



DEPARTMENT OF THE ARMY
OFFICE OF THE GENERAL COUNSEL
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SUBJECT: Whistleblower Investigation- Alleged violation of law, rule, or regulation at Aberdeen Proving Ground (APG), Maryland (Office of Special Counsel File Number DI-22-000146)

Ms. McMullen,

This responds to your e-mail request of June 26, 2023, for supplemental information on this matter. Information in response to your three questions is provided below.

1. Question: Explain why the Aberdeen Proving Ground Directorate of Public Works (DPW) failed to provide documentation to the investigating officer regarding the buildings for which DPW was responsible.

Response: As described in the Army's Report with respect to OSC Referred Allegation 3, subsection 2, the investigation substantiated DPW's lack of comprehensive asbestos inventories and adequate record-keeping. The investigating officer (IO) identified several reasons for this lack of record keeping. First, there was no central repository for asbestos related information. Rather, the responsibilities for such record keeping were shared by two separate divisions within DPW: the Environmental Division and the Engineering and Construction Division. In the absence of careful coordination, this shared responsibility allowed for gaps in record collection and record maintenance. Second, the asbestos survey that had been conducted, also known as the Foster-Wheeler survey, was not comprehensive nor readily retrievable. It did not include all buildings on the installation and the documents exist mostly in hard copy, stored in boxes. Lastly, the allegations referred by OSC spanned several years and concerned many different buildings on APG and APG South (Edgewood area). Some personnel who would have had relevant information have since moved on, did not have records, or did not recall the incidents. The IO found no evidence of any deliberate obstruction or malfeasance on the part of any DPW personnel related to record keeping or production in support of the investigation.

The investigation into this issue raised awareness of this recordkeeping issue, and APG DPW is currently working to address this through development of a regulated material information recordkeeping system.

2. Question: Explain why (b) (6) failed to respond to investigators pursuant to a 15-6 investigation despite seven requests to provide a sworn statement.

Response: As explained by the IO in Tab W of the Agency Report, the IO interviewed (b) (6) on March 14, 2022, asking her 30 questions, and annotating her responses. He was unsuccessful in obtaining a sworn statement from her memorializing her responses during the interview. The IO observed that (b) (6) was cooperative during the interview but lacked significant details about specific incidents raised in the referred allegations. Due to the lack of communication with her, the IO cannot speculate on her reasons for not responding to his requests for a written statement. However, the IO explained that the lack of a sworn statement from (b) (6) did not substantively affect the findings of the investigation. (b) (6)'s statements during her interview were corroborated by multiple other witness statements ((b) (6)). Taken together, these statements provided sufficient information upon which the IO's findings are based.

3. Question: Provide a status update on the four recommendations listed at the conclusion of the agency report. For those not yet completed, provide the expected date of implementation.

Response: As stated in the Army Report, on September 16, 2022, the Commanding General, U.S. Army Communications Electronics Command, approved the IO's Report of Investigation and its findings. However, he modified the IO's recommendations, directing that the Report of Investigation be provided to the USAG APG Garrison Commander and the USACE Baltimore District Commander for review and any action deemed appropriate. Additionally, as described in her letter to Mr. Kerner of February 6, 2023, Ms. Jacobson directed the Deputy Assistant Secretary of the Army for Environment Safety and Occupational Health (DASA(ESOH)) and her staff, having oversight over both environmental compliance and safety and occupational health related matters, to work with Army Materiel Command, U.S. Army Corps of Engineers, and other appropriate Army activities at all echelons to review the recommendations made by the IO and take any additional actions needed to address any programmatic issues identified. The DASA(ESOH) is in the process of coordinating with Army activities and has formally requested relevant information be gathered and provided by September 2023. Once coordination efforts are complete and information is gathered and reviewed, a report detailing procedures to be implemented and remedial measures to be taken to ensure projects on APG or at any Army facility where asbestos containing materials are handled comply with all applicable asbestos-related requirements to ensure safe and healthy work environments will be provided to the ASA IEE.

Please advise if you need any other information to complete your review.

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