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Inside The Fishbowl

Official Newsletter of NTEU 280

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UPCOMING EVENTS

May 6 - EPA's Science Forum 2003 - Chapter 280 Participates - Please Attend

At last year's Science Forum, Chapter 280 members were outside protesting management's failure to deal with a manager's statement that an employee's duty was to support him even if he said "2+2=7" in connection with program work. That problem eventually got settled.

This year, picking up on Office of Water Assistant Administrator Tracy Mehan's call for ways to use more social science in developing Agency policies, Chapter 280 decided to be inside the 2003 Science Forum. Chapter officers Jacqueline Rose, Jim Murphy and Richard Nalesnik suggested approaching the Forum organizers with a proposal along the line of social science. Bill Hirzy put together a proposal that, following some negotiating with Office of Water coordinator, Rita Schoeny, has been adopted.

A 1.5 hour session as part of the OW's section of the Forum, "Year of Water: Thirty Years of Progress Through Partnerships," will feature a discussion between Prof. Paul Connett of St. Lawrence University and a representative (it is hoped) of the Centers for Disease Control and Prevention on the merits of water fluoridation. Prof. Connett led efforts in Canton, NY to block fluoridation there, and CDC has been a promoter of fluoridation for decades.

Nationally known television newscaster, Roberta Baskin, will moderate the session. She covered the union's interest in fluoride issues some years ago when she was with Channel 7 in Washington before she went to ABC-TV in New York. She is currently with the Bill Moyers NOW program.

This is an historic event - the first time at least since the 1978 Congressional hearings on fluoridation that an arm of the Federal government has undertaken this sort of information exchange between opponents and proponents of water fluoridation. There has been a great deal of research related to fluoridation since 1978, and Tracy Mehan is to be commended for his wisdom in seeking to have the governed and the government exchange views in a public forum sponsored by EPA on why resistance to fluoridation has persisted and grown.

This union has been involved in the issue for nearly twenty years. We have contacted people we know to be interested in the subject and asked them to request their Congressional delegations to send staff to the session. We have also alerted media contacts, and have hand-delivered invitations to Senators on the Environment and Public Works Committee, to Representatives on the House Committee on Science and the House Subcommittee on Environment and Hazardous Materials.

The session is scheduled for 3:30-5:00 p.m. on May 6. Location, other than the Reagan Building, has not been set. This session will be something that EPA and Congressional staff, as well as the

media and general public, should find fascinating, especially if anyone in government (or outside it) is willing to appear in defense of this national policy.

FROM THE NTEU 280 PRESIDENT - Jim Murphy

Allegations of Agency Officials Giving False Testimony in a Civil Rights Action

A recent civil rights complaint filed with EPA's Office of Civil Rights alleges that EPA officials intentionally and willfully gave false testimony in a civil rights case and that high Agency officials directed and encouraged Agency officials to give such testimony. Am I surprised by these allegations? I wish I could say yes. But unfortunately, after dealing with Agency management for over 14 years in various NTEU 280 positions, I firmly believe, that such allegations could very well be true. And if history is any indicator, even if proven true, I predict that no disciplinary action will be taken by the Agency against such Agency management officials. Time will tell if I am correct. But in the mean time, what can NTEU 280 do about it? Plenty!

As a confirmation step, we have asked that the plaintiff in the alleged false testimony action, provide to us some examples, through trial transcripts and other documents, of testimony that is alleged to be false. Next, we intend to publish some of these examples for you to see so you can judge for yourself whether you believe Agency officials gave false testimony in Federal District Court. We have elevated this situation to NTEU National, so that we can maximize our resources in moving forward in dealing with what is really an example of a willful disregard of management integrity. Because we believe there are other examples out there, we need you to be our eyes and ears and to let us know of other instances of lapses in management integrity. Most importantly, if you are not already, be an active member of NTEU 280, for there really is strength in numbers. Finally, we will keep you posted on what we are doing to address this integrity issue.

Workplace Solutions Program: Thumbs Up or Down - You Decide

We recently got some real feedback on the Workplace Solutions Program. As you can see from the attached letter, this particular request for alternative dispute resolution (ADR) to revolve EEOC pre-complaint issues was not accepted.

Unfortunately, the letter does not provide the specific basis for such decision. Instead, it points to the general information Frameworks document. Considering that EPA, in its ordinary course of regulatory environmental actions, such as issuing permits, taking enforcement actions, response to citizen suits, etc, gives specific reasons for its official actions, why then, does the Workplace Solutions Staff not do the same? Kafka-esque and unhelpful. If the Agency is looking to instill confidence in EPA employees regarding the Workplace Solution Staff, issuing what amounts to a "form letter" sends just the opposite message. The text of the letter is as follows:

Dear [name deleted]

Thank you for considering participation in the Environmental Protection Agency's (EPA) Headquarters Workplace Solutions Program to resolve your issues regarding retaliation. The Workplace Solutions Staff received your Alternative Dispute Resolution (ADR) Election Form on February 24, 2003, and your Mediation Intake Form on March 5, 2003.

The *Framework for a Headquarters Workplace Mediation Program* case selection criteria specifies issues determined to be both within and outside the scope of the program. A copy of the *Framework* is enclosed for your information. Based upon review of the issues you raised, it has been determined that the Alternative Dispute Resolution (ADR) process is not appropriate to resolve these issues.

This letter constitutes formal notification that your request for mediation is not accepted. Your request to use ADR was returned to the Agency's Office of Civil Rights (OCR) on

March 19, 2003. You may contact Barbara Viney at 202-564-7972 for further assistance.

Sincerely,

Carolyn Davis

Director

Workplace Solutions Staff

X-BYTES

by Dwight Welch

Executive VP

Top Agency Geologist Retaliated Against As Office of Water Seeks Lowest Level

Jim Hamilton, senior Agency geologist. Great guy, long time member. Jim may soon become the latest casualty in the firing frenzy, the likes of which EPA has never seen. Again, targeted are EPA's senior and most experienced employees. This latest retaliation is in response to a reversed unsatisfactory performance review which was reversed due to the help of the Union. This reversal did not sit well with Jim's supervisor Joan Harrigan-Farrelly, Chief of the Prevention Branch of the Drinking Water Protection Division of the Office of Water. Apparently no one in Labor Relations has explained to Ms. Harrigan-Farrelly that retaliation is against the law.

In talking with his fellow geologists, I discover that their opinion is that Jim Hamilton is one of EPA's top geologists. Jim holds a B.S. and M.S. in Geology with supporting credits in the fields of Civil Engineering and Mathematics. His professional experience is over 40 years with a strong background in Geology, Geophysics, Mining Exploration, Drilling, Engineering and Construction, Oil Field Evaluation, Safety, Hydro-geology, Wellhead Protection, Groundwater, and Source Water Protection. Thirteen of Jim's 40 years of experience have been with EPA. In

addition to being a certified Professional Geologist, and former consultant, Jim is a past President and past Director of the Alaska Miners Association. He has also served as editor of their newsletter.

Jim has some problems at home. His wife is ill, incapacitated, leaving Jim to be the sole earner for the family. These personal problems had, for a time, some limited negative impact on Jim's work. But in an Agency without compassion, whenever anyone exhibits the least sign of weakness, the sharks attack.

As outlined in my last month's article, "One, Two, Three, You're Fired," Ms. Harrigan-Farrelly decided to use the "PAP, PIP, "You're Fired" method of going after the employee. Although Mr. Hamilton is a top geologist, Ms. Harrigan-Farrelly doesn't know beans about rocks, she is an attorney. Mr. Hamilton's work has been peer reviewed by another EPA geologist. Despite giving Mr. Hamilton's work a glowing review, Ms. Harrigan-Farrelly couldn't care less, her determination seems dogged to get Jim by hook or crook. The PAP-PIP process is supposed to be cooperative, with the supervisor assisting the employee to improve his or her performance. Ms. Harrigan-Farrelly has not only been spectacularly unhelpful during these stages, but appears fixated on the end result of firing and not performance improvement.

We do not know if Ms. Harrigan-Farrelly or other career managers are getting their orders from above or just assuming that this Administration wants to remove senior employees, but if an "Administration Without Compassion" is what the Administration wishes to project, this supervisor is doing a good job of promoting such an image. Again, retaliation is against the law, but no doubt Ms. Harrigan-Farrelly has received advice that there is no personal liability in losing a retaliation OSC/MSPB judgement nor in losing an EEO judgement.

Meanwhile, the geologist who gave Mr. Hamilton a glowing review is intensely fearful that he too will suffer retaliation at the hands of Ms. Harrigan-Farrelly. However, the second geologist was so overwhelmed by the unfairness and viciousness of the attack against Jim Hamilton, that he was willing to risk his own career in standing up for principle. The Union will be keeping an eagle eye on this manager, talons ready, if a retaliation against the second geologist is attempted.

NATIONAL PARTNERSHIP COUNCIL (NPC) MEETS

For the first time since September 2000, EPA's National Partnership Council met on April 15 at the J.W. Marriott Hotel. While the Council has not met face to face in nearly two years, EPA's labor union coalition has kept in close touch through weekly conference calls, sharing news, ideas and strategies for furthering the interests of EPA workers nationwide. On April 14 representatives of AFGU units from Seattle, Denver, Boston, Ann Arbor, Chicago, Research Triangle Park, New York and Washington, NAGE units from Narragansett and Las Vegas, NTEU units from Cincinnati and Washington and Engineers and Scientists of California met in our conference room to map strategy for the following day's meeting and joint actions in the future (see below).

The April 15 Council meeting brought additional union representatives from the NTEU unit in Kansas City and the AFGU National EPA Council and Philadelphia office together with

management representatives from all the locations sending union representatives. The meeting was co-chaired by Assistant Administrator Morris Winn and NAGE's Narragansett President, Leslie Mills. Bill Hirzy represented our NTEU Chapter, and our national field representative from NTEU, Sandra Humphries-Riviears, also attended as an observer.

EPA's Labor-Management Strategic Plan, signed by Administrator Whitman, was delivered to the Council. Its principal feature is the continued encouragement of collaborative efforts by EPA's management and unions to identify and solve problems of mutual interest, that improve working conditions, and that contribute to accomplishing the Agency's mission. The main tool for accomplishing this is to be pre-decisional involvement (PDI) of the unions with management when either party chooses to make proposals involving employee working conditions. About an hour was spent discussing examples of successful and un-successful PDI.

Bill Hirzy pointed out problems at Headquarters in using PDI in the awards process via Awards Boards - we noted that some Boards are working well and others are not, and asked that we consult with management in fixing those that are broken. He also noted our work with the Offices of Water and Research and Development in sponsoring a session at this years Science Forum.(See related article below.) Last year we were outside the Forum protesting a "2+2=7" comment from a manager; this year we are inside co-sponsoring a session on "Social Science of Resistance to Water Fluoridation" that contributes to EPA's mission and responds Assistant Administrator Mehan's desire to use more social science in EPA policy work.

The Council heard a report from OEI's Linda Travers on the Agency's transition from Word Perfect to Microsoft Office Suite. EPA Offices that have a lot of Department of Justice interaction will retain Word Perfect to be compatible with the legal profession's predominant preference for that system. Some Help Desks are being consolidated across the Agency in another IT centralization move.

EPA Institute's Kerry Weiss reported on the National Strategic Workforce Planning Project - which has been resuscitated (see last issue of *Inside the Fishbowl*). This project is being piloted in several Headquarters and three Regional Offices. Its aim is to provide EPA management with a usable picture of our workforce's professional skills for planning and for responding to inquiries about the workforce from Congress, the Office of Personnel Management and the Office of Management and Budget. In order for it to be most useful, all EPA employees need to respond to the survey instrument when it comes over their computers; it is, however, a voluntary survey.

(Comment: EPA should also *require* that the same information be provided by its contracted employees, in a separate data base, so that an accurate picture of how much of our work is being done by contractors, what EPA business lines they are working in, and what their skills are. See A-76 contracting out material below.)

Barbara Stearrett briefed the group on the A-76 process as it is affecting EPA. She said that, based on the 2000 FAIR Act submission by EPA to OMB, EPA has a target of 300 FTE's over the next few years to be subjected to "competitive sourcing." Unless there is some major change imposed on us, this is all that EPA is expected to "compete." Assistant Administrator Winn

responded to concerns voiced by the unions over reports of 850,000 jobs being open for contracting out over the next two years by saying that the media overstates the case. (On a related note, it was reported in a recent Strategic Workforce Planning meeting that EPA has indications from OMB that EPA's workforce is projected to stay at about 18,000 for the foreseeable future - NTEU is seeking confirmation.) Bill Hirzy asked Morris Winn if EPA had weighed in on the Truthfulness, Responsibility and Accountability (TRAC) Act which requires the Federal government to obtain information on the efficiency and current levels of contracting out. (Go to: [www.nteu280.org/current issues/federal worker protection legislation](http://www.nteu280.org/current%20issues/federal%20worker%20protection%20legislation)). Mr Winn seemed to have no knowledge of that legislation, nor did Ms. Stearrett. We have inquired at the Office of Congressional Affairs about EPA's stance on TRAC.

Morris Winn reported on the good news/bad news aspects of the 1% additional pay raise (lobbied hard by Federal unions). Agencies have to make up the money from their budgets, and at EPA this responsibility has been delegated down to the AA-ships and Regional offices. There was no information available at the meeting on what elements of the budget of each would tap to cover the raise, but awards, travel and training were mentioned as likely targets. If there is interest among the bargaining unit, we will inquire of Headquarters AA-ships how each is handling the issue.

Mike Moore, Director of Communications for ORD, and Bill Sanders Deputy Assistant Administrator of OPPTS made a presentation on how scientific integrity is handled at EPA and what other government documents speak to the issue. Mr. Moore credited NTEU Chapter 280 with fathering EPA's Principles of Scientific Integrity - the first time anyone in management has done that.

Mr. Moore cited material relating to peer review of EPA products. Bill Hirzy asked about the case of the Office of Pesticide Programs' having changed in a substantive way its cholinesterase inhibition policy after it was reviewed by the Science Advisory Panel, then failing to have the new version reviewed again. There was some concern shown by management about this. We will be following up on this expression of concern with OPPTS management.

The Council agreed to Mr. Moore's proposal on behalf of ORD to institute training in scientific integrity throughout EPA. He and Bill Hirzy will work together on putting this program together. The loop is finally beginning to close.

APRIL 14 PRE-NPC - MEETING AMONG UNION REPS by Bill Hirzy.

The unions agreed to become more activist regarding environmental matters, essentially following the example of our NTEU Chapter here at Headquarters. We agreed that EPA is unique among Federal civilian agencies in having a workforce with extraordinary commitment to mission accomplishment. Representatives from several unions cited cases of members coming to the union with concerns over the integrity of management positions on environmental matters, such as clean air, land disposal of certain wastes and testing of toxic chemicals.

I noted a Brookings Institution publication on the role of the Civil Service, and how in Britain it is well recognized that the Civil Service is not the handmaiden of a government in power, but is

the servant of all the people. In the U.S., this concept is analogous to ours in that we take an oath to "...preserve, protect and defend the Constitution of the United States against all enemies, foreign and domestic...." As the Brookings publication notes, the constitutional process in the United States involves Congress setting national policy through the passage of laws, with the President's concurrence (or not, using veto over-ride in that case). The President is then charged with faithful execution of those national policies (a.k.a., laws).

When we see a threat to constitutional process in the form of management ignoring or otherwise subverting provisions of environmental and other laws and regulatory requirements they are sworn "...to faithfully execute..." we should do what we can to document such disregard for the law and implementing regulations. Actions that can be taken include traditional whistle-blowing to a responsible senior manager, EPA's Office of Inspector General, or the Office of Special Counsel. But most importantly, you, our members, should let us know of such lapses in management integrity. By doing so, the unions, such as NTEU and AFGE, can then shine a light on such wrongful actions by reaching out to the Congress, the media and the public.

The unions will inquire in their bargaining units and among their members on issues that strike them as good candidates for union action to shine a light on such lapses in management integrity. Chapter 280 is participating in this endeavor.