

B-18



STATE OF NEW JERSEY

In the Matter of Joseph Bilinski,  
Department of Environmental  
Protection

FINAL ADMINISTRATIVE ACTION  
OF THE  
CIVIL SERVICE COMMISSION

CSC Docket No. 2015-1760

Classification Appeal

ISSUED: MAY 22 2015 (JET)

Joseph Bilinski appeals the attached decision of the former Division of Classification and Personnel Management (CPM)<sup>1</sup> that the proper classification of his position with the Department of Environmental Protection is Environmental Scientist 2. The appellant seeks a Research Scientist 1 classification.

The record in the present matter establishes that at the time the appellant filed his request for a classification review, his permanent title was Research Scientist 2. The appellant's position is located in the Office of Science and he does not have any supervisory duties. The appellant sought a reclassification contending that his position would be more appropriately classified as a Research Scientist 1. In support of his request, the appellant submitted a Position Classification Questionnaire (PCQ) detailing the different duties that he performed. CPM reviewed all documentation supplied by the appellant including his PCQ. Based on its review of the information provided, including the unit organization chart, CPM concluded that the appellant's position would be properly classified as an Environmental Scientist 2, effective June 14, 2014.

On appeal, the appellant disagrees that Environmental Scientist 2 is the appropriate classification for his position and he maintains that he performs the duties of a Research Scientist 1. Specifically, the appellant asserts that CPM misinterpreted the information he provided during the classification review and it did not properly evaluate the definition of research in relation to the work he is

<sup>1</sup> Now the Division of Agency Services.

performing. In addition, the findings of facts in the classification determination substantiates that he performs research consistent with a Research Scientist 1 classification. Moreover, the appellant avers that his current duties include conducting scientific research and experiments such as determining the effect that Hurricane Sandy had on the State's natural resources. Additionally, the appellant contends that several of his duties, such as investigating ocean acidification, working with the Science Advisory Board, and independently analyzing data and providing recommendations, are not consistent with the job specification for Environmental Scientist 2. The appellant adds that his current duties include, among other things, independently designing, coordinating, and implementing specialized research and/or analytical programs of a highly complex, technical nature. He also states that he is trained as a plant ecologist and as an animal physiologist and he is the only "staff expert" in his unit who has experience in the fields of Plant Ecology and Wildlife Biology. The appellant maintains that such duties are more consistent with the job specification for Research Scientist 1, and in the alternative, are definitely consistent with the duties performed by a Research Scientist 2. Moreover, the appellant also requests a hearing in this matter.

### CONCLUSION

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

Under general direction 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-agency response; does related work.

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 related work.

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

Under the direction of an Environmental Scientist 1, or other supervisory officer in a State department, institution, or agency, assists in assigned scientific projects and programs in the field of environmental science and may be charged with the responsibility for an assigned phase of such activity; does other related duties.

Initially, the appellant requests a hearing. However, classification appeals are generally treated as reviews of the written record. *See N.J.S.A. 11A:2-6(b)*. Hearings are granted in those limited instances where the Civil Service Commission (Commission) determines that a material and controlling dispute of fact exists which can only be resolved through a hearing. *See N.J.A.C. 4A:2-1.1(d)*; *See also N.J.A.C. 4A:3-3.9(e)1*. For the reasons set forth below, no material issue of disputed fact has been presented which would require a hearing. *See Belleville v. Department of Civil Service, 155 N.J. Super. 517 (App. Div. 1978)*.

In the instant matter, CPM properly determined that the appropriate classification of the appellant's position is Environmental Scientist 2. It is clear that the appellant's duties do not include conducting scientific research and experiments, developing and implementing original theories, identifying breakthroughs, and directing staff activities. The appellant did not indicate on the PCQ that he conducts research projects. As such, CPM properly determined that the appellant's position does not have responsibility for conducting scientific research. Contrary to the appellant's assertions, implementing and evaluating research is not the same as conducting research. As such, CPM correctly determined that the appellant is only responsible for reviewing research that has already been conducted and he is not responsible for conducting the research itself. The appellant's duties include, among other things, serving as Project Manager for the Barnegat Bay Initiative focusing upon water quality degradation, decreased biodiversity, impairment to wetlands, and shoreline degradation impacting vegetation and health; reviewing the scope of work prepared by contractors/academics; approving invoices; meeting with the public; addressing the scope of work; reviewing Quality Assurance project plans, quarterly reports, and drafting final reports; ensuring that project objectives are met; reviewing the impact of programs upon the habitat of fish and wildlife; and serving as liaison to the Science Advisory Board. Moreover, the appellant did not list on the PCQ that he is responsible for supervising employees. Such duties are consistent with the job specification for Environmental Scientist 2.

Although the appellant argues that his duties are consistent with those performed by a Research Scientist 1, or in the alternative, a Research Scientist 2, 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. In this regard, 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.

In regard to the appellant's claim that CPM misinterpreted some of the information that he provided, the record indicates that all of his duties and responsibilities were reviewed and the classification determination was based on that information. The purpose of a classification evaluation is to conduct a fact-finding session and the classification reviewer's role is strictly limited to an independent review of the current duties and responsibilities of the position at issue. Moreover, it is longstanding policy that only those duties and responsibilities assigned at the time of the request for a reclassification are to be considered. Even assuming, *arguendo*, the validity of the appellant's claim, the entire record has once again been thoroughly reviewed in this matter in conjunction with the appellant's appeal and the Commission is satisfied that the classification determination was proper.

The record reflects that the appellant continues to serve as a Research Scientist 2. *N.J.A.C. 4A:3-3.5(c)1* provides that within 30 days of receipt of a reclassification determination, the appointing authority shall either effect the required change in classification of the employee's positions or assign duties and responsibilities commensurate with the employee's current title. See *In the Matter of Guillermo Dacpano, et al.* (CSC, decided December 17, 2008) and *In the Matter of William Ayers* (CSC, decided December 17, 2008) (Despite allegations that they were performing the same duties that warranted reclassification to higher level titles, appellants certified on subsequent PCQs that they were reassigned duties commensurate with their lower level permanent titles). Therefore, unless the appointing authority has assigned the appellant duties consistent with his permanent title of Research Scientist 2, it must reclassify the appellant's position as an Environmental Scientist 2, effective June 14, 2014.

### ORDER

Therefore, it is ordered that this appeal be denied. It is further ordered that within 30 days of the issuance date on this decision, the appointing authority reclassify the appellant's position to Environmental Scientist 2 or assign duties commensurate with the appellant's permanent title of Research Scientist 2. The appointing authority shall submit to CPM the appropriate documents to support its action.

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

**DECISION RENDERED BY THE  
CIVIL SERVICE COMMISSION ON  
THE 20<sup>th</sup> DAY OF MAY, 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  
P.O. Box 312  
Trenton, New Jersey 08625-0312**

**Attachment**

**c: Joseph Bilinski  
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*

December 5, 2014

Mr. Joseph J. Bilinski  
New Jersey Department of Environmental Protection  
Office of Science  
428 East State Street  
PO Box 420 Mail Code 428-01  
Trenton, New Jersey 08625-0420

Re: Classification Appeal  
Research Scientist 2  
Position #958138  
CPM #05140249  
Employee ID # 000317490

Dear Mr. Bilinski:

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 and additional information provided; the statements of your supervisor, division director, and appointing authority; and a desk audit that was conducted September 9, 2014.

**Issue:**

You requested that your position be audited to determine if you are performing out-of-title work for your title of Research Scientist 2. You believe that you are working in the capacity consistent with the duties and responsibilities associated with the Research Scientist 1 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 the Office of Science, Department of Environmental Protection. You are supervised by Gary Buchanan, Manager 3, Environmental Protection, Technical/Scientific/Engineering (M35) and you have no supervisory responsibility.

**Findings of Fact:**

The position performs the following duties and responsibilities:

- Evaluates the scientific feasibility and soundness of projects designed to achieve the goals of the Department.
- Provides technical support to Natural and Historic Resources, Land Use Regulation, and other related programs.
- Serves as liaison to the Science Advisory Board, Ecological Processes Standing Committee.
- Serves as field investigator on the Natural and Cultural Resources – Hurricane Sandy Natural Resource Damage Assessment Team.
- Serves on various Technical Review/Advisory Committees and Working Groups.
- Oversees state-funded grants for Non-Government Organizations and academic institutions in support of current projects.
- Develops methodologies and implements research projects to assess the success of wildlife mitigation, habitat restoration, biodiversity and conservation, natural resource sustainability and resiliency, ecotoxicity, and threatened and endangered species management.
- Prepares scientific/technical reports for internal review and publication.

**Review and Analysis:**

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

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

The definition section of the specification for the title, Research Scientist 1 (R30, 03166), 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, making independent decisions, in a very limited or restricted area of a scientific field, and solving problems using standard principles, procedures, and techniques for their scientific professional field. The Research Scientist designs his or her research, chooses methods, and analyzes findings. It is significant that the Research Scientist works “in a specified professional field”. It is the intent that the series remain in the scientific realm. In this respect, research performed must be developed using appropriate research programs and designs.

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 consult with Department staff. A Research Scientist 2 can lead and coordinate projects.



A Research Scientist 1 independently initiates, designs, coordinates, and implements research and/or analytical programs of a highly complex technical nature. Incumbents in this title are expected to develop appropriate research protocols and designs, collect and analyze data obtained, and manage high level technical projects. In addition, a Research Scientist 1 may prepare applications for federal and other grant funds, and prepare the annual budget request. The Research Scientist 1 title is assigned to the "R" bargaining unit. Titles assigned to the "R" bargaining unit are considered to be the primary or first level of supervision. As such, incumbents in this title typically supervise and direct the activities of subordinate staff, and organize and assign work of the organizational unit.

Your position serves as project manager for the Barnegat Bay Initiative focusing upon water quality degradation, decreased biodiversity, impairment to wetlands, and shoreline degradation impacting vegetation and health. In this capacity, your position reviews the scope of work prepared by contractors/academics. Your position approves invoices submitted for payment, meets with the public to address the scope of work, and reviews the Quality Assurance project plan, quarterly reports, and draft and final report. Your position ensures the project stays on track with science and research objectives being met. Your position provides technical and scientific support to the Department serving as a member on several technical review committees. Your position reviews the impact of programs upon the habitat of fish and wildlife species in the affected area. Your position serves as liaison to the Science Advisory Board on the Ecological Processes Committee. Your position has no responsibilities for conducting scientific experiments. Your position conducts scientific investigations reviewing submitted reports. This review is conducted primarily in an office setting as opposed to a hands-on site investigation and experiments. Your position reviews research conducted but has no responsibility to conduct scientific research. Your position ensures the information provided meets the requirements of the rules and existing guidance.

Taking the aforementioned into consideration, and the fact that this position does not conduct scientific research and experiments, develop and implement original theories, identify breakthroughs, or direct staff activities, the Research Scientist titles fail to reflect the duties and level of responsibility currently being assigned. Therefore, both Research Scientist 2 and Research Scientist 1 are inappropriate classifications for the functions of this position.

Additionally, a Research Scientist 1 is considered the primary or first-level of supervision and your position has no supervisory duties

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

“Under the direction of an Environmental Scientist I, or other supervisory officer in a state department, institution, or agency, assists in assigned scientific projects and programs in the field of environmental science and may be charged with the responsibility for an assigned phase of such activity; does other related duties.”

An Environmental Scientist 2 provides scientific advice and assistance. An incumbent in this title coordinates various ecological activities within the Department. An Environmental Scientist 2 participates in projects and programs in the field of environmental science and may be responsible for an assigned phase of a project or program. Incumbents in this title participate in the development of environmental surveillance systems involving pollutants and contaminants. Incumbents in this title review research proposals. An Environmental Scientist 2 keeps current with trends through literature and new developments in ecology and environmental science. An incumbent in this title prepares technical, scientific reports of environmental and ecological matters containing findings, conclusions, and recommendations.

Your position evaluates the scope of work, field samplings, methodology, and in certain projects the environmental impact upon vegetation, and habitat of animal and aquatic life. Your position reviews projects associated with marsh restoration and vegetation. Your position provides technical and scientific support to the working groups assigned, the Department, and outside agencies providing support conducting contracted environmental research projects. Your position serves as liaison to the Science Advisory Board, Ecological Processes Standing Committee reviewing the scientific soundness of reports, contributing to topics to be addressed, and guiding the investigative process. Your position serves as a member of the Natural, and Cultural Resource – Hurricane Sandy Natural Resource Damage Assessment Team conducting field investigations and writing reports on the impacts of buffers to rivers and streams and contributing to the final team report.

Taking the aforementioned factors into consideration, the breadth and depth of your position within the section aligns with the professional expectations of the Environmental Scientist 2 title.

Name: Joseph Bilinski  
Date: December 5, 2014

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**Determination:**


By copy of this letter, the Appointing Authority is advised that we will reclassify your position to Environmental Scientist 2 (P28, 15873) effective June 14, 2014, unless they assign duties and responsibilities that are commensurate with your current title, Research Scientist 2, (P28, 03165) within thirty days of receipt of the determination letter.

The class specification for Environmental Scientist 2 (P28, 15873) 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 note that this classification determination does not imply that you will meet the eligibility requirements of the title. It is the responsibility of the Appointing Authority to ensure an incumbent meets the eligibility requirements prior to any appointment.

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  
Ref # 05140249

