial coastal and near-shore geology along the coast of New Jersey. Coordinates with NJGWS staff reviewing the map products for submission. Solicits reviews from peers in other states or in academia for resulting NJGWS published maps products. Uses offshore geologic maps to applied methods to find sand resources, and to extend geologic interpretation to cover offshore geologic maps.

- Implements specialized research programs such as the Geo Survey Program, by creating offshore geologic maps and applied methods to find sand resources, extends geologic interpretation to cover offshore geologic maps, and defines units and correlates to onshore geologic units which have been defined and vetted.

- Sets up protocols for clay testing. Prepares slides for x-ray machine, makes determination of mineralogy. Verifies robustness of clay and makes the determination if the clay will work for sealing landfills.

- Develops program for radon soil testing, soil gas testing and identifying a mineral (iron cement) in sand, which overtime can release radon.

- Develops research protocols regarding radon accuracy in coastal plans by combining analysis of high resolution of data with shallow offshore cores, and combined analysis to make predictions regarding geology and resources. The D.O.I. has promoted this model for other states to utilize.

- Plans and guides the team's marine seismic surveys and vibracore drilling activities.

- Applies for and secures required Federal (U.S. D.O.I.) permits for acquiring geophysical data in Federal waters.

- Develops and instructs others to develop SOPs for all technical functions conducted by the team, including deployment and operations of seismic acquisitions gear and software, marine navigation systems, acquiring, logging, photographing and processing vibracore samples, performing grain-size analyses on core samples, and analysis of offshore shoal features using project-specific software, including Dr. Geo, Surfer, Didger, Strater, Sonar Wiz, Adobe Illustrator, and Photoshop.

- Prepares applications for grants from U. S. D.O.I., Bureau of Ocean Energy Management.

- Develops program for age dating of materials, determined samples dates back 7300 years. This information is used to provide anchor dates.

- Develops offshore seismic profiles used to determine where cores will be placed, provides precise information to the Army Corps of Engineers. This includes getting volumes on the core, estimating how much sand material there is, providing information to U.S.D.O.I. and providing records of subsurface information to the depth of 30 meters of structure.

- Performs as the lead scientist on the Barnegat, Brigantine and Cape May projects. Using data synthesis onshore sediment analysis, applied models to what is seen on New Jersey Coast to see what is offshore. This information is used to determine where to place wind turbines, underwater cables, etc., and uses title maps to cover the coast re: transition zones which includes marsh lands.

- Uses geologic offshore maps linking to onshore geology for the barrier shores. Develops the method for linking the two together, applies it to different situations along the coat.

- Acts as liaison with the NJDEP Office of Engineering and Construction. Prepares annual and 5 year budget requests to fund work performed by the NJGWS Offshore Team with regard to beach nourishment projects along the NJ coast. This includes periodic reporting on the team's activities and soliciting feedback and input.

- Acts as liaison with federal agencies tasked with managing the nation's ocean resources including the U.S. D.O.I., Bureau of Ocean Energy Management, and the U. S. Geological Survey, the U.S. Army Corps of Engineers, and to a lesser extent, National Oceanic and Atmospheric Administration (NOAA).

- Maintains knowledge of available technology, including best practices and tools (hardware and software) for data acquisition, analysis and dissemination.

- Analyzes and instructs others to analyze data for selection of core drilling/sampling locations, including sampling cores for radiocarbon dating. Administers in-house core-processing and archiving of core sample and records.

- Prepares Request for Proposals (RFP) for the NJ Department of Treasury regarding offshore vibracore drilling, core processing, grain-size analysis, and leasing of research vessels. Researches and prepares/instructs for the preparation of all purchase orders for services and functions not performed by offshore team staff.

- Performs QA/QC work as the State Technical Officer on contracts for core acquisition, core processing and grain–size analysis.

- Schedules and attends reporting meetings with U.S. Army Corps of Engineers for data transfer and task re-prioritization.

- Prepares and distributes maps of offshore sand resources that have been located, characterized and quantified to NJDEP, the public, and client agencies. Provides expertise on offshore sand resources and offshore geology to colleagues within the NJDEP, the public, and to colleagues in other states and academia.

- Collaborates with others and/or contributes NJ based data for analysis and interpretation in peer-reviewed journals and at professional meetings.

- Incorporates and instructs part-time or temporary staff in projects as available, including training for tasks, and evaluating progress and reporting on staff performance to their supervisors, as needed.

- Acts as liaison with other State Geological Surveys and cooperating agencies to compare methods and develop best practices for data collecting, interpreting, disseminating, and archiving.

- Maintains and leads maintenance of project records and files, including digital records in project space, lithologic logs, contractors' reports, core photographs, grain-size analyses, seismic profile records, map products, and project-related references.

- Leases best affordable gear for offshore surveys. Maintains technical association with instruments and equipment producers and vendors to remain current of state-of-the art data collection and analysis methods.

- Maintains knowledge of existing regulations and hazards related to acquisition of marine geophysical data and vibracore drilling.

- Disseminates reports on, and trades information on methods and findings at technical and interagency meetings.

- Instructs staff as needed, mainly through their work on the Offshore Resources Exploration project.

- Mentors college interns and junior staff in geologic knowledge, methods of analysis, interpretation, and reporting geologic findings.

Review and Analysis:

The duties and responsibilities of the position were compared to those described within the class specification for Supervising Geologist, Environmental Protection, Research Scientist 1, and Research Scientist 2.

The definition section of the specification for the title, Supervising Geologist, Environmental Protection (03055C, S28), states:

"Under direction of a supervisory official in a state department or agency, supervises a professional staff engaged in the resolution of ground water resource evaluations, contamination investigations, and geological studies which require the application of specific geological science techniques and expertise: or coordinates a geological project(s) involving full responsibility for scientific research, recommendation(s), and implementation for all phases of projects(s); does other related duties as required."

Incumbents in the Supervising Geologist, Environmental Protection title supervise professional staff engaged in ground water resource evaluation, contamination investigations and geologic studies associated with the application of specific geological science techniques and expertise. Your duties do not include ground water resource evaluations or contamination investigations. Although you provide guidance to other employees, you do not have direct responsibility for supervising their work.

In addition, the Supervising Geologist, Environmental Protection title is assigned to the "S" bargaining unit, and as such is considered a second-line supervisor. Under the current organizational structure, you have no supervisory responsibility. Your position does not directly supervise any employee, nor are you responsible for the preparation of performance evaluations.

The definition section of the specification for the title, Research Scientist 1 (03166, R30), states:

"Under general supervision of a division director or other supervisory official in a state department, institution, or agency, independently initiates and coordinates a research or developed program in a specified professional field; may supervise lower levels of Research Scientists and other technical staff, manages high level technical projects and reports results to designated officials for inter- and intra-agency response; does related work."

Incumbents in the Research Scientist title series typically perform scientific investigations and experiments, identify breakthroughs, and report on new discoveries. Scientific research involves the development and implementation of innovative original theories or methods, and making independent decisions, in a very limited or restricted area of a scientific professional field. The Research Scientist designs his or her research, chooses methods, and analyzes findings. It is the

intent that the series remain it the scientific realm. In that respect, research performed must be developed using appropriate research programs and designs.

The title Research Scientist 1 is assigned to the "R" bargaining unit and considered the primary or first level of supervision. An essential component of supervision is the responsibility for the administration of formal performance evaluations for subordinate staff. Supervisory duties also include ensuring that assigned tasks are performed efficiently on a day-to-day basis and the training of subordinates. Although your position directs the work of the NJ Geological and Water Survey Element's Offshore Resources Exploration team projects within the Bureau of Water Resources and Geoscience, your position does not supervise subordinate staff. The Research Scientist 1 title is an inappropriate classification for your position.

The definition section of the specification for the title, Research Scientist 2 (03165, P28), states:

"Under general supervision of a Research Scientist 1 or other supervisory official in a state department, institution, or agency, conducts and/or supervises a research or developed program in a specified professional field; assumes appropriate administrative and supervisory duties as delegated; supervises complex projects and makes recommendations to the supervisor; does related work."

A Research Scientist 2 is expected to conduct or supervise a research or developed program in a specific professional field. The Research Scientist 2 assumes appropriate administrative and technical duties, and collects and analyzes data obtained and prepares reports. Incumbents in this title may submit proposals and recommend research in compliance with appropriate methodology. In addition, incumbents maintain liaison with state, federal, and other individuals, and consults with Department staff. The Research Scientist 2 title is assigned to the "P" bargaining unit and is considered a professional level title without direct responsibility for the performance of subordinate staff. A Research Scientist 2 can lead and coordinate projects.

Your position plans, conducts, and guides the work of the New Jersey Geological and Water Survey Element's Offshore Resource Exploration Team. Your position is responsible for locating, characterizing and quantifying offshore sand resources for New Jersey's beach nourishment program. Your position plans and guides the team's marine seismic surveys and vibracore drilling activities. Your position sets production goals, schedules work progress meetings and discussions, and trains junior staff in methods and geologic background. Your position applies for and secures required Federal (U.S. D.O.I.) permits for acquiring geophysical data in Federal waters. Your position prepares applications for grants from U. S. D.O.I., and the Bureau of Ocean Energy Management. Your position prepares annual and 5 year budget requests to fund work performed by the NJGWS Offshore Team.

Your position develops and instructs others on developing SOPs for all technical functions conducted by the team, including deployment and operations of seismic acquisitions gear and software, marine navigation systems, acquiring, logging, photographing and processing vibracore samples, performing grain-size analyses on core samples, and analysis of offshore shoal features using project-specific software.

Your position interacts with federal agencies tasked with managing the nation's ocean resources including U.S. D.O.I., Bureau of Ocean Energy Management, U. S. Geological Survey, U.S. Army Corps of Engineers, and to a lesser extent, National Oceanic and Atmospheric Administration (NOAA).

A Research Scientist 2 can lead and coordinate projects such as the offshore sand resources for New Jersey beach nourishment program. The preponderance of your duties fall within the scope of a Research Scientist 2.

Determination

By copy of this letter, the Appointing Authority is advised that your position will be reclassified as Research Scientist 2 (03165, P28) effective January 25, 2014 unless they assign duties and responsibilities that are commensurate with your current title, Supervising Geologist Environmental Protection (03055C,S28). The class specification for Research Scientist 2 is descriptive of the general nature and scope of the functions that may be performed by an incumbent in this position. However, the examples of work are for illustrative purposes and are not intended to restrict or limit performance of 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 Resources Consultant 5
Classification and Personnel Management

MTB/db
C: Robin Liebeskind
Joseph Siracusa