



STATE OF WASHINGTON
OFFICE OF THE STATE HUMAN RESOURCES DIRECTOR
DIRECTOR'S REVIEW PROGRAM
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February 14, 2013

TO: Greg Davis, Council Representative
Washington Federation of State Employees (WFSE)

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

SUBJECT: Shara-Li Joy v. Department of Ecology (ECY)
Allocation Review Request ALLO-12-008

On October 25, 2012, I conducted a Director's review telephone conference regarding the allocation of Shara-Li Joy's position. In addition to you and Ms. Joy, her co-worker, Scott Mallery, also participated in the conference. Wendy Holton, Senior Human Resources Consultant, represented the Department of Ecology (ECY). Also present from ECY were Kelly Susewind, Water Quality Program Manager; James Bellatty, Section Manager for the Eastern Region; and Ms. Joy's current supervisor of the Permit Management Unit, Diana Washington, Environmental Engineer 5.

Director's Determination

This position review was based on the work performed for the six-month period prior to February 23, 2011, the date ECY's Office of Human Resources (HR) received Ms. Joy's request for a position review. 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 Ms. Joy's assigned duties and responsibilities, I conclude her position should be reallocated to the Environmental Specialist 2 (ES 2) classification.

Background

Ms. Joy is assigned to the Water Quality Program and works in the Eastern Region's Permit Management Unit with the working title of Industrial/Municipal Permit Coordinator. Ms. Joy's position reports to the Permit Management Unit Supervisor (EE 5) who reports to the Eastern

Region Section Manager (Washington Management Service (WMS) Band 2) (Exhibit B-1). On February 23, 2011, Ms. Joy submitted a Position Review Request (PRR) to the HR Office asking that her Environmental Specialist 1 (ES 1) position (#4195) be reallocated to the Environmental Specialist 2 (ES 2) classification. Ms. Joy's supervisor at the time, EE 5 Virginia Darrell, and Water Quality Program Manager Kelly Susewind both signed the PRR, agreeing that the information on the PRR was accurate and complete (Exhibit B-7).

As part of her review, Senior HR Consultant Wendy Holton contacted Ms. Joy's current supervisor, EE 5 Diana Washington, Section Manager James Bellatty, and Program Manager Kelly Susewind. On January 9, 2012, Ms. Holton determined the ES 1 job class was the best fit for Ms. Joy's assigned duties and responsibilities. Specifically, Ms. Holton concluded Ms. Joy's position did not perform one or more of the specific functions identified in the ES 2 definition as a majority of her work assignment and that Ms. Joy performed her duties under close supervision (Exhibit B-2).

On February 2, 2012, the Office of the State Human Resources Director (OSHRD) received Ms. Joy's request for a Director's review of ECY's allocation determination (Exhibits A-1 and 2).

Summary of Ms. Joy's Perspective

Ms. Joy asserts her duties have become more complex with the development of the new PARIS database used for permit management, tracking, and reporting. Ms. Joy states that she has been assigned new job duties related to PARIS and that she is a member of a workgroup with other Permit Coordinators who assisted with the development of PARIS, which is ongoing. In addition, Ms. Joy emphasizes her position performs more than data entry and that she is responsible for designing and setting up Discharge Monitoring Reports (DMRs) for facilities in the database and that she is the primary resource in the Eastern Region for PARIS, WebDMR, and facility site databases. As such, Ms. Joy contends she is not only responsible for entering but also reviewing and ensuring the accuracy of technical and scientific data for facilities, permit information, and monitoring values. Ms. Joy asserts the data coming in from facilities is not always correct, and she looks for discrepancies and loads calculations into a spreadsheet she created to ensure DMRs are correct.

Further, Ms. Joy indicates that she reviews permits and fact sheets for technical accuracy, analyzes and interprets data as needed, creates reports and assists Permit Managers. Ms. Joy asserts she has to understand the permit from initial set up of the DMR to submittals and the type of wastewater treatment. In addition, Ms. Joy asserts she is actively involved with compliance and enforcement actions, and she assists the Enforcement Specialist with complaints and issuing notices of violation or non-compliance. Ms. Joy further asserts she reviews permits for compliance to ensure DMRs are set up correctly. Ms. Joy points out that all of the Permit Coordinators in other regions performing similar work are allocated at the ES 2 level or above. Ms. Joy contends the technical complexity of her duties extends beyond entry level, and she asserts her position is not closely supervised. Overall, Ms. Joy contends the duties and responsibilities assigned to her position meet the ES 2 level of work.

Summary of ECY's Reasoning

ECY recognizes Ms. Joy's vital role in the Eastern Region Permit Unit and acknowledges she assists with the technical aspects of permitting and use of the databases. However, ECY contends much of her work involves entering data into the various database systems. ECY

indicates that data comes into the WebDMR database electronically from facilities or Ms. Joy enters the information from hard copy documents submitted. ECY describes PARIS as a system primarily to retrieve permit information and the facilities database houses information at the facility sites, which then migrates to PARIS. In performing her duties, ECY states that Ms. Joy generates information provided to her from another source, such as one of the Permit Managers or the Permit Supervisor.

ECY acknowledges Ms. Joy is not closely supervised in performing her daily work but indicates her supervisor will review new assignments. ECY states that Ms. Joy accepts permit applications, signs and sends out initial notifications and general correspondence, as well as DMR warning letters as routine reminders a facility is out of compliance. When a second letter goes out, Ms. Joy receives input from a Permit Manager. ECY asserts ES 1 level work encompasses a technical review, and the agency identifies the primary distinction between ES 1 and 2 level work as moving from basic coordination to more complex technical work. ECY acknowledges there is overlap in the duties performed at each level and that the new databases require less data entry and more administrative functions, enabling staff to focus on higher level tasks as needed. At the time of this review, however, ECY contends the majority of Ms. Joy's duties and responsibilities were in support of the Permit Unit at the ES 1 level.

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).

Duties and Responsibilities

The following summarizes the position purpose on Ms. Joy's Position Review Request (PRR) form (Exhibit B-7):

This position functions as an environmental specialist performing water pollution control and prevention through permit administration and management. Tracking permit management, including processing permits, tracking of discharge monitoring reports received by the unit and tracking of compliance or actions by permit managers or the enforcement coordinator.

Responsible for the entry of DMR [Discharge Monitoring Report] data with a high level of database accuracy and reliability. Communicates and interacts with permit managers and permittees with minimal guidance and direction.

Also, with the creation of PARIS [Permit Reporting System] and WebDMR databases, is now the designated resource for PARIS, Facility Site and for the WebDMR databases and technical assistance contact for the public and permittees in the Easter Region.

The following summarizes the main job duties described on the PRR (Exhibit B-7):

- 15% Enter DMR Data into the new WebDMR database. DMRs are received on a monthly basis from each facility that has a current permit. All discharge data has to be entered promptly and accurately into the WebDMR database.
- 25% Coordination of the Internal Permit Process. This duty involves the permitting process from application to final issue.
- Sends out permit application package;
 - Publishes legal notices;
 - Performs entity review and attend peer reviews;
 - Creates DMRs;
 - Drafts permits, permit modifications permit extensions, temporary permits, and most correspondence that is permit related;
 - Tracks permit timeliness, including publish dates, comment periods, review periods, tracking, etc.;
 - Participates in peer reviews and provides input on permit review, permit monitoring requirements and schedules;
 - Performs document review on all fact sheets during the permit process;
 - On a quarterly basis, enters point-source accountability counts for inspections and permit issuance in the program accountability table;
 - Prepares all draft permits, legal notices and final issue of permits to be posted on the Ecology website;
 - Responsible for file management of point-source correspondence to be labeled and routed to filing room, certified mail tracking from permit related correspondence, and maintaining working files of all permits and fact sheets for staff reference;
 - Assists the permit unit staff in records management of financial assistance projects.

During the Director's review conference, Ms. Joy indicated that entry of the DMRs (15% above) is part of the permit coordination process.

- 10% Designs electronic and paper DMR forms and improves existing DMRs. Also provides technical assistance to permittees with DMR related questions when needed.
- 5% Documents the receipt and status of engineering reports, facility plans and related documents, and delivers them to the appropriate facility manager. Processes WET Test submittals and routes them to the appropriate contract to be processed.
- 10% Meets with the Enforcement Coordinator and Permit Managers monthly.
- Reviews compliance records;
 - Tracks and addresses permit violations and encourages informal enforcement actions;
 - Assists in enforcement actions such as notices of violations and non-compliance issues;

- Helps create and maintain a tracking system for incoming DMRs on a monthly basis.
- 10% Provides technical assistance to WebDMR users when needed and serves as the technical assistance contact for the Eastern Region for use of WebDMR. Processes requests for WebDMR users and manages inactive/active WebDMR accounts for permits.
- 25% Serves as the designated section resource on use of the new PARIS and Facility Site databases and the PARIS coordinator for Eastern Region.
- Enters, tracks and maintains all permit and facility related data in the databases, including newspaper publications, modifications, application tracking, document review;
 - Sets up new or newly issued permits in the database and also sets up the system for the new monitoring data that will be reported, including DMRs and required submittals;
 - Provides the unit with compliance reports from PARIS to support permit development;
 - Assists Permit Managers by providing other types of permit/facility reports containing monitoring data and other types of facility information;
 - Keeps current contact information for facilities and permittees and keeps the information current in both databases;
 - Keeps facility and permit information up to date in the databases, such as facility locations, facility outfalls, discharge locations, etc.;
 - Attends PARIS workgroup meetings 2 times per month to discuss PARIS related issues and keeps current on PARIS updates;
 - Serves as the contact for Affiliations in the Facility Site database;
 - Keeps up to date mailing lists and contracts for each facility;
 - Develops, maintains, analyzes and interprets computerized environmental databases and the data they contain and creates reports for Permit Managers or other Ecology staff when requested.

Similarly, the Position Description (PDF) for Ms. Joy's position (#4195 dated January 2007) includes a position objective that states, in part, her position functions as an environmental specialist performing permit administration and management, technical duties, tracking permit management, and permit database coordination with the responsibility for entry of DMR data, compliance, enforcement, and any other permit or facility data. In summary, the primary duties on the PDF are described as Permit Coordination (55%), Database System Utilization & Maintenance (20%) and Reports & Tracking (10%) (Exhibits B-5 and B-10).

In reviewing both the PRR and PDF, the majority of work involves permit coordination and technical assistance involving the use of databases to ensure proper permit management. However, part of the permit coordination function involves performing a technical review of the information to accurately create and set up the DMR for reporting by facilities, including submittals for the type of wastewater treatment and reports. Ms. Joy maintains folders for each facility in the Eastern Region and initiates the permit tracking process for new facilities and those facilities renewing permits. The permit tracking process is ongoing and consists of

several steps including notices and comment periods, as well as collaboration with Permit Managers until permits are finalized.

Ms. Joy creates and sets up the initial DMRs for facilities, as well as permit renewals, and she reviews and verifies the data from DMRs and loads calculations into a separate spreadsheet she created to verify the information being reported. As part of her job, she also reviews and evaluates the actual permits, fact sheets, and calculations, and she provides input on compliance issues. She analyzes, evaluates, and interprets data to help higher level staff address issues, and she responds to inquiries and requests for technical assistance from facility operators and permittees regularly. As part of her permit coordinating functions, Ms. Joy also drafts permits and permit modifications and enters, reviews, and makes recommendations to Permit Managers regarding the scientific data.

During the Director's review conference, Ms. Joy's current supervisor, Ms. Washington, agreed with Ms. Joy's characterization of her work and affirmed her position is not closely supervised, which is further supported by the level of supervision described on the PRR and PDF. Specifically, the PRR describes the level of supervision as little supervision with the employee devising own work methods (Exhibit B-7, page 5) and the PDF indicates the work assigned to the position is performed with "minimal guidance and direction" (Exhibit B-5, page 1). Ms. Washington clarified that as the supervisor of the unit, she does work closely with all levels of her staff in the Permit Management Unit and sets priorities for the unit. However, Ms. Washington affirmed that Ms. Joy organizes her own work and works directly with the Permit Managers as needed.

In an email addressing Ms. Joy's level of supervision, Ms. Washington wrote, in part, the following (Exhibit A-12):

I review the work you do from a technical standpoint and provide you with direction regarding changes to the unit paper work processes . . . I do not provide direction with respect to you basic administrative tasks such as data entry and file management. You are very diligent in your duties and I do not feel a need to micromanage your daily schedule or activities. However, you do not independently implement policy or make independent decisions with respect to process or technical level work. . . .

In addition, Ms. Joy serves as part of a workgroup of Permit Coordinators from other regions, whose positions are all allocated at the ES 2 level or above. As a team, the Permit Coordinators helped develop the PARIS and WebDMR databases, and Ms. Joy continues to participate in that group (Exhibit A-2).

Class Specifications

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.

The Environmental Specialist 1 and 2 class specifications relevant for this review period include a definition and typical work statements but no distinguishing characteristics (Exhibits C-1 and C-2).

The **Environmental Specialist 1** definition reads, in part, as follows:

Serves as an entry-level environmental specialist performing one or more of the following functions under close direction and supervision: routine compliance and enforcement; . . . conducts routine scientific analyses and technical services on assigned office or field projects; provides regulatory assistance; . . . provides interpretation of policy and technical assistance; . . . gathers and analyzes information to assist in developing recommendations and decisions-making, and/or assists in permit development.

The **Environmental Specialist 2** definition reads, in part, as follows:

Serves as an environmental specialist performing one or more of the following functions under direction and supervision: compliance and enforcement; performs and evaluates scientific analysis and technical services on assigned office or field projects; . . . gathers and analyzes information to develop recommendations and make decisions, and/or permit development.

When considering Ms. Joy's overall level of work, I reviewed the following definitions in the Office of the State Human Resources Director's (OSHRD's) Classification Glossary:

Entry level work - Performs beginning level work under close or direct supervision. Incumbents typically work within narrowly established guidelines and parameters. Duties are often repetitive and routine and decision-making is limited. Clear work directions and parameters are provided and outcomes are reviewed by higher levels.

Direct or close supervision

- Supervisor or lead provides daily oversight of work activities.
- Employee is given specific instructions regarding duties to perform, assignments to complete and sequence of work steps and processes to follow.
- Employee follows clearly defined work procedures, processes, formats, and priorities.
- Work is frequently reviewed for accuracy, completion, and adherence to instructions and established standards, processes and procedures.

General supervision

- Employee performs recurring assignments without daily oversight by applying established guidelines, policies, procedures, and work methods.
- Employee prioritizes day-to-day work tasks. Supervisor provides guidance and must approve deviation from established guidelines, policies, procedures, and work methods.
- Decision-making is limited in context to the completion of work tasks. Completed work is consistent with established guidelines, policies, procedures and work methods. Supervisory guidance is provided in new or unusual situations.
- Work is periodically reviewed for compliance with guidelines, policies and procedures.

During the Director's review conference, Mr. Susewind indicated that ECY views the primary distinction between the ES 1 and ES 2 classes as the level of basic coordination versus more complex tasks.

When comparing Ms. Joy's overall work to the ES 1 definition, she performs her duties at a level that exceeds entry-level and close supervision. While Ms. Washington does provide guidance with regard to the technical components of the permitting process, the ES 2 definition provides for working under direction and supervision as well. The majority of Ms. Joy's tasks are completed at a level beyond basic coordination, and Ms. Washington does not closely supervise her daily work.

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. Additionally, when there are no distinguishing characteristics for a class, one can "look to the typical work statements for guidance." Mansfield v. Department of Fish and Wildlife, RRB Case No. R-ALLO-11-014 (2012).

The ES 1 job class identifies specific tasks as routine, basic, and at a level that assists rather than performs. The ES 2 typical work examples identify work that assists higher level positions. Ms. Joy performs work at a level that falls within both classes. As an example, she responds to inquiries and requests for technical assistance that are both complex and routine. In addition she drafts permit evaluations and assists with issuing notices of violation or noncompliance, which are functions identified in the ES 2 typical work statements. Specifically, the ES 2 typical work statements that closely align with Ms. Joy's duties include the following:

- . . . performs draft permit evaluations/reports; assists in issuing notices of violation or noncompliance;
- Reviews databases or inventories for completeness and accuracy;
- Responds to inquiries or requests for technical assistance regarding the scientific background and technical implementation of agency's programs;
- Develops, maintains, analyzes and utilizes computerized environmental databases in support of technical projects;
- Reviews permit applications for technical accuracy and makes recommendations regarding the scientific merit of the proposal.

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 concurred with the former Personnel Appeals Board's conclusion 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. Allegrì v. Washington State University, PAB Case No. ALLO-96-0026 (1998).

Based on the level, scope and diversity of the overall duties and responsibilities of Ms. Joy's position, the Environmental Specialist 2 classification is the best fit.

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 on the 4th floor of the Insurance Building, 302 Sid Snyder Avenue SW, Olympia, Washington. The main telephone number is (360) 902-9820, and the fax number is (360) 586-4694.

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

c: Shara-Li Joy
Wendy Holton, ECY
Lisa Skriletz, OSHRD

Enclosure: List of Exhibits

SHARA-LI JOY v ECY
ALLO-12-008

A. Shara-Li Joy Exhibits

1. Director's Review Form received February 2, 2012 (2 pages)
2. Letter attachment to Director's review request (3 pages)
3. January 9, 2012 allocation determination letter from Ecology's HR (4 pages)
4. March 23, 2012 email submitting exhibits
5. PDF for Cindy Huwe, submitted for reallocation to ES2 (9 pages)
6. PDF for Christina Smith, submitted for reallocation to ES2 (11 pages)
7. PDF for Patricia Miller, ES2, 2007 (10 pages)
8. PDF for Sherri Greenup, ES2, 2011 (9 pages)
9. November, 19 2010 letter reallocating David Duncan to ES4 (2 pages)
10. List of correspondence sent by Shara Joy, January 1-March 16, 2012 (3 pages)
11. January 12, 2012 email from former supervisor stating Ms. Joy works under minimal supervision.
12. January 14, 2012 email from current supervisor explaining her statement that Ms. Joy works under close direction and supervision.
13. Handwritten notes
14. Exemption Log
15. January 7, 2012 email from Wendy Holton asking for clarification of supervision level for Ms. Joy's position
16. August 19, 2011 email from Jan Bacon asking for copies of PDFs
17. January 7-9, 2012 email chain regarding Ms. Joy's duties (2 pages)
18. Handwritten note to Wendy from Pam
19. August 22-31, 2011 email chain between Jan Bacon and Kelley Susewind, regarding allocation criteria and job duties.(3 pages)

B. ECY Exhibits

1. Water Quality Program Organizational Chart
2. January 9, 2012 ECY allocation determination with cover email (5 pages)
3. Environmental Specialist 1 (523E)
4. Environmental Specialist 2 (523F)
5. January 2007 Position Description (6 pages)
6. February 9, 2011 memo requesting position review
7. February 2011 Position Review Request (6 pages)
8. WQ – ERO Organizational structure (3 pages)
9. Proposal for WQ-ERO ES2 position (2 pages)
10. February 2011 Position Description (8 pages)
11. January 2007 Essential Functions Analysis (5 pages)
12. ES1 Job Announcement
13. October 2008 PDP (6 pages)
14. October 2009 PDP (5 pages)
15. 2008 Work Plan
16. 2008-2009 Work Plan

17. 2010 Work Plan
18. 2011 Work Plan
19. Permit Unit staff list
20. List of inspections
21. May 18, 2012 letter from Wendy Holton responding to Ms. Joy's exhibit submission (A) (2 pages)

C. Class Specifications

1. Environmental Specialist 1 (523E)
2. Environmental Specialist 2 (523F)