

Society of Professional Scientists and Engineers, Affiliated with University of Professional Technical Employees (UPTE), Local 9119 of the Communications Workers of America, AFL-CIO  
Sue Byars, President ♦ Kim Yates, President-elect

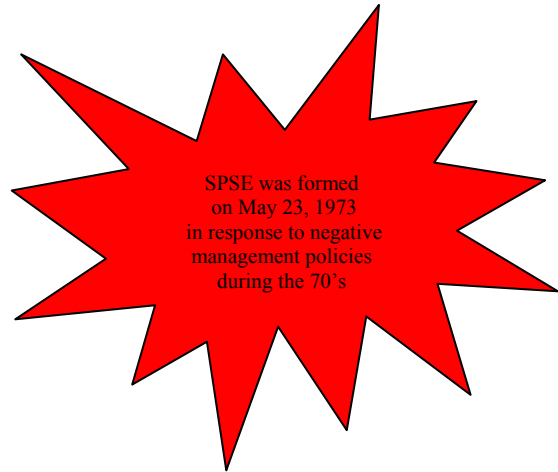
# SENTINEL

## News For LLNL Scientists and Engineers

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For the first time in its history, SPSE has issued a joint statement with union members from two other National Laboratories and the University of California.

SPSE in conjunction with UPTE/CWA intends to continue pressing for reform of Laboratory management. New alliances are being formed locally, at the University and the Tri-Labs, and with the state and federal legislature. The total number of employees represented by SPSE is important as we take the next steps to push to retain the UC contract. SPSE needs new members to join us. SPSE needs its members to write letters to their legislative representatives. SPSE needs its members to become active and join us in fighting for employee rights.



## Unions Back UC Control of Labs While Demanding Much Needed Reform

PRESS RELEASE, FEBRUARY 13, 2003

The Union of Professional and Technical Employees (UPTE/CWA Local 9119) at the Los Alamos National Laboratory (LANL), the Lawrence Berkeley National Laboratory (LBNL), and the UPTE affiliate at Lawrence Livermore National Laboratory (LLNL) the Society of Professional Scientists and Engineers (SPSE) announce their support for the continuation of the University of California (UC) management of their laboratories.

The three organizations acknowledge that the alleged credit card and government property fraud at Los Alamos, along with allegations of LANL management cover-up as a result of the firing of two investigators, have created a crisis of confidence in the ability of the University of California to manage the Laboratories. Efforts at reform of the business practices at the Laboratories have begun by both UC and by the Laboratories' management.

The organizations maintain that these events have highlighted needs for reform at the Laboratories that they have long advocated. The best way to prevent the recurrence of this kind of problem in the future is for the Laboratories' management, the University, and DOE to take seriously their duty to protect, rather than persecute, laboratory employees who dare to point out wrongdoing when they see it.

Other reforms still needed include:

- Strengthened enforcement of whistleblower protections. The whistleblower protection office in the Laboratories should report to the UC Vice President for the Laboratories rather than to a department within the individual Laboratories.
- The Department of Energy (DOE) should improve the effectiveness and the reporting lines of its whistleblower protection office.



"What we want to see is accountability, so if an employee reports something they won't face retaliation. It's that simple to me."

Sue Byars, SPSE President



"We're not saying don't ever let go of the UC contract. We're saying at this time they are undergoing an intense period of scrutiny. Let's see how they do."

Theresa Gonzales Connaughton, UPTE-Los Alamos President



"Having a strong union that will protect employees from retaliation will be a major contribution to an open and honest workplace. We will continue to push for reforms of UC Management to protect employees. If the UC contract is lost, it will be an enormous setback for not only employee benefits but also our rights."

Jelger Kalmijn, UPTE President

"We share their belief that being run by the University is definitely preferable to the other options." Doug Owens, UPTE -Lawrence Berkeley National Laboratory President

- The Laboratories and the University should hold its individual managers accountable in cases of fiscal or employment abuse.
- End the practice of the DOE covering all legal costs of the Laboratories and the University in defending against employee claims of retaliation and discrimination.
- Improved labor-management relations.

The UPTE organizations cite that, while UC is not a perfect employer, the alternatives are much worse. The three organizations are calling for a more responsive UC management, but not another contractor. Workers only recently won the right to organize at LANL, for example, and that right could be seriously jeopardized with a change in contractor.

Other benefits of UC management, the organizations point out, include

1. UC provides a unique atmosphere of creativity, independence and scholarship to its management of the Laboratories;
2. The UC culture is more supportive of basic research than the bottom-line culture of private industry;
3. UC manages the Laboratories as part of the public service ethic of a great university;
4. UC, as an internationally respected research university, aids in the recruitment of top people to the Laboratories;
5. There is an integration of science and support staff under the single employer of UC that is critical to the success of the national security mission;
6. Change in contractor could lead to unanticipated negative consequences such as
  - a. loss of weapons program knowledge and skills
  - b. potential loss of critical staff
  - c. disruption of the economic sector of northern New Mexico
7. Corporations, by their very structure, are ultimately responsible to stockholders. UC has a 60-year proven record of commitment to the public good in its operation of the Labs;
8. UC's training of IAEA Weapons Inspectors, critical to the current international crisis, is only one example of the critical support UC has provided to world security through its management of the Labs;
9. Labor has the right to organize under UC; this right could be jeopardized with a new contractor;

The three UPTE organizations support the progress underway in reform of Laboratory business practices. However, talk of changing the contract is premature as UC begins to implement reform. UC is still the most robust agent of change for the Laboratories. Its position of leadership in the nation's nuclear complex makes it both a target for criticism as well as an agent for positive change for the entire complex. This is an opportunity for change -- let UC continue to demonstrate its capability to make improvements.

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## What Others Are Saying

**Rep. Ellen Tauscher**, whose district includes Lawrence Livermore lab, commended the unions for supporting the university. "I agree with them that the University of California has been a responsible steward of the two nuclear weapons labs and the science lab," she said. "But I think they were absolutely right on target to point out there have been intolerable failures that need to be remedied, that the governance of the labs needs to be reformed, transparent, and accountable."

*Tri-Valley Herald, February 14, 2003*

**UC spokesman Michael Reese** welcomed employee support during what he described as a difficult time for the University. "I think that is the most gratifying vote of confidence you can get from your own employees."

*From an Albuquerque Journal, February 15, 2003 article on Lab Employees Want UC to Stay.*

## Did you know?

### Per LLNL Released FY02 Demographic and Workforce Data

- 38% of the Laboratory career population is eligible for retirement \*
- 39% of the 200 series career population is eligible for retirement\*
- 48% of the 300 series career population is eligible for retirement\*
- almost 75% of the salaried technicians (300s) are eligible for retirement\*
- 8.5% of the Laboratory population is now in flexible term appointments.

\*meet the minimum 50 years and 5 years service requirements

## Why Join SPSE?

By SPSE President Sue Byars

Why join SPSE? That is probably the most frequently asked question of SPSE today. Let me tell you why I joined. I first joined SPSE in 1994, partly because prior to coming to LLNL I held jobs where I was a union member. But primarily I joined because I liked what I heard coming from SPSE.

Back when I joined, George Craig was SPSE president. SPSE went on-line with email. Bruce Tartar was chosen as the new Director. The lab was in the middle of workforce restructuring and facing downsizing. Term employees went from 2 to 5 year term limits. SPSE brought to light and protested lab management trying to secretly push layoff policy changes through without informing employees. The term EBA wasn't invented yet – we had “displaced” employees. The 2-year pay freeze ended.

### **The Cat is Out of the Bag**

And in the midst of it all, SPSE was the sole voice heard speaking out for employee rights. I was struck by a line from one of the 1994 SPSE newsletters vigorously opposing lab management's sneaky approach at changing the layoff policy without informing lab employees: **“Now the cat is out of the bag.”** So I joined SPSE, and started paying dues. However, I didn't really become active until Lee McVey recruited me for the executive board. He said it wouldn't take much of my time, I would just need to attend the board meetings twice a month.

Then Wen Ho Lee was arrested on my first term on the executive board, and SPSE worked towards a position statement concerning his arrest. And I got hooked on the methodical, intelligent, yet passionate way that the active members of SPSE approach issues and concerns and work toward resolutions. Resolutions that carefully balance the technical aspects and analysis of issues, yet still convey compassion for employees and employee rights. So now here I am, President of SPSE for 2003. And it appears that if the laboratory's sneaky behavior and mis-management represented the cat that was “out of the bag” in 1994, that today that cat has turned feral and gotten too big and too wild to ever be put back into that bag.

The issues that face us today are increasingly complex. Laboratory management is being investigated for fraud and abuse and this may or may not cause the end of the UC contract. The PA/ranking/salary system follies continue regardless of their inequities and counter-productiveness. The Asian Pacific American community

continues their boycott on employment at the national laboratories. Polygraphing continues and may be expanded in spite of scientific facts. Individuals continue to file lawsuits against management. Whistle-blowers continue to be either fired or quit out of frustration with management retaliation. The Asian Pacific Islander (API) lawsuit and the Women's Class Action lawsuit are pending.

### **Making a Difference**

So why would anyone want to join SPSE? I have given you my reasons, but we still don't know why some employees join SPSE and others do not. However, I do see two common characteristics among those of us who are active in SPSE. One characteristic is compassionate action for fellow employees who are having problems; we care and want to help. The second common characteristic is a passionate sense of right and wrong in the workplace, and the conviction that one individual speaking out can make a difference. And that by collective action, we can serve as a catalyst for constructive change.

In 2003, SPSE continues to be the sole voice heard fighting for and speaking out for employee rights. And I want to thank you for this opportunity to serve as SPSE president and to continue the legacy of the past 30 years of SPSE fighting for employee rights.

## **JOIN SPSE TODAY!**

Download a membership form from the website at [www.spse.org](http://www.spse.org) and send it to SPSE Office Manager Eileen Montano. If you have any questions call Eileen at (925) 449-4846 or email her at [spse@spse.org](mailto:spse@spse.org).



“I became active in SPSE because I have benefited from the work SPSE has performed over the years and wanted to ensure that other Scientists and Engineers receive the same. I feel that Scientists and Engineers here at LLNL need an organization such as SPSE to ensure fairness and equity across the Lab.”  
Jayne Tonowski, Signatures Analyst

“SPSE membership provides an independent communication channel for employees encompassing unique and varied perspectives different from those provided by LLNL management. It is an invaluable resource for assessing career plans and workplace quality at LLNL. And, more importantly, the SPSE perspective provides a check on management's view.” Lynn Lewis, Computer Scientist

## Update on the LLNL lawsuit Filed by 9 Asian Pacific Islander Employees

The API's lawsuit is alive and well. The legal proceedings are on track and moving steadily. Although the details of the lawsuit are privileged, the following progress is reported.

1. Nine APIs (API9) filed individual complaints with DFEH (Department of Fair Employment and Housing) on Dec. 23, 1999. By December 2000 DFEH was supposed to have a finding on each of the individual cases.
2. Instead of receiving the individual findings, in December 2000 DFEH voluntarily and unilaterally expanded its investigation in concert with EEOC (Equal Employment Opportunity Commission) to a class-action investigation. With the new investigation as a class-action accusation, the determination of the finding was extended to December 2001. At the time of the extended investigation, the API9 received right-to-sue letters from DFEH, which gave them one year to sue UC/LLNL for discriminatory practices.
3. The API9 filed the suit in California Superior Court in March 2002. Their attorney is a well-known employment law firm, Siegel & LeWitter, in Oakland, California. The case is proceeding as scheduled.
4. On September 4, 2002 the media (Contra Costa - Bay Area, Times Staff) surprised the API9 by writing that the DFEH settled a discrimination lawsuit filed by several LLNL Asian-American engineers and scientists. The article continues, "Under the settlement, which does not require admission of wrongdoing or any monetary award, the department (DFEH) agreed to evaluate the salary and promotion process, focusing on racial discrimination. The lab agreed to hire an independent performance management expert, who will examine the salary and promotion structure for engineers

and scientists, Guidelines for a non-discrimination policy will be developed. The lab's salary and promotion processes will be audited in a year."

### **The API9 have not been involved in the negotiation of the settlement and the settlement has no effect on their lawsuit.**

LLNL has adamantly refused to acknowledge that inadequate treatment of APIs and other minorities exists at the Lab, despite the Commissioner's Charge from EEOC in 1999, DFEH's expanded class-action investigation in 2000, as well as findings from API's salary analyses of 1991 through 1999, GAO (Government Accounting Office) report in April 2002, APALC (Asian Pacific American Legal Center) report in October 2002 and even its own equity studies from 1993-1999.

In the early 90s, four of the API9s who belonged to the AEM (Association of Ethnic Minorities) fought with LLNL to end discriminatory practices against minority employees. After intensive negotiation, AEM accepted LLNL's proposal, in good faith, to work with two "Independent Reviewers" for a fair and unbiased finding. The consultants were hired by LLNL Management. After LLNL gathered enough information, it backed out on its promise and refused to release the reviewers' finding.

### **Other actions**

Other actions which have developed in parallel with the API9's case:

- October 20, 1999, EEOC filed a Commissioner's Charge against UC/LLNL for disparate treatment against Asian employees as a class. Many APIs at LLNL have been interviewed and submitted relevant information to EEOC investigators. The API9 believe the investigation has long been concluded and are waiting for the findings to be published.
- In 2001, a similar Commissioner's Charge was filed against LANL. The API9 do not know if a finding was ever published by EEOC.

- In December 23, 1998 six LLNL women filed a lawsuit (Singleton V. Regents of the University of California) against the UC-LLNL for gender discrimination in pay and promotion.

- As a result of the Women's lawsuit, in 2001 LLNL was ordered by the court to publish LLNL's Equity Studies between 1993-1999. In these studies LLNL admitted that most Protected Class (including APIs) employees have consistently been underpaid and ranked lower compared to white employees. After LLNL was forced to publish the studies, it started to distance and discredit its own studies. You can view the entire report at LLNL's main Library.

- April 2002, GAO published a report criticizing DOE Weapons Laboratories for their disparate treatment of APIs. LLNL publicly discredited the report and told media that the report was not conducted correctly. You can download the entire report at GAO.gov, report no. GAO-02-391.

- September 2001, APALC (Asian Pacific American Legal Center) published a report criticizing DOE Laboratories for their disparity treatments of APIs. You can download the report from [http://apalc.org/hostility\\_exposed.pdf](http://apalc.org/hostility_exposed.pdf).

**The API9 are very disappointed that so far the investigations of DFEH and EEOC have resulted in no published findings.**

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## What is a whistleblower, anyway?

Both UC and Lab management are publishing telephone numbers to report concerns about possible improprieties. We aren't going to repeat the numbers here. But, in case you are wondering what a whistleblower is, here are 2 statements.

Per the California Government Code Section 8547

**The Legislature finds and declares that state employees should be free to report waste, fraud, abuse of authority, violation of law, or threat to public health without fear of retribution. The Legislature further finds and declares that public servants best serve the citizenry when they can be candid and honest without reservation in conducting the people's business.**

Per the UC Policy on Reporting and Investigating Allegations of Suspected Improper Governmental Activities

### **E. Whistleblower**

**A person or entity making a protected disclosure is commonly referred to as a whistleblower. Whistleblowers may be University employees (academic or staff), applicants for employment, students, patients, vendors, contractors or the general public. The whistleblower's role is as a reporting party. They are not investigators or finders of fact, nor do they determine the appropriate corrective or remedial action that may be warranted.**

In future articles, we hope to advise of employment rights and to explain terms like "improper governmental activity," "protected disclosure," "illegal order," roles of designated officials, the differences between federal and state protection, and how to file a written complaint.

## **Singleton v. Regents of the University of California, Alameda County Superior Court**

Six plaintiffs charging gender discrimination in pay and promotion filed this class action lawsuit in 1997 for women who work at LLNL. The court has certified the class as all women in the administrative, scientific, technical, and secretarial classifications employed at LLNL on February 20, 1997. In August, attorneys for the Regents filed a Motion to Decertify the Class. Judge Sabraw denied the motion.

Although LLNL's attorneys have filed summary judgments against several individual plaintiffs in the case, most have been denied by the court. However, Judge Sabraw granted the motion against Mary Singleton because she had signed a release and waiver of claims when she

accepted the VSIP package during a downsizing program at LLNL in 1996. This is a personal disappointment for Mary who has been involved since 1976 in salary and promotion issues for women at LLNL. However, it does not affect the strength of the case or the continuation of the lawsuit. Attorneys for the plaintiffs plan to file a notice of appeal on Mary's behalf.

For the past four years attorneys for both sides have been taking depositions and working with expert witnesses in preparation for trial, which is expected to be rescheduled for August 2003. The discovery process has been completed. In the meantime there have been several confidential mediation sessions between the plaintiffs, LLNL, and their attorneys. The four legal firms representing the plaintiffs in the case are: The Sturdevant Law Firm; Schneider & Wallace; Gwilliam, Ivory, Chiosso, Cavalli & Brewer; and Trial Lawyers for Public Justice.

### **Call For Action**

The Legislative Conference of the Communications Workers of America will be held March 9–12, 2003 in Washington, D.C. Now that SPSE is affiliated with UPTE, a Local of CWA, SPSE has the opportunity to send a representative to the Conference. UPTE at Los Alamos National Laboratory will also be sending a representative. Through the auspices of CWA the LLNL and LANL representatives will be able to meet with several members of Congress – both in the House and the Senate – to discuss our position statement on the UC contract and the reforms we are seeking. This is a great opportunity for an independent voice for Lab employees to be heard in the corridors of power in Washington.

We also plan visits to the California state legislature and to the UC Regents Meeting. If you are a member of SPSE and would like to meet with members of the state legislature or speak at the UC Regents meeting please contact the SPSE office. If you have comments you would like SPSE to pass on for you, send them to [spse@spse.org](mailto:spse@spse.org).

**If you are not yet a member – NOW IS THE TIME! Join SPSE in the fight for employee rights.**