



B-26

STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION  
OF THE  
CIVIL SERVICE COMMISSION

In the Matter of Barbara Ware,  
Department of Environmental  
Protection

CSC Docket No. 2017-3245

Classification Appeal

ISSUED: JUN 26 2017

(RE)

Barbara Ware appeals the attached decision of the Division of Agency Services (DAS) which found that her position with the Department of Environmental Protection is properly classified as Environmental Specialist 2. She seeks an Environmental Specialist 3 job classification in this proceeding.

By way of background, Ms. Ware received a regular appointment to the title Environmental Specialist 2 on July 19, 2013. This position is located in the Department of Environmental Protection, Water Resource Management, Division of Water Supply and Geoscience, Bureau of Water Allocation and Well Permitting, reports to a Section Chief, Environmental Protection, and has no direct supervisory responsibilities. DAS performed a detailed analysis of the appellant's Position Classification Questionnaire (PCQ) and other materials submitted, and determined that her position was properly classified as Environmental Specialist 2.

On appeal, the appellant states that Environmental Specialists 3 have not been required to supervise, and she has been held to a double standard. She also indicates that the job specification for Environmental Specialist 3 does not require supervision, and that she takes the lead in her work. She indicates her supervisor and the Bureau Chief support her request.

CONCLUSION

The definition section of the job specification for Environmental Specialist 2 states:



Under the limited supervision of a supervisory official in a State department or agency, performs technical or scientific work, including field and office studies, surveys, inspections or investigations associated with the enforcement of laws and/or regulations and environmental review and control work or organizes and carries out programs/projects designed to study and evaluate environmental impact of specific projects on the environment; organizes and makes tests and reports to assess environmental impacts to include the physical, natural and/or human environments and investigates environmental complaints concerning projects; conducts contract, grant and/or loan processing; does related work is required.

The definition section of the job specification for Environmental Specialist 3 states:

Under the general supervision of a supervisory official in a State department or agency, takes the lead or may supervise, organize and assign technical or scientific work, including field and office studies, surveys, inspections or investigations associated with the enforcement of laws and/or regulations and environmental review and control work, organizes and makes tests and reports to assess environmental impacts to include the physical, natural and/or human environments and investigates environmental complaints concerning projects; conducts or supervises the processing of contract, grant and/or loan applications; does related work is required.

In the instant matter, DAS found that the appellant's position was properly classified as an Environmental Specialist 2 on the basis that she is not performing the duties of a supervisor. In making classification determinations, emphasis is placed on the Definition section to distinguish one class of positions from another. The Definition portion of a job specification is a brief statement of the kind and level of work being performed in a title series and is relied on to distinguish one class from another. Nonetheless, when a title is supervisory in nature, the Commission has found that, along with the myriad of other supervisory duties that must be performed, the essential component of supervision is the responsibility for formal performance evaluation of subordinate staff. See *In the Matter of Timothy Teel* (MSB, decided November 8, 2001).

In the past, positions could be classified in titles which were in the "R" ERG if they had supervisory responsibilities, or performed more complex work. However, in *In the Matter of Alan Handler, et al., Department of Labor and Workforce Development* (CSC, decided October 7, 2015), the Commission found that:



in order to be classified at the level of Auditor 1, an incumbent must supervise subordinate staff, including having the responsibility for performing formal performance evaluations. Merely making recommendations regarding a subordinate's performance, or even assisting in the preparation of a performance evaluation is not sufficient. Rather, to be considered a supervisor, the individual must be the person actually administering and signing off on the evaluation as the subordinate's supervisor.

In *Handler*, the Commission indicated "further evidence that the Auditor 1 title is at the supervisory level is its inclusion in the "R" ERG. In this respect, titles are assigned to ERGs based on the classification of the position by this agency. See N.J.S.A. 11A:3-1. With respect to secondary-level supervisory titles, in *In the Matter of David Bobal, et al.*, (CSC, decided November 23, 2016), the Commission specifically determined:

[c]lassifying employees in the title in the "S" ERG without performance evaluation responsibility for at least one primary-level supervisor could create a conflict of interest between secondary supervisory and primary supervisory staff being represented by the same bargaining unit.

In *Handler*, the Commission indicated "further evidence that the Auditor 1 title is at the supervisory level is its inclusion in the "R" ERG. In this respect, titles are assigned to ERGs based on the classification of the position by this agency. See N.J.S.A. 11A:3-1. Each ERG is distinctly defined, and the "R" ERG is defined as those titles used in the primary or first level of supervision." The Commission has required the performance of supervisory duties as a requisite for classification to a title in the "R" ERG since October 7, 2015. A review of the record does not establish that the appellant performs such duties. As such, her work most closely matches the job definition for Environmental Specialist 2.

While the definition of Environmental Specialist 3 provided above does not mandate supervision, it is clear that the title is at the supervisory level, especially when compared to the Environmental Specialist 2 definition. In this respect, the Commission notes that DAS should undertake an analysis of the Environmental Specialist 3 job specification in order to make any necessary modifications in the verbiage regarding required supervision.

Lastly, in the PCQ, the appellant's supervisor indicated that classification reviews for the following individuals were approved, and those individuals do the same work as the appellant: Jessica Mevoli, Robert Hudgins, Cathy Foley, James MacDonald, Matt Myers, Steve Reya, Michael Schumacher, and Chelsea DuBrul. Additionally, the positions of Ken Komar and Ovidiu Petriman were approved in



2013 from Senior Geologist Environmental Protection to Principal Geologist Environmental Protection. Those audits were conducted prior to the *Handler* determination, and the fact that those positions were reclassified prior to the Commission's review of the supervisory classification standard in October 2015 does not warrant the upward reclassification of her position utilizing the same flawed classification standard. Additionally, the Commission declines to review the current classifications of those positions as they were properly classified at the time they were audited using the standard then in affect. However, those employees must be notified that should they request classification reviews of their positions in the future, DAS will utilize the classification standard now in effect, which requires that for a position to be classified by a title in the primary-level supervisory bargaining unit, the incumbent must supervise at least three lower level employees as appropriate to the supervisory encumbered position. Further, if it is claimed that the position should be classified by a title in the secondary level supervisory bargaining unit, the incumbent must supervise at least one incumbent whose position is classified as a primary-level supervisory title who supervises at least three subordinate employees.

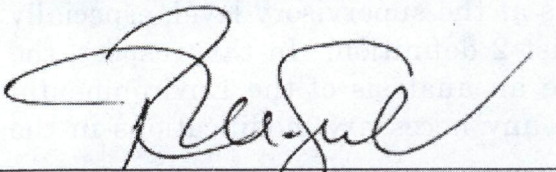
Accordingly, the record establishes that the proper classification of the appellant's title is Environmental Specialist 2.

#### ORDER

Therefore, the position of Barbara Ware is properly classified as an Environmental Specialist 2.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.

DECISION RENDERED BY THE  
CIVIL SERVICE COMMISSION  
THE 21st DAY OF JUNE, 2017



Robert M. Czedh, Chairperson  
Civil Service Commission

Inquiries  
and  
Correspondence

Director  
Division of Appeals and Regulatory Affairs  
Civil Service Commission  
Written Record Appeals Unit  
P. O. Box 312  
Trenton, New Jersey 08625-0312

Enclosure

c: Barbara Ware  
Robin Liebeskind  
Kelly Glenn  
Records Center





Chris Christie  
Governor  
Kim Guadagno  
Lt. Governor

STATE OF NEW JERSEY  
CIVIL SERVICE COMMISSION  
DIVISION OF AGENCY SERVICES  
P.O. Box 313  
Trenton, New Jersey 08625-0313

Robert M. Czech  
Chair/Chief Executive Officer

April 5, 2017

Ms. Barbara A. Ware  
New Jersey Department of Environmental Protection  
Division of Water Supply and Geoscience  
Bureau of Water Allocation & Well Permitting  
401 E. State St.  
P.O. Box 420, Mail Code 401-04Q  
Trenton, New Jersey 08625

Re: Classification Appeal: Environmental Specialist 2; Position # [REDACTED],  
CPM # 01170082; EID # [REDACTED]

Dear Ms. Ware:

This is to inform you, and the Department of Environmental Protection, of our determination concerning the classification appeal referenced above. Our review involved a detailed analysis of the Position Classification Questionnaire (DPF-44S); organization chart; your Performance Assessment Review (PAR) form; your statements; and the statements of your supervisor, division director, and appointing authority; along with additional information provided to argue your application; and a telephone audit that was conducted on February 23, 2017, with you and your supervisor.

**Issue:**

You are appealing the current classification of your position, Environmental Specialist 2 (15853, P22). You allege that your current duties and responsibilities are not properly classified and that you are seeking to reclassify your position to that of Environmental Specialist 3 (15854, R25), which you feel more appropriately reflects your current duties and responsibilities.

**Organization:**

Your position is located within the New Jersey Department of Environmental Protection, Water Resource Management, Division of Water Supply and Geoscience, Bureau of Water Allocation and Well Permitting. You report to Jennifer Myers, Section Chief, Environmental Protection (59985, S30). The rest of the unit is composed of one (1) Environmental Engineer 3; one (1) Principal Geologist, Environmental Protection; three (3) Environmental Specialists 3; and two (2) Environmental Specialists 2. Your current position has no direct supervisory responsibility.



**Finding of Fact:**

The primary responsibilities of your position include, but are not limited to, the following:

- Compiles, reviews, and analyzes Water Allocation Permit application packages to determine compliance and drafts reports to submit proposed recommendations to Section Chief for approval or denial.
- Designs and tests the Water Allocation Availability Screening (WAAS) tool by testing and identifying areas with available water and helps with identifying areas that may raise concerns.
- Conducts and reviews detailed information that pertains to the Emergency Response Plan (ERP). Reviews procedures, personnel, inventory of resources which is necessary for public water supply systems to continue operations in the case of an emergency.
- Volunteers as an Emergency Response Coordinator (ERC), responds to incoming emergency calls and directs the calls to the appropriate Division based on the nature of the emergency and its situation.
- Reviews Environmental Impact statements based on the request being made for water usage in a particular location. Provides the requestor with feedback if the requested area for water use shows signs of concern regarding the environment and community.
- Provides technical guidance, training, and assistance to staff members and interns on special projects and assists staff with using the computer, GIS, and GPS systems.
- Prepares Standard Operating Procedures (SOP's) and trains staff on the operation and maintenance of new equipment, technologies, and protocols

**Review and Analysis:**

Your position is currently classified as an **Environmental Specialist 2** (15853, P22). The definition section for the job specification states:

*"Under the limited supervision of a supervisory official in a state department or agency performs technical or scientific work, including field and office studies, surveys, inspections or investigations associated with the enforcement of laws and/or regulations and environmental review and control work or organizes and carries out programs/projects designed to study and evaluate environmental impact of specific projects on the environment; organizes and makes tests and reports to assess environmental impacts to include the physical, natural, and/or human environments and investigates environmental complaints concerning projects; conducts contract, grant and/or loan processing; does related work as required."*



An incumbent holding an Environmental Specialist 2 title is responsible for performing technical and scientific work in the office and out in the field. An incumbent at this level is responsible for conducting field investigations for water quality, assessing potential environmental impacts on a proposed facility, and running computer models to help predict potential pollution levels. In addition, the Environmental Specialist 2 prepares, gathers, and conducts inspections to insure the compliance with requirements for permits, and gathers documents to prepare reports for submission with suggested approval or denial for permits.

Your position is responsible for reviewing water allocations permits by checking to see if compliance standards meet the requirements for an approved permit. Your position also investigates environmental impact statements when a request is made for water usage. Your position informs the requestor on the possible impacts which may cause concerns in the community, such as contamination to the water system in the community. Your position also conducts Emergency Response Plans (ERP), which is required for public water supply systems to continue operations in the case of an emergency. You check for detailed information such as personnel, inventory of resources, and procedures to provide guidance and assistance to the public in preparation and revision of the ERP.

The definition section for the job specification for the title, **Environmental Specialist 3** (15854, R25), states:

*"Under the general supervision of a supervisory official in a state department or agency takes the lead or may supervise, organize and assign technical or scientific work, including field and office studies, surveys, inspections or investigations associated with the enforcement of laws and/or regulations and environmental review and control work, organizes and makes tests and reports to assess Environmental impacts to include the physical, natural, and/or human environment and investigates environmental complaints concerning projects; conducts or supervises the processing of contract, grant and/or loan applications; does related work as required."*

An incumbent at this level is responsible for supervising and conducting investigations in the field and on site. The Environmental Specialist 3 plans and directs a review team to assess Environmental Impact Statements. In addition, an Environmental Specialist 3 is responsible for reviewing and preparing individual work orders and change orders for up to \$25,000. The Environmental Specialist 3 is assigned to the "R" Bargaining Unit and as such is considered to be a first-line supervisor. Positions at this level must supervise lower level staff within the unit. Duties and responsibilities at this level require training, assigning and reviewing work of subordinate employees on a regular and recurring basis including the completion of performance evaluations. You do not have any supervisory responsibility. Therefore, the duties of your position, fall within the scope of Environmental Specialist 2.

**Determination:**



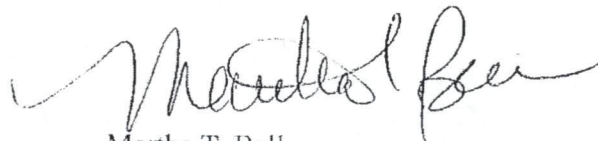
Barbara Ware  
April 5, 2017  
Page 4

By copy of this letter, the Appointing Authority is advised that your position is presently and properly classified as **Environmental Specialist 2** (15853, P22).

The title is descriptive of the general nature and scope of the functions that may be performed by the incumbent in this position. However, the examples of work are for illustrative purposes and are not intended to restrict or limit performance of the related tasks not specifically listed.

An appeal of this decision may be filed within twenty (20) days of receipt of this letter. Since an appeal will be subject to final administrative review, all arguments that you wish considered should be submitted within the specific timeframe. Appeals should be addressed to the Written Records Appeals Unit, Division of Appeals and Regulatory Affairs, P.O. Box 312, Trenton, New Jersey 08625-0312. Please note that the submission of an appeal must include a copy of the determination letter being appealed as well as written documentation and/or argument substantiating the portions of the determination being disputed and the basis for the appeal.

Sincerely,

A handwritten signature in black ink, appearing to read 'Martha T. Bell', with a stylized, flowing script.

Martha T. Bell  
Human Resource Consultant 5  
Division of Agency Services

MB/ch

c: Veronica Kirkham  
Robin Liebeskind



by one of the most important and most interesting of the modern world.

The first of these is the fact that the modern world is a world of nations.

It is a world of nations, and it is a world of nations that are in a state of constant change. The modern world is a world of nations that are in a state of constant change. The modern world is a world of nations that are in a state of constant change.

W. H. Auden  
London, England  
1939

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London, England