

NTEU CHAPTER 280 - U.S. ENVIRONMENTAL PROTECTION AGENCY, NATIONAL
HEADQUARTERS
BEN FRANKLIN STATION, BOX 7672, WASHINGTON D.C. 20044 - PHONE 202-566-2789
INTERNET <http://www.nteu280.org> E MAIL Al-Mudallal.Amer@epa.gov

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Inside The Fishbowl

Official Newsletter of NTEU 280

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PRESIDENT Dwight Welch 566-2787

EXECUTIVE VICE PRESIDENT Dr. James J. Murphy 566-2786

SENIOR VICE PRESIDENT Seth Thomas Low 566-2789

CHIEF STEWARD Rosezella Canty-Letsome 566-2784

VICE PRESIDENTS Linda Barr (703) 605-0768

Dr. Arthur Chiu, M.D. 564-3296

Al Galli 343-9771

Dr. Bill Hirzy 566-2788

Dr. Freshteh Toghrol (410) 305-2755

SECRETARY Jacqueline Rose 566-1232

TREASURER Dr. Bernard Schneider (703) 305-5555

EDITOR Seth Thomas Low 566-2789

MAIN UNION NUMBER (202) 566-2785

UNION FAX NUMBER (202) 566-1460

NTEU Chapter 280 Website: www.nteu280.org

NTEU National Website: www.nteu.org

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Scientific Integrity Called Into Question Regarding Agency Risk Assessment of Malathion

Dr. Brian A. Dementi, EPA Senior Toxicologist, on November 19, 2004, wrote to Administrator Leavitt and Deputy Administrator Stephen Johnson, of his concern that the Agency's risk assessment for the important insecticide, malathion, will be fatally flawed unless that chemical's cancer potential is more accurately portrayed.

Specifically, he states that the results of a Pathology Working Group, whose members were in the employ of the registrant, caused the Agency to change its previously agreed upon classification of the carcinogenic potential of malathion from "Likely to be Carcinogenic to Humans", to "Suggestive Evidence of Carcinogenicity." He alleges that the effect of this change is that a quantitative assessment of risk will not be conducted, and gives other technical reasons why he believes the analysis and results of the PWG are flawed. He urges that the Administrator and Deputy Administrator direct that the PWG's work be re-done by pathologists not in the employ of the registrant, and that a quantitative assessment be conducted.

NTEU Chapter 280 supports Dr. Dementi's request and sent a letter to both Administrator Leavitt and Deputy Administrator Stephen Johnson. The text of that letter is as follows:

November 22, 2004

Hon. Michael Leavitt, Administrator

and

Hon. Stephen L. Johnson, Deputy Administrator

U.S. Environmental Protection Agency

Washington, D.C. 20460

Dear Messrs. Leavitt and Johnson:

We are writing to endorse the accompanying letter to you from Dr. Brian Dementi, Senior Toxicologist in the Office of Pesticide Programs.

We agree with and share Dr. Dementi's concern over the public health implications of the Agency accepting the findings of the Pathology Working Group (PWG) referenced in Dr. Dementi's letter. We are also concerned over the damage to EPA's reputation for scientific integrity that flows from this acceptance.

We refrain from reiterating Dr. Dementi's detailed critique of the PWG, but are constrained to point out, as he did not, that at least one scientist held in high esteem by his colleagues, Dr. Herbert Needleman, has characterized the PWG as "not science, not even science fiction," in his

dissent from the Science Advisory Panel's report on the carcinogenicity of malathion. The California Environmental Protection Agency and the Natural Resources Defense Council have similarly found fault with the result of the Agency's acceptance of that PWG, namely the classification of malathion's carcinogenicity as "Suggestive Evidence of Carcinogenicity." The impact that flows from this lower classification, namely that no quantitative assessment of cancer risk will be done, with the concomitant implications for higher cancer risks to the public being allowed by EPA, should be of concern to you.

We do not dispute, within the confines of controlling laws, regulations, and guidance, management's right to make the ultimate calls in terms of how much risk the Agency will allow the public to endure. But we do dispute management's acceptance of the scientifically flawed and ethically questionable PWG conclusions on which management's standard setting is to be based.

We, along with Dr. Dementi, appreciate the openness with which management has facilitated Dr. Dementi's several dissents concerning malathion to be documented and made available to the public on Agency websites.

But as a matter of scientific integrity, we believe that Dr. Dementi's recommendations for a re-read of the disputed histopathology slides by a panel of pathologists not in the employ of the registrant, perhaps to include Dr. Robert Maronpot of the National Toxicology Program, is warranted. It would be a simple matter to arrange this, and would ensure that the best, supportable science will form the basis for management's final actions on this important pesticide.

Respectfully,

/s/

Dwight Welch, President

(B.S. Entomology)

/s/

Dr. Arthur Chiu, Vice-President

(M.D., Ph.D., Pathology)

/s/

Dr. William Hirzy, Vice-President

(Ph.D. Chemistry)

Agency Requirements For Details within EPA - Possible Conflicting Office Policies and Practices - Up Date

The Agency-wide requirements for details is governed by HR Policy Bulletin 300-14 and can be found on EPA's intranet site at <http://intranet.epa.gov/policy/staffing/M300-14.htm> In addition to that HR detail policy, Article 13 of NTEU's Collective Bargaining Agreement (CBA) also addresses details.

As we mentioned in the September 2004 edition of *Inside the Fishbowl*, it has come to our attention that at least one AAship claims to have its own detail policy or practice which places additional requirements on details not found in either HR Policy Bulletin 300-14 or Article 13. In that AAship, extensions to existing details allegedly must be advertized. In other words, if the end date of an existing detail is to be extended by a week, or two weeks, or some other time frame, that extension must be advertized. What such extension advertizement would actual say we are not sure as that AAship has not provided to NTEU any copies of their past detail extension advertisements. So we do not know if the advertizement just notifies staff of the intended extension, or notifies and asks for their comments, or notifies that staff can apply and be selected to serve for the extension period.

Because NTEU Chapter 280 is concerned that other EPA offices may have their own detail policies or practices which violate HR Policy Bulletin 300-14 - Details Within EPA - and/or Article 13 of NTEU's CBA, we requested your help to ferret out these other detail practices and policies, and asked you to report such office detail practices to us. Based on the results of our September 2004 request, it appears that there is only one AAship that claims to have its own detail policy. We will be conducting further inquiry with that AAship regarding this detail policy issue. Stay tuned.

Invited Testimony on Fluoridation in New Jersey and Utah

by Bill Hirzy

This summer, the New Jersey Dental Association filed a petition with the State Board of Health to have mandatory fluoridation in all New Jersey communities. In taking the petition under consideration, the Board of Health had to conduct a hearing on its merits, and invited representatives of opposing sides in the issue to appear before it. On October 18, the Center for Disease Control and Prevention (CDC) and the American Dental Association (ADA), for the first time in at least twenty years, were obliged to present their arguments for fluoridation in the same forum as opponents, and answer questions about it. Professor Paul Connett of St. Lawrence University and I spoke against the petition; Dr. William Maas of CDC and Howard Pollick from ADA spoke for it.

You may recall that in May 2003, EPA tried unsuccessfully to get representatives of these two organizations (or anyone, for that matter) to defend fluoridation at the EPA Science Forum 2003 session on water issues. At that time, Professor Paul Connett gave the reasons why fluoridation was bad public policy. Ed Ohanian of the Office of Water, standing in for the proponents, presented EPA's point of view in setting drinking water regulations for fluoride, but tellingly

made no argument on behalf of fluoridation. CDC and ADA had also dodged open discussions of the issue at an American College of Toxicology national meeting in 2001 and at a similar meeting of the Association for Science in the Public Interest in 2002.

Each speaker had but ten minutes for direct testimony, then questions were posed by the Board members. I made two major points: one on efficacy and one on cancer risk from the arsenic-contaminated fluoridating agent.

The very best study on efficacy of fluoridation was published in 1990 by the Epidemiology Branch, National Institute for Dental Research, of the National Institutes of Health. It looked at 39,000 children aged 5-17 years who had lived all their lives in fluoridated or non-fluoridated communities. The authors (Brunelle and Carlos) reported the average difference in caries was 2.79 decayed surfaces in children who lived in fluoridated communities versus 3.39 surfaces in children living in non-fluoridated communities. That's a difference of just 0.6 tooth surfaces out of 128 total tooth surfaces in the mouth. They did not show the difference to be statistically significant. Similar minuscule differences have been reported in peer-reviewed published studies in New Zealand, Australia and Canada, where the authors stated that the small differences in caries were not of clinical significance as well as being statistically insignificant.

The average level of arsenic in the commercial grade of hydrofluosilicic acid, which is used in over 90 percent of fluoridation systems in the U.S., is 30 ppm. When the approximately 24 percent assay acid is diluted so as to add 0.6 mg/L fluoride to water, the resulting arsenic concentration is approximately 100 parts per trillion. Based on the risk assessment used by EPA in setting the new arsenic Maximum Contaminant Level, this much arsenic gives rise to an added lung and bladder cancer risk of about 20-25 cases per million population. For New Jersey's 8.6 million population, this means almost 200 additional cancer cases, for the "benefit" of a clinically insignificant effect on dental health.

For comparison, New Jersey has an under-funded program that does have a clinically significant benefit on dental health without also increasing cancer risk. In it, school children are taught proper dental hygiene and diet and are given access to fluoridated mouth-wash.

The Board of Health indicated that the short presentations, while stimulating thought on their part, were insufficient to get at the science issues in the necessary depth. One of the Board members suggested a day long symposium type of meeting some time in the future to do the job right. Professor Connett and I agreed to participate, but CDC and ADA were non-committal.

In Utah, in the region surrounding Salt Lake City (Davis County), fluoridation proponents won a narrow referendum victory two years ago, promising voters that the capital costs of fluoridating would be about \$300,000. Now, after investing \$5,000,000 in equipment to inject hydrofluosilicic acid at the many well-head sites where water is obtained in the area, and after a bruising legal fight to get the issue back on the ballot, citizens are voting whether to continue the practice.

On October 21 and 22, local citizens opposing fluoridation brought several experts to town for a couple of public meetings, among them Joe Walls, a biologist and water plant operator in

Arkansas. Joe Walls' presentation at a symposium on the afternoon of the 22nd for water plant operators and health professionals was especially well received. Joe was injured seven years ago when hydrofluosilicic acid splashed on his arms and face. He has since experienced a host of terrible systemic toxic reactions including cardiac, neurological and gastro-intestinal impairments.

The other speakers at these meetings were: Professor Roger Masters of Dartmouth College; Professor Hardy Limeback, head of Preventive Dentistry, University of Toronto; Dr. Phyllis Mullenix, former Director of Toxicology, the Forsyth Dental Research Institute, Harvard; Jeff Green, Executive Director of Citizens for Safe Drinking Water and myself. All the former speakers were on local radio broadcasts and held a news conference, while the whole group then attended the afternoon symposium for water plant operators and health professionals. In the evening of the 22nd, we met with a packed house of over 200 citizens at a University of Utah meeting center. It was the largest, most vocal group of people I have ever addressed on this subject, making the points I made before the New Jersey Board of Health, and touching on the other adverse effects of fluoride at current exposure levels.

Dr. James Mason, a former high official of CDC, had promised earlier to defend fluoridation in a debate before this audience, but - as usual - this proponent too backed out, buying a newspaper ad that said, in essence, because President Bush trusted him enough to appoint him to the CDC, the community could trust him when he tells them that fluoridation is safe and effective. Too bad he apparently did not trust the community enough to come to the open meeting and defend the practice in public, with the press in attendance. An up to date bibliography on fluoride is at <http://www.SLweb.org>.

FROM THE PRESIDENT

Dwight Welch

Latest Word from the National Partnership Council: Buy-Outs, Outsourcing, Ditching Pass/Fail

Buy Outs

The Unions will be going out with a survey the after Thanksgiving, to assess the feasibility of a buy-out for those under GS-14. You are strongly urged to participate, even, indeed, especially if you are not planning a buy-out.

Outsourcing/Centers of Excellence

I get continually corrected for using the term "outsourcing" instead of the newspeak phrase "competitive sourcing." But then I get in trouble for referring to "Human Capital" as "human bondage," and referring to the "Dirty Skies Initiative" and the "Clear Cut Forest Initiative" for what they really are also.

Outsourcing may be worse than we think. One of the new ideas, and I think it's a good one, is to develop "Centers of Excellence." For instance is one Agency better than others in doing payroll,

yet another in handling government grants, still another in doing personnel work. By consolidating functions to those agencies which can do them best, the government can conserve resources and save the taxpayers money. So far, so good. But then I asked the logical question, will creating Centers of Excellence count against our outsourcing....er....competitive sourcing goals. I could almost hear the ghost of Marley rattling his chains, and screeching at Ebenezer Scrooge, "NO."

Pass Fail to Yield to Tiered Performance Reviews, Can Pay Banding Be Far Behind?

At the HQ Partnership Council Executive Board Meeting, management informed the Unions of White House intentions to go from Pass/Fail to a tiered performance review system. While pay-banding was not mentioned, *Inside EPA* called me up to ask me about EPA's transition to pay-banding. "Do you know something, I don't?" was my response. While management didn't mention pay-banding, they indicated the Administration's directive to switch to tiered performance evaluations. It should be noted that performance evaluations are written into the collective bargaining agreements of the Unions, and many Union Presidents are determined not to yield without a fight.

At the meeting, I indicated that whether performance was a matter of two tiers or seven tiers, any revised method should place emphasis on a dialogue between supervisor and employee for the purpose of increasing excellence and efficiency and not be concentrated on what numerical score is achieved. While I don't have as much heartburn with a return to numerical scores as some of my colleagues, the real hot-button issue to me is pay-banding. While the use of awards is often a method of rewarding favorites, pay-banding is a method by which management can reward their favorites which takes it way out of the league of the doling out of awards to the favored sons and daughters. Those who quietly work hard in the vain expectation that their efforts will be rewarded are deprived to give more money to those whose career is advancing their career. There is a distinct danger, I believe, that those who validate the predisposition of whichever administration is in office will financially benefit, while those bearers of what may be unpopular truth will come out the poorer. A more subtle persuader than trying to illegally fire someone.

HQ Partnership Council to Revise Generic Move Agreement

The Headquarters Partnership Council is busy working to revise the Generic Move Agreement to include a policy for backfilling offices vacated within an organization since the last major organization move. A work-group has developed a number of suggestions which will be acted on by the full council on December 2, 2004 if all goes well. A major dispute in the current interpretation is as follows. Some management feel that if only one or two people are involved in a move, nothing needs to be done, since such moves are not covered by the Generic Move Agreement (GMA). NTEU 280's interpretation is that, if a move is not covered by the GMA then it is subject to convention impact and implementation bargaining. I will report how this turns out in the next issue, but it would seem that rather than to exempt management from the duty to bargain, not falling under the GMA actually creates more work for management. There is no bargaining around the law.

Crystal City Consolidation

Rich Lemley and David Lloyd met with Seth Low and I to discuss the Union's bargaining position on the Crystal City Consolidation. Promised was a food court of cafeteria. Three and four member car pools will have access to approximately 600 to 700 spaces. Lactation rooms will be available. Security arrangements for bicyclists and fitness center users would be looked into. We complained about the lack of a daycare facility. As a result, another daycare survey has gone out. If there is not enough interest/participation in an EPA daycare center, Facilities Management is looking into commercial daycare located in the area.

The managers could not guarantee those in offices now would be in offices in the new building. Indeed, they indicated that this would probably NOT be the case. What is planned for is an 80%/20% open space/offices ratio. However, since this promise was made, floor plans for some offices do not seem to be following that formula. More on this issue later.

Another critical issue is shuttle bus service. Currently shuttle bus service runs some one million dollars a year. Rich is looking into better, more cost and user efficient alternatives.

Meanwhile, below is some of the discussion in all employee e-mails. Crystal City employees seem less than thrilled with their future home. Since both Rich Lemley and David Lloyd read *Inside the Fishbowl*, perhaps they may respond in the next issue. (Open invitation):

"We are missing the point of the new building. This is being done only to bail out a realty company and its parent energy company that bought a bad land deal. No commercial firm wanted to have anything to do with a building on the Potomac Yards Property. Some one came up with the EPA combining deal and set it up with the local congressman, pass authorizing legislation, and GSA, make a sole source bid by restricting the area to the Virginia shore of the Potomac. And yes don't tell EPA about it. (Until a Post reporter broke the story) So we have a very bad deal for all the workers and a good deal for the realtor/energy company which promptly sold the Potomac Yards property to help cover their 3.8 billion dollar debt..

"If this had not happened GSA would have renewed the lease on CM2 for OPP and worked to combine OSWER in one building, probably in DC where it is headquartered. This would have saved 11+ million dollars to make the new building fit our needs, a year of moving disruption and the continuous increased cost of shuttle service. Not to mention the cost incurred by staff trying to find a place to get a cup of coffee. And our disabled coworkers not being able to zip over to the underground for lunch.

"So the question is, Is this a 'Done Deed' or our leaders going to stand up for we workers?"

And

"It is a sad oversight how an important service such as a Child Care Center has been determined to be 'not possible' for the new EPA building in Crystal City - which isn't even built yet. The

interest in this subject is not 'renewed' but rather has never been seriously explored or considered.

"EPA Facilities Management has not, in earnest, surveyed Crystal City employees for the level of demand for child care. The survey conducted in 2003 was distributed at a time when no building location had yet been identified (employees understood that Navy Yard, downtown DC, and Crystal City were all under consideration) and employees were not informed of the established time frame for identifying the new location. Responses to a survey with such open-ended parameters is not likely to reveal a strong demand for child care - regardless of what the obvious and real demand is.

"Based on the note below, there will be very little incentive to fill out the survey since GSA will only provide information on existing Child Care Centers in the area. Arlington County already provides such a service. Those of us who need, use, or expect to use child care services in the near future already know that child care centers in the area are few and the wait lists are long. The attached survey and the questions contained in it are misleading in that they suggest that GSA or EPA Facilities Management will actually consider or explore the possibility of planning an on-site childcare facility in the new Crystal City location.

"Has GSA and/or EPA Facilities Management explored the possibility of a for-profit or not-for-profit entity to scope out planning a child care facility in the new building with preference for EPA employees? If such a private entity were to own the Child Care facility instead of GSA, could it be exempt from GSA's 'first floor' requirement for Federal Child Care Centers? Has anyone from GSA or Facilities Management communicated with Arlington County in considering flexibility for the 'retail' space requirement for the first floor of this new building? Has anyone from GSA or Facilities Management considered planning or exploring with a private entity an off-site Child Care Facility to be associated with the new building?

"Has EPA Facilities Management considered engaging in dialogue with interested Crystal City employees on this matter?"

And

"Surface soils consistently exhibited significant arsenic levels over a large area (approximately 3400 x 300 feet) along the western boundary of the northern portion of the Site.....Arsenic concentrations ranged from 94 to 1940 mg/kg....."

"If I interpret this correctly, this would be right about where they dug the new building's foundation.

"For reference, Region 9 recommends investigating site conditions when arsenic - a known human carcinogen - is present above .39 mg/kg (residential uses) or 1.6 mg/kg (industrial uses). Part of the property is being advertised for new condominiums.

"It would seem to me that Facilities needs to find the original sampling reports, along with the map showing the sample locations. They are probably somewhere on the Region 3 website, but the copy quality makes it difficult to figure out the sample numbers and sample locations."

Arsenic and Old Lies

The quote captioned above was incorrectly repeated in an article in *Inside EPA*, where the upper level for arsenic concentrations was listed as 1040. I checked A-7 of the original document and the number is 1940 mg/kg as cited in the employee e-mail.

"Inorganic arsenic has been recognized as a human poison since ancient times, and large oral doses (above 60,000 ppb in food or water) can produce death. If you swallow lower levels of inorganic arsenic (ranging from about 300 to 30,000 ppb in food or water)[ed note: 0.3 to 30 ppm or mg/kg], you may experience irritation of your stomach and intestines, with symptoms such as stomach ache, nausea, vomiting, and diarrhea. Other effects you might experience from swallowing inorganic arsenic include decreased production of red and white blood cells which may cause fatigue, abnormal heart rhythm, blood-vessel damage resulting in bruising, and impaired nerve function causing a "pins and needles" sensation in your hands and feet." (From epa.gov)

For those of you who are not scientists, 60,000 ppb (parts per billion) equals 60 ppm (parts per million). Parts per million equals mg/kg (milligrams per kilogram). Thus even the lower level, if it represented levels in your body, would be deadly. While most people don't eat dirt, small children do, which is why parents pushing for a day-care center at the Consolidated site are now giving second thoughts, judging from the e-mail traffic. And while arsenic is less of a hazard when absorbed through the skin, it can also present an inhalation hazard.

Faith-Based Science?

Back in the late 1980s, EPA was slated to be consolidated in the Navy Yard on Southeast M St. Then Chief Steward Dr. A. Hale Vandermer researched the proposed site and discovered, to everyone's horror, that the site was contaminated with PCBs and mercury. During WWII, the Department of Defense used the area to manufacture torpedoes. The area was also used to consolidate small loads of PCBs into tanker trailers for shipment to toxic waste disposal sites. The Union informed then EPA Administrator William K. Reilly (EPA Administrator under Bush 41) of the contamination. Within a week or so, the Navy Yard site was deselected as a site for the consolidated EPA building.

What will Mr. Leavitt's response to the present situation be? I don't know, but here are some clues. Mr. Reilly regularly met with the Executive Board of our Union, subsequent Administrators, including Mr. Leavitt have not. Mr. Reilly also "got his hands dirty" not only fraternizing with the employees, but on each Earth Day leading them in such down to earth activities like planting trees and picking up garbage littering the banks of the river.

Just before writing this article, I ran into David Lloyd, the EPA Facilities Manager who has been keeping me in the loop on this situation. (Referring to the arsenic contamination) "David,

shouldn't we have researched this situation BEFORE we contractually committed to the Potomac Yards site?" I asked. (Apparently, GSA planners have incorrectly assumed that EPA Crystal City Employees would greet the developers as liberators, strewing the building grounds with flowers!) To which Mr. Lloyd responded, "Rich (Lemley) knows about this and is trying to keep the burden on GSA." "GSA!" I shrieked, "GSA can't be trusted. We must test the site ourselves, how about sending in Dennis Bushta?"

I then related to him the story of the asbestos contamination of Crystal Mall 2 by a failed asbestos abatement project. While GSA and EPA were telling us the premises were safe, our Union contacted an independent organization to bulk sample dust in the building. What we found was, that out of the 24 samples taken, the majority, if they were in a school, would have immediately closed the school down. A rally attended by some 500 employees, including managers, in front of CM-2 brought out local news media coverage. In this new coverage, the GSA spokesman claimed that EPA employees were just a bunch of malingerers angling for a few days off from work. In the end, Assistant Administrator Charles Grizzle resigned EPA, Julius Jimeno (Health and Safety) hired Dennis Bushta from the outside, and Mr. Bushta had the entire EPA space in CM-2 wet HEPA vacuumed. Neither GSA nor the developers can be trusted. "Verify," I counseled Mr. Lloyd.

David Lloyd also said he was going to suggest a group meeting between EPA, GSA, and the developer. I strongly suggested that he include some toxicologists from our bargaining unit at this meeting. I do believe we can find an arsenic expert or two here at HQ.

Will, this brown-fields site be cleaned up? Will Administrator Leavitt use his influence to select another site for the employees (or keep them where they are)? Or do corporate profits trump the health and safety of our employees? This story promises to get more interesting as time rolls on.

Who Reads *Inside the Fishbowl*? Union Meets with General Counsel Ann Klee

Whereas once upon a time, favorable mention by the Union of a manager could mean the kiss of death to that manager's career, these days, managers regularly complain if they make the Manager Minus list or do not make the Manager Plus list.

Apparently, the new General Counsel, Ann Klee reads *Inside the Fishbowl*. Not long after listing her as a manager minus for not responding to my request to meet with her, we got a call to set up a meeting. While it was scheduled for only a half hour, it lasted an hour and we had some far ranging discussions regarding, for example, OGC staff and fundamental fairness issues involving EEOC and other settlement and alternative dispute resolution efforts. Ms. Klee asked many tough and thoughtful questions. Because these issues are of importance to the Office of Civil Rights and the Employee Solutions Staff, also in attendance, at the invitation of NTEU, was Gordon Schisler of OCR and Carolyn Gordon from the Employee Solutions Staff office.

The one concrete result of this meeting is that Ms. Klee agreed to continue to have an open dialogue with NTEU regarding issues of importance to our bargaining unit.

Management +/-

Managers Plus

- General Counsel Ann Klee, for meeting with NTEU and agreeing to have an ongoing dialogue with us regarding bargaining unit issues.
- Rafael DeLeon, Jeuli Bartenstein, and Ken Henderson. As mentioned in a previous issue, those working beyond the 6 AM to 6 PM time band are eligible to collect a Night Pay Differential under an obscure federal law. As also previously mentioned, Rafael DeLeon promised to fix this situation. The fix is an interim solution of EPA Maxitour 5/4-9.

NTEU Prez Says CSRS Not Being Abolished

In an NTEU Chapter President Memo, NTEU President Colleen Kelley cautions that while FERS and CSRS accounts have been combined into one electronic data base, the rumors that OPM is taking steps to eliminate CSRS, are not true. Don't worry be happy.

Helping Wounded Troops During the Holidays

(Adapted from an e-mail)

Yellow ribbons tied around trees and red, white and blue stickers on the backs SUVs saying "Support our Troops" are things that make civilians feel good but do nothing for the men and women actually in uniform. So please consider the following:

The number ONE request at Walter Reed hospital is phone cards. The government doesn't pay long distance phone charges and these wounded soldiers are rationing their calls home. Many will be there throughout the holidays. Really support our troops --Send phone cards of any amount to:

Medical Family Assistance Center

Walter Reed Medical Center

6900 Georgia Avenue, NW

Washington, DC 20307-5001

They say they need an "endless" supply of these -- any amount even \$5 is greatly appreciated.