



U.S. OFFICE OF SPECIAL COUNSEL

1730 M Street, N.W., Suite 300
Washington, D.C. 20036-4505

March 26, 2008

The Special Counsel

The President
The White House
Washington, D.C. 20500

Re: OSC File No. DI-07-0955

Dear Mr. President:

I received a disclosure from Lawrence M. Flinton, Sr., who consented to the release of his name, that employees at the Department of the Navy (Navy), Naval Weapons Station (Navy Base), Seal Beach, Detachment Corona Fire Brigade, Torrance, California, failed to follow proper safety procedures when employees responded to a hazardous material (HAZMAT) spill on Navy property in December 2006. Mr. Flinton works as a Navy Firefighter and is a Department of Defense (DoD) certified HAZMAT technician and incident commander.

I required the Honorable Donald C. Winter, Secretary of the Navy, to conduct an investigation into Mr. Flinton's disclosures pursuant to 5 U.S.C. § 1213(c) and (d). The Secretary tasked the matter to the Office of the Naval Inspector General. On February 6, 2008, the Secretary submitted his report to me. Mr. Flinton provided comments on the agency report pursuant to 5 U.S.C. § 1213(e)(1). As required by law, 5 U.S.C. § 1213(e)(3), I am now transmitting the report to you along with Mr. Flinton's comments.

Mr. Flinton alleged that Navy employees had not adhered to HAZMAT procedures and regulations when employees improperly permitted a chlorine contaminated HAZMAT site to be cleaned up by approximately 8-10 prisoners from a neighboring California Rehabilitation Center instead of requesting a trained HAZMAT team to manage the site. While the comprehensive investigation revealed that Navy employees properly permitted HAZMAT certified personnel from the adjoining prison to clean up the spill, the agency substantiated two other allegations that Navy personnel responding to the chemical spill improperly secured the site in violation of 29 CFR 1910.120, Hazardous Waste Operations and Emergency Response, and that the Navy Corona Hazardous Substance Plan was out-of-date and no longer provided adequate guidance for a HAZMAT spill response.

Specifically, the agency determined that fifty gallons of sodium hypochlorite, which is also called industrial bleach, leaked from the adjacent prison and flowed from a floor drain into a storm drain. After a prison employee noticed the leak, he flushed the floor drain with water to prevent damage to the floor and drain. The contaminated water ran down the storm drain until it emerged downhill from the prison onto the Navy property. Using water to dilute sodium hypochlorite, according to the report, is a recommended safety measure. Experiments conducted at the request of the Navy investigator demonstrated that as much as 2,500 gallons of water was

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used to dilute the sodium hypochlorite. The agency further consulted an employee at the Environmental Protection Agency as a consultant to review the report, and opined that such a spill could reasonably be described as "de minimis."

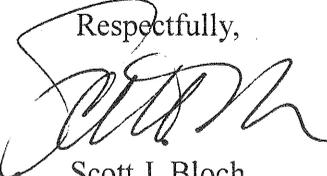
However, the agency determined that Fire Chief Clarke failed to attempt to control the perimeter of the contaminated area and deny entry to the site, and failed to contact a HAZMAT team to make an assessment. Given that the nature of the spill was initially unknown, the agency determined that the area should have been isolated at a safe distance and attempts should have been made to identify the material with assistance from the Navy's environmental department. In addition, Navy employees should have called 911 immediately and requested testing of the material by a HAZMAT team.

In terms of corrective action, the agency report revealed that Fire Chief Clarke retired while disciplinary action was under consideration. However, the HAZMAT spill response plan and guidelines have been reviewed and updated. In addition, in February 2008, a spill response drill based on the new HAZMAT spill response guidelines was conducted successfully.

I have reviewed the original disclosures, the agency report, and Mr. Flinton's comments. Based on that review, I have determined that the agency's report contains all of the information required by statute, and that its findings appear to be reasonable.

As required by 5 U.S.C. § 1213(e)(3), I have sent a copy of the agency report and Mr. Flinton's comments to the Chairman of the Senate Committee on the Armed Forces and the Chairman of the House Armed Services Committee. I have also filed a copy of the agency report and Mr. Flinton's comments in our public file and closed the matter.

Respectfully,

A handwritten signature in black ink, appearing to read "S. Bloch", written over the word "Respectfully,".

Scott J. Bloch

Enclosures