



**INTERNATIONAL FEDERATION OF
PROFESSIONAL AND TECHNICAL
ENGINEERS, LOCAL 97**

PO BOX 2870, PORTLAND, OR 97208-2870 TEL: 503-808-3903

THE REPRESENTATIVE

MAY, 2008

National Security Personnel System

Thanks to the 110th Congress, NSPS has been emasculated. No longer will we (Defense civilians) be faced with becoming second-class Federal employees. No longer will we be subject to conversion without collective bargaining. No longer does the agency have lord and master authority over us (as was contained in the initial authorization). IFPTE, together with the other members of United Defense Workers Coalition carried our message to Congress and Congress listened. Congress clipped the administration's wings on the subject of NSPS. Your letters and phone calls played no small part in convincing Congress to rein in NSPS. Yes, we can still be converted to pay-banding after DoD negotiates with us. But restoring our labor relations rights pretty well guts what the department was trying to do to us.

There is another bright message here. The specter of NSPS has encouraged employees to form and join unions. In the past year, we have organized 4 new bargaining units in Northwestern Division alone. 3 of those are IFPTE units and 1 is affiliated with LIUNA. The employees at the Environmental and Munitions CX (in Omaha and Huntsville) elected IFPTE and join us as Chapter 1 of Local 97. The employees at the CX were converted to pay-banding before they were able to organize, but they now have restored rights that were taken from them previously.

So, the next time you speak to or write your Congressman or Senator, thank them for restoring your rights as a defense civilian and encourage them to continue to assure your rights are never again infringed in the name of national security.

UNFAIR LABOR PRACTICE

IFPTE Local 97 filed an Unfair Labor Practice charge against Northwestern Division on December 10, 2007. The charge had to do with management's failure to acknowledge an employee's Weingarten rights (to Union representation) when invoked by an employee who was questioned by management over his behavior toward BG Martin at a previous meeting.

Weingarten rights refer to the rights of unionized employees to have present a union representative during investigatory interviews, as affirmed by the U.S. Supreme Court in a 1975 case ([*NLRB vs. Weingarten, Inc.* 420 U.S. 251, 88 LRRM 2689](#)). These rights have become known as the Weingarten rights.

Under Weingarten, when the employee makes the request for a union representative to be present, management has three options:

- (1) it can stop questioning until the representative arrives.
- (2) it can call off the interview or,
- (3) it can tell the employee that it will call off the interview unless the employee voluntarily gives up his/her rights to a union representative (an option the employee should always refuse.)

The Federal Labor Relations Authority, in this case, found that the employee was asked to come to Davis Moriuchi's office, together with 2 other management officials, and a representative of Human Resources Office. The employee twice requested his Weingarten rights, and twice was ignored. Apparently, the subject of the meeting was Davis Moriuchi's allegation that, following the employee's previous conversation with BG Martin, he (BG Martin) found it necessary to leave the building with a security escort. Imagine that: an ARMY Ranger using a security escort!

During FLRA's investigation of our charge, Northwestern Division management assured that no disciplinary action was taken, nor is any pending against the employee, and nothing was placed in his personnel file regarding the incident for which he was questioned. There had better not be! Management is on trial here, not the employee! Management's excuses as to why the senior management officials and the HR representative were ignorant of the law are not compelling. Davis Moriuchi, in particular, is a GS-15 senior manager, recently retired from Portland District (where many of the employees are union-represented) and was temporarily filling a Senior Executive Service position. There is not now, nor ever was, a reasonable excuse for a senior manager like Davis Moriuchi, or for anyone representing HR, to be ignorant of Weingarten.

FLRA's investigation revealed that a Weingarten situation existed and that management failed to heed the requirements of Weingarten. However, FLRA determined that, "...prosecutorial discretion of this otherwise meritorious unfair labor practice charge is appropriate..." In other words, management got lucky because FLRA enforcement has been stifled by the same Executive Branch policies that have emboldened management to violate the statute with impunity.

SHAME!

SHAME on management!

SHAME on HR!

SHAME on Davis Moriuchi!

SHAME!

WATER MANAGEMENT

What do you do for an encore when you already have the finest Water Management Branch in the Corps of Engineers (the one that received the "Hammer" Award from the Clinton Administration) in your division? If you are in charge of the Northwestern Division, you mess with the organization

until you break it; that is what you do. In defiance of all past reviews and recommendations, Northwestern Division management allowed themselves to be dominated by Portland District circuit riders temporarily filling NWD vacancies and let them have their way with the centerpiece of the Division. What a surprise that when analyzed by borrowed help from Portland District, the Columbia River Water Management Division was plucked and plundered to render many of its functions to the District. This represents a giant leap backward in terms of operating the Columbia River Basin as a system. For inexplicable reasons, management, with much help from Portland District, concluded that a Balkanized organization is preferred. The only plausible explanation for this is that the leadership, at the time, needed to be able to say that they left their mark on something. They chose the wrong tree to mark.

IFPTE Local 97 represents approximately 120 professional and administrative employees of the Northwestern Division, US Army Corps of Engineers, located in Portland, Oregon and Omaha, Nebraska responsible for water resources development throughout the Columbia and Missouri River Basins and military construction throughout the northern states west of the Mississippi River, and approximately 40 professional employees of the US Army Corps of Engineers Environmental and Munitions Center of Expertise, located in Omaha, Nebraska and Huntsville, Alabama.