Fred Low

DEC 2 2 2008

Poli Marmolejos, Director
Office of Civil Rights
U.S. Department of Energy
ED-4, Forrestal Building, 5B-168
1000 Independence Avenue SW
Washington, D. C. 20585

JAN 0 8 2009 02

Re: DOE Case No SWPA -SWPA

Dear Poli Marmolejos:

Greetings. You have had the opportunity to learn of my client's atest efforts to stand up for her rights, as an employee of the U.S. Department of Energy and as a citizen of the United States. I enclose a copy of my latest letter to Mr. Marquez at Western Area Power Administration.

I currently have no good words to impart about DOE's civil rights record, but for the fact that I have appreciated the responses I have received from Mr. Marquez. He is the first individual I have come across in DOE that has been responsive to his position and the CFR's.

I have a number of theories of federal management dynamics, which are driven because of absence of true market forces of costs and profits, along with too many employees (and support contractors). This situation is exponentially compounded by the abundance of management layers. The Southwestern Power Administration is a great example. The agency has less than 200 employees but 6 or 7 management layers, many of which appear to be almost completely autonomous.

With so much "managerial time and power" available, personal agendas and the development and maintenance of culture become paramount. In SWPA's situation, the long- term, historical culture is an exclusive Boys Club of management. The supply of males is primarily fed from within the mentored ranks from those who are part of the culture of many years, often much or their entire federal career. There is a recent example where a high school kid came to SWPA and retired as an Assistant Administrator, having spent his entire career with SWPA in a single location.

1/8 Spoke to Sharon Wyatt, there will be no fees to process the request ACM

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This culture has been able to survive because management above SWPA's level has not done their job adequately for decades. This also includes inadequate control by OPM.

My client has been an employee of DOE for over thirty years, about twenty of which have been with SWPA. The culture has essentially not ever changed, but my client actually was the first but this was a result of a nasty settlement on the eve of a trial in Federal District Court. There have now been some other (one probably run off), and now the glass ceiling is at the GS-14 level.

Since my client's lawsuit in SWPA has had seven (7) promotions to the GS-15 or above level—all have been men and all but one were existing SWPA employees. How can such a small employment pool produce so many GS-15's? With the December 2008 selection of the latest Assistant Administrator, GS-15, there were only two SWPA employees at the GS-14 level who were "qualified" per the vacancy announcement—one of the two was selected on the "second" round of advertising. However, this job was also not advertised on USA Jobs—check it out—we already have.

Had DOE and OPM done their job in the present and past, and other in SWPA would not be experiencing the current problems and second fiddle positions they now occupy.

Specifically, I would like to know specific DOE efforts in dealing specifically with SWPA for the following mandatory, specific requirements of 29 CFR:

- Section 1614. 102 (a) : "maintain program to ID and eliminate discrimination."
- Section 1614. 102 (a) (3) : "continuing campaign to eradicate discrimination . . . "
- Section 1614. 102 (a) (6) : "disciplinary action against those who discriminate"
- Section 1614. 102 (a) (5) : "review, evaluate, and control to insure" compliance.
- Section 1614. 102 (a) (10) : "establish a system to evaluate effectiveness."
- Section 1614.102 (b) ((1) : "develop plans and procedures to carry out. "
- Section 1614. 102 (b) (3) : "appraise personnel operations to ensure conformity."
- Section 1614. 102 (c) (2) : " evaluate and report to head of agency improvement or correction needed."

I make these eight specific requests pursuant to the Freedom of Information Act.

As mentioned to Mr. Marquez, I am available to discuss this matter. I also strongly encourage DOE to pick up the pace and force culture change, consistent with existing law.

Sincerely,

Fred Low

Fred Low
Attorney for

CC: Charles Marquez