

July 19, 2010

TO: Phillip Jensen

FROM: Teresa Parsons, SPHR
Director's Review Program Supervisor

SUBJECT: Phillip Jensen v. Parks and Recreation Commission (PARKS)
Allocation Review Request ALLO-09-067

On May 12, 2010, I conducted a Director's review telephone conference regarding the allocation of your position. In addition to you, your supervisor, Parks Development Regional Manager Daniel Farber, and Human Resource Consultants Joe Vidales and George Price also participated in the Director's review conference.

Director's Determination

This position review was based on the work performed for the six-month period prior to August 31, 2009, the date you submitted your request for a position review to PARKS' Human Resources (HR) Office. As the Director's designee, I carefully considered all of the documentation in the file, the exhibits presented during the Director's review conference, and the verbal comments provided by both parties. Based on my review and analysis of your assigned duties and responsibilities, I conclude your position is properly allocated to the Environmental Engineer 3 classification.

Background

Your position is assigned to the Northwest Region in the Parks Development Service Center, and you report to Parks Development Region Manager Daniel Farber. Your position (#1098) had been allocated to the Environmental Engineer 3 classification with a working title of Engineering Manager when you started in the position in January 2007. Around that time period, positions in other regions serving as Engineering Managers had been in the Washington Management Service (WMS) but were later placed in General Service in the Environmental Engineer 3A classification. In July 2007, the Environmental Engineer 4 classification replaced the Environmental Engineer 3A due to a class consolidation by the Department of Personnel (DOP).

In March 2007, you and your supervisor at the time, Northwest Region Parks Development Service Center Manager Jeanne Wahler, completed a Classification Questionnaire (CQ)

requesting reallocation of your position. The CQ indicates that the agency requested the reallocation. However, there is no signature from the Department Head, and PARKS' HR Office never received the March 2007 CQ (Exhibit A-5). Although you wrote a memo to Ms. Wahler on March 11, 2008, requesting reallocation of your position, there is no evidence she followed up on this request (Exhibit A-22). In July 2009, Mr. Farber became your supervisor as the Parks Development Regional Manager. On August 12, 2009, you completed and signed a CQ requesting that your Environmental Engineer 3 position be reallocated to the Environmental Engineer 4 classification. Your supervisor, Mr. Farber, disagreed with your statements on the CQ, which he signed on August 26, 2009. The CQ was received in the PARKS' HR Office on August 31, 2009, and it was signed by the Assistant Director on September 8, 2009 (Exhibit B-2).

On October 1, 2009, Human Resource Consultant Joe Vidales denied your request for reallocation of your position. Specifically, Mr. Vidales determined that your position had not been assigned any supervisory duties and, as a result, did not fit the definition of the Environmental Engineer 4 classification.

On October 29, 2009, you requested a Director's review of PARKS' allocation determination. The following summarizes your perspective as well as your employer's:

Summary of Mr. Jensen's Perspective

Mr. Jensen asserts his position serves as a Region Engineering Manger with the responsibility to direct an independent environmental engineering section in the Northwest Region of the Parks Development Service Center. Mr. Jensen contends he represents the agency as a registered professional engineer providing professional engineering services while serving in a management and supervisory capacity. While Mr. Jensen acknowledges he does not supervise five or more staff, he indicates that he supervises consultants and that he directs a medium sized environmental unit. Mr. Jensen contends the work assigned to his position is comparable to his counterparts in other regions and best fits the work described in the Environmental Engineer 4 class specification. Therefore, Mr. Jensen believes his position should be reallocated accordingly.

Summary of PARKS' Reasoning

While PARKS recognizes Mr. Jensen's position as a registered professional engineer, the agency asserts this registration is consistent with the definition of the Environmental Engineer 3 classification. PARKS contends the duties and responsibilities assigned to Mr. Jensen's position differ from those assigned to the Engineering Managers in other regions. PARKS emphasizes that Mr. Jensen's position had not been assigned the responsibility to supervise any employees at the time relevant to this review. As a result, PARKS asserts the Environmental Engineer 3 is the appropriate classification for the Mr. Jensen's position.

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. Little-Stamper v. Washington State University, PAB Case No. 3722-A2 (1994).

Although a prior CQ was completed in March 2007, it was marked as an agency-initiated request, which had never been forwarded to the HR Office. WAC 357-13-085(2) provides "[t]he effective date of an employer-initiated reallocation is determined by the employer." In this case, the August 31, 2009 CQ is the basis for your position's review (Exhibit B-2). On the CQ you indicate your position provides professional level management and supervision of a Parks Development Service Center Regional environmental engineering section and list two positions that you supervise. While it is undisputed you supervised staff for periods of time before and after this review period, Mr. Farber clarified on the CQ that your position "does not currently supervise any employees." During the Director's review conference you agreed that you supervised one Environmental Engineer 2 position for about six or seven months in 2007 and 2008 and an Engineering Aide 4 position in early 2007. Subsequent to this review period, you also began supervising two Engineering Aide positions (Exhibit C-3).

When comparing the assignment of work and level of responsibility to the available class specifications, the class series concept (if one exists) followed by definition and distinguishing characteristics are primary considerations. In this case, supervisory responsibility is a primary factor for allocation to the **Environmental Engineer 4** class, as written in the definition, which indicates the position "supervises five or more staff which includes at least two environmental engineers performing environmental engineering duties." Your position had not been assigned supervisory duties at the time you completed the CQ in August 2009. Further, while you indicated that you supervise consultants, you acknowledged you have not supervised "five or more staff" (Exhibit A-7). Therefore, the duties and responsibilities assigned to your position do not meet the Environmental Engineer 4 definition.

The **Environmental Engineer 3** definition states, "[a]s a registered Professional Engineer, performs professional environmental engineering duties in an assigned program involving the protection of public health and/or the protection or restoration of the environment." The definition also notes that Environmental Engineer 3 positions "[m]ay supervise or lead assigned engineers and/or other staff." Further, the distinguishing characteristics specify that "[i]ncumbents represent the agency as a registered Professional Engineer and provide/approve final engineering designs and decisions."

Your position fits within the Environmental Engineer 3 classification. The duties included on the August 2009 CQ, which were clarified during the Director's review conference, include the following:

- Representing the agency as a registered professional engineer.
- Managing and performing environmental and technical engineering design services to ensure and maintain public health and safety, including final review and quality assurance of engineering design and contract documents to ensure compliance.

- Managing and monitoring capital projects that design and construct park facilities, including the review of permitting documents.

During the Director's review conference, Mr. Farber explained that an individual project manager may be assigned to a capital project and that position works collaboratively with positions in other disciplines such as architecture or construction. He also stated that the role of an engineering manager involves balancing the scheduling, assignments, and workload of all other engineers on the project. However, he emphasized that at the time relevant to this position review, you were the only engineer performing project work for your assigned area and that your position had not been assigned the level of interdisciplinary coordinating responsibilities, though you were responsible for coordinating your own time with other engineering staff. You noted that you worked with outside engineers and consultants as needed.

Additionally, both you and Mr. Farber clarified that Mr. Farber serves as the program manager with oversight and budget development responsibilities; however, your position tracks and monitors the budget within a specific project. You may also make contracting recommendations but Mr. Farber retains the responsibility for contract decisions.

Your position fits the Environmental Engineer 3 classification because the majority of your duties and responsibilities include representing the agency as a professional engineer and reviewing and performing environmental engineering activities that require registration as a professional engineer. Further, 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 duties assigned to your position are closely aligned with the Environmental Engineer 3 typical work examples, which include:

- Serving as a registered Professional Engineer responsible for performing independent environmental engineering duties for a specific environmental program, including final review and/or approval of detailed engineering plans . . .
- Ensuring compliance with applicable federal, state, and local laws, regulations, and policies . . .
- Serving as an agency environmental engineering expert responsible for the review of engineering reports and detailed plans and specifications for projects involving federal and state grant funds . . .
- Providing professional engineering expertise to the review and evaluation of proposal or existing environmental permits and permit applications . . .
- Providing professional technical engineering assistance to agency staff and management, the regulated community, their consultants and the general public.

Although you submitted CQs for engineering positions in other regions, my review focused on the duties and responsibilities assigned to your position. Both the Personnel Appeals Board (PAB) and Personnel Resources Board (PRB) have addressed the comparison of positions. In Byrnes v. Dept's of Personnel and Corrections, PRB No. R-ALLO-06-005 (2006), the Board held that "[w]hile a comparison of one position to another similar position

may be useful in gaining a better understanding of the duties performed by and the level of responsibility assigned to an incumbent, 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." Citing Flahaut v. Dept's of Personnel and Labor and Industries, PAB No. ALLO 96-0009 (1996).

Additionally, the Board previously held that 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).

During the Director's review conference, PARKS emphasized the value of your position and your contributions to the agency. A position's allocation is not a reflection of performance or an individual's ability to perform higher level work. Rather, an allocation is based on the majority of work assigned to a position and how that work best aligns with the available job classifications. The Environmental Engineer 3 classification best describes the overall duties and responsibilities assigned to your position (#1098).

Appeal Rights

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

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 P.O. Box 40911, Olympia, Washington, 98504-0911. The PRB Office is located at 600 South Franklin, Olympia, Washington. The main telephone number is (360) 664-0388, and the fax number is (360) 753-0139.

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

c: Joe Vidales, PARKS
Lisa Skriletz, DOP

Enclosure: List of Exhibits

Phillip Jensen v. WA State Parks and Recreation Commission

ALLO-09-067

List of Exhibits

A. Phillip Jensen Exhibits

1. Letter requesting Director's review, received October 29, 2009
2. WA State Parks & Recreation Determination letter dated October 1, 2009
3. Appointment letter dated February 12, 2007
4. Essential Function Analysis August 5, 2008
5. Classification Questionnaire (CQ) for Phillip Jensen 3/19/2007
6. CQ's for Arnold Larsen, John Zinza and Essential Function Analysis (Not considered allocating criteria)
7. December 29, 2009 letter from Phillip Jensen supplementing Director's review request
(Exhibits A- 8 -11 are for other positions and not considered allocating criteria)
8. CQ – for George Rapozo position # 1096
9. CQ – for Arnold Larsen position # 1100
10. CQ – for John Zinza position #1131
11. CQ – for Erik Folke position #1092
12. CQ – Phillip Jensen position # 1098 3/19/2007 (Duplicate of A-5)
13. Essential Function Analysis – Engineering Field Office Manager November 1, 2002
14. PDP Expectations for Phillip Jensen 1/2/07 to 12/31/07 (Outside time period)
15. PDP Evaluation for Phillip Jensen 1/2/07 to 4/2/07 (Outside time period)
16. PDP Evaluation for Phillip Jensen 4/3/07 to 7/2/07 (Outside time period)
17. PDP Evaluation for Phillip Jensen 7/3/07 to 1/31/08 (Outside time period)
18. PDP Expectations for Phillip Jensen 2/1/08 to 1/31/09 (Outside time period)
19. PDP Evaluation for Phillip Jensen 2/1/08 to 1/31/09 (Outside time period)
20. PDP Expectations for Phillip Jensen 2/1/09 to 1/31/10
21. PDP Evaluation (Feedback) for Phillip Jensen 2/1/09 to 6/30/09
22. March 11, 2008 Memo from Phillip Jensen to Jeanne Wahler requesting reallocation.
(Exhibits A-23-26 show examples completed by Mr. Jensen, but they are outside time period of this review)
23. PDP Evaluation for Lynn Poling from 8/16/07 to 11/16/07
24. PDP Evaluation for Lynn Poling from 11/17/07 to 2/19/08
25. PDP Expectations to Lynn Poling from 8/16/07 to 1/31/08
26. PDP Expectations for Gunnar Christiansen from 1/1/07 to 12/31/07

B. Washington State Parks and Recreation Commission

1. WA State Parks & Recreation Determination letter dated October 1, 2009 (Duplicate of A-2)
2. CQ for Phillip Jensen #1098, date stamped August 31, 2009
3. Class Specification: Environmental Engineer 3 (536G)
4. Class Specification: Environmental Engineer 4 (536H)
5. Exhibit cover letter from Joe Vidales, HR, dated January 14, 2009
6. Objection Statement and rebuttal of employee exhibits

7. CQ for Position #0042 (showing vacancy of position previously supervised by Mr. Jensen)
8. CQ for Position #1315 (showing Robert Harrison as position's supervisor)

C. Director's Exhibits

1. May 17, 2010 email from Jose Vidales with attached Organizational Chart from September 2009 (Informational purposes only – further clarified in following emails)
2. May 17, 2010 email correspondence from Phillip Jensen and Jose Vidales regarding Organizational Chart in Exhibit C-1.
3. May 19, 2010 email from Daniel Farber clarifying Organizational Chart
4. May 19 and 24, 2010 correspondence from Phillip Jensen and Teresa Parsons regarding relevant review period.