President’s Message
Jim Wolford, Outgoing President

January thirty-first marked the end of officer and board member terms for 2007. It has been an eventful year. In October 2006, we undertook a lab-wide organizing campaign to get collective bargaining status for as many of the historical bargaining units as cared to sign up.¹

The stakes were high for employees as well as SPSE-UPTE, since the outcome would determine our status under private-sector labor law. Out of the entire Lab population, the skilled trades employees were the only unit to achieve majority signup by October 1, 2007, and become certified. LLNS management at first refused to recognize their represented status and negotiate a contract. We worked through legal channels to force them to honor this obligation, and just last week they agreed. Despite the limited scope of our success with other employees, the campaign gave the Lab an alternative platform for discussing all aspects of the transition. People got interested, some got active, and many got questions answered. A year later, the realities of the transition have borne witness to the fundamental change: the private-sector LLNL is a very different place.

January’s layoffs are the most emblematic example of this shift. On the foggy morning of January eighth I stood outside the Lab’s training trailer, converted for the occasion of layoffs to the “processing center.” I was there to witness and to speak to any who cared to do so out of the stream of laid-off employees filing in and out, wearing their paper badges. Few wanted to talk to me. Those who did were facing the future with grim dignity. I defy anyone to do this, to look one of them in the eyes, and then call this “restructuring” a success.

LLNS management would have us believe that the layoff decisions were made wisely and soberly. The cases we are familiar with suggest otherwise (and the articles below elaborate on this). Moreover, despite there being fewer of us to manage now, the ranks of upper management continue to swell.

How did we get into this state? As I see it, the problem came in part from failing to recognize the true strengths of the Laboratory. We have been overly enthralled with the past accomplishments of a few high-profile scientists, and have failed to appreciate fully the triumphs of cooperation and camaraderie that made them possible. At the

¹ The 1983 campaign resulted in the establishment of five bargaining units at LLNL by California’s Public Employment Relations Board. They are the scientist and engineer unit (200 and 300 series), the technical unit (500 and 900 series), the clerical unit (400 and part of the former 100 series), the skilled trades unit (part of the 800 series in the B511 shop complex), and the service unit (remainder of 800 series). Our petition campaign covered all of them and succeeded in reaching a majority in the skilled trades unit.
President’s Message continued

start of January’s All-Hands meeting, George Miller quoted from Abraham Lincoln’s 1862 message to the Congress. Against stiff odds and in the midst of growing civil war, Lincoln was about to sign the emancipation proclamation. He called for a change in thinking. “The dogmas of the quiet past are inadequate to the stormy present…Our case is new, so we must think anew and act anew.” The quote calls on us to abandon old dogma so that we may adapt to unprecedented difficulty. Appropriate. However the next line in Lincoln’s message is more prophetic for our situation, if more subtle: “We must disenthrall ourselves, and then we shall save our country.” Our lack of preparation for this year’s budget downturn has in part been an unwillingness to disenthrall ourselves from a dated and idealized vision of LLNL as a place where a few exceptional individuals do extraordinary things. In fact, every advance that has won an award or has gotten a seminal paper published was built on a foundation of dedication and loyalty of hundreds of employees who went without recognition.

If you’re looking for the real source of excellence behind the accomplishment, consider the programmer who wrote the software that runs the experiment, willing to fulfill, with great exactitude, someone else’s design specification. Consider the office administrator who arranged the sponsor visit, and worked through lunch to make sure it came off smoothly. Consider the technical editor, who converted the PI’s inchoate manuscript to standard written English. Consider especially the boiler mechanic who kept the building warm during the cold snap, despite a mismatch between load and capacity that came from curtailed investment in infrastructure. The history of LLNL’s greatest successes has been the history of employees taking responsibility for the problems that confront them, not simply following instructions, and certainly not walking in fear of their supervisors.

We can all draw inspiration from calendar pictures of Lawrence and Teller so long as we understand that the fascination with LLNL’s past ends at the fence. That the LLNL of the 1950s and 1960s was able to accomplish so much had everything to do with the minimal separation, at the time, between the people who ran the lab and the people who kept it running. We must disenthrall ourselves from the vision of a country and a government so impressed with the brilliance of LLNL’s principal scientists that they’re willing to devote large blocks of funding to seeing our next discovery. The truth is we are only as good as our last milestone. We must, all of us, conjure an individual sense of excellence, and take care to distinguish true leaders from “managers”. That is our only hedge against what G.K. Chesterton once called the “small and arrogant oligarchy of those who merely happen to be walking about”.

SPSE-UPTE has survived the transition, and like LLNL it operates under new rules. Private-sector labor law grants employees fewer rights automatically, and many that remain are weakened. This issue of the Sentinel takes account of the losses and discusses some of what we are doing about it. It provides two views of the retirement plans, and a biting editorial on the budget shortfall. Throughout its 35-year history, SPSE-UPTE has supported the free expression of ideas. Indeed one of the organization’s strengths over time has been its willingness to make room for fresh ideas, and tolerate minority opinions. You can expect that to continue. ■
Annotation 1: Layoff Notice, January 7, 2008
—SPSE-UPTE Grievance Committee

Interdepartmental letterhead
Mail Station L- 653
Ext: 2-9387

**IN STRICT CONFIDENCE**

To: [Redacted]
From: Kathryn Craft Rogers
Subject: NOTICE OF END OF APPOINTMENT

Management of the Principal Directorate has recommended that your end of appointment date be changed from December 31, 2007 to January 7, 2008. This end of appointment is necessitated by lack of funding. Therefore, upon this recommendation, I am changing the end of your appointment date to January 7, 2008. The Laboratory thanks you for your contributions during your appointment.

Laboratory policy, Section K.VI.2. (copy enclosed) states:

"A flexible term employee’s employment is at will and may be terminated with or without cause at any time during the term of employment. The Responsible Manager, with the concurrence of the Human Resources Manager, has the authority to terminate employment prior to the specified ending date. The flexible term employee will receive either 30 days’ notice or pay in lieu of notice as determined by the Lawrence Livermore National Security, LLC."

You will receive thirty (30) days’ pay in lieu of advance notice, including any vacation and salary owed to you as of January 7, 2008.

In addition, you may be eligible for unemployment insurance benefits with the California Employment Development Department (EDD). The enclosed pamphlet ("For your Benefit - California's Programs for the Unemployed" [EDD Pamphlet DE 2320 Rev. 42 2-94]) describes California’s program for the unemployed. Your eligibility for unemployment benefits will be determined by the EDD. Please take this letter with you if you file for unemployment benefits as the following information may expedite your application for benefits:

Employer: Lawrence Livermore National Laboratory
Attn: James L. Cain
P.O. Box 808, L-708
Livermore, CA 94551-9900
(925) 422-3594

Employee: [Redacted]
Employee #: [Redacted]
Nature of Action: Lack of funding
Effective Date: January 7, 2008

Kathryn Craft Rogers
Principal Deputy Associate Director
Strategic Human Capital Management

The decision to terminate this employee 4 years before the end of his term was explained as “necessitated by lack of funding” but does that square with the facts? The actual amount of money available to pay this employee was determined by a complex chain of decisions extending from the Congress all the way down to his Division. Midway along this chain, LLNS management chose to divert 75% of his annual salary to other purposes, including the gilding of the organization with another layer of managers. We wonder to what good effect this was done. Can you name one way in which a cadre of Principal Associate Directors and new staff adds value over and above the pre-existing ADs? At no time in our history have Lab employees been so far removed from the decision making that determines our fortunes and our future, the Director’s suggestion box notwithstanding. This employee had decades of experience in his area of expertise. He was terminated in favor of two career employees with less time at the Lab and far less experience.

Laboratory Policy also states that term appointments apply to term jobs. This employee performed highly-skilled work maintaining the Lab’s infrastructure. However, term positions like his are intended to provide specific services on projects with definite endpoints. The facilities this employee helped maintain continue to operate past the end of his fixed term, and the skills he possesses are still necessary. In other words, his function was permanent. Posting his position as flexible term in the first place violated Laboratory policy and possibly also violated the law.
SPSE-UPTE Legislative Activities
Jeff Colvin, UPTE Representative

Just a few months ago we were all focused on our choice between TCP1 and TCP2. Did you know that were it not for SPSE and UPTE legislative lobbying, we would not have had even this choice? That’s right. The first draft of the Request for Proposals (RFP) for LANL in 2005 required the bidder to provide only a “market comparable” retirement plan, basically a TCP2-like defined contribution plan. SPSE and UPTE went into high gear back then to advance our proposal for a plan that would be “substantially equivalent” (our words) to the University of California’s Legacy Retirement Plan (UCRP) pension plan. Our advocacy with Congress and DOE paid off in the final LANL RFP, which included the language we had proposed.

Even then, it was not at all clear that employees who wanted to take their UCRP pensions would be kept on with the new management contractor. Only UPTE’s lawsuit against LANS and UC — backed up by our initiative with Congress — persuaded the new employer to hire all transitioning employees, regardless of what choices they made concerning their UCRP money.

These are only a few of the successes in SPSE’s and UPTE’s ongoing legislative activities. We maintain regular contact with many members of Congress, the California State Assembly and State Senate. SPSE-UPTE members active on our Legislative Committee make visits to Capitol Hill several times each year. These activities have taken on increased value and importance in dealing with the continued negative effects of privatizing both LLNL and LANL.

One focus of our recent legislative efforts has been to enlist the help of Congress in getting contract bargaining started for our new collective bargaining unit. Legal maneuverings by LLNL management to thwart unionization efforts at the Lab and their ultimate failure have been reported in the press (see the two articles by Betsy Mason, “Lab passes union issue off” in the Tri-Valley Herald of October 18, 2007 and “Lab Says it will recognize union” in the Contra Costa Times on February 29, 2008). The PR blitz that accompanied Lab management’s legal maneuver tried to obscure the fact that it was management, not the union, that obstructed a fair process.

As we explained to Congress, the union position was very clear: we won certification as exclusive bargaining representative of a group of Laboratory employees in a fair and legal process under California law prior to the October 1 management transition. Management had an opportunity to appeal the certification (despite their protestations to the contrary) and they chose not to. Now that the Lab is managed privately, they wanted a re-do of the certification process under the National Labor Relations Board (NLRB). Specifically, they wanted to gerrymander an NLRB election; i.e., they wanted to decide who could and who could not vote, an issue already settled in the California certification process. During what promised to be a year-long legal struggle over gerrymandering, they would surely have intimidated employees into not voting or voting against the union, all the while blocking pro-union messages from getting to the employees. Fortunately, the NLRB recently agreed to issue a complaint against management, and was prepared to back it up with a court injunction. This apparently persuaded the Lab to offer a settlement. Direct intervention by California Representative Ellen Tauscher on our behalf forced LLNS management to negotiate with us and end their months-long fight against bargaining.

We raised some important questions with Congress during this long legal hassle: how much taxpayer money was LLNS (and UC before them) spending on fighting this ultimately futile legal battle; and why should they be allowed to spend yet more on a repeat election under NLRB, particularly in a time of budget shortfall when employees are being laid-off? We nearly succeeded in getting specific language into the FY08 Energy and Water Appropriations bill that would have prohibited LLNS from spending money on this legal battle. Michigan Representative John Dingell and Senator Barbara Boxer joined Representatives Tauscher and Jerry McNerney in helping us, and weighing in with management on our behalf.
Rep. Tauscher said the following in a letter to SPSE-UPTE President Jim Wolford on October 29, 2007: “Throughout September I continued to convey the message to LLNL leadership that it was in their best interest to recognize SPSE and begin bargaining prior to the October 1 transition to new management. When the Public Employment Relations Board (PERB) issued its certification on September 26, I demanded, and received, assurances that LLNL management would not appeal the decision.

“While an appeal was not made, I am concerned that the new LLNS management appears to be using the unique circumstances of the October 1 transition to justify its refusal to recognize SPSE. Since then, I have personally and very strongly made it clear to LLNS leadership, including Director Miller and Deputy Director Steven Liedle that this is unacceptable.”

It remains a mystery to us why Lab management continued to do something that was unacceptable to the Chair of the Congressional committee that decides the Lab’s budget. If Director Miller was simply following advice he got from his expensive team of lawyers, he got bad advice, and he should fire the lot of them.

From Rep. McNerney, we received the following: “While I have serious concerns about the privatization of the lab, this change was mandated by a law that passed before I entered Congress. However, I remain committed to using my position to assist lab employees during the adjustment phase.”

Rep. McNerney clearly recognizes the dark side of privatization of the nation’s nuclear weapons labs. We will continue to work with our friends in Congress to help mitigate the disasters that have befallen us resulting from this transition to private-sector management.

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UPCOMING SPSE-UPTE BOARD MEETINGS

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<tr>
<th>Date</th>
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<tr>
<td>Wednesday, March 5</td>
<td>5:00 – 6:00 p.m.</td>
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<td>Wednesday, March 19</td>
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<td>Wednesday, April 2</td>
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<td>Wednesday, April 16</td>
<td>5:00 – 6:00 p.m.</td>
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—SPSE-UPTE Grievance Committee

Lawrence Livermore National Laboratory
Office of Laboratory Counsel
Staff Relations
P.O. Box 808, L-709
Livermore, CA 94551
(925) 422-9200

January 29, 2008

SPSE
Attn: Eileen Montano
P.O. Box 1066
Livermore, CA 94551

Re: California Public Records Requests

Dear Eileen,

As I mentioned during our telephone conversation last week, Lawrence Livermore National Laboratory (LLNL) is no longer subject to the provisions of the California Public Records Act (CPRA). The CPRA is designed to give the public access to information in possession of public agencies. LLNL is now a private sector company and, as such, is no longer considered to be a public agency for purposes of the CPRA.

LLNL no longer processes requests for information under the CPRA. Therefore, I am unable to provide you with any documents in response to your recent requests for current salary data and current LLNL employee email addresses.

If you have any questions about this, please let me know.

Sincerely,

Susan B. Angstadt

SBA/arb

This denial was perfunctory and expected. Of the many rights that Lab employees lost as a result of the transition to the private sector, the right of information access concerns us most immediately. SPSE-UPTE members and the Lab community at large need reliable information to help them make career decisions. Probably nothing is more important for judging your worth to your organization (or for detecting discrimination) than a salary comparison with your peers and your supervisors. Getting this information from UC back in 1973 was not easy either. It took the persistence of SPSE’s members and officers, the intervention of State legislators on our behalf, and a winning lawsuit to get LLNL management to fulfill its obligation under the California Public Records Act and give us the full disclosure. It took years. We are now seeking the same information under the Freedom of Information Act. It may take years again, but we are determined to get this access back.
Highlights of ’07 UPTE Convention
Sue Byars, SPSE-UPTE President

The UPTE convention was held October 12-14 in Anaheim CA, and attended by SPSE members Sue Byars, Larry Cassidy, Jeff Colvin, Bruce Kelly, Alan Landrum, Joe Perea and Jim Wolford. All were voting delegates. One of the highlights of the convention was the awarding of the UPTE Brown-Goodman-Sayre Organizing Award to SPSE-UPTE for organizing the new bargaining unit of skilled trades workers at LLNL. The text of the award follows the picture.

The UPTE Brown-Goodman-Sayre Organizing Award

The UPTE Brown-Goodman-Sayre Organizing Award is awarded periodically to individuals and groups who pay exceptional honor to the organizing spirit upon which UPTE-CWA Local 9119 was founded. It is named for UPTE founding members Doug Brown, Pete Goodman, and Libby Sayre, who are among the small group of UC employees who thought they could make a difference in their co-worker's lives by unionizing.

In 2007 the Brown-Goodman-Sayre Organizing Award is presented to UPTE at Lawrence Livermore National Laboratory (the Society of Professionals, Scientists, and Engineers [SPSE]). 2007 marked an extraordinary development in UPTE’s organizing history, when a bargaining unit of skilled trades workers at LLNL chose UPTE-CWA Local 9119 as their union. This organizing effort was initiated by the creative and committed members of SPSE and coordinated with the skilled trades workers. The organizing victory is significant because it was accomplished in the face of an arrogant, anti-union employer and under the threat of privatization.

Presented at the 18th Annual Convention on the 13th Day of October, 2007 Anaheim, California

(Signed) Jelger Kalmijn
UPTE-CWA President
Editorial

The Transition, RRW, Complex 2030, and the Budget

*An opportunity for responsibility and accountability*

R.W. Logan, SPSE-UPTE Treasurer

By now, most of you have the low (low) down on the FY08 budget for LLNL. George Miller did a nice job at the 17 January 2008 All-Hands, in explaining that “RRW” (Reliable Replacement Warhead) got the Big Zero, but that things could have been worse.

As part of our Legislative Committee efforts, we at SPSE-UPTE have been trying to help protect the budget, in order to help protect the future stability of our Lab (and LANL, too). I suppose it would be a bit self-serving to declare that “we (SPSE) saved the budget this year,” but I would like to believe, and I do believe, that we did our part.

When we at SPSE-UPTE go back to visit Congress, we carry some credibility with us. It is clear that we have no $300,000 taxpayer-funded salaries – we have no “TCP3” – no “UC PreNups.”¹ It’s obvious that we want to protect employment at the Lab. It could be perceived that we want the labs to keep growing no matter what, and we make it clear in our visits to Congress that such is not the case. We are aware that, at least for the time being, the trend is toward smaller in almost everything about the nuclear weapons complex. Not dramatically and suddenly smaller, but smaller. Our appeal back east is for stability – to see if we can help smooth out some of the rough water and the instabilities that affect the labs’ programs, and therefore budgets, and therefore people’s lives.

I do not think that the NNSA_LLNS_LANS conglomerate has done a stellar job lately in providing that stability. Stability must be built on a credible consensus toward the future. Consensus is built on trust, and that trust must be earned. I think that SPSE-UPTE has done at least as good of a job in building trust and credibility back east as the current NNSA_LLNS_LANS entity. Perhaps they will learn in time, but lately it seems they have been learning at the expense of the future of our labs and their people.

For example, here are some of the suggestions that SPSE and our legislative committee effort has made, in writing, in advance, over the past year or two. You can find these in our Fact Sheets on the SPSE website:

- Delay the “bid” – you’ll wish you had – SPSE told you so.
- RRW is risky – plan it, but don’t bet our Lab on it – SPSE told you so.
- The LLNS transition and the budget cut create a Perfect Storm for FY2008 layoffs – SPSE told you so.

We predicted all these things in advance.

Meanwhile, the LLNS “Big Picture Guys” vision failed where ours did not. They failed to protect our labs’ budgets or even to warn us when they knew what was very, very likely to happen this fall – that half of Congress had already zeroed “RRW etc.” back in May 2007, and that the LLNS transition cost was going to be a lot higher than they first thought.

The failure of LLNS to warn us with specifics, before we all made our career choices in September 2007, was the worst and most shameful part.

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¹ I refer here to the separate compensation arrangements granted by the UC Regents to Michael Anastasio and the senior management team at LANL prior to the LANS transition.
In contrast, at SPSE-UPTE we value openness. All our meetings are open, and while we are not “in charge” of anything, we don’t hide things from our members or the Lab at large when we learn of something to watch out for in the near future. In that sense, we recognized the risks of a rushed and expensive transition, and the risk of NNSA_LLNS_LANS simultaneously betting our future on “RRW and Complex 2030.”

At SPSE-UPTE, we did see the distinct possibility of that budget “Zero” for RRW coming, right at the transition to LLNS. And we said so in our Fact Sheets and expressed our concern to Congress – not on the outcome of RRW, one way or the other – but about the irresponsible act of LLNS and LANS (and NNSA) betting our labs and jobs on such a risky and controversial venture.

Much the same story applies to Complex 2030. In fact, Complex 2030 is actually a Dogbert cartoon – the one where Dogbert has a job interview and says, “I want to work on something long term so you won’t be able to evaluate my performance.” The “2030” moniker was bad enough: “We need to transform the nuclear weapons complex (most agree on that, since it is sufficiently subjective), but we won’t be done until year 2030. Furthermore, you have to give us RRW as a poster child so that we can transform the complex” (again, by year 2030).

The term “Complex 2030” did not fly – especially when we (I mean, NNSA_LLNS_LANS) insisted that the only course ahead was to have Complex 2030 with RRW. This battle culminated in a rather blunt exchange of letters between DOE and the Administration and Congress’ House Appropriations – with a threat to return to nuclear testing mixed in. And NNSA_LLNS_LANS really thought their plan was the best course for the future of our Lab and our jobs?

If LLNS_LANS had a clearer vision and message back when we at SPSE-UPTE already had it in our Fact Sheets, nobody would have been forced out the door at either lab. But at least we sent the right message to Congress – and they were pretty nice to our budget, aside from the risky bet that LLNS_LANS put on RRW and “Complex 2030.”

I think it is a miracle that we at LLNL “won” RRW. It became the cornerstone and poster child for LLNL’s Weapons and Complex Integration, then it got ZEROED. Still, we might actually avoid massive involuntary career layoffs, even after “eating” the staggering cost of the transition to LLNS. It could be a lot worse!

We at SPSE-UPTE cannot claim a “victory in the budget battle” this year. It really doesn’t feel like celebration time, especially if you or someone you know was already asked to walk out the door to make up for the LLNS Transition, and to make up for the risky NNSA_LLNS_LANS betting that cost us part of LLNL’s FY2008 budget. But, I wanted to let you know that we have been active back east with Congress (and NNSA too), and sent our message without an agenda to line our own pockets. Being that we are not among the $300,000-plus crowd at LLNS_LANS, and we do not have the choice of a “TCP3”, it has been easier to establish and retain credibility. We sent the right budget messages to Congress, and they did what they could for us while taking the action they felt was best and zeroing a big budget item (RRW) that happened to hit us due to our RRW “victory.”

In the SPSE-UPTE Legislative effort, we try to anticipate these budget crises (and other crises) in advance, which is usually before LLNS_LANS warns us or you about them. Then, we try to carry the right message back east to make things as stable as possible for our lab and our future, sometimes in spite of the “acronym of the year.” ■
Member comments on our last e-bulletin on LLNL’s pensions indicate that confusion persists as to their funding status. Either LLNS must disclose more information on the funding of the pensions in a more easily digestible form, or an independent audit will be needed to better inform LLNS employees and retirees of the status of both LLNL retirement pensions, UCRP-LLNL (University of California’s legacy Retirement Plan for LLNL employees) and LLNS TCP1 (Total Compensation Package 1).

Employee uncertainty as to the current and future funding status of the pensions is understandable. Given the demonstrated proclivity of organizations, including UC and DOE, to treat pension funds as a corporate (rather than employee) bank account, the obfuscation is understandable and potentially alarming.

Some facts are known now. DOE/NNSA requested, and UC apparently agreed to modify the asset split agreement to retain an additional $75 million in a UCRP-LLNL segment that funds pensions, both for LLNL retirees before October of 2007 and those LLNS employees who elected TCP2.

Other information needed for most LLNS employees and LLNL retirees to evaluate the status of the pensions has not been disclosed. One of our readers has made a plausible case that following recent stock market declines, the UCRP segment that funds LLNL pensions is underfunded by $325 million and if the stock market continues to decline, TCP1 may also be underfunded soon. The prospect of a change in status of TCP1 from substantially overfunded (~ $480 million) in October of 2007, at the height of the stock market and shortly after the transition, to underfunded a few months later is unsettling.

According to federal laws that govern pensions, DOE has 7 years to make up the acknowledged $350 million shortfall in the UCRP segment. At a minimum, the DOE must make equal payments to UCRP-LLNL approaching $50 million a year. (Jeff Colvin has a theory about this. See his article “Bye-Bye TCP1” in this issue.) Retention of an extra $75 million in UCRP-LLNL rather than transfer to LLNS TCP1 will fund 1.5 years worth of these annual make up payments.

UC and DOE have been inconsistent in portraying the funding status of both the UCRP-LLNL and LLNL’s TCP1 pension funds. While it may be advantageous for both UC and DOE to advocate for differing actuarial and market assumptions that enhance their bargaining position regarding transfer of funds from UCRP to the UCRP-LLNL and LLNS-TCP1 pensions, the resulting inconsistencies have created confusion.

Last year, UC claimed that UCRP was underfunded. It used this as the basis for its argument that employee contributions to UCRP would have to resume on July 1, 2007. Soon after this, an UPTE bargaining unit on the campuses refused to modify its contract, and UC dropped the idea of resuming employee contributions in 2007. Later, UC and DOE each found it advantageous to agree that TCP1 was overfunded according to the terms of the initial allocation agreement. They then reallocated $75 million dollars from LLNS TCP1 to UC-LLNL, allowing UCRP to retain more funding and DOE to minimize its future contributions to UC-LLNL.

The moral of this confusing story is that considerably more, and more informative, disclosure on the part of UC, LLNS and DOE, or independent audits, is needed to gauge the actual funding status of the pensions. Failing more informative disclosure, SPSE-UPTE is prepared to independently audit both the UCRP-LLNL and LLNL’s TCP1 pension funds. Such an audit would corroborate (or not) disclosures LLNS will make to SPSE-UPTE in preparation for upcoming contract bargaining for LLNL’s new Skilled Trades bargaining unit.

SPSE-UPTE is committed to protecting, through additional disclosure or audits, the benefits all of our LLNS members, and our retired predecessors, have been promised. As proved to be the case when UC abandoned the idea of resuming employee contributions to pensions, we expect all LLNS employees, not just our members, will continue to benefit from this advocacy.
Bye-Bye TCP1?
Jeff Colvin, UPTE Representative (with a little help form his friends)

Back when we were trying to decide between TCP1 (the pension plan) and TCP2 (the 401k savings plan with employer contributions) it became clear that, like in all financial investment decisions, the trade-off was between long-term return and risk. Specifically, for most people a pension like TCP1 provides a better long-term benefit at retirement. Half of us, however, considered that the risk of TCP1 being substantially changed or eliminated in the long-term was unacceptably high.

The UCRP asset transfer from UCRP to TCP1 recently approved by the UC Board of Regents has just substantially increased that risk.

Here is the real story that neither UC nor LLNS has told you.

As we have documented in past Sentinel articles¹, one motivation for privatizing the Lab was to give DOE an opportunity to recoup what they considered “their” surplus in UCRP. DOE believes that the fact that UCRP has been overfunded since the early 90s (employees have not had to contribute to it since then) is because they paid too much into it, and they have been determined to get their money back. Indeed, they have made several efforts over the past few years to force their contractors to discontinue pension plans altogether. They did this via several aborted attempts to implement a new regulation that stops reimbursement of their contractors for pension expenses.² They even tried to use the management contract transition to achieve this long-sought goal; the original Request for Proposals for the LANL contract did not include a pension plan at all. It got into the final draft only after intense lobbying by UPTE. So, now the asset transfer presents yet another opportunity for DOE to get its “surplus” back.

How are they doing this? They are doing it through sleight-of-hand by mixing units when they calculate the UCRP asset split. This is the split of assets in the LLNL segment of UCRP between funds that stay in UCRP (the LLNL retained segment) to cover the obligations to current retirees and UCRP-inactive employees (those who chose TCP2), and funds transferred to LLNS TCP1. Specifically, they mix market value with actuarial value in the calculation. The easiest way to think of this is that they equate the liabilities of the LLNL retained segment with their market value (the value at a particular point in time) instead of their actuarial value (the value based on a five-year running average of investment return). They did the same calculation for the UCRP-LANS asset split at the time of the Los Alamos transition, but back then there was little difference between market value and actuarial value. For us, on the other hand, there is a big difference. The market was at an all-time high on October 1, our transition date. The actuarial value of the LLNL retained segment is much less.

The bottom line is that the LLNL retained segment of UCRP starts out about 10% underfunded (contrary to what both UC and LLNS are telling us), and TCP1 starts out way overfunded, by about $420M.³

Why would UC agree to this? UC does not need to worry, because the asset transfer agreement also obligates DOE to keep the LLNL retained segment funded at 100%. If it is underfunded, DOE has seven years (exactly the term of the DOE-LLNS contract) to bring it up to full funding. Indeed, the “contingency” $75M that the agreement calls for to be transferred back to UC simply covers the first year or so of the required DOE payment to UC.

What happens after this first year? It seems clear where DOE intends to get the money to keep the LLNL retained segment of UCRP fully funded: right out of the TCP1 surplus. Indeed, it will be much easier for them to get the whole surplus from LLNS than it was to get any of it from UC. One way they can do this is to force LLNS to do what IBM and many other big companies have done—discontinue the pension plan and convert its assets into a cash value account for each enrolled employee. If they do this when there is a surplus, the company can then pocket the surplus (yes, this is legal). In our case, the surplus would go to DOE, as required by the LLNS/NNSA contract to manage the Laboratory. If LLNS management tries to resist pressure to discontinue TCP1, then DOE always has the option of simply cutting the Lab budget by the amount they need to pay to UC. LLNS management will inevitably face the choice between discontinuing TCP1 and doing more layoffs to accommodate budget cuts. In either case, we, the employees, lose.

We believe that starting with an asset split that is so far out of balance is just an invitation to trouble. We call upon LLNS management to do the right thing and join us in advocating for a more equitable split before the scheduled April 1 transfer date.

¹See the September 2007 issue at www.spse.org/publications.htm
²DOE Notice 351.1, issued April 27, 2006, and then later suspended. More information can be found at http://management.energy.gov/request_for_comments.htm.
³You can do your own calculation from the numbers presented in the report of UC’s actuaries, The Segal Company, to the UC Board of Regents; we have posted it on our website: http://www.spse.org/Segal_20071114_c8attach1.pdf
⁵See Contract DE-AC52-07NA27344, Section H-35(e)(10)(ii) at http://management.energy.gov/request_for_comments.htm
SPSE formed as a result of the 1973 layoffs of career employees at LLNL. From its inception, SPSE (now SPSE-UPTE Local 11) has maintained that layoffs would be unnecessary if LLNL were managed properly. We have monitored, and occasionally challenged, the policy changes governing layoffs. Our goal is to prevent layoffs altogether, and failing that, to ensure that they are fair and equitable, unlike those in 1973.

More than a decade ago, when LLNL changed its policy with regard to the order of layoff, SPSE filed a lawsuit charging that LLNL could not unilaterally do so. The suit was tolled, that is suspended, waiting for another layoff to reinstate it. Formal layoffs of career employees never occurred again while LLNL was managed by UC. Unfortunately, that suit, and many of your job protections, went away when the Lab was privatized. Now hundreds of us have been laid off and hundreds more to follow, without the workforce protections the suit might have afforded.

Management attributes the need for the recent, and possibly pending, layoffs of LLNL’s work force to budget reductions and other fiscal uncertainties. Last fall’s announcement of layoffs came before the fiscal 2008 budget was decided, and during a continuing resolution that stretched back to FY 2006. The adverse consequences of budget uncertainties have been greater in FY08. In FY07 we didn’t have an entire new level of management and other expenses, such as property taxes, associated with being a private corporation. So the real uncertainty in FY08 was how much this new management was going to cost us. Last fall, the answer was 500-800 people. Now the answer is over 1200 and counting.

Last month approximately 500 employees paid with their jobs for management’s inability to anticipate and address budget problems. Those laid off in January were at will employees, part of LLNL’s so-called flexible work force. The flexible work force includes flexible-term LLNS employees and supplemental contract workers. About 720 additional separations — career indefinite employees we are told — will be needed to reach the final work force reduction target by the end of FY08, up from the 300 estimated last fall.

SPSE-UPTE cannot prevent layoffs, but it can and will negotiate the terms of future layoffs for its represented members, that is the Skilled Trades bargaining unit. Among our goals in bargaining will be to limit the number of layoffs and to improve the severance for any employees laid off. By terminating flex-terms belonging to the SPSE-UPTE’s Skilled Trades bargaining unit, LLNS compounded the violations that led us to file Unfair Labor Practice charges last fall, asserting that the company had violated the law by refusing to recognize the union and to bargain. Just last week, LLNS offered to settle both charges, agreeing to recognize the union and to bargain a contract for the Skilled Trades. This was a victory for SPSE-UPTE and the Skilled Trades. Part of bargaining will address future layoffs, how layoff units will be defined, and what severance will be offered. Improvements in employment conditions for the Skilled Trades unit may result in improved employment conditions for all if LLNS elects to treat employees equitably.

Just before the transition LLNL’s Staff Relations Division told us that flex-term employment was created to give management a buffer to protect career-indefinite employees from layoff. Yet years ago when LLNL invented the term category they claimed that it was meant to fill short-term jobs. Earlier, a struggle over employment rights for public employees (including those at UC) had developed within the state legislature.

continued next page
Proponents for these rights had threatened to take away UC’s constitutional immunity. Pete Stark brokered an agreement that resolved the conflict by granting grievance rights to all UC employees. This meant that LLNL employees had a property right to their jobs and that property could not be taken from them unilaterally. Many years later UC violated this agreement by allowing LLNL to create at will positions at the Lab. SPSE did not anticipate the rampant abuse that Lab management has made of this practice. Unfortunately, management simultaneously built a Catch-22 into Laboratory policy: no grievance action can be brought on behalf of flex terms.

If flexible-term hires filled positions with genuinely limited terms, then why were fewer than 500 of nearly 2000 flex terms terminated this winter? The answer is that terminating additional flex terms would damage LLNL’s future work force – strong evidence that many flexible-term positions are actually indefinite positions. The flexible-term work force includes many career professionals who are vital to our future at LLNL. I have even known Group Leaders who were flex terms.

Despite occasional and ineffective instructions from Staff Relations that flexible-term employees were to be hired only for term positions, LLNL hiring managers under UC frequently filled indefinite term positions with flexible-term employees. Once I showed Staff Relations a job posting wherein a manager had actually written a note to Recruitment personnel stating that he knew posting an indefinite-term job as a flexible-term position violated policy, but that he wanted them to do it anyway. Apparently, Recruitment didn’t realize that the note was meant for their eyes only. Predictably, Lab management did nothing about this flagrant violation of our personnel policies.

In addition, employment conditions and benefits for career employees tend to be adversely impacted by improper placement of flexible-term employees. Consider the following comparison. LANL sought and received a contract modification from NNSA for a more generous separation package for its employees—2 weeks pay per year of service up to 39 weeks, versus 1 week per year up to 26 weeks. LLNS did not need to request a better separation package because they have thousands of at-will employees that they can separate without offering any severance whatsoever beyond that required by law.

We speculated last fall that LLNS would not obtain a modification to provide more generous severance packages than in the base contract. We believe they actually want a large fraction of the separations to be involuntary. One reason for this is that LLNS has already identified the people they want to separate and will make the case that they have no funding. If they really got 750 volunteers, they would lose their option to target those they wish to separate. Events have borne out our initial projections. LLNS has provided us with fewer incentives to leave voluntarily than our LANL counterparts.

Like past layoffs, this layoff is more a result of poor management than budget reductions and uncertainties. With 150 to 200 people retiring or resigning from the lab voluntarily since October 1st, together with 500 of the flexible work force discharged involuntarily and the Director announcing a target of 730 additional employees to separate voluntarily or otherwise, the planned reduction in total work force for this fiscal year is about 1,400. This large reduction will reduce the total work force to its level prior to FY2007. Simple math implies that LLNS increased the size of the work force by ten percent during FY2007—a fiscal year that was entirely covered under a continuing resolution. This hiring during a continuing resolution reflects bad planning on the part of our management that will result in a forced reduction of the workforce by up to twenty percent during FY08.

In any environment, but particularly when the work force is shrinking, employees need effective representation to management. Layoffs at LLNL are more a result of poor management than budget woes, yet employees pay the price. Like UC, LLNS is running roughshod over employee rights. LLNS has violated the law by terminating represented members of a certified unit without bargaining the conditions of layoff. Furthermore, LLNS has terminated flex-term employees that were improperly placed in that job category in violation of its own personnel policies. Now in spite of all their protestations against it, LLNLS is looking for you to go next. Your best protection against this treatment is to organize and ask to be represented by SPSE-UPTE Local 11.
JOIN SPSE-UPTE – SKILLED TRADES UNIT

NOTE: NO DUES will be deducted until a contract is negotiated and accepted by the Skilled Trades unit.

Name (please print) ___________________________ Employee Number ___________________________

Job code __________________ L-Code __________ Extension __________ E-mail ___________________________

Home Address ___________________________ City __________ Zip Code ___________________________

Signature ___________________________ Date ________ Home Telephone ___________________________

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TOTAL

I authorize The Regents of the University of California to withhold monthly or cease withholding from my earnings as an employee, membership dues, initiation fees and general assessments as indicated above.

I understand and agree to the arrangement whereby one total monthly deduction will be made by the University based upon the current rate of dues, initiation fees, and general assessments. I ALSO UNDERSTAND THAT CHANGES IN THE RATE OF DUES, INITIATION FEES AND GENERAL ASSESSMENTS MAY BE MADE AFTER NOTICE TO THAT EFFECT IS GIVEN TO THE UNIVERSITY BY THE ORGANIZATION TO WHICH SUCH AUTHORIZED DEDUCTIONS ARE ASSIGNED AND I HEREBY EXPRESSLY AGREE THAT PURSUANT TO SUCH NOTICE THE UNIVERSITY MAY WITHHOLD FROM MY EARNINGS AMOUNTS EITHER GREATER THAN OR LESS THAN THOSE SHOWN ABOVE WITHOUT OBLIGATION TO INFORM ME BEFORE DOING SO OR TO SEEK ADDITIONAL AUTHORIZATION FROM ME FOR SUCH WITHHOLDINGS.

The University will remit the amount deducted to the official designated by the organization.

This authorization shall remain in effect until revoked by me - allowing up to 30 days time to change the payroll records in order to make effective this assignment or revocation thereof - or until another employee organization becomes my exclusive representative.

It is understood that this authorization shall become void in the event the employee organization's eligibility for payroll deduction terminates for any reason.

Upon termination of my employment with the University, this authorization will no longer be in effect.

This authorization does not include dues, initiation fees and general assessments to cover any time prior to the payroll period in which the initial deduction is made.

Payroll deductions, including those legally required and those authorized by an employee are assigned priorities. In the event there are insufficient earnings to cover all required and authorized deductions it is understood that deductions will be taken in the order assigned by the University and no adjustment will be made in a subsequent pay period for membership dues, initiation fees and general assessments.

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RETENTION: 1 YEAR AFTER INACTIVE - ACCOUNTING OFFICE

Mail completed form to: Jeff Colvin/SPSE, L-356, P.O. Box 808, Livermore, CA 94551

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JOIN SPSE-UPTE

Name (please print) ___________________________ Employee Number ___________________________

Job code _______ L-Code _______ Extension _______ E-mail ___________________________

Home Address ___________________________ City ___________________________ Zip Code ___________________________

Signature ___________________________ Date ___________________________ Home Telephone ___________________________

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UPAY 889 (10/90)

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**DEPARTMENT EMPLOYED AT U.C.**

**TITLE AT U.C.**

**ORGANIZATION NAME (INCLUDING LOCAL NAME AND NUMBER)**
Society of Professionals, Scientists, and Engineers

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