

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:** Water Rights Specialist  
GS-401-12

**Organization:** Branch of Natural Resources  
Division of Resource Services  
[state] State Office  
Bureau of Land Management  
Department of the Interior  
[location]

**OPM decision:** GS-401-12  
title at agency discretion

**OPM decision number:** C-0401-12-03

/s/ Judith L. Frenzel

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Judith L. Frenzel  
Classification Appeals Officer

July 18, 2003

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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]

[servicing personnel office address]

Director  
National Human Resources Management Center  
Bureau of Land Management  
Department of the Interior  
P.O. Box 25047  
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## **Introduction**

The Dallas Oversight Division, now the Dallas Field Services Group, of the U.S. Office of Personnel Management (OPM) accepted a classification appeal from [appellant] on January 9, 2003. We received the agency's administrative report on January 30, 2003. The appellant's position is currently classified as Water Rights Specialist, GS-401-12. He believes the position should be classified at the GS-13 grade level. The position is assigned to the Branch of Natural Resources, Division of Resource Services, [BLM State Office], Bureau of Land Management (BLM), Department of the Interior (DOI), in [city and state]. We have accepted and decided this appeal under section 5112 of title 5, United States Code.

## **Background information**

The appellant's position had previously been classified as Water Rights Specialist, GS-301-12. On March 19, 2002, the appellant's supervisor submitted a revised position description (PD) to the [BLM State Office] Human Resources Division asking that the position be upgraded. According to the supervisor, duties that warrant a higher grade had been added to the position since February 1995 when the position was last evaluated. The added duties involve organizing, teaching, and evaluating water rights courses for the National Training Center; conducting studies and developing management plans in response to increasing water-based recreation demands; representing BLM regarding water-related legislation and associated court cases; managing water rights issues associated with BLM's National Landscape Conservation System units; reviewing all water-related acquisitions to ensure that BLM receives adequate title and pays a fair market price and that BLM's management goals are supported; and supervising one part-time technician and a seasonal staff.

After reviewing the appellant's position on July 23, 2002, the [BLM State Office] Human Resources Division found that the position could be assigned to two professional fields because the nature of the work is such that a person with education and experience in either the biological or the physical sciences would be considered equally well-qualified. In the case of an interdisciplinary position, the final classification of the position is determined by the qualifications of the person selected to fill it. Based on the appellant's education and experience in a field of biological science, the agency placed the appellant's position in the GS-401 series and titled it Water Rights Specialist. The appellant was formally assigned to his official PD, number [number], on September 8, 2002. Both the appellant and his supervisor agree that his current PD is accurate.

The agency used the classification standard for the GS-454 Rangeland Management Series and the GS-1300 Job Family Standard for Professional Physical Science Work to evaluate the work of the appealed position. The GS-454 standard is written in the Factor Evaluation Format (FES) and provides grading criteria under nine factors. The appellant specifically disagrees with the agency's evaluation of three factors using the GS-454 standard: Factor 1, Knowledge required by the position; Factor 3, Guidelines; and Factor 5, Scope and effect. He does not disagree with the agency's evaluation of the other factors. The appellant does not address the agency's evaluation using the GS-1300 standard.

Although the appellant and his supervisor certified that the appellant's PD is current and accurate, we found that it contains some misleading statements in the description of major duties. For example, the PD states that the appellant develops legal strategies and legal theories, reviews decrees for accuracy of legal conclusions and BLM claims, and files protests as necessary through the regional Solicitor's Office. Our fact-finding discloses that the appellant *participates* with DOI and Department of Justice attorneys in the development of legal strategies, etc., regarding the technical aspects of water rights issues. 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 assigned by management and performed by the employee. An OPM appeal decision grades a real operating position and not simply the duties and responsibilities described in the PD. Therefore, this decision is based on the actual work assigned to and performed by the appellant. In reaching our classification decision, we carefully reviewed the information of record provided by the appellant and his agency. We supplemented the information in the written record by conducting a telephone audit with the appellant on February 26, 2003, and follow-up interviews on March 17 and April 28. We also conducted a telephone interview with the immediate supervisor on March 11.

### **Position information**

The Division of Resource Services provides leadership, technical and policy assistance, special expertise, and coordination in all aspects of integrated resource and ecosystem management for BLM offices and other Federal agencies; State and local government agencies; tribes; and nongovernmental parties. Responsibilities include interpreting, facilitating, and coordinating the implementation of national policy; communicating agency policies within the organization and externally; and supporting or managing statewide or multijurisdictional efforts on public lands in [state].

The Branch of Natural Resources is one of five branches in the Division of Resource Services. The Branch provides leadership, policy direction, technical assistance, special expertise, coordination, and operational support in all aspects of biological-based surface resources (such as soil, water and air, rangeland, forestry, and wildlife habitat) to the BLM State Director, field managers, and their employees. Program areas where [BLM State Office] leadership is provided include riparian management; forest, wildlife, fisheries, wild horse and burro, soil, water, and air management; forest ecosystem and health and recovery fund; and forest health and disease control. National program leadership is given for pesticide use proposal approval. Technical assistance involves areas such as water rights acquisition and management; pesticide management; soils science; ecology; rangeland management and improvements; wildlife, fisheries, and endangered species management; and work associated with the adoption of wild horses and burros. Branch employees who are program leads or senior specialists coordinate assigned resource programs with BLM's Washington office staff; other Federal and State land managing agencies; industry and related publics, including representatives of local governments; environmental organizations; and specific user constituencies and interest groups. The appellant, the only BLM water rights specialist in the state, serves as the technical advisor for water rights acquisition and management.

The Branch is led by a Resource Group Supervisor, GM-340-13. In addition to the supervisory position and the appellant's position, the Branch includes the following positions: Wild Horse Program Leader, GS-480-13; Soil Scientist, GS-470-12; Hydrologist, GS-1315-12; Botanist, GS-430-12; Environmental Protection Specialist, GS-028-12; Fishery Biologist, GS-482-12; Wildlife Biologist, GS-486-12; Rangeland Management Specialist, GS-454-12; Animal Health Technician, GS-704-9; Physical Science Technician, GS-1311-7; Program Assistant, GS-303-6; and Biological Technician (Plants), GS-404-4.

The appellant's duties and responsibilities can be categorized into four major areas: program management and policy, water rights acquisition and protection, instream flow work, and training. A brief discussion of each area follows. The appellant's PD and other material of record provide more information about his duties and responsibilities.

Program management and policy activities involve establishing the scope, goals, objectives, and priorities for water right activities; providing guidance regarding [BLM State Office] decisions that relate to private use of water from public lands; and advising supervisors of emerging water rights issues. The appellant reviews proposed Federal legislation for potential impact on BLM activities, programs, policies, and procedures. He advises the BLM Washington office on water rights issues related to new land protection designations, such as national monuments, national conservation areas, and wilderness designations. The appellant also participates as a member of nationwide teams to address agencywide water-related projects and water rights issues that are not covered by current BLM or agency (DOI) policy. He conducts or manages projects and studies associated with water rights, water availability, and water management to resolve controversial issues or enhance current operations. The appellant provides workload and budget estimates to the [BLM State Office] budget team and other appropriate offices and maintains information storage databases for water rights related data.

Water rights acquisition and protection duties involve directing the [BLM State Office] participation in the water court process in the State of [state name]. The appellant provides oversight when private water rights applications in water courts are adverse to BLM objectives and makes recommendations on whether to initiate litigation or settle when conflicts arise. He prepares BLM informational affidavits for the water courts and appears as a BLM witness in hearings. The appellant develops strategies and procedures to support acquisition of water for BLM purposes and provides guidance to field offices regarding water rights applications. He reviews the applications for accuracy in quantification of amounts, legal descriptions, and appropriation dates. The appellant also reviews title abstracts for deficiencies and provides title research and title assurance to the DOI Regional Solicitor's Office.

Activities associated with instream flow work include directing BLM participation in the State's Instream Flow Protection Program; providing oversight and technical support for methodology to be used in conducting instream flow surveys; and drafting water management agreements that benefit BLM-managed streams. The appellant conducts instream flow studies to address issues such as how to integrate the increased demand for recreational activities on BLM-managed rivers with demands for water for fishery or agricultural use. He works with [BLM State Office] field offices to identify which stream reaches require protection and provides assistance in selecting scientific methodology to conduct instream flow surveys. The appellant incorporates results of

instream flow studies into river management plans and discussions with stakeholders who have conflicting river management goals. In addition to preparing drafts of water management agreements, he writes instream flow recommendations and participates in instream flow hearings.

Training activities include designing, instructing, and evaluating National Training Center courses on water rights. He teaches the courses for BLM personnel throughout the western states. Because each river system is different, the appellant conducts hydrologic studies when developing the courses. He also modifies the courses as the result of changes in water laws and rights based on court decisions. The courses and lesson plans include consideration of the water rights laws and administrative processes in each state, water rights issues within each state, and field techniques. For example, the appellant selects locations where he can provide on-hands training on how to measure the flow levels in streams and the amount of water needed to return the stream to a normal level and how to measure the level and depth of water in wells.

The work of the appellant's position requires professional knowledge of surface and groundwater hydrology, stream ecology, engineering, and biological sciences sufficient to provide technical guidance on water rights applications/adjudications/hearings and energy and minerals projects that utilize water and to review engineering, modeling, and biological reports. This professional knowledge is integrated with knowledge of BLM programs to develop workable solutions to problems associated with water rights projects.

### **Series, title, and standard determination**

The appellant does not question the series and title of his position. We agree with the agency's determination that the appellant's position is an interdisciplinary professional position involving duties and responsibilities closely related to more than one professional occupation. As previously stated, the agency placed the appellant's position in the GS-401 series. This series includes positions that involve professional work in biology, agriculture, or related natural resource management when there is no other more appropriate series. Positions in this series involve a combination of several professional fields with none predominant or a specialized professional field not readily identified with other existing series. We agree with the agency that the GS-401 series is appropriate for the appellant's position since it involves work in more than one professional field (ecology, hydrology, and engineering).

There are no titles prescribed for the GS-401 series. The agency may construct a title consistent with guidance in the *Introduction to the Position Classification Standards*.

Although the appellant provides supervision to a physical science technician and periodically supervises seasonal field personnel, the position does not meet the minimum criteria required to evaluate the work by reference to the General Schedule Supervisory Guide (GSSG). The appellant's supervisor also stated that the appellant supervises work by consultants and engineers to change the water rights to BLM's intended uses. The GSSG is used to grade supervisory work that requires the accomplishment of work through combined technical and administrative direction of others, constitutes a major duty occupying at least 25 percent of the position's work time, and meets the lowest level of Factor 3 in the GSSG. Our fact-finding disclosed that the

appellant spends less than 25 percent of his time performing supervisory duties. Further, the supervision given to consultants and engineers does not involve the technical and administrative direction as intended by the GSSG. Therefore, the position does not meet the threshold for titling and evaluation by application of the GSSG.

Since there is no published standard for the GS-401 series, we used the standard for the GS-454 Rangeland Management Series to determine the grade level for the appellant's position. Positions in the GS-454 series require professional knowledge and competence in rangeland management to perform work involving the preservation, development, and management of rangelands. This professional knowledge and competence includes the ability to analyze and protect the natural resources, to develop programs and standards for rangeland use and conservation, and to advise State government officials and private and Indian landowners in rangeland and management practices. Similar to positions in the GS-454 series, the appellant's position involves analyzing problems related to water availability and protecting water uses on public lands; developing a water rights program and providing guidance regarding water usage; and advising State and local government officials, private landowners, and private industry officials on water rights issues.

We also used the grade level criteria in the GS-1300 Job Family Standard for Professional Physical Science Work as a cross reference since the appellant's position requires professional knowledge of surface and groundwater hydrology. Positions in the GS-1300 family advise on, administer, supervise, or perform professional and scientific work in science fields such as hydrology.

## **Grade determination**

### ***Evaluation using the GS-454 standard***

As previously stated, the GS-454 standard is written in the FES format. Positions graded under the FES format are compared to nine factors. Levels are assigned for each factor, and the points associated with the assigned levels are totaled and converted to a grade level based on the standard's grade conversion table. Under the FES, a factor level description in a standard describes the minimum characteristics needed to receive credit for the described 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 unless an equally important aspect that meets a higher level balances the deficiency.

The appellant disagrees with the levels his agency assigned for Factors 1 (Level 1-7), 3 (Level 3-4), and 5 (Level 5-4). We have reviewed all nine factors and disagree with the agency's evaluation of Factor 2 (Level 2-5), reflected in its evaluation statement dated November 27, 2002. We agree with the agency's evaluation of the remaining factors and will not discuss them further. Consequently, the following evaluation addresses Factors 1, 2, 3, and 5.

*Factor 1, Knowledge required by the position*

This factor measures the nature and extent of information or facts the individual must understand to do acceptable work and the nature and extent of the skills needed to apply those knowledges. To be used as a basis for selecting a level under this factor, knowledge must be required and applied.

Similar to Level 1-7, the appellant's position requires professional knowledge of a wide range of water rights management principles, concepts, and theories sufficient to perform duties concerning the development and implementation of multiple-use management plans. The appellant uses this knowledge to resolve differences among groups with opposing interests. Like positions at Level 1-7, the appellant's position requires professional knowledge and skills to modify and adapt standard processes and procedures; to assess, select, and apply appropriate precedents; and to devise strategies needed to overcome significant resource problems related to program management and evaluation and to water rights issues. At this level, skill and knowledge are sufficient to deal with special problems that require sustained efforts for solution. Consistent with Level 1-7, the appellant's position requires working knowledge of related disciplines such as hydrology, stream ecology, and engineering and their interrelationships sufficient to use such knowledge to provide guidance and training to [BLM State Office] field office personnel and BLM staff in the western states. Comparable to the illustrations at Level 1-7, the appellant serves as the technical water rights specialist in the [BLM State Office], provides training to staff to ensure they have adequate skills to do quality work, modifies and adapts standard procedures and presents alternatives, provides program status reports and briefings on program activities and issues, and interprets higher level agency policies and directives.

The appellant's position does not meet Level 1-8. Knowledge at this level is described as mastery of the rangeland management profession. This level of knowledge is used to apply new scientific findings, resolve unique problems, or take actions that have a significant impact on existing agency policies and programs. Illustrations at Level 1-8 also describe providing advice and program leadership at the regional and national levels. For example, specialists at Level 1-8 serve as program experts who advise principal program managers at the agency level (for example, the DOI level) and below by interpreting broad program management related legislative requirements and developing policy guidelines for their implementation. At Level 1-8, the specialist plays a key role in the overall planning and administration of the program by developing long-term, multiple-use plans and regional direction, making inspections of subordinate administrative units for evaluation purposes, and maintaining cooperative relationships with other agencies and interest groups. In contrast, the appellant's position is responsible for providing services primarily within BLM at the state level. Although the appellant may possess a high level of knowledge of the water rights program because of his many years of experience in the field, his position does not require the application of knowledge characteristic of Level 1-8.

Level 1-7 is assigned (1,250 points).



### *Factor 2, Supervisory controls*

This factor covers the nature and extent of direct and indirect controls exercised by the supervisor, the employee's responsibility, and the review of completed work. Controls are exercised by the supervisor in the way assignments are made, instructions are given to the employee, 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 appellant's position meets Level 2-4. At this level, the supervisor establishes overall goals and resources available. The specialist and the supervisor confer on the development of general objectives, projects, and deadlines. The specialist, having developed expertise in rangeland management operations and programs, is responsible for planning and executing assignments, selecting appropriate techniques and methodology, and determining the approach to be taken. The technical responsibility in the appellant's position is fully covered by Level 2-4. Similar to positions at Level 2-4, the appellant identifies the objectives and scope of needed work, develops schedules for completing objectives, and determines methods and procedures for carrying out the plans. As at this level, the appellant is expected to resolve most problems that arise, to coordinate the work with others (for example, [BLM State Office] field personnel, the Regional Solicitor, other agencies), and to keep the supervisor and managers informed on controversial cases. Consistent with Level 2-4, the appellant interprets BLM policy, provides input on proposed legislation, makes recommendations to managers and other appropriate officials on whether to initiate litigation or settle, and develops mutually acceptable solutions with the parties involved. The supervisor ensures that the appellant's work meets BLM's mission.

The supervisory controls for the appellant's work assignments, responsibility for carrying out the work, and review of the appellant's work do not meet the intent of independence and responsibility envisioned for positions at Level 2-5. At Level 2-5, the supervisory guidance or control is exercised through broad, general objectives that have been approved for the assigned program. The specialist operates within the context and constraints of national legislation, agency policy, and overall agency objectives as they pertain to rangeland resources. The appellant does not have the full technical authority indicative of positions at Level 2-5. Though he has wide latitude within his area of responsibility in terms of planning, designing, and implementing solutions for various water rights problems, he operates within the framework of the BLM State Director's specific program emphasis areas, priorities, policies, and objectives outlined in the annual work plan. The final decision regarding the water rights and the acquisition of water rests with the State Director. Unlike Level 2-5, the appellant's work does not regularly influence broad agency (DOI) policy objectives and program goals.

Level 2-4 is credited (450 points).

### *Factor 3, Guidelines*

This factor covers the nature of guidelines and the judgment needed to apply them.

The appellant's position meets Level 3-4. As at this level, the appellant works with Federal and State laws, regulations, policies, and practices that are generally stated and are often inadequate to deal with the more complex or unusual problems or with novel, undeveloped, or controversial aspects of water rights issues. The precedents or guides may point toward conflicting decisions; recent court decisions may appear to require a technical decision at variance with existing guides; there may be relatively few precedents or guides that are pertinent to specific problems; or proven methods are incomplete to cover the problems at hand. For example, the appellant must request a judgment from the water court or explain to the court why existing law or precedent is not applicable. He works with the Office of the Solicitor and with the Department of Justice in developing legal strategies for the technical aspects of the court case and quantification procedures to support acquisition of water for BLM purposes when past cases do not provide precedents. Consistent with Level 3-4, the appellant is required to deviate from conventional methods and practices or to develop essentially new and vastly modified techniques and methods for obtaining effective results.

The appellant's position does not meet the full intent of Level 3-5 where the employee is largely occupied with major problems that are highly unusual or of national significance. There may be little information available or the guidelines that do exist are broadly stated and nonspecific, requiring extensive interpretation (e.g., departmental directives, Federal laws, and recent scientific reports of findings). Although the appellant encounters unusual problems associated with water rights issues, they do not reach the uncommon nature or national significance envisioned for positions at Level 3-5. Unlike employees at that level, the appellant is not required to exert a high degree of judgment, originality, and creativity in such areas as interpreting and converting general legislative or agency objectives and policies into specific programs; evaluating problems in judging direction, extent, and significance of trends and developments; adjusting broad programs to the latest advances in water rights management and to changing needs; and interpreting and applying other Federal and State statutes and regulations for the purpose of satisfying cooperative efforts in the protection and management of natural resources. The employee at Level 3-5 is frequently recognized as an authority in a subject matter area with responsibility for influencing or developing policies, plans, standards, methods, procedures and instructions that guide other personnel in executing rangeland resource programs. Even though the appellant provides input on legislative proposals and other similar projects, he is not responsible for developing policies, plans, standards, and procedures for others to use in carrying out their programs. The methods, techniques, and procedures that he develops are primarily for use within the [BLM State Office] although he shares his expertise with others through the training courses and participation on nationwide teams.

Level 3-4 is credited (450 points).

#### *Factor 5, Scope and effect*

This factor covers the relationship between the nature of the work, i.e., the purpose, breadth, and depth of the assignment, and the effect of work products or services both within and outside the organization.

The appellant's position meets Level 5-4 where specialists develop essentially new or vastly improved techniques or solutions to specific problems in a resource management program or program area and coordinate results with related resource activities. Consistent with this level, the appellant develops solutions and agreements regarding water rights projects and issues that have a direct influence on BLM's resource programs within the state. For example, the appellant is working with others within BLM to develop an official DOI position on litigation regarding water rights protection in a wilderness area. The appellant's work associated with the training courses is also comparable to Level 5-4 where results of the work directly influence the effectiveness and acceptability of agency goals, programs, or activities. For example, the appellant trains other BLM personnel in the western states on how to work with State governments on instream flow protections by using a format he developed for making recommendations to a state. The appellant's work with water rights issues associated with BLM's National Landscape Conservation System units within [state name] is consistent with the scope and effect of Level 5-4. For example, he works with BLM planning staff and unit managers to address water rights issues in planning efforts, ensure that field work to support water management is accomplished, and seek budget allocations to support water rights-related work in the units.

Level 5-5 is not met. At this level, the employee resolves critical or highly unusual problems and develops new approaches or techniques for the use of other specialists, managers, or private landowners. In contrast, the appellant is not required, on a regular and recurring basis, to develop *new* theories as intended for positions at Level 5-5. The new or improved methods and techniques that the appellant develops and the extent of their use fall fully with the intent of Level 5-4. As previously indicated, the primary purpose of the appellant's work is to serve as a technical resource on water rights issues within the [BLM State Office], resolving or recommending solutions to water rights issues and problems and training field personnel in the use of methods and techniques that he has established. While the appellant's work affects the work of the State Director and others within the [BLM State Office], the results of his work do not affect the work of State and local government officials, private landowners, high-level administrators of the agency (DOI), resource program and land managers, or technical specialists as envisioned for positions at Level 5-5.

Level 5-4 is assigned (225 points).

### *Summary*

In summary, we have evaluated the appellant's position as follows.

<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	3-4	450
4. Complexity	4-5	325
5. Scope and effect	5-4	225
6. & 7. Personal contacts and Purpose of contacts	3c	180
8. Physical demands	8-2	20
9. Work environment	9-2	<u>20</u>
<i>Total</i>		2,920

A total of 2,920 points falls within the GS-12 grade level point range (2,755-3,150) on the Grade Conversion Table in the GS-454 standard.

### ***Evaluation using the GS-1300 standard***

The GS-1300 standard is written in narrative format and includes appropriate language from the law and grade level criteria, that is, the standard.

Consistent with the law, the standard, and the illustrations, the appellant's position meets the GS-12 level where employees perform their duties under general administrative direction with wide latitude of independent judgment to perform professional, scientific, or technical work of marked difficulty and responsibility requiring extended professional, scientific, or technical training and experience which has demonstrated leadership and attainment of a high order in professional, scientific, or technical work assignments. Assignments at this level typically include considerable breadth, diversity, and intensity; varied, complex features; and novel or obscure problems. The work requires considerable initiative and resourcefulness. Completed work is reviewed primarily for general acceptability and feasibility in relation to the overall program. Scientific recommendations are normally accepted as sound and are not closely reviewed, unless matters of policy or program resources are involved.

The appellant's position is comparable to the illustrations for the GS-12 grade level where the employee may serve as an advisory to other scientists or serve as a team leader. Like employees at this level, the appellant uses initiative, resourcefulness, and past personal experience to deviate from established approaches and precedents to develop new methods, techniques, and procedures to plan and carry out assignments. Consistent with this level, the appellant makes significant scientific recommendations and decisions. For example, he provides oversight and support in selecting scientific methodology for conducting instream flow surveys, coordinates computer modeling of the survey work, and writes instream flow recommendations for submission to the [state name] Water Conservation Board. His involvement in reviewing and commenting on

proposed water-related legislation and his participation with the attorneys in preparing water court cases or negotiating settlements are equivalent to the GS-12 illustrations where employees work on interagency and intra-agency committees to develop or revise Federal standards; provide staff advisory, consulting, and reviewing services; and testify in court and other formal or informal reviews concerning the technical merit of the assigned cases.

The appellant's position does not meet the GS-13 grade level where employees perform their duties under administrative direction with wide latitude for the exercise of independent judgment, and the work is of unusual difficulty and responsibility requiring extended professional, scientific, or technical training and experience which has demonstrated leadership and marked attainments in work assignments. This is a senior expert level involving work for which technical problem definitions, methods, and/or data are highly incomplete, controversial, or uncertain. Typically, scientists at this level represent an authoritative source of consultation for other scientists and program specialists and are called upon to perform a key role in resolving issues that significantly affect scientific programs. Illustrations at the GS-13 grade level are employees who plan and develop new water quality programs and projects; develop broad guidelines for applying state-of-the-science hydrologic data, analysis, and quality assurance techniques to various water-quality projects; study new or modified legislative or regulatory requirements and agency objectives to formulate policies and approaches for managing watershed areas; and serve as agency experts on interpretation of regulations and technical issues. Although the appellant's assignments may be of a particularly difficult or unusual nature, they are not characterized by the unprecedented and obscure aspects of problems intended for the GS-13 grade level. Employees at the GS-13 level exercise a more significant leadership role than that expected by the appellant's position. For example, the appellant does not work under broad administrative guidance where the work is typified by responsibility for developing nationwide policies or new and improved approaches or analytical procedures for other scientists or program specialists to use in solving a variety of critical and novel problems.

### **Decision**

The position is properly classified as GS-401-12 with the title at the agency's discretion.