

## Testimony for Congressional Hearing

My name is Lesa L. Donnelly. I worked for the USDA, Forest Service, Region 5, (California) in various administrative positions from 1978 through 2002. In 1995, I filed a class action lawsuit on behalf of six thousand women in California on the basis of sexual harassment, hostile work environment and reprisal. In 1997, the lawsuit was certified in District Court as *Donnelly v. Glickman* and resulted in a court ordered Consent Decree that lasted until 2006. I am vice president of the USDA Coalition of Minority Employees. As a Lay Advocate, I have represented federal employees in the Equal Employment Opportunity Commission (EEOC) and Merit System Protection Board (MSPB) administrative processes for fourteen years.

I currently represent USDA, Forest Service employees in Region 2 (Colorado), Region 3 (Arizona), Region 4 (Utah), Region 5 (California), Region 6 (Oregon), and Region 10 (Alaska).

The employees I represent are victims of sexual assault, physical assault, sexual harassment, gender discrimination, racial discrimination, disability discrimination and reprisal. For years I've tried to cooperatively work with Forest Service leadership at the Regional and Washington office levels to address these issues and work toward creating and maintaining an

effective program that would prevent and eliminate civil rights violations.

The step we cannot get past is that USDA and Forest Service leadership will not acknowledge there is a problem. They not only refuse to communicate, they ignore acts against employees that are so egregious one would think the leadership has no conscience or humanity.

In 2005, I met with Under Secretary Mark Rey to discuss the rape of a female firefighter on a Southern California forest. Prior to the rape, the young woman had complained of sexual harassment from males on her fire crew. Forest Service management did not respond to her complaint. She was subsequently raped by a male crew member. Mr. Rey advised me that he, and the USDA, Forest Service were not concerned with the incident because it was solely a police matter.

In 2005, another female firefighter was sexually assaulted while on training in Sacramento, CA. When the Donnelly v. Glickman Settlement Monitor spoke to Assistant Secretary for Civil Rights, Vernon Parker about the incident, Mr. Parker's immediate response to her was, "It was not rape because there was no penis penetration." The employee had assaulted her with his hand. When the Monitor told Mr. Parker it was sexual assault and should have been addressed by management as such, he changed the subject and would not discuss it. These callous and insensitive attitudes are

representative of USDA top management's lack of concern and inhumanity toward victimized employees. These poorly handled situations highlight the agency's failure to address violations of law, regulations and policy.

There have been many other sexual harassment incidents, and sexual assaults in Region 5. For example, in 2005 and 2006, Kristine Levitoff, a Forest Service Emergency Control Center Manager with 17 years of service, and who is in charge of dispatching resources for large, complex fires, natural disasters, and other emergencies, was sexually assaulted, stalked, continually touched, and asked for sex by the Plumas National Forest Fire Management Manager. She reported it immediately to her supervisor, but the agency took no action. She filed a formal complaint and the Fire Management Officer was forced into retirement. Six months later, in 2007, the Plumas National Forest management tried to rehire the man. Ms. Levitoff filed a complaint on that action and in 2008 has been retaliated against in the form of supervisory assault, verbal abuse, public humiliation and a 30-day suspension. The Regional Office and Washington Office will not take action to stop the ongoing harassment and reprisal. Unfortunately, there are too numerous other cases of women being treated similarly and there is not enough time to discuss these situations. Please believe me, the problem is rampant in Region 5 and throughout the Forest Service.

Workplace violence is a serious problem in USDA. It is particularly problematic in Region 5 of the Forest Service. I have observed that Region 5 management often does not follow regulations and policies which require immediate investigation and employee safety measures. In February, 2008, a white male supervisor on the Plumas National Forest stated that he wanted to bring in his gun and shoot the employees he hates. He stated that he hated his African American female subordinate more than anyone. The woman who reported it, and the threatened African American woman were fearful for their lives. The District Ranger did not take the situation seriously and told the women that he was a decent man and that they had nothing to fear. For a period of time they the supervisor continued to enter the office. Proper safety precautions were never followed. The two women have been retaliated against for reporting the supervisor. There has been no conclusion to this incident. This is just one example of workplace violence against women that has been mishandled and could still bare dire consequences.

I have observed a pattern and practice by agency managers to retaliate against employees who raise claims of harassment, discrimination and workplace violence. The retaliation takes the form of shunning and isolation; threats and intimidation; false misconduct charges and investigations; disciplinary actions; negative performance; denial of training;

removal of job duties; and termination. There is no, I repeat NO avenue for employees to go to get the retaliation stopped.

The Secretary of Agriculture issued Alternative Dispute Resolution directives that require the agencies and mission areas to mediate, and in good faith, attempt to resolve employee complaints prior to hearing and litigation. If followed, these directives would save the tax payer millions of dollars yearly. A large number of complainants are denied mediation. A larger number of complaints that are mediated do not settle due to Resolving Official bias, ignorance of the process, incompetence, resentment toward complainants, retaliation, contract attorneys' desire to prolong litigation, and a widespread belief that complainants are troublemakers that should not be rewarded.

Agency managers' failures to address employee claims results in formal complaints. Employees are forced into unwieldy and dysfunctional EEO and MSPB systems that do not address or correct the underlying problems. The federal government spends billions of dollars fighting employees instead of resolving the issues. Agency attorneys prolong the EEO process causing unnecessary costs to employees and the government. Contract attorneys refuse to settle complaints and purposely prolong the EEO process for their own financial gain.

There is NO oversight of agency managers. They consistently fail to follow civil rights laws and waste billions of taxpayer dollars in the process.

Coalition of Minority Employees president Lawrence Lucas has provided the most reasonable and potentially successful recommendations to address the USDA civil rights problems. I will emphasize that an independent advisory board should be created. A panel for addressing claims of retaliation needs to be convened. The USDA should be placed into receivership until there is evidence that employees' civil rights will be recognized and the laws will be followed.

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