

April 17, 2009

TO: Teresa Parsons
Director's Review Program Supervisor

FROM: Meredith Huff, SPHR
Director's Review Investigator

SUBJECT: Danny Tate v. Department of Natural Resources (DNR)
Allocation Review Request ALLO-08-054

Director's Review Conference

By letter received August 27, 2008, Mr. Danny Tate requested a Director's Review of the allocation of his position by DNR. On February 26, 2009, I conducted a Director's review conference by phone. Present by phone were Mr. Danny Tate, employee and Crew Supervisor for Thurston County WCC, and Ms. Patricia Curry, Human Resource Manager for Operations, representing DNR.

Director's Determination

As the Director's review investigator, I carefully considered the documentation in the file, the class specifications, and the information provided during the Director's review conference. Based on my review and analysis of Mr. Tate's assigned duties and responsibilities, I determined Mr. Tate's position is properly allocated to the classification of WCC Crew Supervisor, Class Code 521E.

Background

Mr. Tate requested a reallocation by submitting a completed and signed Position Review Request (PRR) to DNR dated May 12, 2008. (Exhibit B-2) Mr. Tate proposed that the Forester 1 classification would be the closest match for his position. On July 25, 2008, Ms. Helen McSharry, Senior Human Resource Consultant, DNR Human Resources office, issued an allocation determination indicating Mr. Tate's position would be reallocated from Forest Crew Supervisor 1 to WCC Crew Supervisor classification effective May 23, 2008. (Exhibit B-8) On August 27, 2008, Mr. Tate submitted a request for a Director's Review of DNR's reallocation decision. (Exhibit A-10) The request was found to be timely.

Summary of Mr. Tate's Comments

Mr. Tate provided information about assigned responsibilities listed on the Position Review Request signed May 12, 2008. (Exhibit B-2) Mr. Tate confirmed he is a full time employee of DNR.

Mr. Tate discussed his full-time, year-round responsibilities for supervising the Washington Conservation Corps (WCC) crews. His is one of five positions that do this training in the state. Recruitment for the crew is done through colleges and word of mouth. He indicated that the crew is usually four people. The crew members change frequently so there are normally different levels of skills and knowledge among the crew. Mr. Tate's responsibilities include training each crew member to safely operate equipment such as chainsaws, weed whackers, brush cutters and wood chippers. Mr. Tate teaches and supervises the crew in using equipment and tools in clearing/restoring trails and paths, cutting small trees, building steps, and restoring native vegetation. Mr. Tate awards a certificate when each crew member meets the specified skill level.

Mr. Tate works with his crew doing DNR and Department of Fish and Wildlife (F&W) projects. His crew's work time is split about 50/50 between DNR and F&W. This is a result of an agreement between the two agencies to share costs when neither agency had sufficient budgets to fund the WCC. Mr. Tate noted that when he and the WCC crew are working on F&W projects, there is no contact with his DNR supervisor. Mr. Tate noted that there is some overlap in the work that is done at DNR and F&W. For example, habitat restoration and the use of some hand tools are similar in both agencies; however, working on boat ramp access is usually limited to F&W.

Mr. Tate indicated that his work assignments and projects come through his supervisor. Once he has the schedule of projects, he sets up the assignment for the WCC crew, makes necessary arrangements and readies the tools.

Mr. Tate emphasized that he is supervising continually when he is out with the crew. He cannot assign work and leave because the crew members are unskilled and safety issues are a concern. He explained that while on the road with the crew for projects, such as going to the San Juan Islands, his supervision responsibilities for the crew extend into the evening. Mr. Tate estimated that he spends six weeks in a twelve month period going on the road with the crew.

Mr. Tate spoke of his concern of incidents when he is required to use the equipment in the field for several hours per day which takes away from working with the crew. When this occurs, the crew does nothing as they are not sufficiently skilled to work on their own. An example Mr. Tate provided was that after a blow down event (trees felled by high winds) he was required to remove big trees from trails. Mr. Tate maintained that this dangerous and difficult work is not part of his job. However, due to his high level of skills, he is called upon to do it. Mr. Tate pointed out that his supervisor, Ms. Davenport, acknowledged this concern on the performance evaluation: *"...Because the crew members lack the skill to cut dangerous trees and blow down under compression,*

over the past two winters Dan had to do many hours of difficult, dangerous work with a saw while the crew members watched. . . .His role is primarily to train and supervise and not do the majority of the work, including this more difficult and dangerous work. The crew is well trained on the use of chainsaws, and can do a great deal of work on straightforward, less dangerous cutting operations. I agree with Dans' concern and am recommending that we assess trails prior to sending out the crew and use trained inmate crews more often when severe blow down conditions are present.” (Exhibit B-4 page 7)

Summary of comments from DNR representative

Ms. Patricia Curry, Human Resources Manager for Operations at DNR, explained that at DNR the Natural Resource Specialist series is used for professional positions that are assigned as regional experts in forest stewardship. She felt that Mr. Tate's duties were more technical than professional in nature and his responsibilities did not fit the impact or broad expectations of specialized forestry programs.

Ms. Curry also discussed the Forest Technician class and explained that the work Mr. Tate performs is not *technical forestry work*. Technical forestry work would include timber measurement and boundary surveys for sales and is characterized by forest labor and regulatory compliance.

Ms. Curry stated that she felt the majority of Mr. Tate's work fits the WCC Crew Supervisor classification's Definition and is the best fit for the duties and responsibilities assigned to Mr. Tate. She noted that allocation is based on assigned duties rather than salary. She reminded Mr. Tate that compensation is looked at separately from allocation actions.

Rationale for Directors 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 accomplished, 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. See Liddle-Stamper v. Washington State University, PAB Case No. 3722-A2 (1994).

In Salsberry v. Washington State Parks and Recreation Commission, PRB Case No. R-ALLO-06-013 (2007), the Personnel Resources 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.

A comparison of one position to another similar position may be useful in gaining a better understanding of the duties performed, the level of responsibility assigned to an incumbent and the organization of the agency. However, allocation of a position must be based on the overall duties and responsibilities assigned to an individual position compared to the existing classifications. The allocation or misallocation of a similar position is not a determining factor in the appropriate allocation of a position. Flahaut v. Departments of Personnel and Labor & Industries, PAB No. ALLO 96-0009 (1996).

When there is a definition that specifically includes a particular assignment and there is a general classification that has a definition which could also apply to the position, the position will be allocated to the class with the definition that includes the position. Mikitik v Depts. of Wildlife and Personnel, PAB No. A88-021 (1989).

Most positions within the civil service system occasionally perform duties that appear in more than one classification. However, when determining the appropriate classification for a specific position, the duties and responsibilities of that position must be considered in their 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).

Position Review Request (Exhibit B-2)

Mr. Tate described the main reasons for his position to exist as follows: *"This position supervises the DNR/WDFW Conservation Corps crew. Responsibilities include recruitment, interviewing, hiring, formal and on the job training, directing and coordinating labor intensive projects, discipline to corps members, documentation and tracking of program and individual accomplishments, equipment, vehicles, training records and Tars."* Mr. Tate noted the following, in part, regarding his supervision responsibilities: "... To say that I only supervise about 25% of the time is a definite understatement. . . It is almost impossible to spend time with the Crew members doing Training and Counseling without supervising simultaneously..."

On the PRR (Exhibit B-2) dated May 1, 2008, Mr. Tate's job duties are described as follows, in part:

- **25%** Project Supervision
- **15%** Training/Counseling
- **45%** Equipment Operation and Maintenance
- **10%** Record Keeping
- **5%** Program Development

Ms. Roberta Davenport, Mr. Tate's immediate supervisor, attached written comments specific to Section 9 (supervisor review) of the PRR. She noted that the level of supervision she provided is *"spot check basis"*. Ms. Davenport reported that she tries to check in with Mr. Tate *"at least weekly by phone."* Ms. Davenport provided examples of

Mr. Tate's decision making authority and examples of decisions she is involved in with Mr. Tate. (Exhibit B-2)

Ms. Davenport also included a Position Description Form (PDF) dated April 2008. Ms. Davenport wrote that the amount of supervision work time indicated on the PDF is 45% "*which is more accurate*" for Mr. Tate's position. The PDF lists the responsibilities of Mr. Tate's job as follows, in part: (Exhibit B-3)

- **45%** Project Supervision
- **20%** Training/Counseling
- **15%** Equipment Operation and Maintenance
- **5%** Record Keeping
- **10%** Program Development

Classes Reviewed

During this review, I examined the Forest Crew Supervisor 1 and 2 (class code 521P and 521Q), classes and found that Mr. Tate's responsibilities and duties do not meet the requirements of the Definitions of these classes. In each class, the number of individuals supervised by Mr. Tate does not meet the stated minimum. Further, Mr. Tate's crew members are in an equipment learning and skill building situation rather than performing natural resources *management* activities as required by these classes.

The Forest Technician (class code 519G) requires the performance of *technical* forestry assignments. Although not allocating criteria, the Typical Work statements provide examples of technical forestry activities such as surveys of timber sales boundaries and to locate property lines and roads; when necessary, enforcement action is taken for violations; and establishes and measures permanent forest inventory and in grid point plots. The level of work that is completed by Mr. Tate and his crew does not reach the expectations of technical forestry assignments as anticipated in the Definition and described in the Typical Work of the Forest Technician class. This class is not a best fit for the overall responsibilities and duties of Mr. Tate's position.

I reviewed the Equipment Operator, (class code 618R) as a potential class for Mr. Tate's position. Although the range of work time spent doing equipment operation is estimated from 15% to 45%, Mr. Tate's position purpose is not to operate construction and earth moving equipment. Rather, Mr. Tate's position is geared to teaching the WCC crew how to use a variety of equipment and tools. Mr. Tate does use trucks to move people, tools and equipment between work locations and he has a CDL. The Equipment Operator is not the best fit for Mr. Tate's position.

I also researched the Forester 1 (class code 95220) and found the class was abolished in February 2006. Some of its content was combined into the Natural Resource Specialist 1 (class code 523S).

Natural Resource Specialist 1 (NRS1) (class code 523S)

The **Class Series Concept** for the Natural Resource Specialist series states: "*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; performing managerial functions for a natural resource program activity; managing work within a section/district; or serving as a unit supervisor of professional environmental staff involved in an environmental program.”

Mr. Tate’s responsibilities do not require he perform specialized assignments in various natural resource disciplines as envisioned by the Class Series Concept of the Natural Resource Specialist. Rather, Mr. Tate’s key responsibility is supervising and training WCC crews. Mr. Tate’s and his crews’ duties do not reach the level of coordinating and planning forest eco-system programs, technical contract management and land development, or managerial functions for a natural resource program activity as described in this class series concept. Mr. Tate’s position does not meet the expectations of the Natural Resources Specialist Class Series Concepts. As a result the Natural Resources Specialists classes are not an appropriate consideration for the allocation of Mr. Tate’s position.

WCC Crew Supervisor (WCCCS) (class code 521E)

The **Definition** for the WCCCS states: *“Supervises a crew of Washington Conservation Corps members performing a variety of work assignments involving rehabilitation and enhancement of natural or other resources and provides coordination and assistance in the training and counseling of corps members for future employment.”*

While examples of **Typical Work** identified in a class specification do not form the basis for an allocation, they lend support to the work envisioned within a classification. The **Typical Work** statements for WCCCS state, in part:

- Supervises corps members in the performance of assigned conservation enhancement work;
- Coordinates the training of corps members in . . . [the] agencies assigned work and other training for enhancement of future employability;
- Counsels corps members on a variety of work related topics . . .

Mr. Tate has described his position’s purpose as “supervises the DNR/WDFW Conservation Corps crew. Responsibilities include recruitment, interviewing, hiring, formal and on-the-job training, directing and coordinating labor intensive projects, discipline to corps members, documentation and tracking of program and individual accomplishments, equipment, vehicles, training records and Tars.” The work time Mr. Tate spends supervising, training and counseling the WCC crew and furthering the development of the WCC program is estimated in the range of 50% to 70%. The

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majority of the responsibilities and duties of Mr. Tate's position are best described by the specificity of the WCC Crew Supervisor. Mr. Tate's position is correctly allocated.

Appeal Rights

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

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 address for the Personnel Resources Board is 2828 Capitol Blvd., P.O. Box 40911, Olympia, Washington, 98504-0911.

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

cc: Danny Tate, DNR
Patricia Curry, DNR
Lisa Skriletz, DOP

Enclosure: List of Exhibits

List of Exhibits

- A.** Filed by employee August 27, 2008:
1. Other relevant information-Part 5: Performance Feedback page
 2. Star Award
 3. WCC Crew Supervisor Classification Specifications with job duties attached.
 4. DNR allocation determination, July 25, 2008.
 5. Memorandum from Roberta Davenport, Section 9, May 12, 2008
 6. Position Review Request, May 2008, with attached page 8.
 7. Star Award
 8. Position Description Form, April 2008.
 9. Performance and Development Plan, March 2008.
 10. Letter of Request for Director's Review filed August 27, 2008
- B.** Filed by Department of Natural Resources December 10, 2008:
1. Memorandum RE: Position Review for Dan Tate dated May 12, 2008
 2. Position Review Request Form with attached letter from Roberta Davenport, supervisor, dated May 12, 2008
 3. Position Description form signed & dated 4/2008
 4. Performance and development plan (2/7/2008)
 5. WCC Crew Supervisor Class Specification (class code 521E)
 6. Natural Resource Specialist 1 Class Specification (class code 523S)
 7. Forest Crew Supervisor 1 Class Specification (class code 521P)
 8. Agency Allocation Determination Letter dated July 25, 2008
- C:** Class Specifications reviewed by Director's Investigator
- Forest Technician Class Specification (class code 519G)
 - Forest Crew Supervisor 2 Class Specification (class code 521Q)
 - Equipment Operator (class code 618R)