



**STATE OF WASHINGTON**  
**OFFICE OF THE STATE HUMAN RESOURCES DIRECTOR**

DIRECTOR'S REVIEW PROGRAM  
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January 30, 2013

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

FROM: Kris Brophy, SPHR  
Director's Review Program Investigator

SUBJECT: Dr. Jed Varney v Washington Department of Fish & Wildlife (WDFW)  
Allocation Review Request ALLO-12-025

**Director's Determination**

This position review was based on the work performed for the six-month period prior to December 27, 2011, the date WDFW Human Resources received Dr. Varney's request for a position review. As the Director's Review Investigator, I carefully considered all of the documentation in the file, the exhibits, and the written comments provided by both parties. Based on my review and analysis of Dr. Varney's assigned duties and responsibilities, I conclude his position is properly allocated to the Fish and Wildlife Health Specialist classification.

**Background**

On January 3, 2012, WDFW HR received Dr. Varney's Position Review Request (PRR), requesting his Fish and Wildlife Health Specialist (FWHS) position be reallocated to Epidemiologist 3 (Exhibit B-3).

WDFW HR notified Dr. Varney on March 21, 2012 that his position was properly allocated to the Fish and Wildlife Health Specialist class (Exhibit B-5).

On April 16, 2012, the Office of the State Human Resources Director received Dr. Varney's request for a Director's review of WDFW's allocation determination (Exhibit A-1).

On December 6, 2012, I conducted a Director's review telephone conference. Present for the conference were Dr. Jed Varney; Ms. Sherri Clarke, Classification Specialist, WFSE; Ms. Tracy Wolfe, Human Resource Consultant, DES (formerly WDFW), and Ms. Cindy Lerch, HR Special Programs Manager, WDFW.

Following the review conference, the parties submitted additional information. Dr. Varney submitted a final rebuttal statement on January 11, 2013. This information has been added to the record and incorporated as exhibits herein.

### **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).

While 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, the 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).

### **Duties and Responsibilities**

Dr. Varney's position is located in the Conservation Biology Unit of the Fish Science Division of the WDFW. Dr. Varney states in the PRR that the purpose of his position is to monitor and evaluate the health of fin fish at WDFW hatcheries, other cooperative facilities, and in natural fish populations. Dr. Varney performs a variety of tasks related to fish health prevention, monitoring, disease diagnosis and treatment. He visits WDFW hatcheries within his assigned region and consults with hatchery staff and independently recommends treatment to control disease. He also uses his expertise to recommend modifications to hatchery staff regarding rearing parameters and fish culture practices as necessary to prevent disease. He ensures compliance with FDA and DOE requirements for the use of therapeutants, drugs and chemicals. He develops and provides reports to hatcheries and other staff, conducts applied research and epidemiological investigations to improve the health of fin fish. His position also has statewide responsibility to issue veterinary prescriptions and feed directives for hatcheries across the state.

Dr. Varney's major job duties are summarized from the PRR (exhibit B-3) as follows:

- 35% Responsible for monitoring health conditions, recommending measures to prevent disease and diagnosis of diseases in finfish at WDFW and cooperative facilities within an assigned geographic area in order to produce the highest quality fish possible. Perform health screening and diagnosis of wild fish. Determine monitoring and diagnostic samples. Detect and recognize pathogens. Recognize environmental factors conducive to causing fish disease either from specific pathogens or physiological conditions, and cultural activities which will compromise or promote the health of the fish. Critically evaluate other possible causes of disease, determine significance, and collect samples for testing when needed.

- 10% Determine appropriate corrective action to minimize fish loss associated with disease or environmental factors. Prescribe therapeutic, drug or chemical treatments, or changes in cultural conditions as necessary. Provide written or oral instructions to hatchery staff who will be implementing the treatment or remediation. Provide assessment of hatchery practices and design to avoid future disease episodes. Produce risk assessments for the impacts of disease. Originate, monitor and record necessary information to fulfill requirements to comply with FDA Investigational New Animal Drug requirements.
- 10% Plan, organize and conduct surveillance for exotic, endemic, and regulated pathogens. Samples collected according to the USFWS/American Fisheries Society Blue Book Standard Procedures for Aquatic Health unless other procedures are agreed to with Co-Managers. Ensure that all hatchery stocks are sampled for viruses and appropriate samples are collected for *Myxobolus cerebralis* and *Renibacterium salmoninarum*. Provide direction to hatchery staff to maintain compliance with the Policy when carrying out their fish culture duties and transporting fish.
- 5% Develop and conduct training of hatchery staff regarding disease prevention and recognition, sanitation, nutrition sampling, and best fish cultural practices. This promotes the health of the fish through early recognition of disease and prompt notification. Develop and update containment plans to minimize amplification of pathogens during an outbreak.
- 10% Provide written reports on health status to hatchery and headquarters staff on a routine basis. Quarterly, semiannual or annual reports may also be required by contractual agreements. Regularly communicate with supervisor and headquarters staff on status of all fish hatcheries. Communicate with other agencies and Co-Manager staffs to provide status of health of fish, disease prevention measures and innovative treatments. Provide notification of fish health status as necessary prior to a transfer to a Co-Operator or Co-Manager operated facility.
- 5% Originates and monitors applied or epidemiological investigations as a means to determine etiology of disease or providing innovative and/or new treatments aimed at preventing or minimizing fish losses. Collect data, analyze results and provide conclusions to hatchery staff, their supervisor, other fish health staff, in and out of the agency. Maintain study database and perform statistical analysis of study results.
- 15% Maintain Doctor of Veterinary Medicine license and continuing education, in order to prescribe and regulate use of veterinary drugs within the Fish Program. Write prescriptions or veterinary feed directives and monitor veterinary related purchase for the fish program and Fish and Wildlife Health Specialists. Monitor discharge of chemotherapeutics from the hatcheries.
- 10% Implement preventive medicine programs essential to reducing the cost of disease in the hatchery program. Monitor aquaculture for disease problems. Monitor yearling and juvenile programs, spawning protocols, biosecurity, broodstocks, water quality and supply, manage noninfectious disease, and provide hatchery design assistance.

In his comments, Dr. Varney clarified that he writes about 300 prescriptions per year for WDFW and 125 for the Northwest Indian Fish Commission NWIFC (425 total). He also indicates that he is contacted by the other five Fish and Wildlife Health Specialists approximately 6 times a month to write prescriptions. Dr. Varney explained during the review conference that he is required by law to maintain a veterinary client patient relationship with all facilities and individuals that use his prescriptions. He stated that he makes a point to visit all of the 82 hatcheries in the state to become familiar with the Fish Hatchery Specialists and the facility.

Dr. Varney states that all of the Fish and Wildlife Health Specialists meet 4 times a year. He indicates that he uses these meetings to conduct training, discuss drug use issues, and new regulations and prescriptions issues with the others in his unit who operate under his license. He indicates that he is available to answer questions about drugs applications, available treatments, withdrawal times, and resistance issues by phone.

Dr. Varney indicates that as a veterinarian he has responsibility under the Federal Food Drug and Cosmetic Act to oversee drug treatments to assure there is a proper diagnosis and that drugs are applied in a manner to reduce the risk of bacterial resistance and drug residue. He indicates that because fish reared under the Hatchery Division are for human consumption, he is responsible to ensure that drug residue does not enter the human food chain or the environment. Dr. Varney commented that some of the research he conducts includes looking at withdrawal times for many of the "extra label" drugs that are used in the Fish Program, because he is responsible for meeting withdrawal times on labeled products. He states that he has to continually do the research to get this data so that he can make the decisions as to what to write, determine what the withdrawal time is and make sure that the drug does not contaminate the human food supply or present any human safety issues, and be able to answer questions brought to him by other Fish Health Unit staff.

Dr. Varney states that he leads epidemiological investigations and results from these studies have provided information regarding how to manage infectious diseases in fish hatcheries and mitigate impacts to other species in the watershed. He conducts independent fish disease surveillance for both wild and hatchery systems. Dr. Varney states that studies of all kinds take approximately 25% of his time.

Dr. Varney indicates he is also responsible for maintaining drug accounts that are used to purchase drugs and other veterinary supplies for the hatchery division. He states that he is the lead worker to the 5 other FWHS positions regarding drug treatments, prescriptions, ordering of drugs and veterinary supplies and routinely answer questions about efficacy, withdrawal times, drug selection, INAD and NADA, and resistance issues. Each of these activities takes approximately 5% of his time.

Dr. Varney clarified the preventative medicine program for the hatcheries have brought about a reduction in fish disease events resulting in significant savings in fish loss and drug costs. He states the process starts with a walk through of the hatchery at each visit looking over the general populations looking for problems and discussing solutions. In some cases studies are designed involving the Fish Hatchery specialists to allow them to participate in finding solutions to their problems.

Mr. John Kerwin, Conservation Biology Unit Leader, is Dr. Varney's supervisor. Mr. Kerwin completed the supervisor's section of the PRR. In his comments, Mr. Kerwin indicates that he does not fully agree with portions of Dr. Varney's description of duties and responsibilities. In

his comments, Mr. Kerwin indicates that Dr. Varney does provide some training to hatchery staff, but it does not take 5% of his time. He also states that Dr. Varney's duties involving writing prescriptions and field directives, writing reports and conducting research are included in the typical work statements for the FWHS class. He also states that Dr. Varney's responsibility for providing hatchery design assistance is done very rarely.

#### Summary of Dr. Varney's Perspective

Dr. Varney asserts that his position as a FWHS is inadequate to address his responsibility as a veterinarian to write prescriptions and to cover the full scope of his prescription writing responsibilities. He asserts this position should be elevated above the others in the Fish Health Unit to ensure his authority over drugs applied statewide in the hatchery program and to ensure WDFW is using these drugs legally and safely for the citizens of Washington State and the Hatchery Specialists, and in a method that does not promote resistance that can be transmitted to pathogens of human concern or leave any drug residue. Dr. Varney contends his veterinary license allows him to be the only one in the Fish Health Unit that can access prescriptions and drugs to treat fish disease through veterinary prescription on a statewide basis.

Dr. Varney asserts the amount of time he spends performing veterinarian tasks for the Fish Program is underrepresented and that 15% is not an accurate reflection of the time it takes to write prescriptions, answer questions, visit hatcheries, conduct training, maintain records, research drugs, keep up to date with new legislation, maintain the drug account, and follow up on prescription treatments to ensure that they were efficacious and administered properly. Dr. Varney asserts the prescription aspect of his position takes approximately 30% of his time.

Dr. Varney asserts the overall scope of his position, which includes having statewide responsibility for writing veterinary prescriptions for the Fish Program reaches above the FWHS level class and that his position should be reallocated to the Epidemiologist 3 (Non-Medical) class. Dr. Varney asserts that his training in veterinary medicine and having a veterinary license affords full knowledge of pharmacology, physiology, mechanisms of disease, symptoms and causative factors of disease, epidemiology and epidemiological investigations, research procedures, and knowledge of the organisms that cause disease in animal species.

Dr. Varney asserts he applies his training and experience as a veterinarian to supervise disease treatments, to initiate and conduct epidemiological investigations which solve disease problems, to perform research pertaining to the drugs used to treat fish diseases to assure that drugs applied in disease treatments are properly applied and do not have residue or long term effects that could affect human safety. Dr. Varney asserts the scope of these responsibilities reaches the Epidemiologist 3 (Non-Medical) class.

Dr. Varney further asserts that he performs duties and responsibilities which are similar to the WDFW wildlife veterinarian, Kristen Mansfield, who was reallocated by the PRB to the Epidemiologist 3 class. Dr. Varney asserts that in Mansfield vs. Department of Fish and Wildlife, PRB Case No. R-ALLO-11-014 (2012), the Board recognized that even though the Epidemiologist 3 refers to human health systems studies and issues, given the scientific interaction between wildlife health (or in this case fish disease) and the spread of diseases to the human population and statewide scope of work the appellant's duties and responsibilities more closely aligned with the Epidemiologist 3 class. Dr. Varney contends that similar to Dr. Mansfield, he provides professional veterinary services to WDFW in his capacity as a Veterinarian and not just simply the services of a Fish and Wildlife Health Specialist. Dr. Varney

asserts that his position is similar in scope and responsibility to that of Dr. Mansfield and his position should also be reallocated to that class.

In total, Dr. Varney asserts the majority of his duties, level of independence with which he works, as well as his decision-making authority and level of responsibility as a whole, reach the Epidemiologist 3 class. Dr. Varney asserts his position should be reallocated to that class.

#### Summary of WDFW's Reasoning

WDFW asserts Dr. Varney's duties do not include responsibility for collaborating with public health constituents or assessing the connection between fish disease and human health. WDFW asserts that while the investigative and research components of his duties may be included in the Epidemiologist series, the objectives and duties of the position do not serve the purpose of proposing and directing epidemiological investigations into public health or acting as a principal investigator on health research grants. WDFW asserts the applied research component of Dr. Varney's position only comprises approximately three to five percent of his overall duties. WDFW asserts Dr. Varney's position should not be reallocated to the Epidemiologist 3 (Non-medical) class.

Further, WDFW asserts Dr. Varney's position does not meet the intent of the Veterinary Specialist Class. WDFW contends Dr. Varney does not have direct responsibility for providing public health protection in an assigned area, or performing other related duties including protection from zoonotic diseases or pathogenic microorganisms in live or consumed fish.

WDFW asserts the FWHS class specification describes the scope of Dr. Varney's veterinary duties including writing prescriptions and veterinary feed directives and monitoring veterinary-related purchases. Additionally, WDFW asserts these duties comprise approximately 15% of his duties and are not the major focus of his position. WDFW asserts the purpose of Dr. Varney's position is to monitor health conditions, diagnose, and make recommendations to support the prevention and treatment of disease at WDFW hatcheries and other cooperative facilities within his assigned area of responsibility. WDFW contends Dr. Varney's duties are consistent with the work described in the FWHS class and that his position is properly allocated.

#### Comparison of Duties

When comparing the assignment of work and level of responsibility to the available class specifications, the Class Series Concept (if one exists) followed by the Definition and Distinguishing Characteristics are primary considerations. 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.

#### Comparison of Duties to Epidemiologist 3.

The Definition for the Epidemiologist 3 class states:

Plans, coordinates, conducts, analyzes, interprets, and reports the findings from public health surveillance systems and advanced epidemiologic studies which identify the causes of morbidity and mortality. Designs and coordinates appropriate preventive health measures based upon investigative results. Determines which specific public health issues require further epidemiologic

studies. Medical positions provide professional medical consultation in the performance of these duties.

The Distinguishing Characteristics for this class states:

This is the full working-level position in the series. Incumbents at this level independently propose and direct epidemiological investigations or act as the principal investigator on local, State, and/or Federal health research grants. Positions at this level may supervise or lead lower level epidemiologists or other research staff.

This class describes positions which independently propose and direct epidemiological investigations or act as a principal investigator on health research grants. Positions conduct advanced epidemiological studies and design and coordinate appropriate preventive health measures based on those results. While portions of Dr. Varney's research activities reach aspects of this class, the primary focus of his position and the majority of his duties as a whole do not meet this intent.

Dr. Varney states in comments that he applies his veterinary skills to supervise disease treatments and to initiate and conduct epidemiological investigations which solve fish disease problems. He states that he performs research pertaining to drugs used to treat fish diseases to assure the drugs applied in disease treatments are properly applied and do not have residue or long term effects that could affect human safety. He states that as a veterinarian the, "...FDA requires that I be familiar with the drug used, its side effects, withdrawal times, and safety for humans and animals. In the case of extra label use there can be no drug residue in a food animal that would enter the human food chain. There are no good published references for this information in Fish Medicine. I have to continually do research to get this data so that I can make the decisions as to what to write, determine what the withdrawal time is and make sure that this drug does not contaminate the human food supply or present any human safety issues, and be able to answer questions brought to me by others in the Fish Health Unit."

Although a portion of Dr. Varney's time is spent conducting research studies into fish disease, the scope of this work does not include primary responsibility to plan, coordinate, conduct, analyze, interpret, and report the findings from public health surveillance systems and advanced epidemiologic studies which identify the causes of morbidity and mortality as the primary focus of his position. The primary purpose of Dr. Varney's position is to monitor health conditions, diagnose, and make recommendations to support the prevention and treatment of disease at WDFW fish hatcheries and other cooperative facilities within his assigned area of responsibility. This includes the responsibility to implement and manage fish health research and associated activities affecting hatchery-reared and wild fish.

For example, Dr. Varney states in his comments that he independently planned and obtained funding and led epidemiological investigations into IHNV (Infectious Hematopoietic Necrosis Virus), BCWD (Bacterial Cold Water Disease), BKD (Bacterial Kidney Disease), and Cryptobia, and other fish health conditions during his tenure with WDFW. He states that the results from these studies provided information regarding how to manage infectious diseases in fish hatcheries and mitigate the impact to other species in the watershed. He states this research was used in relation to the start up of a new sockeye run in Hood Canal.

He also states that he initiated a BCWD research group to study methods of control for this fish pathogen. He states that he currently uses and disseminates this information to reduce

antibiotic use to treat this pathogen which reduces cost to the Hatchery Division.

In exhibit A8, Dr. Varney describes the various research and other studies he participated in and/or conducted during the review time period. Dr. Varney states that he has performed vaccine trials for adult and juvenile sockeye with a DNA vaccine for IHNV and a published study of 7 vaccine trials for use in juvenile Chinook salmon against BKD and that he was pursuing a BCWD vaccine during the review period.

Dr. Varney states that he participates on a team of agencies that is preparing recommendations to congress regarding management and surveillance of the exotic pathogen Infectious Salmon Anemia Virus (ISAV). He states that he also restricted the nutrient enhancement planting of erythromycin injected fish carcasses to prevent exposure to eagles, other raptures, bears and other wildlife to toxic doses of erythromycin and other injected compounds found in fish carcasses from the hatchery program. This restriction prevents WDFW from placing the antibiotic erythromycin directly into the environment reducing human exposure and prevents drug resistance issues that may also affect humans.

He states that he reads, interprets and reports on histological samples, lab reports, blood reports from surveillance or diagnostic testing systems.

He states that he conducts fish disease surveillance for both wild and hatchery systems. Wild Systems include Ross Lake, Lake Whatcom and tributaries, Baker Lake, Lake Shannon, and the Nooksack, Skagit river systems. He states that his surveillance activities include monitoring hatcheries and wild populations for reportable pathogens such as fish viruses, and other serious pathogens such as those that cause BCWD and BKD. He states there are a few zoonotic diseases that are not serious in fish but some of the parasites can affect humans. He states that Salmonella and pathogenic E coli can be found in the GI tract fish and he has looked for those pathogens occasionally.

While approximately five to ten percent as stated in the PDF, or perhaps up to 25% of Dr. Varney's time as he later clarified, is spent conducting research studies to determine the etiology of fish disease, this is not the primary focus of his position and these duties do not constitute the majority of work that Dr. Varney performs. In total, his position does not have primary responsibility to independently propose and direct epidemiological investigations or act as the principal investigator on local, State, and/or Federal health research grants. His position does not have responsibility to plan, coordinate, conduct, analyze, interpret, and report findings from public health surveillance systems and advanced epidemiologic studies which identify the causes of morbidity and mortality with respect to public health.

The focus of his position does not include responsibility to design and coordinate appropriate preventive public health measures based upon investigative results. Further, the scope of his work does not include responsibility to determine which specific public health issues require further epidemiologic studies. As a whole, the purpose of his research is to study the pathogens that compromise the health of the fish and to develop corrective actions or to provide treatment aimed at eradicating the disease and to minimize the fish loss at WDFW hatcheries. The scope of this type of research is more fully addressed by another class specification. In total, his position does not have primary responsibility for conducting epidemiological investigations or research with a primary emphasis tied to public health as required by the Epidemiologist series generally and the Epidemiologist 3 class specifically.

For these reasons Dr. Varney's position should not be reallocated to the Epidemiologist 3 class.

#### Comparison of Duties to Veterinary Specialist 4

The Definition for the Veterinary 4 class states:

This is the expert level of the series. As a licensed Veterinarian, positions are responsible for public health protection in an assigned area of the state through the control and eradication of livestock diseases, or diseases of captive exotic wildlife or natural wildlife, identification and control of zoonotic diseases, investigation of violative residues, or the detection and prevention of pathogenic microorganisms in animal food products. Performs individual and herd examinations, establishes quarantines, and investigates animal welfare complaints or custom meat violations.

Dr. Varney is a licensed Doctor of Veterinary Medicine. Although a portion of Dr. Varney's work includes writing veterinary prescriptions to treat fish diseases at hatcheries across the state, his assignment of work does not meet the primary focus of the Veterinary 4 definition. This class describes positions which have responsibility for providing public health protection in an assigned area by performing one of the following functions such as the control and eradication of livestock diseases, or diseases of captive exotic wildlife or natural wildlife, identification and control of zoonotic diseases, investigation of violative residues, or the detection and prevention of pathogenic microorganisms in animal food products. These positions perform examinations, establish quarantines, and investigate complaints or custom meat violations.

As a licensed veterinarian, Dr. Varney is the only staff in the Fish Health Unit that can access prescription drugs to treat diseases of the hatchery-reared fish. His veterinary duties focus on treating pathogens which compromise the health of fish in order to correct and minimize the loss of hatchery fish within his assigned area and across the State. Dr. Varney's position does not focus on providing public health protection in an assigned area by identifying and controlling zoonotic diseases, or detecting and preventing pathogens in animal food products such as consumed fish. Additionally, the scope of this work performed within the context of fish disease is addressed by another class specification. For these reasons Dr. Varney's position should not be reallocated to the Veterinary Specialist 4 class.

#### Comparison of Duties to Fish and Wildlife Research Scientist 1

The Definition for this class states:

Serves as a principal research methods advisor to management and staff using an advanced mathematical statistical sampling theory, experimental design and computer applications within an eco-system management approach

OR

Designs, conducts and manages research studies in one or more specialized fields of wildlife, habitat, or fisheries science. Plans, designs, coordinates, evaluates, and reports results of such studies, and acts as a designated consultant in a specialized area of expertise.

Dr. Varney's position does not meet the intent of this class. Dr. Varney's position does not have a primary focus on performing scientific research. His position does not serve as the principal research methods advisor to management and staff, nor does Dr. Varney manage research

studies and report results of such studies as the primary focus of his position. A portion of Dr. Varney's time is spent conducting research studies to determine the etiology of fish disease; however, this is not the primary focus of his position and these duties do not constitute the majority of work that Dr. Varney performs. Dr. Varney's position should not be reallocated to the Fish and Wildlife Research Scientist 1 class.

#### Comparison of Duties to Natural Resource Scientist 4

The Definition for this class states:

Performs natural resource research requiring ingenuity in the application of techniques where precedents are limited and objectives and scope are only broadly defined. May coordinate and implement natural resource management practices resulting from research findings.

The Distinguishing Characteristics for this class states:

The research situation, the duties and responsibilities assigned to the position and the qualifications of the incumbent are considered in the allocation of positions to this class series since these factors together constitute the actual position responsibility and form the basis for determining grade level. Incumbents allocated to this classification perform research requiring ingenuity in the application of techniques where precedents are limited and serve as a major research project leader.

This class broadly describes positions which perform natural resource research. While the portion of Dr. Varney's duties conducting research may fall within the broadly defined field of natural resources, the context in which Dr. Varney performs his tasks are specifically related to fish health research and associated activities affecting hatchery-reared and wild fish.

Dr. Varney's position is specifically tasked with monitoring, diagnosing, and making recommendations to support the prevention and treatment of disease at WDFW fish hatcheries within his assigned area of responsibility. A portion of his time includes responsibility to implement and manage fish health research and associated activities affecting hatchery-reared and wild fish.

The Personnel Resources Board (PRB) has previously addressed similar issues when duties appear to fit in more than one class. The PRB concluded that while one class appeared to cover the scope of a position, there was another classification that not only encompassed the scope of the position, but specifically encompassed the unique functions performed. Alvarez v. Olympic College, PRB No. R-ALLO-08-013 (2008). Further, the Board has consistently held that "[w]hen 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).

Dr. Varney's position has specifically been tasked with monitoring health conditions, recommending measures to prevent disease and diagnosis of diseases in finfish in order to produce the highest quality fish possible. He uses his specialized knowledge and experience to recognize environmental factors and cultural activities which will compromise or promote the

health of the fish. His position evaluates possible causes of disease, determines the significance, and collects samples for testing when needed. The portion of his time conducting research specifically involves fish health research and associated activities affecting hatchery-reared and wild fish. There is another class which specifically addresses the majority of work that Dr. Varney performs. For these reasons the Natural Resource Scientist 4 class is not the best fit for his position and his position should not be reallocated to that class.

#### Comparison of Duties to Fish and Wildlife Health Specialist

The Definition for this class states:

Within the Department of Fish and Wildlife, designs, implements and manages fish health research and associated activities affecting hatchery-reared and wild fish; or in the area of wildlife management, conducts surgery and veterinary tasks associated with wildlife health research and population monitoring activities.

Dr. Varney's position reaches the primary allocating criteria stated in the definition of this class. The primary focus of Dr. Varney's position is to monitor health conditions, diagnose, and make recommendations to support the prevention and treatment of fish disease at WDFW hatcheries and other cooperative facilities within his assigned area. This includes performing related fish health research and associated activities affecting hatchery-reared and wild fish.

There are no Distinguishing Characteristics for this class; therefore, one can look to the typical work statements for guidance. (See Mansfield v. Department of Fish and Wildlife, RRB Case No. R-ALLO-11-014 (2012). The following provides an example of the level of work assigned to the Fish and Wildlife Health Specialist class, as stated on the class specification:

Supervises and conducts pathological research for identifying fish diseases, parasites, and toxins; institutes long-range experiments in medical, dietary, and procedural treatment to improve or originate cures or preventative measures;

Defines, within administratively approved limits, the parameters of such projects and selects procedures, sites, equipment, and supplies;

Schedules research projects to coincide with availability of manpower, equipment, and facilities obtainable from this and other divisions and agencies; supervises pathology personnel of the division;

Analyzes and evaluates research data; writes or reviews summary reports, and draws conclusions; institutes specific treatment subject only to administrative review;

Proposes, as related to pathological conditions, general changes in diet, preventative medications, alteration of fish hatchery facilities, or handling procedures for administrative consideration by the hatchery division supervisor;

Carries division responsibility to diagnose and prescribe treatment for all fish disease outbreaks in department-operated hatcheries; schedules subordinates for this work as necessary;

Originates division-wide procedures and standards for recording disease occurrence, intensity, treatment, effectiveness, experimental studies, and other helpful pathology-related data;

Works closely with biological and other personnel of this and other agencies to plan and supervise conduct of joint research projects; participates in interagency committees; proposes research reports for publication; serves as expert witness in Departmental legal actions;

Dr. Varney's duties closely match the typical work statements of this class. He independently identifies and proposes specific treatment options with hatchery staff which includes general changes in diet, preventative medications, alteration of fish hatchery facilities, or handling procedures for administrative consideration by the hatchery division supervisor. As the only licensed veterinarian working within the Fish Program, Dr. Varney independently carries division wide responsibility to prescribe treatment for all fish disease outbreaks in department-operated hatcheries. A portion of his work includes conducting research to identify fish diseases, parasites, and toxins. He analyzes and evaluates research data and writes summary reports regarding his treatment activities and research findings.

Additionally, Dr. Varney developed and proposed division-wide drug policy. He established and maintains a database to record disease occurrence, intensity, treatment, effectiveness, experimental studies, and other helpful pathology-related data. He works closely with biological and other agency personnel to plan and conduct joint research projects. He participates in interagency committees and work groups; and he prepares reports.

A position's allocation is not a reflection of performance or an individual's ability to perform higher-level work. Rather, it is based on the majority of work assigned to a position and how that work best aligns with the available job classifications.

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. *Dudley v. Dept. of Labor and Industries*, PRB Case No. R-ALLO-07-007 (2007).

Further, positions are to be allocated to the class which best describes the majority of the work assignment. *Ramos v DOP*, PAB Case No. A85-18 (1985).

In total, the primary thrust of his position, and the majority of his duties as a whole, falls within the scope and level of responsibility stated by the Definition for this class. Based on the level and scope of the overall duties and responsibilities assigned to Dr. Varney's position, the Fish and Wildlife Health Specialist classification is the best fit. Dr. Varney's position should remain allocated to the Fish and Wildlife Health Specialist class.

### **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 4<sup>th</sup> 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: Dr. Jed Varney  
Dave Pardy, WFSE  
Cindy Lerch, WDFW HR  
Lisa Skriletz, OSHRD

Enclosure: List of Exhibits

**DR. JED VARNEY v DEPARTMENT OF FISH AND WILDLIFE**

**ALLO-12-025**

List of Exhibits

A. Jed Varney Exhibits

1. Dr. Varney's Request for Director's Review form received by OHSRD April 16, 2012 with attached copy of Allocation Determination letter from WDFW dated March 21, 2012
2. Exhibits submitted on June 5, 2012:
  - A. A copy of Dr. Varney's Request for Director's Review (without signatures or date)
  - B. A copy of DOP Class specification for Epidemiologist 2
  - C. Email from Dr. Jed Varney to Sherri Clark with attached PDPs for Dr. Varney's position:
    - 1) March 2012 Performance and Development Plan – Expectations
    - 2) March 2011 Performance and Development Plan – Evaluation
    - 3) March 2011 Performance and Development Plan – Expectations
    - 4) March 2010 Performance and Development Plan – Evaluation
    - 5) March 2010 Performance and Development Plan – Expectations
    - 6) March 2009 Performance and Development Plan – Evaluation
    - 7) March 2007 Performance and Development Plan – Evaluation
  - D. Emails from Jed Varney to Fish Health employees on drugs and prescriptions
  - E. WAC 246-933 Veterinarians – veterinary board
  - F. RCW 18.130 Regulation of health professions – Uniform Disciplinary Act
  - G. RCW 18.92 Veterinary medicine, surgery and dentistry
  - H. RCW 69.41 Legend drugs – prescription drugs
  - I. Emails from Jed Varney regarding drug database and a copy of a draft drug policy
  - J. Email from Jed Varney to Sherri Clarke with attached Antimicrobial Resistance website information
  - K. Email from Jed Varney to Sherri Clarke with attached documents relating to AMDUCA/FDA law articles
  - L. A copy of PRB decision, *Kristin Mansfield v Department of Fish and Wildlife*, PRB Case R-ALLO-11-014

Exhibits submitted following the review conference:

3. Memo from John Kerwin to Jed Varney dated July 23, 2012 regarding work direction
4. Document title, "Instructions for Veterinary Prescriptions and Veterinary Feed Directives
5. Draft policy developed by Dr. Varney titled, "Application of Drugs for Fish Program and Aquaculture Practices
6. Position Review Request for Jed. S. Varney dated March 16, 2004
7. Copy of Dr. Varney's Opening Statement, dated December 6, 2012
8. Examples of work document prepared by Dr. Varney titled, "Study examples six month window"

#### B. DFW Exhibits

1. Cover letter from Tracy Wolfe dated May 8, 2012 submitting exhibits received, reviewed and considered during the position review
2. Email chain, September 2011 between HR and Mr. Varney with attachments:
  - a. Salary comparisons
  - b. 1999 Fish and Wildlife Health specialist CQ for Dr. Varney's position
  - c. 2002 Development and Performance Plan for Dr. Varney
3. Position Review Request for Dr. Varney received January 3, 2012
  - a. Supervisor's attached comments to PRR
4. September 2011 Position Description
5. March 21, 2012 DFW allocation determination letter from Tracy Wolfe to Dr. Jed Varney
6. WDFW internal document titled, "Fish and Wildlife Research Scientists Guidelines"
7. WDFW internal document titled, "Natural Resource Scientist 3 and 4 Guidelines"
8. DFW Fish Science Division Organizational Chart dated December 2011
9. April 11, 2012 email from Jed Varney Tracey Wolfe

Exhibit submitted following the review conference

10. Email from Cindy Lerch to Kris Brophy dated January 7 with attached final employer response to Dr. Varney's additional exhibits

#### C. Class Specifications

1. DOP Class Specification for Epidemiologist 3 (Non-Medical), 303L

2. DOP Class Specification for Fish and Wildlife Health Specialist, 516E
3. DOP Class Specification for Fish and Wildlife Research Scientist , 516F
4. DOP Class Specification for Natural Resource Scientist 4, 516N
5. DOP Class Specification for Veterinary Specialist 4, 524D