

NTEU Chapter 164 Newsletter

2nd Quarter 2016, Vol 1, Issue 13



President's Corner: Contract Bargaining

Dear Fellow Bargaining Unit Members:

In the last week of March, I took part in the national negotiations for the next term contract between NTEU and CBP. These negotiations have been going on for almost one year now, with preliminary negotiations on the "ground rules" of bargaining stretching the process back to almost two years. I took part as one of the rotating union members on the panel. The negotiations took place at NTEU's HQ, in D.C. Joining me in the negotiations, for NTEU, were the Chapter Presidents of Savannah, Champlain, Detroit, El Paso, and Puerto Rico. We were led by National Executive VP, Jim Bailey, and National Assistant Counsel for Negotiations, Jonathan Levine. CBP's bargaining team consisted of national LER staffers, the Area Port Directors of Newark, and El Paso, and Chief Counsel from L.A.

We were supposed to bargain over about 18 contractual Articles, but the pace and tenor of bargaining was such that we only got to five articles: AWS, Telework, Outside Employment, Labor-Relations Committees, and Investigatory Interviews. Tentative agreement was reached on Labor-Relations Committees, but substantial work remains to be done on the other 4 articles. While progress was made on some issues, there is much that still divides us, and significant hard bargaining remains. Almost certainly, many issues will have to be referred to the FSIP (Federal Services Impasse Panel), as we will not be able to reach terms. Except for a few select areas, I came away with the impression that CBP still has buyer's remorse for much of what the bargaining unit obtained through the bargaining process for the 1996 Customs contract, and the Bid and Rotation Agreement in 2008, and what I witnessed was management's continued attempt to take much of those benefits away. Also, while the management team members were usually pleasant, it was apparent that they really had no concern about employee morale.

In addition to the bargaining sessions with CBP management, the union group also had a frank discussion about other Articles in dispute, Articles that were not being bargained during the bargaining session in the last week of March. These discussions involved Bid and Rotation, Overtime, Reassignments, and seniority calculations. It is generally considered bad form to go into specific detail about issues still being discussed at the bargaining table, so I will refrain from doing so until national NTEU comes out with their next update on the status of negotiations.

NTEU national staff is in hopes of wrapping up the bargaining process, and getting the still disputed issues referred to the FSIP, or a mutually agreed upon neutral party, before the end of the year.

If you have any comments or suggestions, please let me know.

Sean Albright
Chapter President
NTEU 164

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NTEU President Reardon's Chapter 164 Visit

- Sean Albright

NTEU National President Tony Reardon visited the Blaine area in February of this year. Local chapter leaders escorted President Reardon to employee "town hall" meetings, and Q & A sessions at the Peace Arch, Pacific Highway, Vancouver, and Sumas. Mr. Reardon gave a brief overview of some of the many issues NTEU is handling, and opened the sessions up to questions from the members. This was an excellent opportunity for members to meet their National President, and to ask questions. Mr. Reardon also met with local CBP senior management, including Blaine Area Port Director Ken Williams, Sumas Port Director Dianna Sandoval, and Vancouver Port Director Lee DeLoatch.



President Reardon fielding questions from officers at the Vancouver International Airport.



Officers from the Peace Arch meeting with President Reardon in the second floor conference room.

Further, Mr. Reardon conducted a stewards training session with NTEU 164 stewards, providing an invaluable opportunity for local stewards to discuss their concerns with the National President.

Mr. Reardon was very impressed with the questions put to him by the membership, and later expressed his thanks to the chapter for inviting him. Many important issues were brought to his attention, and he is still looking into some of those issues.

If you were unable to attend, but have questions you would like NTEU to address, please forward those questions to Chapter President Albright, and he will attempt to obtain responses from national NTEU personnel.

Legislative Grassroots Action:

It makes a difference

-NTEU Chapter 164

It is imperative that we contact our elected representatives and make our voices heard. NTEU has made the process much easier by including all the important things we need to know in one location on NTEU's website at [.NTEU's Legislative Action Center](#)

NTEU works hard to ensure that all NTEU members are tuned in to real time legislative updates. They also want to ensure that members can be contacted at a moment's notice and are responding accordingly on NTEU's legislative calls to action..

Below you will find instructions on using [NTEU's Legislative Action Center](#). Please use this link to [take action](#) on the issues that affect your pay, benefits and agency funding. *Please note that members can only email their members of Congress using NTEU's Legislative Action Center on their own time (i.e. lunchtime) and never on a government computer.*

Every effort you make, large or small, to increase the number of letters being sent to Congress from your chapter matters and can make all the difference. Together, we can ensure that the voice and agenda of federal employees is heard loud and clear in Congress. If you have questions on how to use [NTEU's Legislative Action Center](#) or need assistance, please contact NTEU's Director of Legislative Grassroots at stacy.casimiro@nteu.org.

NTEU

BUILDING A STRONGER AMERICA

2019 LEGISLATIVE CONFERENCE

NTEU Chapter 164 Leaders

Chapter President — **Sean Albright** (**New Hours**)

Day Shift on Wednesday & Thursday and

1600-2000 on Fridays 360-332-2640

Swings on Weekends 360-332-5707

Chapter Vice-President—**James Pettaway**

0400-0800 Mon.—Fri. 360-332-6091

360-332-2640

Chapter Treasurer— **James Henderson**

Swings Monday - Friday 360-332-5707

Chapter Secretary— **Kana Carman**

Days 360-332-8511

Sumas Chief Steward— **Rayme Chapin**

Days Monday—Friday 360-988-2971 x240

Oroville Chief Steward— **Clint Faulkner**

Days Monday—Friday 509-919-7206

Vancouver Chief Steward— **Gary Ferrell**

604-278-7422

Blaine Area Port

Grievances

- **Future OT earnings.** CBP has denied a Step 3 grievance regarding the practice of using future (and still unearned) overtime to prevent an employee from working current overtime opportunities. The chapter is considering arbitration. Case handled by Pettaway
- **Relocating personnel from Cargo to ATU and Rail.** Tentative settlement reached in a grievance involving relocating personnel from Cargo to ATU, and from Cargo to Rail. Waiting on final resolution of grievance paperwork. Case handled by Albright
- **CBP refusal to pay lodging per diem on certain TDY opportunities.** CBP Blaine had gotten in the habit of offering TDY opportunities to local ports, but was refusing to offer lodging reimbursement. NTEU filed a grievance to stop this behavior, as it was severely limiting the number of employees who could reasonably compete for the TDY offerings. Such behavior was outside the acceptable bounds of the contract, and the Federal Travel Regs. Tentative agreement has been reached whereby CBP agrees to cease and desist this practice, agreeing to always offer lodging reimbursement in the future, where required by law, and offer a priority consideration to the named grievant who missed out on a TDY opportunity because he could not afford to forego lodging reimbursement. Case handled by Albright

North-



NTEU Headquarters in Washington, D.C.

- **Gun removal backpay.** CBP temporarily rescinded the authority of an employee to carry a CBP weapon while he was facing possible discipline. CBP did not adhere to several negotiated processes concerning the proper procedure to follow when removing a firearm. CBP has now conceded that they violated the various agreements, but discussions to arrive at the proper financial remedy have stalled. NTEU counsel will be submitting a legal brief to the designated arbitrator asking for what we believe to be the proper financial remedy for the missed OT opportunities the employee suffered while he was on light duty. Case handled by Albright
- **Involuntary Extending of OT assignments.** The chapter recently held an arbitration challenging CBP's practice of involuntarily extending the length of pre-scheduled OT assignments beyond the originally scheduled end-time. We are awaiting the decision of the arbitrator. Case handled by Pettaway
- **Sick leave restriction letter.** The chapter successfully represented an employee who had been issued an improper sick leave restriction letter. Case handled by Arguello
- **Requirement to obtain doctor's note.** The chapter represented an employee who had been directed to obtain a doctor's note to cover a questioned use of sick leave. Because of a dispute in the facts of the case, with no corroborating evidence, the case had to be dropped. NTEU is monitoring the situation for future similar developments. Case handled by Carman.
- Chapter is handling several personal disciplinary cases. Cases handled by Albright, Arguello, and Lynch.

Blaine Area Port

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- **Refusal to authorize living quarters allowance.** The chapter represented an employee, formerly assigned to preclearance, in a case where CBP had refused to offer post living quarters allowance. The grievance was denied by CBP at the Step 3. Because of the passage of time since the original incident, and certain particulars of the case, NTEU counsel will not be able to arbitrate. Case handled by Pettaway.
- **Denial of FLAP.** For FY 2015, CBP began the practice of denying FLAP coverage for most employees speaking non-Special Interest languages. A grievance was filed. CBP denied the grievance at all 3 steps of the grievance process. Arbitration was accepted, and is pending. Case handled by Albright



White House at night.

Negotiations

- **Nexus Enrollment Center.** Impasse has been reached on negotiations for the “new” Nexus Enrollment Center at the Birch Bay Mall. Negotiations are stalled on the topics of providing secure parking, rifle-resistant counters, the type of refrigerator that was initially agreed to, and a few other items. NTEU will be contacting the Federal Mediation and Conciliation Services (FMCS) to hopefully mediate continued bargaining. An option of eventually going to the Federal Services Impasse Panel (FSIP) remains a possibility if voluntary agreement can’t be reached. These negotiations have been ongoing for over 2 years.
- **Relocation of Bellingham maritime work to the Birch Bay Nexus office.** Because of a dispute with the Port of Bellingham, CBP may have to move its maritime work (currently performed at the airport) to another location. CBP and NTEU have agreed to place negotiations on hold pending a final decision from the Port of Bellingham.
- **Friday Harbor new port building.** After initially failing to adhere to the proper legal and contractual processes regarding notification and bargaining over a new port office at Friday Harbor, CBP has agreed to engage with NTEU in negotiations. Formal bargaining proposals have been tendered by NTEU. A schedule of bargaining rounds will be forthcoming.
- **Moving of Customs dock at Friday Harbor.** The Port Authority of Friday Harbor has requested, and CBP has agreed, to move the Customs dock to a different dock. CBP and NTEU have agreed to place negotiations on hold pending a determination from the Port Authority on what kind of inspection shack will be provided. NTEU seeks certain upgrades to the current shack to make it more usable.

Issues and Grievances

Blaine Area Port

Continued from pg 5

Other

- **Goldstein (moving of employees to other work units).** NTEU and CBP have reached tentative agreement on the amounts of backpay owed to employees in Sumas, and Lynden. Meanwhile, a compliance hearing was held before Arbitrator Goldstein, in October, to determine the amounts of backpay owed to employees in Vancouver. A decision will likely be linked to a nation-wide decision. Agreement remains elusive for employees in Blaine and Point Roberts, with the parties greatly divided on what constituted an employee relocation necessitating backpay under the Goldstein decision, and on how much would be owed to each employee. Further developments pending.
- **5 USC 6101 (employee work schedules in violation of federal law).** NTEU has prevailed before the federal court that CBP had been scheduling employees to tours of duty that were in violation of federal law, specifically regarding differing hours of work within the same workweeks, and non-consecutive RDOs. CBP may now appeal to the full court, or the Supreme Court, but it is extremely unlikely they could get the decision overturned. Specific calculations for how much backpay each employee is owed will be forthcoming after NTEU finally prevails on the merits of the case. This case was first filed in 2005.
- **Changes to assignment practices without negotiation.** NTEU has prevailed before the federal court on a case challenging CBP's implementation of changes to inspectional assignment practices without negotiation. The parties are now in settlement talks to determine the proper amount of backpay, among other remedies. This case was first filed in 2005.

Issues and Grievances

Oroville Area Port

- NTEU has represented multiple employees who have been interviewed or asked to provide memos concerning personal discipline matters.
- A grievance has been filed over a personal discipline matter. Currently at the third step of the grievance process.
- A grievance was filed over management's delayed repromotion of an officer in Eastern Washington. Management finally approved a repromotion request nearly 2 years after the request was submitted. Similarly situated employees requesting repromotion have had their requests granted in far less time. NTEU is currently awaiting the Agency's response to an information request.
- A grievance was filed over management's denial of administrative leave to officers in Eastern Washington. Some officers affected by local wildfires were granted administrative leave while others were not, resulting in a fairness and equitability violation. NTEU is currently awaiting the Agency's response to an information request.
- While the Goldstein Arbitration decision is not applicable in Eastern Washington due to its focus on Work Unit assignment, the Gootnick Arbitration decision is applicable and is ongoing.

Issues and Grievances

Sumas Area Port

- Step one informal for supervisors not following SOP's was resolved. It was addressed during a supervisors meeting.
- Goldstein Arbitration, we have a verbal agreement and are waiting for a written agreement from the agency.
- The grievance for not providing official notice for the new office in Friday Harbor appears to be resolved with post implementation bargaining. The date for this is still pending.
- AWS for Sumas is still ongoing schedules are coming together and meeting should be scheduled soon.
- Re-promotion grievance is being held in abeyance until we receive the information that was requested.
- An arbitration is scheduled for June, for the Agency ordering a physical exam and not paying for it.
- A new grievance maybe developing over not assigning overtime properly.
- Gootnick Arbitration, concerning violations of 5 USC 6101 by assigning different work hours in the same work week, is still on-going.
- Step one for assigning FTO's to do IT's work is scheduled for April.



The name of the slain Customs Inspector Kenneth Ward, as inscribed on the Law Enforcement Memorial in D.C. Killed at Lynden in 1979.

Issues and Grievances

Vancouver Pre-Clearance

- Vancouver Stewards filed two separate grievances for officers that were improperly denied the opportunity to take annual leave in lieu of sick leave, a violation of **ARTICLE 37: LEAVE AND EXCUSAL**. Both grievances were settled at the step 2 with the officers retroactively being granted the requested annual leave. Grievances processed by Stewards Almaraz and Prater.
- A grievance was filed regarding an officer's NOI processing. NTEU believed that the agency violated **ARTICLE 40: PRECLEARANCE**. NTEU believed that there were vacancies at one of the officer's desired locations listed on his NOI, as new officers had arrived at Vancouver Preclearance from that location during the time that headquarters "shopped" the officers NOI. This grievance was settled following a step 3 meeting with the new Preclearance DFO. The officer was subsequently assigned to his desired port. Grievance processed by Steward Almaraz.
- Vancouver Steward Greg Pappas completed a TDY to the Preclearance Field Office to provide input and recommendations for CBP to improve NOI processing.