

State of New Hampshire



PERSONNEL APPEALS BOARD

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APPEAL OF MOUNTAIN EQUIPMENT OPERATORS Docket #94-C-15 DEPARTMENT OF RESOURCES AND ECONOMIC DEVELOPMENT

June 3, 1996

The New Hampshire Personnel Appeals Board (McNicholas, Bennett and Johnson) met Wednesday, September 13, 1995, to hear the appeal of Mountain Equipment Operators assigned to the Trails Bureau. SEA Field Representative Stephen McCormack appeared on behalf of the appellants. Virginia Lamberton, Director of Personnel, appeared on behalf of the Division of Personnel.

The appellants were appealing the Director's January 7, 1994, decision reclassifying their positions from Mountain Equipment Operator, salary grade 10, to Equipment Operator, salary grade 10. They argued that their positions should have remained classified as Mountain Equipment Operators, and that their positions should have been upgraded to salary grade 11 consistent with Mountain Equipment Operators assigned to Ski Operations.

Mr. McCormack argued that in the late 1980's, year-round Mountain Equipment Operator positions were reviewed and upgraded from salary grade 10 to salary grade 33. However, he said that the only positions which received the upgrading were those assigned to Ski Operations. The remaining positions assigned to the Trails Bureau were retitled Equipment Operator without any change in salary grade. He argued that the position review took place before the more severe winter conditions could be considered a factor, and that it was understandable that the analyst assigned to the field audit would not have understood that Equipment Operators work in the same adverse conditions as those on the ski mountains, but that they do not have the same support systems available to Ski Operations personnel.

Mr. McCormack stated that the appellants' positions are currently rated at the third level for Working Conditions and the first level, and he argued that they should be increased to the third and second levels, respectively. He argued that Equipment Operators assigned to the Trails Bureau must work alone and unsupervised in rough and dangerous terrain. He also argued that the contact the appellants have with members of the public are more diverse than that which Ski Operations personnel have with the public. He asserted that there should be no difference

in the level of compensation or the salary grade assigned to the positions.

Mr. McCormack said that what started as a request for proper compensation to make the positions equivalent to those assigned to the ski areas actually resulted in a reclassification to a different position title. He argued that closer examination would reveal that employees assigned to locations like Dixville Notch or Castle in the Clouds work under conditions as adverse as those experienced on the ski mountains.

Ms. Lamberton stated that in 1986, the Department of Resources and Economic Development had requested a one grade pay differential for those persons assigned to groom ski trails. She said that the Department claimed the trails were steeper and more dangerous than "mountain" trails. She said that when she looked at the positions in the Trails Bureau in relationship to Highway Maintainer III-B positions, she did not see enough of a difference to warrant changing the positions assigned to the Trails Bureau. She said that she accepted the Department's representation that ski area operations were more complex, and she also took into consideration the fact that ski area grooming operations generally occur around the clock, requiring employees to work at night.

Over the Personnel Director's Objection, Paul Gray, Trails Supervisor, was permitted to address the Board. He said that in the Trails Bureau, the crew has to "wait for Mother Nature" to make snow, so that trail grooming operations in the ski areas begin a lot sooner. He said that the review of positions assigned to his bureau occurred between the construction and maintenance season, and that the Division of Personnel had not seen the full range of responsibility the Equipment Operators have.

Ms. Lamberton argued that when the snow doesn't fall, equipment operation can not be considered a factor in classifying positions such as those under appeal. She said that her division needed to consider the majority of the work performed and classify positions based on the extent to which severe weather or hazardous conditions were a factor in performing the work. She argued that personnel in the Trails Bureau do not make snow like their counterparts in Ski Operations, and therefore should not be working nights. She also argued that when there is no snow and no snow grooming to perform, the level of the work performed by the appellants is equivalent to that of a laborer.

At the conclusion of the hearing, Ms. Lamberton submitted Proposed Findings of fact and Rulings of Law. The Board is mindful of its obligations to respond to such proposed findings and rulings, and generally finds them helpful in focusing its review the issues in dispute.

I-However, the proposed findings offered for the Board's consideration in this case provide little more than a description of the review process, offering little insight into the duties and responsibilities of the appellants which may or may not support their request for reclassification. As such, the Board will make its own findings of fact. To the extent that the Proposed Findings of Fact and Rulings of Law are consistent with the decision below, they are granted. Otherwise they are denied.

After considering the argument offered by the parties, and reviewing the documents submitted by the parties for the Board's review, the Board found that there was little support for the proposition that the steepness of the various trails creates enough of a difference between winter grooming activities in the ski areas and the mountain trails to warrant a one salary grade difference between the positions assigned to those bureaus. The parties agreed that there are steeper trails in Dixville Notch than trails on Sunapee. Similarly, there are steeper trails at Cannon Mountain than are found on many of the mountain trails. If compensation for these positions depends solely on trail conditions and the steepness of the terrain, only those positions assigned to the steepest slopes or most remote and difficult terrain should be compensated at the higher salary grade. Nonetheless, there are factors which warrant further consideration.

While the Board understands that there may be circumstances in which an operator in the Trails Bureau could be "caught" on the trail after dark, there was no evidence that actual night grooming activities are required or authorized. By comparison, ski grooming frequently occurs at night, establishing more difficult working conditions on a regular basis than those encountered by the appellants. The Board also found that winter "grooming" may present substantially different working conditions than those to which the appellants are subjected during the remainder of the year. The appellants did not offer evidence to persuade the Board that their positions should be rated at the fourth level for "Working Conditions" requiring them to perform regular job functions in an adverse working environment containing a combination of disagreeable elements which impact significantly upon the employee's capacity for completing work assignments.

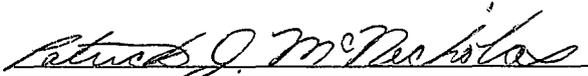
The appellants' positions are rated at the lowest level for "Communications," which is defined by the Evaluation Manual as requiring "minimal personal interaction or communication, including providing simple information in response to routine questions from employees within the agency." Although the appellants offered evidence of only limited contact with the public, the Board found sufficient evidence that they have contact with snowmobile and ATV clubs and members of the public using the trails in all four seasons to suggest that an increase in the "Communication" factor would be warranted.

If the point allocation offered by the appellants, as Exhibit #3 is accurate, an increase of five points to the "Communication" factor would yield a total of 220 points for the appellants' current classification. As such, it would appear that the positions should be increased from

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salary grade 10 to salary grade 11. In accordance with RSA 21-I:57 and RSA 21-I:54, the Director is requested to make a correction reflecting the Board's findings.

THE PERSONNEL APPEALS BOARD



Patrick J. McNicholas, Chairman



Mark J. Bennett, Commissioner



Robert J. Johnson, Commissioner

cc: Virginia A. Lamberton, Director of Personnel
Stephen J. McCormack, SEA Field Representative
Kenneth Plourde, Business Administrator, Department of Resources and Economic
Development