BEFORE THE PERSONNEL RESOURCES BOARD

STATE OF WASHINGTON

KELLY CRAIG, Appellant, v. DEPARTMENT OF FISH AND WILDLIFE, Respondent.	Case No. R-LO-12-002 FINDINGS OF FACT, CONCLUSIONS AND ORDER OF THE BOARD

I. INTRODUCTION

1.1 **Hearing.** This appeal came on for hearing before the Personnel Resources Board, DJ MARK, Chair; JOSEPH PINZONE, Vice Chair; and NANCY HOLLAND YOUNG, Member. The hearing was held at the office of the Personnel Resources Board in Olympia, Washington, on October 25, 2012.

1.2 **Appearances.** Appellant did not appear nor did any representative appear on her behalf. Gil Hodgson, Assistant Attorney General, represented Respondent Department of Fish and Wildlife (F&W).

1.3 **Nature of Appeal.** This is a layoff appeal in which Appellant challenges her layoff from a project position.

II. FINDINGS OF FACT

2.1 Appellant Kelly Craig and Respondent Department of Fish and Wildlife are subject to Chapters 41.06 and the rules promulgated thereunder, Titles 357 WAC.

2.2 On March 13, 2012, Appellant filed a layoff appeal. Appellant's position was within the Hydraulic Project Approval Habitat Conservation Plan Project. All positions within the project were

eliminated. Appellant alleged that because management made the decision to stop the project and return project funds to the Federal Government, the department should have considered her permanent status rather than her project position status in determining her layoff options.

2.3 On April 2, 2012, Appellant was provided a Notice of Scheduling confirming that the hearing on her appeal was scheduled for July 19, 2012.

2.4 On April 16, 2012, Appellant participated in a pre-hearing conference with Board staff and the Respondent's Assistant Attorney General. Also on April 16, 2012, Board staff issued a Statement of Results of Pre-hearing Conference which again set forth the time and date of the appeal hearing for July 19, 2012.

2.5 On June 18, 2012, Respondent requested a continuance of the July 19, 2012, hearing. In their continuance request, Respondent indicated that on June 1, 2012, the legal assistant for Respondent's Assistant Attorney General spoke with Appellant and asked if she would have an objection to the continuance. Appellant indicated that she would give an answer on June 4, 2012; however Appellant did not provide a response. On June 8, 2012, the legal assistant attempted to contact Appellant. She left a voice message on Appellant's phone but Appellant did not return her call. On June 13, 2012, the legal assistant again attempted to contact Appellant. She left another voice message on Appellant's phone but once again, Appellant did not return her call.

2.6 On July 3, 2012, the Board granted Respondent's request for continuance and rescheduled the hearing for October 25, 2012. The order of continuance also set October 17, 2012 as the date for the parties to exchange witness and exhibit lists and October 18, 2012 at 9 a.m. as the date and time for a telephonic follow up pre-hearing conference.

2.7 On October 17, 2012, Board staff called Appellant and left a voice message reminding her of the October 18, 2012 telephonic follow up prehearing conference and the October 25, 2012 hearing and asking her to confirm her phone number for conference. Appellant did not contact Board staff.

2.8 On October 18, 2012, Board staff called Appellant for the telephonic prehearing conference. Appellant did not answer the phone and staff left her a voice message reminding her of the hearing date and asking her to contact staff. Once again, Appellant did not contact Board staff.

2.9 October 25, 2012, the Board convened to hear the matter of Kelly Craig v. Department of Fish and Wildlife. Gil Hodgson, Assistant Attorney General appeared on behalf of Respondent. Appellant failed to appear.

2.10 At the outset of the hearing, Respondent moved to dismiss the appeal. Respondent acknowledged that Appellant is appearing *pro se* but in summary, argues that she not only failed to appear at pre-hearing conference, she failed to appear at the hearing and failed to respond to discovery requests. Respondent contends that it appears Appellant is not interested or willing to proceed with her appeal. Respondent asserts that the agency should not be required to present a case or to defend a case in which the appellant has expressed no interest in the outcome for a very long time. Respondent argues that failing to participate in the Board's process, failing to respond to discovery, failing to appear for hearing, and failing to even talk to the Board after repeated requests by the Board staff indicate that this case is appropriate for dismissal. Respondent moves for dismissal of the appeal with prejudice.

2.11 The Board considered Respondent's motion and orally dismissed the appeal.

2.12 WAC 357-52-095 provides:

> Failure of a party to participate in a prehearing conference may result in dismissal of the appeal, or other appropriate.

III. CONCLUSIONS

3.1 The Personnel Resources Board has jurisdiction over the parties hereto and the subject matter herein.

3.2 Appellant has an obligation to participate in all proceedings on her appeal and to appear at the hearing. Although Appellant was provided notice of the follow up prehearing conference and notice of the October 25, 2012, hearing, she failed to participate in the pre-hearing, failed to contact Board staff, and failed to appear at the hearing. Therefore, the Board oral ruling should be affirmed and the appeal should be dismissed.

IV. ORDER

NOW, THEREFORE, IT IS hereby ordered that the oral ruling of the Board is affirmed and the appeal of Kelly Craig is dismissed with prejudice.

DATED this _____ day of _____, 2012.

WASHINGTON PERSONNEL RESOURCES BOARD

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DJ MARK, Chair

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JOSEPH PINZONE, Vice Chair

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NANCY HOLLAND YOUNG, Member