



January 2008
HAWAII
Newsletter

THIS ISSUE - #6

- NO EXTENSIONS IN 2009, We need to bargain!
- Steward Tip, Level Headed – Good Workers
- Holiday Wishes
- TWIC FAQ's

Tesoro Pays \$129,805

In Unpaid Wages

Tesoro has settled a U.S. Department of Labor case over unpaid overtime to 97 current and former employees of the Operations Department. The case covered the two years from August 6, 2005 to August 4, 2007. The complaint concerned non-payment for company required turnover time.

Checks are available by contacting the U.S. Department of Labor's Honolulu office at their offices in the Prince Kuhio Federal Building or by calling 541-1361. The Union would like to track payouts to be certain all members receive their due. Please contact us by email at usw.hawaii@gmail.com to check on your eligibility and/or to record your receipt.

Enforced Start Time The Company has allowed operators to come in one hour earlier than the 0500 and 1700 start times for years. This is certainly an understood past practice. Also, changing the start time which has been allowed is a clear change in working conditions. In either case this action by the company would almost certainly be followed up with a grievance. The company's argument may be that the start time falls underneath the "maintenance of crews" part of the contract. In any case, I believe we will have a strong argument in the grievance procedure if it comes to that.

In the event that the company goes forward with mandating the 0500 and 1700 start time as a retaliatory measure one thing must remain clear, the contract states that the employee will be paid one-half hour at the overtime rate when working past 0500 or 1700. An operator's normal turnover will take them past the stated times above insuring .5 hours overtime daily.

Knowledgeable sources of the settlement between the company and the Federal wage and hour division have said regardless of the start times being 0400-1600 or 0500-1700 , if the operators turnover is ten minutes or longer (two people on the clock) then the employee must be compensated. This should be happening now. In the event the turnover is ten minutes or longer (which should be the case normally) simply inform your immediate supervisor that you need to be paid. If he or she refuses to compensate the time, simply note the date and time of the occurrence and the supervisor who denies you compensation. If this situation does occur the company would be knowingly violating the Federal wage and hour law again which the Federal office takes very seriously.

Current start times stated in the contract are 0500 and 1700 respectively. This could be changed to 0400 and 1600 if a majority agreed upon the time change. Contract negotiations will be starting shortly and it could be looked at then.

Contract Countdown To 02/01/09



As of New Year's Day, 1/1/08 there are 397 days (28 paydays) left in our Contract

Our contract ends just 397 days from New Year's Day. The best way to avoid a strike is to prepare for one. The Union encourages each member to diligently save 3 months wages between now and February 1, 2009. That's 28 paydays away.

Keith is also forming committees to work on contract changes we need. If you have an idea for a change in contract language please send it to Keith or, better yet, volunteer to head a committee to solicit ideas on your area of interest.

Steward tip for the week

Level-Headed, Good Workers

Good stewards realize what they do speaks volumes more than what they say. They honor the contract, put in a good day's work, work cooperatively on the job with co-workers and management, and don't seek any special favors because they are stewards.

Adapted from [*The Union Steward's Complete Guide, 2nd Edition*](#), edited by David Prosten

Holiday Wishes...

From Clay Deaver

The dust is settling and the porta-johns are being hauled away, it's very much like when the fair is over and the carnies are leaving town. We're all tired and spent and life is getting back to normal. We reflect on the events that we've endured in the last few weeks rebuilding the H-500's and trying to get our lives back on track. For some of us our personal lives were on hold while we attended to matters of vocation and pushed ahead with the team. It reminded me of the short time after 911 when we as a country shed our differences and for a brief shining moment we were neither Republican nor Democrat, but American and then in only a few days the mud slinging started all over again. Whose fault was it, why didn't anyone listen to those that knew etc. Sadly things tend to get back to where they were in the world and the moments of unity and harmony are all too brief. If only that spirit of pulling together would last.

Soon we will be back to concerns of diminishing medical insurance, intrusive medical surveillance and preparations for the worst negotiating year in recent memory for industrial workers as the owners of these corporations try to cut back on everything they have to pay us. They want to cut medical benefits and at the same time support the Republican platform of making the medical industry richer and richer. They just want it to be your money not theirs.

I hope we take the opportunity to enjoy this season of peace and celebration and let our hearts be merry. Do the best you can not to buy gifts that were made by a twelve year old chained to a work bench in China. The season will change and we have such a large number of issues to deal with in this next year. Add to that the fact that we may face a recession in the next year as the results of banks only thinking of next quarter's profits causing problems for the entire world. By that I mean the sub prime loan problem. There is no fix for this, the bail out of the savings and loans back in the late seventies by the federal government only created more irresponsibility by lenders as they realized that to save the economy the federal government would have to bail them out if they performed poorly. We will see a lot more of this in the future. I personally am investing in only bonds for my electives until this thing starts to turn and truly they aren't recession proof either.

And then there is the fascinating prospect of the refinery's direction in the future. "The wrong path" it was called. I think we have been watching an interesting experiment in which the management of a corporation has decided that two opposing philosophies can exist simultaneously with no adverse effect, by that I mean preventative maintenance and risk based maintenance. Lower management all nod their heads at the meeting table I am sure, which is by the way, what is expected of them but I believe behind closed doors they have grave doubts about this mind set and the clarity of direction. We will watch and see if they can serve two masters. I don't see a company on the wrong path, I see a

company that is attempting to walk on both sides of the street. Hopefully they find their way before we have to find new jobs. We fortunately just have to do good work and do what we are told. It is irrelevant whether or not I buy into their philosophy of risk based maintenance.

I close in wishing everyone a merry Christmas and a happy new year, be blessed and enjoy your family and friends and the fruits of your labor. Remember the reason for the season. Be sure to reflect for a moment on the people that made most of the presents we will exchange this year, as they are probably living in abject poverty in a country where unions are illegal. In Solidarity, CD

USW National Oil Bargaining Conference Delegates Prepare for 2009 Talks

Denver—Delegates to the United Steelworkers (USW) national oil bargaining conference came together in Denver Nov. 4-7 to celebrate the birthplace of their pattern bargaining, join together in solidarity and prepare for negotiations with the industry in 2009.

“The membership is firmly behind this union leadership, and the members are fully committed to engage this industry in 2009,” said [USW International Vice President Gary Beevers](#). “There will be no contract extension; we need to bargain.”

The last time the union and the industry engaged in full-fledged bargaining where every issue was on the table was in 2002. The current contract expires Feb. 1, 2009 at midnight.

“The locals are preparing their members for a tough set of negotiations,” Beevers said. “They are beginning to educate their members on the issues and are planning to have collective actions. The oil companies are ready for us; we have to be ready for them.”

Health care and health and safety will be the main issues in the 2009 talks, according to members.

“This industry failed to partner with us on health care to solve the crisis in this country, so we intend to do it alone. In the meantime, it will be the number one item at the bargaining table,” Beevers said.

The oil bargaining conference drew the largest number of delegates ever to attend this event—340 delegates. They unanimously passed motions on how to do contract extensions in the future, how to elect national oil bargaining policy committee members and on oil company divestiture in Burma. They also passed a resolution on a strike assessment that will be brought to the 2008 USW convention from the conference.

“There was a spirit of solidarity that had not been seen in some time, and there was a spirit of determination for one goal. It is truly a new day, a new time, a new union,” Beevers said.

The USW is the largest industrial union in North America and represents over 1.2 million workers and retirees. In the oil sector, the USW represents 30,000 workers in the U.S., Canada and Aruba.

The Ask a Lawyer Question of the Week

Topic: Overtime pay and comp time

I am on call every other weekend. I am not paid for my on-call time, even though it limits what I can do (like traveling, projects around the house, and drinking alcohol). Is this legal?

Answer:

Whether "on call" time is compensable as a matter of federal law depends on how severely employees are restricted in their actions. The U.S. Department of Labor has a regulation interpreting the FLSA that summarizes the issue as follows: "An employee who is required to remain on call on the employer's premises or so close thereto that he cannot use the time effectively for his own purposes is working while 'on call.' An employee who is not required to remain on the employer's premises but is merely required to leave word at his home or with company officials where he may be reached is not working while on call." The question of whether on call time is paid time comes down to whether the restrictions on the employee's freedom of choice while on call are so burdensome as to make that time "predominantly for the benefit of the employer." Courts have held that being required to carry a radio or pager, to abstain from alcohol, and/or to be able to report to the work site on short notice (in some cases as short as ten to twenty minutes) are not so burdensome as to make on-call time compensable. Indeed, employers have required all three conditions of on-call employees (pagers, no alcohol, and the need to return to work quickly) without being required to pay those employees who are on call. On the other hand, where employees are routinely called back to work while on call (especially if they face discipline for not responding to the call), then their on-call time is more likely to be compensable. Most published court decisions on the issue favor employers, not employees, with respect to whether on call time is to be paid time. In sum, whether on-call time is compensable is very fact-specific and requires case-by-case analysis. Employees with questions about the specific facts of their own situation should contact legal counsel or the US Department of Labor.

Remember to visit <http://www.workingamerica.org/askalawyer/> for the latest question.

THE COURAGE OF INTEGRITY

The highest courage is to dare to be yourself in the face of adversity.
Choosing right over wrong, ethics over convenience, and truth over popularity...
these are the choices that measure your life.

Travel the path of integrity without looking back, for there is never a wrong time to do the right thing.

unknown author

Maritime Transportation Security Act

How was TWIC created? Congress, through the Maritime Transportation Security Act, or MTSA, directed the federal government to issue a biometric transportation security credential to any individual with unescorted access to secure areas of facilities and vessels and all mariners holding Coast Guard issued credentials or qualification documents. Controlling access to secure areas is a critical component of the Department of Homeland Security's (DHS) efforts to enhance port security.

What is TWIC? TWIC is a common identification credential for all personnel requiring unescorted access to secure areas of MTSA-regulated facilities and vessels, and all mariners holding Coast Guard-issued credentials. TSA will issue workers a tamper-resistant "Smart Card" containing the worker's biometric (fingerprint template) to allow for a positive link between the card itself and the individual.

How will the TWIC be used? During the initial rollout of TWIC, workers will present their cards to authorized personnel, who will compare the holder to his or her photo, inspect security features on the TWIC and evaluate the card for signs of tampering. The Coast Guard will verify TWICs when conducting vessel and facility inspections and during spot checks using hand-held scanners, ensuring credentials are valid. A second rulemaking will propose enhanced access control requirements, including the use of electronic readers by certain vessel and facility owners and operators.

Will TWICs be used for access control? Yes. Upon the effective compliance date for their Captain of the Port (COTP) Sector, owners and operators will be required to visually inspect the TWIC for each worker granted unescorted access to secure areas of a facility or vessel. Also, some owners and operators may choose to integrate TWIC cards into their existing access control systems, although owners and operators are not required to purchase, install, or maintain card readers until technologic and logistic improvements are complete and are included in a second rulemaking. The Coast Guard will conduct checks using handheld readers to confirm the identity of TWIC holders during regular inspections and unannounced spot checks. A second regulation will propose card reader requirements that utilize all of the unique technologies employed in the TWIC.

Where can I read the TWIC rule? The TWIC final rule is available on TSA's website [here](#) and more information on port security is available at the U.S. Coast Guard's Homeport site [here](#). It can also be accessed at the DOT Docket Management system [here](#), by searching on docket number 24196 and document number 857.

CLEAR CLASS SCHEDULE – SPRING 2008

STEWARD EFFECTIVENESS TRAINING: 8 sessions, certificate program. Learn the essential skills for being an effective steward. Topics will include steward roles and responsibilities, responding to anti-union comments, writing up grievances, assertive communication, talking to management, dealing with conflict and difficult people, conducting effective meetings and mobilizing your membership. Instructor: A. Valdez.

UHWO, CLEAR Room 403
6:30 to 9:00 p.m., Mondays and Wednesdays
January 14, 16, 23, 28, 30, February 4, 6, and 11
Course Fee: \$55.00

LABOR AND PAYCHECK ECONOMICS: 6 sessions, certificate Program; Topics include the supply and demand for labor, unemployment inflation, and their causes, as well as the common factors that determine income, income distribution, health care, the standard of living of the middle class and the vital role that labor plays in the economy. The classes will also examine government and corporate decision-making effecting workers and provide an introduction to labor markets and issues relating to the wealthy and stagnating incomes. L. Boyd, Ph.D.

UHWO, CLEAR Room 403
6:30 to 9:00 p.m., Tuesdays and Thursdays
January 15, 17, 22, 24, 29 and 31
Course Fee: \$45.00

PREPARATION FOR BARGAINING ECONOMIC ISSUES: 6 sessions, certificate program. This class provides union members with the knowledge they need to successfully negotiate collective bargaining agreements. It allows students to determine whether or not their wages have been eroded by inflation; to calculate their "real" wages; to calculate the "cost" of bargaining proposals and an employer's ability to pay. Real world exercises will be used. Bring contracts and problems to class. L. Boyd, Ph.D.

UHWO, CLEAR Room 403
6:30 to 9:00 p.m., Tuesdays and Thursdays
February 12, 14, 19, 21, 26 and 28
Course Fee: \$45.00

UNDERSTANDING EMPLOYMENT DISCRIMINATION LAW: 3 sessions, Workplace discrimination and harassment are difficult to deal with properly without sufficient training. This course will define all forms of discrimination and provide information on recent developments in discrimination law with special attention to issues affecting unions. Instructor: A. Valdez.

UHWO, CLEAR Room 403
6:30 to 9:00 p.m., Monday and Wednesday
February 20, 25, and 27
Course Fee: \$30.00

PARLIAMENTARY PROCEDURE: 2 sessions (12 hrs), certificate program. This is a leadership program designed for union members, officers and staff, particularly chairpersons, secretaries and treasurers. Learn how to properly and lawfully conduct and record business in union meetings. Topics to include quorum, agenda and order of business; progress of main motions, precedence of motions, elections & voting, minutes; conventions and resolution writing. Instructor: W. Puette, Ph.D.

UHWO, CLEAR Room 403
9:00 am to 3:30 p.m., Saturdays
March 1 and 8
Course Fee: \$35.00

INTRODUCTION TO GRIEVANCE HANDLING: 5 sessions, certificate program. Topics to include the duty of fair representation; right to information; *Weingarten* Rights and the tests of just cause; constructing remedies and writing up grievances. Bring your contract to class. Instructor: W. Puette, Ph.D.

UHWO, CLEAR Room 403
6:30 to 9:00 p.m., Mondays and Wednesdays
March 10, 12, 17, 19 and 24
Course Fee: \$40.00

ADVANCED GRIEVANCE HANDLING: 5 sessions, certificate program. Topics to include documentation and investigation; past practice and arbitral standards; mid-term bargaining; dealing with management; oral presentation at first steps hearing. Prerequisite: Introduction to Grievance Handling. Bring your contract to class. Instructor: W. Puette, Ph.D.

UHWO, CLEAR Room 403
6:30 to 9:00 p.m., Mondays and Wednesdays
April 2, 7, 9, 14 and 16
Course Fee: \$40.00

HOW TO NEGOTIATE A UNION CONTRACT: 8 sessions, certificate program. Learn skills, strategies and table tactics for negotiating with management. This class will provide specific instruction and hands on practice through bargaining simulations. Instructor: A. Valdez.

UHWO, CLEAR Room 403
6:30 to 9:00 p.m., Tuesdays and Thursdays
April 1, 3, 8, 10, 15, 17, 22 and 24
Course Fee: \$55.00

RIGHTS ARBITRATION: 6 sessions, certificate program. Topics to include arbitrator selection, case presentation, evidence and proof, witness examination and cross-examination, etc. Participants will prepare and present a mock arbitration. Enrollment will be restricted to students who have already completed CLEAR's Grievance Handling series or possess equivalent experience. Instructor: W. Puette, Ph.D.

UHWO, CLEAR Room 403
6:30 to 9:00 p.m., Mondays and Wednesdays
April 28, 30 and May 5, 7, 12 and 14.
Course Fee: \$45.00

To enroll in any of the CLEAR classes, you need to submit an enrollment form with payment to CLEAR as early as possible. Ten dollar (\$10) late registration fee per class will be charged for enrollments received less than seven (7) days prior to first night of class. Fee payment (payable to: University of Hawaii) will be returned only if you withdraw 10 days prior to the first night of class or where the class is canceled.

It is important to register in advance. Classes not sufficiently enrolled one week prior to commencement will be canceled.

You may download our Enrollment Form here or call, write or e-mail us at:

CLEAR
University of Hawai'i - West O'ahu
96-043 Ala 'Ike, Bldg. 400
Pearl City, HI 96782-3366
Phone: (808) 454-4774;
FAX: (808) 454-4776
e-mail: clear@hawaii.edu

Want this prize?



Answer the question:
**This is the #1 word women
use to end an argument.**
The first 10 people to email the
correct answer to
usw.hawaii@gmail.com will
have their name entered into a
drawing for USW golf balls.

Unit CHAIR'S COLUMN

by Keith Souza, Unit Chair



Process Safety Management

The recent event at our refinery is a reminder of the hazards in our workplace. I can't help but to notice the similarities with BP Texas City Refinery and our facility.

In the "Fatal Accident Investigation Report" **BP Texas City** investigation team states "If ISOM unit operators had followed procedures or taken corrective action earlier, the explosion would not have occurred". **Joe Drogowski** (Area 2, Process Superintendent) writes "failure to follow the refinery operating procedures in regards to the CRU which resulted in severely damaging the radiant and convection tubes." Not once did poor training, culture, lack of competent leadership and process safety management, and the repetitive communication from workers in the area that there was a problem with the way we are doing business. It was a year ago that I reported a supervisor for failing to follow procedure, bypassing safety devices meant to protect life and equipment while starting up the old incinerator and causing a contained explosion. Discipline and Blame should be reserved for this type of reckless non-compliance with work rules and practices.

Similarities show how the worker is often footed with the blame. BP management initially blamed the worker for the events that unfolded on Wednesday March 23, 2005, as did the management in Area 2 at the conclusion of the company investigation into the CRU heater incident. It is important to note the "**The failure to follow established procedure behavior on the part of the employee is not a root cause, but instead is a symptom of an underlying root cause**". The CCPS (Center for Chemical Process Safety) guidance lists many possible "underlying system defects that can result in an employee failing to follow procedure." The CCPS provides nine examples, which include defects in training, defects in fitness-for-duty management systems, task overload due to ineffective downsizing, and a culture of rewarding speed over quality. The defects stated by the CCPS are a sobering reminder of the defects that need to be corrected in area 2.

Human Factor "Because we are human and because all these traits are fundamental and built into each of us, the equipment, machines and systems that we construct for our use have to be made to accommodate us the way we are, and not vice versa." Al Chapanis,

Former Professor of Human Factors, Engineering department, John Hopkins University. One of the contributing factors to the CRU heater incident is the ESD emergency shutdown system failed to properly function and isolate the fuel gas from the associated heaters. **Had the ESD operated correctly the human factor would have been eliminated and the incident would not have occurred.**

Currently a TOP investigation has been initiated; the results will be available to all at its conclusion. A grievance has been filed in regards to the CRU heater incident and we will keep the membership informed of the outcome.

Update

Lab Ventilation I have heard from several lab employees that they are concerned that the ventilation upgrade will not take place as originally discussed in our JHS meeting several months ago. In effort to set aside fact from fiction, I have sent emails to the project manager responsible on 12/20, 12/21, 12/22 and 12/25/2007 requesting a status update. I have received an update on December 27, 2007. Equipment should be purchased by the end of 2007 and work to begin in March 2008.

Medical Surveillance The NLRB has deferred to the grievance arbitration process our ULP for the company's failure to bargain the effects of the "Medical Surveillance Exams".

VPP As most of you aware during a recent general meeting the bargaining unit voted on not participating with the VPP program until further notice.

TWIC As of Dec. 2007 the company is still trying to have the cards delivered to the refinery. Emails have been sent to all employees on the process.

5/5 start time I have a commitment from HR that they will sit down with the workers committee to discuss the companies need to comply with the DOL. Further discussion will follow in our January 2008 general meeting.

Contract Change Proposal Form The deadline to turn in a proposal for the up coming negotiations is March 1, 2008. You can find a copy of the form at the end of this newsletter or email usw.hawaii@gmail.com

In Solidarity,

Keith

Local 12-591 Hawaii Refinery, Contract Change Proposal Form

Date:

Name:

Phone:

Department / Classification:

Proposal of Change

Article:

Sub-Paragraph:

Sentence:

Proposal:

Below filled out by Negotiating Committee Member

Date Received by Committee Member:

Name of Committee member:

Date presented to full Committee:

Circle One

Added to Asking Package - Combined with Other Proposal - Rejected