

## CHAPTER 280

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August 16, 2001

### **Post Hearing Brief Re: Principles of Scientific Integrity Grievance**

The union is submitting this brief following the hearing held on August 14, 2001 among Dr. Brian Dementi, his union representatives William Hirzy and Rosezella Canty-Letsome, and management officials Henry Longest, Mike Shapiro, David O'Connor (Deciding Panelists), Linda Wallace and Michael Moore.

One purpose of this brief is to help focus the attention of all the above named parties on the significance of this grievance and the process by which it is resolved. Another purpose is to address the concern expressed by the Panel Members regarding negative impacts on Dr. Dementi that have flowed from his insistence that proper scientific methodology be used in EPA's handling of malathion.

**Significance of This Grievance** Much has always been made - by EPA officials, the Congress, this union, and others outside the Agency - of the need for EPA's work to be based on sound science. Given that truism, the union, EPA officials and others nevertheless recognize that science is not the only imperative that can drive some of the decisions which must be made by EPA management. Economics, feasibility, political considerations are among the other drivers of certain EPA decisions, along with science. The union understands that it is perfectly reasonable and proper that these other considerations can come into play in certain cases. Indeed, the various statutes under which we conduct our work make it plain that certain decisions can be based on other than scientific criteria. But what should also be obvious and beyond contention is that the science component of EPA decision-making must be of a quality that is above reproach. This means that, while *regulatory decisions* can be properly affected by economics, etc., *scientific work must never be affected by such factors.*

In spite of the long and widely recognized truism that EPA's decision-making should use the best available scientific input, it took more than twenty seven years for the Agency to adopt a formal policy mandating ethical scientific work. The union notes that without its vigorous and unstinting struggle against management inertia (to put the kindest face on it), the Principles of Scientific Integrity finally adopted as Agency policy last year never would have come into existence.

It goes without saying that the case before us - malathion - is not the first time that

unethical scientific manipulation has come to the union's attention and prompted it to take action. The union has engaged the Agency on other matters involving scientific and professional integrity, dating from its first year as the exclusive representative of headquarters professionals.

The union views its efforts to secure a working environment for headquarters professionals that mandates the highest professional ethical standards as being consistent with the Federal Labor-Management Relations Statute and with the Civil Service Oath of Office. That is, when the employees we represent produce only the highest quality professional work, efficient and effective government is promoted. Further, those who would - through unethical practices - subvert the laws passed by Congress are domestic enemies, and we are sworn to oppose them and their actions.

The Resolution Panel for this grievance is charged with a momentous task - adjudicating the first dispute arising from the Principles of Scientific Integrity. As our Chief Steward, Rosezella Canty-Letsome noted at the hearing, the union earnestly hopes that the panelists understand the unique nature of this grievance and its significance far beyond the usual grievance resolution operation, and we hope that these factors will lead the panelists to consider non-traditional means of resolving this matter.

As we made plain at the hearing, this dispute is predominantly about science and how it has been used or abused in complex ways over a period of years on the malathion issue. Because of the complex scientific issues which lie at the heart of this dispute, we urge management to consider convening a science court - with the union's input - to hear the case. The material forwarded to the union by the Agency's Alternative Dispute Resolution manager and given to the panelists at the hearing, may offer a way to convene such a court, and we wish to explore that possibility with you.

The eyes of many outside and inside the Agency will be focused on your deliberations and on how you and we together approach this situation unique in the history of EPA.

**Negative Impacts on Dr. Dementi's Career** In the submissions we have made on this grievance, we have pointed out instances in which slights to Dr. Dementi and his professional status have occurred. The Inspector General's audit dealt (inadequately) with some of these. In the following material, we will cite further examples.

First, even though Dr. Dementi is recognized as EPA's premier expert on malathion toxicology by authorities around the country - as exemplified especially by his being summoned by California legislators to testify regarding mass spraying of malathion there - EPA management refused to promote him to the GS-14 level. Dr. Dementi, at his own initiative, requested a desk audit to compel management to recognize his national expert status and therefore to promote him. He has been ostracized from serving on the Hazard Identification Assessment and Review Committee and the Cancer Assessment Review Committee in spite of his national expert rank; we believe because of his insistence on keeping science pure, free of contamination by economic influence.

When his Branch established the position of Senior Scientist, which position is tasked with reviewing the scientific work of others in the Branch, Dr. Dementi (GS-14) was passed over for the assignment, which was given to a person of GS-13 rank. Thus Dr. Dementi's work was theoretically to be reviewed by someone of lower scientific rank in the Civil Service. Furthermore, the position of Branch Senior Scientist has never been rotated, denying Dr. Dementi the opportunity to serve in it, even though when the position was created, management stated that the position *would* be rotated.

Dr. Dementi has been denied the opportunity to attend Society of Toxicology meetings for a number of years.

One of the exhibits ( Number 6) we submitted in connection with our critique of the Inspector General's audit includes the derogatory comment to the effect that Dr. Dementi's Branch Chief always attends malathion briefings "to give a *realistic* " view on toxicology of malathion.

Finally, we note the demeaning aspect of management's purely cosmetic display of "tolerance of alternative points of view" in connection with the Science Advisory Panel proceedings of August 17-18, 2000, *et seq.* Management makes much of having given Dr. Dementi the opportunity to present written questions to this SAP and make an oral presentation before it, but it was all for show. Management made no effort at obtaining answers to Dr. Dementi's questions - both oral and written - though it could easily have done so by directing the SAP to address them. As a result, what could have been a step in elucidating the science issues raised by Dr. Dementi insofar as that SAP was concerned (cancer issues), was studiously avoided by OPP/OPPTS management. This was a slap at Dr. Dementi's professional reputation, and one more in a long series of slights that make for a hostile work environment for Dr. Dementi based on his status as a whistleblower.

**In Conclusion** We have been more than patient in trying to resolve these complex issues with OPP management "within the family." In other instances in which the union has challenged the ethically bankrupt practices of EPA regarding asbestos, carpet emissions, fluoride toxicity, etc., we went public with our complaints against the Agency in a big way and did so in a much shorter time than we have spent on this case. We stand prepared either to work collaboratively with management to achieve resolution and protect public health in this matter or to engage our allies among the general public, the Congress and the media. Take your choice.

J. William Hirzy, Ph.D.  
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