



# United States Department of the Interior

NATIONAL PARK SERVICE

1849 C Street, N.W.

Washington, D.C. 20240

IN REPLY REFER TO:

A2427 (2430)

DEC 23 2009

Mr. William E. Reukauf  
Associate Special Counsel  
US Office of Special Counsel  
1730 M Street NW, Ste 218  
Washington, DC 20036

Dear Mr. Reukauf:

On September 16, 2009, I received notification of a whistleblower complaint from a former National Park Service employee, alleging serious safety and health deficiencies and practices at Gateway National Recreation Area, Floyd Bennett Field, Brooklyn, NY. On October 14, I dispatched a team of National Park Service employees including the Associate Regional Director for Operations, Northeast Region, and the Washington Office Risk Management Division, to investigate and report on the issues outlined in the complaint.

The Investigation Team concluded that while serious safety issues existed at the park, the leadership did not willfully violate safety and health standards, nor did the whistleblower's complaints of these issues lead to his dismissal. The full investigation report is attached.

Please direct any questions to Karen Taylor-Goodrich, Associate Director, Visitor and Resource Protection, at 202-565-1020, or Michael K. May, Occupational Safety and Health Program Manager, at 202-513-7222.

Sincerely,

Jonathan B. Jarvis  
Director

Attachment

cc: Deputy Director, Operations  
Regional Director, Northeast Region  
Associate Director, Visitor and Resource Protection  
Chief, Risk Management Division



NORTHEAST REGION

Serious Safety and Health Deficiencies Investigation –  
GATE – Floyd Bennett Field



Final Report  
Accusation of Serious Safety and Health  
Deficiencies – GATE  
Floyd Bennett Field

November 16, 2009

NATIONAL PARK SERVICE

UNITED STATES DEPARTMENT OF THE INTERIOR

A handwritten signature in black ink, appearing to read "Linda Canzanelli".

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Linda Canzanelli, Team Lead  
Associate Regional Director, Park Operations  
Northeast Region



Investigation of Serious Safety and Health Deficiencies  
Gateway National Recreation Area  
Jamaica Bay Unit

Executive Summary

On September 16, 2009, the U.S. Office of Special Counsel sent a letter to Secretary of the Interior Kenneth Salazar regarding a whistleblower disclosure by Guiseppi Grassi, Jr., a former employee, who had worked as an electrician at the Jamaica Bay Unit (Unit) of Gateway National Recreation Area (GATE). The whistleblower complaint outlined a number of concerns: a) lack of adequate protective equipment, b) improper obstruction of designated exit routes, and c) issuance of respirators without medical evaluation.

A team of senior managers and safety professionals from the Northeast Region and the Washington Office of the National Park Service investigated the allegations. The Team went to Gateway National Recreation Area on October 14 and 15, 2009. The Team performed safety inspections of all the buildings cited in the Office of Special Counsel letter as well as other buildings identified, during interviews, as containing potential hazards. Sixteen interviews were conducted.

All three whistleblower complaints were investigated.

1. Lack of adequate personal protective equipment – Mr. Grassi stated to numerous people that he had been a certified welder. All the appropriate equipment for safe welding operations, including all the appropriate gloves, eye and face protection, is available on Floyd Bennett Field. There is no evidence that there was a rush to complete the job that day. There is no evidence that the proper safety equipment was not available to Mr. Grassi; however, Mr. Grassi did not go into the Vehicle Maintenance Shop to retrieve the PPE. Mr. Grassi performed the welding without the proper PPE endangering himself and his co-workers.
2. Improper obstruction of designated exit routes – The Occupational Safety and Health Administration (OSHA) came to the park to inspect the Building 98 stairways that were contaminated with bird guano. Their report to the park stated “I recommend that you voluntarily eliminate or reduce your employees exposure [to the contaminated areas]”. The Unit staff relied on guidance from the Unit Collateral Duty Safety Officer/Acting Unit Assistant Superintendent, Joe Green. Without seeking any additional advice or guidance Mr. Green incorrectly interpreted OSHA’s

recommendation to mean that the doors to the exit/stairwell should be locked to prevent access, and because there would still be two remaining exits from each floor that this did not violate any structural fire life safety code or federal regulations. Via contract the bird guano was removed from the stairway and the openings through which the birds were gaining access were sealed. The doors to the southwest stairwell were reopened after the work was completed.

3. Issuance of respirators without medical evaluation – The Unit staff relied on guidance from the Unit Collateral Duty Safety Officer/Acting Unit Assistant Superintendent, Joe Green. Mr. Green did not know that in order to make a determination of whether or not employees need a respirator the park needs to implement a respiratory protection program, which includes a documented, thorough hazard analysis of every job and task being performed. He also did not know how to properly fit employees with respirators and he did not seek any additional advice or guidance on this matter.

Although significant, existing safety issues were identified by the Team they had little relationship to the safety issues in the original complaint. Park Management has a good track record of reacting to and correcting safety issues identified by outside groups (e.g., OSHA, SAIT, the Team). Park Management is not proactive about identifying safety issues internally and correcting them.

There is no evidence of willful violation of law, rule or regulation. The Team does not recommend any disciplinary action be taken against any existing or former employee of Gateway National Recreation Area with regard to these complaints.

The Team does not recommend that Mr. Grassi be reinstated to his former position with Gateway National Recreation Area.



**Gateway National Recreation Area:**

Located in New York and New Jersey, Gateway National Recreation Area (GATE) provides abundant recreational and learning opportunities, from swimming, boating and fishing to team sports, bicycling and nature study. The living world can be explored in a wildlife refuge, holly forest, ocean dunes and coastal uplands. The nation's oldest operating lighthouse, forts that defended America, and sites that trace aviation's early days tell significant stories.

GATE is readily accessible by 16 million people who live in the metropolitan area. Gateway was created to bring the National Park Service 'experience' to these people and approximately 9 million people visited the park in 2008.

The park has 26,607 acres, an annual operating budget in FY2009 of \$25,456,942 and a total of 326 FTE.

The Park consists of three units:

Jamaica Bay Unit in Brooklyn and Queens includes a wealth of history, nature and recreation, from New York City's first major airport and coastal fortifications to a wildlife refuge and pristine beaches. Areas within the Jamaica Bay Unit include Floyd Bennett Field, Fort Tilden, Riis Beach and the Jamaica Bay Wildlife Refuge.

The Sandy Hook Unit in New Jersey, which includes the Sandy Hook Light, America's oldest operating lighthouse (1764), as well as Fort Hancock and the Sandy Hook Proving Ground, outstanding beaches, a Holly forest and other natural and recreational resources.

The Staten Island Unit includes Fort Wadsworth (location of park headquarters), World War Veterans Park at Miller Field and the natural areas of Great Kills.

### **Overall Guidance:**

On September 16, 2009, the U.S. Office of Special Counsel sent a letter to Secretary of the Interior Kenneth Salazar regarding a whistleblower disclosure by Guiseppi Grassi, Jr., a former employee, who had worked as an electrician at the Jamaica Bay Unit (Unit) of Gateway National Recreation Area (GATE). The whistleblower complaint outlined a number of concerns: a) lack of adequate protective equipment, b) improper obstruction of designated exit routes, and c) issuance of respirators without medical evaluation.

The letter from the Special Council also stated "The requirements of the report are set forth at 5 U.S.C. §1213(c) and (d)... At a matter of policy, OSC also requires that your investigators interview the whistleblower as part of the agency investigation when, as in this case, the whistleblower consents to the disclosure of his name."

Reporting requirements under 5 U.S.C. §1213(d) include:

- 1) A summary of the information with respect to which the investigation was initiated;
- 2) A description of the conduct of the investigation;
- 3) A summary of any evidence obtained from the investigation;
- 4) A listing of any violation or apparent violation of law, rule or regulation; and
- 5) A description of any action taken or planned as a result of the investigation, such as:
  - a) Changes in agency rules, regulations or practices;

- b) The restoration of any aggrieved employee;
- c) Disciplinary action against any employee; and
- d) Referral to the Attorney General of any evidence of criminal violation.

Per the October 8, 2009 memorandum from Acting Director Daniel Wenk, "two actions should occur immediately so that we may correct any deficiencies, address any leadership shortcomings, and respond to the Department."

1. The WASO Risk Management Division's Occupational Safety and Health Program Manager and Northeast Regional Safety Manager will conduct a comprehensive safety and health inspection of Floyd Bennett Field. A written report of the findings will be drafted and included in the response to the Department.
2. A Northeast Region senior leader will conduct a leadership assessment of Floyd Bennett Field to determine if the safety and health program is being implemented properly and if the program is fully supported by park leaders.

In completing these two actions, the assigned team had the responsibility to investigate the whistleblower's allegations that include issues pertaining to:

- **Personal Protective Equipment** – Not providing appropriate PPE or training in the use of
- **Exit Routes** – Blocking and Locking of
- **Respirators** – Not providing adequate and appropriate

**Investigation:**

A team of senior managers and safety professionals from the Northeast Region and the Washington Office of the National Park Service investigated the allegations. Regional Director Reidenbach tasked the Associate Regional Director for Park Operations to lead the investigation team (Team).

The Team included:

Linda Canzanelli, Associate Regional Director, Park Operations  
Michael May, WASO, Occupational Safety and Health Program Manager  
Michael Quinn, WASO, Occupational Health Manager  
Keith Newlin, Deputy Superintendent National Parks of Western Pennsylvania  
Jill Hawk, Regional Chief Ranger  
Dave Schuller, Regional Safety and Health Manager

The Team met at Fort Wadsworth, Park Headquarters for Gateway National Recreation Area on the morning of Wednesday, October 14, 2009. The Team clarified goals and objectives, and identified tasks and assignments.

GATE employee Brian Collier took the Team on a tour of Floyd Bennett Field and key facilities identified in the Special Council report. Gus Halouvas joined the Team for part of this orientation tour.

After the tour and over the course of the next week the Team conducted a series of interviews. Sixteen interviews were conducted in person or by phone. All interviews included at least two team members.

**Interview Schedule:**

The titles noted below are the titles that the employees held at the time of the incidents under investigation. Due to a reorganization there have been a number of job changes within the park in the past 6 months.

Tuesday, 10/13/2009

Mr. Guiseppi Grassi, Jr., Former Electrician (via phone)

Wednesday, 10/14/2009

Suzanne McCarthy, Acting Deputy Superintendent (in person)

Gus Halouvas, Maintenance Mechanic Supervisor (in person)

Kathleen Cuzzolino, Former Acting Park Safety Officer (in person)

Thursday, 10/15/2009

Christine Hoepfner, Union President and Management Assistant (in person)

Rick Barrett, Program Manager National Parks of New York Harbor and Chief of Asset Management for GATE (in person)

Nancy Wilson, Chief Human Resources (in person)

Dana Byas, Human Resources Specialist (in person)

Pete McCarthy, Former Acting Unit Superintendent Jamaica Bay Unit (in person)

Brian Collier, Facilities Operations Specialist (in person)

Stacy Barden, Maintenance Mechanic (in person)

Preston Baransky, Maintenance Mechanic (in person)

Tuesday 10/20/2009

Hollis Provins, Former Sandy Hook Chief Ranger (via phone)

Joe Green, Former Jamaica Bay Acting Assistant Unit Superintendent and Collateral Duty Safety Officer (via phone)

Wednesday 10/21/2009

Barry Sullivan, Superintendent (via phone)

Ricky O'Neill, Facility Manager Jamaica Bay Unit (via phone)

**Complaints and Investigation:**

All three whistleblower complaints were investigated.

- 1) Lack of adequate personal protective equipment – Mr. Grassi alleged that he and his co-workers, Stacy Barden and Preston Baransky, were instructed on March 9, 2009 by their supervisor, Gus Halouvas, to complete an arc welding assignment without being afforded proper protective equipment. Mr. Grassi and Mr. Baransky sustained arc burns on their face.

**Background:**

Gus Halouvas was hired by the National Park Service (NPS) less than two years ago. Prior to his employment by the NPS, he had no previous experience as a federal employee. For those on the Team who were familiar with Floyd Bennett Field it is obvious through observation and interviews that Mr. Halouvas has made significant positive changes in the condition and housekeeping of the buildings and facilities at Floyd Bennett Field. Although he has taken all of the mandatory ethics, computer and Privacy Act training there is no evidence that he has received any safety or supervisory training or mentoring in his new role as a federal supervisor. He does not have an Individual Development Plan that would identify critical training/developmental needs.

Mr. Halouvas holds regular tailgate safety meetings with his staff. He provided the Team with copies of sheets he uses to document these training sessions. The sheets include the topics and are signed by each staff members who is present and includes specific notations on who is absent.

Mr. Grassi stated to the team that he had been a certified welder, though his certification may have expired. Mr. Grassi also told Mr. Barden, Mr. Baransky and his supervisor, Gus Halouvas, that he was a certified welder. Mr. Halouvas did not ask for proof of Mr. Grassi's welding certification. Welding jobs at GATE are normally performed by the Park's automotive mechanic, William Gregory. According to payroll records Mr. Gregory was working on March 9, 2009. The welding equipment is stored at the auto

mechanics shop. The trailer-mounted arc welder was stored outside of the Vehicle Maintenance Shop and, for security purposes, the required personal protective equipment (PPE) is stored inside the Vehicle Maintenance Shop. The PPE includes all the appropriate gloves, eye and face protection. There is no evidence that there was a rush to complete the job on that day. There is no evidence that the proper safety equipment was unavailable to Mr. Grassi; however, Mr. Grassi did not go into the Vehicle Maintenance Shop to retrieve the PPE. Mr. Barden and Mr. Baransky stated they had no knowledge of welding and that they relied on Mr. Grassi's knowledge and experience.

Mr. Halouvas visited the jobsite while the work was underway. When Mr. Grassi told Mr. Halouvas that they did not have the proper PPE, Mr. Halouvas did not order Mr. Grassi to cease the welding operation.

#### Findings:

Mr. Grassi identified himself as a certified welder, which means that he was trained in shielding and the use of proper protective equipment. The proper PPE for welding was available on Floyd Bennett Field. There is no indication that park or unit managers or supervisors needed the welding job completed that day. Mr. Grassi performed the welding without the proper PPE endangering himself and his co-workers.

Mr. Halouvas stopped by the job site while the work was underway and should have ordered the work stopped when he saw that the proper protective equipment was not being used.

- 2) Improper obstruction of designated exit routes – Mr. Grassi alleged that Mr. Halouvas improperly blocked a series of designated exit routes in Building 98.

#### Background:

Each of the three floors in Building 98 (maintenance building) has three exits that lead to stairwells that exit the building. The stairwell in the southwest corner had broken windows on the third floor. These windows had been broken for years, which had allowed birds to access the stairwell where they roosted depositing large amounts of guano. Mr. Sullivan, former maintenance employee, called the Occupational Safety and Health Administration (OSHA) who came to the park on August 19, 2008 to inspect the stairways contaminated with guano. Their report dated February 23, 2009, states "I recommend that you voluntarily eliminate or reduce your employees exposure [to the contaminated areas]".

#### Findings:

The Unit staff including Mr. Halouvas; Unit Facility Manager, Richard O'Neill and Acting Unit Superintendent, Pete McCarthy relied on guidance from the Unit Collateral Duty Safety Officer/Unit Assistant Superintendent, Joe Green. Mr. Green had been a Regional Safety Officer for the NPS approximately 15 years ago.

Without seeking any additional advice or guidance, Mr. Green incorrectly interpreted OSHA's recommendation to mean that the doors to the exit/stairwell should be locked to prevent access, and because there would still be two remaining exits from each floor, that this did not violate any structural fire life safety code or federal regulations. Blocking the exit was a violation of OSHA standards. The Unit Managers did not seek any additional advice from other safety professionals.

Via contract, dated September 18, 2009, the bird guano was removed from the stairway and the openings through which the birds were gaining access were sealed. The doors to the southwest stairwell were reopened after the work was completed.

- 3) Issuance of respirators without medical evaluation – Mr. Grassi alleged that he and other employees were wrongly issued respirators without first being medically cleared by a physician or other licensed healthcare professional and that park management failed to address this problem.

#### Background:

A variety of maintenance employees, mainly grounds workers, were issued respirators. When Joe Green saw them with respirators he told the employees they needed medical approval before they could wear respirators and he sent them to a doctor. After the medical examination, Mr. Green fit the employees for respirators. He did not appear to use either a qualitative or a quantitative fit test method, the only approved means to conduct fit testing in accordance with the applicable Code of Federal Regulations. Mr. Green also asked the maintenance supervisors if any of their employees needed respirators as part of their work. Mr. Green and the supervisors decided that a respirator program was not required for the park because the jobs did not warrant it.

A memorandum, dated June 1, 2009, from Superintendent Pete McCarthy, validated that the Jamaica Bay Unit conducted an evaluation of employee position descriptions, performance standards, roles and functions that resulted culminated in a determination that a mandatory use of full face or half mask respirators is required or recommended for employees in performance of routine duties (Appendix A).

#### Findings:

Employees interviewed stated they were issued respirators without being medically cleared, properly fit tested, or trained on how to wear respirators; all were violations of 29 CFR 1910.134, *Respiratory Protection*.

The Unit staff including Mr. Halouvas; Unit Facility Manager, Richard O'Neill and Acting Unit Superintendent, Pete McCarthy relied on guidance from the Unit Collateral Duty Safety Officer/Unit Assistant Superintendent, Joe Green. Mr. Green had been a Regional Safety Officer for the NPS approximately 15 years ago.

Mr. Green did not know that in order to make a determination of whether or not employees need a respirator the park needs to implement a respiratory protection program, which must include a documented, thorough hazard analysis of every job and task being performed, not just a review of position descriptions. He also did not know how to properly fit employees with respirators and he did not seek any additional advice or guidance on this matter. The Unit Managers did not seek any additional advice from other safety professionals.

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## SAFETY INSPECTION AND FINDINGS



Mike Quinn, Dave Schuller, and Mike May conducted safety inspections of Building 98, Hangar B, Pump House 30, and Lift Station 154 on October 15, 2009. Mr. Brian Collier, Facilities Operations Specialist, Jamaica Bay Unit, accompanied the three inspectors throughout the inspection.

The inspection team encountered the majority of the hazards repeatedly in all four facilities, which was a clear indication that Park personnel were unaware of the requirements in the applicable safety and health standards. A professional safety and health specialist employed by the Park could have identified these deficiencies well before the complaint or inspection. The WASO Risk Management Division will provide Gateway with a comprehensive safety and health inspection report and a corrective action plan to assist with the correction of these hazards. The following is a list of the types of hazards identified during the inspection:

- Fire extinguishers in all building were not inspected or properly mounted—many extinguishers had not been inspected and documented since the mid 1990s
- Emergency eye wash stations in Bldg 98 were empty of water or saline solution and had no inspection documentation affixed or available
- Energized, exposed electrical wiring and energized, unprotected fuse boxes existed in Bldg 98, particularly on the third floor
- Flexible electrical (extension) cords were being used as permanent wiring and routed through openings in windows, ceilings, and doorways
- Flexible extension cords were wired directly into circuit breaker boxes
- Suspected friable asbestos floor tiling existed in Bldg 98 (third floor) and Lift Station 154. Neither location contained the proper signage warning personnel of the hazard
- A lead acid battery was stored, without spill containment, directly on the floor

- Used florescent light bulbs were stored in the path of an emergency exit on the third floor of Bldg 98. Although the park staff is commended for properly recycling/disposing of the florescent light bulbs the accumulation of bulbs appeared to be far longer than a 180-day supply
- In the Hangar B volunteer workshops, many of the machines lacked the required guards to prevent contact with moving gears, blades, and pulleys
- Many of the same machines were not secured to the floor to prevent tipping or equipped with under-voltage protection to prevent inadvertent restart
- Also in Hangar B, small handheld bottles of water or saline solution were available for emergency eye wash; however, an emergency eye wash station capable of delivering 15 minutes of continuous eye wash wasn't available
- Several oscillating floor fans located in Bldg 98 and Hangar B contained openings in the guards greater than ½ inch.

The Park also lacked written Control of Hazardous Energy (Lockout and Tagout) and Confined Space Entry programs. These programs must be tailored specifically for the Park and reviewed by the NER Safety Manager prior to implementation. The Park should also conduct a hazard analysis of its operations to determine if it also requires the establishment of a Respiratory Protection Program.

The comprehensive safety inspection report will also contain a management action plan to relay the corrective actions to the Northeast Regional Safety Manager, who will verify the corrective actions completely abated the hazards during his safety program evaluations.

In addition to the items identified in the letter from the Special Counsel, the Team also identified five other items that needed immediate corrective action. This list was given to the park at 4pm on October 15, 2009.

- 1) Building 98 (maintenance facility) - close the building until all exposed, energized electrical wires and fuse boxes are isolated and corrected; document everything that is done.

The electrical issues were corrected October 16, 2009 and documentation was provided.

- 2) Buildings 154, 75 and 89 (lift stations) - Close the buildings immediately due to friable asbestos floor tiles; sign the buildings appropriately; conduct an immediate asbestos study.

On October 16, 2009 two buildings were closed; signs were ordered. Asbestos study was just completed and sent to the park. Buildings 75 and 89 do not have asbestos floor tiles (photos documentation sent), they were not closed. Park staff will develop a

statement of work to hire a contractor to properly remove and dispose of the tiles in Building 154.

- 3) Building 30 (Pump House) – No one can go in the “pit” in the building until the park has implemented an approved "Confined Space Entry" program in accordance with 29 CFR 1910.146. Dave Schuller, Regional Safety Officer, must approve the plan.

While the Confined Space Entry program is being developed and approved the Park is working with New York City Fire Department for assistance in case emergency access is needed before the plan is complete.

- 4) Fire Extinguishers - Need to conduct a full review of all fire extinguishers within the Jamaica Bay Unit. Fire extinguishers need to be inspected and properly mounted.

October 20, 2009 a structural fire specialist, Tim Regan, from the Sandy Hook Unit came to the Jamaica Bay Unit and all fire extinguishers in Building 98 have been inspected and properly mounted. Documentation was provided.

- 5) Hangar B – The equipment shops used by the volunteers must be closed immediately. No one is permitted to use them until safety issues such as safeguards on saws, moving belts guarded and equipment is properly mounted. The shops must be inspected prior to re-opening. Mr. Halouvas must seek the assistance of a qualified occupational safety and health professional to determine the equipment hazards and requirements for guarding.

October 16, 2009 equipment shops were closed. All the equipment needs to be assessed for proper guarding. Gus Halouvas will be asked to inspect shops, assess needs and coordinate establishing proper equipment shops.



**Leadership Assessment (Linda Canzanelli – Lead, Jill Hawk, Keith Newlin)**

The Acting Director also asked that the Team conduct a leadership assessment of the health and safety program in the Unit and Park.

The park is undergoing a reorganization transitioning from Unit Superintendents to Unit Coordinators as the park organizes in a more a traditional organizational structure. The Unit Superintendent position at the Jamaica Bay Unit has been vacant for approximately

a year. The former Acting Unit Superintendent, Jamaica Bay Unit is now the Unit Coordinator Sandy Hook.

#### Senior Management Commitment to Safety:

All employees we talked to thought that there was support for safety from the Park Superintendent Barry Sullivan but they were unable to offer specific information about how this support was expressed. Many employees mentioned that former Deputy Superintendent, Billy Garrett (retired) stressed safety. Program Manager National Parks of New York Harbor and Chief of Asset Management for GATE Rick Barrett has only been at GATE since January 2009. Mr. Barrett said that he always talks about safety and stops unsafe practices that he sees them going on in the park but he also admitted that he rarely gets to any of the other Units or districts in the park. Consequently, the Jamaica Bay Unit maintenance staff has virtually no interaction with Mr. Barrett.

We heard numerous examples of senior managers stopping maintenance activities at Fort Wadsworth, site of the park's headquarters, when they observed unsafe practices. Senior managers rarely visit other Units except when they are going there for meetings. The challenge for management seems to be in making time to make safety a priority all the time, for every activity and every location in the park.

Senior management is very responsive and quick to correct issues when they are identified as part of formal reviews, by outside groups.

The Park Safety Manager retired 6 months ago and by all accounts was not the most effective, proactive safety professional. The park relies on Unit collateral duty safety officers. Due to the previous organizational structure, with each Unit run as a mini park, there was no formal interaction between the collateral duty safety officers. Although senior managers said that filling the safety position was a priority the position description has not been classified so the position has not been advertised. A series of park staff have been filling the role of acting park safety manager.

#### Safety Professionals in the Park's Organizational Structure:

It is difficult to gauge how much access the former park safety manager had to the superintendent or deputy superintendent.

The former organizational chart had the Park Safety Manager reporting to Jose Rosario, Supervisory Park Ranger, Office of Strategic Planning & Project Management, GATE. The current organizational chart has the Park Safety Manager reporting to Hollis Provins, Chief of Resource & Visitor Protection, GATE. Because of Mr. Provins commitment to safety this is a good short term solution but when Mr. Provins leaves the park the superintendent should reassess as to whether the Park Safety Manager should report directly to the superintendent.

Also, with more than 300 FTE the park needs more than one safety professional. If the park is reluctant to hire additional permanent safety personnel and given the park's proximity to New York City, an alternative may be to hire safety professions to work with and augment park staff.

#### Safety Committees:

The headquarters management team has regular safety meetings. The three Units each have their own safety meetings but there is little or no involvement in the Unit safety meetings from senior park management. There is no evidence of "All Employee" safety meetings. There is no evidence of park safety awards or park nominations for regional or national awards.

#### Safety Training:

There is no evidence of recent safety training for the collateral duty safety officers. There has been no widespread safety training at the park for staff. There has been no safety leadership training for park managers or supervisors.

#### Joe Sordi fatality:

A Staten Island Unit heavy equipment operator was killed in a work related accident on December 6, 2005. A Serious Accident Investigation Team made a number of recommendations. The parks seems to have taken corrective action on all the specific recommendations from the report, such as heavy equipment operator training, buying and wearing high visibility vest while conducting any activities on roadways, etc. Beyond these specific actions, even when asked specifically, no employee thought that the Sordi fatality had a significant impact on the safety culture of the park.

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### RECOMMENDATIONS



- 1) The quality of the welding on the Hanger B doors, which led to the complaint, is very poor and has a great potential for failure. The doors should not be used until a qualified welder removes the existing plates and re-welds them to the Hanger's sliding doors.
- 2) Fill the permanent Park Safety Manager position immediately with a full performance, professional safety officer.

- 3) The current organizational chart has the Park Safety Manager reporting to Hollis Provins, Chief of Resource & Visitor Protection, GATE. Because of Mr. Provins commitment to safety this is a good short term solution but when Mr. Provins leaves the park the superintendent should reassess as to whether the Park Safety Manager should report directly to the superintendent. In the interim everyone should know that the Park Safety Manager has priority access to the Superintendent and Deputy Superintendent.
- 4) With more than 300 FTE the park needs the services of more than one professional safety manager. If the park is reluctant to hire additional permanent safety personnel, and due to the park's proximity to New York City, an alternative may be to hire safety professions to work with and augment park the parks' safety manager, collateral duty safety officers and park staff.
- 5) The relationship between park safety program and regional and WASO safety managers needs to be strengthened. There should be regular contact between these groups so the park can be aware of and take advantage of the specialized resources available in the Regional Office and Washington. The WASO and Regional Safety Management staff will provide Gateway with a comprehensive safety and health inspection report and a corrective action plan to assist with the correction of these hazards. WASO and NERO staff will work with the park to develop additional guidance for the park, and until the park safety program is up and running, will work with the park to conduct onsite safety inspections.
- 6) As the Program Manager National Parks of New York Harbor and Chief of Asset Management for GATE Rick Barrett manages a number of projects and programs, and has an enormous span of control. Mr. Barrett is responsible for overseeing all major emergency projects at all of the National Parks of New York Harbor, as well as providing oversight and guidance to those parks' Facility Managers and the three Unit Facility Managers at GATE. The Facility Management program at GATE is undergoing significant changes at the same time as they are dealing with a number of major, long standing maintenance issues. Mr. Barrett is not able to give the GATE Facility Management program or Unit Facility Managers the oversight and direction needed during this transition period. The park should fill a permanent Facility Manager position, which would supervise the Unit Facility Managers. When the position becomes vacant, after the new organization is in place and has been running smoothly for a number of years, the park could reassess the need for this position. An alternative would be to hire a term Facility Manager for the park. Again, given the NYC location this may be a viable alternative.

- 7) Conduct Operational Leadership training for all park staff.
- 8) Develop a training and mentoring plan for Gus Halouvas. This plan should include supervisory as well as safety training and mentoring. The Individual Development Plan (IDP) should be reviewed by the Regional Safety Manager and the Associate Regional Director for Park Operations. Progress on the IDP should be tracked.
- 9) An appropriate, specific, safety performance element should be developed for ALL GATE employees. Performance elements should be tailored for senior managers, supervisors and employees.
- 10) Review maintenance work order priority setting procedures to ensure highest priority work receives management approval and safety review.
- 11) Formally update the "Park Safety Management Plan" and ensure that there is a Senior Management Safety Council with a functioning safety committee at each park unit. Every three months (Quarterly), the park Management Safety Council and the park Safety Officer should travel to one unit to complete a safety walkabout in coordination with the unit safety committee. An action list will be developed from that walkabout that the Safety Officer is responsible for tracking – and the appropriate discipline and safety committee will be responsible for ensuring the work is done or solution identified and presented to the park management team. Only when the entire park management team – including the park Superintendent – are seen in the field taking ACTION, will the safety culture at GATE turn to a positive one. The staff in the field are ready, they need safety leadership.
- 12) All Employees Safety Meetings should be held 2 times a year. During the meeting staff should review the lessons identified in the fatality of GATE employee Joe Sordi and other significant safety issues at the park.
- 13) Create a Joe Sordi Safety Awareness Recognition/Award that rewards employees who bring safety to the forefront by solving issues or by being proactive in the safety area.

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## CONCLUSION

Although significant, existing safety issues were identified by the Team they had little relationship to the safety issues in the original complaint. Park Management has a good track record of reacting to and correcting safety issues identified by outside groups (e.g., OSHA, SAIT, the Team). Park Management is not proactive about identifying safety issues internally and correcting them.

There is no evidence of willful violation of law, rule or regulation. The Team does not recommend that any disciplinary action be taken against any existing or former employee of Gateway National Recreation Area with regard to these complaints.

The Team does not recommend that Mr. Grassi be reinstated to his former position with Gateway National Recreation Area.

The Team does not recommend any changes in agency rules, regulations or practices.

NORTHEAST REGION



## DOCUMENTS

### Documents Reviewed and Available in Appendices:

- JABA Use of Full Face and Half Mask Respirators memorandum, dated 3/16/2009
- JABA Respiratory Protection Program Policy memorandum, dated 6/01/2009
- Occupational Safety and Health Administration (OSHA) JABA inspection report (#312497571), dated 2/03/2009
- JABA OSHA inspection report (#312497571) response, dated 2/09/2009
- Guiseppi Grassi Notice of Termination, dated 5/22/2009

### Documents Reviewed and Available Upon Request:

- Gateway NRA (GATE) Unified Safety Management Program, not dated
- GATE-JABA contract #C2011091691 (PMIS #135755), Design, Build, Repair Roof at building 30 and Electrical Systems at buildings 57 and 30, date issued 8/20/2009

- GATE-JABA contract (document # P1774090616), Remediation of Building 98, award date 9/18/2009
- Jamaica Bay Unit (JABA) Park Management Plan, dated 2/04/2009
- Indoor Environmental Inc., Indoor Air Quality report for GATE-JABA, dated 2/17/2009
- Harbor Parks (HAPA) Facility Management Program, dated 6/25/2009
- HAPA Work Control Center Management Plan, dated 6/19/2009
- Weekly Chief of Maintenance meeting minutes (dates: 6/11/2009, 10/29/2009)
- Supervisory documentation:
  - JABA Supervisor Gus Halouvas Email Diary, dated 4/23/2009
  - Employee Guiseppi Grassi written request for return of annual leave

NORTHEAST REGION

APPENDIX A – Memorandums Respiratory Protection



United States Department of the Interior

NATIONAL PARK SERVICE  
Gateway National Recreation Area  
Jamaica Bay Unit  
Building 69, Floyd Bennett Field  
Brooklyn, NY 11234

IN REPLY REFER TO:  
A7615 (GATE-JBU)

March 16, 2009

Memorandum

To: Division Chiefs, Activity Supervisors, JABA  
From: Superintendent, Jamaica Bay Unit, GATE  
Subject: Policy: Use of Full Face and Half Mask Respirators  
Reference: 29 CFR 1910.134 (c)(2)(ii), 42 CFR 84  
Director's Order #50, Chapter 16

As we approach spring and summer season, we wish to reiterate NPS Policy & OSHA Regulations regarding Employee Respiratory Protection Programs. All employees permitted use of a full face or half mask respirator must have approval from a physician, based on a physical medical exam. This is not a discretionary call for supervisors.

If employees wish to use a respirator on a voluntary basis during their tour of duty, they must still get clearance by a physician. If an employee purchases a personal respirator, they must still provide proof to supervisors that they have physician's approval and clearance to use the respirator during their tour of duty.

If an employee's assigned duties require use of a full face or half mask respirator, the supervisor is required to ensure that the full face or half mask respirator is the last measure of protection for the employee (after engineering & substitution controls have been exhausted). Then the supervisor must coordinate with the employee and administration for the employer to pay for a medical exam (and respirator) for the employee, before the employee is permitted use of a full face or half mask respirator to perform their job.

Supervisors are responsible for ensuring employee compliance with management policy germane to health & safety practices. The above rules are compliant with NPS policy and OSHA regulations germane to Employee Respiratory Protection Programs. Should you have any questions, please call Joseph Green at 718-338-3338, X-234.

  
Peter McCarthy



**United States Department of the Interior**

**NATIONAL PARK SERVICE**  
Gateway National Recreation Area  
Jamaica Bay Unit  
Building 69, Floyd Bennett Field  
Brooklyn, NY 11234

IN REPLY REFER TO:

A7615 (GATE-JABA)

June 01, 2009

Memorandum

To: Park Files, Jamaica Bay Unit, GATE  
From: Superintendent, Jamaica Bay Unit, GATE  
Subject: Respiratory Protection Program Policy, JABA  
Reference: 29 CFR 1910.134 (c) (2) (ii), 42 CFR 84  
Director's Order #50, Chapter 16

Evaluation and scrutiny of employee position descriptions, performance standards, roles and functions has resulted in an informed management determination & consensus of the following.

As of June 2009, the Jamaica Bay Unit of Gateway NRA has no occupational series, position titles or position functions in which mandatory use of full face or half masks respirators is warranted or recommended for employees in performance of routine duties.

Incidental employee exposures to hazardous materials discovered in activity establishments during performance of routine duties will be addressed by termination of the subject activity until recommended protective actions are implemented - appropriate for the type of exposure encountered. Employees will be informed of types of hazards encountered and trained in protective measures for types of hazardous encounters in compliance with 29 CFR 1910.1200.

If an employees' assigned duties require use of a full face or half mask respirator, the supervisor is required to ensure that the full face or half mask respirator is the last measure of protection for the employee (after engineering & substitution controls have been exhausted). Then the supervisor must coordinate with the employee and administration for the employer to pay for a medical exam (and respirator) for the affected employee, before the employee is permitted use of a full face or half mask respirator to perform assigned tasks.

Page 2 of 2

Per NPS policy & applicable regulations, employees permitted voluntary use of a full or half mask respirator will secure authorization from a physician, subsequent to medical examination, to use a full face or half mask respirator in performance of official duties. This is not a discretionary call for supervisors.

Medical authorization for voluntary use of a full face or half mask respirator is borne at the employee's expense.

Supervisors are responsible for ensuring employee compliance with management policy germane to health & safety practices.

The above policy is compliant with NPS policy and OSHA regulations germane to Employee Respiratory Protection Programs (29 CFR 1910.134 (c)(2)(ii)).

Should you have any questions, please call Joseph Green at 718-338-3338, X-234.

Pete McCarthy

Cc:  
Assistant Superintendent, JABA  
Program Managers, JABA  
Facility Manager, JABA  
Collateral Duty Safety Officer, JABA  
Safety Manager, GATE

NORTHEAST REGION

APPENDIX B – OSHA Correspondence



U.S. Department of Labor

Occupational Safety and Health Administration  
Manhattan Area Office  
201 Varick Street, Room 808  
New York, New York 10014  
212-620-3200 Fax: 212-620-4121  
OSHA Website: <http://www.osha.gov>



February 03, 2009

Mr. Pete McCarthy, Assistant Superintendent  
National Park Service/Gateway/Jamaica Bay Unit  
Building 69, Floyd Bennett Field  
Brooklyn, NY 11234

Inspection # 312497571

06-02-09P03:59 REV0

Dear Mr. McCarthy:

An inspection of your worksite, located at the Floyd Bennett Field, was conducted on August 19, 2008, disclosed the following hazards:

In the building 98, on the 3rd floor of the southwest corner and southwest stairwell, excessive amounts of bird droppings are found on the floor area. This condition may expose employees to dust that may be contaminated with biological hazards. The biological hazards associated with bird droppings have been medically linked to illness in the form of psittacosis, cryptococcoses, and histoplasmosis.

Since no OSHA standard applies and it is not considered appropriate at this time to invoke Section 5(a)(1), the general duty clause of the Occupational Safety and Health Act, no notice of Unsafe or Unhealthy Working Condition will be issued for this hazard. In the interest of work place safety and health, however, I recommend that you voluntarily eliminate or reduce your employee's exposure to the hazards describe above.

- Eliminate access to the area until adequate cleanup has been done.
- Provide respiratory protection suitable for the purpose intended (HEPA Filter) and establishing a respirator program.
- Assuring adequate ventilation in the work area.
- Establish a "Bird droppings disease" training and prevention program which includes:
  - \* A description of the signs and the symptoms associated with disease linked to bird droppings.
  - \* Good housekeeping and work practices procedures.
  - \* Instructing workers to immediately report to the employer the development of any adverse signs and symptoms consistent with disease linked to bird droppings.



## United States Department of the Interior

NATIONAL PARK SERVICE  
Gateway National Recreation Area  
Jamaica Bay Unit  
Building 69, Floyd Bennett Field  
Brooklyn, NY 11234

IN REPLY REFER TO:

A7615 (GATE-JABA)

February 09, 2009

Richard Mendelson, Area Director  
Occupational Safety and Health Administration  
Manhattan Area Office  
201 Varick Street, Room 908  
New York, New York 10014

Reference: Inspection # 312497571

Dear Mr. Mendelson;

Thank you for the opportunity to respond to the referenced site inspection deficiencies. Below please find the national park's response to the "Notice of Unsafe or Unhealthful Work Conditions" report dated, February 03, 2009. The report was received in the park February 13, 2009.

Relative to OSHA recommendations for voluntary compliance in the report, National Park Service has completed Indoor Air Quality monitoring and sampling of Building #98 by an approved vendor. The national park is abiding by recommendations as prescribed in the I.A.Q. Report from Oasis Indoor Environmental, Inc. The building #98 3<sup>rd</sup> floor has been signed and employee access to the areas of bird droppings has been restricted. Park management is identifying a vendor to abate (clean-up) the bird droppings in the obsolete stairwells (not used).

Inspection Citation #01, Item #01, Item #02, Item #03 and Item #04 were corrected by park Facility Maintenance - Buildings & Utilities Foreman, Gus Halouvas, within fourteen (14) days (by September 02, 2008) from the date deficiencies were identified.

#### Actions Taken:

Inspection Citation #01, Item #01 & Item #02: Identified electrical boxes were secured closed and labeled. Exposed live wires were secured and signed. Electrical switch panel boxes were labeled as per requirements, i.e.; 29 CFR 1910.303

Inspection Citation #01, Item #03 & Item #04: 3<sup>rd</sup> floor areas of Building #98 on which encapsulated pipe and asbestos containing materials (ACMs) were found were immediately signed to warn employees of ACMs. Signing was posted to restrict access to the 3<sup>rd</sup> floor area to "Authorized Personnel" only. Employees exposed to the area were informed orally and in writing of the ACMs on the Building #98, 3<sup>rd</sup> floor.

Actions Taken:

Inspection Citation #02, Item #01, was resolved between OSHA Site Inspector Kyaw Thein and NPS Employee Relations Officer, Dana Byas. The reporting issue (discrepancy) was identified as a software fault between DOL computer software programs that do not interface with the OSHA Form 300 to provide accident causal details as required by OSHA. Specifically, Department of Labor, Office of Worker Compensation Programs (DOL - OWCP) software, used in tandem with the National Park Service's electronic accidents reporting system, i.e.; Safety Management Information System (SMIS), does not interface with the software for inputting accidents and detailed causal factors into the OSHA Form 300.

Inspection Citation #02, Item #02a and Item #02b deficiencies were resolved by bringing the national park's documented Respiratory Protection Program (RPP) into compliance with RPP Program requirements as defined by 29 CFR 1910.134.

Actions Taken:

Inspection Citation #02, Item #02a & Item #02b: The park discontinued use of toxic and hazardous substances that warranted implementation of a mandatory Employee RPP - to protect employees from unhealthful exposures. The park Safety Officer ceased (immediately) to provide half face and full face respiratory protection to employees upon request. Employees who request voluntary use of respirators are now required to comply with 29 CFR 1910.134 by undergoing a physical examination by a physician in advance of use. Park management is evaluating its RPP to determine if a RPP is warranted.

The safety and health of employees is of primary importance to National Park Service. We trust that you will find the above described abatement actions have been extremely responsive to deficiencies identified in your "Notice of Unsafe or Unhealthful Work Conditions" dated February 03, 2009. Please contact Joseph Green, Assistant Superintendent at 718-338-3338, X-234, should you have need for additional communications regarding the above abatement actions. Also, Mr. Green may be reached by cell phone at 917-295-9926.

Sincerely,

Pete McCarthy  
Superintendent  
Attachment

Cc: Assistant Superintendent, JABA  
Chief, Human Resources, GATE  
Facility Manager, JABA

NORTHEAST REGION

APPENDIX C— Employee & Supervisor Documentation



United States Department of the Interior

NATIONAL PARK SERVICE  
Gateway National Recreation Area  
Jamaica Bay Unit  
Building 49, Floyd Bennett Field  
Brooklyn, NY 11234

IN REPLY REFER TO:  
P4019(GATE-AHR)

May 22, 2009

Memorandum

To: Guiseppi Grassi, Electrician, Gateway National Recreation Area,  
Jamaica Bay Unit

From: Gus Halouvas, Building & Utilities Foreman, Gateway National Recreation Area  
Jamaica Bay Unit

Subject: Notice of Termination during Probationary Period

This is to notify you that you will be terminated from your position as Electrician, WG-2805-10, at Gateway National Recreation Area, Jamaica Bay Unit, effective at the close of business on May 26, 2009. This termination is based on Laxity in the Performance of your Duties.

You were hired as an Electrician, WG-2805-10 on September 28, 2008 and assigned Gateway National Recreation Area, Jamaica Bay Unit. On February 17, 2009, I directed you to clean out and organize the electrical shop which is your area of responsibility and I gave you two weeks to accomplish this task. Later that day, at approximately 2:30 p.m., I observed that the electrical shop was locked and you were sitting in the lunch room in Building 98 watching television and conversing with your co-workers. When I reminded you about your assigned task of cleaning the electrical shop you stated that you were going to attend to it.

On Wednesday, February 25, 2009, I instructed you once again to organize the electrical room. During this conversation, I also explained to you that although you have other responsibilities as an electrician, you must make the time to clean and organize the electrical shop. I suggested to you that we will need to meet so that we can set up a schedule and set time aside in order for you to complete this task. You did not respond at that time, nor have you requested to meet with me to set up a time to complete this responsibility.

On April 2, 2009, during the morning meeting, I gave you an assignment to locate the necessary electric meters through the various supply houses to replace the existing electric sub-meters. I then directed you to organize the electrical shop along with the second floor room that has mostly been emptied by your co-workers of other electrical supplies. At 8:20 a.m., you entered Brian Collier's office. When I asked why you were there, you stated that you were waiting for a phone call. Brian Collier's office was not your assigned place of duty. At 8:35 a.m., while inspecting the lift station at

TAB 4b-1

Building 98, I observed you talking with your co-workers instead of completing your assigned task. At 8:50 a.m., I observed you talking with your fellow co-workers instead of completing your assigned task. At 9:00 a.m., you came to my office in Building 98 and asked for the rest of the day off since there was nothing else that needed to be done. At first, my response was, "No" because your requests for leave were occurring too frequently. I also disagreed with your statement that there was nothing else to be done as there was plenty of work to be done. You responded, and stated that I cannot stop you if you were feeling sick. At this point I stated to you that you did not mention that you were sick. You stated that you and your girlfriend were sick and you wanted to go home and check on her. I informed you that if you are taking sick leave, you need to provide me with a leave slip. On the same day, I received a call from Administrative Officer Mary Price asking for a copy of your Employee Performance Appraisal Plan (EPAP) as per Human Resources Officer Nancy Wilson's request. When I went to Brian Collier's office, I called Ms. Wilson to ask her why a copy of the EPAP was needed. She stated that you were over at the Staten Island Unit, Gateway NRA Headquarters requesting a copy of your EPAP.

On April 3, 2009, during our daily morning meeting, everyone was given their work assignments. I directed you to finish your incomplete assignment from the day before to locate the electrical meters through the various supply houses and then to work on organizing the electrical shop. After the meeting, I approached you alone in the hallway and asked what was going on. You responded, "What do you mean?" I said to you that you requested sick leave and decided to go Human Resources in Ft. Wadsworth, Staten Island. Your response was that you needed a copy of your position description. I informed you that I could have given you a copy of your position description and could have made arrangements for you to see someone in Human Resources or the Union. You should not be telling me that you are sick and needed to go home, when that was not the case. You responded, "Then deny my leave slip", shrugged your shoulders, and abruptly turned around and walked away.

To date, the electrical shop remains uncleaned and in a state of disorganization.

On April 14, 2009, I entered Building 98 at approximately 11:20 a.m. and observed you finishing your lunch. At approximately 12:35 p.m., I observed you still on your lunch break along with the rest of your co-workers. Before I left, I handed you a light sensor and informed you that I wanted you to install the sensor in Building 69. When I returned to Building 98 at approximately 2:35 p.m., you were still sitting in the lunch room doing some form of paperwork. When I asked if you installed the sensor for verification, you replied, "No, but I'm sure it will fit".

On Wednesday, April 15, 2009, during our daily morning meeting, I announced that Mr. Jorge Colon will be Acting, Building & Utilities Foreman during my absence. I informed you that I wanted you to return and install the light sensor as I had requested on April 14, 2009. I also asked that you complete previously assigned light repairs in Building 69.

During my absence on annual leave from April 16, 2009 through April 22, 2009, I had left specific work assignments for you consisting of work order #2960445 - Building 69 to remove all light switches and install motion sensors, work order #2960499 - Building 98 to remove all light switches and install motion sensors, and work order #2960445 - Bay 9 Concession to check/repair ANSCO system exhaust. The work assignments were not completed and were behind schedule.

TAB 46 - 2

Your continued laxity in the performance of your duties specifically your inability to complete assigned tasks has had a negative impact within the Buildings and Utilities Division, Jamaica Bay Unit, Gateway National Recreation Area. I have determined to terminate you from employment with this agency because of your misconduct. I have determined that your continued employment does not promote the efficiency of the service.

As a probationary employee, you have no right of appeal to the Department nor is this decision subject to review under the negotiated Department grievance procedure. You may, however, request a reconsideration of this decision through an oral and written presentation to the next higher level of supervision. If you should choose to request such consideration, your presentation must be made to Richard O'Neill, Supervisory, Facility Operations Specialist at (718) 338-3338, extension 240. The request may be made between the date you receive this notice and the effective date of your separation.

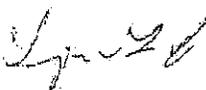
You may appeal this decision to the Merit Systems Protection Board (MSPB) on the grounds that your separation was based on partisan political reason or marital status. You may also appeal to MSPB if you allege that your separation was based on discrimination because of race, color, religion, sex, age (provided that at the time of the alleged discriminatory action you were at least 40 years of age), national origin, physical or mental handicap only if you raise a discriminatory issue in addition to the reasons of partisan politics or marital status.

Your appeal, if any, to the Merit System Protection Board, should be in writing and directed to the Merit Systems Protection Board, New York Field Office, 26 Federal Plaza, Room 3137-A, New York, New York 10278-0022. The appeal may be submitted any time after receipt of this notice of separation, but no later than 30 calendar days after your separation has been affected. Enclosed is a copy of the MSPB regulations and appeal form.

If you have any questions concerning the reason for your separation, your appeal rights, the procedures to be used in filing an appeal, or any other aspect of this matter, you may contact, Dana L. Byas, Human Resources Specialist (Employee Relations) at 718-354-4538 for more information.

  
Gus Hatzivas

Attachment: MSPB Appeal Application, Form Number: OMB No. 3124-0009

 5/26/09

TAB 46-3

- End of Report -

