

## Whistleblower Comments DI-14-2623

Mr. Johnson's Allegations: Mr. Johnson served as FLWO facilities manager from May 5, 2013 until May 3, 2014. As facilities manager, he was responsible for FLWO operations, including, among other duties, safety, equipment inspections, and the maintenance of buildings and roads. On April 22, 2014, Mr. Johnson was provided notice that he would be separated from Federal service prior to the expiration of his probationary period.

*If this is going to be the the only comments about my responsibilities then there should be addition verbage: Safety was not one of the primary job duties in my job description, which surprised me. Safety was NOT a topic that I was evaluated for in my mid-term review. It should be emphasized that safety was/is not a top priority at the Smithsonian; I started required weekly staff meetings, the first local safety meetings that any person that had worked at FLWO had ever been required to attend. Several persons who have worked at FLWO for 20 or more years had never been to required to attend regularly scheduled safety or staff meetings. Safety was the first and most important agenda item at every weekly staff meeting that I held during my tenure at FLWO. Considering the many hazards: very steep and dangerous mountain roads that were many time covered in ice and snow, heavy rain wash-outs on the road, snakes, venomous insects, operating heavy equipment on mountain roads, driving at night, climbing on structures by untrained students and observers, the threat of wild fires, active illegal drug trafficking and transportation of drugs through our site to mention a few. Safety should have been the the top priority at FLWO. I tried very hard to make it so.*

*The staff in Cambridge never informed me (during my initial interview or afterwards) of the many issues regarding failing infrastructure, no equipment planning or scheduling system, no industry standard equipment service history, only minor notes, no industry standard update training for technicians servicing the vehicles, no certified technicians servicing the fleet. No mention or forewarning about the failing roads and buildings that had not been properly maintained: i.e., we had to scoop animal dung out with a scoop shovel in 4 buildings that had not been maintained for years. The road was/is deteriorated to the point where the direct burial electrical cables were/are being exposed at the surface of the road. (this was one of the issues I was in the process of remediating). Heavy rain run off had deteriorated the road in many areas to the point that it was not wide enough to safely pass. I do not know if the road improvement project that I initiated is finished, it was not finished when I left.)*

The investigation team visited the FLWO site on May 5, 2014 with explicit directions from senior Smithsonian leadership to conduct an impartial and transparent assessment of Mr. Johnson's allegations. The team was divided into two groups: the first was charged with investigating allegations regarding industrial hygiene, safety, and maintenance issues, the second with personnel issues that the Smithsonian does not believe are part of OSC's referral.

*Since safety was/is not the first priority of the Smithsonian, I challenge this statement; what safety training and/or certifications did the "senior Smithsonian leadership" have that would qualify them to make these inspections?*

The following FLWO staff were interviewed in Arizona (positions reflect those held at time of interview):

Grace Alegria, FLWO Administrator

Steve Criswell, VERITAS Program Manager  
Emilio Falco, Ridge Telescope Astronomer  
Pascal Fortin, Observatory Manager  
Robert Hyne, Maintenance Worker

Cesar Lopez, Automotive Worker

Wayne Peters, Electronic Technician

Ricardo Ortiz, Assistant Mountain Operations Manager, MMTO

Emmet Roche, Physical Science Technician  
Daniel West,

## Whistleblower Comments DI-14-2623

Supervisory Automotive Mechanic Grant Williams, Director,  
MMTO

*2 persons were not interviewed that would have been crucial to getting a different points of view, Larry Simkins and Don Gallup.*

On May 6, 2014, the Occupational Safety and Health Administration (OSHA) conducted an unannounced health and safety inspection at FLWO. OSHA was informed that the investigation team was simultaneously conducting its own review. On June 5, 2014, OSHA issued FLWO four citations, including two deemed "serious": inadequate first aid training and an improperly maintained John Deere 644E front loader. The remaining two citations, related to the maintenance of the OSHA 300 log, were characterized as "other than serious." The investigation team has relied on the OSHA citations and the Smithsonian's response for this report.

*I spoke with John Lapiana on Nov 28, 2014. I asked about this response and why only the John Deere 644E loader was mentioned and not all the equipment. He said that all the equipment was in the OSHA report but that they just mentioned this one. I feel it is important to know that all the equipment was not being maintained adequately.*

- o The investigation confirmed the allegation that FLWO lacked complete and/or adequate fall protection and/or heavy equipment training at the time of Mr. Johnson's allegation. The investigation did not confirm any deficiencies in the training or certification of mobile crane operators.

*Mobel crane operators (including fork lift and man lifts) should require annual recertification. I asked if the persons operating these types of equipment for their certifications, none could produce them.*

The investigation confirmed the allegation that the front-end loader maintenance and inspection records were not properly maintained. Evidence did not support the allegation that required motor accident reports were not completed.

*I know 3 such accidents that were not reported on the 2013 Annual Safety Report to OSHA. I do not have all the specifics but this is my best recollection:*

*A ¾ ton service vehicle was in an accident that required replacement of a wheel and the bumper to be straightened. One of two service technicians would have been in the accident, Robert Hyne or Don Gallup*

*Ricardo Ortiz backed into a 4' deep bar ditch on the mountain and damaged a passenger car. The rear bumper, under carriage and rear tail light had to be repaired/replaced.*

*A Jeep being driven by an observer was in an accident, I do not know the driver. I saw the damage; the rear bumper was bent and rear tail light had to be replaced/repared.*

*I am sure that a review of the purchasing transactions for the year would indicate that parts to repair these vehicles were purchased.*

Following Mr. Welch's retirement and Mr. Johnson's separation, Dr. Marc Lacasse was assigned interim safety coordinator. The investigation team did not find any Smithsonian policy violations in Dr. Lacasse's interim appointment.

*Dr Lacasse is a scientist and I challenge his training, experience or certifications to be effective as a Safety*

## Whistleblower Comments DI-14-2623

*Coordinator. Once again, the Smithsonian's culture does not seem to put safety as a top priority. Why would you assign such an important responsibility to a scientist with no background in safety?*

II Protection Training. The Smithsonian Safety Manual provides that "a specific fall protection program shall be provided to each employee who might be exposed to fall hazards in accordance with the requirements of 29 C.F.R. 1926.503," Safety Manual at 10-9. The investigation team reviewed records indicating that, as of May 2014, seven employees had taken fall protection training contrary to the allegation "no fall protection training [was] conducted." OSC Letter at 3, However, the investigation team confirmed Mr. Johnson's allegation that there is no certified fall protection trainer currently at FLWO and that, as a result, fall protection training taught by internal staff was not being offered at that time.

*This seems very vague and understated, for over a year many persons were/have been climbing on telescope structures (some 50 plus feet in the air) and operating man-lifts sometimes daily without proper fall protection devices or training. The risk involved with this activity is high.*

Mobile Crane Training and Certification. As noted in the OSC letter, FLWO uses mobile cranes to perform maintenance on building and the Mount Hopkins Road. OSC Letter at 4. Mr. Johnson alleges that no staff member was certified or had the training necessary to operate a mobile crane. The investigation team noted that current OSHA guidance does not require crane operators certification until November 10, 2017. See Federal Register, Vol. 79, NO. 187, Pages 57785-57798 (Sept, 26, 2014).

The investigative team found that only one staff member is permitted to operate the cranes, that he has been sufficiently trained, and that better documentation should be maintained to reflect relevant crane training.

*In fact several persons operated the cranes while I was there. None of which had gone through specific crane operating training or certification.*

The investigation team found that an outside contractor inspects FLWO cranes and that central OSHEM staff reviews the inspection records periodically. On September 24, 2014, OSHEM reviewed FLWO inspection records and concluded that they were compliant and complete.

*I challenge this as there are no planning, scheduling and maintenance systems at FLWO. No manufacturers recommended maintenance was performed on any vehicle at the site. There are no records to indicate differently.*

The investigation team did not find evidence to support these allegations. The team noted that the photo book of accidents relied upon by Mr. West documented both Smithsonian and non-Smithsonian accidents. Contractors and visitor vehicle accidents are not reported to agency management, as would those involving Smithsonian vehicles. Similarly, Mr. West denied the statements attributed to him that staff were discouraged to report accidents.

*This statement cannot be substantiated; where are the accident reports for the 3 accidents that did happen during 2013? Many of the photos were of FLWO vehicles, I could not find accidents reports for any of them.*