

# A Steward's View of Labor-Management Relations

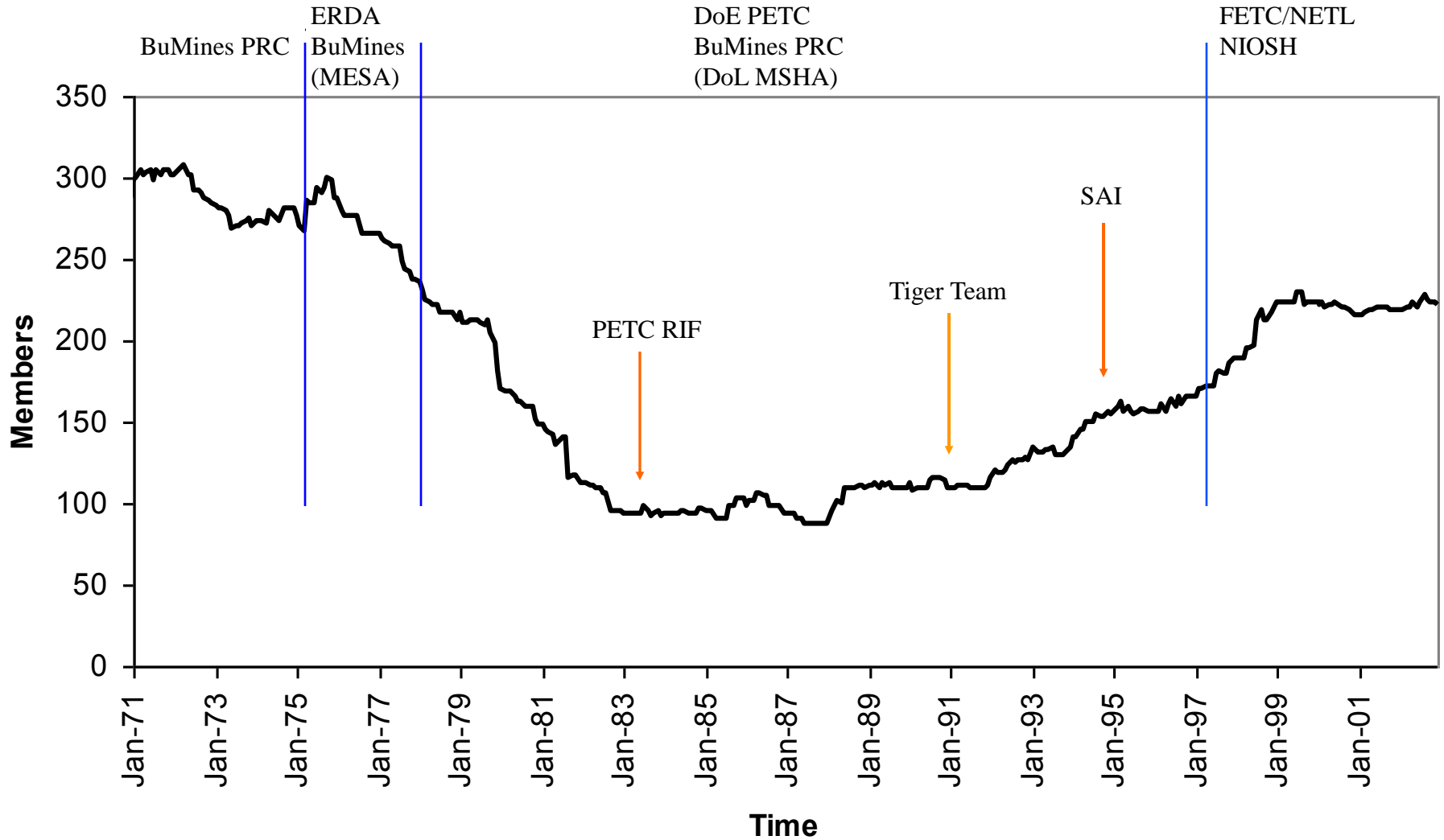


# Topics

- **Some introductory items**
- **Overview of what a Steward is and his roles and responsibilities**
- **Negotiated Agreement - The fundamental description of the relationships between management and its employees**
- **Performance and Discipline; Just Cause**
- **Some NETL undercurrents that help drive Labor-Management Relations and Workplace conditions**
- **Common Grievances and ULP's at NETL**



# Local 1916 Membership History



# What does the Union do?

- **Exclusive representative of employees in the Bargaining Unit**
  - Negotiates and enforces collective bargaining agreement
  - Represents employees to Management in issues regarding personnel policies or practices and workplace conditions
  - When engaged in labor-management relations, the Union is considered to have equal standing to Management and is in a peer-to-peer relationship with Management.
- **Engages in legal lobbying activities on behalf of the employees it represents and the organization that employs them**
- **Supports political candidates favorable to issues important to the employees and their organization**



# Some Labor-Management Fundamentals

- **Unions are political organizations and operate internally with both representative and direct democratic processes**
- **Union representatives and Officers must respond to (“duty of fair representation”) and are responsible to a variety of constituencies and interests**
- **“Obey now, grieve later”**
- **Good labor-management relations are based upon good (inter)personal relationships**
- **Do not take labor-management interactions and processes personally (unless there is a good, clear reason to)**



# What a Steward is and his roles and responsibilities

- **Serves as interface between Union and employees**
- **Serves as interface between employees and Management**
  - Informal issues, facilitating resolution of miscommunications, personality conflicts, etc.
  - Grievances - represents Grievant to Management
  - Represents employee in disciplinary actions
- **Serves as interface between Union and Management**
  - Enforces Agreement
  - Represents employee(s) in Official Meetings, Investigations, and Grievances
  - I&I negotiations - negotiates on behalf of affected employees
  - Contract negotiations - may be a member of Negotiation Team



# “I led two lives...”

- **Union Representatives have 2 workplace personas:**
  - Regular Employee with normal employee-employer and subordinate-supervisor relationships
  - Union Representative having a peer relationship with Management when engaging in protected activities (ie. Grievance resolution, negotiations, representation at Official Meetings, representation in Investigations)
- **Steward-employee communications are considered “privileged communications”**



## Some Basic Steward Duties

- “Police” and enforce Negotiated Agreement; includes relevant aspects of labor laws and regulations
- Provide counseling to employees; “gripe or grievance?” and “obey now, grieve later”
- Investigate ULP’s, grievances and related issues; can include interviewing witnesses and relevant documents
- Develop and submit information requests relevant to ULP’s, grievances, and related issues
- Represent employees in Official Meetings and Investigations as appropriate
- Maintain good communications with employees and Management; maintain Union bulletin boards, contribute to *NETL Plugged In*, Website, etc.





# How can Management use a Steward to help avoid potential problems or minimize them?

- When a problem with an employee arises (time & attendance, excessive leave, relationships, etc.), consult with Steward and seek his assistance in its resolution
- When reorganizations and/or reassignments are impending, discuss early on
- Obtain interpretations of Agreement or Labor Management relations processes
- Use to improve communications between Manager and employee(s)
- Involve at earliest opportunity in decision-making exercises regarding personnel policies and practices and workplace conditions



# Who are the Local 1916 Stewards?

- **Areas of responsibility are generally by building (Local 1995 assigns by organizational unit)**
  - Bldg. 58 - Bob Navadauskus, Steward
  - Bldg. 83 - Ray Bernarding, Steward
  - Bldg. 84 - Don Martello, Treasurer
  - Bldg. 94 - Fred Harke, Steward
  - Bldg. 920 - Eric Bell, DOE Vice President
  - Bldg. 921 - Ron Demicheli, President, Local 1916
  - Bldg. 922 - Dave Hyman, DOE Chief Steward
- **Union may appoint other representatives as necessary for particular assignments**
- **Local 1916 Secretary is Pete Grandillo; other Officers in NIOSH**



# Negotiated Agreement Between NETL and AFGE Local 1916

- **A fundamental description of the relationships between management and its employees and work environment**
- **AFGE Negotiation Team Objectives**
  - Develop a contract that is clear and easy to understand
  - Embody specific mutual intents in the contract language
  - Maintain terms of former PETC Agreement where possible
  - Improve and increase employee family-friendly benefits
  - Make work place conditions more flexible
- **Honored Management's interest to have both AFGE Locals work together for a single Agreement for both sites; help make NETL a “seamless” organization despite the 2 separate Bargaining Units and Competitive Areas**



# Negotiated Agreement Features

- **Essentially same Agreement for both Morgantown and Pittsburgh sites; however, some site-specific Past Practices cause some differences (ie. parking lot space allocations)**
- **LMPC becomes a more significant Labor-Management Relations instrument to the extent that it operates as a viable forum of peers to address negotiable and non-negotiable issues**
- **Intent expressed in several Articles (generally as Section A) of Agreement to help minimize conflicting interpretations and avoid intent determination issue at Arbitration**
- **Increased flexibility in grievance resolution options by using the LMPC as an alternate resolution venue**



## Article 3: Partnership

- **Article defines and conveys intent**
  - ...implicit or formal obligation to work together...
  - ...both recognize the potential benefits in operating as partners
- **Involvement before decisions are made**
- **Parties agree to participate in the DOE-wide LMPC**
- **Union has option to appoint team members for workplace issues, etc.**



## Article 10: LMPC

- **Parties agree that the LMPC is beneficial to the operation of the organization**
- **May address negotiable and non-negotiable issues**
- **Preferred forum for mid-term bargaining**
- **May address grievances and ULP's that have organizational impacts; available as part of NGP**
- **Some negotiated issues may modify or become part of this Agreement; can have the effect of making the Agreement a “living” document**



## **Article 12: Impact and Implementation**

- **I& I required when Management proposes a change in personnel policies or practices and workplace conditions**
- **Management recognizes early involvement on issues facilitates I&I negotiations**
- **Parties may refer I&I negotiations to the LMPC; 10 days to reach agreement, extend, or follow laws, regulations, policies**
- **LMPC is the preferred forum for disclosure and discussion.**



# Article 18: Unacceptable Performance

- Performance that fails to meet established performance standards according to PMAS as approved by LMPC
- Actions must be fair and equitable; administered in timely fashion; reduction in grade or removal
- Letter notification to employee identifying performance elements rated unacceptable; >90 calendar days to become acceptable via PIP
- 30 calendar day notice of proposed actions if still unacceptable with reasons; employee has 15 days to respond; may have Union representation at this point; may appeal to arbitration and MSPB if merited





# Article 19: Disciplinary Actions

- Oral admonishment confirmed in writing, written reprimand, or suspension of 14 calendar days or less
- DOE Order 3750.1 is applicable
- Management to furnish employee letter notification 15 days in advance; employee has 5 days to respond
- Employee has right to representation in Investigations (Weingarten) and Official Meetings
- No record of complaint, determined to be unfounded, will be placed in employees OPF
- Exercise of disciplinary action must meet Just Cause tests



# Just Cause

- **Did Agency give employee notice or warning of potential for disciplinary actions due to certain conduct; should employee reasonably known this anyway**
- **Is rule reasonably related to:**
  - orderly, efficient, and safe operation of the organization
  - employee performance Management can reasonably expect
- **Did Management competently investigate case before issuing discipline**
- **Did Management perform a full, fair, and objective**
- **investigation**
- **Were facts and evidence obtained by Management clear proof of employee misconduct; employee presumed innocent until proven guilty**



# Just Cause

- **Has Management applied its rules, orders, and penalties consistently, without discrimination or prejudice, and in timely fashion**
- **Degree of discipline administered reasonably related to:**
  - seriousness of employee's proven offense; notoriety
  - potential or realized adverse consequences of the offense
  - employee's service record (performance, dependability, past disciplinary record, length of service, etc.)
  - position or level of responsibility of employee in Agency
  - employee's potential for rehabilitation
  - adequacy of alternative disciplinary actions to discourage misconduct in the future
  - other mitigating circumstances (unusual job tensions, personality problems, or prejudice by supervisor or Management)



## Article 25: EEO

- EEO Office represents process, not employee; employee must find own representative
- Union may provide representation service (not as a Union representative, though) for an employee
- Management to appoint and train 2 EEO Counselors designated by the Senior Union Official
- All other Counselors chosen by the LMPC from a list of volunteers
- Term of appointment is 5 years
- Union may appoint 1 member to any Affirmative Action Activities or Committees



## Article 26: E, S, & H

- **Union will appoint 2 members as ES&H representatives**
- **Union invited to participate in all inspections & reclassifications of areas**
- **All inspection requests shall be completed within 1 working day**
- **Employees may refuse to perform work if the employee feels the conditions are unsafe**
- **Health exams may include PSA or Pap test**



# Initial Evaluation of an Issue...

- **“Gripe or Grievance”**
  - “What is your injury and what is the relief you seek that Management can grant?”
  - Investigates issue
- **If “gripe” (no real injury and/or relief available)**
  - What is real issue and can an informal chat with Management resolve it?
  - Gets information to clear up gripe or redefine it as a grievance
  - “Get over it”
- **If Grievance, define issue and circumstances**
  - Investigates issue; files Official Information Request(s) if necessary
  - Builds case file



# What is in a Grievance?

- **Written letter addressed to HR Director; copies to relevant charged member of Management and Grievant**
- **Statement of issue(s) being grieved and affected employee(s) with charged party identified**
- **Citation of Negotiated Agreement Article(s) claimed to be violated; legal basis of grievance**
- **Brief discussion of facts that form the basis of the claimed violation(s)**
- **Relief sought:**
  - “...seeks as relief to be made whole in every way, including [*specific relief*], and any other appropriate relief.”
- **Names Union representative(s) managing the grievance**



# How a Steward handles a Grievance...

- Identify injury and desired relief which Management can grant
- If facts warrant, starts Step 1 with either verbal informal means or first written letter specifying the nature of the grievance and requested remedy
- Presents grievance to Local 1916 Grievance Committee as appropriate
- Carries grievance through NGP Steps with other Union Officials as appropriate until resolved
- Represents employee in Mediation
- Works with AFGE National Representative to prepare and “try” case in Arbitration





## Article 31: Negotiated Grievance Procedure

- Recognizes injury for which relief can be sought
- Every effort is to be made to resolve at lowest possible level
- Two Paths; either via Chain of Command or LMPC
- If via LMPC, any consensus resolution is considered final
- ADRP may be used by mutual agreement
- Arbitration
  - Moving Party (only Union or Management) may submit to FMCS for arbitration
  - Expedited Arbitration may be utilized by mutual consent
- Time limits!!!



## Article 34: Alternative Dispute Resolution

- **May be invoked by mutual agreement any time after grievance is reduced to writing**
- **Can involve:**
  - Neutral Fact-Finding
  - Mediation
  - Mini-Trials
- **Can return to Negotiated Grievance Procedure if no resolution**



# Some Labor Management Relations and Workplace Undercurrents

- **Culture Clash**
  - Merger of two sites that once had a common ancestor (former Bureau of Mines), but evolved over time on culturally divergent paths; particularly with respect to labor-management relations philosophies
  - History of “bad blood”; program and funding conflicts
  - Each of the two sites had distinctly different management cultures and workplace conditions prior to merger
- **Matrix - Failure of parts of NETL to share Federal personnel resources as originally intended**
- **Potential for privatization; SSC Personal Services relationships**



# Common Grievances

- **Arise from...**
  - “*Son, what we have here is failure to communicate*” (from **Cool Hand Luke**); especially true where one or both parties do not have good “people” or social skills
  - Perceptions can be reality in eyes of the Grievant
  - Lack of common understanding of what is in the Negotiated Agreement (grievances)
  - Lack of common understanding of basic Federal labor laws, such as 5 USC 71 and consequent 5 CFR regulations (ULP’s or grievances)
- **...and occasionally:**
  - Lack of desire to conform to requirements of Negotiated Agreement and/or Federal labor laws



# Common Grievances and Issues

- **A violation of the Negotiated Agreement or other applicable regulations and laws incorporated by reference**
- **Issues that give rise to concerns:**
  - Standing in eyes of Supervisor (promotion opportunities, awards, etc.)
  - Equity of workload distributions within unit; especially in terms of grades
  - Telecommuting
- **Examples of past grievances:**
  - Uncompensated overtime
  - Improper conduct by a Division Director
- **Vast majority are amicably resolved at the Informal or Step 1 part of the NGP by the Steward and Management**



# Common ULP's

- **A Violation of some section of 5 USC 71**
- **FLRA represents AFGE against Agency**
- **Common Examples:**
  - Bypass
    - Official meetings
    - Direct negotiations with employees over personnel policies or practices and workplace conditions
  - Failure to Notify and Negotiate in Good Faith
    - Reorganizations without prior notice and I&I
    - Untimely notification or providing of information
    - Unilateral changes in personnel policies or practices and workplace conditions



# Some Issues Resolved Outside the NGP Success Stories

- **The (re)definition of Team Leader roles and responsibilities**
- **Performance awards; LMPC was sponsor**
- **Merit Promotion Procedures; LMPC was sponsor**
- **Daycare center for Pgh. Site; Local 1916 funding incorporation of Board**
- **Office moves I&I negotiations**
- **Various NETL reorganization I&I negotiations**
- **Parking lot - impacts of increased security**



# AFGE LOCAL 1916 MEMBERSHIP

