

EPA

Does it, or doesn't it?

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Is environmental activism at the Environmental Protection Agency an oxymoron? Well, you could make a pretty good argument for that proposition in some circles, but not around those who know what Local 2050 of the National Federation of Federal Employees (NFFE) has been up to since its founding at EPA in the dark days of Anne Gorsuch's reign as administrator.

When the results of the 1980 general election promised the coming of an EPA hostile to environmental action—a promise richly fulfilled in the event—many conscientious civil servants at EPA left the agency. Many who left were morally committed to the environment and ethically committed to open government. But not all with those commitments jumped ship—some chose to stay and fight. Seeing the legal advantages of organizing into a labor union rather than a professional association, a handful organized a petition drive for a representational election that was eventually conducted by the Federal Labor Relations Authority in June 1984. By a 90-percent plurality, EPA headquarters' professionals—lawyers, scientists, engineers, etc. (not the easiest kind of workers to unionize!)—chose NFFE Local 2050 as their exclusive bargaining agent.

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The union campaigned for election on the basis of ethical and professional excellence in public service—in particular in protecting the environment, consistent with the mission enunciated in the laws EPA is charged with enforcing. The union did not have to wait long after its victory for its first challenge. In February 1985, EPA announced that it was abandoning efforts to control asbestos risks under the Toxic Substances Control Act (TSCA). The branch chief responsible for putting out the proposed regulations—which were then under review by the Office of Management and Budget—stormed into the union office demanding to know what the union was going to do about "this double-cross."

Over a period of several years, EPA had reviewed the asbestos

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risks posed by certain products, and decided in consultation with the Consumer Product Safety Commission and the Occupational Safety and Health Administration—and EPA's own general counsel—that the best risk control approach was set forth in TSCA section 6. EPA developed regulations, had them cleared by all levels of the agency, and sent them to OMB for review in the summer of 1984, where they disappeared, as though into a black hole. Then, in February 1985, EPA announced that its general counsel, contrary to its previous position, had suddenly discovered that TSCA section 9 required EPA to defer its efforts in favor of OSHA and CPSC action. This "double-cross" enraged the branch chief.

The union took several actions in response. First, it contacted friends in Congress and explained what had happened, then union members wrote, circulated, published (in the press), and delivered a petition to Administrator Thomas complaining that the EPA/OMB fast shuffle and the lame explanation were an insult to the intelligence of many at EPA, and a subversion of public trust. In short order, Representative John Dingell (D-Michigan) called for an investigation and put a stop to EPA's attempt to wriggle out of its duty. The outcome—a year later—was a new, more open process for OMB's review of proposed EPA actions.

More recently, NFFE filed a petition under TSCA section 21 to require EPA to issue standards that would protect the public from risks associated with new carpeting and some adhesives. The petition was filed after EPA refused to use data collected about its own employees injured by "toxic carpet" at headquarters. According to a management official, EPA feared legal action by the injured employees. The union called this an unethical disregard for crucial data, which could be useful in protecting the public, and felt compelled to file the petition in the public interest.

In taking these actions, union members believe they are living up to the highest standards of the civil service, that is, to act expeditiously in the public interest under the law. NFFE recognizes that EPA's constitutional role is to advise the executive and legislative arms of government in matters of their expertise; but they also hold that it is their duty—and their right—to advise the public, as well. If this professional advice is ignored, then the public can take corrective action if it chooses.

It is no longer necessary to be *outside* EPA to be an environmental activist. Come in and join the action! □