

U.S. Office of Personnel Management
Division for Human Capital Leadership & Merit System Accountability
Classification Appeals Program

Dallas Field Services Group
1100 Commerce Street, Room 441
Dallas, TX 75242

Classification Appeal Decision
Under section 5112 of title 5, United States Code

Appellant: [appellant]

Agency classification: Forester
GS-460-11

Organization: [name] Ranger District
[name] National Forest
[name] Region
Forest Service
U.S. Department of Agriculture
[location]

OPM decision: Forester
GS-460-11

OPM decision number: C-0460-11-05

/s/

Bonnie J. Brandon
Classification Appeals Officer

March 28, 2003

Date

As provided in section 511.612 of title 5, Code of Federal Regulations, this decision constitutes a certificate that is mandatory and binding on all administrative, certifying, payroll, disbursing, and accounting officials of the government. The agency is responsible for reviewing its classification decisions for identical, similar, or related positions to ensure consistency with this decision. There is no right of further appeal. This decision is subject to discretionary review only under conditions and time limits specified in the *Introduction to the Position Classification Standards*, appendix 4, section G (address provided in appendix 4, section H).

Decision sent to:

[appellant's name and address]

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Introduction

On August 5, 2002, the Dallas Field Services Group, formerly the Dallas Oversight Division, of the U.S. Office of Personnel Management (OPM) received a classification appeal from [appellant]. We received the agency administrative report on November 29, 2002. The appellant is assigned to a position classified as Forester, GS-460-11, located in the [name] Ranger District of the [name] National Forest in [location]. The [name] National Forest is part of the [name] Region, U.S. Forest Service (FS), Department of Agriculture. The appellant believes his responsibilities for the lands and minerals program warrant classification to the GS-12 grade level. We have accepted and decided his appeal under section 5112 of title 5, United States Code.

General issues

The appellant prepared a proposed position description (PD) with his original request in June 2001 for his agency to review his position. Edits were made during that review process, and the appellant's supervisor certified to the accuracy of the edited PD on October 22, 2002. The human resources office then classified the position as Forester, GS-460-11, on October 25, 2002, and assigned a new number, [number] to the PD. The appellant was assigned to that PD on December 1, 2002. He does not agree that his official PD accurately describes his work. The appellant believes that some of the deletions made in the proposed PD contained key statements that were applicable to the position. He also believes those changes minimized his work for other units or Districts and understated the complexities of the lands program at the [name] Ranger District.

A PD is the official record of the major duties and responsibilities assigned to a position by an official with the authority to assign work. A position is the duties and responsibilities that make up the work performed by an employee. Position classification appeal regulations permit OPM to investigate or audit a position and decide an appeal on the basis of the actual duties and responsibilities currently assigned by management and performed by the employee. An OPM appeal decision classifies a real operating position and not simply the PD. Therefore, this decision is based on the work currently assigned to and performed by the appellant and sets aside any previous agency decision.

The appellant also asked that consideration be given to making any potential grade change retroactive to the time he began supervising the lands trainee position (a position temporarily assigned to his District) or until the time he requested the desk audit. The U.S. Comptroller General (CG) states that an “. . . employee is entitled only to the salary of the position to which he is actually appointed, regardless of the duties performed” (CG 232695, December 15, 1989). This was reaffirmed by the U.S. Supreme Court in *United States v. Testan*, 424 U.S. 392, at 406 (1976) where the Court stated that “. . . the federal employee is entitled only to receive the salary of the position to which he was appointed, even though he may have performed the duties of another position or claim that he should have been placed at a higher grade.” Consequently, the appellant would not be entitled to back pay were he to prevail in his appeal.

Position information

An OPM representative conducted a telephone audit with the appellant and discussed the appellant's duties with his supervisor, the District Ranger, and the Forest staff officer with responsibility for the lands program. We have reviewed the audit and interview findings along with all the information in the written record furnished by the appellant and his agency, including his official PD.

The purpose of the appellant's position is to serve as the primary assistant to the District Ranger in the planning, programming, and execution of all land adjustment, land classification, land use, and minerals management activities. Land adjustment activities include exchanges, donations, sales, valuation, right-of-way procurement, and acquisition. Land use activities include special uses, road and utility easements, communications site leases, and Forest Transportation System and county road maintenance and construction activities. The minerals program includes the management of mineral materials, locatable minerals, evaluation and reclamation of abandoned mines and mill sites, and noncompliance cases.

The appellant incorporates appraisal information into reports that state market value of land based on highest and best use. He recommends land parcels for acquisition and conducts examinations of privately owned lands being offered. The appellant directs analysis and preparation of feasibility reports, appraisal requests, and National Environmental Policy Act (NEPA) documents for land adjustment cases. He makes recommendations with regard to right-of-way by purchase or condemnation. The appellant negotiates with private owners, county and municipal governments, utility companies, and mining claimants to ensure right-of-way, deeds, or easements for construction of roads, trails, etc. He evaluates special use applications, inspects uses, and determines fees. He prepares easement deeds for roads and utilities.

The appellant investigates and prepares occupancy stipulations and reports on surface values affected by proposed and operating permits and leases of Bureau of Land Management and State land for mineral development. He furnishes information on reclamation needs and priorities for compliance with clean air and water Acts and other environmental, liability, and recovery Acts for hazardous material sites. The appellant coordinates the District's grants and agreements program for rural development, economic development, and community planning and protection grants with other staff units, local governments, and landowners. He also participates as part of the Forest allocation team to recommend available funding for his various program areas.

The appellant provides technical and administrative supervision to a GS-9 Forester, who assists in land cases, and provides administrative supervision to a GS-9 Archeologist. He also provides supervision to a GS-460 management trainee who has been assigned by FS headquarters on a temporary basis to the [name] District to learn the lands program. The trainee is not expected to remain at the District much longer.

The appellant estimates that 50 percent of his time involves work in land ownership adjustment, 25 percent in special uses administration, 20 percent in minerals program administration, and 5 percent in other duties. The PD and other record information provide more detailed information on the duties and responsibilities of the position.

Series, title, and standard determination

The agency has assigned the position to the GS-460 series, titled it “Forester,” and graded it by application of the criteria in the GS-460 classification standard. The appellant does not disagree.

The appellant indicated he spent a significant amount of time supervising both foresters during their initial training. He estimates that he currently spends no more than 10 percent of his time performing supervisory duties. The time spent by the appellant does not constitute a major duty occupying at least 25 percent of his time and, therefore, does not meet the minimum requirements to be covered by the General Schedule Supervisory Guide.

We concur with the agency’s determination that the appellant’s position is properly assigned to the GS-460 series, titled “Forester,” and graded by the GS-460 standard.

Grade determination

Part I of the GS-460 series is used to evaluate non-research positions in which nonsupervisory responsibilities are grade controlling and is appropriate for evaluating the appellant’s position. It is described in Factor Evaluation System (FES) format. Under the FES format, positions are evaluated by comparing the duties, responsibilities, and qualifications required with nine factors common to nonsupervisory General Schedule positions. A point value is assigned to each factor in accordance with the factor level descriptions. For each factor, the full intent of the level must be met in order to credit the points for that level. Therefore, if a position fails to meet the criteria in a factor level description in any significant aspect, it must be credited at a lower level. Conversely, the position may exceed those criteria in some aspects and still not be credited at a higher level. The total points assigned for the nine factors are converted to a grade by reference to the grade conversion table in the standard. A factor-by-factor analysis of the appealed work is provided.

Factor 1, Knowledge required by the position

This factor measures the nature and extent of information or facts the forester must understand to do acceptable work (e.g., steps, procedures, practices, rules, policies, theories, principles, and concepts) and the nature and extent of the skills needed to apply that knowledge.

At Level 1-7, foresters apply a professional knowledge of forestry to a wide range of duties in an intensive forestry resource and utilize skill in solving problems covering diverse forestry situations and assignments. Assignments require sound professional knowledge and skills sufficient to modify or adapt standard forestry techniques and procedures and to assess, select, and make use of precedents in devising strategies and plans to overcome significant resource problems. Coordinative skills are used to develop a variety of integrated annual work plans for complex projects which often extend over three to six years. Attendant skills are needed to review and critique the operational implementation of plans.

The land ownership adjustment program is intended to help attain optimum FS land ownership patterns to implement land management and resource planning while providing resource uses which best meet present and future public needs. Land adjustments are done to consolidate National Forest and non-Federal land patterns; permit needed urban or commercial expansion;

make adjustments to land patterns that are clearly in the interest of the public and consistent with land management objectives; reduce administrative costs; and increase the amount of a specific type of land resource, such as threatened and endangered habitat, wetlands, etc. Land adjustments include exchanges, purchases, conservation easement acquisition, right-of-way acquisition, donations, and exchanges between Federal agencies.

The lands program is active in the [name] District. The town of [name] is surrounded completely by FS land and has grown significantly in population in recent years. There are 67 areas of privately-held land within the District boundaries, 45 of which have been subdivided. Based on the recent schedule of proposed actions, the District currently has three land exchanges, one small tract and one town site sale, nine easements, one abandoned mine reclamation, and seven permit issues currently working and assigned to the appellant and/or his staff.

The appellant makes the initial assessment of a land adjustment project request to determine if it meets the criteria and makes recommendations to the District Ranger. If appropriate management officials determine that the request is suitable for consideration and meets the Forest's needs, the appellant will prepare the analysis and reports, appraisal requests, and NEPA documents required. He negotiates with landowners, local governments, utility companies and mining claimants in right-of-way requests and evaluates special use requests, inspects uses, and determines fees. The appellant assists in assembling title evidence, deeds, and supporting materials. The Forest Supervisor can approve most easements and permits, but land exchanges must go the Regional Forester. All land exchanges valued at more than \$500,000 are reviewed by a National Land Adjustment Team for technical and legal adequacy because of the complexity of law and policy changes in recent years. A Realty Specialist in the Forest Supervisor's office provides technical expertise on issues relating to the program requirements, land titles, claims, and encroachment in support of the Public Service Group Leader who has responsibility for the Forest's land program.

As at Level 1-7, the appellant's position requires professional knowledge of forestry sufficient to evaluate the effect of the lands and minerals programs on forest resources and knowledge of the agency's land management policies and procedures to develop the lands adjustment plans for the district, recommending parcels for acquisition and disposal. He conducts preliminary examinations and appraisals of areas being offered and negotiates with private land owners and mining claimants to secure right-of-way, deeds, or easements for construction of roads, trails, etc. The knowledge required for the appellant's position fully meets Level 1-7 and is consistent with Benchmark #4 described for the grade 11 level in the GS-460 standard. Benchmark #4 addresses a position in a first-level unit of a forest area with responsibility for the development, implementation, and administration of land adjustment and classification and land-use and minerals management programs.

The appellant's position does not require mastery of the forestry profession sufficient to apply new scientific findings, developments, and advances to solve critical problems of a unique, novel, or highly controversial nature as typical of Level 1-8. While the appellant deals with problems that may be controversial, they do not have significant impact on existing *agency* policies and programs as envisioned at Level 1-8. At Level 1-8, foresters have a broad knowledge of forestry and multiple-use management of forest resources sufficient to develop or refine solutions or recommendations on complex problems, to take actions which have significant impact on existing agency policies and programs, to project developmental trends and

future needs, and to extend existing techniques to develop *new* approaches for other foresters or private land owners to use. In contrast, the appellant's first-level Forest unit's functions do not require in-depth knowledge of forestry to evaluate *new* developments in forestry and to revise methods for applying these developments.

Level 1-7 is credited, and 1,250 points are assigned.

Factor 2, Supervisory controls

This factor covers the nature and extent of direct or indirect controls exercised by the supervisor, the appellant's responsibility, and the review of completed work. Controls are exercised by the supervisor in the way assignments are made, priorities and deadlines are set, and objectives and boundaries are defined. Responsibility of the employee depends upon the extent to which the employee is expected to develop the sequence and timing of various aspects of the work, to modify or recommend modification of instructions, and to participate in establishing priorities and defining objectives. The degree of review of completed work depends upon the nature and extent of the review.

As at Level 2-4, the District Forester outlines the objectives, the resources available, and information on new policies and procedures. The appellant plans and schedules his work within those parameters and existing policy and guidance. Like positions at Level 2-4, the appellant is expected to coordinate with the District Forester and others, as needed, on interagency and more complex aspects of assignments. Depending on the nature of the work products, review and coordination will extend to the Forest-level Staff Officer for the lands program and the Realty Specialist. Similar to Level 2-4, the appellant's work is relied upon as being technically competent, and review is from an overall standpoint in terms of feasibility, compatibility with other work, or effectiveness in meeting requirements. The supervisory controls for the appellant's position are consistent with the description for Level 2-4 in Benchmark #11-4 where the supervisor provides a general statement of objectives; the forester develops specific action plans to carry out the work, resolves problems, and coordinates work with other staff members; and completed work is reviewed for adequacy in meeting program objectives and compliance with overall land management plans. The appellant's position fully meets Level 2-4.

In contrast to Level 2-5 where supervisory guidance or control is exercised through broad general objectives within the constraints and context of national legislation, agency policy, and overall agency objectives, the directions provided to the appellant are more specific. Within broad areas of direction, foresters at Level 2-5 are responsible for independently determining the validity and soundness of programs and plans and developing forestry standards and guides. The results of their work, including recommendations and decisions, are accepted as technically authoritative. When their work is reviewed, it is primarily in relation to broad policy requirements and administrative controls such as budgets. The appellant's first-level Forest unit work operates within program constraints that preclude the crediting of Level 2-5.

Level 2-4 is credited for 450 points.

Factor 3, Guidelines

This factor covers the nature of guidelines and the judgment needed to apply them. Guidelines refer to standard guides, precedents, methods, and techniques such as governing statutes and regulations, long-range subject matter or resource plans, and annual work plans.

At Level 3-3, most assignments have aspects that require the forester to adapt or interpret existing methods, practices, and instructions or to generalize from several techniques in carrying out activities and in solving the more complex problems. Some assignments require frequent departures from standardized procedures.

The appellant's official PD indicates that the work is accomplished within the broad framework and policy statements contained in administrative manuals and includes agency regulations and policies, legislative authorities, and legal decisions and opinions. Comparable to Level 3-3, the appellant must use considerable judgment to resolve and interpret appropriate guidance to the land uses and land adjustment and minerals projects assigned in a consistent manner across National Forest lands. The appellant usually has precedents to follow when written guidance may not clearly address individual problems. He adapts or extends guidelines or chooses from alternatives while attempting to resolve problems and issues that arise within his program areas. The guidelines available to the appellant and the judgment needed to apply them parallel the description in Benchmark #11-4 where the forester uses judgment and ingenuity in developing and implementing plans and programs and independently adapts or extends the guidelines, or chooses from among alternative procedures, in attempting to achieve optimum multiple-use and protection of the ecosystem.

The appellant's programs and the problems encountered are not new or experimental in nature, as typical of situations at Level 3-4. At that level, guidelines are often inadequate to deal with the more complex or unusual problems or with problems concerned with novel or controversial aspects of forestry. There may be relatively few precedents or guides which are pertinent to the specific problems. Unlike foresters at Level 3-4, the appellant is not required to deviate from or extend traditional forestry methods and practices or to develop essentially new or vastly modified techniques and methods for obtaining effective results. Responsibility for extensive adaptation or development of new techniques rests with the District Ranger or higher levels within the FS.

Level 3-3 is credited for 275 points.

Factor 4, Complexity

This factor covers the nature, number, variety, and intricacy of tasks, steps, processes, or methods in the work performed; the difficulty in identifying what needs to be done; and the difficulty and originality involved in performing the work.

At Level 4-4, foresters independently carry out a wide variety of assignments consisting of diverse and complex technical or administrative problems and considerations. Assignments typically involve land management problems requiring in-depth analysis and evaluation of alternatives due to complicating factors such as extensive programmed developmental activity and heavy resource use; environmental problems and conflicting requirements whose resolutions

may have serious public impacts; or strong, conflicting public demands and pressures to redirect the land management strategies for different forest resources. Typically, the work assignments require the forester to relate new work situations to precedent situations, extend or modify existing techniques, or develop compromises with standard forestry practice to adequately solve the forestry problem.

The complexity of the appealed position meets but does not exceed Level 4-4. The appellant's primary assignment involves the lands program for the District. One land exchange involves the [name] tribe and includes land parcels on two neighboring national forests. This requires close coordination with the other forests' land staff to ascertain that the exchange would also meet the needs of their Forest management plans. There is opposition to the plan by residents of a subdivision bordering a parcel of FS land that is planned to be exchanged and will become part of the [name] reservation. Another assignment involves the sale of additional land to a county to allow for needed expansion of their landfill, which had been operating under FS special use permit for many years. The county would then become owner of the expanded area and the FS would no longer have responsibility for monitoring any potential problems or hazards at that landfill. As at Level 4-4, the appellant's assignments require him to consider the variables involved, the effect on other resources, and the rationale of the competing interests to resolve complex issues.

While the appellant may be required to coordinate with other districts and/or forests in the land exchange program or assist their staff because of workload or special expertise, he is not regularly responsible for the number of geographically and environmentally varied forest units as typical of positions at Level 4-5. At that level, work is characterized by a variety of assignments and problems arising on a number of geographically and environmentally varied forest units where the forester is independently responsible for coordination, liaison, and planning activities covering broad resource programs or intensive analysis and problem solving in a particular program area where the forester serves in an authoritative capacity as an expert. The appellant's assignments do not fully involve the novel or controversial aspects envisioned at Level 4-5 where the work involves solving problems concerned with novel or controversial aspects of forestry and related fields. At Level 4-5, assignments require the forester to be especially versatile and innovative in order to recognize possible new directions or approaches or to anticipate future trends and requirements in forest resource use and demands. The appellant's assignments do not require such versatility and innovation in developing approaches to overcome existing problems.

Level 4-4 is credited, and 225 points are assigned.

Factor 5, Scope and effect

This factor covers the relationship between the purpose, breadth, and depth of the assignment and the effect of work products or services both within and outside the organization. Effect measures such things as whether the work output facilitates the work of others.

At Level 5-3, the purpose of the work is to investigate and analyze a variety of conventional resource problems and environmental conditions and to recommend and/or implement solutions to meet resource management objectives. The work affects the efficient development,

protection, and use of a particular resource; the public's perception of the adequacy of the resource's management; and the socio-economic welfare of dependent communities.

Consistent with Level 5-3, the purpose of the appellant's work is to develop programs to ensure the adequacy and expertise for effective implementation of land adjustment, land uses, and mineral management and their integration with all resource programs, objectives, and policies. The results of the work have impact on the administration of the land uses. The work influences the social and economic well being of local individuals and communities. The appellant uses the processes and procedures available under the lands program to enable more effective use, protection, and development of the resources in the District.

Even though the appellant's position requires skill in negotiating and resolving differences to achieve agreement, it does not require developing essentially new techniques or solutions as intended for positions at Level 5-4. The appellant's assignments primarily involve the District's lands and problems, e.g., exchanges, permits, and abandoned mines, rather than the number of locations within a broad geographic area typical of Level 5-4.

Level 5-3 is credited, and 150 points are assigned.

Factor 6, Personal contacts

This factor includes face-to-face contacts and telephone dialogue with persons not in the supervisory chain. Levels described under this factor are based on what is required to make the initial contact, the difficulty of communicating with those contacted, and the setting in which the contact takes place.

At Level 6-3, there are regular contacts with professional subject-matter specialists in forestry and related disciplines within the agency; in other Federal agencies; in universities; in private foundations and professional societies; with influential local community leaders; with State officials; and with newspaper, radio, and television reporters. In many cases, the contacts may be on an ad hoc basis and the role of each party is established and developed during the course of the contact.

Comparable to Level 6-3, the appellant's primary personal contacts are with line officers; management personnel; land staff specialists; other specialists including foresters, ecologists, minerals specialists, and planners in Federal, Tribal, and local governments; attorneys in government and private practice; individual and corporate applicants; landowners; permittees; special interest groups; and members of the public. The appellant indicates that in addition to FS staff, he has contacts with officials of the town of [name], county officials, Indian tribal officials, a Bureau of Indian Affairs superintendent, and other State and Federal government officials. Like positions at Level 6-3, the appellant's contacts are not always routine in that he must explain the purpose of the contact. The appellant's contacts and the settings in which they take place are also consistent with the description in Benchmark #11-4.

Unlike positions at Level 6-4, the appellant is not required to have regular contacts with high-ranking representatives from outside the agency at national or international levels including such persons as key officials, mayors of large cities, and State governors.

Level 6-3 is credited, and 60 points are assigned.

Factor 7, Purpose of contacts

The purpose of personal contacts ranges from factual exchanges of information to situations involving significant or controversial issues and differing viewpoints, goals, or objectives.

At Level 7-3, contacts are to negotiate controversial issues with various parties in a way that will attain agency objectives and result in retention of good will; to influence or persuade various organizations or individuals who have conflicting interests and viewpoints on the use of various resources so as to reach an agreement that is consistent with goals and objectives; to justify the feasibility and desirability of significant forestry resource plans and proposals; or to influence or persuade other experts to adapt techniques or methods about which there may be conflicting opinions.

The purpose of the appellant's contacts is to provide expertise and guidance in making decisions on applications for new use permits, land adjustments, and minerals management; exchange technical and program information; and explain agency policies and decisions. Contacts with applicants, grantees, various publics, and other agencies outside the FS serve to provide information and training on the agency's policies, requirements, and procedures for the respective programs. As at Level 7-3, the purpose of the appellant's contacts is to persuade or influence the public or organizations that may have conflicting interests to reach agreement. These contacts require tact, credibility, and persuasion to gain acceptance of requirements of law or policy with which they may not agree. The purpose of the appellant's contacts is equivalent to Level 7-3 and to the description in Benchmark #11-4 where contacts are to reconcile conflicting viewpoints and ideas and to explain and gain support for agency aims, policies, and objectives.

At Level 7-4, contacts are to justify, defend, negotiate, or settle significant or controversial land management matters. The work may include legislative hearings, land-use presentations, or similar meetings where the resolution of the issue usually involves a long-range impact beyond the specific issue or geographical area involved. In contrast, the appellant is not responsible for settling highly significant or controversial land management issues that may have long-range impact beyond the local area. Higher level officials within the appellant's agency would be involved in contacts that meet the full intent of Level 7-4.

Level 7-3 is credited, and 120 points are assigned.

Factor 8, Physical demands

This factor covers the requirements and physical demands placed on the employee by the work assignment. This includes physical characteristics and abilities and the physical exertion involved in the work.

Similar to Level 8-1, the appellant's work is primarily performed in an office or meeting room setting. At that level, the forester may occasionally visit forest areas that require considerable walking, bending, or climbing, but this does activity does not occur frequently enough to warrant the next higher level.

Level 8-1 is credited for 5 points.

Factor 9, Work environment

This factor considers the risks and discomforts in the employee's physical surroundings or the nature of the work assigned and the safety regulations required.

Like positions at Level 9-1, the appellant's work is primarily performed in an office-like setting involving everyday risks or discomforts which require normal safety precautions. While some risk may be encountered when assessing on-the-ground operations when visiting forest areas, the appellant's situation does not exceed Level 9-1 where there is occasional exposure to risks.

Level 9-1 is credited for 5 points.

Summary

<i>Factor</i>	<i>Level</i>	<i>Points</i>
1. Knowledge required by the position	1-7	1,250
2. Supervisory controls	2-4	450
3. Guidelines	3-3	275
4. Complexity	4-4	225
5. Scope and effect	5-3	150
6. Personal contacts	6-3	60
7. Purpose of contacts	7-3	120
8. Physical demands	8-1	5
9. Work environment	9-1	5
<i>Total</i>		2,540

The total of 2,540 points falls within the grade point range (2,355–2,750) for the GS-11 grade level.

Decision

The position is properly classified as Forester, GS-460-11.