



1991 MAY 23 AM 12:32

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

MAY 22 1991

OFFICE OF
ADMINISTRATION
AND RESOURCES
MANAGEMENT

Honorable Brock Adams
United States Senate
Washington, D.C. 20510

Dear Senator Adams:

Thank you for your letter dated May 2, 1991 on behalf of your constituent, Ms. Betty Fowler. Ms. Fowler wrote to us directly on April 16, 1991. I have enclosed a copy of our response.

Ms. Fowler expresses concern that the Agency is trying to discourage one of our unions, the National Federation of Federal Employees (NFFE), Local 2050, from interacting with the public.

Let me assure you that the Agency has taken no such action. The Agency and NFFE Local 2050 are currently engaged in mid-term negotiations regarding the use of "official time." There is some disagreement between the Agency and NFFE Local 2050 regarding the use of official time by union officials. The Federal Labor Relations Statute, Section 7131(d) states:

"Except as provided in the preceding subsection of this section,

- (1) any employee representing an exclusive representative, or
- (2) in connection with any other matter covered by this Chapter, any employee in an appropriate unit represented by an exclusive representative, shall be granted official time in any amount the agency and the exclusive representative involved agree to be reasonable, necessary, and in the public interest."

Public interest as used in the law relates to Section 7101 (a)(2), which provides that labor organizations and collective bargaining in the civil service are in the public interest. The union has interpreted "public interest" to mean that it can use "official time" to represent private citizens and groups such as the New York State Coalition Opposed to Fluoridation, Inc., and the National Toxic Campaign Fund. The NFFE Local 2050 was certified

by the Federal Labor Relations Authority (FLRA) as the exclusive representative of EPA professional employees and not private citizens and public interest groups. Because union officials are employees of EPA and are being paid by EPA, there is some question as to whether NFFE's involvement in such activities is in violation of the new ethics law. Therefore, these matters are also concurrently being reviewed by the Agency's Office of General Counsel.

Disagreements regarding the interpretation of the Federal Labor Relations Statute are properly referred to the FLRA. Because NFFE disagrees with our interpretation of Section 7131(d), we have respectfully requested they take this matter to the FLRA for the final decision. Until the FLRA renders a decision, the Agency's interpretation stands. Instead, NFFE Local 2050 has chosen to engage in a letter writing campaign to congressional officials, private citizens and public interest groups stating that the Agency is engaging in "union busting."

Let me once again state that the Agency is not engaged in "union busting," but is merely trying to adhere to the provisions of the Federal Labor Relations Statute. We believe in working cooperatively with our unions (we have 5 different unions and 4 other NFFE locals). They play a vital role in the efficient and effective workings of the Federal government.

Thank you for the opportunity to respond to NFFE Local 2050's letter and we will keep you apprised of the situation detailed above.

Sincerely,


Charles L. Grizzle
Assistant Administrator

Enclosure



New York State Coalition Opposed to Fluoridation, Inc

P.O. Box 263, Old Bethpage, New York 11804 -0263

(516) IV 9-3474

Paul S. Beeber, Esq. - 516-433-8882

June 27, 1991

HONORARY CO-CHAIRMEN

HON. OWEN K. JOHNSON, N.Y.S. Senator
W. Babylon, N.Y.

HON. EUGENE LEVY, N.Y.S. Assemblyman
Spring Valley, N.Y.

President & General Counsel
PAUL STEPHEN BEEBER, J.D.
Massville, N.Y.

Vice-Presidents
SEYMOUR J. FIEBACH, Corroton
Engineer, Spring Val n, N.Y.
HON. JOHN A. MURPHY, Rockland
Legislator, Pearl River, N.Y.

Secretary
MARINO BEVILACQUA
Astoria, N.Y.

Mr. Charles L. Grizzle
Assistant Administrator
U.S. Environmental Protection Agency
Office of Administration and Resources Management
Washington, D.C. 20460

Dear Mr. Grizzle:

We acknowledge with thanks your reply of May 13, 1991, in answer to our letter of April 26th to EPA Administrator William Reilly. You assured us that management believes "in working cooperatively with our Unions" and that you are only trying to resolve the question of use of "official time" regarding interaction between EPA's professional Union, National Federation of Federal Employees (NFFE), Local 2050, and the public.

On May 22, 1991 you wrote to U.S. Senator Brock Adams erroneously claiming that Local 2050 uses "official time" to represent private citizens and groups such as the New York State Coalition Opposed to Fluoridation, Inc....", thereby violating the Federal Labor Relations Authority (FLRA). I must ask how you arrived at this conclusion and, unless you can document this, I must ask that you rectify the statement. Please so notify U.S. Senator Brook Adams, anyone else to whom you wrote, EPA Administrator Reilly, and also those receiving a copy of this letter.

Be assured that for almost 18 years our organization has represented itself. No other person or entity represents us. We are an independent, incorporated, chartered organization. We work in cooperation with members, supporters, other citizen groups with a mutual interest; we are in contact with numerous government agencies, officials and legislators in the county, state, and nation. In no way does that imply that they represent us.

Similarly, we have been in communication with NFFE, Local 2050, for the past several years, since approximately 1984 or 1985, regarding the problem of EPA's consideration of, and eventual drastic increase in, the maximum contaminant level of fluoride in drinking water. NFFE, Local 2050, is a valued source of information as we explained in our letter to Mr. Reilly on April 26th. We, and other citizens and groups, have been in correspondence and/or telephone communication with other EPA officials such as Joseph Cotruvo, Margaret Stasikowski, Ken Bailey, and others. The fact that we share certain mutual concerns with NFFE, Local 2050, does not alter the

PROFESSIONAL COMMITTEE

GIRAUO CAMPBELL, D.D. *
Lynchbrook, N.Y.
GEORGE P. CONORAM, M.D.
Dea Hnd, N.Y.
MORRAN M. DENBY, D.D.S.
Glen, N.Y.
EDWARD J. DORAN, D.D.S.
Suffolk, N.Y.
CARLYON FREDERICKS, Ph.D. *
New York, N.Y.
GUSTAVE G. GORDON, M.D.
New York, N.Y.
ROBERT A. O. GREGORY, D.C.
Amherst, N.Y.
STEVEN GROSSMAN, D.D.S.
South Oseas Pors, N.Y.
STEPHEN D. ROSSMAN, D.D.S.
Pomona, N.Y.
ERNEST F. LANG, D.C.
Spring Valley, N.Y.
ALBERT W. LAMENGAYER, Ph.D. *
Professor Emeritus of Chemistry,
Cornell Univ., Ithaca, N.Y.
WALTER LEVINE, M.D.
New York, N.Y.
VINCENT E. MARONEY, M.D.
Brooklyn, N.Y.
CARL M. STEIN, D.D.S.
Newburgh, N.Y.
HENRY O'NEILL, D.D.S.
Brooklyn, N.Y.
V. I. PELLICANO, M.D.
Ingersoll Park, N.Y.
GLORIA FLORE, R.N.
Forest Hills, N.Y.
MARL ROBINSON, M.D.
Brook, N.Y.
HAROLD ROSENBERG, D.C.
New York, N.Y.
HARRY SACHSEN, M.D.
Great Neck, N.Y.
MICHAEL B. SCHACHTER, M.D.
Brook, N.Y.
CLARE SCHAPIR, R.N.
Yonkers Court, N.Y.
DAVID SHEINER, M.D. *
Brook, N.Y.
BRUCE M. SHERMAN, D.D.S.
N.Y.U. School of Dentistry
New York, N.Y.
EMANUEL VISCUCCI, M.D.
Ozark, N.Y.
JIM WILSON, M.D.
Lewiston, N.Y.
BARNET WINTER, D.D.S.
Babco, N.Y.

SPECIAL ADVISORS

ELANE ARNHEIM
Suffolk, N.Y.
MARION CAVALI
Hempstead, N.Y.
REV. LEON DICKINSON
Glenmont, N.Y.
MIRIE P. DICKINSON, Co-ordinator
Citizens Committee for Protection
of Environment, Ossining, N.Y.
HEN THEODORE R. GUBANEKHO
Rockland County Legislator
New City, N.Y.
MARVIN GORODE, Attorney
Water Section, N.Y.
HON. PHILIP S. HEALEY
N.Y.S. Assemblyman,
Massena, N.Y.
ELIOT JERARD, Ph.D.
Chairman, Citizens Rights
Committee, New York, N.Y.
HON. JOHN J. MOORE *
N.Y.S. Senator
Aurora, N.Y.
EARL B. NISSEN, Esq.
Pearl River, N.Y.
ALFRED J. BRIDGEMORE, Amv.
Lewiston, N.Y.
JOHN TRASK, Superintendent
Pawnee Water District
Pawnee, N.Y.
HON. CALVIN TRUNZO
N.Y.S. Senator
Brookville, N.Y.
HON. LEWIS J. YEVOLI
N.Y.S. Assemblyman
Old Bethpage, N.Y.

Mr. Charles L. Grizzle
Assistant Administrator, EPA

June 27, 1991
Page Two

independence of each entity from the other. It is only logical that we would seek out NFFE, Local 2050, for information, since they have manifested an interest and knowledge in the fluoride level issue and they have been involved in it for the last number of years, as well as with other important matters affecting the health and environment.

A reading of your letter to Senator Adams raises many questions, including professional and ethical ones, not the least of which is how science is arrived at at the EPA. You refer to Section 7101 (a) (2) and say, on the one hand, that it "provides labor organizations and collective bargaining in the civil service are in the public interest." Yet, on the other hand, your letter is further indication that you are trying to curb, if not strangle, the EPA's professional Union, and to set up barriers between them and the public. You also state that "union officials are employees of EPA and are being paid by EPA" - inferring they are to be ruled by the EPA. We might more accurately point out that the salaries of all government employees are paid for with taxpayer dollars. As such, we would expect that EPA conducts its affairs in the interest of the public that provides those funds.

You are critical of the NFFE, Local 2050, for having informed interested members of the public and public interest groups about the present problem created by EPA's management in trying to stifle and suppress the Union activities. You claim that "the Agency's interpretation stands" until FLRA or your Agency's Office of General Counsel (to whom you have taken this matter) resolves this. The First Amendment that guarantees free speech basically applies to every citizen in the USA. The EPA Union and its members are no exception. It does not bode well for this country when the very officials responsible for protecting our environment and its inhabitants, place unfair restrictions on government workers and officials, including EPA Union officials, who are trying to do their job.

It is my candid opinion that your actions may be motivated by the fact that the EPA professional Union does not happen to agree with some of your Agency's actions and decisions, and that is why you are trying to pressure and penalize them. The EPA should not fear honest conclusions and criticisms either from the public or from their EPA Union officials.

Mr. Grizzle, you can encourage a climate of ill will, fault finding, and suspicion, or you can encourage a climate of good will and confidence. We would like you to take up our letter and this important matter with EPA Administrator Reilly, and to end these misunderstandings and go on to new avenues of mutual cooperation.

Finally, you can only exacerbate the loss of confidence by the public in the EPA by your handling of and procrastination of EPA's reevaluation of fluoride levels in drinking water, as announced in the Federal Register of 1/3/90. EPA's official, Margaret Stasikowski, in a recent letter to members of the public, dated May 23, 1991, agreed that the "review of fluoride in drinking water should be an unbiased independent reevaluation of the subject. Every effort will be made to ensure that this goal is met." It is our view and that of many others, that your EPA fluoride workgroup would not be

(continued)

complete and at least partially balanced without the participation of an official of EPA's professional Union. In so doing, the EPA would put to rest the growing criticism that the methods and results of its ongoing fluoride reevaluation may be scientifically questionable and biased.

We are not the first to suggest the participation of an EPA Union official, namely Dr. Robert Carton. EPA's Acting Deputy Assistant Administrator for Water, William A. Whittington, in a letter to EPA's Union officer, Dr. Robert Carton, dated October 6, 1989 (see marked paragraph on page 2 enclosed), specifically proposed that Dr. Carton "participate in the internal EPA workgroup which will be established to guide the fluoride review." He made it clear that the Office of Water supports Dr. Carton's appointment to the workgroup. Time and again, since that time, we have registered our support for Mr. Whittington's proposal but have never received a direct answer. At this stage, it is time for the EPA to address the issue and appoint Dr. Carton to the fluoride workgroup. Mr. Whittington addressed this issue back in October of 1989, and, by his own letter, he recognized that the EPA Union, Local 2050, is involved and interested in this issue, and recognized that Dr. Carton should be appointed to the EPA fluoride workgroup panel. Not appointing an EPA Union official counter to the recommendation of Mr. Whittington, would raise serious questions of EPA's objectives and objectivity.

In summation:

- (1) Please retract the unsubstantiated, erroneous statement made in your letter to U.S. Senator Adams (5/22/91) that NFFE, Local 2050, represents our organization. Please notify appropriate parties.
- (2) The doors of communication and interaction during "official time" between the EPA professional Union, Local 2050, and the public, should be kept open, and the EPA should cease their efforts to discourage this.
- (3) The EPA Union, Local 2050, should have a participant, namely Dr. Robert Carton, appointed to the EPA fluoride reevaluation workgroup, as proposed by William Whittington, then Acting Deputy Assistant Administrator for Water of the EPA.

We look forward to your reply.

Sincerely,



PAUL STEPHEN BEEBER, J.D.

Encl. (Letter to Sen. Adams, 5/22/91)

(Letter from Charles L. Grizzle, 5/13/91)

(Letter from Mr. Whittington, EPA, 10/6/89.)

President and General Counsel

cc: EPA Administrator William K. Reilly
Wendy Cleland-Hamnett, Special Assistant, EPA
Margaret J. Stasikowski, Office of Water, EPA
U.S. Representative Norman Lent
U.S. Senator Daniel P. Moynihan
U.S. Alfonse D'Amato
U.S. Senator Brock Adams
- NFFE Local 2050