



Stephen L. Johnson, Administrator  
U.S. Environmental Protection Agency  
Ariel Rios Building (1101A)  
1200 Pennsylvania Avenue, N.W.  
Washington, DC 20460

Dear Administrator Johnson:

We are writing to you regarding our experiences on the National Partnership Council. We appreciate that EPA continued to maintain the working relationship with the National Unions under the current administration, and we have tried our best to maintain a productive working relationship with the U.S. EPA. However, over the years we have become increasingly frustrated with Management's failure to engage in good faith.

We would like to draw your attention to the following:

The December 3, 1998, National Labor-Management Partnership Council Charter stated, among other things, that the "*...Partnership Council shall be an on-going organization dedicated to the accomplishment of the Agency's missions, fostering more productive and cost effective service to the Agency's customers, and improving the working conditions, career development, and morale of employees.*"

*The Partnership Council believes that by creating an atmosphere of mutual trust and respect, open sharing of information, and recognizing and utilizing individual ideas and knowledge in innovative ways, EPA's labor unions and management can enjoy mutually successful relationships.*

*The purpose of the Partnership Council and Executive Board is to promote implementation of partnership concepts throughout the Agency and to investigate, study, discuss and propose solutions to the Administrator on a wide range of issues affecting EPA employees, and to make specific decisions when delegated authority to do so by the Administrator.*

On April 14<sup>th</sup>, 2003, Administrator Christine Todd Whitman signed the "EPA Labor-Management Partnership Strategic Plan and Operational Guidance." The plan states: "*The overarching goal of the Partnership Council is to increase collaboration between EPA's labor unions and management thereby furthering the accomplishment of the Agency's mission through improving job satisfaction and working conditions for all employees and managers at all organizational levels and locations.*"

The Strategic Plan specifically identifies objectives where the Partnership Council can advance the goal of increased collaboration.

**“Objective 1:** *EPA believes that involving employees and their union representatives as full partners in identifying problems and crafting solutions better serves the Agency’s customers and mission. EPA will continue to move in this direction by encouraging Agency management to provide employees, through their elected exclusive representatives, the opportunity to shape decisions in the workplace that influence the work employees perform. This process is referred to as pre-decisional involvement (PDI). Rather than having management make decisions and then negotiate with the union, the PDI process involves the union early in the decision-making process, when issues are at the formative stage. When PDI is used, the union and management work together as a team to resolve issues to their mutual satisfaction and interest.”*

While the EPA Labor Union Coalition was willing to create an atmosphere of mutual trust and respect, under your leadership the Agency has repeatedly refused to adopt those principles. There is no way, more than eight years after the Charter was approved, that one could say that EPA's labor unions and management are enjoying a mutually successful relationship through the activities of the National Partnership Council. Among the abuses of our good nature and trust are the facts that:

- Under your Administration, EPA’s Office of Administration and Resources Management’s (OARM) Human Resources / Labor and Employee Relations Office at EPA Headquarters cannot meet its own obligations to carry out their responsibilities, due to lack of Full-Time Equivalent (FTEs), based on the frequent claims made by staff. The frequent turnover in staff is also indicative of a deeper problem within the Labor and Employee Relations office.
- Rather than use the Performance Appraisal and Recognition System (PARS) as a means to create a more productive relationship between workers and management, the Agency instead has focused on designing a system designed to document failure, while making the concept of outstanding performance an elusive concept buried in jargon and subjective measures that make it all but impossible for employees to know when they are performing at an outstanding level under PARS.

- Under your Administration, the Agency made commitments to its unions regarding audits of PARS and joint efforts to improve PARS but management has not made any serious efforts to work with its unions to create any credibility in the appraisal system or to identify and correct serious deficiencies in the PARS system. There appears to be no desire on the part of EPA management to listen to the Union's relevant observations about the problems with implementation of PARS.
- For at least six years, EPA management has repeatedly said that it wanted to engage Unions in Pre-Decisional Involvement (PDI) as part of the NPC activities. Yet as of this date, the EPA Labor Union Coalition is unaware of any PDI activities emanating from the NPC.
- Under your Administration, EPA senior management *avoids contact* with Labor Unions when contentious issues are on the table, delegating such onerous duty to subordinate staff, which typically lacks the authority to resolve the issues.
- EPA *boasts of* the Principles of Scientific Integrity before the Congress and the public as an example of EPA's dedication to using only good science in its decision making, but *refuses* to agree to an adjudication process for resolving disputes arising from alleged violations of the PSI.
- Under your Administration, EPA *ignores* the advice of its Labor Union Coalition and its own Principles of Scientific Integrity whenever political direction from other federal entities or private sector interests so direct. Examples include fluoride drinking water standards, organophosphate pesticide registration, control of mercury emissions from power plants, and requests for waivers to allow States to more stringently control greenhouse gases.
- Under a previous Administration, EPA *over-rode* recommendations from its own employees in connection with notification of risks to rescue workers and residents associated with terrorist attacks on New York in September 2001.

- Under your Administration, EPA *refused* to engage in PDI and *refused* to bargain over closures of libraries. Please note that on February 15<sup>th</sup>, 2008, an arbitrator found that the Agency did violate applicable provisions of AFGE's Master Collective Bargaining Agreement when it acted to forestall and preclude engaging AFGE in impact and implementation bargaining pertaining to issues attendant to the reorganization of EPA's Library Network.
- Under your Administration, the Agency has continued to use its in-house legal resources as a weapon against employees and Unions who seek to exercise their rights, instead of being used as a resource to ensure management conducts its activities in a lawful manner. Agency attorneys are rewarded for defending managers when they take actions against employees but rarely, if ever, rewarded for ensuring compliance with applicable labor law and bargaining agreements. How can there be an ongoing partnership between labor and management when, at the same time, management uses its considerable legal resources to undermine the potential fruits of that partnership. Partnership should mean that management does not search for legal justifications to avoid addressing issues that their Union partners feel are important to employees. Such an approach dooms partnership to failure.
- True partnership requires open and honest communication between the parties. The Unions have repeatedly observed that the agenda items management wants to address in partnership meetings are not those indicative of open communication between partners about the most important issues. Frequently, it seems management is more interested in using partnership meetings as an opportunity for management to promote solely the Administration's plans and goals. The agendas proposed by management routinely ignore or give little weight to those issues that the Union indicates are most important. Management appears to view partnership meetings merely as a stage to announce management's predetermined and fixed positions on specific issues that are part of management's agenda with no willingness to consider what is important to labor. Partnership is not achieved when meetings are devoted primarily to management expressing its final views on issues and where management is unwilling to alter, modify, or improve those views as a result of their partners' input.

Pre-Decisional Involvement (PDI) is the fundamental component of an active and relevant Labor-Management Partnership Council. EPA's refusal to engage in PDI for the last six + years undercuts the basic premise of a Labor-Management Partnership Council, and in the eyes of the Unions, calls into question the whole point of even engaging in the Partnership Council. Until we receive from you a clear commitment and specific direction for engaging in a productive partnership and viable PDI process, the undersigned unions have decided to suspend our involvement with the National Partnership Council.

We would like to work with EPA in a true partnership, and we look forward to your reply that will lead in that direction.

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