



DEPARTMENT OF THE NAVY

OFFICE OF THE SECRETARY

1000 NAVY PENTAGON

WASHINGTON, D.C. 20350-1000

17 September 1999

Ms. Elaine Kaplan
U.S. Office of Special Counsel
Attn: Ms. Catherine A. McMullen
1730 M. Street, N.W., Suite 300
Washington, DC 20036-4505

Dear Ms. Kaplan:

Re: OSC File Nos. DI-99-0722 and DI-97-0912 (Complaint ICO
Mr. Marty Martinson and Mr. Brook Beesley)

Thank you for your letter of March 29, 1999, which requested this office conduct an inquiry into Mr. Marty Martinson's and Mr. Brook Beesley's complaint. Mr. Martinson and Mr. Beesley, former firefighters at Naval Air Station, Alameda, California, allege health and safety violations at Naval Air Station, Alameda. Mr. Martinson and Mr. Beesley alleged that the Navy violated C.F.R. Section 1910.120, the hazardous waste operations and emergency response safety standards; 29 C.F.R. Section 1910.1200, the hazard communication safety standards; and the Remedial Action Order (RAO) issued by the California Department of Health Services on June 30, 1988. They alleged that the violations occurred because the Navy failed to notify firefighters of the hazards, failed to provide annual medical examinations, failed to adequately document medical records, and permitted firefighters to work in known contaminated areas without proper protective equipment.

At my request, the Naval Inspector General (NAVIG) conducted an inquiry into this matter. Upon review of the inquiry, I concur with the NAVIG's findings that the Navy violated 29 C.F.R. Section 1910.120(c)(8) by not providing all "information concerning the chemical, physical, and toxicological properties of each substance known or expected to be present on site..." and the Navy violated the written assurance by Commanding Officer, Naval Air Station Alameda to the California Department of Health Services that notice would be provided to employees of the risks. I also concur with NAVIG that Section 1910.1200 does not appear to apply in this case and, thus, do not believe the Navy violated it.

All evidence gathered strongly indicates that the (then) Commanding Officer of NAS Alameda drafted a Hazard Communication for Installation Restoration site, including the firefighters' training areas, on January 9, 1990. NAVIG believes that the (then) NAS Alameda Fire Chief, Mr. David K. Martineau, received this statement as evidenced by former firefighters' statements that they discovered it inside his desk during NAS Alameda's pre-closure cleanup of workspaces on or about April 1997. The former

firefighters stated that this was the first time they learned of the potential contamination in the areas. Mr. Martineau is presently the Deputy Fire Chief, Commander, Navy Region Southwest.

In July of 1997, the Navy Environmental Health Center (NEHC) concluded health risk evaluations for firefighter activities at Sites 14 and 15 onboard NAS Alameda. Contrary to Mr. Martinson's and Mr. Beesley's allegations, this study did thoroughly examine all Polychlorinated Biphenyl (PCB) exposure pathways, including the inhalation of contaminated airborne particles and smoke generated by the combustion of possibly contaminated materials. Health inspectors determined that the total health risk for inhalation, ingestion, and dermal contact of all potentially dangerous or carcinogenic materials within both sites was negligible. Furthermore, laboratory combustion tests of PCBs show that dangerous furans may only be produced when transformer oils containing PCBs burn at temperatures in excess of 600 degrees Celsius (1112 degrees Fahrenheit) in concentrations of oxygen higher than is present in normal atmosphere. These temperatures are not normally reached in environmental settings such as grass or brush fires. Dioxins, which may also be released when transformer oils burn, quickly bind to organic materials and are released into the environment slowly and in very low concentrations. It is recognized that dioxin levels can accumulate in plants and in animals that consume such plants or other contaminated animals. However, according to the NEHC study, the release of furans and dioxins from such plants and animals would also only occur when burned under similar high combustion temperatures with high oxygen pressures.

In January 1998, the Assistant Secretary of the Navy for Installations and Environment (ASN(IE)) addressed the firefighters' health concerns after Congressman Ronald V. Dellums requested an inquiry subsequent to a letter from Mr. Martinson. Although ASN(IE) also found no risks to the health of the firefighters, he made efforts to provide the former firefighters of NAS Alameda with written statements for their medical records. Each letter stated that the individual had operated in PCB-contaminated areas but that his PCB exposure levels were within a completely safe range and no health problems were anticipated. Dr. Jean S. Abbe, Branch Medical Clinic, Concord, CA, provided NAVIG with a list of approximately twenty firefighters in whose records she had allegedly placed the ASN(IE) statement when she was attached to NAS Alameda. NAVIG is still inquiring into this aspect of the matter to ensure Dr. Abbe placed the statement into the medical records of all personnel for whom it was appropriate.

The NAVIG inquiry determined that, in addition to Mr. Martinson's and Mr. Beesley's complaints to your and Congressman Dellums' offices, the two had previously filed complaints regarding their health hazard concerns with NAVIG and

the Department of Defense Inspector General (DODIG). These agencies investigated the complaints and did not substantiate any allegations regarding health dangers.

We have concluded our inquiry into this matter and I believe that no personnel were exposed to harmful or potentially harmful concentrations of carcinogens within Sites 14 and 15 of NAS Alameda. By failing to inform the firefighters of the information that was available concerning the chemical substances known to exist at these sites, however, the Navy violated 29 C.F.R. Section 1910.120(c)(8) and failed to comply with the assurance that Commanding Officer, Naval Air Station Alameda provided to the California Department of Health Services. I am considering appropriate remedial actions to preclude any similar oversights from occurring onboard U.S. Navy installations and vessels in the future.

Thank you for bringing this matter to my personal attention. As always, if I can be of any further assistance, please let me know.

Sincerely,



Jerry MacArthur Hultin
Under Secretary of the Navy