



U.S. OFFICE OF SPECIAL COUNSEL

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January 21, 2010

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

Re: OSC File Nos. DI-07-1058 et al.

Dear Mr. President:

The Office of Special Counsel (OSC) received a disclosure from 12 current and former employees of the Department of the Army (Army), Fort Lewis Directorate of Public Works, Waste Water Treatment Plant (WWTP), Fort Lewis, Washington.¹ The whistleblowers alleged that levels of oil and other contaminants in the WWTP's effluent water² exceeded limits established by the Clean Water Act, 33 U.S.C. §1251 et seq., and Fort Lewis' National Pollutant Discharge Elimination System (NPDES) permit. The whistleblowers alleged that the discharge of oil and other contaminants into the waters of Puget Sound creates a substantial and specific danger to public health and safety and that Fort Lewis management failed to conduct proper testing of the water treated at the plant, failed to properly maintain and replace the plant's equipment and failed to take adequate measures to protect employees against occupational health and safety risks.

The whistleblowers' allegations were referred to the Honorable Pete Geren, former Acting Secretary of the Army, to conduct an investigation pursuant to 5 U.S.C. § 1213(c) and (d) on May 24, 2007. The authority to approve the investigation and report the findings to OSC was delegated by former Acting Secretary Geren to Ronald J. James, former Assistant Secretary of the Army, Manpower & Reserve Affairs. Assistant Secretary James submitted his report, based on the results of an investigation conducted by the U.S. Army Installation Management Command (IMCOM), on December 1, 2008.

The agency report concluded that the whistleblowers' allegations were unsubstantiated. According to the report, the agency investigation concluded that the effluent discharged by the WWTP consistently fell technically within the standards established by the Clean Water Act and

¹ The whistleblowers, who have consented to the release of their names, are J.C. Lancy, Ron Johnston, Rhonda Rounds, Carol Blake, Jerry Liedes, Cindy Winston, Robert Koden, David Rabe, Jimmy Chambers, David Colby, Pamela Rodriguez and Robert Predmore.

² "Effluent water" is defined as water that flows out of the WWTP and into the waters of Puget Sound subsequent to treatment.

the NPDES permit and that, in addition, the WWTP consistently met the requirements of the Washington State General Permit for Bio-solids Management. The report further concluded that Fort Lewis officials acted in compliance with all testing, recording and reporting requirements of the permits and that the equipment failures or irregularities failed to pose significant health and safety hazards as alleged by the whistleblowers. Consequently, the agency concluded that no corrective action directly stemming from the whistleblowers' disclosures was required.

Notwithstanding these findings, the report indicated that the agency took steps to remediate some of the conditions brought to light during the course of the investigation resulting from the OSC referral. Specifically, the agency, according to the report, updated and repaired equipment, including replacing the plant's oil cooled compressor with a water cooled version, replacing and repairing thousands of feet of sewer pipe, and has undertaken a project to clean and repair a digester found during the course of the investigation to be in disrepair. In addition, as a result of the investigation, the agency, according to the report, developed an industrial wastewater pre-treatment program, entered into a pre-treatment Memorandum of Understanding with the Washington State Department of Ecology, and implemented a preventive maintenance program and a quality control program. Finally, in response to the whistleblowers' allegations that the agency failed to grant their requests for periodic wastewater testing and to report the results of laboratory testing of WWTP wastewater samples to plant operators, the agency has initiated efforts to establish guidelines for operator requested testing and to make lab test results available to operators and lab technicians.

The agency, according to the report, considered but rejected an operator suggestion to modify WWTP Standards of Operating Procedures to incorporate a requirement that the facility be staffed 24 hours a day, seven days a week. Further, in response to whistleblower allegations that former Utility Systems Repairer-Operator Supervisor Al Long did not possess the requisite Group III wastewater treatment certification, Mr. Long was removed from his WWTP Supervisory position and demoted to a non-supervisory position. He retired from federal service on September 2, 2008. Finally, the agency took disciplinary action against Maintenance Mechanic Supervisor Darrell E. Robinson, the employee responsible for hiring Mr. Long as the WWTP supervisor despite his lack of required certification.

Pursuant to 5 U.S.C. §1213(e), the whistleblowers were offered an opportunity to review and submit comments in response to the agency report. Of the 12 whistleblowers, five elected to file comments and consented to the public release of their comments.³ The whistleblowers expressed general dissatisfaction with the results of the investigation and reasserted their original complaints regarding the agency's lack of responsiveness, failure to update and repair equipment and wasteful spending. Two of the whistleblowers opposed the agency's findings regarding the oil and other contaminant content of the bio-solids that settle out of influent water, commonly referred to as "sludge." While the whistleblowers complained that the oil and other contaminant content of the sludge is potentially hazardous, the agency report found that the governing State of Washington Bio-solids Management Permit does not specifically place limitations on the

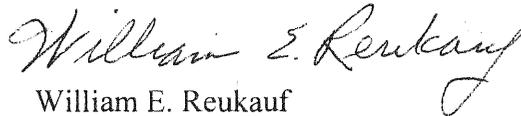
³ Whistleblowers Ronald Johnston, Robert Koden, Rhonda Rounds, Judy Lancy and David Rabe filed comments and consented to the public release of their comments.

concentrations of oil and other contaminant content in bio-solids. One whistleblower, while acknowledging that improvements have been made to the physical plant as a result of this investigation, expressed dissatisfaction with the efficiency with which the money earmarked for improvements was spent.

We have reviewed the original disclosures, the agency's report and the whistleblowers' comments. Based on that review, we 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 law, 5 U.S.C. §1213(e)(3), I have sent a copy of the agency report and the whistleblowers' comments to the Chairmen and Ranking Members of the Senate Committee on Armed Services and the House Committee on Armed Services. I have also filed a copy of the report and the comments of the whistleblowers who have consented to the public release of their comments in our public file and closed the matter.

Respectfully,



William E. Reukauf
Associate Special Counsel

Enclosures