

*This material is part of a collection that documents the harassment, discrimination, and retaliation perpetrated against Alaska's women research scientists by their supervisor, with full knowledge (and arguably, "tacit approval") of their federal employer, the USDA Agricultural Research Service (ARS)*

## **Exhibit 1**

Discrimination against women is not taken seriously by the USDA Agricultural Research Service in Alaska.

- Timeline for administrative grievances filed with ARS (pages 2 – 5)
- ARS Communication explaining why discrimination is allowed (pages 6 – 9)
- First administrative grievance series confirming that ARS does not regard discrimination as an actionable offense (pages 10 – 45)
- Continuing retaliation after filing an EEOC complaint (pages 46 – 49)

**Of note:** All three women research scientists working for our ARS supervisor (Alberto Pantoja) experienced harassment, discrimination, and retaliation because of our gender. Each of us filed numerous complaints, but ARS administrative personnel refused to stop the discrimination. Only after all three women filed formal EEO complaints with USDA in 2008, did we start to see (minor) changes. In 2009, all three women stopped filing grievances with the USDA when they became eligible to file complaints with EEOC. [In the Federal EEO process, a woman must wait 10 months or more after her first EEO complaint before becoming eligible to file with EEOC. This delay allows further discrimination, retaliation, and harassment to continue unabated if the federal agency desires.] At the EEOC depositions in July 2009, I was shocked to learn from Dr. Pantoja's testimony that he had never failed the EEO Element of his performance plan. The EEO element is considered to be "critical", with disciplinary action required when a supervisor is found to have failed. However, based on his deposition testimony, Dr. Pantoja was rated as "fully successful" by his ARS supervisors, even when 100% of the female research scientists he supervised had filed discrimination complaints against him with USDA.

***This confirms that the USDA Agricultural Research Service does not regard harassment, discrimination, and retaliation against women as unacceptable behavior in a male supervisor.***

In accordance with AS 23.20.379(a)(1), a reasonable and prudent person of normal sensitivity, exercising ordinary common sense, would have good cause for voluntarily leaving work within an agency that does not support Title VII of the Civil Rights Act (1964).

### Timeline for Administrative Grievances (through 2008)

#### Discriminatory Treatment During Hiring

- 2 July 2004: Research Leader, Alberto Pantoja informally offered me a GS 13/14 research position (ARS-X4W-0138) with a suggested salary that was almost \$10,000 lower than a GS 13 level scientist would receive, BEFORE the Research Position Evaluation System (RPES) panel convened in August to evaluate my career for GS classification. The “15% rule” (i.e. the ARS can’t offer a salary more than 15% of previous job’s salary) was provided as the reason. I have since learned that the 15% rule does not exist in any official ARS policy and procedure manuals. This occurrence is documented in emails from me to my university friends.
- 24 August 2004: RPES panel ignored over 10 years of PhD-level scientific research and assigned me the GS level of a new PhD.
- August 2004: GS 13/14 position was cancelled and GS 12 position (ARS-X4W-0403) was offered to me, despite the fact that I met all the written criteria for a GS 13. Official RPES paperwork rated me low by saying that my research would be done as part of a large team. The RL knew that statement to be false, but did not correct it. I have continued to work alone with no supervision (and no “team”) for four years now.

#### Harassment (interference with research program)

- 2006: a collaboration relevant to my research program was denied without allowing me an opportunity to defend it, after the RL (an entomologist, not a microbiologist or food technologist) presented my proposals to the ARS Pacific West Area (administrative) personnel (Albany, CA)
- 2007: another relevant collaboration was denied by the RL because I am (supposedly) not allowed to work on food, (even though my Position Description lists food as a research area). The RL came to my office to inform me that I could not collaborate with anyone on my project. The RL was so loud that the post-doc in the office next door could hear the interaction.

#### Discrimination (Damage to Career and Professional Stature)

- The career-building opportunity of serving as Acting RL (in the RL’s absence) was denied to all women research scientists in Fairbanks, but extended to all the Fairbanks men, regardless of GS-level or probationary status. I first raised this issue in an informal grievance (12/27/07) to the RL’s supervisor (Andy Hammond) with a cc to the ARS HR department, the Area Director (Dwayne Buxton), and the ARS administrator (Edward Knipling). It was clearly a case of illegal discrimination against women, yet no action was taken by ARS personnel to correct the problem.

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Research Food Technologist  
USDA Agricultural Research Service

- Women scientists were given a disproportionate amount of time-consuming committee assignments (e.g., safety committee) by the RL. However, even though two committee members had PhDs, they were not allowed to lead the committees, and a male technician was brought in to serve as chair.
- By 2007, all five male scientists in Fairbanks had permanent technicians, (regardless of GS level, length of time in Fairbanks, or CRIS project assignment) whereas the two female scientists only had techs with term appointments, (ensuring continual program disruption as the technicians were recruited, hired, trained, then lost as the end of their appointments approached).
- In 2008, all six male ARS scientists (Fairbanks and Palmer) were permitted permanent technicians. The two female scientists in Fairbanks still have technicians with term positions.
- 2004-2008: At least two women scientists were incorrectly coded in official paperwork as having no supervisory stature. (The error is egregious, and I believe that a comparison of paperwork for both male and female scientists would show discriminatory differences... but the information would have to be compelled since I don't have access.)

Harassment (interference with research program and damage to career)

- 2004-2007: I was denied mentoring and actively excluded from opportunities relevant to my research project (collaborations, seminars, etc...)
- 2007: My authority was undermined and I was devalued in front of ARS personnel
- 2007: the RL attempted to weaken the impact of my RPES case writeup by insisting that I submit Factors 1 and 2 of the original position description, instead of upgrading it according to the Person-on-the-Job concept
- 2007: I was denied promotion to GS 13. After the RPES remain-in-grade decision was announced, the RL made it clear that he had not supported me when the In-Depth-Reviewer called. I was never told why the panel had failed to promote me.
- 2007: the RL delivered my remain-in-grade RPES results to me with the door open to unofficially inform colleagues and subordinates
- 2007: the RL denied a Spot Award for my technician, thereby undermining my authority to reward outstanding tech performance within my own lab

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Research Food Technologist  
USDA Agricultural Research Service

- 2007: the RL not only refused to provide Annual Appraisal guidance I was seeking, but “edited” my original email and inappropriately sent copies to the entire office staff
- 2008: During Conflict Resolution training the RL treated the women differently by scheduling them each to speak first in their project groups, and then verbally harassing them during questioning in a manner that was clearly different from how he treated the men.
- 2008: the RL offered a career-building opportunity to my technician (requiring up to 20% of her work time) before discussing it with me, whereas he did not offer the same opportunity to the tech of a male SY without alerting him first, thereby giving the male scientist the opportunity to deny the offer on behalf of his tech (and not suffer the program drain caused by diversion of his technician’s time).
- 2004-2007: the RL routinely assigned three extra non-relevant subobjectives to my performance plan to scatter my research direction and increase the possibility of failure for my annual appraisal

Reprisal (loss of revenue and damage to career in retaliation for grievances)

- 2008: despite submitting an annual accomplishment statement documenting that I had exceeded in most Elements of my performance plan, I was issued a mediocre performance appraisal and no annual bonus. This occurred after I filed my first informal grievance.
- 2008: I have just submitted my 2008 accomplishment statement (9/26/08) after filing six grievances and numerous communiqués with ARS administrative personnel. Despite an extraordinarily productive year, I predict reprisal again. Additionally, I believe that it is clearly a conflict of interest for the RL to be the rating official on my performance appraisal and a further conflict of interest for any PWA administrator to serve as a reviewing official (since they were also named in my Formal EEO complaint).

Grievances (Agency Failed to Resolve)

27 December 2007: informal grievance to the Pacific West Area citing RL’s gender discrimination, and alerting them to original classification error from files that had only recently been made available to me

07 January 2008: Request to Area for RPES re-evaluation

21 January 2008: Informal Grievance sent to the Area concerning AD 332 errors on recent RPES paperwork

24 January 2008: Area responds with no relief

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Research Food Technologist  
USDA Agricultural Research Service

04 February 2008: Formal Grievance requesting a transfer

14 March 2008: Response to Formal Grievance, (administrators incorrectly rule the matters as non-grievable)

26 March 2008: Grievance (Final Agency Decision) to Dr. Knipling

20 April 2008: Informal Grievance sent to the Area after my discovery of administrative errors in my supervisory status

04 May 2008: "Letter of Conscience" sent to the Area to inform them that another woman scientist would soon be hired into Alaska's ARS Unit, and the Area should inform her of the discriminatory circumstances that await her

16 May 2008: PWA responds to my Informal Grievance by misinterpreting the issue and then ruling it non-grievable. (I perceived the response to include a threat of reprisal if I continue to engage in the protected activity of discouraging discrimination)

27 May 2008: Final Agency Decision from ARS Administrator Knipling. His confidential response resolved nothing and was inappropriately emailed to an ARS-Alaska support staff who was told to print it out and give me a copy

02 June 2008: Formal Grievance sent to the Area challenging the non-grievable status assigned to my Informal Grievance, and providing relevant entries from ARS Policies and Procedures manuals as evidence

09 June 2008: Filed Informal EEO complaint with ARS.

07 July 2008: Was issued notice of right to file a Formal EEO complaint with USDA

14 July 2008: PWA's response to my Formal Grievance contained errors

20 July 2008: I sent another communique to the Area to correct errors in their reply to my Formal Grievance, and I notified them that I would not be sending the grievance on to Dr. Knipling since the ARS grievance process was ineffective at resolving disputes

25 July 2008: Filed a Formal EEO complaint with the Director, Employment Complaints and Adjudication Division, USDA Civil Rights

Communication from ARS explaining why unlawful discrimination is allowed to persist year after year without administrative personnel taking action

The following is a May 5<sup>th</sup> 2010 quote from Andrew Hammond, (ARS Pacific West Area Director) explaining why he will not take action to stop discrimination in the Alaska's ARS unit, even though all the women research scientists have been presenting evidence of discrimination since 2007. His reason: we must wait for an EEOC hearing on the matter, (even though he is fully aware that the minimum time for a complaint to reach EEOC is one year, and typically two more years must elapse before an EEOC hearing is scheduled).

“At this stage, it is my understanding that a decision has not yet been issued by EEOC, which will determine what course of action the Agency will take. All such complaints are serious issues for ARS; however, we must allow the complaint process to work through all the appropriate channels to ensure a fair and impartial outcome for all parties involved.”

- *Andrew Hammond, ARS Pacific West Area Director* -

The entire email exchange (from which the quote was extracted) is included on the following pages.

From: "Cindy Bower" <Cindy.Bower@ARS.USDA.GOV>  
Subject: FW: Update from Fairbanks Alaska  
Date: Wed, May 5, 2010 5:15 pm  
To: "McLellan, Don" <Don.McLellan@ARS.USDA.GOV>  
Cc: "Hammond, Andrew" <Andrew.Hammond@ARS.USDA.GOV>,"Matteri, Robert" <Robert.Matteri@ARS.USDA.GOV>,"Whalen, Maureen" <Maureen.Whalen@ARS.USDA.GOV>,"Knipling, Edward" <Edward.Knipling@ARS.USDA.GOV>

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Dr. McLellan,

I received Dr. Hammond's response, in which he appears to pass to you all responsibility for the continued abuse from my supervisor. As we are both aware, EEOC complaints require years (years!!!) to resolve. I am appalled that ARS would knowingly allow retaliation against an EEOC complainant to occur for as many years as it takes for the EEOC to handle its caseload.

It's unfortunate that Dr. Hammond's statements, while possibly reflecting <sup>3</sup>written<sup>2</sup> EEO policy, do not accurately represent the reality of ARS EEO complaints.

My request to you: Can you please reassign me to a non-discriminating supervisor who does not have a proven record of abusing female research scientists? (And just for the record, given all the factual evidence associated with this case, I should NEVER have had to ask for something that should have so obviously been provided from the beginning).

I wish I could tell prospective ARS employees that the agency follows EEO policies, but at the moment I have absolutely no evidence to support that statement as even being remotely true. Please advise me on how to proceed in such an unlawful discriminatory, retaliatory environment. Thank you.

Cindy

Cindy Bower, Ph.D.  
USDA Agricultural Research Service  
PO Box 757200  
Fairbanks, AK 99775-7200  
Phone: (907) 474-6732  
Email: [Cindy.Bower@ars.usda.gov](mailto:Cindy.Bower@ars.usda.gov)

----- Forwarded Message

From: "Hammond, Andrew" <[Andrew.Hammond@ARS.USDA.GOV](mailto:Andrew.Hammond@ARS.USDA.GOV)>  
Date: Wed, 5 May 2010 17:26:47 -0600  
To: "Bower, Cindy" <[Cindy.Bower@ars.usda.gov](mailto:Cindy.Bower@ars.usda.gov)>  
Cc: "McLellan, Don" <[Don.McLellan@ARS.USDA.GOV](mailto:Don.McLellan@ARS.USDA.GOV)>  
Subject: RE: Update from Fairbanks Alaska

Dr. Bower:

As stated in the Agency's Equal Employment Opportunity Policy Statement, discrimination of any kind will not be tolerated. However, once a formal complaint is filed, the Agency must develop a complete and impartial factual record. The EEO investigation will include a thorough review of the circumstances under which the alleged discrimination occurred, the treatment of members of the complaint's group (e.g., race, gender, age, etc.) compared

with others not in this group, and any employment policies and practices which may constitute discrimination.

At this stage, it is my understanding that a decision has not yet been issued by EEOC, which will determine what course of action the Agency will take. All such complaints are serious issues for ARS; however, we must allow the complaint process to work through all the appropriate channels to ensure a fair and impartial outcome for all parties involved. As you are aware, the EEO complaint process is managed by the Office of Outreach, Diversity and Equal Opportunity (ODEO). If you or your legal representative have questions and/or concerns regarding the status of your complaint or the EEO process in general, please contact ODEO directly.

Below is the contact information for ODEO:

Donald L. McLellan, Ph.D.

Director, Office of Outreach, Diversity, & Equal Opportunity

United States Department of Agriculture

Agricultural Research Service

1400 Independence Avenue, SW, RM. 3913

Washington, D.C. 20250-0304

Voice: (202) 720-6161/Fax: (202) 690-0088

[don.mclellan@ars.usda.gov](mailto:don.mclellan@ars.usda.gov) <<mailto:don.mclellan@ars.usda.gov>>

ANDREW C. HAMMOND

Area Director

USDA, ARS, PWA

800 Buchanan St.

Albany, CA 94710-1105

Voice: (510) 559-6060

Fax: (510) 559-5779

Cell: (510) 684-6450

E-mail: [andrew.hammond@ars.usda.gov](mailto:andrew.hammond@ars.usda.gov) <<mailto:andrew.hammond@ars.usda.gov>>

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From: Bower, Cindy

Sent: Tuesday, May 04, 2010 1:22 PM

To: Hammond, Andrew

Cc: Matteri, Robert; Whalen, Maureen; Bradley, James; McLellan, Don;

Knipling, Edward

Subject: Update from Fairbanks Alaska

Dr. Hammond,

This email is to ensure that you are fully aware of the current situation in



ARS's Subarctic Agricultural Research Unit (SARU). I am now the only female research scientist under Dr. Pantoja's supervision. Although two women SYs are no longer with SARU, there still are three pending EEOC complaints against him, (one from every female research scientist in ARS-Alaska that he ever supervised).

The PWA's steadfast unwillingness to provide me with a workplace (and supervisor) free from unlawful discrimination and retaliation suggests disapproval of Agency EEO policies as well as disagreement with U.S. civil rights laws. If I've somehow misinterpreted PWA's actions, please feel free to provide clarification that better explains the evidence of discrimination and retaliation that I have been presenting to you since 2007.

Thank you.

—  
Cindy

Cindy Bower, Ph.D.

USDA Agricultural Research Service

PO Box 757200

Fairbanks, AK 99775-7200

Phone: (907) 474-6732

Email: [Cindy.Bower@ars.usda.gov](mailto:Cindy.Bower@ars.usda.gov)

----- End of Forwarded Message

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**Attachments:**

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First administrative grievance series confirming that ARS  
does not regard discrimination as an actionable offense

The following documents are administrative grievances sent to the ARS (2007-2008) in an attempt to alert them to the discrimination against women in Alaska. These grievances are noteworthy, since they elicit a response from ARS Administrator Edward Knipling, who pronounces the unlawful harassment, discrimination, and retaliation as “non-grievable”.

**In the face of ARS’s unlawful beliefs about EEO, a reasonable person would have had legitimate grounds to quit as far back as 2008.**

27 December, 2007

## **Informal Grievance**

Sent (by email) to:

**Dr. Andrew Hammond**  
**Associate Area Director**  
**Pacific West Area**  
**Agricultural Research Service**

27 December 2007

Dr. Hammond,

This is an informal grievance to request relief from the extremely hostile environment for women, which has been established by the Research Leader (Alberto Pantoja) here in ARS Alaska's Subarctic Agricultural Research Unit (SARU). I represent the third of three female research scientists to file a grievance concerning the career-damaging events that have been occurring here on a routine basis for many years.

**I. My career advancement was intentionally limited by ARS supervisory personnel**

- I was offered this job at lower GS and salary levels than the advertised position (GS 13/14) through misconduct of the RL and RPES panel (Exhibits 1 - 8)
- My research program has been subjected to interference through disallowed CRIS-relevant projects and curtailed collaborations (Exhibits 9, 10, 11)
- I have been actively excluded from mentoring and other career building opportunities while working for the ARS in Alaska (Exhibits 12, 13, 14)

**II. My credibility with co-workers and peers has been negatively impacted**

- I was hired at level GS 12 (despite 14 first-author peer-reviewed publications), thereby illegitimately lowering my status as an ARS scientist (Exhibit 15)
- I am expected to function as an integral, contributing member of a "team" that actively excludes me (Exhibit 16)
- My authority is unfairly undermined and I am devalued in front of ARS personnel (Exhibit 17)

**III. The overall quality of my life has been severely compromised**

- I am experiencing unnecessary workplace-induced stress associated with ARS employment in an environment blatantly oppressive to women scientists
- I have lost incalculable amounts of free time, better devoted to recreation than to the time-consuming redress of disputed events
- I have sincerely tried to understand the RL's behavior by participating in Conflict Management trainings, but the situation remains unresolved (Exhibit 18)

Working for ARS in Alaska has been a devastating career move for me, since it is inordinately difficult to build a new research program with so many behind-the-scenes impediments damaging my reputation and devaluing my work. It is truly an outrage that there has been no meaningful oversight at the Area level to protect me from the RL. For relief from this ongoing abuse of power, I am requesting the following:

1. I request to be supported in my career by the GS 15 level males in my Unit who have been hiding opportunities, sabotaging my collaborations, periodically attacking my research program, actively damaging my promotion potential, and severely decreasing the quality of my life
2. I request that an investigator be sent to SARU to collect statements from the scientists and other ARS personnel to further document the rampant abuse

3. I request that the EEO-unfriendly ARS leadership decisions that have so severely damaged my career be immediately remedied (e.g., promotion to GS 13 with retroactive pay dating back to October 2004)
4. I request re-training for the In Depth Reviewer who served on my RPES panel, so that he will become better able to recognize and ignore inappropriate or false input from RLs and Lead Scientists who misuse their power
5. I request assurance that I am employed within a fair and equitable agency, which adheres to USDA written EEO statements, through receipt of a statistical accounting that dispels the anecdotal evidence that ARS women scientists receive fewer promotions from GS 12 to GS 13 than their male counterparts in the Pacific West Area
6. I request that clear guidelines be provided to me describing how I can meet and exceed expectations for my 2008 annual performance appraisal
7. In the event that my other requests are denied, I would like permission to prepare an article for the popular press describing the abusive situation that has evolved for ARS female scientists in Alaska, all of which occurred with tacit approval from the Pacific West Area

Thank you for looking into this matter.

Sincerely,

Cynthia Bower  
Research Food Technologist  
USDA ARS SARU  
Fairbanks, AK

(907) 474-6732

[bower@sfos.uaf.edu](mailto:bower@sfos.uaf.edu)

**Legend for attached Exhibits**

- Exhibit 1. Timeline detailing misconduct of ARS personnel during hiring process
- Exhibit 2. Vacancy Announcement offering a GS 13/14 position, (NOT GS 12)
- Exhibit 3. Handwritten SF-52 with reduced Grade (GS 12) and salary (\$56,425)
- Exhibit 4. Panel results (using GS 13/14 position description) assigning GS 12
- Exhibit 5. New Vacancy Announcement, opened AFTER the RPES Panel meeting
- Exhibit 6. ARS Recognition of "Superior Qualifications" suggesting salary of \$64,980
- Exhibit 7. Justification of \$64,980 based on US Dept. of Labor statistics for Alaska
- Exhibit 8. SF-52 with reduced Grade (GS 12) and salary (\$56,425)
- Exhibit 9. Ruminant SCA, proposed to and rejected by the RL
- Exhibit 10. Soils SCA, proposed with my name on it, but approved by RL without it
- Exhibit 11. Salmon oil (model system) collaboration, proposed to and rejected by RL
- Exhibit 12. Excluded from AAAS session organized and chaired by ARS co-worker
- Exhibit 13. Excluded from organization committee of upcoming By-Products Symposium
- Exhibit 14. Narrative describing RL's attempt to weaken impact of my RPES writeup
- Exhibit 15. CV from original 2004 ARS job application
- Exhibit 16. Narrative describing inappropriately low status accorded by Lead Scientist
- Exhibit 17. Narrative describing RL's attempts to discredit me
- Exhibit 18. AgLearn Report listing Conflict Management courses

## **Exhibit 1**

My career advancement was intentionally limited by ARS supervisory personnel, starting with an inappropriate job offer at lower GS and salary levels than the advertised position (GS 13/14)

### **TIMELINE for 2004 ARS Research Scientist Offer**

- February: I applied for Vacancy Announcement Number: ARS-X4W-0138 (Exhibit 2)
- June: I interviewed in Fairbanks, Alaska
- July 2: I was verbally offered the job through a telephone call from the Research Leader (Alberto Pantoja), although the suggested salary was almost \$10,000 lower than advertised
- July 2<sup>nd</sup> time stamp on ARS paperwork lists me as GS 12 (\$56,425) BEFORE the ad hoc panel was convened to evaluate my qualifications as a GS 13 (Exhibit 3)
- July: I was informed through email by Human Resources (Franky Reese) that I could tentatively be offered the job pending an ad hoc panel review of my case write up
- July: I submitted the necessary RPES materials to Franky Reese and notified her that the position description was being sent to her directly from Fairbanks
- July/August: I waited, fully believing that I was receiving a fair ad hoc panel evaluation from the case write up materials submitted from Oregon and the GS 13/14 position description sent from Alaska
- August 24: The ad hoc RPES Panel, (despite the ARS-approved GS 13/14 position description), inappropriately lowered the point values for Factors I and II, resulting in 22 total points (GS 12) instead of 26 points (GS 13) (Exhibit 4)
- August 30: A hasty (5-day) announcement was issued for a new position in Fairbanks (ARS-X4W-0403) recruiting only my Position Title (Research Food Technologist) and offering only a lower salary (GS 12) (Exhibit 5)
- August/September,: I have no record of ever applying for ARS-X4W-0403
- September 16: I was selected for ARS-X4W-0403
- September (?): My superior qualifications were recognized in writing, and a salary of \$64,980 was noted as appropriate for food scientists in Alaska (Exhibit 6, 7)
- September 17: I was offered a GS 12 position as a Research Food Technologist in Fairbanks, at a salary of \$56,425 (which is \$8,555 per year less than the US Department of Labor reported for food scientists in Alaska) (Exhibit 8)
- October 4: I started my employment with the ARS in Fairbanks
- November 4: Written RPES results were generated by the Assistant Area Director (Robert Matteri)
- November 29: Written RPES results were given to me in Fairbanks, and although I did not agree with the RPES results, I was told that I must sign the paperwork to acknowledge receipt
- December 2007: eOPF website allowed employee access to personnel files, bringing to my attention the deceptive practices and gross injustice associated with this issue

### **Exhibit 16**

(Narrative describing low status accorded to me by Lead Scientist)

As one of only two ARS research scientists assigned to Alaska's NP 106 Aquaculture project, I fully expected to become an integral part of a team. However, the Lead Scientist immediately established a "culture", not of camaraderie, but of strict hierarchy with occasional reminders of my inferior position.

The Lead Scientist, as ADODR of a large SCA with the School of Fisheries and Ocean Sciences (SFOS), acts as a liaison between the university and me. In his position of power, the Lead Scientist:

- failed to secure affiliate faculty status (in writing) for me while retaining full privileges for himself
- failed to ensure my proper job description by allowing the posted SFOS directory to list me as "research staff", while his entry is "affiliate faculty"
- excluded me from all SFOS meetings to the extent that a faculty member, while substituting for the SFOS Dean, told a visiting ARS Area Director that he'd never heard of me
- failed to remediate these errors and restore my status as an ARS Research Scientist, thereby irreparably damaging my credibility within the university

Within the CRIS project, the Lead Scientist handles all of the administrative paperwork. He rarely sets up meetings to discuss project-related issues with me, and I am not confident that opportunities within the project are being equitably apportioned.

- In the first (and only) joint lab meeting, bringing together personnel from my lab and the Lead Scientist's lab, I assumed (incorrectly) that we would act as co-chairs; however, the Lead Scientist dominated the meeting, starting off by drawing a hierarchical chart listing me at the same level as the post-doc in his lab
- When granting signature authority (for signing employee time sheets in case of absence), I included the Lead Scientist in the chain of authorized personnel, although he did not include me (further emphasizing to lab technicians that he regards me as holding an inferior position in the team hierarchy)

### **Exhibit 17**

(Narrative describing RL's attempts to discredit me)

- My authority is unfairly undermined and I am devalued in front of ARS personnel
  - The RL does NOT equally apportion opportunities among the ARS research scientists, (e.g., no woman has ever been appointed Acting-RL in Alaska, whereas every male in Fairbanks has been asked to serve, including GS 12 level scientists and those still on probation)
  - Women scientists are given a disproportionate amount of time-consuming committee assignments by the RL
  - The RL delivered my remain-in-grade RPES results to me with the door open and at sufficient volume so that my colleagues and subordinates would be unofficially informed, further undermining my credibility
  - The RL came to my office to personally announce that the (well-deserved) Spot Award for my technician was being denied, thereby undermining my authority to reward outstanding tech performance within my own lab. The stated reason for denying the award was based on an (incorrect) assumption that it is better to reward techs on an annual basis, rather than recognize outstanding performances throughout the year.
  - On the 2007 write up for the Annual Appraisal, I submitted a document to the RL (Thurs Dec 20<sup>th</sup>) asking for more guidance concerning whether or not the format matched what he was seeking. The RL not only refused to provide mentoring, but “edited” my original email and inappropriately replied while cc'ing the entire office staff. No apology or admission of wrongdoing was ever issued.
  - The 5-year CRIS project was written and all experimental assignments were made before I arrived. Fortunately, I am in charge of a very interesting component of the CRIS plan (Subobjective 2.4). However, each year the RL assigns three extra subobjectives to my performance plan, despite the Lead Scientist's negative reaction (since these additional subobjectives are already being addressed by other collaborators). In addition to advancing the pretense that I am part of a larger team, the practice of adding extra (extremely diverse) subobjectives serves to scatter my research direction and increase the possibility of failure for my annual appraisal.



24 January, 2008

## **Response to Informal Grievance**

Sent from:

**Dr. Robert Matteri**  
**Assistant Area Director**  
**Pacific West Area**  
**Agricultural Research Service**



**United States Department of Agriculture**

Research, Education and Economics  
Agricultural Research Service

January 24, 2008

Dr. Cynthia Bower  
USDA, ARS, Pacific West Area  
Subarctic Agricultural Research Unit  
360 O'Neill Building, University of Alaska  
Fairbanks, AK 99775-7200

Dear Dr. Bower:

This is in response to your informal grievance addressed to Dr. Andrew Hammond, Associate Area Director, Pacific West Area (PWA), dated December 27, 2007. As Acting Area Director, Dr. Hammond has delegated that I respond to your informal grievance in which you raised the following 3 main points:

- I. My career advancement was intentionally limited by ARS supervisory personnel
- II. My credibility with co-workers and peers has been negatively impacted
- III. The overall quality of my life has been severely compromised

Seven related requests were made, which I will respond to individually.

- 1. I request to be supported in my career by the GS-15 level males in my Unit who have been hiding opportunities, sabotaging my collaborations, periodically attacking my research program, actively damaging my promotion potential, and severely decreasing the quality of my life**

You contend that the GS-15 male scientists in your Unit have taken actions to willfully obstruct your career development. I do not find evidence to support this contention. Actions taken for the express purpose of hindering any employee's career development will not be tolerated.

**Pacific West Area - Office of the Area Director**  
800 Buchanan Street - Albany, CA 94710-1105

Voice: 510.559.6063 - Fax: 510.559.5779 - E-mail: robert.matteri@ars.usda.gov

*An Equal Opportunity Employer*

You contend that collaborations (specific cooperative agreements (SCA) conveyed in exhibits 9-11) have been sabotaged by the GS-15 level males in your unit. I do not find evidence to support this contention. Specific cooperative agreements entail expenditure of government funds, and are subject to administrative review. The proposed SCA referred to in exhibit 9 was appropriately reviewed by the Research Leader (RL) in conjunction with the Area Office and National Program Staff. The proposal referred to in exhibit 11 is recent and has been discussed among the RL, Area Office and National Program Staff. Your RL will continue to dialog with you on research approaches relative to this latter proposal.

The collaborative proposal written by University of Alaska scientists (exhibit 10) originally listed you as a co-investigator. This proposal led to an approved SCA with the University of Alaska. My understanding is that University of Alaska scientists led the project and assigned publication authorship based on participation and contributions. You were included in project communications, so I see no evidence to indicate that you did not have the opportunity to participate at a level that would have met the criteria for authorship. I see no evidence that the GS-15 level males in your unit limited your involvement, and furthermore found that your Research Leader was the one who initially provided your name to the University as a possible collaborator.

Typical career development support for newer scientists comes from guidance and advice from the Research Leader. Other senior scientists certainly can agree to serve as informal mentors. The lead scientist coordinates research planning, implementation and administrative reporting for the CRIS project, but has no formal supervisory or mentoring responsibility for CRIS team scientists. It is not the Lead Scientist's or Research Leader's role to secure invitations for speaking or writing about research, or professional service activities that normally come from scientific peers on the basis of research accomplishments (Exhibits 12 and 13).

You contend that the Lead Scientist did not secure an affiliate faculty position for you (Exhibit 16). The Lead Scientist does not have the duty of personally representing you to the University for acquiring faculty appointments, listing information in UAF directories, etc. Adjunct faculty appointments are conferred by the University, not by ARS, following a direct application by the scientist. Regardless, it was the Lead Scientist who nominated you for affiliate faculty status and, along with the Research Leader, assisted you in your application to the University.

It is my understanding that your Research Leader has already initiated a policy of scheduling regular CRIS meetings from his office, has assisted you in applying for affiliate faculty status, has coordinated communication, conflict resolution and diversity training sessions for the Unit, has changed Unit committee service from a volunteer to rotational basis, is in the process of scheduling Unit training on the Research Personnel Evaluation System (RPES) process by a current panel chair, has found a senior scientist working in your field of expertise that will serve as your mentor, and has encouraged you to select expanded areas of opportunity to work on within CRIS objectives. These actions show evidence of support and mentorship rather than discriminatory behavior.

I find no evidence to show that you do not already have access to mentorship similar to that of other ARS scientists.

**2. I request that an investigator be sent to SARU to collect statements from the scientists and other ARS personnel to further document the rampant abuse**

This request is not granted, as I find no evidence to support your contention of rampant abuse. By the time you receive this letter, however, Mr. Jeff Schmitt, REE Cooperative Resolution, will have visited your location. In addition to Unit staff training, Mr. Schmitt will have offered the opportunity for one-on-one visits with all staff, and will brief the Pacific West Area Office.

**3. I request that the EEO-unfriendly ARS leadership decisions that have so severely damaged my career be immediately remedied (e.g., promotion to GS-13 with retroactive pay dating back to October 2004)**

You contend that discriminatory decisions by ARS leadership have damaged your career. I find no evidence to support this allegation.

Exhibits 1-8 relate to the recruitment hiring process of your position at the GS-12 level, alleging misconduct of both the RL and the RPES panel. The hiring process utilized accepted processes, and there is no evidence of misconduct.

The original position was advertised at the GS13/14 level. For candidate evaluation purposes, a classification specialist in the ARS Human Resources Division (HRD) included you for consideration at the GS-13 level. For all Category 1 scientists, final classification decisions must be made by a peer panel through the RPES before HRD can issue a letter of offer. When the ad hoc RPES panel reviewed your write-up, a GS-12 decision was made. Since the original position was advertised at the GS13/14 levels, a job offer couldn't be made to you on this recruitment. The position was then re-advertised at the GS-12 level, with original applicants not needing to re-apply. You were selected for the position and accepted the official offer at the GS-12 level. Recruitment incentives such as advanced step entry (12/3 in your case) are not linked with peer-panel RPES GS level determinations.

You also contend that the RL provided input on the drafting of Factors 1 & 2 of your RPES case write-up for the express purpose of weakening promotion potential. I do not find evidence for this. Part of the RL's mentoring responsibility is to provide input/guidance to Unit scientists on their RPES write-ups. You took your RL's advice and your RPES peer-panel ultimately rated Factors 1 & 2 highly.

This request is not granted. Management cannot assign a scientist's GS level. The authority to classify a Category 1 scientific position's GS level within ARS resides with a peer panel through the RPES system.

- 4. I request re-training for the In Depth Reviewer who served on my RPES panel, so that he will become better able to recognize and ignore inappropriate or false input from RL's and Lead Scientists who misuse their power**

You contend that your In Depth Reviewer (IDR) utilized false and inappropriate input from your Research Leader and Lead Scientist. I find no evidence to support this contention.

Panel deliberations are strictly confidential, so there is no basis for your contention. Importantly, panelists are trained in IDR responsibilities, which entail verification/clarification of scientific impact of the written accomplishments and the overall RPES package. IDR's are required to contact a minimum of 5 references, and commonly contact more than the minimum number. The scientist provides a list of references on the IDR contact sheet (ARS Form 570). Within the panel discussion, the IDR conveys information from interview contacts. The IDR and panel would readily see inconsistent input from any individual. All seven panelists provide their independent scores prior to any discussion and then agree on a consensus decision. Senior scientists serve as panel chairs to oversee proper function of the panel, and also verify that the IDR has made the required number of contacts.

This request is not granted.

- 5. I request assurance that I am employed within a fair and equitable agency, which adheres to USDA written EEO statements, through receipt of a statistical accounting that dispels the anecdotal evidence that ARS women scientists receive fewer promotions from GS-12 to GS-13 than their male counterparts in the Pacific West Area**

You contend that there is anecdotal evidence that ARS women scientists receive fewer promotions from GS-12 to GS-13 than their male counterparts in the Pacific West Area. I find no basis for this contention. PWA GS-12 RPES review data over the last 3+ years (FY2005 through 3 months of FY2008) show statistically equivalent upgrade (UPG) rates between genders: UPG decisions - Female: 13 of 17 (76.5%), Male: 36 of 46 (78.3%).

- 6. I request that clear guidelines be provided to me describing how I can meet and exceed expectations for my 2008 annual performance appraisal**

Written performance expectations are provided to all employees. As for each year, you have, or will be signing, your performance standards for 2008. The written criteria for meeting the standards are included as part of the plan. There are no written descriptions of what constitutes an "exceeds" or "does not meet" rating for each element, as the rating is an overall assessment of the level of performance in each component within the element. Among employees, there are numerous variations of possible scenarios that could lead to a performance element receiving a rating other than "meets". Beyond the written guidelines, verbal communication with the supervisor is always available.

I find that you have guidelines on performance expectations that are equivalent to those provided to other scientists.

- 7. In the event that my other requests are denied, I would like permission to prepare an article for the popular press describing the abusive situation that has evolved for ARS female scientists in Alaska, all of which occurred with tacit approval from the Pacific West Area**

You contend that there is abuse of ARS female scientists in Alaska. I find no evidence for this allegation (see above responses). All publications must go through the standard approval process involving submission of the ARS-115. A publication of this nature would not be approved.

If you are dissatisfied with this response, you have 15 calendar days from your receipt of this decision to file a formal grievance. Your formal grievance must be filed with:

Dr. Andrew Hammond  
USDA, REE, ARS, PWA, OAD  
Room 2026  
800 Buchanan Street  
Albany, CA 95710-1198

If you have questions or concerns regarding this letter, please contact Mary Fasanella, Human Resources Specialist, at 301-504-1386.

Sincerely,



ROBERT MATTERI  
Assistant Area Director, PWA

cc:

E. Knipling, AIO  
A. Hammond, PWA  
A. Betschart, AIO  
K. Brownell, HRD  
M. Fasanella, HRD

4 February, 2008

## **Formal Grievance**

Sent to:

**Dr. Andrew Hammond**  
**Acting Area Director**  
**Pacific West Area**  
**Agricultural Research Service**

To: Andrew Hammond, Acting Area Director  
(Andrew.Hammond@ars.usda.gov)

Re: Notification of Formal Grievance  
7 February, 2008

Dr. Hammond,

This email is to inform you that I mailed a Formal Grievance on February 4, 2008 to the address specified in the Area's response to my Informal Grievance. However, since the zip code you provided was incorrect (95710-1198 instead of 94710-1105), the envelope has been routed somewhere else. I admit I am dismayed by this sort of delaying tactic on your part when time-sensitive materials are involved.

I was also surprised by the letter from Assistant Area Director Robert Matteri, (Response to Request for RPES Case Evaluation, 1/31/08), which required that my complaint about my supervisor be submitted to the Area Director "through supervisory channels" including my supervisor's concurring "Through" signature. Suffice to say, that is an incredibly effective method for stopping requests, and it's certain that you won't be receiving one from me now.

The following is an email copy of my Formal Grievance, which will arrive eventually by USPS Express Mail (Tracking # EQ51 1249 185U S).

February 4, 2008

Dr. Andrew Hammond  
USDA, REE, ARS, PWA, OAD  
Room 2026  
800 Buchanan Street  
Albany, CA 95710-1198

Dr. Hammond,

On December 27, 2007, I sent you an informal grievance [Exhibit 1], in which I documented a hostile work environment caused by my Research Leader, Alberto Pantoja, which has resulted in tangible employment actions (including loss of promotion). This is a Formal Grievance, being filed to the response I received on January 28, 2008 from Robert Matteri, (Assistant Area Director, PWA) [Exhibit 2]. The response to my informal



grievance was unacceptable, since it did not adequately address the issues I raised, and it actually introduced false statements and misconceptions.

#1: (Request to be supported in my ARS career)

The response to my informal grievance did not dispute the following items, so I consider these abuses of power to have been validated at the Area level:

- The Research leader (RL) does NOT equally apportion opportunities among the ARS research scientists, (e.g., no woman has ever been appointed Acting-RL in Alaska, whereas every male in Fairbanks has been asked to serve, including GS 12 level scientists and those still on probation)
- Women scientists were given a disproportionate amount of time-consuming committee assignments by the RL
- The RL delivered my remain-in-grade RPES results to me with the door open and at sufficient volume so that my colleagues and subordinates would be unofficially informed, further undermining my credibility
- The RL came to my office to personally announce that the (well-deserved) Spot Award for my technician was being denied, thereby undermining my authority to reward outstanding tech performance within my own lab. The stated reason for denying the award was based on an (incorrect) assumption that it is better to reward techs on an annual basis, rather than recognize outstanding performances throughout the year.
- On the 2007 write up for the Annual Appraisal, I submitted a document to the RL (Thurs Dec 20th) asking for more guidance concerning whether or not the format matched what he was seeking. The RL not only refused to provide mentoring, but edited my original email and inappropriately replied while ccing the entire office staff. No apology or admission of wrongdoing was ever issued.
- Each year the RL assigns three extra subobjectives to my performance plan, despite the Lead Scientist's negative reaction (since these additional subobjectives are already being addressed by other collaborators). In addition to advancing the pretense that I am part of a larger team, the practice of adding extra (extremely diverse) subobjectives serves to scatter my research direction and increase the possibility of failure for my annual appraisal.

The response to my informal grievance did not adequately address the issues I raised. For example, the response contended that the proposed SCAs were reviewed by the Area Office and National Program Staff. No evidence has ever been supplied to support that contention. Additionally,

it is indisputable that the Research Leader has expertise in a field (entomology) other than mine (food science), and would therefore be less qualified, NOT more qualified, to appropriately present and effectively explain my research proposals. From my point of view, I submitted proposals to the RL and they were rejected. I was never asked for clarification of a misunderstood point, and no written correspondence was ever provided when the SCAs were disapproved. Certainly you can understand my frustration when such a poor system of communication is endorsed for transferring information about a proposal back to the originating scientist.

The response to my informal grievance also stated that it was the Research Leader who originally provided my name to the University as a possible collaborator for the fish meal SCA, although no evidence exists to support that contention. Exhibit 3 is an e-mail thread that describes the conception of the fish meal SCA, and clearly shows that my name was first introduced to the project through my co-worker. My name was included in the initial e-mail because I am a full-time member of the aquaculture project, and I can find no evidence to suggest that my inclusion was a charitable act, courtesy of the RL. I attended all of the initial SCA meetings, but apparently I was not invited to subsequent planning sessions. It was exclusion from the project, not lack of interest on my part, which limited my participation to a level that did not meet the criteria for authorship.

The point was also made that the Lead Scientist has no formal mentoring responsibility for CRIS team scientists, and therefore is accorded no official blame for his lack of camaraderie. Since the Lead Scientist and I are the only two ARS employees in Alaska working within the ARS Aquaculture program, he could have easily facilitated my introduction to the project. However, I fully recognize his ARS-approved entitlement to hide career-building opportunities and contribute to my overwhelming sense of isolation by shunning collaborations and failing to hold regular meetings and communicate project information over the past three years. This has not been a good experience for me, and I ask that you please seriously consider my request that the ARS relocate me to another ARS Unit listed at the end of this letter.

The response to my informal grievance also noted that the RL is currently addressing some of the problems through administrative changes, such as requiring regular CRIS-project meetings and recruiting an ARS food scientist from another location to serve as a long-distance mentor. However, these proposed changes are very recent and are not yet in effect. It is absolutely incorrect to offer these future actions as evidence of past support and mentorship.

#2: (Request to have an investigator sent to SARU)

I understand that the CARE team is coming to Fairbanks in May. Since their investigation includes a civil rights component, their visit will serve in lieu of the investigator that I requested. Thank you.

In regard to the comment about Mr. Jeff Schmitt of the Cooperative Resolution Program visiting Fairbanks, I would like to bring the following information to your attention:

#### Mediation 1

Schmitt was present on Tuesday (01/15/08) for research seminars delivered by each ARS scientist. The following day (01/16/08) he presented a two-hour Crucial Conversations training to ARS personnel. Due to time constraints, few individual interactions occurred during the presentation. However, at one point, Schmitt looked directly at me and stated that there were many potential research directions for working with fish by-products, (a concept I'd presented the previous day), but my job was to perform the research specified by the National Program Staff. Needless to say, I was stunned to be singled out in this manner.

Certainly, since NPS sets the research direction for the ARS, Schmitt's statement was generically true and applicable to every scientist in the room. However, I suddenly realized that Schmitt had touched upon one of the topics in my informal grievance (12/27/07), concerning my belief that the Research Leader had been damaging my research program by rejecting my proposals and then blaming NPS, without providing any documentation. Schmitt, (in a group including my supervisor, peers, support personnel, and subordinates), conveyed the impression that I (specifically) should learn to follow Agency directives. Since I was given no opportunity to rebut this misconception, I was left feeling publicly humiliated.

Later that day, I wrote to Karen Brownell, Director of Human Resources, concerning where Schmitt's information may have come from. Brownell confirmed that she had not shared my grievance with Schmitt. It is my belief that Schmitt acquired his opinions through exposure to "stories" during his conversations with the Research Leader. Schmitt then acted on the misinformation in a manner that was harmful to me. After that distressing incident, I did NOT sign up for a one-on-one consultation with Schmitt.

#### Mediation 2

Before Schmitt's arrival in Fairbanks, he contacted me by phone so that we could discuss the possibility of my participation in the mediation program. Since I had just filed an informal grievance, I was uncertain

about mediation and spoke with Schmitt about what services he could offer. He explained that the Cooperative Resolution Program was a resource for communication skills, and he was not in a position to arbitrate legal matters, which I perceived my grievance to be. It was mutually agreed through the phone conversation that mediation was not appropriate at this time. However, we left open the possibility that a one-on-one consultation might still be possible during his Fairbanks visit. After being unfairly singled out during Schmitt's Crucial Conversations training, it was clear to me that a consultation was not an appropriate option.

### Mediation 3

The Research Leader had also broached the topic of using the Conflict Resolution Program to improve our communication. However, I explained to him (and received his verbal agreement) that the conflict between us stems from differing viewpoints about specific issues, not from an inability to effectively articulate our points of view. Since he immediately agreed with me, I believe that I effectively communicated this concept to him, and I would be very surprised if he were changing the facts of that encounter now.

### Mediation 4

Additionally, I was extremely proactive before the Conflict Resolution training occurred. I contacted SARU's main office and borrowed two suggested books (Crucial Conversations and Crucial Confrontations, both by Patterson et al) and read them before Schmitt's arrival, to take advantage of whatever communication skills the books might offer.

Although a weak case might be made that I, as an ARS employee, unreasonably failed to take advantage of the preventative opportunity of mediation provided by my employer, I find fault with that contention. The Research Leader agreed that specific issues, not communication skills, were the source of our conflict. Schmitt agreed that he was unable to mediate legal matters contained within a confidential grievance. Then, during his visit, Schmitt breached my trust, effectively preventing a one-on-one consultation between us. Mediation may have been offered by my employer, but it was not a reasonable opportunity for me to avoid harm.

### #3: (Proof that tangible employment actions have damaged my ARS career)

The response to my informal grievance contended that my career has not been damaged by ARS leadership decisions. I strongly disagree, since loss of promotion is a tangible employment action that will have financial and stature-related repercussions for the rest of my career. I believe that the importance of Exhibits 1-8 of my Informal Grievance was trivialized. Furthermore, the response that the hiring process utilized accepted processes deserves scrutiny by the Agency's legal counsel.

The OPM Classifier's Handbook clearly states: "It is the position that is classified, not the person assigned to it." The ad hoc RPES panel took possession of an officially classified GS 13/14 Position Description (PD) and inappropriately assigned GS 12 point values to Factors 1 and 2 of that PD.

- The PD represented an officially classified position (GS 13/14)
- The PD does NOT classify the qualifications of individual job applicants

Therefore, the RPES panel should have automatically assigned at least 6 points each to Factors 1 and 2, REGARDLESS OF WHICH QUALIFIED APPLICANT WAS SELECTED FOR THE POSITION. If the correct point values are awarded to these two rated factors (which are derived entirely from the PD, and over which I had no control), then my accumulated points would convert to a GS 13 level [Exhibit 4].

For the RPES panel members to rate Factors 1 and 2 (of a GS 13/14 PD) at GS 12 levels is a major source of misconduct. If we assume that the original PD was properly classified as a GS 13/14 and legally certified by ARS officials before I applied, then the source of the error seems to stem from willful discrimination against me, possibly because I am female. Although the exact reasons for the ad hoc RPES Panel's prejudicial behavior may never be known, I believe they conspired to misclassify the position based on input from the RL, who had already signed GS 12 paperwork, months before the RPES panel convened [Exhibit 5]. Box 18 of Exhibit 5 clearly shows the typewritten GS 13/14 entry crossed out by hand and replaced with GS 12. The July 2nd time stamp is well in advance of the August 24th RPES Panel meeting.

I REQUEST a response detailing "why" (on July 2nd, 2004) it was decided that I was only worthy of being offered a GS 12 position, BEFORE being given a fair review by a qualified RPES panel. It certainly appears that the ad hoc panel, (which convened August 24th, 2004), served only to give the appearance of legitimacy to a decision that had already been made.

The evidence presented here documents that my initial hiring process was not based on fairness and equality (or even ARS Policies and Procedures), and that the RL was overwhelmingly supportive of a GS 12 position BEFORE I had even prepared my case writeup.

I have provided substantial documentation indicating inconsistent classification practices.

I REQUEST to be informed in writing as to why Agency policies were not

followed during my hiring process, specifically:

Why did I receive discriminatory treatment by being immediately downgraded to GS 12, months before the ad hoc RPES panel was convened to evaluate my qualifications?

and/or

Why was a GS 12 Position Description (certified and signed by ARS personnel for truth and accuracy) attached to the GS 13/14 position that I originally applied for?

I ALSO REQUEST an official classification audit to resolve once and for all the questionable practices surrounding my hiring in 2004. If misconduct is found, I request that I be immediately reclassified as a GS 13 and issued a written apology from the ARS.

The response to my informal grievance also misrepresented the meaning of the high ratings awarded to Factors 1 and 2 of my recent RPES results [Exhibit 6], and credited the RL with superior mentoring. My informal grievance stated:

“The RL appeared to be unfamiliar with the concept of ‘person in the job’ and continually told me to rely solely on the position description when preparing Factors I and II. The original position description was generic in nature and (although technically describing a GS 13/14 position), had previously been rated by a 2004 RPES panel as written for GS 12 level responsibilities. This became a source of contention with each draft I submitted.”

I maintain my belief that the RL attempted to damage my promotion potential by weakening Factors 1 and 2 in my recent case writeup when he insisted that I use my original Position Description [Exhibit 7]. I did NOT follow his advice. Several disagreements followed. However, after invoking the ARS person-in-the-job concept, I was eventually allowed to submit my version of Factors 1 and 2. As the response to my informal grievance noted, these factors were indeed rated highly by the RPES Panel. However, the authorship credit belongs to me, not the RL who opposed my suggestions right up until the day they were submitted for panel review.

#4: (Concern that RPES Panels may allow inappropriate input from RLs)  
In reference to request #4, the response to my informal grievance presented information about panel deliberations and dismissed the possibility of influence from ‘inconsistent input’ of individuals contacted by the In Depth Reviewer. I find no evidence to support this

contention. I have already documented that RPES panel misconduct can occur, (see #3 above). My initial ad hoc RPES Panel willfully misclassified Factors 1 and 2 from a GS 13/14 Position Description to place me into a lower (GS 12) pay level. Therefore, "training" in panel responsibilities is no guarantee of objectivity in assigned duties.

#5: (Request for statistical accounting of GS 12 to GS 13 promotions within PWA)

I requested that the PWA promotion statistics be broken down by gender, (numbers which are usually hidden), to contrast them with the AK statistics during the same time period. One of three GS-12 women in ARS Alaska was promoted (33%), as was one of two GS-12 men (50%) undergoing RPES. These statistics represent lower promotion rates experienced by Alaska ARS personnel than the Area in general, which I believe is a direct consequence of the RL's non-supportive leadership capabilities and discriminatory practices against women.

#6: (Request for clear performance appraisal guidelines)

This response to my informal grievance is inadequate. By admitting that there are no written descriptions for what constitutes an "exceeds" or "does not meet" rating, the Agency is suggesting that the Performance Standards are appraised each year in a highly subjective manner. This type of system invites discriminatory actions as witnessed each year in Alaska's ARS unit, and should be standardized by the Agency as soon as possible.

#7: (Concern that an abusive situation exists for ARS female scientists in Alaska)

The response to my informal grievance contended that there was no evidence of abuse of ARS female scientists in Alaska. It is unfortunate that Matteri was selected to respond to my informal grievance when he has apparently not been kept "in the loop" concerning the steady stream of complaints originating from the ARS Unit in Alaska. As you are aware, numerous grievances and other communications have been sent by all three of SARU's female SYs, in a sincere effort to apprise the Pacific West Area office of the ongoing inequities.

My perception of this situation is that our complaints are not being taken seriously.

I REQUEST that the claims of harassment by SARU's three female SYs be taken seriously.

Contrary to what may have been suggested by the RL, my grievances have not suddenly arisen (frivolously) because of my recent Remain-in-Grade RPES decision. That event may have been "the last straw", but it was certainly

not the beginning of my dissatisfaction here in SARU. My current employment circumstances are approaching the point where a reasonable person would feel compelled to quit. The Agency's response to #7 above, suggests that perhaps that is the Agency's intent.

Since PWA failed to meet almost every request I made in my informal grievance, I respectfully REQUEST that the PWA relocate me to another ARS Unit. I did not invite the harassment I am experiencing here and I do not deserve to be mistreated. I request full relocation benefits be provided during my transfer, so that this action of last resort will feel more like a positive new beginning than a reprisal for not remaining silent in an abusive situation not of my making. I also request, in the event I am transferred, that my highly skilled technician be allowed to retain her ARS employment in Fairbanks until December 2009. If I leave, her job is at risk, since my technician has always been listed as a temporary employee (as is the technician of the other female SY in Fairbanks, in direct contrast to the permanent positions held by the technicians of all Fairbanks male SYs).

I am sorry to be bringing this grievance to your attention.

Sincerely,

Cynthia Bower  
Research Food Technologist  
Subarctic Agricultural Research Unit (SARU)  
USDA ARS, Pacific West Area  
360 O'Neill Building, University of Alaska  
Fairbanks, AK 9775-7200

(907) 474-6732  
(bower@sfos.uaf.edu)

#### Legend for attached Exhibits

- Exhibit 1: Informal grievance (without exhibits) sent to Dr. Hammond (12/27/07)
- Exhibit 2: Robert Matteri's response to my informal grievance (1/24/08)
- Exhibit 3: E-mail from co-worker (not RL) introducing me to SCA (1/18/06)
- Exhibit 4: 2004 RPES results showing inappropriate point values for Factors 1 and 2
- Exhibit 5: 2004 paperwork replacing typewritten GS 13/14 with handwritten



14 March, 2008

## **Response to Formal Grievance**

Sent from:

**Dr. Andrew Hammond**  
**Acting Area Director**  
**Pacific West Area**  
**Agricultural Research Service**



**United States Department of Agriculture**

Research, Education and Economics  
Agricultural Research Service

March 14, 2008

SENT VIA FEDERAL EXPRESS (Tracking #7909 6086 5544)

SUBJECT: Response to Formal Grievance

TO: Cynthia K. Bower  
Research Food Technologist

FROM: Andrew C. Hammond  
Acting Area Director

A handwritten signature in blue ink, appearing to read "Andrew C. Hammond".

This memorandum is in response to your Formal Grievance dated February 4, 2008, concerning your allegations of a "hostile work environment." Your formal grievance was filed under the Agricultural Research Service (ARS), Administrative Grievance System, Policies and Procedures (P&P) 463.2, dated June 4, 2001.

In your Informal Grievance as relief you requested: (1) to be "supported in [your] career by the GS-15 level males in [your] Unit;" (2) an "investigator be sent to SARU to collect statements;" (3) "the EEO-unfriendly ARS leadership decisions...be immediately remedied;" (4) "re-training for the In Depth Reviewer who served on [your] RPES panel;" (5) "assurance that [you are] employed within a fair and equitable agency, which adheres to USDA written EEO statements;" (6) "clear guidelines be provided to [you] describing how [you] can meet and exceed expectations for [your] 2008 annual performance appraisal;" and (7) "permission to prepare an article for the popular press describing the abusive situation that has evolved for ARS female scientists in Alaska." However, in your Formal Grievance, you requested additional relief that was not previously stated in your Informal Grievance. The Administrative Grievance System, Policies and Procedures (P&P) 463.2, clearly states "the formal grievance may not concern any matter that was not presented as part of the informal grievance." Thus, the additional relief and newly presented issues raised in your Formal Grievance will not be considered.



**Pacific West Area - Office of the Director**

800 Buchanan Street • Albany, CA 94710-1105

Voice: 510.559.6060 • Fax: 510.559.5779 • E-mail: Andrew.Hammond@ars.usda.gov

An Equal Opportunity Employer

In your Formal Grievance, you stated that "the response to [your] informal grievance was unacceptable, since it did not adequately address the issues [you] raised." Thus, I will review the issues raised and relief requested as stated in your Informal Grievance. In your Informal Grievance, you stated that you are requesting "relief from the extremely hostile environment for women" and "career-damaging events that have been occurring [at your location] on a routine basis for many years." Article 5 of the Administrative Grievance System, Policies and Procedures (P&P) 463.2 states:

This Policies and Procedures issuance does not apply to... [a] dispute over a matter for which an employee has an entitlement to file an appeal, grievance, or formal challenge in some other forum. This includes matters that are reviewable by the Merit Systems Protection Board (MSPB), the Equal Employment Opportunity Commission (EEOC), the Office of Personnel Management (OPM), the Comptroller General (CG), the Federal Labor Relations Authority (FLRA), or the Federal Mediation Conciliation Service (FMCS).

Thus, these issues are nongrievable matters.

As previously stated, you alleged that the issues you raised "have been occurring [at your location] on a routine basis for many years." Article 9 of the Administrative Grievance System, Policies and Procedures (P&P) 463.2 states:

Employees must submit an informal grievance within 15 days of the act or occurrence that is the basis of the grievance or within 15 days of the date the employee became aware of the act or occurrence.

Thus, the Informal Grievance was untimely filed because the basis of your grievance, as you contend in your Informal Grievance, "[has occurred at your location] on a routine basis for many years."

ARS considers allegations of discrimination very seriously. On January 18, 2008, Dr. Edward B. Knipling, Administrator, provided all employees with the 2008 Diversity/Equal Employment Opportunity Policy Statement. This policy states that "conduct or behavior that indicates discrimination, harassment (sexual or non-sexual), or retaliation will not be tolerated." Thus, we have a zero tolerance policy for discrimination of any kind in the workplace that is defined by the Equal Employment Opportunity Commission. The Pacific West Area (PWA) management as well as ARS does not support discriminatory acts. On January 25, 2008, as Acting Area Director, I provided all PWA employees with the 2008 Pacific West Area Diversity/Equal Employment Opportunity Policy Statement. Further, we thoroughly investigate complaints of discrimination. As you mentioned in your Formal Grievance, Dr. Matteri investigated your complaint. He did not find any evidence to support your complaint. Thus, your request "that the claims of harassment by SARU's

three female SYs are taken seriously" were taken seriously, investigated, and addressed by Dr. Matteri in his Response to your Informal Grievance.

### **Relief**

After careful review of your Formal Grievance and attachments, the Response to your Informal Grievance, your Informal Grievance and attachments, the Administrative Grievance System, Policies and Procedures (P&P) 463.2, and the ARS 2008 Diversity/Equal Employment Opportunity Policy Statement, I have concluded that the issues you raised in your Informal Grievance are nongrievable matters as defined by Article 5 of the Administrative Grievance System, Policies and Procedures (P&P) 463.2. In addition, your Informal Grievance was untimely filed as defined by Article 9 of the Administrative Grievance System, Policies and Procedures (P&P) 463.2. Finally, the new issues and additional relief you raised and requested in your Formal Grievance are prohibited from consideration as defined by Article 9 of the Administrative Grievance System, Policies and Procedures (P&P) 463.2. Further, Article 9 states:

Grievances can be rejected if they:

- **are filed untimely,**
- **concern a matter excluded from coverage,**
- are filed by employees excluded from coverage,
- concern a matter over which the DO has no control,
- do not conform to the filing requirements of a formal grievance, or
- fail to request personal relief.

Consequently, your Grievance is rejected and your requests for relief are denied.

If the matter has not been resolved to your satisfaction, you have a right to a final decision by the Administrator, Agricultural Research Service, with or without review by a Departmental Factfinder (Grievance Examiner). If you wish to pursue your grievance further, you must submit a written request for further review by a Departmental Factfinder or a final decision by the Administrator, without fact finding, within 15 calendar days of receipt of this proposed disposition. You must indicate in the request which items remain unresolved, the corrective action being sought, and any additional arguments and evidence which you wish to have considered.

If you do not request a final Agency decision with or without a Factfinder within 15 calendar days, this proposed disposition will be adopted as the final Agency decision on the grievance and the grievance will be closed. A request for a final Agency decision with or without a Departmental Factfinder should be addressed to:

Dr. Edward B. Knipling, Administrator  
USDA, Agricultural Research Service  
c/o HRD, Employee Relations Branch  
5601 Sunnyside Avenue, Stop 5102  
Beltsville, MD 20705-5102  
Attn: LaFondra Lynch

The Cooperative Resolution Program (CRP) was developed in the Research, Education, and Economics (REE) mission area to assist employees and managers in recognizing potential concerns or issues and to resolve them at the earliest possible stage. This program is completely voluntary. As Dr. Matteri stated in the Response to your Informal Grievance, Dr. Pantoja is willing to participate in this program if this is something that would help both of you to resolve any current or future misunderstandings. However, to begin this process, you must contact the CRP by calling 301-504-1460.

The Employee Assistance Program (EAP) can help in a variety of situations. If you believe that EAP can be of assistance, you are urged to call the EAP office at 1-888-290-4327.

If you have any questions concerning this decision, you may contact LaFondra Lynch, Human Resources Specialist (Employee Relations), at 301-504-1409, during normal business hours.

You are requested to sign and date the acknowledgement copy of this letter as evidence that you have received it. Your signature does not mean you agree or disagree with the contents of this memorandum. However, your failure to sign the acknowledgement copy will not void the contents of the memorandum.

cc:

E. Knipling, ARS

L. Lynch, HRD

I acknowledge receipt:

\_\_\_\_\_  
Cynthia K. Bower

\_\_\_\_\_  
Date

26 March, 2008

## **Request for Final Agency Decision**

Sent to:

**Dr. Edward B. Knipling, Administrator  
USDA, Agricultural Research Service  
c/o HRD, Employee Relations Branch  
5601 Sunnyside Avenue, Stop 5102  
Beltsville, MD 20705-5102**

Dr. Edward B. Knipling, Administrator

March 26, 2008

Dr. Edward B. Knipling, Administrator  
USDA, Agricultural Research Service  
c/o HRD, Employee Relations Branch  
5601 Sunnyside Avenue, Stop 5102  
Beltsville, MD 20705-5102

Attn: LaFondra Lynch

Dr. Knipling,

This letter is in response to the document issued by PWA's Acting Area Director Andrew Hammond as a reply to my Formal Grievance. He instructed me to contact you in the event that the matter was not resolved to my satisfaction. Considering that Dr. Hammond introduced false statements into his response, then dismissed my grievance and denied all relief, I believe that dissatisfaction is a reasonable reaction on my part. Consequently, I wish to pursue this grievance further. To expedite the process, ***I am requesting that a final decision be made***, without a factfinder, based on the ample evidence previously presented in my grievances, which are attached.

#### **Items Remaining Unresolved**

- 1.) The Research Leader (Alberto Pantoja) has established an extremely hostile environment for women in ARS Alaska's Subarctic Agricultural Research Unit (SARU). There are only three female research scientists at SARU, and each of us has filed more than one grievance concerning career-damaging events. The male scientists have all witnessed at least one harassing event, and they can serve to corroborate that unequal treatment exists for SARU's women. During this time, the PWA administrators (Drs. Buxton, Hammond, and Matteri) have facilitated the EEO violations, rather than taking definitive action to correct them.
- 2.) I was originally offered my job at lower GS and salary levels than the advertised position (GS 13/14) due to willful misconduct of ARS personnel. I now strongly believe that this discriminatory treatment was permitted by PWA because I am a female scientist, (which remains an underrepresented group in the ARS).
- 3.) Leadership decisions within ARS have severely damaged my career. Loss of promotion is a tangible employment action that will have financial and stature-related repercussions for the rest of my life. I am now excluded from the possibility of attaining a GS 14 rating, necessary for an ARS leadership position, before I approach retirement age. This is especially distressing to me at a time when I perceive such a vital need for competent leaders with integrity to emerge from within the ARS ranks.

### **Corrective Action Being Sought**

- 1.) I request that I be reclassified as GS 13, retroactive to December 2007.
  
- 2.) I request that leadership failures existing within the PWA be dealt with appropriately.

### **Additional Evidence I wish to Have Considered**

1.) My earlier grievances documented problems in Alaska's ARS unit and clarified misconceptions associated with Dr. Matteri's response. For example, Dr. Matteri's contention that there is no evidence of abuse of ARS female scientists in Alaska simply ignores the facts, (in this case, numerous grievances and other communiqués from the other two female scientists working for the ARS in Alaska). My previous grievances stand on their own merit and are attached for your review. However, it is essential that I now refute the false statements introduced by Dr. Hammond through his recent response to my Formal Grievance:

- The statement quoted from P&P 463.2 ("the formal grievance may not concern any matter that was not presented as part of the informal grievance") was misleading. No newly presented issues were raised, and the P&P statement does NOT apply to additional requests for relief. Any extra information included in my Formal Grievance was in direct response to misconceptions introduced by Dr. Matteri in his response to my Informal Grievance, and it was critical that his errors be properly refuted.

- Additionally, Dr. Hammond assigned "nongrievable" status to my complaints (despite accepting the Informal Grievance and addressing the requests) by stating that I should have taken them to another forum outside the ARS, such as the Merit Systems Protection Board or the Equal Employment Opportunity Commission. If an Agency's Policies and Procedures designate it as unable to handle complaints of workplace discrimination, how can the Agency issue an EEO statement proclaiming zero tolerance for gender bias and other discriminatory practices? The PWA either has an enforceable EEO policy or it doesn't, in which case Dr. Hammond's errant EEO missive of January 25<sup>th</sup> should be recalled (again).

- Dr. Hammond further alleged that my first informal grievance was not filed in a timely manner. This is incorrect. I received my RPES results on December 15<sup>th</sup>, and I filed the grievance on December 27<sup>th</sup>. This is well within the 15 days that I was allowed. The basis of my complaint was that the hostile work environment, which I had been enduring in silence up to that point, had just irreparably damaged my career. I introduced as much evidence as I could to support my contention. The discriminatory practices surrounding my initial hiring certainly qualified as proof that I had not received fair treatment from the very beginning of my employment with



Dr. Edward B. Knipling, Administrator

the ARS. According to SARU's recent EEO training, demonstrating pervasive unfair treatment is required to prove discrimination. Therefore, it is completely unreasonable for Dr. Hammond to disallow evidence that establishes a pattern of abuse, merely because it occurred more than 15 days before I filed my grievance.

- Dr. Hammond also provided information concerning the ARS's EEO policy statement. The paragraph is disingenuous. If Dr. Matteri had "thoroughly investigated complaints of discrimination" occurring in Alaska's ARS unit, he would have discovered that all three female scientists had filed grievances concerning gender bias and hostile working conditions. Then, according to ARS policies, immediate action would have occurred and the abuse would have stopped. Since the grievances, complaints, and other communiqués continue to flow from Alaska to the Pacific West Area, I can only conclude that any investigations by Drs. Matteri and Hammond have been embarrassingly inadequate.

I maintain that I did not invite the harassment I am experiencing and I do not deserve to be mistreated. This has been a soul-draining experience for me, but I am hopeful that you will provide an equitable resolution, once and for all.

Sincerely,

Cynthia Bower  
Research Food Technologist  
Subarctic Agricultural Research Unit (SARU)  
USDA ARS, Pacific West Area  
360 O'Neill Building, University of Alaska  
Fairbanks, AK 99775-7200

(907) 474-6732

[bower@sfos.uaf.edu](mailto:bower@sfos.uaf.edu)

#### **Legend for attached Exhibits**

- Exhibit 1: Informal grievance sent to Andrew Hammond (12/27/07)
- Exhibit 2: Robert Matteri's response to my informal grievance (01/24/08)
- Exhibit 3: Formal grievance sent to Andrew Hammond (02/04/08)
- Exhibit 4: Andrew Hammond's response to my formal grievance (03/17/08)

27 May, 2008

## **Response to Final Agency Decision**

Sent from:

**Dr. Edward Knipling  
Administrator  
Agricultural Research Service**

**!!**

**Incredibly, this confidential response, which arrived the next day by FedEx in an envelope clearly marked “to be opened by the addressee only”, was emailed to one of the ARS support staff in Fairbanks with the instructions to open the file and print it!**

**!!**

**From:** "Bower, Cindy" <Cindy.Bower@ars.usda.gov>  
**Subject:** **FW: Bower**  
**Date:** May 27, 2008 8:23:48 AM GMT-08:00  
**To:** <bower@sfos.uaf.edu>  
▶ 1 Attachment, 101 KB

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**From:** Contento, Janis  
**Sent:** Tuesday, May 27, 2008 8:21 AM  
**To:** Bower, Cindy  
**Subject:** Bower

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**From:** Lynch, Lafondra  
**Sent:** Tuesday, May 27, 2008 4:57 AM  
**To:** Contento, Janis  
**Subject:** Bower

Janis,

I am attaching Dr. Knipling's response to Cynthia Bower's request for a Final Agency Decision. I need you to give her a copy of it today. If you have any questions, please let me know.

LaFondra Lynch  
Employee Relations Specialist  
USDA-ARS-AFM-HRD-ERB  
5601 Sunnyside Avenue  
Beltsville, MD 20705-5102  
(301) 504-1409 (voice)  
(301) 504-1375 (fax)  
[lafondra.lynch@ars.usda.gov](mailto:lafondra.lynch@ars.usda.gov) (email)



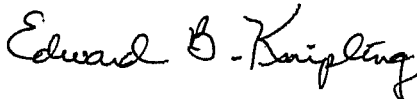
United States Department of Agriculture

Research, Education, and Economics  
Agricultural Research Service

MAY 23 2008

SUBJECT: Final Agency Decision

TO: Cynthia K. Bower  
Research Food Technologist  
Subarctic Agricultural Research Unit

FROM: Edward B. Knipling   
Administrator

This memorandum is to inform you of the final Agency decision you requested on March 28, 2008, on your formal grievance concerning your allegations of a "hostile work environment." As relief, you requested to be "reclassified as GS 13" and the alleged "leadership failures existing within the PWA be dealt with appropriately." I have fully and carefully considered your grievance and the exhibits you have presented to support your position, as well as the material contained in the grievance file.

In your request for a final Agency decision, you stated the following issues remain unresolved: 1) "an extremely hostile environment for women," 2) "discriminatory treatment" resulting in your being "offered [your] job at lower GS and salary levels than the advertised position," and 3) "loss of promotion."

Your grievance centered on your allegations of discrimination. Article 5 of the Administrative Grievance System, Policies and Procedures 463.2, dated June 4, 2001, states:

"This Policies and Procedures issuance does not apply to . . . [a] dispute over a matter for which an employee has an entitlement to file an appeal, grievance, or formal challenge in some other forum. This includes matters that are reviewable by the Merit Systems Protection Board (MSPB), the Equal Employment Opportunity Commission (EEOC), the Office of Personnel Management (OPM), the Comptroller General (CG), the Federal Labor Relations Authority (FLRA), or the Federal Mediation Conciliation Service (FMCS)."

Thus, the three issues cited in your request are nongrievable matters. However, the Agricultural Research Service (ARS) does not support acts of discrimination nor will these acts be tolerated. Dr. Robert Matteri, Assistant Area Director, Pacific West Area, investigated your allegations.



No evidence was found to support your allegations of a hostile work environment or discrimination. In addition, Mr. Jeff Schmitt, Research, Education, and Economics Cooperative Resolution Program Office, visited your location from January 14-18, 2008, to discuss any issues or concerns you and the other scientists may have and attempt to resolve them. Mr. Schmitt did not report any evidence supporting your allegations.

In addition to your allegations of discrimination, you asserted you were “offered [your] job at a lower GS and salary levels than the advertised position.” Although this is not uncommon, Dr. Matteri consulted the Director of the ARS Human Resources Division (HRD), Karen Brownell, regarding this process and confirmed that for all Category 1 scientists, final classification decisions must be made by a peer panel through the Research Position Evaluation System (RPES) before HRD can issue a letter of offer. An RPES panel evaluated your application and determined you be classified as a GS-12. Thus, a job offer could not be made to you on the original recruitment announcement. Subsequently, the position was readvertised at the GS-12 level for which you applied, and you were hired under the new recruitment announcement. The supervisory selecting official, in your case Dr. Alberto Pantoja as Research Leader, does not have the authority to make formal offers of employment or to establish position grade levels for new hires or incumbent employees.

Dr. Pantoja, Research Leader, Subarctic Agricultural Research Unit (SARU), has arranged for Dr. Eric Jang, Research Leader, Tropical Plants Pest Research Unit, to deliver a presentation on the RPES process to all SARU employees on September 4, 2008. Please take this opportunity to fully understand the RPES position classification process and to ask additional questions about it.

This completes the grievance process and constitutes the final Agency decision in this matter. If you have any questions or concerns regarding this letter, please contact Ms. LaFondra Lynch, Human Resources Specialist, at 301-504-1409 during normal business hours.

cc:

L. Lynch, HRD

## Continuing Retaliation After Filing an EEOC Complaint

Complainant filed with EEOC on January 26th, 2009 (Complaint No. 551-2009-00074X), yet her supervisor, Dr. Alberto Pantoja continues to harass and retaliate against Complainant for her acts of opposing discrimination within the ARS. Three retaliatory events are listed below, although more examples exist.

### 1. Complainant was subjected to retaliation during her 2009 appraisal

Complainant was subjected to retaliation (by Rating and Approving Officials who both knew they were listed by name on her Formal EEO complaint, but they did not recuse themselves) resulting in a lower-than-warranted annual performance appraisal on November 12<sup>th</sup> 2009 with subsequent loss of a step-increase promotion.

- a) Ever since Complainant's EEOC deposition for discovery (July 7<sup>th</sup>-9<sup>th</sup>, 2009) where she was required to testify against her supervisor while in his presence, Complainant avoids interactions with her supervisor whenever possible.
- b) On November 12<sup>th</sup>, Complainant's supervisor served as Rating Official on her annual performance appraisal and rated her as not exceeding in Element 3 (relating to EEO performance).
- c) Complainant's supervisor stated that the rating was a direct result of Complainant having violated her technician's performance plan by allowing her technician to be a co-author on publications.

- d) Complainant disagreed by noting that she was fulfilling Element 3 of her own performance plan, which requires that she "facilitates training and development of supervised employees".
- e) Complainant and her supervisor had met previously (25 September 2009) to discuss the issue of technicians serving as co-authors (a practice that had been freely accepted since Complainant began employment with ARS in 2004 and was only now being questioned), and the "option" of technicians serving as co-authors was not forbidden, as long as proper paperwork was submitted as justification.
- f) Complainant was traumatized by the event and recognized a clear Conflict of Interest for her supervisor (a respondent in her EEO complaint) to serve as the Rating official on her annual appraisal.
- g) Complainant suffered an adverse employment action when she was denied the bonus award of a step-increase promotion and the monetary benefits and increase in professional stature that comes with a higher salary and rank. Additionally, the Complainant was traumatized by the interaction with her supervisor and required sick leave.

## 2. Complainant was subjected to retaliation on March 20<sup>th</sup>, 2009

Complainant was subjected to reprisal discrimination by her Research Leader (RL), Dr. Alberto Pantoja, when he denied Complainant the career-building opportunity of serving as Acting Research Leader in his absence (March 20<sup>th</sup>, 2009). Until August 2008, no women research scientists were allowed to serve as Acting RL. However, that practice was changed after all three women filed formal EEO complaints with USDA. In August 2008, Dr. Pantoja adopted an

official "Rotation Plan to select Acting RL" for the Unit. Rule #3 from the Rotation Plan stated that if an SY cannot serve when needed, the next SY in rotation will be selected. Dr. Pantoja was out of the office from 17 December 2008 until 06 January 2009 and three Acting RLs were appointed. The Acting RLs included Dr. Joe Kuhl (17-19 December 2008), Dr. Loretta Winton (22-26 December 2008) and Dr. Peter Bechtel (29 December 2008 to 05 January 2009). Therefore, according to the Rotation Plan, the next opportunity for Acting RL should have been offered first to Dr. Dennis Fielding, followed by Dr. Jeff Conn, Dr. Loretta Winton, Complainant, and then Dr. Steve Seefeldt (since Dr. Joe Kuhl had already terminated his employment with the ARS by that time). Complainant was subjected to reprisal discrimination by Dr. Pantoja, when he denied Complainant an opportunity to serve as Acting RL on March 20th 2009. Whether offers were made to Dr. Fielding, Dr. Conn, and Dr. Winton is not known. However, no offer was made to Complainant and her opportunity was inappropriately given to the person listed AFTER her on the rotation plan, Dr. Steve Seefeldt. This form of reprisal was humiliating for the Complainant and impacted her professional stature and future employment opportunities.

### 3. Complainant was subjected to retaliation on April 30<sup>th</sup>, 2009

Complainant was subjected to retaliation by the Research Leader, Dr. Alberto Pantoja, when he denied Complainant an opportunity to fully serve as Acting RL on April 30th 2009. Dr. Pantoja refuses to assign tangible Acting RL responsibilities to women research scientists and instead delegates power (through WebTA) to a male scientist while he is away. On April 30th Complainant was the acting RL when a problem with one or more timesheets arose. Although it was not disclosed to Complainant at the time, an official approval was required. SARU's



secretary, Juli Philibert, contacted the designated male with behind-the-scenes power (Dr. Dennis Fielding) and they resolved the problem without Complainant's knowledge or assistance. Because of the system instituted by the RL, Complainant is only allowed to serve as acting Research Leader in a diminished capacity with no real power and no responsibilities (e.g. Complainant is not made aware of who emailed in sick that day or who took annual leave nor is Complainant informed of problems within the unit and allowed to suggest a solution). This form of reprisal impacted the authority and professional stature of the Complainant and was a source of humiliation.