



## USW Atomic Energy Workers Council Delegates Discuss Health, Safety Issues at Fall Meeting

Although the government shutdown prevented Department of Energy (DOE) officials from addressing the Atomic Energy Workers Council (AEWC) Oct. 1-3 meeting in Washington, D.C., it gave the group more time to focus on health and safety issues and other concerns.

USW International Vice President Carol Landry, who chairs the council, said she put together a team of staff to work on council issues.

"We have calls every week with the DOE. We want the contractors to know that the locals aren't on their own."

Landry said the DOE and the contractors point fingers at each other.

"To date, they both refuse to sit down together. They shouldn't wait till someone dies to do what they're supposed to do."

USW Vice President At Large/Assistant to the President James "Kip" Phillips has years of experience in dealing with the DOE and its contractors. He said DOE officials often leave the government to go work for the contractors they regulated.

"It's like a merry-go-round. It's the same people. They just change horses."

Phillips said that what DOE rolls out at one site often comes to other sites.

"It's hard for a local union to stand up against a contractor and the federal government," he said. "I encourage you to work together and hopefully with the Moniz administration we'll see some changes."

The USW is working to develop a relationship with new energy secretary, Dr. Ernest Moniz. At the time of the council meeting a new labor liaison had not been appointed yet.

### Another Paper Program

DOE's safety programs generally focus on employee behavior instead of finding the hazards and correcting them. When there is a safety violation that falls under the 10 CFR 851 regulation the DOE chooses to enforce it only when there is a workplace death or a catastrophic incident.

Local 550 Vice President At-Large Jim Key said the DOE's Integrated Safety Management System (ISMS) was not being implemented correctly at the Paducah Gaseous Diffusion Plant. ISMS, according to the DOE, is about working safely and thinking about hazards and how to do a job safely before it is started. Key said production is valued over safety at the Paducah site.

David Cassidy of the USW Health, Safety & Environment department said ISMS is "another paper program." He said ISMS is used as a justification against using other safety programs that are more enforceable, like the 851 regulation.

"10 CFR 851 regulatory requirements were written to protect workers from unsafe practices, policies and procedures that diminish workplace safety and health," Cassidy said.

"Unfortunately, DOE chooses only to enforce these regulations

under 10 CFR 851 when there is a catastrophe or a fatality happens in the workplace.

"If workers are required to get seriously hurt or die before they are protected by 10 CFR 851 how effective can the protections afforded under this regulation be?" he asked.

DOE's 10 CFR 851.20 health and safety rules require the contractor to assign responsibility for its health and safety programs and to make workers aware of these assignments.

"To this day, the union cannot get an effective hazard reporting structure from DOE," Cassidy said.

DOE managers also could not provide definitive answers to these questions when the USW and other labor leaders met with them in a sidebar meeting at the USW health and safety conference.

DOE is doing a health and safety awareness campaign now by interviewing people about health and safety at five sites. Only two of the sites, Idaho National Laboratory and Oak Ridge, are represented by the USW. Cassidy said the international union is conducting its own health and safety audit.

The union hired an industrial hygienist to interview workers at the Hanford Washington complex, Idaho National Laboratory, Waste Isolation Pilot Project in Carlsbad, NM, and the former Portsmouth, Ohio, Gaseous Diffusion plant.

"We got a lot of good information from each site," Cassidy said. "We'll put the information together in the aggregate and then take this report to DOE after it is completed."

### Need a Strategy

"We have to come up with a strategy when actions are not taken by DOE and the contractors' health and safety systems. What we have isn't working," Key said.

Phillips said the council needs to develop a health and safety standard that will be the norm and present it to DOE. He also suggested that the council coordinate its actions instead of addressing issues one site at a time.

Cassidy said the council needs to be proactive in safety and health, and he asked the members what kind of training they need. Local 689 President Herman Potter, from the Portsmouth, Ohio, site, suggested training on how to use the 851 regulation and take action on health and safety matters. Those trained should be health and safety committees and local union executive boards, Cassidy said.

Discussion also centered on keeping the council informed about health and safety issues and the reporting of incidents. Landry suggested there be one to two health and safety liaisons to the council. She also suggested conference calls between meetings.

Currently, the council members can communicate with each other in confidence through an atomic SharePoint page and private Facebook group. Public information on the nuclear industry and USW-represented sites is posted on the atomic web page, located on the USW website: [http://usw.org/our\\_union/atomic\\_sector](http://usw.org/our_union/atomic_sector).

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## USW Atomic Locals Confront Similar Issues Across Nuclear Sites

Several USW-represented nuclear sites are confronting common issues with the Department of Energy (DOE), the Building Trades and the contractors.

Local union officers from the former Portsmouth, Ohio, and Paducah, Ky., gaseous diffusion plants, Idaho National Laboratory and Carlsbad, N.M., Waste Isolation Pilot Project (WIPP) site assert that the DOE is trying to eliminate workers through its “fitness-for-duty” program. Other common issues concern job jurisdiction issues with the Building Trades and the inconsistent rulings of contractor oral review boards.

Local 689 President Herman Potter said DOE is tightly enforcing its fitness-for-duty standard among the Portsmouth site’s well-trained firefighters. He thinks the fitness-for-duty test is being used to eliminate older workers and is concerned this will go beyond the fire department and eventually spread across the DOE complex.

The U.S. Enrichment Corp. (USEC) employed the fitness-for-duty test on two firefighters at Paducah. When they failed, their certifications were taken away and they were banned from overtime, according to Local 550 Vice President At-Large Jim Key. Both were retested, but only one passed. This case was going to arbitration in mid-November.

Idaho National Laboratory (INL) contractor Battelle Energy Alliance (BEA) told Local 652 that the fitness-for-duty machine is used on those returning to work and new hires. Local 652 President Matt Chavez said the company is trying to eliminate older and less healthy workers by testing them after accidents and injuries, and this is having a chilling effect on incident reporting because people are afraid they will be fired if they do not pass the test.

The USW spoke with the DOE about how the fitness-for-duty test was being used at INL and the effect it had on incident reporting, but one DOE official claimed it was part of a wellness program that the local union and contractor were working on together. He also claimed the test was never used for general screening. Both claims were untrue, Chavez said. The union will pursue this issue further.

At the WIPP site the contractor changed the substance abuse plan in 2011, renamed it fitness-for-duty, and did not tell the union for over a year, said Local 9677 Vice President Rick Fuentes. He said the fitness-for-duty language was vague and onerous. The local threatened to file a charge with the National Labor Relations Board if the company refused to negotiate over the issue. The company backed off and reverted to its 2004 substance abuse plan. Fuentes said the local is willing to discuss fitness-for-duty with the contractor.

### Whose Job Is It?

The USW and the Building Trades have been in conflict for years over job jurisdictions at the nuclear sites. This conflict continues at Portsmouth and INL.

Potter said the Building Trades are pursuing a U.S. Government Accountability Office (GAO) investigation against Local 689 and contractor Fluor-Babcock Portsmouth. The Building Trades claim their labor is cheaper, but Potter said they are unskilled compared to his members.

Chavez said it seems like the Building Trades are getting all the INL clean-up work at Battelle Energy Alliance (BEA), and it is because of DOE that the USW is having trouble getting those jobs. The agency reversed a jurisdiction decision in favor of the USW by stating it is Davis-Bacon work and therefore goes to the Building Trades. Now, DOE is deciding all of this work in favor of the construction unions.

### Oral Review Boards

Some contractors are having workers qualify for their jobs by answering questions from an oral review board. This is a new problem for USW nuclear workers.

“If someone does not like you, they can say you’re not qualified,” said USW Vice President At Large/Assistant to the President James “Kip” Phillips.

This may have been a factor at WIPP. Local 9677 President Bobby Espinoza had to get re-qualified to work in a new area because his old job was downsized. He passed the first oral review board, but missed a question and failed the second board. The union discovered that another person answered a question wrong as well but passed the oral examination.

Fuentes said the local will fight for Espinoza and against the inconsistencies of the oral review boards.

“Our boards should demonstrate you can do the work,” he said. “This issue of oral board inconsistency probably is going to affect other sites.”

At Idaho National Laboratory there also has been inconsistency in who gets passed and who fails the oral review board test. Chavez said at the Materials and Fuels Complex management employees flunked the oral test and were given the opportunity to retake it. A union member also flunked the test but was terminated. A week before the local took his case to arbitration, the company settled with the member for a large cash payment and retirement.

### What’s Being Done

USW International Vice President Carol Landry said the union had a number of meetings with DOE officials in former Director Steven Chu’s administration. They discussed the Building Trades jurisdiction issue and how the locals have to pay for arbitration, but the contractors are reimbursed by DOE for their arbitration costs. As a result of those talks, DOE began to change, Landry said. The USW plans to address these and other issues with new DOE Director Ernest Moniz and his new labor liaison.

## Portsmouth, Ohio Local 1-689 Receives Health and Safety Award

Local 1-689, which represents employees of several contractors at the former Portsmouth, Ohio, enrichment plant, was one of several recipients of the A.Q. Evans Award for outstanding accomplishments in occupational safety and health.

The local was given the award for its creation of an extensive network of safety representatives, use of safety and health to organize new contractors, and its leadership role in the network of former DOE nuclear sites.

The award honors the memory of A.Q. Evans, the former president of USWA Local 5554, who fought courageously for the OSHA lead standard, even as he was dying from lead poisoning and from the dangerous drugs the company insisted he take to “flush” the lead from his system.