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Happy New Year NRCSers'

Welcome Acting Chief, Jason Weller

The New Year brings exciting opportunities, a change in the season, personnel and new beginnings. The NRCS Civil Rights Division (CRD) welcomes our Acting Chief, Mr. Jason Weller. Mr. Weller has served as Acting Chief since December 2012. Prior to being appointed Acting Chief, he served as NRCS Acting Associate Chief for Conservation and as Chief of Staff. Mr. Weller has been committed to working with the Agency's national and state leaders to plan and implement strategic conservation initiatives and to conduct the annual business operations of the agency.

The CRD met with Mr. Weller in December 2012 and had a wonderful discussion on Civil Rights, the Agency, how far we have come, and where we should go! We also discussed the upcoming 50th Anniversary of the Civil Rights Act of 1964 and Civil Rights/EEO training opportunities for the agency. Mr. Weller is excited about Civil Rights and in maintaining NRCS steady strides to archiving a model Civil Rights/EEO program and creating a workplace culture that embraces diversity.

IN OBSERVANCE OF BLACK HISTORY MONTH – FEBRUARY 2013

At the Crossroads of Freedom and Equality: The Emancipation Proclamation and the March on Washington

The year 2013 marks two important anniversaries in the history of African Americans and the United States. On January 1, 1863, the Emancipation Proclamation set the United States on the path of ending slavery. A war-time measure issued by President Abraham Lincoln, the proclamation freed relatively few slaves, but it fueled the fire of the enslaved to strike for their freedom. Increasingly those in bondage streamed into the camps of the Union Army, reclaiming ownership of their bodies. As Fredrick Douglass predicted, the war for the Union became a war against slavery. The actions of both Lincoln and the slaves made clear that the Civil War was in deed, as well as in theory, a struggle between the forces of slavery and freedom. The dismantlement of slavery had begun.

A century later in 1963, America once again stood at the crossroads. Nine years earlier, the Supreme Court had outlawed racial segregation in the public schools. Yet, the nation had not committed itself to equality of citizenship. Segregation and innumerable other forms of discrimination made second-class citizenship the extra-constitutional status of non-whites. In the White House, John F. Kennedy, another progressive president, temporized over the legal and moral issue of his time. Like Lincoln before him, national concerns out-weighed his personal beliefs. On August 27, 1963, hundreds of thousands of Americans, Blacks and Whites, Jews and Gentiles, Protestants and Catholics, marched to the memorial of Abraham Lincoln, the author of the Emancipation Proclamation, in pursuit of the ideal of equality of citizenship. It was on this occasion that Martin Luther King, Jr. gave his famous speech, "I Have a Dream." Just as the Emancipation Proclamation marked the beginning of the end of slavery, the March on Washington, as it became known, numbered the days of second-class citizenship.

In marking the sesquicentennial of the Emancipation Proclamation and the 50th anniversary of the March on Washington, the Association for the Study of African American Life and History invites all Americans to join in studying and celebrating how two different generations of African Americans each transformed America.

USDA's Black History Month observance for the Washington DC area is scheduled for February 21st, 2013. Information regarding NRCS' observance will be forthcoming.

Article from ASALH (the Association for the Study of African American Life and History) at www.asalh.org.

**NRCS Civil Rights Division
Civil Rights Compliance Review Success Stories**

RI NRCS Employees Volunteered Time For Hurricane Sandy Relief Effort in Westerly, RI During USDA's Martin Luther King Jr. National Day of Service

WARWICK, RI (January 18, 2013) — Volunteers from Rhode Island NRCS spent time on Tuesday, January 15, 2013, assisting the ongoing efforts to restore areas of Westerly devastated by Hurricane Sandy in observance of USDA's National Day of Service. NRCS volunteers assisted local business owners in clearing and disposing of hazardous debris that were deposited by the storm. Volunteer efforts were coordinated through the non-profit, local organization, Serve Rhode Island.



The effort was part of USDA's Martin Luther King Jr. National Day of Service where USDA employees throughout the Nation are encouraged to perform volunteer services in their communities. A group of RI NRCS employees volunteered 2 hours of their time to Serve Rhode Island. The effort was a team building opportunity to serve the local community which sustained heavy damage after Hurricane Sandy.



Serve Rhode Island is the State's volunteer center and commission for national and community service. The organization was established in 1994 to administer the AmeriCorps program of the Federal government and presently administers 12 AmeriCorps State programs. During 2012-13, Serve Rhode Island made grants totaling over \$2 million in Federal AmeriCorps funds to support the work of 280 AmeriCorps members assigned in Rhode Island working to meet community needs. The Volunteer Center at Serve Rhode Island connects thousands of volunteers to serve opportunities in the community annually.

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Soils Staff Participates in UConn's First Natural Resource Conservation Academy

Connecticut NRCS Soil Scientists, Debbie Surabian, Lisa Krall, and Marissa Theve, Student Interns, Andrew Brown, Adam Aldridge, and Jennifer Blanchette, along with Research Soil Scientist from the National Soil Survey Center, Jim Doolittle, recently assisted the University of Connecticut with their first Natural Resource Conservation Academy (NRCA). The group helped out by preparing pits and demos, and assisting in the coordination of the event's weeklong soils competition.



Students from high schools across the state had an opportunity to participate in the first ever NRCA Program at the UConn Storrs campus. Directed by Cooperative Extension Educator, Charlotte Rand, the program had both educational and entertaining appeal. Each day included not only valuable lessons in the basics of natural resources, but also some form of recreational team-building activities such as a rope courses, geo-caching, camping, and barbecues. Studies included remote sensing and GPS; watersheds, lakes, and rivers; forests and soils; and fish and wildlife. During the soils portion, students experienced a demonstration on the use of Ground Penetrating Radar (GPR), participated in comprehensive soil morphology and soil quality practicum's, and competed in a mock soil judging contest between each of the teams. Though the hands-on training and team building is over, students



will continue what they began with a 7-month project in their own schools and communities. Projects will culminate with poster presentations at the Connecticut Conference on Natural Resources next March.

NRCA had a rather interesting beginning ... funding came from an anonymous donor who approached Dr. John Volin, Head of the Department of Natural Resources and the Environment who asked the question, "If you had \$20,000 to \$50,000 for the Natural Resources Department for up to 10 years, what would you do with it?" Dr. Volin worked with his department, extension staff, and others to develop a plan for NRCA, proposed the idea, and made it happen.

The NRCS group currently plans to assist in next year's program with the hope of encouraging more of Connecticut's students to gain an interest in agriculture and soil science as they consider their careers.

HOTLAW

Agency Inaction Results in Default Judgment — Fedweek Published: Wednesday, December 26, 2012

A recent EEOC decision granted a sanction of default judgment against the Department of the Army for its failure to produce the complaint files as ordered by the EEOC. In *Robinson v. Dept. of the Army*, EEOC Case No. 531-2012-00210X (BFO October 17, 2012), on November 3, 2010, the complainant filed a formal complaint, alleging that the agency subjected her to discrimination on the basis of sex (female) and reprisal. The complainant also had a second case, in which she alleged that she was subjected to discrimination and reprisal when she was issued a "1" or "unacceptable" performance rating for the 2010 appraisal year.

Following some litigation, on July 28, 2011, the EEOC Office of Federal Operations ordered the agency to issue a copy of the investigative file within 150 days, or by December 5, 2011. *Robinson v. Dept. of the Army*, EEOC Appeal No. 012011526. The complainant requested an EEOC hearing on December 5, 2011, a copy of which was sent to the Army. However, upon receiving the request for EEOC hearing, the agency did not provide a copy of the Report of Investigation (ROI) for either complaint as required by regulations and by the EEOC's order. As a result of the agency's failure, on March 12, 2012, the administrative judge (AJ) issued an order directing the agency to produce the complaint file. However, the agency did not respond to the AJ's order. Thus, on July 27, 2012, the AJ issued a Show Cause Order, demanding a written explanation from the agency why a decision in favor of the complainant (default judgment) should not be issued by August 10, 2012.

When it received the order, the Army finally submitted the complaint files to the AJ on August 2, 2012. On August 7, 2012, it submitted its written explanation in response. Among other arguments for its failure and delay in complying with the AJ's orders, the Army contended that it had personnel and staffing issues, and had consistently acted in good faith. Moreover, the agency argued that in the absence of bad faith on its part, it would be unjust to issue default judgment against it.

The AJ rejected the agency's arguments, and found that the Army had failed to establish good cause why it had failed to submit the complaint files. The AJ concluded that there was no indication that the agency had not received the complainant's request for an EEOC hearing in December 2011, and thus should have produced the complaint files at that time. Moreover, the AJ cited previous EEOC cases, which had held that personnel/staffing issues and arguments that the agency had acted in good faith, were not sufficient to show good cause for not complying with EEOC orders. Further, the AJ pointed out that the agency's failure to produce the complaint files had delayed the processing of the case by over 200 days. The AJ concluded that when an agency does not timely process an EEO complaint, the most important factor in determining the sanction to be imposed on the agency is what effect the failure has on the integrity of the EEO process.

After imposing default judgment, the AJ next needed to determine whether evidence existed that would establish the complainant's right to relief (monetary damages, other remedies). In reviewing the ROI, the AJ concluded that there was ample evidence that the complainant was entitled to relief. Thus, the AJ concluded that the complainant must be offered the opportunity to produce evidence regarding remedies, and the agency afforded an opportunity to respond to the complainant's evidence.

**EEOC FINDS SEX DISCRIMINATION** — Fedweek Published: Wednesday, January 2, 2013

A recent EEOC decision found that, when combined with sexist statements, a supervisor's showing of favoritism toward employees of one gender can be enough to establish sex discrimination. In *Balderas v. Dept. of Justice*, EEOC Appeal No. 0120110222 (September 28, 2012), a contract aviation security officer alleged that her female supervisor subjected her to discrimination based on her gender and national origin and reprisal for opposing such discrimination. Among the agency actions the officer labeled as discriminatory was her denial of out-of-country assignments and her termination.

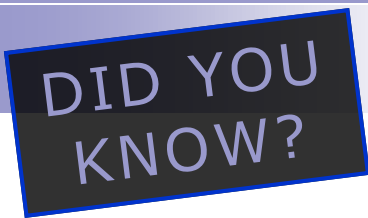
The Commission rejected the officer's claim that denying her out-of-country assignments was based on her national origin because she did not present any evidence that others of a different national origin enjoyed more favorable treatment. The Commission also denied the officer's claim that reprisal was the motivating factor in her being refused out-of-country assignments, since she failed to show that the supervisor responsible for scheduling such assignments knew about her protected activity opposing alleged discrimination at the time of the denials.

However, as to the officer's claim that her gender was the reason her supervisor denied her out-of-country assignments, the Commission concluded this was in fact the case. It wrote that the supervisor expressed her dislike of females directly to the officer and stated on one occasion that the agency should not hire any more females and that females should not be allowed to work on airplanes. Another witness stated that the supervisor did not like females and took those who were not popular with her off out-of-

country assignments, replacing them with male friends. The Commission concluded that in context, this was gender discrimination.

With regard to the officer's termination, the agency argued that the officer was not actually terminated since she was a contract employee and the agency simply chose not to renew her contract. The Commission rejected this argument, finding that the agency failed to provide evidence that the officer was a poor performer or that she was guilty of any kind of misconduct or otherwise offensive behavior. Rather, the Commission found that the agency's stated reason for terminating the officer's contract was directly related to her protected allegations of discrimination; the officer complained about her supervisor's unfair scheduling based on her sex and national origin.

The agency also tried to argue that the termination of the officer's contract was not unique — others who also alleged discrimination did not have their contracts terminated. The Commission found that these other employees were not similarly situated with the officer since they had not been as active in opposing discrimination as she had. The Commission further found that although the officer was a contract employee, the agency stopped giving her work several months prior to the expiration of her contract, which was equivalent to a termination. Also persuasive was the short delay between the officer's complaint about discrimination and the agency's termination of her work assignments (less than four months).



CRD is on the Web!

<http://www.nrcs.usda.gov/wps/portal/nrcs/main/national/about/civilrights>

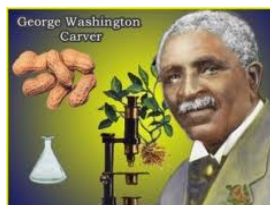


Black History Month Trivia Match the Inventor to the Invention



- | | |
|--------------------------------|---|
| George Washington Carver _____ | a. refining sugar, which he patented in 1846 |
| Henry Blair _____ | b. 100 patents related to food chemistry |
| Lloyd Hall _____ | c. Agricultural Chemist and Innovator |
| Norbert Rillieux _____ | d. patent for a seed planter and cotton planter |

A. Norbert Rillieux, B. Lloyd Hall, C. George W. Carver, D. Henry Blair



Civil Rights Division

VISION:

To be an inclusive diverse and equitable Agency that delivers programs in a manner based on and consistent with fairness availability and accountability.

MISSION:

To be an inclusive, diverse and equitable Agency that delivers programs in a manner based on and consistent with fairness, equality, availability and accountability while ensuring that applicants and employees are treated with respect, dignity and free from discrimination.

NRCS Civil Rights Division

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Wytonya Jackson	EO Specialist	301-504-2166
Sheila Shepperd	EO Specialist	301-504-2457
Kimberly Rodgers	EO Assistant	301-504-0304



The USDA Office of the Assistant Secretary for Civil Rights updated the required nondiscrimination statement as follows:

Non-Discrimination Statement

Non-Discrimination Policy

The U.S. Department of Agriculture (USDA) prohibits discrimination against its customers, employees and applicants for employment on the bases of race, color, national origin, age, disability, sex, gender identity, religion, reprisal, and where applicable, political beliefs, marital status, familial or parental status, sexual orientation, or all or part of an individual's income is derived from any public assistance program, or protected genetic information in employment or in any program or activity conducted or funded by the Department. (Not all prohibited bases apply to all programs and/or employment activities.)

To File an Employment Complaint

If you wish to file an employment complaint, you must contact your agency's EEO Counselor within 45 days of the date of the alleged discriminatory act, event, or in the case of a personnel action. Additional information can be found online at http://www.ascr.usda.gov/complaint_filing_file.html.

To File a Program Complaint

If you wish to file a Civil Rights program complaint of discrimination, complete the USDA Program Discrimination Complaint Form, found online at http://www.ascr.usda.gov/complaint_filing_cust.html, or at any USDA office, or call (866) 632-9992 to request the form. You may also write a letter containing all of the information requested in the form. Send your completed complaint form or letter to us by mail at U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9419, by fax (202) 690-7442 or email at program.intake@usda.gov.

Persons with Disabilities

Individuals who are deaf, hard of hearing or have speech disabilities and you wish to file either an EEO or program complaint please contact USDA through the Federal Relay Service at (800) 877-8339 or (800) 845-6136 (in Spanish).

Persons with disabilities, who wish to file a program complaint, please see information above on how to contact us by mail directly or by email. If you require alternative means of communication for program information (e.g., Braille, large print, audiotape, etc.) please contact USDA's TARGET Center at (202) 720-2600 (voice and TDD).

Supplemental Nutrition Assistance Program

For any other information dealing with Supplemental Nutrition Assistance Program (SNAP) issues, persons should either contact the USDA SNAP Hotline Number at (800) 221-5689, which is also in Spanish or call the State Information/Hotline Numbers.

All Other Inquires

Shorten version

USDA is an equal opportunity provider and employer.