



STATE OF WASHINGTON

OFFICE OF FINANCIAL MANAGEMENT

STATE HUMAN RESOURCES DIVISION | DIRECTOR'S REVIEW PROGRAM

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June 13, 2016

TO: Kristie Wilson
Rules and Appeals Program Manager

FROM: Christa Biasi
Director's Review Specialist

SUBJECT: Kristian Knutzen v. Department of Natural Resources (DNR)
Allocation Review Request ALLO-16-005

Director's Determination

This position review is based on the work performed for the six-month period prior to October 8, 2015 (April 8, 2015 - October 8, 2015), the date Department of Natural Resources Human Resources (DNR HR) received Kristian Knutzen's request for reallocation. As the Director's Review Specialist, I carefully considered all the exhibits, any written communication provided and the information obtained during the Director's Review Conference. Based on my review and analysis of Mr. Knutzen's assigned job duties; I conclude his position is properly allocated to a Natural Resource Specialist 2 (NRS 2).

Background

On April 8, 2015, Mr. Knutzen submitted a Position Review Request (PRR) to HR (Exhibit B-6).

On December 8, 2015, Marty Graf, Senior Human Resource Consultant had a discussion with Mr. Knutzen regarding his PRR.

By letter dated January 8, 2016, Mr. Graf notified Mr. Knutzen that his position remained allocated to Natural Resource Specialist 2 (Exhibit B-1).

On January 19, 2016, Office of Financial Management, State Human Resources received Mr. Knutzen's request for a written Director's Review of DNR HR's allocation determination (Exhibit A-6).

The Director's Review Conference was held on May 18, 2016, at the Capital Court Building located at 1110 Capitol Way S, Olympia, WA 98501.

Rationale for Director's Determination

The purpose of a position review is to determine which classification best describes the overall duties and responsibilities of a position. A position review is neither a measurement of the volume of work performed, nor an evaluation of the expertise with which that work is performed. A position review is a comparison of the duties and responsibilities of a particular position to the available classification specifications.

This review results in a determination of the class that best describes the overall duties and responsibilities of the position. *Liddle-Stamper v. Washington State University*, PAB Case No. 3722-A2 (1994).

Organizational Structure

Mr. Knutzen's position reports to the South Puget Sound Region Forest Practices District Manager. As the forest practices forester, he must interact with region and division personnel of the Department of Natural Resources (DNR), Washington Department of Fish and Wildlife (WADFW), Department of Ecology (ECY), Tribes, local government entities, Industrial forest landowners, small forest landowners, operators, timber owners and general public. Work is assigned electronically via Forest Practices Application and Review System (FPARS), in writing, verbally and self-generated depending on the assignment. He works under the guidance of state and federal regulations, agency policies and procedures, and applicable collective bargaining agreements. His work is performed in accordance with forest practices rules guidance and policies.

Position Purpose

As summarized in the PDF (Exhibit B-3), Mr. Knutzen's position is described as follows:

This position is assigned a defined geographical area within the South Puget Sound Region. The position provides technical review and analyses of Forest Practices Applications (FPAs) assuring compliance with the Forest Practices Act and is responsible for the approval, disapproval, compliance and enforcement of these forest practices operations. Forest Practice Hydraulic Project (FP/HP) responsibilities include reapplication of initial assessments, review of plans, and review of engineering specifications to ensure that the plan is as agreed and meets the requirements or the rules. FP/HP Compliance ensures fish passage for all species at all life stages, erosion control and long term integrity of the structure or removal. Appropriate and complete written documentation is completed on all reviews and compliance actions. Other duties include RMAP compliance; evaluate extreme fire hazards, teach forest practices program courses, forest landowner assistance and serving on committees or projects for either the South Puget Sound Region or Forest Practices Division.

Responsible for timely submission and complete and detailed invoices/receipts for purchases made on behalf of the Department, to include at a minimum: legible name, program to be charged, (and if pertains to vehicle) vehicle number. Invoices/receipts will include vender name and phone number. Documents such as leave slips, TARs, and travel vouchers must be fully completed, signed by the employee and submitted in a timely manner. Property will be received, transferred and/or returned using a signed transfer form.

Duties and Responsibilities/ Position Review Request (Exhibit B-6)

- 33% Provide technical review and analyses of forest practices applications (FPAS) and hydraulic project applications (FP/HP) assuring compliance with the Forest Practices Act.
- Meet on site to assure that forest practices and hydraulic projects are feasible.
 - Review plans for completeness and assure that the major components are included. Evaluate public safety issues, unstable slopes, riparian management zones, wetland management zones, endangered species risk, and water quality issues.
 - Condition as necessary to assure public resource protection, fish passage for all species at all life stages, erosion control and long term integrity of project.
 - Disapprove the FPA or FP/HP if plan is incomplete or does not meet resource protection objectives.
- 33% Assure compliance of all forest practices activities within assigned work area.
- Determine if activities are covered by an approved FPA and evaluate impacts to unstable slopes and water.
 - Inspect and take measurements with tools such as a laser level to ensure that Forest Practices Hydraulic Projects (FP/HP) are following the engineered plans.
 - Make inspections which vary from cursory to detailed measurements of riparian management zones and wetland management zones with a laser range finder.
 - Maintain an Excel Deliverables Tracking Form which documents all daily inspections with the status of operations on unstable slopes, water issues, and FP/HP activities. Document inspections with photos stored in Box files.
- 7% Schedule and lead Interdisciplinary Team (IDT) reviews and make decisions regarding appropriate resource protection action.
- Select specialists based on resource issues.
 - Lead the on-site meeting that could include the WDFW Biologist 3 for the area, DOE Hydrogeologist 3 for the area, Natural Resource Scientist 3 Licensed Engineering Geologist for the Region, Tribal Fish Biologist for the area, the Landowner, and Operator or Consulting Forester.
 - Put information together and make a decision utilizing input from specialists.
 - Record decision on an Informal Conference Notice.

6% Verify water typing.

- Review Water Type Modification (WTM) proposals checking the condition of the stream, pools, and spawning gravels. Assess the proposed F/N break by checking the channel above and making judgments regarding similar habitat. Concur or nonconcur with proposals.
- Spot check streams included in a proposed harvest area to assure compliance with rules.

5% Take appropriate enforcement action with forest practices violators.

- Issue Informal Conference Notes, Notices to Comply, Stop Work Orders, and Civil Penalties.
- Testify at Brief Adjudicative Proceeding or the Pollution Control Hearing Board if decisions are appealed.

Other Duties:

5% Mentor and train new Forest Practices Forester in adjacent work unit.

2% Instruct Forest Practices program courses.

3% Serve on committees or projects for either the South Puget Sound Region of Forest Practices Division.

1 % Evaluate extreme fire hazards.

1 % Participate in the Compliance Monitoring Program.

4% Other duties as assigned.

Summary of DNR's Perspective

1. Allocation Determination Letter Dated January 8, 2016, Exhibit B-1

On January 8, 2016, DNR HR (Marty Graf) responded to Mr. Knutzen's PRR and determined Mr. Knutzen was properly allocated to the NRS 2 class. As part of position review, Mr. Graf reviewed the Fish and Wildlife Biologist 2 and 3, Environmental Specialist 3 and 4, and the Natural Resource Specialist 2 and 3 and compared each class to Mr. Knutzen's duties as outlined in the PRR.

Comparison to Fish and Wildlife Biologist 2 and 3

Mr. Graf states in his determination letter that he began his review by looking at the Fish and Wildlife Biologist 2 because "this is where [Mr. Knutzen's] hydraulics work comes from." Mr. Graf determined that the Fish and Wildlife Biologist series is scientific in nature and Mr. Knutzen "is not a biologist performing professional biological studies." Mr. Graf acknowledges that even though the hydraulics work was taken over by Mr. Knutzen in January 2014, the hydraulics work is not a determining factor for a Fish and Wildlife Biologist 2. Mr. Graf made the same determination for the Fish and Wildlife Biologist 3 class by indicating that "[Mr. Knutzen's] position is not performing work related to biological studies pertaining to fish or wildlife and does not meet any of the above criteria, so the Fish and Wildlife Biologist 3 is not an appropriate classification for your position."

Comparison to Environmental Specialist Series

The Environmental Specialist Series does not have a class series concept, therefore Mr. Graf began his evaluation of the comparable duties with the Environmental Specialist 3 and its Definition and Distinguishing Characteristics.

Mr. Graf found that Mr. Knutzen's duties clearly meet Definitions 1 and 2 within the Environmental Specialist (ES) class which state:

1. Environmental permit development and review: Reviews environmental permit applications for technical accuracy and compliance with regulatory requirements; negotiates permit conditions; develops or reviews technical plans and makes decisions regarding the scientific merit of the proposal; conducts conflict resolution; and prepares final permit evaluation/report for approval.
2. Environmental inspections and enforcement activities: Conducts inspections or field investigations in order to respond to complaints/violations relating to environmental regulations; participates with higher level environmental staff in negotiating agreements/settlements; imposes on-site enforcement action as necessary; performs follow-up inspections to ensure corrective action is implemented; oversees contractor or consultant services for compliance and certifies performance; participates in clean-up activities and mitigation efforts at large oil spills or other hazardous waste spills; represents the agency in public meetings, hearings, and workshops; interprets and explains environmental regulations and requirements; and works directly with local municipalities and the public to promote environmental improvements.

Furthermore, Mr. Graf found within the Distinguishing Characteristics of the ES class that Mr. Knutzen also met numbers 1 and 2. He states that:

"Your position does review applications for technical accuracy and compliance with regulatory requirements. Number 2 provides detail into Environmental inspections and enforcement activities. Your position conducts field inspections for compliance with environmental regulations. Your position also imposes on-site enforcement action as necessary and performs follow-up inspections to ensure corrective action is implemented. Therefore, I believe your position clearly meet the Distinguishing Characteristics. This makes the Environmental Specialist 3 classification a good fit for your position."

Comparison to Natural Resource Class Series

Mr. Graf states that "[NRS Series] is a professional series where the majority of the duties of a given position must be performing professional work with the exception of the level 1, which is the entry level."

Mr. Graf first compared Mr. Knutzen's duties to the NRS 3 level. He determined that there are two separate allocating criteria within the NRS 3 level, 1) being the designated expert within the region providing standards and guidance to employees in the region performing the work; OR 2) being the designated coordinator which coordinates a program with entities typically outside of the program/agency.

Mr. Graf found that Mr. Knutzen's position is performing work of the program, however he is not providing standards and guidance to others who perform the work. Nor is he coordinating the Forest Practices program with other outside programs outside of the Forest Practices program. Mr. Graf then compared Mr. Knutzen's duties to that of the NRS 2 definition which states:

Positions independently plan, prioritize, coordinate and implement forest eco-system programs (resource management and/or regulatory) or contract management and land development activities within agricultural, aquatic, and/or commercial lands program(s) in an assigned geographic area or district. Some positions serve as a staff assistant performing a variety of professional projects and tasks within assigned specialized forestry programs or as a staff assistant performing a variety of professional projects or tasks within an assigned land management program. Some positions may supervise other professionals and/or skilled technicians.

Mr. Graf indicated that Mr. Knutzen, "works independently to plan, prioritize, and coordinate [his] work to implement Forest Practices activities (a regulatory forest eco-system program) for an assigned geographic area within the South Puget Sound Region." Including the technical review, analysis and approval of Forest Practices applications, as well as compliance of all Forest Practices activities and laws. It is because of these duties that Mr. Graf believes Mr. Knutzen's duties fit into the NRS 2 classification.

Mr. Graf's Determining Factors

Mr. Graf found two classes that fit Mr. Knutzen's duties, ES 3 and NRS 2. Mr. Graf notes that the two classes have the same pay range (49) so an allocation to either would have no impact on Mr. Knutzen's salary. Mr. Graf explained in the case of Mr. Knutzen's position fitting into more than one classification, "the class with the more narrow focus fitting the duties will be deemed best fit." Mr. Graf further explains the ES 3 is looking at "general Environmental compliance and enforcement" and there are not specific laws or programs mentioned that would show the ES 3 to be an obvious fit.

However, the NRS classification was created to describe positions working in the forestry profession and that Forest Practices is the regulation and enforcement of forest activities. As such, the NRS is more narrowly focused on a field in which Mr. Knutzen's position "clearly fits." It is because of the foregoing factors that Mr. Graf determined that Mr. Knutzen's position is appropriately assigned to the NRS 2 classification.

2. Memorandum from Mr. Graf to Mr. Knutzen dated January 21, 2016 (Exhibit B-5)- Relevant Parts Only

On January 8, 2016, Mr. Knutzen emailed Mr. Graf (Exhibit B-5, pages 22-23) in response to the January 8, 2016, determination letter (Exhibit B-1). The email contains statements and questions as they relate to Exhibit B-1. In response to the email, Mr. Graf clarifies his position for maintaining Mr. Knutzen in his NRS 2 classification.

Mr. Knutzen's first concern was that Department of Ecology was recently recruiting for a Forest Practices Specialist (Environmental Specialist 4). He further described the key work activities of the position, describe his position with the exception being that the DNR position has regulatory authority. In response, Mr. Graf points out that allocation does not involve comparing the duties

of a position to those in other agencies and potentially other positions within DNR as those positions may not be accurately allocated. However, Mr. Graf did review the ES 4 class when he did his analysis, but had inadvertently left it out of his determination letter.

Based on Mr. Graf's analysis of the ES 4 he determined there are three separate functions that can cause a position to be allocated to the ES 4 class. These functions are as follows:

"Your position is not a senior environmental specialist in a specific environmental public health program nor do you manage all the environmental regulatory and analyses functions of DNR. The third function involves being a section specialist. Similar to the NR Specialist 3, a section specialist provides guidance and expertise to those doing the work of a given section in the field. You perform the technical review and analysis of Forest Practices application and hydraulic projects to maintain compliance with the Forest Practices Act."

Mr. Graf indicates that Mr. Knutzen performs the work of the "program" and he is not providing guidance to others performing the work. Based on these factors, Mr. Graf determines that Mr. Knutzen's position is not a "section specialist" in program specific environmental laws, regulations and related activities and therefore does not meet the Definition of the ES 4 class.

Mr. Knutzen sought clarification as to the term "journey level" when Mr. Graf describes his work. Mr. Graf believes that Mr. Knutzen is performing Forest Practices field work at the "fully independent" level. However, the NRS 3 is considered the senior level of the NR Specialist series and Mr. Knutzen does not meet the Definition of the class. In the Environmental Specialist series, the 4 is the senior level but that is not the allocating criteria of the class.

Mr. Graf goes on to say that "...argument could be made that you are operating at the senior level, however, you [Mr. Knutzen] don't meet the allocating criteria for either class so my determination was that these classifications were not a good fit for your position."

Mr. Knutzen takes exception to any reference that he does not coordinate as he does "coordinate outside of the program/agency with ECY, WADFW, Tribes and the public." Mr. Graf's reasoning is that OFM State HR has defined the word "coordinate" as it relates to allocation as follows:

Coordinate. Independently organize, monitor, evaluate, and make adjustments for a program or activity.

Mr. Graf states that although Mr. Knutzen indicates that he does coordinate with "ECY, WADFW, Tribes, and the public" that OFM State HR's definition is broader than just working with outside entities. Mr. Graf further says that he does not see in Mr. Knutzen's PDF any "monitoring, evaluating, and making adjustments to a program or activity as part of the coordination." In fact, Mr. Graf's position is that Mr. Knutzen described his activities as "you gather information from these entities for the purpose of making a determination on the approval or denial of Forest Practices applications."

Mr. Knutzen is also concerned regarding the issue of "enforcement authority" that was previously the duty of the Fish and Wildlife Biologist 3s and are now the duty of the NRS 2s. Mr. Graf explains that when allocating a position he is looking at the "majority of work." Mr. Graf

takes into account that Mr. Knutzen's position does have "limited police powers" that are specific to Forest Practices laws, but Mr. Knutzen is not a "law enforcement officer" in the traditional sense, nor are the limited enforcement powers a majority of Mr. Knutzen's work. Mr. Graf further states that "I didn't look at classifications performing duties around enforcement authority as these classes are typically law enforcement officers and your position isn't a law enforcement officer."

Summary of Mr. Knutzen's Perspective

1. Email From Mr. Knutzen to Marty Graf Dated January 8, 2016 (Exhibit B-5)

After Mr. Knutzen received the Determination Letter (Exhibit B-1) from DNR HR he emailed Mr. Graf requesting further clarification on the final determination. Mr. Knutzen outlines several questions as they relate to his job duties. These questions and statements are outlined as follows (relevant parts only):

- As we [Mr. Knutzen and Mr. Graf] discussed ECY SW (Southwest) Region was recently recruiting for a Forest Practices Specialist (Environmental Specialist 4). The key work activities for that position describe my position with the exception being that the DNR position has the regulatory authority for the listed duties. Why did you choose to evaluate the Environmental Specialist 3 and not the Environmental Specialist 4 position? I do not believe there are any Environmental Specialist 3s doing Forest Practices work.
- You [Marty Graf] describe my work as being "journey level" is there no thought of a field forest practices forester having senior level duties?
- On page 8 [of the Determination Letter, Exhibit B-1] you [Marty Graf] changed the wording in the first paragraph, allocating criteria "entities outside of the program/agency" to "outside of the Forest Practices program" in the second paragraph description of what I do. My job is to coordinate outside of the program/agency with ECY, WADFW, Tribes, and the public. Incidentally my position does coordinate the Forest Practices Program with the DNR State Lands program Black Hills District.
- You [Marty Graf] did not make any comparison with other positions with enforcement authority. As we discussed the Biologist 3's who formerly did forest land hydraulic permit work were able to refer enforcement actions to their law enforcement officers.

In his email, Mr. Knutzen also inquires about the "2007 pay proposal" and the "inequity" in pay to DNR's peers at the Department of Fish and Wildlife. As was discussed during the review conference, this is outside the scope of the Director's Review and therefore, does not factor into my determination.

2. January 21, 2016 Memorandum With Mr. Knutzen's Notes Provided at Director's Review Conference (Exhibit E-6) and Director's Review Conference May 16, 2016

Mr. Knutzen provided an additional exhibit during the Director's Review Conference (Exhibit C-6) which contains notes and highlights in response to Mr. Graf's memorandum dated January 21, 2016 (Exhibit B-5). Mr. Knutzen's notes and highlights outline his position on the allocating factors Mr. Graf used in determining the correct job class for Mr. Knutzen.

- Mr. Knutzen highlighted the following criteria as it relates to the Environmental Specialist 4 (ES 4) Job Classification, "...make decisions involving multiple stakeholders and that have significant public health, environmental protection, economic, and political consequences. Assigned areas of responsibility involve environmental assessments and protection actions that regularly require evaluation and coordination of interrelated environmental impacts on multiple specialty areas..."¹
- Mr. Knutzen notes that the "definition [of the ES 4] does not say manage all regulatory and analysis functions." Furthermore, Mr. Knutzen believes that although his position does align with the ES 3, he also believes that based on the definition of the ES 4 and his duties that he also meets the definition of the ES 4 and it fits "very well with what I do."
- Mr. Knutzen further explained that in the January 21, 2016 memorandum from Mr. Graff which states, "...nor do you manage all the environmental regulatory and analyses function of DNR" that he strongly disagrees with that statement as his position does manage all the environmental regulatory analyses functions of the DNR in his geographic area and that nobody does it for the whole State and to say that he does not manage the functions for the DNR in his geographic area is not right. With that in mind, Mr. Knutzen believes his duties fit within the definition of an ES 4.
- Mr. Knutzen also believes strongly that he meets the definition of the NRS 3 and indicates the memorandum indicates that the NRS 3 is considered the senior level and because the NRS 3 is the senior level of the class, Mr. Knutzen does not meet the definition. Mr. Knutzen disagrees with that determination. Mr. Knutzen has been told in the past that one of the determining factors in determining whether or not an employee meets the NRS 3 definition is the word "the" and how the word is used in the following sentence, "As *the* designated expert within a division or region, positions research, analyze, recommend and provide consultative services for a specialized portion of a natural resource program." In response to this Mr. Knutzen "Googled" the definition of the word "the" which states that "[the] denotes one of more people or things already mentioned or assumed..." (Exhibit C-7). As such, Mr. Knutzen does not believe that "the" has to mean one.
- Mr. Knutzen believes that a large part of his current duties are that of coordination and working with outside entities such as ECY and WADFW. These coordination duties happen outside the Forest Practices Program as Mr. Knutzen states that "My job is to coordinate outside the program/agency with ECY, WADFW, Tribes, and the public. Incidentally my position does coordinate the Forest Practices Program with the DNR State Lands program Black Hills District."
- Mr. Knutzen further refutes the information contained in Exhibit E-4, page 25 where it states, "I [Mr. Graf] don't see described in your PDF any monitoring, evaluating, and making adjustments to a program or activity as part of the coordination." However, Mr. Knutzen calls attention to his duties as they are outlined both in his PRR (Exhibit B-6) and Exhibit B-1 where his duties are described as "Evaluate public safety...", "Condition as necessary...", "Determine if activities...", etc. All of these duties, Mr. Knutzen believes meet "monitoring,

¹ The allocation or misallocation of a similar position is not a determining factor in the appropriate allocation of a position. *Flahaut v. Dept's of Personnel and Labor and Industries*, PAB No. ALLO 96-0009 (1996).

evaluating, and making adjustments to a program or activity.” He further states that he performs these aforementioned duties sixty-six percent (66%) of the time.

- Mr. Knutzen also explained that he is required to complete deliverables, do site visits and performs inspections. These duties also include sensitive projects that include hydraulics and taking measurements to ensure the correctness of any projects in his geographical area. He has the ability to write “Stop Work Orders” and further stated that he is the compliance officer in his geographical area.
- In the January 21, 2016 memorandum, Mr. Graf acknowledged that an argument could be made that Mr. Knutzen is working at the senior level, however, he does not meet the allocating criteria. Mr. Knutzen does not understand how an argument can be made that he could be operating at the senior level and he does not meet the criteria.
- Mr. Knutzen also points out that although the memorandum indicates that he is not a “law enforcement officer” that he is the Forest Practices Forester and therefore he is the Compliance Office in his geographical area.

Request for a Director's Review (Exhibit A-6)

In Mr. Knutzen's Request for a Director's Review, he states the duties he performs outside his present classification are:

“Hydraulic Project Approval authority on Forest Land was transferred from Fish and Wildlife Biologist 3s to Natural Resource Specialist 2s. Enforcement responsibilities for hydraulic projects was transferred from Fish and Wildlife Enforcement Officer 2s to Natural Resource Specialist 2s.”

Summary of Director's Review Conference May 19, 2016

During the review conference both parties were given an opportunity to speak and answer questions regarding the allocation and the job duties performed by Mr. Knutzen. Mr. Knutzen performs a variety of duties in his designated geographical area and he takes great pride in the duties he performs whether it be with land owners or working with outside agencies and Tribes. Mr. Knutzen coordinates all the “people on the ground” and initiates the plans for his geographic area. Mr. Knutzen doesn't understand why his geographic area cannot have a “coordinator” because the region is an arbitrary thing. The coordination is done on the geographic and independent level. Mr. Knutzen would “use the engineer to help with the road part, we use the geologist to help with the slope part, Fish and Wildlife to help us with the task of determining the timeframe of the project and if they don't do it, I have to do it myself.”

Mr. Graf stated the NRS 3 are likened to the superintendent at the building site, they are the overseers. In other words, they (the NRS 3) ensure that everything is being done to comply with the Forest Practices laws in each of the geographic areas, “you are performing work through others.” Mr. Graf does agree there is some coordination in the Interdisciplinary Team and Mr. Knutzen does make the decision of the team and in DNR HR's determination, they did not consider that coordination, rather more facilitation of the parties.

Mr. Graf does speak to his comments regarding possible senior level duties and believes that he should not have done so. Specifically, the ES 4 does have senior level and with most classes you will have senior, expert, supervisor, etc.

Mr. Graf believes the NRS 3 is a higher level than journey level even though the Definition states "As the designated expert within a division or region..." it has not been defined as *the* coordinator. Even more so, the NRS 3 Definition goes on to say that "Some positions serve as the designated coordinator for various entities or programs..." which he sees as either region wide or statewide. These duties Mr. Graf states effect the program or the region.

Furthermore, Mr. Graf contends that Mr. Knutzen may implement the program, but he has no control over it and that is a key factor and where his analysis came into play. NRS 3s should be running the program in consultation with the District Manager. Mr. Knutzen however, believes his program is different than other geographic areas because he has transferred jurisdiction of some areas over to Thurston County and the cities so the program runs differently in his geographic area and is different than others, in essence, Mr. Knutzen believes he is designing the program for his geographic area.

Mr. Graf further explained how the NRS series works within DNR by equating the following to each class, "if you are a one you are a professional technical, if you are two you are a fully professional and if you are a three you are designated as the expert or the coordinator for a region." While Mr. Knutzen counters that "we (the NRS 2s) are not limited to just this job class because I am looking at the Fish and Wildlife Biologist 3 and it says "Investigates and prescribes appropriate resource protection requirements on legally mandated permits such as Hydraulic Permit Applications, Forest Practice Applications... they [Fish and Wildlife Biologists] don't do that, I do that." However, Mr. Graf points out that Mr. Knutzen is looking at typical work which is not used for allocation because it has not been approved by the Personnel Resources Board. The typical work is provided by agencies that give examples of the duties employees in these job classes perform.

Finally, Mr. Knutzen believes that something needs to be done to ensure fairness with pay and job duties as more and more duties are being piled on the NRS 2s. It seems as though the job specifications don't necessarily reflect what they (NRS 2s) are doing and should be updated because the duties are very complex.

Comparison of Duties to Class Specifications

I carefully reviewed the exhibits submitted by the parties. Allocating criteria consists of the class specification's class series concept (if one exists), the definition and the distinguishing characteristics. Typical work is not an allocating criterion, but may be used to better understand the definition or distinguishing characteristics.²

The first consideration when allocating a position is ensuring it fits the class series concept. For this purpose I reviewed the concept for the Natural Resource Specialist, however the Fish and Wildlife Biologist (FWB) and Environmental Specialist (ES) classes do not have Class Series Concepts.

² In *Norton-Nader v. Western Washington University*, PRB Case No. R-ALLO-08-020 (2008), the Personnel Resources Board (Board) stated that the following standards are the hierarchy of primary considerations in allocating positions: a) Category concept (if one exists); b) Definition or basic function of the class; c) Distinguishing characteristics of a class; and d) Class series concept, definition/basic function, and distinguishing characteristics of other classes in the series in question.

Although both the FWB and the ES classes were considered in my determination, I found the NRS series to be more fitting of Mr. Knutzen's duties. This determination was made by both the information obtained during the Director's Review Conference and also the exhibits.

Fish and Wildlife Biologist 3

As stated above the FWB series does not have class series concept. For my comparison, I looked at the Definition and Distinguishing Characteristics of the FWB 3, which state:

Definition

Is a senior level professional Biologist working under general direction that plans, develops, and designs biological studies, research, resource assessments or resource management and provides the analysis, assessment, and interpretation of the results and preparation of final written reports that have a direct impact on key program decisions.

And one or more of the following:

Is the biologist who is responsible for all of a Program's biological activities within an area, within a district;

OR

Prepares, assesses, and interprets resource information or regulations, regularly involving inter-program or external coordination;

OR

Is the programs independent specialist on issues affecting fish, wildlife, lands, or habitat in a geographic area that may include more than one district or in a focused area.

Distinguishing Characteristics

Is a senior biologist working under the general direction of a higher level professional involved in Fish and Wildlife biological studies, research, or field reviews. Assignments are more varied in scope (such as consulting with higher level professionals when needed to determine which techniques will be used managing efforts to collect population and morphometric data, or other research), complexity and responsibility than a Fish and Wildlife Biologist 2, will involve project management (such as leading an effort over a period of time to the point of completion or significant milestone, such as overseeing a habitat restoration project of biological inventory for a defined area), and/or are performed independently with limited supervisory oversight.

As stated in DNR HR's determination letter, Mr. Knutzen does not perform duties that can be considered related to biological studies that pertain to fish or wildlife. This also includes working as the senior level biologist, planning, developing and designing professional biological studies,

research or resource assessments that use innovative technology. Nor is Mr. Knutzen the district biologist responsible for all of a program's biological activities within a district or the program independent specialist on issues affecting fish, wildlife, lands or habitat in a geographic area that includes one or more districts or in a focused area. For these reasons, Mr. Knutzen does not fit within the classification.

Environmental Specialist 3 (Relevant Parts Only)

Definition

Under general direction, independently performs professional level assignments and environmental reviews in one or more of the following areas:

1) Environmental permit development and review; 2) Environmental inspections and/or enforcement activities; 3) Scientific studies, surveys, and/or scientific analyses; 4) Grants, contracts, and loans; and 5) Interpretation of policy and environmental technical assistance.

Distinguishing Characteristics

This is the fully qualified professional Environmental Specialist. Positions complete the full range of assignments under general direction. Completed work is reviewed for effectiveness in producing expected results.

Positions at this level are characterized by assignments in one or more of the following areas:

1) Environmental permit development and review: Reviews environmental permit applications for technical accuracy and compliance with regulatory requirements; negotiates permit conditions; develops or reviews technical plans and makes decisions regarding the scientific merit of the proposal; conducts conflict resolution; and prepares final permit evaluation/report for approval.

2) Environmental inspections and enforcement activities: Conducts inspections or field investigations in order to respond to complaints/violations relating to environmental regulations; participates with higher level environmental staff in negotiating agreements/settlements; imposes on-site enforcement action as necessary; performs follow-up inspections to ensure corrective action is implemented; oversees contractor or consultant services for compliance and certifies performance; participates in clean-up activities and mitigation efforts at large oil spills or other hazardous waste spills; represents the agency in public meetings, hearings, and workshops; interprets and explains environmental regulations and requirements; and works directly with local municipalities and the public to promote environmental improvements.

Mr. Knutzen does perform some of the duties outlined in the Definition and he does perform duties outlined in the distinguishing characteristics. Some of these duties include performing environmental permit development and review, environmental inspections and/or enforcement (i.e. Non-Compliance Notice, Stop Work Orders, etc.), review of applications for technical

accuracy and compliance with regulatory requirements, environmental and field inspections for compliance with environmental regulations, etc. As with most positions within the civil service system, Mr. Knutzen duties appear to fit into more than one classification. However, when determining that appropriate classification for a specific position, the duties and responsibilities of that position must be considered in the entirety and the position must be allocated to the classification that provides the best fit overall for the majority of the position's duties and responsibilities. See *Dudley v. Dept. of Labor and Industries*, PRB Case No. R-ALLO-07-007 (2007). I have therefore determined that based on the allocating factors, Mr. Knutzen's duties best fit into the NRS Series.

Environmental Specialist 4 (Relevant Parts Only)

Definition

Serves as a senior environmental section specialist in program specific environmental laws, environmental regulations, and related activities in order to protect, preserve, and enhance air, land, and water resources; or serves as a senior environmental specialist in specific environmental public health programs in order to protect public health due to environmental factors. In either option, positions make decisions involving multiple stakeholders and that have significant public health, environmental protection, economic, and political consequences. Assigned areas of responsibility involve environmental assessments and protection actions that regularly require evaluation and coordination of interrelated environmental impacts on multiple specialty areas;

OR

Manages all the environmental regulatory and analyses functions of an agency.

As stated in Exhibit B-5 (January 21, 2016, Memorandum from Mr. Graf to Mr. Knutzen), there are three separate functions that can cause a position to be allocated to the ES 4. First Mr. Knutzen would need to be acting as the senior environmental specialist in a specific environmental health program; second, Mr. Knutzen would need to manage all the environmental regulatory analysis functions of DNR and third, Mr. Knutzen is not the section specialist in his region, which includes providing guidance and expertise to those doing the work of a given section in the field. Rather, Mr. Knutzen performs the work of the program in his geographical area, and although he may provide guidance in an Interdisciplinary Team, these duties do not rise to the level of a section specialist in program specific environmental laws, regulations and related activities.

Natural Resource Specialist Class Series Concept

Positions in this category perform specialized assignments in various natural resource disciplines. Incumbents serve as foresters, land managers, program coordinators, program specialists, project and/or section administrators, district managers, or ecology supervisors. Services provided and duties performed include, but are not limited to, the following: coordinating and/or planning forest eco-system programs; coordinating and performing technical contract management and land development activities; coordinating various natural resource programs; serving as a designated staff for a specialized portion of a natural resource program; section/district; or serving as a unit supervisor of professional environmental staff involved in an environmental program.

Mr. Knutzen's position performs duties that fall within the NRS Class Concept. In making this determination I took into consideration Mr. Knutzen's duties as they relate to specialized assignment in a natural resource discipline (approval of Forest Practices applications and enforcement of Forest Practices laws). Therefore, Mr. Knutzen's position meets the intent of the class series. To start with, I compared the duties of Mr. Knutzen's position to the NR Specialist 3 level.

Natural Resource Specialist 3 (Relevant Parts Only)

Definition:

As the designated expert ***within a division or region***, positions research, analyze, recommend and provide consultative services for a specialized portion of a natural resource program. Examples include, but are not limited to, land management, timber sales, fire control, agricultural leases, shellfish and public tideland recreation, forest practices, reforestation and stand management, and/or environmental education. Some positions ***serve as the designated coordinator*** for various entities or programs such as fire protection and prevention, emergency management, volunteers, or forest stewardship. These positions do not normally work on a consulting basis in the course of performing their duties. [emphasis added]

The NRS 3 requires that an incumbent be designated as an expert within a division or region or designated as a coordinator for various entities or programs. The Personnel Appeals Board (predecessor to the Personnel Resources Board) has consistently held that, "This written documentation can be a formal agency designation form, an approved CQ, or other written documentation."³ In reviewing the Position Review Request and the Position Description Form as well as the other file documentation, I have not found information that indicates Mr. Knutzen's position has been designated in writing as an expert or coordinator as required by the Definition of the NRS 3.

Natural Resource Specialist 2

The Definition of the Natural Resources Specialist 2 states:

"Positions independently plan, prioritize, coordinate and implement forest ecosystem programs (resource management and/or regulatory) or contract management and land development activities within agricultural, aquatic, and/or commercial lands program(s) ***in an assigned geographic area*** or district. Some positions serve as a staff assistant performing a variety of professional projects and tasks within assigned specialized forestry programs. [emphasis added]

Mr. Knutzen's duties and responsibilities are emphasized in his geographic area or within an assigned work area.

³ There must be a document that confers such a designation upon the position in question. This written documentation can be a formal agency designation form, an approved CQ [or Position Description form] or other written documentation. *Rapozo v. Parks and Recreation Commission*, PRB Case No. R-ALLO-087-021 (2009).

He meets stakeholders' onsite to assure Forest Practices Applications and Hydraulic Project Applications are compliant with the Forest Practices Act and assures compliance of all Forest Practices activities, these duties are sixty-six percent (66%) of Mr. Knutzen's total duties. Mr. Knutzen does make decisions within his geographical area, he schedules Interdisciplinary Team reviews where he reviews and makes decisions regarding appropriate resource protection plans within his geographical area. He also performs inspections, maintains Excel Deliverables Tracking Forms and documents daily inspections.

In his current position, Mr. Knutzen reports to the South Puget Sound Region Forest Practices District Manager. As part of his duties, he interacts with region and division personnel of DNR, WADFW, ECY, Tribes, local government entities, industrial forest landowners, small forest landowners, operators, timber owners and general public. His work is assigned electronically via FPARS, in writing, verbally and self-generated depending on the assignment. He works under the guidance of state and federal regulations and agency policies and procedures. His work is performed in accordance with forest practices rules guidance and policies, which are overseen by the Forest Practices Board.

In contrast to the NRS 3, Mr. Knutzen reports to and receives his assigned duties from the South Puget Sound Region Forest Practices District Manager, whereas the NRS 3 "recommend[s] and provide[s] consultative services for a specialized portion of a natural resource program." While Mr. Knutzen does meet and provide guidance to various stakeholders' within his geographic area, his duties are not specialized to one area of expertise, nor is he the designated expert within the division or region. This is not to say that Mr. Knutzen does not perform a valuable service within his geographical area, nor does it diminish his importance within DNR. Throughout the Director's Review Conference Mr. Knutzen discussed and provided knowledge based answers in a wide range of skills needed to complete his duties within his geographic area. Furthermore, Mr. Knutzen discussed the pride he takes to ensure that Washington's natural resources are protected.

After careful review of the information contained in the file and the information obtained during the Director's Review Conference, I have determined the primary function of Mr. Knutzen's position and the majority of his duties in their entirety, fall within the scope and level of responsibility in the stated Definition for the NRS 2 class. Therefore, his overall level and scope of assigned duties and responsibilities are aligned with the Natural Resource Specialist 2 class which are consistent with Natural Resource Specialist level work and therefore the best fit.⁴

Appeal Rights

RCW 41.06.170 governs the right to appeal. RCW 41.06.170(4) provides, in relevant part, the following:

⁴ The best fit concept is supported by *Salsberry v. Washington State Parks and Recreation Commission*, PRB Case No. R-ALLO-06-013 (2007), the Personnel Resources Board (the Board) addressed the concept of best fit. The Board referenced *Allegri v. Washington State University*, PAB Case No. ALLO-96-0026 (1998), in which the Personnel Appeals Board noted that while the appellant's duties and responsibilities did not encompass the full breadth of the duties and responsibilities described by the classification to which his position was allocated, on a best fit basis, the classification best described the level, scope and diversity of the overall duties and responsibilities of [his] position.

An employee incumbent in a position at the time of its allocation or reallocation or the agency utilizing the position, may appeal the allocation or reallocation to the Washington Personnel Resources Board. Notice of such appeal must be filed in writing within thirty days of the action from which appeal is taken.

The mailing address for the Personnel Resources Board (PRB) is PO Box 40911, Olympia, Washington, 98504-0911. The PRB Office is located on the 3rd floor of the Raad Building, 128 10th Avenue S.W., Olympia, Washington. The main telephone number is (360) 407-4101 and the fax number is (360) 586-4694.

If no further action is taken, the Director's determination becomes final.

c: Kristian Knutzen, Appellant
Marty Graf, Senior Human Resource Consultant
Amanda Hacker, WPEA

Enclosure: List of Exhibits

KRISTAIN KNUTZEN v DNR
ALLO-16-005

LIST OF EXHIBITS

A. Kristian Knutzen Exhibits

1. Knutzen email to Marty Graf dated March 3, 2016
2. Management Team notes dated February 8, 2016
3. Management Team notes dated February 29, 2016
4. NRS Series Classification and Pay Proposal
5. Forest Practice Specialist (Environmental Specialist 4) Job Posting
6. Request for Director's Review January 19, 2016

B. DNR Exhibits

1. Allocation determination letter, dated January 8, 2016
2. Organizational Chart
3. Current Position Description on file
4. Desk audit questions and answers used for determination
5. Email from Mr. Knutzen with questions and my response to his questions
6. PRR employee section
7. PRR supervisor section

C. Class Specifications and documents requested by Director Review Specialist

1. Natural Resource Specialist 2
2. Natural Resource Specialist 3
3. Org chart for Jerry Johnson's workgroup
4. PDF for NRS3 – Larry Fry
5. PDF for NRS3 – Richard Wood
6. January 21, 2016 memo to Kristian Knutzen from Marty Graf clarifying position allocation decision
7. Dictionary definition of "the"

A. Class Specifications

1. Fish and Wildlife Biologist 3
2. Environmental Specialist 3 and 4
3. Natural Resource Specialist 2 and 3