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—Allen H. Neuharth, Founder, Sept. 15, 1982

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Today's debate: Punishing whistleblowers

Faced with faulty science, EPA muzzles critics

Our view:

Those who do not toe line face retaliation, despite public interest.

On Monday, the Department of Labor handed down a decision that no doubt made Rosemarie Russo's day. She's to be given her old job back as director of an Environmental Protection Agency research lab in Athens, Ga., and a 5% bonus.

But the decision, and the events leading up to it, paint a disturbing picture of how the EPA intimidates whistleblowers and how that, in turn, hurts its mission to protect public health.

The Department of Labor's findings showed that Russo was an innocent victim of a fervid bullying campaign by top EPA officials to squelch safety concerns raised by one of the agency's own scientists.

That's troubling behavior from an agency dedicated to protecting public health. Even worse, it's only the latest in a long line of examples showing that the EPA too often would rather muzzle criticism of its policies than deal with the root of the problem.

Russo's problems started after one of her employees, microbiologist David Lewis, embarrassed agency officials by criticizing the EPA's decision to allow millions of tons of processed sewage sludge to be used as crop fertilizer. The worry is that dumping the stuff on fields can be harmful to people exposed to it. Two deaths have been attributed to sludge.

EPA scientist targeted

Here is the timeline of events involving Rosemarie Russo, who for 16 years has been head of an Environmental Protection Agency research lab in Athens, Ga.

February 1993

► Sludge rule approved by EPA, allowing treated sewage to be used as fertilizer.

October 28, 1999

► EPA microbiologist David Lewis publishes paper in *Nature* that contains criticism of the sludge rule.

► EPA assistant administrator Norine Noonan fires off an e-mail complaining that Russo didn't alert her to the article, saying, "I am so mad about this, I could spit nails."

October 29, 1999

► Noonan lowers Russo's performance rating from "outstanding" to "exceeds expectations," causing Russo to lose a 5% salary bonus.

March 22, 2000

► A deposition of Russo, in which she says the sludge rule is not "scientifically defensible," is presented at a congressional hearing.

June 9, 2000

► Russo is told she is being relocated to Washington, D.C.

October 2, 2000

► The Department of Labor finds in favor of Russo, calling actions against her "retaliatory in nature."

Source: U.S. Department of Labor; USA TODAY research

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When Lewis described his concerns in a peer-review article in the journal *Nature* last October, EPA Assistant Administrator Norine Noonan fired off memos that "clearly displayed her anger toward Dr. Russo over the article," according to the Labor Department.

Noonan later downgraded Russo's performance rating, denying her a 5% bonus. Then Russo was forced by the EPA to relocate to Washington, D.C., a move that Labor concluded was "retaliatory in nature."

This is hardly the first time the EPA has tried to shut up internal critics who had concerns about the validity of the science EPA is using. Nor the first time those efforts have backfired:

- Lewis himself, who has a pending whistleblower case against EPA over the sludge issue, already won another whistleblower case against the EPA after it retaliated against him for a 1996 article critical of EPA science. The EPA paid him \$115,000 in a settlement, along with a written apology.

- Brian Rimar, a former Denver-based EPA scientist, questioned an EPA Superfund cleanup plan and claimed that in response, the agency trumped up conflict-of-interest

charges against him. The EPA settled the case in 1998 and paid Rimar \$100,000.

- In June 1998, several EPA scientists complained publicly of the hostile treatment whistleblowers receive, saying the problem was "pervasive" and reaches "the highest levels" of the agency.

- At a House hearing Wednesday examining EPA reprisals, Leroy Warren Jr., chairman of the NAACP Federal Sector Task Force, said that "there seems to be a situation at EPA where if you complain ... you are facing a death sentence in terms of upward mobility and promotions."

EPA's attempts to squelch criticism aren't limited to intimidating critical employees, but include making dubious assertions to the public. Last October, Chuck Fox, assistant administrator in the EPA's Office of Water, wrote a response to a USA TODAY editorial saying that the EPA set "tough health standards" for sludge and that it backs them up "with strong enforcement actions."

But the EPA's own inspector general concluded in March that the EPA can't guarantee that the sludge rules protect human health because EPA "does not have an effective program for ensuring compliance" with the rules.

Now the agency has asked the National Academy of Sciences to review its sludge rules. According to one senior EPA official, who testified in a deposition earlier this month, the academy review likely would "raise issues" with the existing program.

Russo's story might have a happier ending if there was reason to believe the EPA had learned from its mistakes.

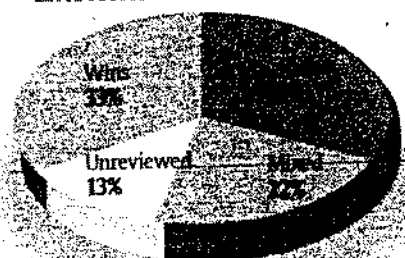
To the contrary, an internal EPA report issued back in 1992 warned the agency that it should improve its treatment of scientists, ensuring they "feel free to express conflicting opinions and judgments, without fear of reprisals."

So far, there's no indication that the EPA has heeded that call. If the EPA hopes to repair its battered reputation and live up to its promise to protect the public's health, it will have to do far more than give Russo the keys to her old office.

EPA takes hits in courts

The Environmental Protection Agency contends that its rules are based on sound science. But those rules are reversed in court more often than the rules of other federal agencies, according to an analysis of cases heard by the D.C. Circuit of the U.S. Court of Appeals during the past seven years.

EPA's record in court:



Source: Reason Public Policy Institute

By Quinn Tamm, USA TODAY