INSIDE THE FISHBOWL

"We must conduct our affairs at EPA as if we worked inside a fishbowl ..."
— William Ruckelshaus, former Administrator, U.S. EPA

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Editorial Policy
Articles from any source are considered for publication by the Editorial Board. Items should be submitted on disk to UN-200. Articles indicating authorship reflect the views of the author, not necessarily those of Local 2050. We do not publish anonymously submitted articles, but when requested, may conceal the author's identity.

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INSIDE THE FISHBOWL: FEBRUARY 1997

LOCAL 2050 Membership Meetings:

March 27 at 11:00 - 12:30 Conference Room 3 North (adjacent to the WIC). Collective Bargaining Agreement and ratification of the alternative workspace agreement.

April 10 from 11:30 - 1:00 (EPA Auditorium) Nominations for next year's Executive Board.

***Notice:** Environmental Employees Collectively Organized (**EECO**) members will be meeting to discuss the status and future of the organization on February 27 from 12:30 - 2:00 pm in the EPA Auditorium.*

Membership Dings "PERFORM,"

Ratifies Patricia Sims to fill term as Executive Vice President, Endorses Richard Emory for Inspector General

PERFORM, the proposed Agency-wide 3-tiered performance rating system, was debated at Local 2050's February 13 Open Meeting for all members of the professional bargaining unit. (The PERFORM proposal has three main thrusts: changing from 5 to 3 tiers of ratings; a rating cycle of July 1 - June 30, and would allow different systems in different work units. Management has solicited our pre-decisional comments; the performance system is subject to formal Union negotiations at a later date.) Except for the proposal to change the date of performance evaluation away from the end of the fiscal year, the proposed system was not supported by those members of the bargaining unit who were in attendance. At the Membership Meeting which followed immediately after the Open Meeting, concerns were raised about how the proposed system would affect additional service credits for performance in a RIF situation. A motion was adopted that the Local prepare a response that essentially rejects the proposed agency-wide 3-tiered performance pattern because no convincing rationale has been provided to substantiate the change and to request bargaining on this subject.

The ratification of Patricia Sims as full-time Executive Vice President, a position that had been vacant, was the next order of business. Sims, a lawyer, has worked in Region V on labor matters and has served in the past as Secretary to Local 2050. She has agreed to work full time for the Union until May, when her position will be subject to election by the membership. Chief Steward Dwight Welch has sought help with a burgeoning case load for stewards. The membership ratified Pat's nomination by the Executive Board as a way to improve our member services while giving Pat a reprieve from her contentious work situation.

Bill Hirzy presented for ratification an amendment to the Local 2050 Constitution concerning Local Partnership Councils, which had been discussed at a previous membership meeting. The membership ratified the proposal which essentially delegates authority for "local" matters to partnership councils in each AAship or equivalent. The Executive Board retains oversight and review of matters that may have Agency-wide effect.

The Membership voted to endorse former Local 2050 Vice President, Dick Emory for Inspector General. Emory has a wealth of relevant experience as an attorney in the EPA criminal enforcement office as well as a former Maryland state legislator.

The next membership meeting will be at 11:00 - 12:30 on March 27 in Conference Room 3 North (adjacent to the WIC). The agenda will include the Collective Bargaining Agreement (see next article), and ratification of the alternative workspace agreement. On April 10 from 11:30 - 1:00 the membership meeting will be devoted primarily to nominations for next year's Executive Board.

Negotiations on CBA Continue:

Grievance Provisions Agreed; "Professionalism" in Mediation

For the past four months, Local 2050 Negotiators John Wheeler, Jim Murphy and James Handley have continued to negotiate towards a new Collective Bargaining Agreement for Local 2050. (The current contract, which was extended last year, is set to expire on June 8.) As reported in the November issue, we started by spending an entire week in October negotiating with management representatives Linda Wallace and Drew Moran. Both management and the Union presented long lists of proposals for change; particularly prominent among management's concerns was the grievance procedure; among the Union's most pressing concerns were alternative workspace (AWS) and the need for a provision on professionalism, including protections for those

who report waste, fraud and abuse, prohibited personnel practices, etc. As reported in November, we agreed to retain the existing procedures for obtaining AWS and management declared a moratorium on changes of AWS status until an new agreement, which is being discussed separately from the CBA negotiations, is reached.

From the beginning, Linda Wallace stated emphatically and repeatedly that the primary management interest in the **Grievance Procedure** was to make it simple, quick and consistent across the Agency; to do that they wanted to eliminate the third step of the process. We were reluctant; the current procedure is review by the first and second line supervisors followed by a third step that is an alternative dispute resolution procedure. For performance-related grievances a three member panel of peers reviews the decision, for non-performance-related grievances, review is by a three-member panel of managers two of whom would be outside the chain of command. This third step is intended to avoid the cost of arbitration in all but the rarest cases. Despite our reluctance, we saw an opportunity to simplify the grievance process and increase our access to arbitration. We proposed that in exchange for eliminating the third step, management would pay for a limited number of arbitrations. When this was rejected we proposed that management pay for arbitrations where they lost or where the decision was mixed. We worked though numerous permutations and finally, after receiving management counter-proposals that offered little or nothing in exchange for eliminating the third grievance step, we saw that while management had said that a simpler procedure was their paramount interest, they had a more important interest: avoiding anything that would encourage our use of arbitration or would incur additional costs. This brought us back to where we had started. In the end, we clarified the role of the employee peer panel in the third step of the grievance process; the panel provides a recommendation that management either accepts or rejects. The Union will now also assist in locating willing panelists by providing a list to management. We retain the existing arrangement to split arbitration costs regardless of the outcome.

During the process of exchanging drafts on the grievance procedure, management slipped a phrase into the "Options" section that would have required **whistleblowers** to choose between the grievance process and the statutory whistleblower protection remedies. We objected and struck out management's phrase, but management continued to re-insert the language in each of our drafts while we were making proposals and counter-proposals on the third step of the grievance procedure and the costs of arbitration. Management only withdrew the phrase after we made several counter proposals including one that would have eliminated the current language that says that grievants must elect between the statutory remedies and the grievance procedure except when a formal EEO complaint is filed. Management had inadvertently called our attention to a potential weakness in our contract: it proports to require parties to elect between the grievance procedure and the statutory remedies in situations where the statute doesn't require an election. While it is questionable whether the CBA can waive statutory rights, the CBA clearly can narrow the scope of subjects covered by the grievance procedure. Thus, members who claim a prohibited personnel practice, are subject to a reduction in grade for performance reasons, are removed or suspended, or who file formal EEO complaints should be aware that invoking their statutory remedies would preclude a grievance on the same matter. Caution is advised when filing a grievance on these matters as well, since management should be expected to argue that filing a grievance precludes invocation of statutory remedies.

At the conclusion of our negotiations on the "Options" section of the grievance procedure, we agreed to modify the existing concept in one respect: to state explicitly what the EEO statute provides: an informal **EEO** complaint does not preclude a grievance, but that a person must choose between a formal EEO complaint and a grievance on a given matter. The right to file a both grievance and a whistleblower action was preserved.

Our current contract does not include a **Management Rights** clause, a Union rights clause or an Employee rights clause. We proposed to quote the statutory management rights language and the portion of the President's Executive Order on "partnership" that mandates that management negotiate with Unions over the previously discretionary subjects in 5 U.S.C. 7106(b). (In short, these discretionary subjects are: 1) the "numbers, types and grades of employees or positions assigned to any organizational subdivision, work project, or tour of duty...," 2) "procedures which management will observe in exercising" its authority to determine the

mission, budget, organization, etc., of the agency and to assign work, and 3) "appropriate arrangements for employees adversely affected" by exercise of the management rights.)

Management raised two objections to quotation of the Executive Order: 1) the E.O. might be withdrawn by the President, and 2) quoting the E.O. in the CBA could create a right to judicial review if management failed to bargain over discretionary subjects. When we offered to add language to void the provision if the E.O. were withdrawn, and to quote the E.O.'s own language excluding judicial review, it became apparent that once again there was a hidden interest: management just didn't want the E.O. referenced in the contract. We agreed to follow a recent case where the same issue was resolved by the Federal Services Impasses Panel by placing the discussion of the E.O. in an appendix to our CBA.

Management accepted our proposals on **Union Rights** and **Employee Rights**, but not until we had gone back and forth on some explicit language governing management's obligations to notify the Union of changes in working conditions that might trigger our right to bargain. We agreed to language that is essentially recitation of the statutory requirements.

Credit Cards have become an issue because the new GSA contract with American Express says that individuals who use the card are jeopardizing their personal credit ratings. Our existing CBA says that an individual who submits a voucher within 5 days is not responsible for paying Diners until reimbursed. We represent a number of people who object to the use of credit (e.g., for religious reasons) or do not want to do business with American Express for political or other reasons. When we began our negotiations, management asserted that this subject was non-negotiable because it is the subject of a government-wide agreement and regulations, but we stated that we believe that the GSA regulations allow some flexibility on the Agency's part. Our latest proposal was a very limited change: it would allow those who have a valid reason not to use the card to get approval from their Assistant Administrator or equivalent to opt out but still get travel advances for lodging. (Note that employees are not required to carry the government card-- the only issue is whether you can get a travel advance for lodging if you do not carry the card for a "valid reason.") Last week Drew signalled that management would accept this, but at our last meeting he said they now object because they want to keep EPA out of the business of handing out advances, and they want to maximize the 1% that the Agency gets back whenever an employee uses the card. He also noted that while new employees and infrequent travellers who do not have the card are entitled to cash advances for lodging, the Agency apparently is not providing them. We are now working with a mediator from the Federal Mediation and Conciliation Service on this issue.

The Union initially proposed adding an article on **Protection of Professionalism** drafted by Bill Hirzy that would have created a process for resolution of professional differences of opinion. Management asserted that this subject was non-negotiable because it is covered by government-wide regulations promulgated by the Office of Government Ethics. We researched this and found that there are extensive regulations on the subject, but it is seems far from clear that they create a negotiability bar. Rather than stop the CBA negotiations and take the negotiability issue to the FLRA, we decided to modify our proposal to include a statement of principles, a recitation of some of the relevant statutory provisions related to protected speech, prohibited personnel actions and reporting of waste fraud and abuse and a reservation of the right to mid-term bargaining on procedures for resolution of professional disputes. Management's counter was a bland statement on the need for professionalism at EPA and a terse citation to some of the statutory and regulatory protections. They objected to recitation of the statutory language in the CBA. We responded by offering to put the statutory quotes in an appendix. Management did not counter, but held to its previous proposal although Drew did signal that they would agree to mid-term bargaining on this subject. We are working with a mediator on this subject as well.

The whole experience has been frustrating and time consuming for us, although we have all learned much about labor law and have a clearer idea of what management means by "partnership" and "interest-based bargaining." Stay tuned...

REPORT FROM NATIONAL PARTNERSHIP COUNCIL

by Bill Hirzy

The EPA National Partnership Council (NPC) meeting January 7-9 in Crystal City covered several topics of importance to Local 2050 and the HQ bargaining unit.

Work Group Reports: An NPC work group focussing on conflicts between the roles of human resources councils (HRCs) and partnership councils was formed at the August meeting after Local 2050 raised concerns about our efforts to streamline labor relations by converting HRCs to partnership councils at the working (i.e., Office or AA-ship) level. The work group, directed by Roger Yates, President of the Engineers and Scientists of California Local in Region 9, polled AA-ships and the regions concerning HRCs, their composition and operation. Significantly, not a single HQ HRC/HRP (or similar group, like OPP's Employee Advisory Group) made itself known to the work group. A follow-up survey is planned.

NPC members, including HQ unions, complained about HRCs/HPRs undermining the unions. This prompted a tremendous step forward: the NPC agreed to send a letter to all Regions and HQ Assistant Administrators telling them that in consultation with the union(s) they should examine the role and continued existence of any HRCs/HRPs or similar groups in their organizations.

At the National HRC level, it was recommended that: 1) the NHRC revise its charter, in cooperation with and with input from the NPC, to recognize E.O. 12871 and the requirement for "partnership" activities that it imposes on the Agency; 2) NPC representatives attend NHRC meetings; and 3) much closer coordination between the NHRC and the NPC take place. The NHRC is much less of a problem for unions in terms of treading on our representational turf than Office-level HRPs, because of the broader topics that the NHRC covers and its utter lack of implementation authority.

The work group on "pre-decisional involvement" of the unions in management decision making had not completed its work, and so did not report.

Presentations: James B. King, Head of the Office of Personnel Management and David Feder, Deputy General Counsel of the Federal Labor Relations Authority made presentations on "partnership". King spoke of abandoning unilateral decision making-- he now routinely includes a union representative in his senior staff meeting-- and ways in which he is implementing partnership at OPM. It was music to union ears to hear him say that Partnership goes far beyond "pre-decisional involvement."

Dave Feder spoke on various legal aspects of partnership and E.O. 12871. While the E.O. excludes judicial review of alleged violations (implying that unions may not seek remedies via ULPs if management fails to comply with the Order), the FLRA maintains a "theory of violation" that holds that if there was otherwise a duty to bargaining (absent the E.O.) on a matter for which the Agency refuses to bargain when requested by the union as a matter of partnership, then a ULP has occurred. He noted that FLRA has ruled on the issue of how far down into an organization an agency's right to "determine organization" (under 5 USC 7106(a)) extends. This is pertinent to our ULP filed against OPPT for failing to bargain on organizational details of its reorganization proposal. (We are working with NFFE National on this issue.) He also noted that the union has the absolute right to name the employees selected for work groups dealing with terms and conditions of employment.

Status of PERFORM, TeamEPA and Team Leader/Supervisor Re-invention Initiatives: Judy King of HQ OHROS Strategic Planning & Policy Division reported on PERFORM, the Agency-wide initiative to change EPA's performance management system in several ways, perhaps most notably by changing the current five-

level rating system to a three-level one. (See related article on Feb. 13 Membership Meeting.) Management's proposal is to set basic policies, such as the number of levels, how often ratings occur, appraisal period, etc., then allow for local-level negotiations to set specific terms within the broad management guidelines. (The proposal was distributed via the HQ LAN and Local 2050's membership voiced great concern about the proposal at the Feb. 13 meeting. We will be responding with our comments as well as a request to bargain.)

Kerry Weiss reported on TeamEPA: the transition into team operations. The report prompted discussion of how the transition is occurring in some places without proper "partnering" and of the advantages to management and workers of doing it right. To correct this, the NPC is sending a letter to Regional Administrators and AAs informing them of the necessity to carry out transition to team operations in a full partnership mode with any union(s) within their shops.

Sandra Bowman and Marvin Schulman, both OHROS officials, lead a discussion of the status of "team leaders" as supervisors. The FLRA defines "supervisor" slightly differently than the OPM Classification Standard, and they reported that management intends that the OPM standard govern for "flattening" purposes and that FLRA would determine bargaining unit status. This represents the worst of both worlds to us because team leaders wouldn't be counted as supervisors for "flattening" (All Hail, 11 to 1), but they would be supervisors under labor law and thus outside the bargaining unit and without union protection.

HEADQUARTERS PARTNERSHIP COUNCIL MEETING

by Bill Hirzy

Alternative Work Space (AWS) and Partnership Training were the two items on the agenda for the January 14 Headquarters Partnership Council (HQPC) meeting.

Dennis Bushta (of HQ Health and Safety) reported on the progress of the HQ AWS Work Group which is comprised of representatives of HQ unions and management officials. The group's mandate is to clarify the existing AWS Policy, particularly procedures for obtaining AWS and to develop a basic agreement for the HQ AWS program. The original goal of completion by January 31 was extended by the HQPC until March 1, 1997. The "moratorium" on changes to the policy or individuals' AWS status was also extended until March 1. When the question of whether AWS would be considered a "reasonable accommodation," for purposes of the Rehabilitation Act, the HQPC, including its management representatives, agreed that AWS is a reasonable accommodation for employees with multiple chemical sensitivity, etc., even though the term "AWS" does not appear in any law, Executive Order, etc. AWS, which is health-based, was distinguished from Flexiplace which is not.

The HQPC agreed to accept in general, the recommendations of its Training subcommittee for a mandatory training program for all levels of management in "partnershiping" with HQ unions. The subcommittee recommended that a "basics" course of 4 to 8 hours be mandated by the Administrator for all levels of management, and that more advanced courses also be made available. This is another giant step forward in implementing partnership: lack of training will no longer be an excuse.

The Council also directed that all HQ DAA's respond to the NPC survey on the issue of HRCs/HRPs or like groups directly to the HQPC, in order to implement the NPCs directive on re-negotiating the continuation of any such groups.

FROM THE STEWARD CORPS

by Dwight Welch

Performance Grievances

Having gotten through the first 5 months of my term as Chief Steward without the necessity of filing a grievance, but rather solving problems in an informal interest-based mode, my Christmas season was literally ruined by a small flood of performance grievances. While employees are supposed to get their evaluations in October, those who are about to get slimed get theirs in late November and early December. Add the 28 day response period for a Step 1 grievance and you have a date just before Christmas.

In general, the performance grievances all had one thing in common, the grievants were all from the over 40 employees. Most were filed by minority and female employees.

Evaluating the performance of the various offices, the Office of Pesticide Programs has been settling grievances in a partnership/interest based bargaining mode, I give them an "outstanding". On the other end of the spectrum is ORD, still practicing the "never give an inch" philosophy.

Racism and Retaliation in ORD?

When they read this I am sure that Mr. Michael Callahan and Dr. Bob Sonawane will become quite angry. I gave them the opportunity, indeed, more than one opportunity for a painless, easy settlement of the disputes. They chose the painful route.

Perhaps there is a statistician in the bargaining unit who could offer an opinion of the following. What are the odds in a group of 16 professionals containing 3 Asian-Americans, that only the Asian-Americans would get bad performance evaluations? Is this a mere coincidence or does it reflect a pattern of racism? I am told by the Chief of the Effects Identification and Characterization Group, Bob Sonawane, that it can't be racism since he is an Asian-American himself. Hmmm, similar arguments were advanced by pre-Civil War plantation owners in that their overseers were also African-American.

As mentioned above, I tried to resolve this situation with an informal, interest-based approach. I first approached Mike Moore, ORD Administrative Officer, nice guy, a cooperative, "partnershiping" individual. Mike approached Callahan and Sonawane and aside from delivering my offer to try and settle this situation, pointed out to these managers that they had not even followed proper procedure by failing to give the affected employees a proper mid-year which would have indicated that improvement was needed. Callahan and Sonawane refused to budge.

My next move was to meet with Callahan and Sonawane directly. Consider that I was trying to settle 4 situations. Out of the 4 performance grievances, they refused to offer a single point! Since that time 2 of the 3 Asians decided to lay low and not file a grievance, a third employee also gave up. The fourth Dr. Arthur Chiu has decided to fight for himself.

In FY '96 Dr. Chiu wrote or contributed on 24 articles, 4 published or to be published in the scientific literature. Dr. Chiu is an M.D. as well as a Ph.D., and his degrees are from American, not foreign universities. Dr. Chiu was initially rated 280 or so, but once word got out that he was going to the Union, they raised it to a 320. More important than the rating is what is going on in the group. Aside from a work environment hostile to Asian-Americans, Dr. Chiu's work on a benzene chapter was contracted out.

At the Step 1 hearing of Dr. Chiu's grievance, Bob Sonawane criticized Dr. Chiu for consulting with benzene experts from China and England as "not being a part of your position description." Considering that Chinese

workers have had the greatest occupational exposure to benzene in the world, and considering that British epidemiological studies are among the most thorough (due to socialized medicine and the limited influx and outflux of people on these islands), a progressive individual would have complimented Dr. Chiu on showing some initiative in expanding the Agency's data base.

Having gotten a large number of volunteers from the Peer Review Panel solicitation, I sent out three of Dr. Chiu's papers to other toxicologists. One rated excellent-450, a second 400, and a third was unrated. In the preface to Water Contamination and Health, Rhoda G. M. Wang of the Human Risk Assessment Branch, U.S. EPA writes (of a chapter written by Arthur Chiu and David L. Bayliss): "....can be regarded truly as masterpiece documents." and "...The peer review panels of Marcel Dekker, Inc. singled out this chapter (by Chiu and Bayliss) as the most outstanding paper."

Dr. Sonawane is now supposed to be considering his response to the Step 1 hearing, but rather than come out with a timely decision, he went to India for 3 weeks, leaving Arthur Chiu in a prolonged state of anxiety until he returns. Word in the grapevine is that Callahan and Sonawane need not worry about the Union as the fix is already in. I have today written an E-Mail to Henry Longest. I have never met him but it has been suggested to me that he will not want his program tainted with these kinds of charges. I will report his response in the next issue.

Opinion and Commentary

EPA "PARTNERSHIP"-- OPIATE FOR THE UNIONS?

by Dwight Welch

To be clear, I have nothing against "partnership;" the concept is a fine one; one that can work. The problem is with partnership as practiced by the EPA high command. Local 2050 has practiced forms of partnership, even before Bill Clinton was elected President. An outstanding example is the Union/Health and Safety/Facilities weekly health and safety walkthrough. This is a high visibility project, demonstrating that management and the unions can work together and accomplish positive results. Whenever I bring this up at National/Headquarters Partnership Council meetings, however, it is brushed off with little or no comment; perhaps because this batch of re-inventors didn't come up with it.

Partnership also seems to be working at other Agencies. For instance in other Agencies the top manager actually "walks the floor" with the Union President. In awards ceremonies the Union leadership shares the stage with the agency leadership. Contrast this with EPA. Here, partnership is all "spin" and no substance. The Administrator never comes to partnership meetings. In two recent examples of outstanding Union contributions: the new building (which wouldn't have been done without the Unions) and the Transit Subsidy (in which Bill Hirzy did all the necessary groundwork: contacting Metro and arranging the appropriate meetings), Carol Browner claimed all the glory for herself and management, never mentioning the "U" word. On the other hand when Ms. Browner needed to address the bitter pill of possible RIF and Furlough, the Agency pulled "Union partners" into the picture. Although he could scarcely be described as pro-Union, former Administrator Bill Reilly met with this Union on several occasions. Thus far Carol Browner met with <u>both</u> Unions, at the same time, for a mere 45 minutes.

What is the future of Partnership at EPA? On its present course, in about 4 or 5 years, you as Union members <u>might</u> be able to negotiate what color your office is painted. (That the paint be of the low VOC variety is the result of pre-existing negotiated agreements.) But if your boss plagiarizes your work, best of luck... or if the findings of your report are twisted by a supervisor who isn't qualified as a professional peer, again, good luck, because the Agency refuses to negotiate a professional ethics provision. And if your employee rights are

violated, the best that will happen is that you will be "restored", whereas the manager will suffer no ill effects even if found to be in the wrong. Management refuses to discuss management accountability. Is management accountability some new and alien new concept? Hardly. All the Unions are asking for is that managers be treated equally under the EPA Conduct and Discipline manual. This is not some perk; the Unions are asking for only fair and equal treatment.

Back in the days of Charlie Grizzle, management tried busting the Union. It was a long hard war but we (eventually) prevailed. In those days the Union had a discrete role. In those days after getting the management propaganda version, employees could turn to INSIDE THE FISHBOWL and find out the real truth. These days the roles are blurred. I hate to say this, but who can you trust?

The Union busting of the 90s is far more insidious. These days Union Presidents travel to places like Denver, Las Vegas, Williamsburg, and Boston... on boondoggles? It would be different if these trips produced major accomplishments, but I can't point to many. When I return my voice-mail is filled with messages from members with genuine needs that were deferred while I was attending time-consuming and frustrating meetings. (Note: Local 2050 did not participate in the frivolous ORD HRC junkets at Williamsburg or Las Vegas, nor we will be going to the trip to Florida in February. It is interesting that ORD, which is rapidly developing a reputation for being the most hostile to Unions, seems to have the biggest slush fund to treat Union Presidents to neat places like Las Vegas and Florida.)

There is an up side. These days Union leaders are not hunted down as if they were feral dogs, the partnership has also given us a chance to meet each other and compare notes. However, we are kept from significant accomplishments by going from meeting to meeting in which little or nothing is accomplished. The Unions bring up their core issues time and time again--professional ethics, management accountability, protection for whistle-blowers, and replacing Human Resource Councils with local Partnership Councils. Time and time again, these core issues are dismissed and replaced with discussions of training which we should get, but which we have already gone through several times in the past.

The solution is respect. Union leaders are currently treated in a condescending manner. If a union leader points out an instance of management criminality, the leader is put down as getting personal. (Sorry, but it also felt quite personal to me when they tried to fire me illegally.) Core issues are dismissed without much discussion. Re-invention is business as usual--it is just put in a different, more colorful package--but it's still the same old crap inside. Indeed, at the last National Partnership Council, we were informed that although team leaders would not be counted against the management total for purposes of "stream-lining", they could be counted as managers for the purposes of labor relations. Bottom line is that team leaders could get shafted. Consider management responsibilities without management pay or perks, but also without Union protection and the loss of GS Step Increases!

These appointees have had it easy. When the Presidency changed parties, the Union welcomed the incoming appointees the same way Europeans welcomed the Allies after World War II. Disappointment has followed disappointment. Managers who engaged in illegal, anti-employee tactics were not gotten rid of, just given different assignments, temporarily breaking the current power structure, but in the long term enabling these people to expand their power and influence. Mediocrity's war on excellence continues unabated, those who work hard sit there and rot, while those whose only career is to advance their career continue to advance.

I recently tried to use "partnership" to try and resolve an EEO and whistle-blower complaint before they became major problems and to try to prevent the costly necessity of filing formal charges. (See "Racism and Retaliation in ORD.") Despite Carol Browner's assurance that whistle-blowers would be protected, and despite the fact that Mr. David O'Connor is supposed to be one of the Administrator's designees, Mr. O'Connor told me that there was essentially nothing he could do and to go ahead and file the charges! I could have gotten the same deal under the previous administration. Indeed, under Christian Holmes, the last AA of OARM under President Bush, I probably would have gotten some relief without having to file formal charges. Holmes had respect for

science and scientists. He also had a healthy respect from witnessing what happened to his predecessor. These novices have not experienced the wrath which the Unions can bring down. The time is overdue.

IS EECO DEAD? 'FRAID SO

by Dwight Welch (former President of EECO)

It has really been a disappointment. So enthused were we about reinventing that we undertook to reinvent the Union. Environmental Employees Collectively Organized was to be come the first green Union with no other agenda but the environment.

Unfortunately, Local 2050 was put into trusteeship a day before we had our membership meeting to "Montrose out". Our petition, therefore was invalid since being in trusteeship I was no longer President. After 8 months the trusteeship was turned over to Bill Hirzy and me with the deal that we would give NFFE another try. The various appeals all have failed.

On the other side of the coin, I believe that the NFFE has upheld its half of the bargain. There have been some improvements, with more to come. The national leadership has changed drastically. Before the time of our Montrose action, a bogus election challenge was upheld by NFFE. Since then, in another bogus election challenge, NFFE sided with the findings of the Executive Board. There are new EPA/NFFE Locals with more on the way.

EECO having no recognition and nothing to do is taking in money without doing anything for EPA HQ professionals. NFFE Local 2050 on the other hand has more expenses as it is working on employee issues. A result of this is that EECO is richer than Local 2050. It is time that EECO be disbanded and turn its treasury over to Local 2050. Please contact me at 260-2261 to stop your EECO dues deduction and begin an NFFE Local 2050 dues deduction.

IF EECO IS DISBANDED, DUES SHOULD BE REFUNDED

by James Handley

As a founding member of EECO and a member of its Board, as well as a member of the Local 2050 Board, I take issue with Dwight's commentary, above. (Nothing personal, D.W., you're a good Chief Steward, and a nice guy, you're just wrong on this one.)

We founded EECO because of NFFE's costly and apparently malicious interference in this Local on behalf of several ex-board members, because of NFFE membership's cost and because we wanted an independent environmentally-oriented union, not one that lobbied to keep a bloated military budget while ignoring environmental issues. While NFFE has not interfered lately, they haven't helped much either. As a personal example, in October, I asked their counsel to send me an example of a good CBA that we could use in our negotiations. I never heard back, so I went over to Local 12 at DOL and was promptly given immediate (free) assistance. But regardless of NFFE's current behavior, I see no reason for EECO to hand its treasury over to Local 2050.

NFFE has just raised its allotment another 2%, so that of your $8.65 dues to Local 2050, $7.17 is sent to the National. I have a few questions for Dwight: Do we get our money's worth? Has NFFE straightened out the financial problems that forced a succession of their presidents to resign?

Personally, I think that if the EECO members decide to disband EECO, then the Board should refund members' money, minus any legitimate EECO-related expenses. And since Dwight is no longer a member, he should

have nothing to say about the subject.

Editor's Note: EECO will be holding a membership meeting to discuss the status and future of the organization on February 27 from 12:30 - 2:00 pm in the EPA Auditorium. EECO members are invited and encouraged to attend.

"See the Vision, Do No Harm, and Don't Waste a Single Employee" What EPA Needs in Its New Inspector General

by Richard W. Emory, Jr.

EPA now has the opportunity to select its first new Inspector General since 1983; much has happened since then. I offer three suggestions for the new IG that would help EPA.

1. See the Vision - The new IG must be technically skilled, but not simply a technocrat. Americans and the entire world look to EPA for answers to the growing problems of pollution. Environmental protection enjoys strong bipartisan support. The IG must be committed to EPA's mission and be able to inspire and energize the staff of the OIG to accomplish its mission: to get the most out of each taxpayer dollar that the agency receives.

A new book, *Toxic Deception: How the Chemical Industry Manipulates Science, Bends the Law, and Endangers your Health,* sponsored the non-profit Center for Public Integrity, reveals that a substantial number of top EPA officials who worked in the toxics and pesticides area now work for the chemical companies that EPA regulates. The book contends that important government oversight functions in the regulation of toxics and pesticides were impaired because of the "revolving door" between regulators and the regulated. As EPA's top official charged with maintaining agency integrity, the IG should be cut from a different cloth than past EPA appointees whose vision has been to maximize personal gain after passing through the revolving door.

The OIG must implement the bipartisan desire for 1) openness of agency operations, and 2) integrity, effectiveness, and efficiency in the application of public resources. The IG must demonstrate a passionate public service ethic while balancing the sometimes competing needs of Administration and Congressional constituents. A long range vision transcending the immediate political landscape will provide stability to EPA operations as political winds blow.

Completing the "re-invention" of the IG's domain is urgent. The EPA OIG must implement the recommendations of the Vice President's National Performance Review, to reorient the OIG to end unnecessary "gotcha" criminal investigations, to bolster auditing capacity and improve management capacity to evaluate its control systems, and to provide customer service that does not turn off customers.

2. Do No Harm - Investigation of fraud, waste, and abuse is the most critical and sensitive work of the OIG, although it involves a smaller portion of the staff than the auditing work. Well-targeted criminal convictions have tremendous deterrent effect, inducing "voluntary" compliance by those who otherwise would take a "wait-and-see" attitude. Solid investigative work requires eager investigators who dig for incriminating facts, and yet are fair-minded and do not overlook exculpatory evidence. The new IG must install internal controls so that the OIG never again seeks the criminal indictment and five years of imprisonment of a loyal EPA employee, without even interviewing him, for speaking out on his own time in favor of the habitat of an endangered desert tortoise.

Financial audits are an equally important part of the OIG's responsibilities. Both routine and targeted scrutiny of EPA contracts, grants, and loans must assure that funds appropriated by Congress for environmental protection are used effectively. This is the area where OIG has done the greatest good with the least controversy.

The OIG must take care when auditing EPA's own program management and internal performance not to second-guess agency management on goals and strategic direction. Occasional program audits are useful if the Agency has clearly departed from Congressional intent or if the Agency fails to exercise its authority and resources to take corrective steps mandated by Congress. Too often program audits are not enlightening to management or the public because external barriers preclude large program corrections that are needed. On the other hand, with careful advance planning and consultations, the IG may be able impartially document situations where authority or resource limitations are impairing achievement of Agency goals and spotlight the need for Congressional action.

The OIG relies on its hotline and advertises that reports of fraud, waste and abuse will be kept confidential. But many EPA employees are reluctant to report; they have learned that the IG may reveal their identities. The General Accounting Office documented that 20% of employees reporting fraud, waste, or abuse felt they were harassed within 24 hours. Within EPA, much employee-management contention and litigation could be prevented by management as evidenced by the fact that employees have often prevailed in these disputes. This climate erodes EPA's credibility and effectiveness. A conscientious new IG should recognize that he or she must win both management and staff credibility and end the fear of reprisal so that no one will be afraid to report fraud, waste, and abuse.

3. Don't Waste a Single Employee - In the 1980s, the former OIG never seemed to notice a scandal under his nose: the toxic "condition of employment" at Waterside Mall that caused over a thousand EPA employees to become sick from chemical fumes. One would have thought that this astonishing five-year episode of indoor air pollution at the very headquarters of United States EPA would have struck the IG as a glaring example of waste and abuse of human resources. The new IG must never be so blind to the obvious.

In labor-management relations, a new IG, credible with both management and EPA employees, can make an enormous contribution to EPA's effectiveness by actively diffusing tensions between employees reporting fraud, waste, and abuse, and their managers. EPA will always generate internal dissent over issues of science and policy; we should expect and encourage spirited debate among our highly trained and dedicated employees. But when political "scientists" overrule environmental scientists, or "risk managers" require a level of scientific certainty greater than the level of the precautionary principle, there is and should be healthy disagreement. EPA and the public suffer when someone in authority seeks to suppress disagreement, leading to allegations of retaliation and to involvement by Congress and the press. The IG has the authority to assure that good people remain happily and constructively employed in useful work in the agency and can create a climate that will stop lawful but unproductive guerrilla warfare with management.

Public blow-ups of internal disputes can be prevented. The new IG should try new approaches to resolve disputes by identifying causes and preventing allegations of retaliation. Specifically, the new IG should:

- explore the steps successfully taken at the Department of Energy to better manage whistleblowing, and the applicability of these measures to EPA;

- clarify and present in a simple form the "dos" and "don'ts" of personnel and ethics rules (as has already been done for Hatch Act obligations and for other problem areas such as sexual harassment), place emphasis on defining both the extent and the limits of each employee's protected speech, end the arcane complexity of rules that presently leave most managers and employees in confusion;

- broaden ethics training beyond the traditional subjects such as when employees can legally accept trips from the regulated entities. We must remind managers contemplating the revolving door that employees' views must not be suppressed at the whim of powerful outside interest groups;

- provide amnesty for managers who make inadvertent mistakes until they are properly trained in how to manage dissenting employees without committing prohibited personnel practices;

- assist managers in dealing with any truly malingering employee who should give up his place at EPA for a person who will work to advance EPA's mission;

- actively prevent whistleblower cases by IG counseling involving managers face-to-face whenever the identity of an employee must be revealed, emphasizing that the employee must continue to receive useful work free from any hint of retaliation, and that the employee will be protected as a witness if necessary; and

- guarantee openness to the greatest extent allowed by law, because this is best for EPA. Former Administrator William Ruckelshaus said it best: we must conduct ourselves as if working in a fishbowl. The IG new should do no less.

Pop Quiz

How good an observer are you? Can you identify each EPA official quoted below:

1. After nearly a year on the job, I am convinced more than ever that a strong enforcement program is vital to obtaining environmental results.

2. There should be no doubt in anybody's mind by the time you leave this meeting today that I, and this Agency, will enforce the law, and I want those of you from the Regions to carry the message back home, loud and clear.

3. Frankly, the Agency's enforcement program has not yet lived up to my expectations.

4. I have now put ---------- in charge of the enforcement program with instructions to take whatever steps (he/she) feels are necessary to get the enforcement program moving swiftly in the right direction.

5. Our initial approach is non-confrontational. This concept appears to have been misunderstood so I would like to spend some time clarifying for you what I mean by "non-confrontational".

6. We should be candid and fair and always attempt to achieve voluntary compliance.

7. Initially we seek voluntary compliance.

8. Perhaps the most important part of the enforcement program is the rare opportunity we have at EPA to implement the principles of New Federalism in partnership with the States.

9. I am firmly committed to a strong criminal enforcement program.

10. The simplistic approach of counting the numbers of cases filed by EPA should not be the sole measure of our effectiveness.

Answer: Anne Gorsuch Burford (1983).