

CLASSIFICATION APPEAL DECISION

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U.S. DEPARTMENT OF THE INTERIOR

Washington, D.C. 20240

APPELLANT:

[REDACTED]

POSITION:

Environmental Engineer, GS-819-13

ORGANIZATION:

Department of the Interior
Bureau of Land Management
National Applied Resource Sciences Center

[REDACTED]
[REDACTED]

DECISION:

Environmental Engineer, GS-819-13
(Appeal denied)

Carolyn Cohen

Carolyn Cohen
Director of Personnel Policy

MAR 30 1999

DATE

Copy of Decision Transmitted to:

[REDACTED]

Connie Stewart
Personnel Officer
Bureau of Land Management

Mark Whitesell
Group Administrator
Employment and Compensation Group
National Human Resources Management Center
Bureau of Land Management

INTRODUCTION

On December 22, 1998, [REDACTED] appealed the classification of his position to the Director of Personnel Policy, Department of the Interior. [REDACTED] is employed as an Environmental Engineer, GS-819-13, in the Bureau of Land Management, National Applied Resource Sciences Center, [REDACTED]. He has appealed for an upgrade of his position to the GS-14 level.

This is the final administrative decision within the Department of the Interior. The appellant may appeal the classification of his position to the Office of Personnel Management (OPM) in accordance with the procedures described in Appendix 4 of the Introduction to the Position Classification Standards. Information about submitting an appeal to OPM is included in the decision letter to the appellant.

SOURCES OF INFORMATION

In deciding this appeal, we considered information from the following sources:

1. The appellant's letter of appeal and attachments, including the evaluation prepared by the servicing personnel office, the appellant's rebuttal to the evaluation with appendices (attachments), and a revised position description, along with a statement that the revised position description is accurate signed by [REDACTED] and his supervisor. On March 9, 1999, the appellant submitted an additional rebuttal with appendices, including his performance plan and task schedule for fiscal year 1999. On March 16, 1999, the appellant forwarded additional information.
2. The material submitted by the Bureau of Land Management (BLM) on February 5, 1999, including the appellant's official position description and evaluation statement prepared by the servicing personnel office, a supplemental evaluation statement, Notification of Personnel Action (SF-50), information about the position when it was being established in 1992, functional statement and employee listing for the National Applied Resource Sciences Center, justification for promotion submitted by the supervisor, the appellant's performance plan for fiscal year 1998, and the position description for the position held by the appellant's supervisor, [REDACTED]. On March 5, 1999, the servicing personnel office submitted the position description for the position of Director, National Applied Resource Sciences Center.
3. Telephone audit of the appellant's position on March 2, 1999, with follow-up conversations on March 10 and 16, and a telephone interview with [REDACTED] on March 17, 1999.

POSITION INFORMATION

The appellant serves as a senior technical specialist for environmental engineering in the BLM. He has primary responsibility for designing, planning, and execution of the Compliance Assessment-Safety, Health, and the Environment (CASHE) Program. He also provides Bureau-

wide technical assistance in environmental engineering and represents the Bureau on inter-agency and intra-agency committees and task forces.

In addition to developing the CASHE program and the CASHE manual, the appellant acts as the team leader on all base line CASHE assessments conducted throughout the Bureau, and he provides assistance to the field during follow-up assessments. The purpose of the CASHE program is to monitor, evaluate, coordinate, and recommend solutions to safety and environmental compliance issues facing Bureau facilities in all program areas, such as recreation; fire; operations; wild horse and burro; hazardous material management; soil, water, and air.

The appellant evaluates site contamination on the public lands and makes recommendations to the field on whether remediation is necessary; and if so, prepares and/or reviews site assessments and remediation plans associated with the cleanup. He brings in other experts, e.g., toxicologist or hydrologist, as necessary to provide the field with cost effective and comprehensive remediation plans. This responsibility requires the appellant to balance comprehensive investigative techniques against prudent use of government funds. In addition, as a contracting officer's representative, he negotiates the level of effort and cost associated with the site evaluation and/or remediation. He prepares and reviews hazardous waste disposal contracts and construction plans and specifications for the remediation of sites on public land for their consistency with environmental regulations, cost effectiveness, and state-of-the-art-practices.

The appellant provides technical assistance to the field on a wide range of hazardous material and environmental issues including cost effective disposal of hazardous wastes, operation of water and wastewater treatment facilities, installation of bulk fuel storage, removal of underground storage tanks, asbestos and lead paint abatement, storage of hazardous materials, and design and construction of new facilities to correct hazardous material safety and environmental compliance deficiencies. He reviews proposed or revised hazardous material and environmental regulations for potential impact on Bureau facilities and operations, submits comments to regulatory agencies, and revises protocols as necessary to ensure they provide up-to-date information to the field.

The appellant serves as a technical environmental expert for the Department of the Interior, Office of the Solicitor, on actions that the Department must take before transferring closed Departmental facilities to state agencies for their use. He determines whether a formal site evaluation is required, in which case the Department determines the type, nature, and extent of contaminants in soil and groundwater, as well as within the facility's buildings. He determines how and where the environmental site assessments will be performed and against what criteria the assessment data will be evaluated to determine whether the site requires remediation. He coordinates all site evaluation and remediation efforts with the appropriate state and Federal regulatory agencies, and he negotiates with the regulators and the state agency receiving the facility on what actions will be taken by the Department at the closed facility and on the necessary cleanup levels.

The appellant prepares and teaches training courses on management of Bureau facilities, with emphasis on hazardous material/waste management. The course development includes

interpretation of regulations, determination of their applicability to Bureau programs, and preparation of handouts, exercises, and examinations to facilitate student comprehension of the regulations.

The appellant represents the Bureau at interagency and professional meetings involving the development of environmental guidance for use by Federal agencies.

SERIES AND TITLE DETERMINATION

The appellant's position is correctly placed in the Environmental Engineering Series, GS-819, which covers positions that involve professional engineering work to protect or improve air, land, and water resources in order to provide a clean and healthful environment. Such work requires the application of (a) professional knowledge of the principles, methods, and techniques of engineering concerned with facilities and systems for controlling pollution and protecting the quality of resources and the environment, and (b) an understanding of and the ability to utilize pertinent aspects of chemistry, biological sciences, and public health that pertain to the control or elimination of pollutants. The work performed and the knowledge required in the appellant's position are consistent with placement in this series. Environmental Engineer is the appropriate title for all nonsupervisory positions in the GS-819 series, and is therefore the correct title for the appellant's position.

GRADE DETERMINATION

The appellant's position is graded by application of the position-classification standard for the Environmental Engineering Series, GS-819. The standard is written in the Factor Evaluation System (FES) format. Under the FES, positions are placed in grades on the basis of their duties, responsibilities, and qualifications required as evaluated in terms of nine factors common to nonsupervisory General Schedule positions.

A point value is assigned to each factor based on a comparison of the position's duties with the factor-level descriptions (FLD) and/or the benchmarks (BMK). The factor point values mark the lower end of the ranges for the indicated factor levels. For a position factor to warrant a given point value, it must be fully equivalent to the overall intent of the selected factor-level description. If the position fails in any significant aspect to meet a particular factor-level description in the standard, the lower point value must be assigned.

The appellant submitted a detailed rebuttal to the evaluation statement prepared by his servicing personnel office. In the rebuttal, the appellant explains his disagreement with the levels assigned by the servicing personnel office for factors 1, 3, 5, and 7.

Factor 1, Knowledge Required by the Position

The personnel office has credited Level 1-8, but the appellant contends that his position should be

evaluated at Level 1-9.

At Level 1-8, positions require mastery of one or more specialty fields to the extent that the engineer is capable of applying new developments and experienced judgment to solve novel or obscure problems and the skill sufficient to extend and modify existing techniques, and develop new approaches for use by other engineering specialists in solving a variety of engineering problems. The appellant's position requires mastery of the advanced concepts, principles, and practices of environmental engineering to enable him to serve as a technical authority for the Bureau in the full range of environmental engineering matters, including facility management, site assessments, hazardous waste cleanup and disposal, and facility regulatory compliance. In developing and administering the CASHE program, he has extended and modified existing techniques and developed new approaches for specialists in the Bureau, including engineers and managers who oversee engineering and related functions. He is a recognized expert in the field of environmental auditing.

Reference to the illustrations at Level 1-8 confirms the evaluation of the position at this level. The first illustration describes the knowledge and skill to serve as a technical authority on all aspects of one or more specialty areas (e.g., solid waste disposal, sewage treatment, industrial waste disposal, water supply, air pollution abatement) within a major organization of an agency or department serving a multistate area with responsibility for providing expert advice on the interpretation and implementation of technical policy directives and programs as well as the review of plans and specifications for projects in the organization and the provision of consultative services concerning the full range of environmental engineering facilities or systems pertinent to the specialty areas involved. The knowledge and skills required in the appellant's position are consistent with this illustration, as he must serve as a technical authority in the specialty areas that comprise environmental audits for the Bureau and provide expert advice on the environmental engineering program. The second illustration at Level 1-8 describes a position with the knowledge and skill to develop and revise the environmental engineering standards and specifications for an agency to be used by engineering specialists nationwide. This type of knowledge is required in the appellant's position for the development of the CASHE program and to serve as the agency's technical expert on the program. In some cases, the appellant serves as expert advisor to the Department and to other agencies. This responsibility does not exceed the level of knowledge described in the FLD, but it appears to exceed the level described in the illustrations. The remaining discussion of this factor recognizes this responsibility and also gives further support for crediting the position with Level 1-8.

At Level 1-9, positions require mastery of one or more specialty fields and recognized skill in generating new hypothesis, developing new concepts, and planning and evaluating long-range programs and projects; or skill sufficient to function as a nationally recognized consultant and expert.

The appellant maintains that the knowledge requirements of his position include mastery of one or more specialty fields because of his responsibility for the CASHE program, performing

environmental site assessments and the cleanup of public lands, and other responsibilities including providing technical expertise on a wide range of hazardous material issues, advising the Solicitor's Office on the closure of DOI facilities, training Federal employees on hazardous material issues, and representing the Bureau at interagency and professional meetings. He lists 22 regulatory and specialty areas that are addressed in the CASHE Protocol Manual, which he wrote (e.g., air quality protection, hazardous material transportation, hazardous waste generation, and pollution prevention). It is certainly the case that the appellant's position requires mastery of more than one specialty field associated with environmental engineering. However, the requirement for the appellant to have mastery of one or more specialty fields is credited at Level 1-8 and, in itself, does not distinguish Level 1-8 from Level 1-9.

In terms of the Level 1-9 requirement for an incumbent to possess recognized skill in generating new hypotheses and developing new concepts, the appellant discusses his development of the CASHE program and his continued responsibility to evaluate and refine its execution. He points out that both the Bureau and the Department did not have an environmental auditing program before he developed the CASHE program, and that the program is based on a new concept to make the audit broad in scope, encompassing a wide range of specialty fields extending beyond environmental regulations. For example, while Bureau facilities are exempt from certain EPA regulations because the facilities fall below the minimum size criteria for regulatory applicability, the facilities are often subject to similar regulations of other agencies, such as the Occupational Safety and Health Administration (OSHA), Department of Transportation (DOT), and the Uniform Fire Code (UFC) of the International Fire Code Institute. He thus developed a new approach that includes safety, health, transportation, and fire prevention specialty areas, among others, in the compliance assessment program that he developed. He points out that he also developed new approaches to the cleanup of closed DOI facilities, including all closed Bureau of Mines facilities. He had to decide what cleanup actions were required at each site, and these decisions were complex because of the wide range of research programs and potential contaminants at each site, the involvement of different state regulators at the various sites, and the need to balance cleanup costs against the reduction of long-term liability each site poses to the Department. He also points out that he has implemented new approaches to the cleanup and restoration of underground storage tanks on public lands.

While the standard does not define precisely what is meant by generation of new hypotheses and development of new concepts, it is clear that this type of responsibility refers to development of the groundwork or foundation for resolving engineering problems, e.g., in designing prototype systems or determining the feasibility of new processes and systems. Reference to the illustrations at Level 1-8 (credited above) is useful in putting the appellant's responsibilities in context to determine whether they meet Level 1-9. Level 1-8 illustrations refer to knowledge and skill to serve as a technical authority **on all aspects of one or more specialty areas** within a major organization of an agency or department serving a multistate area . . . and the provision of consultative services concerning **the full range of environmental engineering facilities or systems** pertinent to the specialty areas involved; knowledge and skill to develop and revise agency environmental engineering standards and specifications . . . for guidance of agency

engineering specialists nationwide; knowledge and skill to coordinate and review broad programs of an agency headquarters and field offices which are concerned with the design, construction, modification, maintenance, and operation of varied environmental engineering facilities under diverse conditions at numerous locations. These illustrations are consistent with the requirements of the appellant's position (as credited in FLD 1-8) to solve **novel or obscure** problems and to **develop new approaches** for use by other engineering specialists.

The knowledge requirements of a position must exceed Level 1-8 and fully meet Level 1-9 in order for the higher level to be credited. The appellant's responsibility for development of the CASHE program and for development of new approaches, such as those used in closing Bureau of Mines facilities, is consistent with both the FLD and the illustrations at Level 1-8 and does not rise to the level of development of new concepts and hypotheses, as described at Level 1-9.

In further support for his contention that his position should be credited with Level 1-9, the appellant discusses the Level 1-9 criterion for planning and evaluating long-range programs and projects. Since 1993, the appellant has completed 45 CASHE base line audits at over 80 field offices, and he is responsible for every aspect of the Bureau's CASHE program, including its creation, planning, evaluation, management, and audit program. The continuation of CASHE audits in BLM facilities is mandated every year through fiscal year 2002, and follow-up audits are performed at every Bureau facility on a five-year cycle. The appellant has contributed to development of the annual and long-term goals for the BLM annual performance plan, which is submitted to Congress as required by the Government Performance and Results Act of 1993. As a result of his comments on the BLM annual performance plan, Bureau field offices will, for the first time, have to track CASHE findings and report to him on their completion. Clearly, the appellant's responsibility for the CASHE program can be characterized as responsibility for planning and evaluating a long-range program. However, meeting this aspect of the Level 1-9 definition is not sufficient to credit Level 1-9; the factor level must be fully met in order for it to be credited. In addition, the Level 1-8 illustrations depict program and project responsibilities that are of such importance that they are inherently long-term.

The appellant concludes his discussion of Level 1-9 by stating that his position requires the skill sufficient to function as a nationally recognized consultant and expert. A position that meets this criterion may be credited with Level 1-9 even if it does not meet the foregoing criteria for credit at that level. The appellant states that he has been recognized nationally for his work in environmental auditing and the creation of the CASHE program. In September 1997, he won the Department's Environmental Achievement Award for the creation and implementation of the program. In July 1998, he won the EPA Region 8 Outstanding Environmental Achievement Award for the program. He was a member of the EPA Federal Facilities Working Group, which developed the Generic Protocol for Conducting Environmental Audits of Federal Facilities. He has taught courses on environmental auditing and related subjects for EPA, the U.S. Forest Service, and BLM. He states that EPA headquarters and regional offices, private technical organizations, BLM, the Bureau of Mines, the Forest Service, and the DOI Solicitor's Office all consider him a nationally recognized consultant and expert on environmental auditing.

At Level 1-8, an employee is typically a recognized expert in a specialty field. The Level 1-9 criterion of functioning as a nationally recognized consultant and expert exceeds the expert status that is typical at Level 1-8. While the standard does not define the Level 1-9 criterion, such status may be indicated by publication of authoritative papers which have a substantial impact on the field, development of new ways of dealing with technological challenges in the field that are recognized as major advances in the state-of-the-art, or solving critical and intractable technical problems that other specialists in the field have not been able to solve. The appellant's position has not required him to function in a manner consistent with these examples or in comparable ways that would be consistent with recognition as a nationally recognized consultant and expert as contemplated at Level 1-9. Serving as an expert, consultant and trainer to the Bureau, the Department, and to engineers and other officials in other agencies is consistent with Level 1-8, and is not sufficient for crediting the position with Level 1-9. For this reason and for those stated above, the appellant's position does not meet Level 1-9.

Level 1-8

1550 points

Factor 2, Supervisory Controls

At Level 2-5, the supervisor provides administrative direction with assignments in terms of broadly defined missions or functions. The engineer at this level has responsibility for planning, designing, and carrying out programs, projects, studies, or other work independently. Results of the work are considered as technically authoritative and are normally accepted without significant change. If the work should be reviewed, the review concerns such matters as fulfillment of program objectives, effect of advice and influence on the overall program, or the contribution to the advancement of technology. Recommendations for new projects and alteration of objectives are usually evaluated for such considerations as availability of funds and other resources, broad program goals, or national priorities.

The appellant works under the administrative direction of the supervisor of the Natural Resource Sciences Group, who is a physical scientist but not an engineer. Assignments are made in terms of the broadly defined functions of the Bureau's environmental engineering program. The appellant has independent responsibility for actions and decisions within this broad area of assignment, and he is responsible for planning, designing, and carrying out his work. The results of his work are considered technically authoritative and are normally reviewed only for administrative considerations, such as the availability of funds and other resources, impact on broad program goals; adherence to the Bureau's general administrative policy, and the effect of advice and consultation as measured by customer feedback. This level of supervisory controls meets Level 2-5 in terms of how the work is assigned, the appellant's responsibility for carrying out the work, and how the work is reviewed. This is the highest level that can be credited for this factor.

Level 2-5

650 points

Factor 3, Guidelines

The personnel office has credited Level 3-4, but the appellant contends that his position should be evaluated at Level 3-5.

At Level 3-4, guidelines are often inadequate in dealing with the more complex or unusual problems. The engineer is required to use resourcefulness, initiative, and judgment based on experience to deviate from or extend traditional engineering methods and practices in developing solutions to problems where precedents are not applicable. This level may include responsibility for the development of material to supplement and explain agency headquarters guidelines.

For most of the appellant's compliance auditing work, there are few guidelines except for EPA, OSHA, DOT, UFC, and state regulations, and the CASHE Protocol Manual, which he developed. For some design assignments, e.g., for water treatment systems, the appellant also uses such guidelines as manufacturers' catalogs, and other publications and textbooks. The regulations are not specific to the situations the appellant encounters, e.g., in conducting compliance audits. In addition, in many cases certain regulations (e.g., EPA) apply to BLM facilities, whereas other comparable regulations (e.g., OSHA) do not apply. Therefore, he must deviate from traditional methods and practices in devising solutions to problems identified and ensure that BLM field offices comply with the regulations and standards that are most protective of human health and the environment and that these solutions are practical from a management standpoint. The level of judgment needed to apply the guides exceeds Level 3-4, in that the appellant has developed the Bureau CASHE Protocol Manual that he uses in conducting the program, rather than merely developing material to supplement and explain headquarters guidance, as may be the case at Level 3-4. Therefore, Level 3-4 is met and exceeded.

At Level 3-5, working chiefly under broad and general policy statements, regulations, and laws the engineer exercises considerable judgment and ingenuity in interpreting and adapting guides that exist and in developing new and improved hypotheses, approaches, or concepts not previously tested or reported in the literature of the field. Frequently, the engineer is recognized as a technical authority in the specialty area, with responsibility for the development of policies as well as nationwide standards, procedures, and instructions to guide operating personnel.

The appellant states that, prior to his development of the CASHE program, neither BLM nor the Department had any policies or guidance related to facility compliance or environmental auditing, and that the CASHE Protocol Manual has become the Bureau's guidance document for facilities' compliance and environmental auditing. In terms of the Level 3-5 criterion for the nature of the available guidelines, i.e., broad and general policy statements, regulations, and laws, the appellant points out that Departmental and Bureau policy is very limited and extremely broad, with the exception of the CASHE manual. The Departmental manual on environmental auditing was issued in September 1997, two years after the CASHE manual was issued, and the appellant states that he was a principal contributor to the preparation of the Departmental manual. The Departmental manual, which is brief and very broad, does not provide specific guidance on how

audits are performed. In addition, the EPA, OSHA, DOT, UFC, and state regulations are broad and sometimes confusing performance standards rather than specific guidelines. We agree that the appellant works chiefly under broad and general policy statements, regulations, and laws.

In terms of the judgment required to apply the guidelines, the appellant states that he receives requests daily from Bureau headquarters and field offices, the Solicitor's Office, former DOI facilities, state offices, or the Forest Service asking for his assistance in interpreting regulations. In addition, when performing CASHE audits, he must interpret unclear regulations in order to determine whether there should be findings of noncompliance and what actions should be taken by the field. One reason that such judgment determinations are difficult is that EPA, OSHA, and DOT regulations often conflict with one another. In addition, as noted, one agency's regulations may apply in certain field office operations, such as drinking water supplies or flammable or combustible liquid storage containers, whereas another agency's regulations may not apply in the same situations. The appellant also exercises a great deal of judgment in determining how to assess and characterize former DOI facilities or wastes on public lands and in determining what actions are necessary to clean up the sites using cost-effective methods. He developed a cleanup approach for Bureau of Mines facilities that would not slow the closure and transfer of their sites, that properly characterized all wastes while minimizing cost, and that resulted in obtaining regulatory approval that all required actions have been completed.

The appellant states that, during the development of the CASHE program, he recognized that the available environmental auditing guidance addressed only industrial facilities, the Department of Defense, and the Department of Energy. The CASHE manual was the first to address the unique safety, health, environmental, transportation, and fire prevention compliance issues faced by nonindustrial civilian Federal agencies. The comprehensive approach to compliance auditing that he developed addressed EPA, OSHA, DOT, and state regulations and identified how the conflicts and exemptions in those regulations, such as those cited above, impacted Bureau facilities.

It is clear from the appellant's extensive discussion of his work in the context of this factor that he has exercised and continues to exercise considerable judgment and ingenuity in interpreting general policies and regulations in developing the CASHE Protocol Manual and the CASHE program, in conducting the CASHE audits, and in advising other specialists and officials on the interpretation of regulations. However, his interpretation of conflicting and confusing regulations and development and operation of an environmental auditing program do not meet the Level 3-5 requirement of using judgment to develop new and improved hypotheses, approaches, or concepts not previously reported in the literature. His work is consistent with the Level 3-4 criterion of developing solutions to problems where precedents are not applicable, but it does not require the level of technical judgment described at Level 3-5. His work as described above does not involve the development of ways of resolving engineering problems not previously reported in the literature. And, while he is a recognized expert in environmental auditing, his position does not require him to function as a technical authority as contemplated at Level 3-5, i.e., in the context of developing nationwide standards, procedures, and instructions consistent with the responsibility of developing new hypotheses, approaches, or concepts. He is not responsible for developing new

types of engineering systems or state-of-the-art approaches to solving environmental problems.

The assignment of Level 3-4 to positions that have nationwide responsibility for development of guidelines is confirmed by reference to the benchmarks. For example, the position described in BMK #13-2 serves as a technical authority with responsibility for developing guidance for a military department. Similarly BMK #13-3 describes a position that serves as a technical authority in environmental engineering for a regulatory and enforcement agency, and BMK #13-4 describes a position that serves as a technical authority responsible for developing engineering guide specifications and criteria for military installations world-wide. All of these positions are credited with Level 3-4, thus confirming that recognition as a technical authority and development of nationwide or department-wide guidelines are not sufficient for evaluating a position at Level 3-5 in the absence of significant responsibility for developing new hypotheses and technical concepts, as discussed at Level 3-5. Therefore, the appellant's position does not meet Level 3-5 in terms of the judgment required to apply the guidelines and to develop new guidelines. Because Level 3-5 is not fully met, Level 3-4 is credited.

Level 3-4

450 points

Factor 4, Complexity

At Level 4-5, assignments are of such breadth, diversity, and intensity that they involve many, varied complex features. The work requires that engineers be especially versatile and innovative in adapting, modifying, or making compromises with standard guides and methods to originate new techniques or criteria. Individual assignments typically contain a combination of seven or more complex features which involve serious or difficult-to-resolve conflicts between engineering and management requirements.

In conducting the CASHE program, including serving as technical expert to a wide range of specialists, the appellant must evaluate technical, financial, administrative, and operational issues against field compliance with the regulations. This work requires that a wide range of Bureau programs and operations be evaluated against numerous safety and environmental regulations. When the appellant finds noncompliance, he must evaluate the advantages and disadvantages associated with potential corrective actions against the mission and the operational and budgetary requirements of the Bureau. He must consider similar types of issues in identifying problems and deciding what to do when he advises the Department on the closure of Bureau of Mines facilities.

These assignments are of substantial breadth, diversity, and intensity. They involve different types of facilities, including the Bureau's recreation, wild horse and burro, and fire facilities, as well as former Bureau of Mines facilities. These facilities must comply with Federal, state, and local safety, health, environmental, transportation, and fire prevention regulations and codes in 12 states (not including the Bureau of Mines facilities). The appellant must deal with regulations related to numerous specialty areas, e.g., air quality; hazardous waste generation, treatment, storage, disposal, and transportation; pesticide and herbicide storage and application; drinking

water treatment, sampling, and operation; oil spill prevention, control, and countermeasures; solid waste; underground storage tank removal, installation, and operation; wastewater treatment; and fire prevention codes. His work is characterized by the complex features listed in the standard. Thus the nature of the appellant's assignments, the difficulty in identifying what needs to be done, and the difficulty and ingenuity required to perform the work are consistent with Level 4-5.

At Level 4-6, assignments (a) concentrate on the limitation of proven concepts and practices of a broad and complex subject-matter field or functional area where issues and factors to be considered are largely undefined, requiring extensive probing and analysis to determine the nature and scope of the problems, and (b) are characterized by unusual demands that are frequently due to extraordinary emergency, public interest, or economic restraints which create a need for the engineer to take shortcuts or make compromises that are considered risky or extreme within the context of standard guides, precedents, methods, and techniques. Analysis, as envisioned at this level, is carried to the point where either a solution is delivered on various problems or alternative further projects (pursued concurrently or sequentially with the support of others within or outside the organization) are initiated to alter standard concepts or theories, the objectives, and/or previously formulated requirements and criteria.

The appellant's work does not involve dealing with the limits of proven concepts. The environmental engineering regulatory structure covers complex aspects of the field, but does not deal with undefined issues and factors, because the regulations are developed in terms of what is capable of being complied with in terms of currently available technology. Furthermore, even though the appellant's assignments involve the public interest and significant economic constraints, they are not characterized by unusual demands due to extraordinary emergencies or circumstances. His work does not meet the level of difficulty involved in carrying out analytical work to solve problems of this complexity or to initiate further projects to alter standard engineering concepts or theories. Therefore, Level 4-6 is not credited.

Level 4-5

325 points

Factor 5, Scope and Effect

The personnel office has credited Level 5-4, but the appellant contends that his position should be evaluated at Level 5-6.

At Level 5-4, the purpose of the work is to provide expertise as a specialist in a particular specialty field by furnishing advisory, planning or reviewing services on specific problems, projects, programs and functions. The work may include the development of criteria, procedures, or instructions for major agency activities. Work products impact a wide range of the agency's engineering program.

The main purpose of the appellant's work is to provide leadership, expert advice, and technical assistance in environmental engineering matters to Bureau personnel, aimed at compliance with

environmental laws and regulations to protect Bureau employees, the public, and the environment from harm. He serves as the Bureau's environmental engineering expert and provides advisory, planning, and reviewing services on a variety of problems, programs, and functions. He developed and conducts the CASHE program. His work products affect all aspects of the Bureau's environmental engineering program, and it affects Bureau and district/field office programs and operations, including hazardous materials, environmental quality, public safety, recreation, and fire. The work also affects the programs of other agencies, particularly through technical training and expert advice provided by the appellant. This work meets or exceeds Level 5-4.

At Level 5-5, the purpose of the work is to resolve critical problems or to develop new approaches or methods for use by other engineering specialists. Often serving as consultant or project coordinator, the engineer provides expert advice and guidance to officials, managers and other engineers within or outside the agency, covering a broad range of engineering activities. Results of the efforts affect the work of other engineering experts both within and outside the agency or the development of major aspects of agency engineering programs.

The appellant points out that one of the purposes of his work is to resolve environmental problems that affect the safety and health of employees and the public and that also can be costly to the Department in terms of fines and other forms of liability. With regard to his work with the cleanup of closed facilities, he has presented evidence that by 1997 his work had saved the Bureau several hundred thousands of dollars and had resulted in timely state approval of the Bureau's voluntary compliance plan. His CASHE findings resulted in the creation of fiscal year 1999 targeted funding of over \$3.5 million to correct problems he has identified. Issues he has addressed include: bringing BLM drinking water supplies into compliance with the Safe Drinking Water Act; proper storage of fuel and hazardous materials at BLM facilities; proper transportation of fuel; elimination of illegal discharges; and collection and treatment/disposal of runoff and manure from wild horse and burro facilities. In terms of the amount of funding involved, issues of safety and health, issues of environmental protection, and potential liability when closed facilities are transferred to universities or state governments, we conclude that the purpose of the appellant's work is to resolve critical problems, consistent with the purpose of work described at Level 5-5. In addition, in conducting the CASHE program and serving as the Bureau's expert on environmental engineering matters, he serves as a consultant and provides expert advice and guidance to BLM officials, managers, engineers and other specialists on a broad range of environmental problems and, in some cases, provides such advice to officials in the Department and other agencies. Work of this purpose is also consistent with Level 5-5.

In terms of effect, the foregoing discussion and consideration of the resources the BLM devotes to the CASHE program, in addition to its inclusion in the Bureau's annual and multi-year performance plans, cause us to conclude that the results of the appellant's work affect the development of major aspects of the Bureau's engineering program. Therefore, Level 5-5 is met.

At Level 5-6, the purpose of the work is to plan and conduct vital engineering programs for the

agency, which are often of national or international scope and impact. The engineer's recommendations and decisions on highly complex technical and policy areas frequently establish the agency's position, create agency precedents, and guide agency field installations on matters of major engineering significance. The engineer's actions affect the agency's engineering program on a long-term and continuing basis and often influence the programs of other agencies and outside organizations.

As the appellant points out, the CASHE program identifies environmental, safety, and health issues that pose threats to the health of employees and the public who use the public lands as well as threats to the environment, and he states that protection of employees, the public, and the environment is a vital part of all engineering programs. He also cites the central funding of the CASHE program by the Bureau, the amount of funding for the program, and the fact that the Bureau has avoided the large fines levied on other DOI Bureaus by the EPA for violations of environmental regulations. He states that his decisions and recommendations to senior BLM management frequently establish the agency's position and guide field installations on matters of major engineering significance, e.g., in funding the CASHE program, establishing goals for completing all base line audits by the end of fiscal year 2000, and performing CASHE follow-up, as well as the other aspects of the program mentioned above. In addition, at the completion of each CASHE visit, he provides recommendations for correcting the problems that he and his team members have identified. He also points out that the CASHE program has a long-term and continuing effect on the Bureau.

The purpose of the appellant's work does not meet Level 5-6. The reference at this level to planning and conducting "vital engineering programs for the agency" describes a purpose that exceeds the responsibility for resolving the "critical problems" credited at Level 5-5. The purpose of the appellant's work does not exceed the resolution of critical problems; he is not responsible for programs that are vital, or essential, to the mission of the agency. Similarly, the Level 5-5 description of an engineer serving as a consultant who provides expert advice and guidance to officials, managers, and engineers **within or outside the agency** on a broad range of engineering activities very closely describes the purpose of the appellant's position. The purpose at Level 5-6, which exceeds the Level 5-5 purpose, involves establishing an agency's position on its vital, or essential, programs. The appellant does not establish the BLM's position on its mission-critical programs. In terms of effect, the appellant's work does not exceed the Level 5-5 description of affecting development of major aspects of the Bureau's engineering program. At Level 5-6, the work has a long-term effect on the types of programs vital to the mission of an agency. The effect of the appellant's work does not meet Level 5-6.

Level 5-5

325 points

Factor 6, Personal Contacts

At Level 6-3, personal contacts include a variety of officials, managers, professionals or executives of other agencies and outside organizations. Typical of these contacts are

manufacturers' representatives, officials of private architecture-engineer firms, specialists at contractor plants, and engineers and architects from other Federal agencies, and state and local governments. The appellant's contacts are with individuals from all levels within the Bureau, other Federal agencies, state agencies, and other organizations. Contacts include state directors and associate directors, district managers, program managers; officials in the Solicitor's Office, and technical specialists, contractors, and regulatory personnel from other agencies, including OSHA, DOT, EPA, and state governments. These contacts, in particular those outside the Department, are consistent with Level 6-3.

At Level 6-4, contacts are with high-ranking officials from outside the agency, including key officials and top engineering and scientific personnel of other agencies, state, and local governments, private industry and public groups. The engineer may also participate, as a technical expert, in committees and seminars of national or even international importance. The appellant's contacts are not normally with high-ranking officials outside the agency. His contacts are primarily with engineers and other specialists who are responsible for regulatory and related matters, such as the EPA regional Federal facilities coordinators. He occasionally has contacts with the EPA headquarters chief of Federal facilities enforcement. With the exception of such high-level EPA officials, the individuals contacted by the appellant are not considered high-ranking and are consistent with Level 6-3. Any contacts the appellant has with high-ranking officials are infrequent and are not for the purposes credited in Factor 7 below. Therefore, Level 6-3 is credited.

Level 6-3

60 points

Factor 7, Purpose of Contacts

The personnel office has credited Level 7-3, but the appellant contends that his position should be evaluated at Level 7-4.

At Level 7-3, the purpose of contacts is to influence or persuade other engineers to adopt technical points and methods about which there are conflicts, to negotiate agreements with agencies and contractors when there are conflicting interests and opinions among organizations or among individuals who are also experts in the field, or to justify the feasibility and desirability of work proposals to top agency officials.

At Level 7-4, the purpose of contacts is to justify, defend, negotiate or settle highly significant or controversial engineering matters. Engineers at this level often represent their agencies in professional conferences or on committees to plan extensive and long-range engineering programs and to develop standards and guides for broad activities.

The appellant states that he must justify and defend recommendations that he makes during CASHE audits, and his contacts involve convincing a variety of types of officials of the importance of acting on his CASHE recommendations. For example, he has such contacts with

fire management officers, administrative officers, a wide range of field managers, recreation specialists, and district and field office managers. He believes such contacts exceed those described at Level 7-3 because they involve more than persuading other engineers.

He maintains that controversy is inherent in inspecting the work of others and evaluating their operations because, for example, people may become defensive when they are told that their facilities have environmental, safety, and health violations. He is called upon to justify regulations as well as his own findings. He also serves as an intermediary between safety and hazardous material personnel and other officials when there are disagreements between the two groups.

The appellant provides guidance to Bureau hazardous material coordinators and safety managers to obtain funding, schedule CASHE visits, and provide guidance on how to implement his recommendations. He also provides technical advice on a wide range of environmental and hazardous material safety issues to individuals from the Solicitor's Office, the Forest Service, and managers and specialists throughout the Bureau. He briefs or talks with state directors or associate state directors and makes presentations to state management teams and to the BLM Field Committee, which comprises all of the Bureau's associate state directors.

The appellant states that his site characterization and cleanup work in preparation for closing former DOI facilities requires that he justify and defend a wide range of decisions. He states that many of the decisions he makes must be justified to or negotiated with the state regulatory agency and with the university or other organizations that will be receiving the closed facility.

The appellant represents the Bureau at interagency and professional meetings that are convened for a variety of purposes, including the development of wide range of environmental guidance for use by Federal agencies. For example, he represented the Bureau on the EPA Federal Facilities Working Group, which developed the Generic Protocol for Conducting Environmental Audits of Federal Facilities. He also represents the Bureau to the Department on issues related to environmental auditing. In addition, he has spoken at EPA and DOI conferences.

Level 7-3 includes contacts which are to influence or persuade engineers, but Level 7-3 also includes negotiating agreements with agencies and contractors and justifying work proposals to top agency officials. Thus, all of the types of officials the appellant deals with are covered by Level 7-3, i.e., other engineers and officials of other agencies. Level 7-3 adequately covers the types of contacts the appellant has with these officials, including influencing and persuading them to adopt technical points and methods when there are conflicts, negotiating agreements with agencies when there are conflicting interests, and justifying work proposals, e.g., to state regulators as well as BLM officials.

In contrast, Level 7-4 involves conducting negotiations and related types of contacts regarding highly significant or controversial engineering matters. Such contacts are often made in professional conferences or on committees concerned with long-range program planning and standards development. The appellant's contacts involving negotiations and for related purposes

do not exceed the description of contacts at Level 7-3; i.e., they typically involve compliance with policies and regulations and do not involve the highly significant or controversial engineering matters characteristic of Level 7-4, e.g., in the design of new systems or the imposition of a new regulatory framework involving substantial costs. Presentations at conferences are consistent with Level 7-3. The appellant's participation at interagency meetings to develop environmental guidance for Federal agencies approaches Level 7-4, but such work constitutes a small portion of his work time. Also his participation in the EPA Federal Facilities Working Group was in 1993-1995. He spends almost all of his time on CASHE audits, working with the Department on facilities closure, and on providing expert advice and consultation to others as described above. These contacts are all consistent with Level 7-3 and do not meet Level 7-4.

Level 7-3

120 points

Factor 8, Physical Demands

At Level 8-2, the work requires regular and recurring construction or field inspections, investigations, or surveys in which there is a considerable amount of walking, stooping, bending, and climbing. The appellant's field inspections in connection with CASHE visits or visits to closed Bureau of Mines facilities involve a considerable amount of walking, stooping, bending, and other forms of physical exertion, such as moving or lifting metal drums and other moderately heavy items in warehouses and storage areas. This type of physical exertion meets Level 8-2. This is the higher of the two levels described in the standard, and the appellant's position does not exceed this level in any aspect.

Level 8-2

20 points

Factor 9, Work Environment

At Level 9-2, there is regular and recurring exposure to moderate discomforts and unpleasantness such as high noise levels, high temperatures, adverse weather conditions, irritant chemicals, or fumes. During visits to field sites, the appellant is exposed to adverse weather conditions, dust and dirt, irritant chemicals, and fumes. He wears a variety of protective clothing, including cold weather protection, safety shoes, and occasionally a disposable protective suit. This type of work environment and the protective measures required are consistent with Level 9-2.

Level 9-2

20 points

EVALUATION SUMMARY

<u>Factor</u>	<u>Level</u>	<u>Points</u>
1 Knowledge Required by the Position	1-8	1550
2 Supervisory Controls	2-5	650
3 Guidelines	3-4	450
4 Complexity	4-5	325
5 Scope and Effect	5-5	325
6 Personal Contacts	6-3	60
7 Purpose of Contacts	7-3	120
8 Physical Demands	8-2	20
9 Work Environment	9-2	<u>20</u>
		Total 3520

The total number of points credited, 3250, converts to a grade of GS-13 (3155-3600) according to the grade-conversion table in the standard.

DECISION

For the reasons given above, the authorized classification of the appealed position is Environmental Engineer, GS-819-13.