GENERAL COUNSEL OF THE
UNITED STATES DEPARTMENT OF COMMERCE
Washington, D.C. 20230

August 11, 2014

The Honorable Carolyn N. Lerner
Special Counsel
United States Office of Special Counsel
1730 M Street, NW
Washington, DC 20036

Dear Ms. Lerner:

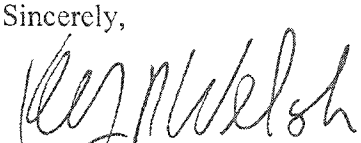
Enclosed is the Department of Commerce's report in response to your letter of July 19, 2013, referring the allegations of three individuals regarding the Department's management of asbestos in the 8th floor attic of the Herbert C. Hoover Building. The individuals raised questions about the Department's responses in 2011 to your office regarding findings of mismanagement, particularly with respect to certain air sampling conducted in early 2007, the Department's identification of certain officials as bearing responsibility for mismanagement, and the investigation and report by the Department of Commerce Inspector General ("OIG").

In response to your request, the Department asked the United States Patent and Trademark Office ("USPTO") to interview the individuals, conduct a record review of this matter, and prepare a report addressing (1) whether the air sampling reports referenced in the July 19 Letter reasonably support a conclusion that the Department's asbestos program in the Herbert C. Hoover building was mismanaged during that time frame; (2) whether there is sufficient evidence to conclude that Mr. Edgar Lee was potentially exposed to impermissible levels of airborne asbestos in the building's 8th floor attic; and (3) whether there is sufficient evidence to conclude that [redacted] and [redacted] were responsible for mismanagement of the asbestos program, if any. We also referred certain allegations regarding the conduct of the OIG back to your office.

Pursuant to a delegation of authority from the Secretary, we have reviewed the enclosed USPTO report and memorandum responding to the report, we concur with the findings and recommendations, and we submit them as our agency report. Specifically, the Department wishes to amend its responses to your office in 2011 such that [redacted] is not identified as someone bearing responsibility for asbestos program mismanagement. We also wish to clarify those responses such that [redacted] is not identified as bearing any responsibility for mismanagement that occurred before July 2006.

As we noted in our letter of February 3, 2011, the Department takes seriously the need to ensure that employees, contractors, and the public are provided with a safe building. In 2011, we developed and implemented an even more robust asbestos management plan to build on the corrective measures that already had been instituted in 2007 and 2008. The Department appreciates the efforts of the individuals to bring this matter to our attention, and I thank you for the opportunity to respond.

Sincerely,



Kelly R. Welsh
General Counsel

Enclosures

August 7, 2014

MEMORANDUM FOR: Kelly Welsh, General Counsel

FROM: Justin Antonipillai, Deputy General Counsel and Acting Chief of Staff

SUBJECT: USPTO Report on Referral from the Office of Special Counsel

On July 19, 2013, the United States Office of Special Counsel ("OSC") referred the allegations of three individuals to the Department of Commerce. These individuals, [redacted], and Mr. Edgar Lee, raise questions regarding the Department's responses to OSC in 2011 related to findings of mismanagement of the Department's asbestos program in connection with the 8th floor attic of the Hoover Building. The Department responded to OSC on February 3, 2011, February 28, 2011, and April 25, 2011 ("2011 Responses").

Specifically, the individuals challenge three findings from the 2011 Responses: 1) mismanagement of the asbestos program; 2) Mr. Lee's presence in the attic and thus his potential exposure to impermissible levels of airborne asbestos; and 3) the identification of [redacted] as Office of Administrative Services ("OAS") officials bearing responsibility for the mismanagement.

In connection with the OSC referral, we requested the United States Patent and Trademark Office ("USPTO") to conduct a review of the issues raised by the three individuals, and we referred back to OSC the individuals' allegations related to the conduct of the Department of Commerce Inspector General ("OIG"). This memorandum summarizes USPTO's findings, makes recommendations for the Department, and transmits the Secretary's Delegation of Authority authorizing you to review and submit an agency report to OSC and to take appropriate action. *See* 5 U.S.C. § 1213.

Question 1: "Whether the air sampling reports referenced in the July 19 Letter reasonably support a conclusion that the Department's asbestos program in the Herbert C. Hoover building was mismanaged during that time frame."

<u>USPTO Report</u>: "[T]he air sampling reports referenced in the 2013 OSC referral could reasonably support the conclusion that the Department's asbestos program in HCHB was mismanaged during the 2003-2007 time frame."

<u>Recommendation</u>: We recommend the Department concur with USPTO's finding regarding mismanagement of the asbestos program, which is consistent with the

Department's 2011 Responses. Accordingly, we do not recommend amending the 2011 Responses with respect to the finding of asbestos program mismanagement.

We note that, in connection with the 2011 Responses, OIG made five recommendations with respect to improving the Department's management of asbestos. The Department concurred with those recommendations, and it developed and implemented a more robust Asbestos Management Plan at that time.

Question 2: "Whether there is sufficient evidence to conclude that Mr. Lee was potentially exposed to impermissible levels of airborne asbestos in the building's 8th floor attic."

USPTO Report: "[T]he persons conducting this inquiry are not technical experts in asbestos training, methodology or interpretation of air-sample results. As such, we do not present our own views regarding whether Lee was potentially exposed to impermissible levels of airborne asbestos in the 8th floor attic. However, if as DOC states in its report, the test results demonstrate that any employees who accessed the building's 8th floor attic in the 2003-2007 timeframe were potentially exposed to impermissible levels of airborne asbestos, we believe sufficient evidence exists that Lee was in the attic at least a few times in that time period."

Recommendation: We recommend the Department concur with USPTO's finding regarding Mr. Lee's presence in the 8th floor attic, which is consistent with the Department's 2011 Responses. Accordingly, we do not recommend amending the 2011 Responses with regard to Mr. Lee's potential exposure to impermissible levels of airborne asbestos in the 8th floor attic.

Question 3: "Whether there is sufficient evidence to conclude that [redacted] were responsible for mismanagement of the asbestos program, if any."

USPTO Report:

a) "As to [redacted], our response is that there is not sufficient evidence in this record to show that [redacted] was responsible for mismanagement of the asbestos program before [redacted] in the Office of Administrative Services (OAS). If, as the Department states in its 2011 report, [redacted] was responsible for mismanagement of the asbestos program when [redacted] in the OAS, then at most, [redacted] may have had limited responsibility for not confirming and documenting final completion of the corrective measures from September 2007-January 2008."

Recommendation: We recommend the Department concur with USPTO's findings regarding the lack of sufficient evidence to show [redacted] was responsible for mismanagement of the asbestos program. In light of USPTO's findings, we recommend amending the 2011 Responses such that [redacted] is no longer identified as someone bearing responsibility for mismanagement of the asbestos program.

b) "As to [redacted], our response is that this record contains some evidence to show that [redacted] was responsible for at least some mismanagement of the asbestos program."

Recommendation: We recommend the Department concur with USPTO's finding regarding [redacted]. The USPTO Report details some of the actions [redacted] took to ensure proper corrective measures were put in place, but it also finds that [redacted] bore ultimate responsibility for mismanagement [redacted] OAS. We do not recommend amending the 2011 Responses with regard to [redacted], with one clarification. [redacted] alleges [redacted] joined the Department in 2005 and joined OAS in July 2006. The USPTO Report finds that, if those dates are correct, [redacted] cannot be responsible for mismanagement before [redacted] joined OAS. We recommend the Department concur and clarify its 2011 Responses such that [redacted] is not identified as someone bearing responsibility for mismanagement of the asbestos program before July 2006.

cc: Ellen Herbst, Chief Financial Officer and
Assistant Secretary for Administration

Attachment

UNITED STATES DEPARTMENT OF COMMERCE
The Secretary of Commerce
Washington, D.C. 20230

DELEGATION OF AUTHORITY

Pursuant to the authority vested in me as the Secretary of Commerce, I hereby delegate to the General Counsel, Kelly Welsh, the authority to review and submit to the United States Office of Special Counsel the report required by 5 U.S.C. § 1213(c) in connection with the Office of Special Counsel's referral letter of July 19, 2013. In addition, I delegate to the General Counsel and to the Chief Financial Officer and Assistant Secretary for Administration, Ellen Herbst, as is necessary, the authority to take any appropriate action. Specifically, I direct the General Counsel to review, sign, and transmit to me and the Special Counsel an agency Report to the Special Counsel that contains all of the requirements of 5 U.S.C. § 1213(d). I further direct the General Counsel and the Chief Financial Officer and Assistant Secretary for Administration, as necessary, to take appropriate action.

DATE: August 7, 2014

Penny Pritzker

UNITED STATES PATENT AND TRADEMARK OFFICE

ADMINISTRATIVE INQUIRY REPORT

TO: Justin Antonipillai
Deputy General Counsel
United States Department of Commerce

THROUGH: James Payne JP by MLC
Deputy General Counsel for General Law, Office of the General Counsel
United States Patent and Trademark Office

FROM: Maria Campo MLC
Senior Counsel for Employment Litigation, Office of the General Counsel
United States Patent and Trademark Office

Chieko Clarke CMC
Associate Counsel, Office of the General Counsel
United States Patent and Trademark Office[1]

DATE: July 24, 2014

SUBJECT: OSC File Nos. DI-10-0454, DI-13-0405, and DI-13-2292 re: OIG Asbestos Investigation

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This memorandum summarizes the administrative inquiry conducted at the request of the United States Department of Commerce ("DOC" or the "Department") Deputy General Counsel in reference to the Office of Special Counsel (OSC) written referral dated July 19, 2013 (OSC File Nos. DI-10-0454, DI-13-0405, and DI-13-2292) ("2013 OSC referral"). Tab N.[2] This inquiry evaluates allegations by three complainants (whistleblowers) related to a 2010-2011 investigation by DOC concerning asbestos management practices of DOC. Tabs C, D, E, N, and 2nd R. DOC's 2011 investigation report found in particular that DOC mismanaged asbestos in the 8th floor attic at the Herbert C. Hoover Building (HCHB) in a 2003-2007 timeframe. Tab C2. In a supplemental investigation report, DOC attributed the mismanagement to three former DOC employees. Tab E. Two of these former DOC employees submitted complaints concerning these findings to OSC. In the 2013 OSC referral, OSC referred those two complaints, along with a third complaint, to DOC. Tab N.

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[1] Kimere Kimball, former Associate Counsel in the Office of General Law aided in this investigation. She transferred to another agency before this report was finalized.
[2] Tabs refer to tabs in the binder of documents that accompany this report.

DOC asked the United States Patent and Trademark Office (USPTO) to conduct an inquiry to assist in the response to the 2013 OSC referral. DOC asked USPTO to interview the three complainants and ultimately asked the USPTO to conduct a record review and respond to three questions. [3]

This Administrative Inquiry Report is the result of the review requested by DOC. The three questions referred by DOC, and summary responses, are as follows:

1. Whether the air sampling reports referenced in the July 19, 2013 Letter [2013 OSC referral] reasonably support a conclusion that the Department's asbestos program in the Herbert C. Hoover Building was mismanaged during that time frame.

    a. Our response is that the air sampling reports referenced in the 2013 OSC referral could reasonably support the conclusion that the Department's asbestos program in HCHB was mismanaged during the 2003-2007 time frame.

2. Whether there is sufficient evidence to conclude that [redacted] [two of the complainants who were identified as responsible for mismanagement] were responsible for mismanagement of the asbestos program, if any.

    a. As to [redacted], our response is that there is not sufficient evidence in this record to show that [redacted] was responsible for mismanagement of the asbestos program before [redacted] became [redacted] in the Office of Administrative Services (OAS). If, as the Department states in its 2011 report, [redacted] was responsible for mismanagement of the asbestos program when [redacted] in the OAS, then at most, [redacted] may have had limited responsibility for not confirming and documenting final completion of the corrective measures from September 2007-Janaury 2008.

    b. As to [redacted], our response is that this record contains some evidence to show that [redacted] was responsible for at least some mismanagement of the asbestos program.

3. Whether there is sufficient evidence to conclude that Lee [third complainant] was knowingly potentially exposed to impermissible levels of airborne asbestos in the building's 8th floor attic.

    a. Our response is that the persons conducting this inquiry are not technical experts in asbestos training, methodology or interpretation of air-sample results. As such, we do not present our own views regarding whether Lee was potentially exposed to impermissible levels of airborne asbestos in the 8th floor attic. However, if as DOC states in its report, the test results demonstrate that any employees who accessed the building's 8th floor attic in the 2003-2007 timeframe were potentially exposed to impermissible levels of airborne asbestos, we believe sufficient evidence exists that Lee was in the attic at least a few times in that time period.

[3] The inquiry also included, at the suggestion of DOC, an interview with the DOC investigators who conducted the 2010/2011 investigation.

The remainder of this Administrative Inquiry Report describes the interviews and review conducted by the USPTO and the procedural history of this matter, and provides a more detailed discussion of the three questions and a conclusion.

Record Review:

The USPTO has conducted a review of the three questions referred by DOC and the review is based on the sworn, transcribed statements provided by the three complainants, documentation provided by them, and DOC's 2010-2011 investigation file, as well as information provided during an interview of Inspector General Todd Zinser and Senior Special Agent and Investigative Services Advisor, Rick Beitel.

The interviews were as set forth below:

1. On April 11, 2014, Chieko Clarke interviewed complainant [redacted] Tab 2nd I. In DOC's April 25, 2011 supplemental report, the Department identified [redacted] as an official bearing responsibility for mismanaging asbestos in the HCHB 8th floor attic. Tab E.

2. On April 15, 2014, Chieko Clarke and Kimere Kimball interviewed complainant Edgar Dion Lee, former Hazardous Waste Facility Assistant, Office of Real Estate (ORE), DOC Office of Administrative Services (OAS). Tab 2nd K. DOC found that from 2004 to 2008, Lee regularly inspected and worked throughout the HCHB including the 8th floor attic. Tab C2.

3. On April 21, 2014, Chieko Clarke and Kimere Kimball interviewed complainant [redacted] Tab 2nd J. DOC's April 25, 2011 supplemental report identified [redacted] as an official bearing responsibility for mismanaging asbestos in the HCHB 8th floor attic. Tab E.

4. On June 25, 2014, Maria Campo, Chieko Clarke, and Kimere Kimball interviewed Todd Zinser, Inspector General, and Rick Beitel, Senior Special Agent and 2010-2011 Investigative Services Advisor, DOC Office of Inspector General (OIG), regarding information contained in OIG's investigation file and any additional information relied on for the January 20, 2011 report as well as the February 28, 2011 and April 25, 2011 supplemental reports. Tab 2nd L.

Procedural History:

On January 8, 2010, OSC referred to then-Secretary Gary Locke allegations from Edgar Dion Lee, who alleged that employees at HCHB committed an abuse of authority and a substantial and specific danger to public health and safety by failing to inform employees in a timely manner of unsafe levels of asbestos in the 8th floor/attic in the HCHB, and for knowingly permitting employees to work in contaminated areas without personal protective equipment. Tab A. The Secretary delegated authority to investigate the January 8, 2010 allegations to OIG and directed OIG to discuss the findings of the investigation with the Chief Financial Officer (CFO)

and Assistant Secretary for Administration (ASA) in order to obtain a determination of any corrective action that the Department of Commerce should take as a result of the investigation's findings. Tab M. The Secretary also delegated the CFO and ASA the authority to take all necessary corrective action based on OIG's investigation findings. Tab M.

On January 20, 2011, OIG submitted a memorandum to the Secretary regarding the results of the investigation into the whistleblower disclosure of asbestos conditions in the HCHB. Tab C2. The report considered DOC's management of asbestos throughout the building over a period spanning roughly five years, from 2003 through 2008. *See id.* The report found that DOC as a whole had programmatically failed to manage asbestos in HCHB over the five years at issue by failing to adequately test for asbestos, failing to train DOC personnel who might come into contact with asbestos, and failing to warn employees of potential asbestos in the building. *See id.* OIG also undertook its own asbestos testing in 2010 to determine if the asbestos issues continued. *See id.* at 2, 6, 12-13; *see also* Tab 2nd O.

The OIG investigation specifically found that 1) OAS management was aware of asbestos contamination risk in the 8th floor/attic and the need to take remedial measures to protect employees as early as 2003 and 2) from 2003-2006, OAS management failed to properly address asbestos conditions in HCHB's 8th floor/attic. Tab C2. The report concluded that an unknown number of DOC employees and contractors who were in that building area, including Lee, were subjected to potential exposure to airborne asbestos levels exceeding the Occupational Safety & Health Administration (OSHA) Permissible Exposure Limit (PEL) between February 2007 and April 2007, and perhaps even earlier. Tab C2 at 1-11. The investigation found that OAS management did not adequately restrict access to that area until January 2008 and did not provide proper notification to some employees until February 2008. Tab C2 at 12.

OIG made several recommendations regarding DOC's overall management of asbestos to proactively address asbestos in the building and protect DOC personnel from potential exposure, and DOC adopted OIG's recommendations and developed a detailed plan to implement them. *See* Tab C2 at 14-15; Tab C1.

By letter dated February 3, 2011, then Secretary Locke submitted to OSC a memorandum regarding the actions that had been taken and that were planned to be taken along with OIG's January 20, 2011 memorandum on the results of the investigation into the whistleblower disclosure of asbestos conditions in the HCHB's 8th floor attic. Tab C1. After receiving the report, on February 10, 2011, OSC requested additional information regarding the Asbestos Management plan and on February 28, 2011, OIG submitted a supplemental report addressing OSC's February 10, 2011 request. Tab D.

On March 18, 2011, Lee submitted a letter to OSC responding to the January 20, 2011 memorandum which stated in part that the "officials bearing responsibility for mismanaging HCHB's asbestos conditions are no longer with the Department." Tab P. Lee identified nine individuals who he believed bore responsibility for mismanagement of asbestos conditions in the 8th floor/attic. Tab P.

On March 24, 2011, OSC requested supplemental information regarding any responsibility the nine individuals listed in Lee's March 28, 2011 letter may have had in the asbestos mismanagement. Tab E. On April 25, 2011, OIG responded to the March 24, 2011 supplemental request. Tab E. Although the goal of OIG's investigation was not to determine who was to blame for the mismanagement, OIG reviewed the information gathered throughout the investigation and used its judgment, based on the information before it, to identify three of the nine employees listed by Lee as bearing some responsibility for the mismanagement of the asbestos program: [redacted] finding that these three failed to take timely, proper action to protect employee health and safety upon learning that air samples from the 8th floor attic taken in February and April 2007 exceeded OSHA PEL for airborne asbestos. Tab E. OIG found that the investigation did not produce any evidence indicating that the remaining six identified individuals knew, or should have known, and failed to respond to, the conditions in the 8th floor/attic. Tab E.

On June 10, 2011, OSC notified the President and Congress that the Department reports contained all the information required by statute and that the findings appeared to be reasonable, and closed the case. Tab B.

Subsequently, Lee, [redacted] each, independently submitted information to OSC, which OSC concluded called into question the accuracy of the earlier DOC reports and the validity of their conclusions. Tab N. Subsequently, on July 19, 2013, OSC referred these whistleblower disclosures to the current Secretary of Commerce, Penny Pritzker, to determine the proper office for investigation and reporting pursuant to 5 U.S.C. 1213. Tab N. On January 7, 2014, DOC requested the assistance of the USPTO in conducting interviews of the three whistleblowers to better understand their allegations. On June 4, 2014, DOC revised the scope of the USPTO's inquiry to determination of "(1) whether the air sampling reports referenced in the July 19 Letter reasonably support a conclusion that the Department's asbestos program in the Herbert C. Hoover building was mismanaged during that time frame; (2) whether there is sufficient evidence to conclude that [redacted] were responsible for mismanagement of the asbestos program, if any; and (3) whether there is sufficient evidence to conclude that Lee was potentially exposed to impermissible levels of airborne asbestos in the building's 8th floor attic." *See* Tab 2nd R. DOC also referred certain questions back to OSC. Tab 2nd R.

Discussion:

Question 1: Whether the air sampling reports referenced in the July 19 Letter reasonably support a conclusion that the Department's asbestos program in the Herbert C. Hoover Building was mismanaged during that time frame

The January 20, 2011, report found that between 2003 and 2007, OAS management failed to take adequate action in response to General Services Administration (GSA) contractor reports of damaged and deteriorating asbestos. Tab C2 at 2, 6-7. The report found that beginning in 2003, GSA contractor reports noted that damaged and deteriorating asbestos-containing materials could become airborne and thereby elevate levels above PEL. Tab C2 at 6. The report also noted that a GSA contractor report recommended that access to the 8th floor/attic

be restricted to asbestos-trained personnel until the visibly damaged and deteriorating asbestos could be repaired or removed, and the 2006 report further recommended that only personnel utilizing respirators be allowed to access the area. Tab C2 at 6. The report found that despite reports of damaged asbestos in the attic in 2003, OAS officials did not conduct testing for airborne asbestos in the attic until 2007, when a maintenance foreman raised concerns. Tab C2 at 2.

The January 11, 2011, report found that OAS officials did not abide by the recommendations from the April 18, 2003 and April 14, 2006, reports and did not conduct testing, restrict access, adequately label asbestos-containing materials, provide employees with respirators, or attempt to abate the damaged and deteriorating asbestos prior to 2007. Tab C2 at 6-7. The report found that although OAS "performed some repairs in response to the 2003 report, we found no evidence that OAS addressed all the issues raised by the contractor." Tab C2 at 6. Specifically, the report found that "between 2003 and 2007, OAS did not provide HCHB janitorial, maintenance, and other staff (including Lee), who came into contact with materials in the 8th floor/attic, with asbestos related training." Tab C2 at 6-7. Additionally, there was no evidence of air sampling for asbestos contamination in the attic after issuance of those reports until February 23, 2007. Tab C2 at 7-8 & Appx. A.

On February 23, 2007, air samples were taken in the 8th floor/attic in response to an email to OAS management expressing concern that asbestos air sampling and other health related measures had not been conducted for some time. Tab C2 at 7; Tab J5-A at 5. The samples taken from the attic on February 23, 2007 indicated a high level of fibers in the air. Tab 2nd B. The January 20, 2011 report indicated that the February 23, 2007, test was done using the Phase Contract Microscopy (PCM) method, which tests for "fiber-in-air, generically" and "cannot distinguish asbestos fibers from other fibers sampled." Tab C2 at 8 and 16.

According to the report, on April 17, 2007, DOC contracted another PCM air sample test of the 8th floor attic which again showed high levels of fibers in air. Tab C2 at 16.

The January 20, 2011, report indicated that the contractor concluded that the high levels of in-air fibers found by the February 23, 2007 and April 17, 2007 PCM tests were specifically asbestos fibers because of observing visibly damaged asbestos-containing materials in proximity to the testing. Tab C2 at 16.

According to the January 20, 2011, report, on April 25, 2007, DOC contracted another air sample test of the 8th floor/attic, this time using the Transmission Electron Microscopy (TEM) method, which is a test used to identify and definitively establish the presence of asbestos fibers. Tab C2 at 8, 16. According to the January 20, 2011 report, an outside laboratory fiber analysis showed that the April 25, 2007 test results contained asbestos fibers in air above OSHA PEL. Tab C2 at 16.

[redacted] take issue with the type of air samples taken, alleging that proper protocols were not followed. Tab 2nd J at 17:22-21:19, 63:5-65:22; Tab 2nd I at 163:16-165:3. They also provided documentation from industrial hygienists that called these results into question because of inappropriate testing protocols. *See* Tab H at 2 (noting that samples in the

April 25, 2007 testing were not conducted over an eight-hour time period, personal samples were not collected, and no blank samples were collected); Tab I at 3 (same).

[redacted] did not provide any evidence that the test results were falsified or that there were no asbestos fibers in the air. Therefore, taking the 2007 air sample tests showing asbestos in-air fibers at face value, they could reasonably support the conclusion that DOC mismanaged the asbestos program from 2003-2007.

Question 2: Whether there is sufficient evidence to conclude that [redacted] were responsible for mismanagement of the asbestos program, if any.

As discussed above, the January 20, 2011 report found that between 2003 and 2007, OAS management mismanaged the asbestos program by failing to take adequate action in response to 2003 and 2006 GSA contractor reports of damaged and deteriorating asbestos posing the potential risk for becoming airborne. *See* Tab C2 at 2, 6-7, 9. The report also found that OAS management further mismanaged the asbestos program by failing to take timely and proper action in response to the 2007 air sample testing showing airborne asbestos fibers in the 8th floor/attic. *See* Tab C2 at 10.

In its January 20, 2011 report, OIG focused its report on correcting the asbestos issues in the HCHB rather than identifying the individuals who had been responsible for the mismanagement of asbestos. *See* Tab 2nd L. As such, OIG interviewed witnesses regarding the asbestos measures that were in place and their adequacy, and did not focus its interviews on who was responsible for the mismanagement. *See generally* Tab J. In its April 25, 2011, response to OSC's requirement that OIG identify responsible management officials, OIG identified three individuals who it determined bore at least some responsibility for DOC's mismanagement of the asbestos program in the HCHB: [redacted] *See* Tab E at 1. OIG explained that they made no determination as to the percentage of overall responsibility attributable to each individual, but that each of the three employees had had at least some responsibility for the management of asbestos at DOC at some point during the relevant time period, and therefore had some responsibility for its mismanagement. *See* Tab 2nd L. As such, OIG found that [redacted] among other things, "failed to take timely, proper action to protect employee health and safety upon learning that air samples from the 8th floor attic taken in February and April 2007 exceeded OSHA PEL for airborne asbestos." Tab E at 1.

[redacted] allege that OIG considered incorrect and incomplete information in determining whether there was any mismanagement by DOC, as well as in determining who was responsible for any mismanagement, because they allege that their interview summaries were invalid and that they were not provided a meaningful opportunity to be heard. *See* Tab N. They note that they were not employed at DOC, much less OAS, during much of the mismanagement period and allege that they took extensive measures to address employees' exposure to asbestos once they became aware of the problem in 2007. *See generally*, Tabs 2nd J and 2nd I.

A. [redacted]

1. Response to 2003 and 2006 Reports

With respect to the finding that between 2003 and 2007, OAS management mismanaged the asbestos program by failing to take adequate action in response to 2003 and 2006 GSA contractor reports of damaged and deteriorating asbestos posing the potential risk for becoming airborne, [redacted] was not a manager of the asbestos program for the 2003-September 2007 time period because [redacted] was not employed by DOC until July 2006 and was not employed by OAS as a manager in this area until September 2007. Tab 2nd I at 6:8-8:1; Tab X.

2. Response to 2007 Air Sample Test Results

The January 20, 2011 report found that "when airborne asbestos levels were found to exceed the legally permissible limit, OAS officials were required to restrict access to the area, notify employees, and post warning signage." Tab C2 at 2. The report concluded that OAS management did not fulfill these responsibilities in a proper and timely manner. *Id.* The report found that OAS did not "adequately restrict access to the 8th floor/attic and post appropriate warning signage" until January 2008. Further, the report found that it was not until February 2008, that OAS provided proper notification to some employees. *Id.*

However, [redacted] alleges that she was not in OAS in February and April 2007, when the air sampling test results were high. *See* Tab 2nd I at 6:8-14. [redacted] alleges that [redacted] was hired by DOC into the Office of Occupational Safety and Health within the Office of Human Resources (OHR) in July 2006. *See id.* [redacted] says [redacted] was hired as [redacted] from July 2006 until September 2007. *See id.* at 6:8-8:1. [redacted] Standard Form 50 confirms that [redacted] was in the Office of Occupational Safety and Health as [redacted] until September 2, 2007. Tab X.

While she was [redacted] says was responsible for conducting safety inspections and investigating accidents, and [redacted] also was the contracting officer representative. *See id.* at 7:2-11. [redacted] alleges that as a [redacted] did not have responsibilities for asbestos management. *See id.* at 10:15-19. Additionally, the Position Description (PD) for a [redacted] does not refer to asbestos management. *See* Tab T at 3-4. Although it states that the incumbent manages an Occupational Safety and Health Program for the HCHB, it is unclear whether this includes asbestos. *See id.* [redacted] alleges that the Office of Safety was responsible for ensuring safety and health regulations were followed. *See* Tab 2nd I at 13:1-4. [redacted] stated that one of [redacted] job functions was to coordinate with Building Management to ensure employees obtained the training and the protective equipment they needed for their jobs. *See* Tab 2nd I at 12:10-13:4. The PD also notes that the employee does not meet supervisor titling criteria. *See* Tab T at 3-4.

Although [redacted] stated that [redacted] did not have any asbestos training and was not an asbestos expert, *see* Tab 2nd I at 110:10-12, and that [redacted] had no responsibilities with respect to managing the asbestos program as [redacted] *see id.* at 26:9-16, and although asbestos program management was not specifically listed as a responsibility in the [redacted]

position description, *see* Tab T at 3-4, there is evidence of [redacted] limited involvement in the asbestos program at HCHB. By [redacted] own admission, [redacted] was part of the asbestos team as an occupational safety subject matter expert and coordinated with the health unit because there was a potential issue of worker exposure. *See id.* at 140:5-141:12. [redacted] alleged that Aquino and Doug Elznic in Building Management, OAS, asked [redacted] to help with the asbestos issue because [redacted] was familiar with potential exposure and chest x-rays and would be able to look at what records existed for testing. *See* Tab 2nd I at 140:9-141:12. [redacted] also says [redacted] was asked to help as a subject matter expert. *See id.* at 140:13-16. Therefore, [redacted] was involved in the asbestos program after the April 25, 2007 test, at least in [redacted] capacity as a [redacted] in the Office of Occupational Health and Safety. Tab K at 2; Tab L; Tab 2nd I at 57:10-22, 112:17-19, 122:22-123:7, 148:2-9. As such, [redacted] was involved in meetings regarding abatement and remediation of the asbestos issues in HCHB. *See* Tab K at 2; Tab L; Tab 2nd I at 57:10-22, 112:17-19, 122:22-123:7, 148:2-9. [redacted] also was copied on internal emails regarding the "status of asbestos containing materials attic/8th floor, HCHB." Tab A2.

[redacted] also had a role in the asbestos program through the provision of respirators for employees. As part of [redacted] standard duties, [redacted] was responsible for ensuring employees received training and protective equipment. *See id.* at 12:10-19. Additionally, the January 20, 2011, report cited an April 27, 2007 email from [redacted] regarding annual health examinations and pricing for respirator clearance exams. Tab C2 at 9; *see also* Tab 2nd P. In the email, [redacted] states that the "Health Unit will send out reminders [for hearing tests, respirator clearance exams and annual physicals] and schedule the appointments annually from now on. I'm sorry that this slipped through the cracks in the past but I think we are getting on the right track now." Tab 2nd P. [redacted] stated that [redacted] just checked in to see if the shop employees were getting the training and protective equipment they needed for their job. *See* Tab 2nd I at 12:10-19.

There is evidence to show that [redacted] was involved with remediation after the April 25, 2007 test as a [redacted]; however, there is no evidence that [redacted] was a management official or had the authority to implement any of the actions that the January 20, 2011 report found to be lacking or untimely (adequately restricting access to the 8th floor attic, posting appropriate warning signage, and providing proper notification to relevant employees) until September 2007 when she moved to OAS. Even then, [redacted] alleges [redacted] did not have responsibility for asbestos management. *See* Tab 2nd I at 10:20-11:16.

[redacted] became the [redacted] in September 2007. *See* Tab X; Tab 2nd I at 7:13-20. As [redacted] says [redacted] was responsible for the environmental and energy programs for the Department of Commerce. *See* Tab 2nd I at 10:6-8. With respect to asbestos, [redacted] says [redacted] responsibilities were in maintaining the records for compliance with environmental regulations, as opposed to management and abatement of asbestos, which fell under the responsibility of Building Management. Tab 2nd I at 10:20-11:16. The PD for [redacted] position as a [redacted] does not specifically reference asbestos management. *See* Tab T at 1-2. In May and November 2007, the attic sampling results were below OSHA PEL, Tab C2 at 16, and corrective measures were completed by February 2008, within several months of [redacted] coming into [redacted] position. *See* Tab C2 at 2, 11-12. Therefore, if as the OIG found in its 2011 report, [redacted] was responsible for mismanagement of the asbestos program when [redacted] became a

in OAS, then at most, may have had limited responsibility for not confirming and documenting final completion of the corrective measures from September 2007-Janaury 2008.

B.

1. Response to 2003 and 2006 Reports

With respect to the finding that between 2003 and 2007, OAS management mismanaged the asbestos program by failing to take adequate action in response to 2003 and 2006 GSA contractor reports of damaged and deteriorating asbestos posing the potential risk for becoming airborne, alleges that was not employed at DOC until 2005, and was not employed in OAS until July of 2006. *See* Tab 2nd J at 7:5-7, 9:1-17. The record contains no contrary indication. If allegation that joined OAS only as of July 2006 is correct, cannot be responsible for mismanagement that occurred before he joined OAS.

stated that was from July 2006 to March 2007 and then was hired as in March 2007. Tab 2nd J at 9:12-17. The January 20, 2011 report found that the 8th floor attic was not properly restricted until January 2008. Tab C2 at 2. alleges that did not see the 2006 report until April or May of 2007 when gave it to Tab 2nd J at 61:6-13. Even so, the attic was not properly restricted until January 2008, which is eight months after states received the 2006 report. Therefore, even under own account, there is evidence to show that was responsible for a delay in restricting the attic in response to the 2006 report, as of OAS.

2. Response to 2007 Air Sample Test Results

As previously discussed, the January 20, 2011 report found that in response to the 2007 air sample tests, OAS did not "adequately restrict access to the 8th floor/attic and post appropriate warning signage" until January 2008. The report also found that proper notification to some employees was not given until February 2008. Tab C2 at 2.

alleges that, OAS, "response to the asbestos report was proper and that the asbestos management prior to , ha[s] no knowledge of." *See* Tab 2nd J at 54:21-55:6. stated that when "was notified [of the asbestos issues], took proper and appropriate steps for level to manage the program properly, and believe[s] that went above and beyond." *See id.* at 55:12-15.

alleged that, upon learning of the asbestos issues, immediately placed the attic off limits. *See id.* at 24:4-25:13. noted that other DOC employees, including Erin Fitzgerald, an Office of the Chief Information Officer (OCIO) employee responsible for liaising with Verizon contractors to service equipment in the attic and on the roof called constantly to complain that the attic was locked and her contractors could not get into the area. *See id.* at 29:1-17. stated that instructed employees Elznic and Aquino not to allow employees into the area until they had received training and appropriate protective equipment. *See id.* at 25:21-26:20, 29:1-8. stated that , Elznic, and Aquino ordered physicals for employees and had them fit for respirators and that only employees who had been medically qualified and had

been provided a respirator were allowed in the attic. *See id.* at 26:21-27:8. [redacted] also stated that [redacted] instructed Aquino to post signs warning of the danger of the area. *See id.* at 28:4-22.

The Department's investigation file contains evidence that tends to both corroborate and contradict each of [redacted] allegations regarding management's response. Even if action was taken as soon as [redacted] alleges, the fact that there is conflicting testimony regarding the dates the attic was restricted, signs were posted, training given and protective gear issued, generally indicates that any actions were not adequately taken. Adequate and proper action should not yield conflicting witness accounts.

Additionally, with respect to the February 23, 2008 notification, [redacted] alleges that another management official, Deborah Jefferson, had been the original signatory of the letter and that the letter was "vetted by the Office of General Counsel," but that Jefferson "still refused to sign [the letter]." *See* Tab 2nd J at 55:16-56:4. [redacted] stated that [redacted] thought it was important for the employees" to be aware of the asbestos issues, so [redacted] signed and issued the letter. *See id.* at 55:22-56:4.

Also, although evidence in the file supports that the delay in notifying employees resulted from internal deliberations that extended well beyond [redacted], such allegations have no bearing on [redacted] ultimate responsibility. [redacted] allegations regarding the reasons for [redacted] delay in issuing the letter, at most suggest that additional DOC employees may *also* have borne some responsibility for the delay in notifying employees. Ultimately, [redacted] apparently had the authority to issue the letter, and thus [redacted] allegations do not call into question the fact that [redacted] bears at least some responsibility for the delay in its issuance.

Question 3: Whether there is sufficient evidence to conclude that Lee was knowingly potentially exposed to impermissible levels of airborne asbestos in the building's 8th floor attic.

The January 20, 2011 report concluded that "Lee and an unknown number of other employees were subjected to potential exposure to airborne asbestos exceeding the OSHA PEL in the 8th floor/attic between February 2007 and April 2007 – and perhaps even earlier." *See* Tab C2 at 11. The report found that, despite Fanning's and Brooks' statements that Lee's job duties did not involve work in the 8th floor/attic, other evidence – the statements of Lee, the statements of other witnesses, including former supervisors and colleagues, his position description, his performance appraisal, and a February 25, 2008 letter informing him that he may have been exposed to asbestos in the 8th floor attic – supported a conclusion that Lee had access to the attic

[4] For example, the Department's investigation file includes a draft letter prepared for Otto Wolff's signature and dated October 29, 2007, that appears to be an earlier draft of a letter notifying employees of potential exposure. *See* Tab 2nd F. Additionally, Peter Wixted, Former Environmental Program Manager, OAS, stated that [redacted] had attempted to provide notice to a much larger group of employees than those ultimately notified. *See* Tab J4 at 3. Wixted stated that "[redacted] initially wanted to provide the letter to every single person who has ever worked in HCHB[,]" and he "expressed his disgust with the letter stating that such action would have created unnecessary panic, and that the letter itself did nothing to assuage worker concerns." *See* Tab J4 at 3.

"until January 2008, including the period between February 23, 2007, until April 25, 2007, when testing indicated that airborne asbestos levels exceeded the PEL." *See id.* at 11-12.

The persons conducting this inquiry are not technical experts in asbestos testing, methodology and interpretation of air-sample results. As such, these reviewers do not present their own views regarding whether Lee was potentially exposed to impermissible levels of airborne asbestos in the 8th floor attic. However, assuming the test results could support a finding that individuals who accessed the 8th floor attic between 2003-2007 were potentially exposed to impermissible levels of airborne asbestos, the whistleblowers' allegations would not alter the January 20, 2011 report's conclusion that Lee had access to the attic at some point prior to January 2008, and therefore was potentially exposed.

The January 20, 2011 report specifically noted that [redacted] had stated that Lee's job requirements did not require him to be in the 8th floor/attic. *See* Tab C2 at 11. While [redacted] stated more specifically in their 2014 interviews that Lee's job did not require him to access the attic with the exception of one tour that he gave Brooks, *see* Tab 2nd J at 38:6-42:6, at least three witnesses stated that they saw him in the attic at various times.[5]

Additionally, [redacted] issued Lee a letter in February 2008 stating that he may have been exposed to asbestos in 2007. *See* Tab A4. [redacted] explained that Lee received the letter because another DOC employee had seen him in the attic Tab 2nd J at 50:8-54:20. As such, [redacted] statements, at most, demonstrate that neither of them required Lee to go into the attic. They do not demonstrate that Lee did not access the attic. The remainder of the evidence, in contrast, demonstrates that Lee accessed the attic at least on a few occasions, as found by OIG in the 2011 report. Tab C2 at 11.

None of the evidence, however, identifies particular days – or even months – in which Lee was in the attic. *See* Tabs J3, J4, J5, J8, J16. Not even Lee's own journal entries of his work during the relevant time period identify any particular day in which he accessed the attic. *See* Tab U. [redacted] explained that an individual can only be determined to have been exposed if his own exposure is measured at a particular time. *See* Tab 2nd J at 17:22-21:19. However, if, as OIG states in its report, the test results from 2007 can support a finding that individuals who accessed the attic anytime between 2003-2007 were *potentially* exposed to impermissible levels of asbestos, we believe the evidence supports a conclusion that Lee was *potentially* exposed because at least three individuals stated that they had seen him in the attic during the time period of *potential* exposure.

Conclusion:

Because the primary purpose of DOC's January 20, 2011 report was to identify and remedy issues in DOC's management of asbestos in HCHB, the whistleblowers' allegations have

[5] Wixted stated that Lee would accompany him to inspect the attic. *See* Tab J4 at 2. Steven Savoy, Building Management Specialist, OAS, stated that he saw Lee in the attic at least five times in 2007-2008. *See* Tab J8. Patrick Waller, former Contractor Officer Representative for building renovations, ORE, OAS stated that he recalled at least one instance where Lee had been sent to verify a report of asbestos in the attic. *See* Tab J16 at 2. And Aquino noted that while Lee's "job did not include inspections of the attic[,] . . . Lee could have accessed the area [prior to 2007]; however, he had no official reason to do so." *See* Tab J14 at 1-2.

no effect on the ultimate impact of the report. The report's recommendations related mainly to improving the management of asbestos at HCHB. *See* Tab C2 at 14-15. DOC began implementing the recommendations nearly three and one-half years ago. *See* Tab C1. The whistleblowers only take issue with ancillary findings in the report, specifically, the identity of responsible management officials, whether Lee was one of DOC employees potentially exposed, and whether the asbestos testing in 2007 was accurate. *See* Tab N; Tab 2nd K, Tab 2nd J, and Tab 2nd I.

Exhibits to USPTO's July 24, 2014 Response to DOC re: OSC File Nos. DI-10-0454, DI-13-0405, and DI-13-2292 (OSC Whistleblower Referral re: OIG Asbestos Investigation)

Vol. 1 of 2

Table of Contents

OSC Asbestos Investigation

A. January 8, 2010 Letter from OSC to Secretary Locke (request for OIG investigation)

Attachments to Referral to OIG:

1. April 25, 2007 email from Peter Wixted, Environmental Manager to [redacted], Monica Barnett, industrial hygienist, Contractor for DOC, Anthony Mondy, and Steven Savoy, Building Management Specialist, Office of Space and Building Management, OAS re: "Summary of asbestos" forwarding file titled "asbestos in the HCHB Attic" [CMC NOTE: attachment titled "asbestos in the HCHB Attic" is the same as the attachment in tab 2 titled "status of Asbestos Containing Materials."

2. May 2, 2007 email from [redacted] to Steven Savoy, Building Management Specialist, Office of Space and Building Management, OAS and Jay Loveless, titled "please review background of asbestos" stating that the document was sent to Doug [Elznic]and [redacted]. Attachment "status of Asbestos Containing Materials"

3. December 2009 email from Monica Barnett, industrial hygienist, Contractor for DOC, to Edgar Lee re: Summary of asbestos." Email forwards April 25, 2007 email from Peter Wixted to [redacted] Anthony Mondy, M. Barnett, Steven Savoy, and [redacted] re: "Summary of asbestos" (TAB 1) stating that it is "one of the first emails sent to me after I gave them information regarding the attic"

4. Undated [February 25, 2008] notice from [redacted] to Dion Lee titled "Presence of Asbestos in the 8th floor of the Herbert hoover building". Letter in Tab 4A is undated, however Tab B states Letter is from February 25, 2008.

B. June 10, 2011 Letter from OSC to the President

C. [Blank]

1. February 3, 2011 DOC Report in response to January 8, 2010 request for investigation

2. OIG's January 20, 2011 Memorandum re: results of investigation

D. February 28, 2011 Letter from DOC CFO to OSC (response to email re: Lee dated 2/10/11)

E. April 25, 2011 Letter from DOC OIG to OSC re: March 24, 2011 email re: additional information re: Lee.

F. October 23, 2006 DOC CFO Memorandum to Office of Real Estate from [redacted] on Collateral Duty Appointment of Peter Wixted as Asbestos Coordinator

G. Undated Letter to [redacted] from (Peter Wixted??)

H. March 21, 2011 Memorandum from George Bearer, CIH, Senior Program Manager, Division of Federal Occupational Health, US Pub. Health Services to Michael Rusten, Associate Director, Office of Space and Building Management, DOC re: summary of OIG Report and asbestos sampling documentation and Dr. Leffer's thoughts about exposure

I. March 22, 2011 Memorandum from Worker Comp. Program Manager to Anthony Kesslak, Cert. Industrial Hygienist re: Statement regarding workers compensation claim

J. [Blank]

1. November 19, 2010 Interview of [redacted]

2. November 17, 2010 Interview of [redacted]

3. March 18, 2010 Interview of Edgar Dion Lee

4. November 3, 2010 Interview of Peter Wixted, Former Environmental Program Manager, OAS

5. April 14, 2010 interview of [redacted] Building Management Specialist and [redacted]

6. December 20, 2010 interview of Rufus Cook, Pipefitting and Woodcrafting Supervisor

7. March 18, 2010 interview of Monica Barnett, Industrial Hygienist

    a. December 17, 2010 email from Erika Vincent to Rick Beitel on conversation with Monica Barnett regarding condition of the attic.

8. April 19, 2010 interview of Steven Savoy, Building Management Specialist

9. March 22, 2010 interview of Fred Eberle, Project Manager, Applied Environmental Inc.

10. April 28, 2010 Interview of James Woods, Former Deputy Director, OAS

11. Summary of April 29 and 30, 2010 discussions with David Wynn and Pam Swiatek, Real Estate Office

12. May 20, 2010 interview of Michael Rusten, Associate Director, Office of Space and Building Management

13. March 1, 2010 interview of Tim Sleeth, Program Specialist for Industrial Hygiene Facilities Management & Services Program Division, GSA

14. November 30, 2010 interview of [redacted]

15. June 23, 2010 Interview of Joseph Durbin, Building Management

16. December 1, 2010 interview of Patrick Waller, former Contractor Officer Representative for building renovations, ORE, OAS

    i. Documents referenced in the interview

17. December 2, 2010 memo to file re: Key card access to 8th floor

18. April 22, 2010 interview of Melvin Claiborne, USRO Engineer, OAS

K. May 1, 8th floor asbestos update and May 22 sign in sheet

L. May 31, 2007 meeting planner for Asbestos Abatement Meeting with GSA

M. Delegation of Authority

N. July 19, 2013 OSC Referral

O. May 31, 2007 draft DOC Asbestos Mitigation Response

P. March 28, 2011 Letter from Lee to OSC re: OIG report of investigation

Q. May 16, 2011 Letter from Lee to OSC re: second supplemental report of investigation.

    1. Attachments (not in notebook. Over 200 pages. In PDF only):

        i. Occupational Safety and Health Manual Dated March 2000 (PDF pages 8-93 in PDF part 2); pages 1-61 (PDF part 3)

ii. Draft DOC Asbestos Mitigation Response (PDF 3 pages 61-67)

iii. GSA's Position Paper on Cost Sharing Proposal for Asbestos Abatement Project (PDF 3 p. 68-71)

iv. Letter from GSA to [redacted] dated July 2, 2007 re: transmitting above position paper on cost sharing (Part 3 PDF p. 72)

v. Department of Labor – Designation of Agency Safety and Health Officials (Part 3 PDF p. 74) (Part 4 PDF p. 1-20)

vi. Memos from DOC OGC to Director of Procurement re: liability of federal employees for violating Environmental Laws dated May 10, 1989 (Part 4 PDF p. 20-28)

vii. MACTEC Engineering and Consulting Inc. Revised Report of Hazardous Materials Survey to FAS, dated April 18, 2003

R. Documents related to qualitative fit tests and respirator exams (2007)

S. April 18, 2003 MATEC Revised Report of Hazardous Materials Survey

T. Position Descriptions for [redacted]

U. Lee's FY 2008 Journal entries for work performed

V. Peter Wixted Asbestos Training certification for course dated 4/2/2007 to 4/6/2007

W. [redacted] Performance Appraisal as [redacted]

X. [redacted] SF-50 from Office of Safety and Occupational Health Specialist to OAS as [redacted]

Y. Barnett and Lee business information

Z. April 14, 2006 Asbestos Containing Materials Survey, prepared by Applied Environmental, Inc.

2nd A. August 31, 2007 Draft GSA Report

2nd B. February 23, 2007 Perm Safety Systems testing

2nd C. May 2, 2007 EMSL Analytical, Inc. testing

2nd D. May 7, 2007 EMSL Analytical, Inc. testing

2nd E. October 10, 2007 AMA Analytical systems, Inc. testing

2nd F. October 29, 2007 Draft Memorandum from Otto Wolff Re: Notification of Presence of Asbestos in the HCHB

2nd G. May 2007 email communications among [redacted] and Sleeth regarding asbestos

2nd H. October 26, 2007 notes regarding controlled access of attic

2nd I. Transcript of [redacted]

2nd J. Transcript of [redacted]

2nd K. Transcript of Edgar Dion Lee

2nd L. Draft June 25, 2014 OIG Interview Summary

2nd M. October 6, 2009 Letter from Elznic to OSHA

2nd N. October 15, 2007 Letter to [redacted] from Braulio Ramon

2nd O. 2010 HCHB Testing

2nd P. April 17, 2007 email from [redacted] and Steven Savoy re: Quote for Additional Services

2nd Q. July 3, 2010 Letter from [redacted] to the President

2nd R. June 5, 2014 Extension Letter from USPTO to OSC

U.S. OFFICE OF SPECIAL COUNSEL
1730 M Street, N.W., Suite 218
Washington, D.C. 20036-4505
202-254-3600

January 8, 2010

The Honorable Gary Locke
Secretary
U.S. Department of Commerce
1401 Constitution Avenue, N.W.
Washington, D.C. 20230

Re: OSC File No. DI-10-0454

Dear Mr. Secretary:

Pursuant to my responsibilities as Associate Special Counsel, I am referring to you a whistleblower disclosure that employees at the Department of Commerce, Herbert C. Hoover Building (HCHB), Washington, D.C. committed an abuse of authority and a substantial and specific danger to public health and safety, by failing to inform employees in a timely manner of the existence of unsafe levels of asbestos in the HCHB eighth floor attic (attic), and for knowingly permitting these employees to work in contaminated areas without personal protective equipment. The whistleblower, Edgar Dion Lee,[1] former Hazardous Waste Facility Assistant, consented to the release of his name to the agency. Accordingly, I am referring this information to you for an investigation of these allegations and a report of your findings.

The U.S. Office of Special Counsel (OSC) is authorized by law to receive disclosures of information from federal employees alleging violations of law, rule, or regulation, gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety. 5 U.S.C. § 1213(a) and (b). If OSC finds, on the basis of the information disclosed, that there is a substantial likelihood that one of these conditions exists, we are required to advise the appropriate agency head of our findings, and the agency head is required to conduct an investigation of the allegations and prepare a report. 5 U.S.C. § 1213(c) and (g).

Specifically, Mr. Lee alleged that he and janitorial staff were exposed to unsafe levels of asbestos in the HCHB attic after the asbestos problem had been identified. Mr. Lee conducted 20-30 minute inspections of the attic without any protective equipment two to three times per week from June 2004 until January 2008 as part of his regular duties. According to Mr. Lee, his first-level supervisor, [redacted] Occupational Safety and Health Office, became aware no later than April 2007 that the attic contained impermissible levels of asbestos. He believes this to be accurate based on e-mails he received from Monica Barnett, an industrial hygienist who served as a

[1] Mr. Lee retired on January 12, 2009. He may be contacted [redacted]

contractor for the Department of Commerce. Mr. Lee was never given an explanation of the dangers of exposure to asbestos, the required training, or the need for personal protective equipment until after he ceased working in the attic in January 2008. The notice Mr. Lee received about the asbestos was in the form of an undated letter from Fred E. Fanning, Director for Administrative Services. A copy of that letter is enclosed.[2]

Indeed, Mr. Lee provided four forwarded e-mails from Ms. Barnett, dated between April 25, 2007, and May 2, 2007, which contain attachments addressing the presence of asbestos. Copies of these e-mails and their attachments are enclosed. [redacted] was a recipient of three of the e-mails and the author of the fourth e-mail. Three of the attachments were different versions of the same document, "Asbestos in the HCHB Attic." All versions of this document stated that "the attic area is off limits to anyone unless they have the proper personal protective equipment." The other attachment, entitled "Background of Asbestos," explained that "[t]hree sampling events conducted in February and April, 2007, have consistently shown elevated levels [of asbestos] above Environmental Protection Agency (EPA) and Occupational Safety and Health Administration (OSHA) regulatory standards. The sprayed insulation located throughout the attic/8th floor area is the probable source of the asbestos fibers in the air." In addition, this document later stated that "those [employees] that are granted access [to the attic] must take protective measures to protect them from any possible exposure." Mr. Lee learned about the existence of these e-mails from Ms. Barnett after he retired.

Additionally, Mr. Lee alleged that Plumbing and Heating Ventilation and Air Conditioning employees were provided personal protective equipment as early as 2007. Mr. Lee never observed anyone in personal protective equipment during his inspections of the attic but learned about this allegation from Ms. Barnett after his retirement.

We have concluded that there is a substantial likelihood that the information provided by the whistleblower discloses an abuse of authority and a substantial and specific danger to public health and safety. As previously stated, I am referring this information to you for an investigation of these allegations and a report of your findings within 60 days of your receipt of this letter.

Under the applicable law, this report should be reviewed and signed by you personally. Nevertheless, agency heads often delegate the responsibility to investigate and report on disclosures such as those set forth in this letter to the Inspector General or other agency officials. Should you delegate your authority to review and sign the report to the Inspector General, or any other official, the delegation should be specifically stated and should include the authority to take the actions necessary under 5 U.S.C. § 1213(d)(5). The requirements of the report are set forth at 5 U.S.C. § 1213(c) and (d). A summary of § 1213(d) is enclosed. As a matter of policy, OSC also requires that your investigators interview the whistleblower as part of the agency

[2] Mr. Lee did not recall the date on which he received the letter, but recollected that it occurred after he ceased working in the attic in January 2008.

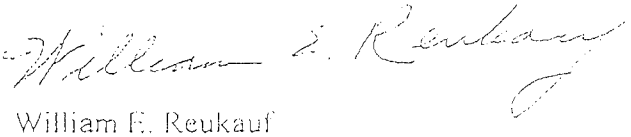
investigation when, as in this case, the whistleblower consents to the disclosure of his name. Please note that where specific violations of law, rule, or regulation are identified, these specific references are not intended to be exclusive.

In the event it is not possible to investigate and report on the matter within the 60-day time limit under the statute, you may request in writing an extension of time not to exceed 60 days. Extensions are generally granted when the written request sets forth the basis for the extension and contains a brief summary of the status of the investigation. Extension requests should be addressed to Catherine A. McMullen, Chief, Disclosure Unit, at 1730 M Street, NW, Suite 218, Washington, D.C. 20036.

After making the determinations required by 5 U.S.C. § 1213(c)(2), copies of the report, along with any comments on the report from the person making the disclosure and any comments or recommendations by this office, will be sent to the President and the appropriate oversight committees in the Senate and House of Representatives. 5 U.S.C. § 1213(e)(3). Unless classified or prohibited from release by law or by Executive Order requiring that information be kept secret in the interest of the national defense or the conduct of foreign affairs, a copy of the report and any comments will be placed in a public file in accordance with 5 U.S.C. § 1219(a).

Please refer to our file number in any correspondence on this matter. If you need further information, please contact Ms. McMullen at (202) 254-3604. I am also available for any questions you may have.

Sincerely,



William E. Reukauf
Associate Special Counsel

Enclosures

From: "Monica Barnett" [redacted]
Sent: Tue, 01 Dec 2009 08:30:22 Pacific Standard Time
To: [redacted]
Subject: FW: Summary of Asbestos

-----Original Message-----

From: anthony.mondy@gsa.gov [mailto:anthony.mondy@gsa.gov]

Sent: Wednesday, April 25, 2007 [illegible]:05 PM

To: PWixted@DOC.GOV

Cc: JBrooks@doc.gov; MAquino@doc.gov; mbarnett@peaksafety.net; SSavoyl@doc.gov

Subject: Re: Summary of Asbestos

Tim/Kelly, I have scheduled a meeting with Commerce for Friday the 27th at 1:00. We will be meeting at the Commerce Building (15th and Constitution Ave) Room 1323. The GSA shuttle can drop you off at 15th and Constitution (Must Request) and leaves ROB at 12:30 and 12:50.
Your GSA ID will get you in the 15th Street Entrance (Blue Awing) with no problem. You can reach me on my cell phone at 202 680-2023. We can ride over together if you like.

Thanks

AM

Attached are the minutes from the meeting we had this morning.

PWixted@DOC.GOV

04/25/2007 12:23 PM

To

JBrooks@doc.gov, MAquino@doc.gov, sSavoyl@doc.gov, anthony.mondy@gsa.gov, mbarnett@peaksafety.net

cc

Subject

Summary of Asbestos

To All,

Please review the attached document and send me your comments. I want to ensure we are all on the same page.

Pete

(See attached file: Asbestos in the HCHB Attic.doc)

Peter D. Wixted
Environmental Manager
U.S. Department of Commerce
Tel # (202) 482-3444
Fax # (202) 482-1969

****

As our customer, you are very important to us. We value your opinions and concerns. Please help us to better serve you by completing our customer service survey. Thank You. http://www.osec.doc.gov/oas/orc_survey.htm

**********(See attached file: Asbestos in the HCHB Attic.doc)

Asbestos in the HCHB Attic (8th Floor)

Situation:

The results of all phase contrast microscopy (PCM) air sampling conducted on April 17, 2007 in the attic area of the HCHB (8th floor) were above the Permissible Exposure Limit (PEL) of 0.1 fibers per cubic centimeter (f/cc). Results were as high as 2.0 f/cc. Workers cannot be exposed to a PEL of 0.1 f/cc 8 hour TWA or the Excursion Limit of 1.0 f/cc over 30 minutes. To prevent exceeding these exposures, the attic area is off limits to anyone unless they have the proper personal protective equipment.

Exhaust fans in the attic were operating at the time of the sampling conducted above. These fans were shut-off and another round of PCM sampling is being conducted (April 25, 2007) to determine if the air sampling results will be reduced. Transmission Electronic Microscopy (TEM) will also be conducted. TEM specifically measures asbestos fiber concentrations while PCM measures all fibers.

Next Steps:

1. By Friday, April 27, 2007, the contractor will provide PCM and TEM sampling results.

2. Building Maintenance Division will determine by looking at drawings whether two air-handling units in the attic draw air from the attic and distribute it to the HCHB.

3. The Office of Health and Safety will expedite the medical clearance of Building Maintenance Division personnel for the wear of respirators.

4. Building Maintenance Division is researching their records to gather copies of all asbestos records. Specifically they are looking for air sampling results conducted in the last five years and copies of certificates that show employees currently trained for asbestos work.

5. General Services Administration (GSA) is arranging a meeting with Commerce and GSA health and safety personnel to discuss the following:

a. Attic situation.
b. Clarification on GSA's asbestos management and lead-based paint abatement policies.
c. Identification of an asbestos management plan.
d. Determine when was the last inspection of asbestos containing materials in the HCHB conducted.
e. Copies of any asbestos sampling conducted by GSA or GSA contractors in the last 5 years.
f. Discussion of the proposed delegation agreement regarding asbestos and lead-based paint.

6. Mario Aquino will brief OBM and OAS Directors on the situation.

7. Mario Aquino will ensure Building Management Division employees are briefed.

Future Items:

1. Determine if air-handling units in attic area take in attic air and distribute it to other parts of the building. If yes, additional air sampling and additional efforts will be needed to determine the degree of contamination and the correct response. If no, then there is likely no problem.

2. Cleanup the attic area to remove dust and fibers.

3. Remove damaged sprayed on asbestos and apply an encapsulant on sprayed on insulation that is in good condition.

4. Isolate the areas with sprayed on asbestos insulation from the rest of the area.

5. Repair pipe insulation both asbestos and fiberglass.

6. Resample area to determine concentration levels. If sampling indicates levels above PEL then additional assessment must be conducted and asbestos removal may be necessary.

7. Ensure asbestos and non-asbestos labels are properly utilized.

8. Establish a recurring inspection and sampling program.

9. Establish a program to remove sprayed on asbestos insulation.

From: "Monica Barnett" [redacted]
Sent: Tue, 01 Dec 2009 08:31:29 Pacific Standard Time
To: [redacted]
Subject: FW: Please review 'Background of Asbestos'

-----Original Message-----

From: sSavoy1@doc.gov [mailto:sSavoy1@doc.gov]

Sent: Friday, May 04, 2007 3:54 PM

To: MBarnett@PeakSafety.net

Subject: FW: Please review 'Background of Asbestos'

Steven Savoy

Office of Space and Building Management

Room 1317 - - HCHB

(202) 482-2135 FAX: (202) 482-2283

SSavoy1@doc.gov.

----- Forwarded by Steven Savoy/HCHB/Osnet on 05/04/2007 03:51 PM -----

Jana Brooks/HCHB/Osnet		To
05/02/2007 12:35 PM	Steven Savoy/HCHB/Osnet@osnet, Jay Loveless/HCHB/Osnet@osnet	
		cc

Subject

Please review 'Background of Asbestos'

Please review the attached document.

Steve and Jay,

I've sent this to Doug and Marie but would like you all to comment as well.

I was also hoping that maybe Monica could take a look at it????

Jana

Jana Brooks

Office of Occupational Safety and Health

Department of Commerce

(202) 482-4943

Fax (202) 501-1860

(See attached file: Background of Asbestos.doc)

Status of Asbestos Containing Materials
Attic/8th Floor, Herbert C. Hoover Building

1.0 Summary

Air sampling results of the attic/8th floor area show an elevated level of asbestos fibers, specifically chrysotile, in the air. Three sampling events conducted in February and April, 2007, have consistently shown elevated levels above Environmental Protection Agency (EPA) and Occupational Safety and Health Administration (OSHA) regulatory standards. The sprayed insulation located throughout the attic/8th floor area is the probable source of the asbestos fibers in the air. The sprayed material is in poor and deteriorated condition caused by a variety of issues. These include general deterioration due to the age of the material, vibration, air erosion and intrusion by falling boards, bricks, and trash.

The area has been closed to all employees and remediation actions are being planned.

2.0 Background

The Herbert C. Hoover Building (HCHB) is an old and historic building. During the original construction and over the years, a variety of building materials have been used. One of those building materials has been asbestos. In the past, asbestos was widely used in construction and asbestos containing material (ACM) is very commonly found in most older buildings and the federal buildings in this region. GSA had overall responsibility for the HCHB until 1985 when the building authority was delegated to DOC.

2.1 What is Asbestos?

Asbestos is the generic name for a variety of fibrous minerals found naturally in rock formations around the world. Because asbestos fibers are strong, durable and non-combustible, they were widely used by industry, mainly in construction and friction materials. Commercial asbestos fibers belong in two broad mineralogical groups: serpentine (Chrysotile) and amphibole (Tremolite, Actinolyte and others).

If asbestos fibers are enclosed or tightly bound in a product, for example in asbestos siding or asbestos floor tiles, there are no significant health risks. Asbestos poses health risks only when fibers are present in the air that people breathe. How much asbestos is in a product does not indicate its health risk. If the asbestos fibers are enclosed or tightly bound in a compound, there is no significant health risk. One of the main problems with asbestos came from sprayed or "friable" asbestos used in buildings until the 1970s.

Asbestos poses health risks only when fibers are present in the air that people breathe. How exposure to asbestos can affect you depends on:

- the concentration of asbestos fibers in the air;
- how long the exposure lasted;
- frequency of exposure;

- the size of the asbestos fibers inhaled; or
- the amount of time since the initial exposure.

When inhaled in significant quantities, asbestos fibers can cause Asbestosis (a scarring of the lungs which makes breathing difficult), Mesothelioma (a rare cancer of the lining of the chest or abdominal cavity) and lung cancer. The link between exposure to asbestos and other types of cancers is less clear. Smoking, combined with inhaled asbestos, greatly increases the risk of lung cancer.

2.2 Regulatory Standards

Asbestos is basically regulated by two agencies, the EPA and OSHA. The aspects of asbestos concerning workers such as worker exposure, respiratory protection, medical monitoring, and exposure limits are regulated by OSHA. The aspects of asbestos related to the environment and releases to the environment such as asbestos management, asbestos abatement, fiber releases, air concentrations, and ACM disposal are regulated by the EPA.

The permissible exposure limit or PEL for workers set by OSHA is <0.1 fiber/cubic centimeter (f/cc). This is the limit that a worker can be exposed to. Clearance standards for asbestos fibers in the air is set by the EPA at <0.01 f/cc. The clearance standards are generally used as the accepted industry standard for ambient air concentrations of asbestos fibers.

2.3 Asbestos and the HCHB

The presence of asbestos in buildings including the HCHB was widely known and documented. However, regulations requiring specific asbestos management were enacted in the 1970s and 1980s. The ACM in the HCHB is found as thermal systems insulation (TSI), sprayed materials, and miscellaneous other materials such as floor tiling. Much of the ACM in the HCHB was used in the original construction of the building.

In accordance with EPA regulations, GSA conducted asbestos surveys for the HCHB in 1985 and 1986. The surveys identified ACM in the HCHB. Samples were collected to confirm the asbestos mineral composition of the material and the percentage. The results are consistent what is found in industry. The sprayed insulation found in the attic/8th floor area, which is believed to have been installed in the 1960s, ranges from 70 to 85% chrysotile asbestos. The asbestos surveys were provided by GSA to DOC following completion of the surveys.

In accordance with EPA guidance, asbestos materials may remain in place as long as the material is in good condition and an operations and maintenance plan is in place. The initial asbestos surveys indicated that this is the case in HCHB. However, there have been some abatement measures conducted as part of the regular maintenance and repairs and renovations of the building.

There are all types of ACM associated with the attic/8th floor including TSI, sprayed insulation, and miscellaneous sources. The sprayed insulation found in the attic/8th floor

was probably installed in the 1960s as fire retardant. Testing of the sprayed insulation showed the composition ranges from 70 to 85% chrysotile asbestos with one section being 40 to 45% amosite asbestos.

3.0 Asbestos Management

The primary focus of asbestos management is to ensure that asbestos fibers are not released into the air that people breathe. This is done by physically managing the ACM to ensure it is not damaged and by conducting air sampling.

3.1 Operations and Maintenance

During the mid 1980s, asbestos regulations were enacted that called for implementation of operations and maintenance programs (O&M) for ACM. This required that an Asbestos Project Manager be appointed and that an O&M plan be developed which detailed how ACM would be managed in a facility. A draft O&M plan was developed by GSA for and provided to all of their facilities.

The general management procedures for ACM is to "Maintain In-Place". This principal is based on the fact that ACM does not pose a health hazard if it is not in the air that people breathe. If ACM is in good condition and is not damaged or friable, the best management practice is to leave it alone and let it continue to perform its function. However, there are specific procedures that must be followed in order to "Maintain In-Place". These procedures include periodic surveillence of the ACM. This means completing and documenting visual inspections every 6 months. All ACM that is observed to be damaged must be repaired or removed.

3.2 Historical Fiber-In-Air Sampling

Fiber-In-Air (FIA) sampling is a sampling process that draws a specific volume of air through a sampling media (a filter) using a small air pump. The sampling filter is then sent to a laboratory to determine how many overall fibers are present in the air. Generally, the sampling is collected and analyzed by PCM which counts all of the fibers in the air. It does not distinguish between fiberglass, dust, asbestos, etc. However, if the PCM samples show a low fiber count, the total asbestos fibers must be low because they would not be greater than the total fiber count. Historically, FIA sampling in the HCHB has been conducted by PCM analysis.

FIA sampling has been conducted over the years in the HCHB in accordance with GSA policy and later in accordance with EPA Greenbook Guidance. There is no specific regulatory guidance that requires the FIA sampling.

GSA began conducting FIA sampling in the HCHB and other federal buildings in the region in the late 1980s. Sampling was conducted up through approximately 1995. At that time, GSA dissolved the FIA program due to funding and other issues. The program was resumed again by GSA in 2000. Since the FIA program was reinstituted, sampling was conducted in the HCHB in 2000, 2001, 2002, 2004 and 2005. The program was not funded in 2003. Additionally, there were funding issues in 2006. However, the 2006

sampling that should have been conducted in September, 2006, is scheduled for May 2, 2007.

The GSA policy and FIA sampling protocol focused on the occupied floors of buildings. In the HCHB, this included the Basement through the 7th floors. The sample locations are selected randomly on each floor but are in office space and not in the corridors. Each sampling event has collected between 67 to 130 samples.

All but seven samples from the combined historical sampling events show results of less than the clearance standard of 0.01 f/cc. Seven samples collected from the 3rd and 4th floors during the September 2002 sampling event had fibers at or above 0.01 f/cc. These locations were re-sampled and analyzed for specific asbestos fibers using TEM analysis. The samples results did not indicate the presence of asbestos fibers.

4.0 Current Situation

4.1 Report by Employee

In February, 2007, an employee of the Office of Administrative Services identified damage to an area that he believed contained asbestos in the 8th floor attic of the HCHB. This area is used for mechanical equipment and OAS employees are required to make periodic tours of the area. It is not used for office space or routinely accessed by Commerce employees or contractors. He reported the damage to his supervisor who contracted for air sampling to be done in the area.

4.2 Air Sampling

Initial air sampling to determine the fiber count in the air (using PCM) was done near the damaged insulation in February 23, 2007. This testing indicated an elevated number (>2.0 f/cc) of fibers in the air. A second, more encompassing sampling event was conducted on April 24 and 25, 2007 and showed similar results (>2.0 f/cc) throughout the attic/8th floor. However, during this sampling event, the contactor noticed that the attic circulation fans were blowing and air flow currents were disturbing the ACM. The fans were shut down with the hopes of stopping the disturbance of ACM. A third sampling event was done to determine the fiber levels without the air flow. The third sampling also indicated elevated levels of fibers (0.5 f/cc). Additional samples were also collected during the third sampling event to conduct specific asbestos analysis (or TEM). The TEM confirmed that most, if not all, of the fibers were chrysotile asbestos.

Although there are numerous types of ACM in the attic/8th floor, the third sampling event indicates that the source of the asbestos fibers in the air are from the sprayed insulation. The sprayed insulation found in the attic/8th floor area is believed to have been installed in the 1960s and ranges from 70 to 75% chrysotile asbestos and is 40-45 % amosite in on area.

4.3 Current Condition of ACM

The sprayed insulation in the attic/8th floor is in poor and deteriorated condition caused by a variety of issues. These include general deterioration due to the age of the material.

vibration, air erosion and intrusion by falling boards, bricks, and trash. In response to the current situation, a visual inspection was conducted by GSA and DOC on May 2, 2007. Photos documenting the condition are provided.

4.4 DOC Actions

DOC has taken steps to minimize the number of employees allowed in this area and those that are granted access must take protective measures to protect them from any possible exposure.

5.0 Workers Compensation

5.2 Current Workers' Compensation Case

Currently, one former employee has filed a claim concerning Asbestosis. [redacted] The claim was filed in September, 2006, and is currently under development by the Department of Labor.

5.3 Workers' Compensation Procedures

Employers may provide for testing under the provisions of 5 U.S.C. 7901 or other related legal authority, and are advised not to pursue Federal Employees' Compensation Act (FECA) coverage unless an employee actually tested positive for exposure. It should be noted that the FECA, 5 U.S.C. 810, et seq., is applicable to covered employees as defined by statute and regulations.

Understandably, employees are concerned for their health and may wish to protect any rights to workers' compensation entitlement. Employees who opt to file a claim, but who have not experienced a known injury, should not be discouraged from filing. OWCP encourages the employer to hold the CA-1or Ca-2 in the employee's personnel file unless the employee experiences an illness or a positive exposure test requiring treatment and/or time loss. Only at that point would it be necessary to forward the claim to OWCP for adjudication. At DOC, the CA-1 or CA-2 would be filed with the WC contractor who maintains the records.

The employee generally has three years from the time of injury to claim wage loss compensation and medical care by filing with their agency. Thus, employees who do not file until such time as they receive a positive test or diagnosis of illness will be covered for effects of exposure at work.

However, DOC should consider keeping records at the OOSH or the Health Unit of all CA-1 or CA-2 forms that are filed associated with this incident. This will help in the process if later down the road, an employee tests positive for such an exposure.

From: "Monica Barnett" [redacted]
Sent: Tue, 01 Dec 2009 08:29:03 Pacific Standard Time
To: [redacted]
Subject: FW: Summary of Asbestos

Attached is one of the first emails that was sent to me after I gave them(Commerce) the information regarding the attic. Please remember that PEL's (permissible exposure limits) are designed to notify TRAINED WORKERS of the levels in which they are working so that they can select the proper respiratory protection needed to protect them and complete their job. An understanding of Permissible exposure limits would have been offered to you in training which you did not receive. You also (as well as others) should have been told of the asbestos and it's dangers before you began your job. There is no safe level of asbestos exposure! We do however, use the clearance level to say that an area is proper for public occupancy. This cannot be said of the attic until full abatement and cleanup occurs.

-----Original Message-----

From: PWixted@DOC.GOV [mailto:PWixted@DOC.GOV]

Sent: Wednesday, April 25, 2007 12:24 PM

To: JBrooks@doc.gov; MAquino@doc.gov; sSavoy1@doc.gov; anthony.mondy@gsa.gov; mbarnett@peaksafety.net

Subject: Summary of Asbestos

To All,

Please review the attached document and send me your comments. I want to ensure we are all on the same page.

Pete

(See attached file: Asbestos in the HCHB Attic.doc)

Peter D. Wixted

Environmental Manager

U.S. Department of Commerce

Tel # (202) 482-3444

Fax # (202) 482-1969

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As our customer, you are very important to us. We value your opinions and concerns. Please help us to better serve you by completing our customer service survey. Thank You. http://www.osec.doc.gov/oas/ore_survey.htm

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Asbestos in the HCHB Attic (8th Floor)

Situation:

The results of all phase contrast microscopy (PCM) air sampling conducted on April 17, 2007 in the attic area of the HCHB (8th floor) were above the Permissible Exposure Limit (PEL) of 0.1 fibers per cubic centimeter (f/cc). Results were as high as 2.0 f/cc. Workers cannot be exposed to a PEL of 0.1 f/cc 8 hour TWA or the Excursion Limit of 1.0 f/cc over 30 minutes. To prevent exceeding these exposures, the attic area is off limits to anyone unless they have the proper personal protective equipment.

Exhaust fans in the attic were operating at the time of the sampling conducted above. These fans were shut-off and another round of PCM sampling is being conducted (April 25, 2007) to determine if the air sampling results will be reduced. Transmission Electronic Microscopy (TEM) will also be conducted. TEM specifically measures asbestos fiber concentrations while PCM measures all fibers.

Next Steps:

1. By Friday, April 27, 2007, the contractor will provide PCM and TEM sampling results.

2. Building Maintenance Division will determine by looking at drawings whether two air-handling units in the attic draw air from the attic and distribute it to the HCHB.

3. The Office of Health and Safety will expedite the medical clearance of Building Maintenance Division personnel for the wear of respirators.

4. Building Maintenance Division is researching their records to gather copies of all asbestos records. Specifically they are looking for air sampling results conducted in the last five years and copies of certificates that show employees currently trained for asbestos work.

5. General Services Administration (GSA) is arranging a meeting with Commerce and GSA health and safety personnel to discuss the following:

a. Attic situation.
b. Clarification on GSA's asbestos management and lead-based paint abatement policies.
c. Identification of an asbestos management plan.
d. Determine when was the last inspection of asbestos containing materials in the HCHB conducted.
e. Copies of any asbestos sampling conducted by GSA or GSA contractors in the last 5 years.
f. Discussion of the proposed delegation agreement regarding asbestos and lead-based paint.

6. Mario Aquino will brief OBM and OAS Directors on the situation.

7. Mario Aquino will ensure Building Management Division employees are briefed.

Future Items:

1. Determine if air-handling units in attic area take in attic air and distribute it to other parts of the building. If yes, additional air sampling and additional efforts will be needed to determine the degree of contamination and the correct response. If no, then there is likely no problem.

2. Cleanup the attic area to remove dust and fibers.

3. Remove damaged sprayed on asbestos and apply an encapsulant on sprayed on insulation that is in good condition.

4. Isolate the areas with sprayed on asbestos insulation from the rest of the area.

5. Repair pipe insulation both asbestos and fiberglass.

6. Resample area to determine concentration levels. If sampling indicates levels above PEL then additional assessment must be conducted and asbestos removal may be necessary.

7. Ensure asbestos and non-asbestos labels are properly utilized.

8. Establish a recurring inspection and sampling program.

9. Establish a program to remove sprayed on asbestos insulation.

From: "Monica Barnett" [redacted]
Sent: Tue, 01 Dec 2009 08:37:35 Pacific Standard Time
To: [redacted]
Subject: FW: Asbestos Update

-----Original Message-----

From: PWixted@DOC.GOV [mailto:PWixted@DOC.GOV]

Sent: Friday, April 27, 2007 3:26 PM

To: MAquino@doc.gov; LHess@doc.gov; SSavoyl@doc.gov; JBrooks@doc.gov; JLoveless@doc.gov; anthony.mondy@gsa.gov; mbarnett@peaksafety.net

Subject: Asbestos Update

To All,

Here is my latest update on asbestos issues. Please feel to provide additional information.

Pete

(See attached file: Asbestos in the HCHB Attic.doc)

Peter D. Wixted

Environmental Manager

U.S. Department of Commerce

Tel # (202) 482-3444

Fax # (202) 482-1969

****

As our customer, you are very important to us. We value your opinions and concerns. Please help us to better serve you by completing our customer service survey. Thank You. http://www.osec.doc.gov/oas/ore_survey.htm

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Asbestos in the HCHB Attic (8th Floor)

Situation:

The results of all phase contrast microscopy (PCM) air sampling conducted on April 17, 2007 in the attic area of the HCHB (8th floor) were above the Permissible Exposure Limit (PEL) of 0.1 fibers per cubic centimeter (f/cc). Results were as high as 2.0 f/cc. Workers cannot be exposed to a PEL of 0.1 f/cc 8 hour TWA or the Excursion Limit of 1.0 f/cc over 30 minutes. To prevent exceeding these exposures, the attic area is off limits to anyone unless they have the proper personal protective equipment.

Exhaust fans in the attic were operating at the time of the sampling conducted above. These fans were shut-off and another round of PCM sampling is being conducted (April 25, 2007) to determine if the air sampling results will be reduced. Transmission Electronic Microscopy (TEM) will also be conducted. TEM specifically measures asbestos fiber concentrations while PCM measures all fibers.

Next Steps:

1. By Friday, April 27, 2007, the contractor will provide PCM and TEM sampling results. Status: Open. Testing results for PCM with the fans shut-off were 0.6-0.3 f/cc. These levels are still above the PEL.

2. Building Maintenance Division will determine by looking at drawings whether two air-handling units in the attic draw air from the attic and distribute it to the HCHB. Status: Open. Drawings show there are no open penetrations so attic air should not be entering the air-handling units. This will be verified by sight at a later date.

3. The Office of Health and Safety will expedite the medical clearance of Building Maintenance Division personnel for the wear of respirators. Status: Open.

4. Building Maintenance Division is researching their records to gather copies of all asbestos records. Specifically they are looking for air sampling results conducted in the last five years and copies of certificates that show employees currently trained for asbestos work. Status: Open.

5. General Services Administration (GSA) health and safety personnel will meet with Commerce on Friday, April 27, 2007, at 1:00 pm to discuss the following:

   a. Attic situation.
   b. Clarification on GSA's asbestos management and lead-based paint abatement policies. According to GSA, Commerce is responsible for day-to-day operations regarding asbestos. Ultimately GSA owns the asbestos and annually GSA performs sampling and inspections. The sprayed-on asbestos insulation in the attic is near the end of its useful life and therefore is likely to fall under GSA responsibility not Commerce.

c. Identification of an asbestos management plan. GSA has an asbestos and lead-based paint management plan. Copies were provided to Commerce several years ago.
d. Determine when was the last inspection of asbestos containing materials in the HCHB conducted. GSA records should show this information. GSA will provide records on Tuesday, May 1, 2007.
e. Copies of any asbestos sampling conducted by GSA or GSA contractors in the last 5 years. This information will be provided on Tuesday May 1, 2007.
f. Discussion of the proposed delegation agreement regarding asbestos and lead-based paint. The proposed new delegation spells out that Commerce is responsible for asbestos inspections, management, and sampling. The old delegation makes GSA responsible for these activities. GSA will retrieve documents issued in the past that indicate picked up these responsibilities

6. Mario Aquino will brief OBM Associate Director and OAS Director on the situation. Status: Closed. Mario briefed OBM Associate Director and OAS Director on Wednesday, April 25, 2007.

7. Mario Aquino will ensure Building Management Division employees are briefed. Status: Closed. Employees briefed on Wednesday, April 25, 2007.

8. Steve Savoy will provide copies of Commerce employees that have asbestos certificates to Pete Wixted.

Future Items:

1. Determine if air-handling units in attic area take in attic air and distribute it to other parts of the building. If yes, additional air sampling and additional efforts will be needed to determine the degree of contamination and the correct response. If no, then there is likely no problem. At this time it appears the air handling units do not distribute the air. A visual check must be done to confirm.

2. Cleanup the attic area to remove dust and fibers. (GSA)

3. Remove damaged sprayed on asbestos and apply an encapsulant on sprayed on insulation that is in good condition or remove asbestos. (GSA)

4. Isolate the areas with sprayed on asbestos insulation from the rest of the area or remove asbestos. (GSA)

5. Repair pipe insulation both asbestos and fiberglass (Commerce).

6. Close penetrations between floors.

7. Resample area to determine concentration levels once the above items have been completed. If sampling indicates levels above PEL then additional assessment must be conducted and asbestos removal may be necessary. (GSA)

8. Ensure asbestos and non-asbestos labels are properly utilized.

9. Establish a recurring inspection and sampling program. (Commerce)

10. Establish a program to remove sprayed on asbestos insulation. (GSA)

11. Perform air sampling in areas determine to be the most likely to distribute air from the attic to the rest of the building. (Commerce)

12. Develop procedures for accessing the attic until the situation has been corrected. (Commerce)

UNITED STATES DEPARTMENT OF COMMERCE
Chief Financial Officer
Assistant Secretary for Administration
Washington, D.C. 20230

MEMORANDUM FOR: Dion Lee

FROM: Fred E. Fanning
Director for Administrative Services

SUBJECT: Presence of Asbestos in the 8th floor of the Herbert C. Hoover Building

Dear Mr. Lee:

I am writing to tell you that you may have performed work on the 8th floor of the Herbert C. Hoover Building (HCHB) in the presence of asbestos in the six months prior to February 2007. In February 2007, an employee performing routine maintenance on the 8th floor identified damaged pipe insulation that he suspected contained asbestos. On February 23, 2007, we conducted air sampling near the damaged pipe insulation. Initial results detected airborne asbestos fibers and access to the 8th floor was immediately restricted. Subsequent air sampling was conducted in April 2007, which also detected the presence of airborne asbestos fibers. In October 2007, follow-up air sampling was conducted on the 8th floor and throughout the HCHB. None of the samples showed detectable levels of asbestos fibers in the air. We will conduct air sampling each quarter to monitor any changes in the levels. Previous air sampling conducted on the 8th floor in 2002 did not detect asbestos fibers.

I am concerned about the safety and health of the Department's employees and continue to restrict access to the 8th floor and, with the assistance of Federal Occupational Health, we are developing a program to address the asbestos on the 8th floor. Anyone wishing access to the 8th floor must have the proper asbestos training, wear the appropriate personal protective equipment, and meet with the Building Manager to gain access.

Asbestos is a common name given to a group of mineral fibers that occur naturally and that have been used in a variety of construction products such as wall plaster, floor tile, pipe insulation, asphalt roofing, and spray-on insulation. Inhaling or ingesting fibers in the air or from contaminated clothing or skin can cause disabling respiratory disease and various types of cancers. The symptoms of these diseases generally do not appear for 20 or more years after initial exposure. Additional information on asbestos can be found on the Centers for Disease Control and Prevention web site: http://www.cdc.gov/health/asbestos.htm.

If you would like to discuss health-related questions, consultation with the Department's Occupational Physician is available to you upon request. Contact the Office of Occupational Safety and Health at (202) 482-4935 to schedule an appointment. We also encourage you to discuss any health concerns you may have with your personal physician. The asbestos records including the asbestos survey reports, results of bulk sampling, or air monitoring conducted on the 8th Floor of HCHB are maintained at the HCHB and are available for you to review. All asbestos data will be available between the hours of 8:00 a.m. and 5:00 p.m. Monday through Friday at the offices of the Building Management Division. Please contact Mr. Mariano Aquino at (202) 482-0459 to schedule an appointment.

I am committed to ensuring our employees, contractors, and visitors have a healthy and safe environment in which to work as well as to comply with federal, state, and local regulations.

B

B

U.S. OFFICE OF SPECIAL COUNSEL
1730 M Street, N.W., Suite 218
Washington, D.C. 20036-4505
202-254-3600

June 10, 2011

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

Re: OSC File No. DI-10-0454

Dear Mr. President:

Pursuant to 5 U.S.C. § 1213(e)(3), enclosed please find agency reports based on a disclosure made by Edgar Dion Lee, a whistleblower at the Department of Commerce (DOC), Herbert C. Hoover Building (HCHB), Washington, D.C. Mr. Lee, who consented to the release of his name, alleged that DOC managers knowingly exposed employees, including himself, to unsafe levels of asbestos in the HCHB eighth floor attic (attic), and permitted these employees to work in contaminated areas without personal protective equipment.

Mr. Lee's allegations were referred to the Honorable Gary Locke, Secretary of Commerce, to conduct an investigation into these disclosures pursuant to 5 U.S.C. § 1213(c) and (d). Secretary Locke tasked the investigation of the matter to the DOC Office of Inspector General (OIG). OSC received a report dated February 3, 2011, and two supplemental reports dated February 28, 2011, and April 25, 2011, from DOC. Mr. Lee provided comments on the original agency report and supplemental reports.

Mr. Lee alleged that he and janitorial staff were exposed to unsafe levels of asbestos in the HCHB attic after the asbestos problem had been identified. Mr. Lee conducted 20-30 minute inspections of the attic without any protective equipment two to three times per week from June 2004 until January 2008 as part of his regular duties. According to Mr. Lee, his first-level supervisor, [redacted] Occupational Safety and Health Office, became aware no later than April 2007 that the attic contained impermissible levels of asbestos. He believes this to be accurate based on e-mails he received from Monica Barnett, an industrial hygienist who served as a contractor for DOC. Mr. Lee was never given an explanation of the dangers of exposure to asbestos, the required training, or the need for personal protective equipment until after he ceased working in the attic in January 2008. The first notice Mr. Lee received about the asbestos was a February 25, 2008, letter from Fred E. Fanning, then-Director for Administrative Services.

Mr. Lee provided four forwarded e-mails from Ms. Barnett, dated between April 25, 2007, and May 2, 2007, which contain attachments addressing the presence of asbestos. [redacted] Three of the attachments were different versions of the same document, "Asbestos in the HCHB Attic." All versions of this document stated that "the attic area is off limits to anyone unless they have

the proper personal protective equipment." The other attachment, entitled "Background of Asbestos," explained that "[t]hree sampling events conducted in February and April, 2007, have consistently shown elevated levels [of asbestos] above Environmental Protection Agency (EPA) and Occupational Safety and Health Administration (OSHA) regulatory standards. The sprayed insulation located throughout the attic/8th floor area is the probable source of the asbestos fibers in the air." In addition, this document later stated that "those [employees] that are granted access [to the attic] must take protective measures to protect them from any possible exposure." Mr. Lee learned about the existence of these e-mails from Ms. Barnett after he retired.

The agency investigation substantiated Mr. Lee's allegations. In the agency's February 3, 2011, report, the OIG concluded that DOC employees and contractors, including Mr. Lee, were "subjected to potential exposure to impermissible levels of airborne asbestos between February 2007 and April 2007—and perhaps even earlier than that period." Testing on April 25, 2007, confirmed that the airborne asbestos levels in the attic exceeded OSHA's Permissible Exposure Limit. The report further confirmed that DOC Office of Administrative Services (OAS) management failed to satisfy its obligations under OSHA and U.S. General Services Administration (GSA) regulations to implement a comprehensive asbestos management plan that includes testing airborne asbestos at regular intervals, providing awareness training, and remediating damaged materials. The report also included a history of the asbestos issues in the attic and a status report on the OIG's recommendations, such as the development and implementation of an asbestos management plan. Finally, the report concluded by noting that administrative action could not be recommended for any of the responsible OAS personnel because the individuals responsible for the mismanagement of the asbestos conditions were no longer employed by DOC.

In its February 28, 2011, first supplemental report, the agency stated that it anticipated that the asbestos management plan would be implemented by May 27, 2011. Furthermore, while an Asbestos Program Manager still needed to be hired, any delay in filling this position would have no adverse impact on meeting this deadline. The agency also explained that it had taken the following interim measures to ensure that HCHB employees are properly protected from asbestos hazards: the attic is accessible only through locked doors and elevators, doors to regulated areas contain padlocks, the integrity of the locks is checked daily, asbestos warning signs are posted on the eighth floor, access to regulated areas is controlled by a permit system, and DOC and GSA alternate air sampling testing every six months.

Mr. Lee submitted comments, dated March 18, 2011, on the agency's report and first supplemental report. He recounted how the responsible individuals' "vile actions" caused him to [redacted] In addition, he explained that this incident caused him [redacted] Mr. Lee provided a list of nine individuals whom he believed took no action to help him and were part of a cover-up to avoid responsibility for the asbestos problem. Mr. Lee believed that each of the nine individuals should have administrative action taken against them and be criminally charged for their roles in this matter.

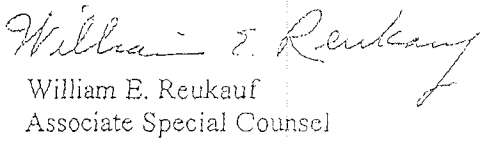
In its second supplemental report, dated April 25, 2011, the agency identified [redacted] as the officials who bore responsibility for mismanaging the HCHB's asbestos conditions. The agency also provided its findings regarding the six other individuals who Mr. Lee believed bore responsibility for the asbestos mismanagement. While Mr. Lee was contacted by the agency and given a chance to explain why he believed these six individuals were involved, the agency was unable to conclude that any of the individuals knew or should have known about the asbestos conditions in the attic.

Mr. Lee submitted comments on the second supplemental report dated May 16, 2011. He disagreed with the agency's conclusion that the responsibility for the asbestos mismanagement was limited to only three individuals. He maintained that the six additional individuals whom he identified in his first set of comments shared responsibility as well. In support of this contention, Mr. Lee submitted copies of various policies and other documents as attachments to his comments.

OSC has reviewed the original disclosures, the agency report and supplemental reports, and Mr. Lee's comments. Based on that review, we have determined that the reports contain all of the information required by statute and that the agency's findings appear to be reasonable.

As required by law, 5 U.S.C. § 1213(e)(3), we have sent copies of the reports and Mr. Lee's comments to the Chairman and Ranking Member of the Senate Committee on Commerce, Science and Transportation and the Chairman and Ranking Member of the House Committee on Energy and Commerce. We have also filed copies of the reports and Mr. Lee's comments in our public file and closed the matter.

Respectfully,



William E. Reukauf
Associate Special Counsel

Enclosures

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UNITED STATES DEPARTMENT OF COMMERCE
The Secretary of Commerce
Washington, D.C. 20230

February 3, 2011

Mr. William E. Reukauf
Associate Special Counsel
U.S. Office of Special Counsel
1730 M Street, NW, Suite 218
Washington, DC 20036-4505

Dear Mr. Reukauf:

Enclosed is the Department of Commerce's (Department) report in response to your request of January 8, 2010, to investigate allegations that certain Department managers failed to inform employees working in the Herbert C. Hoover Building (Building) in a timely manner of the existence of unsafe levels of asbestos in the Building's eighth floor attic, and for knowingly permitting these employees to work in contaminated areas without personal protective equipment. Upon receiving your request, I immediately tasked the Department's Inspector General to investigate these allegations and to discuss his findings and recommendations with the Department's Chief Financial Officer and Assistant Secretary for Administration. I also tasked the Chief Financial Officer and Assistant Secretary for Administration to establish a plan to implement the Inspector General's recommendations.

I have reviewed the investigative report and the memorandum responding to the report, and I concur with the findings and recommendations. Since arriving as Secretary in March 2009, one of my enduring and important goals is to ensure all employees, contractors, and the public are provided a safe building and office environment in which to transact public business. In that respect, I appreciate the efforts of Mr. Edgar Lee and your office for bringing this situation to my attention. Thank you for the opportunity to respond to this issue.

Sincerely,

Gary Locke

Enclosures

UNITED STATES DEPARTMENT OF COMMERCE
Chief Financial Officer
Assistant Secretary for Administration
Washington, D.C. 20230

MEMORANDUM FOR THE SECRETARY

FROM: Scott B. Quehl
Chief Financial Officer and
Assistant Secretary for Administration

SUBJECT: Response to OIG Report- Results of Investigation, Re: Whistleblower Disclosure of Asbestos Conditions in HCHBs 8th Floor/Attic

This memorandum describes the actions that have been taken and which are proposed, in response to the above referenced report dated January 20, 2011. The action plans are annotated within each recommendation below.

OIG Recommendation 1: Develop, institute, and maintain a robust asbestos management plan in accordance with EPA guidelines and OSHA regulations, to include:

Bullet 1: Appointing a qualified, trained Asbestos Program Manager;

Bullet 2: Posting applicable asbestos warning signage at access points to and throughout the 8th floor/attic, as well as elsewhere in HCHB as appropriate;

Bullet 3: Restricting access to, and requiring use of respirators for personnel working in, any asbestos hazard or containment area of HCHB;

Bullet 4: Ensuring frequent (e.g., semiannual) inspection of asbestos-containing material and air sample testing (at least annually, as also recommended by GSA) in the 8th floor/attic and throughout HCHB;

Bullet 5: Implementing a comprehensive asbestos management recordkeeping system to include thoroughly documenting and tracking the results of testing and resultant actions taken;

Bullet 6: Benchmarking other similarly affected federal agencies to identify best practices for managing and controlling asbestos conditions.

CFO/ASA Actions Taken - Bullet 1: (Appointing a qualified, trained Asbestos Program Manager)

1. Asbestos management duties for the Herbert C Hoover Building (HCHB) had been assigned as an ancillary responsibility to several different offices and employees within the Office of Administrative Services (OAS) since at least 1991.

2. Most recently this responsibility was covered by an Industrial Hygienist working in the OAS Environmental Office. In April 2010 OAS was notified this person intended to leave DOC, and on April 26, 2010, OAS determined that after meeting with the GSA Industrial Hygiene, Safety, Environment and Fire Protection Branch, a dedicated position should be created for a HCHB Building Safety Manager, with asbestos management responsibilities. After negotiations with the Office of Human Resource Management, a vacant position which could be utilized for a Building Safety Manager was identified.

3. A recruitment package for this position was issued on June 28, 2010, posted on August 16, and certificates issued on October 14. No successful candidates were found. A second recruitment package was initiated October 26, reformatted under the new hiring format November 11, and approved and routed to the Office of Human Resource Management for processing and posting on January 12, 2011. Because of the current continuing resolution, the recruitment package is presently with the Office of Executive Budgeting for funding approval. Once all approvals are received, it is anticipated that a person could be hired and performing the duties of the position as early as March 28, 2011.

CFO/ASA Actions Taken - Bullet 2: (Posting applicable asbestos warning signage at access points to and throughout the 8th floor/attic, as well as elsewhere in HCHB as appropriate)

1. Asbestos warning signs have been posted in the 8th floor/attic for many years. New and additional asbestos warning signs were posted at access points to and throughout the 8th floor/attic in March 2009. All warning signs are checked by GSA during their annual asbestos Operations and Maintenance inspections. DOC Building maintenance staff also inspect signage as part of their daily duties to augment the GSA inspections.

2. In January 2011 an audit of the asbestos warning signs on the 8th floor/attic was conducted. Two signs posted on regulated areas* required replacement at the entry points. There were an additional four unregulated areas that contained non-friable asbestos, which also required replacement signs. The six replacement warning signs were installed on January 14, 2011 by OAS.

   * Regulated area is the term used in OSHA regulations for areas where it is reasonably possible that airborne concentrations of asbestos exceed permissible limits.

CFO/ASA Actions Planned - Bullet 2:

1. As an additional measure, OAS has initiated a review to identify additional signage which may be appropriate for non-regulated areas that have accessible, but non-friable Asbestos Containing Materials (ACM) and Potentially Asbestos Containing Materials (PACM)

elsewhere in the HCHB. A current Reimbursable Work Agreement (RWA) with GSA will be amended to include this task. All additional signage should be installed by July 1, 2011.

CFO/ASA Actions Taken - Bullet 3: (Restricting access to, and requiring use of respirators for personnel working in, any asbestos hazard or containment area of HCHB)

1. Restricting access to, and requiring use of respirators for personnel working in asbestos hazard or containment areas (regulated areas) is current practice. All regulated areas are secured by locked doors with padlocks.

2. Six OAS staff members are Asbestos AHERA Supervisor qualified and have completed respirator training. They possess and use the necessary safety equipment and respirators which are in date and tested annually.

3. The existing requirement to wear respirators, as well as other safety equipment, in regulated areas, along with correct work procedures, is being reinforced via memo to all OAS employees trained to work with asbestos. The memo is scheduled to be issued by February 8, 2011.

4. The 8th floor/attic area is accessible only through locked doors and elevators with a key or a key card. Locks have also been added to the doors of all entry points to regulated areas. All access doors to the 8th floor/attic are checked daily by OAS staff members to ensure the integrity of the locks and condition of the signage.

CFO/ASA Actions Taken - Bullet 4: (Ensuring frequent (e.g., semiannual) inspection of asbestos-containing material and air sample testing (at least annually, as also recommended by GSA) in the 8th floor/attic and throughout HCHB)

1. All OAS Building Management staff complete asbestos awareness training annually and monitor the condition of accessible ACM throughout the course of their daily tasks.

2. The six OAS qualified asbestos AHERA Supervisors pre-inspect all areas being accessed for maintenance or refurbishment to determine if there is any ACM or PACM in the work area and if so, they ascertain the condition of the materials to ensure the area is safe to proceed. Each inspection is documented to augment and update the data sets of previous inspections.

3. GSA conducts annual Operations and Maintenance surveys of the known ACM and PACM within the HCHB to document its condition and identify any repairs required. The most recent survey was conducted by Global Consulting Inc. Their survey report was delivered to GSA and OAS in December 2010.

4. OAS Building Management staff have also initiated their own annual Operations and Maintenance surveys of the ACM and PACM (to occur six months after each GSA survey) to ensure all accessible asbestos in the HCHB is inspected on a semi-annual basis.

5. GSA conducted annual air sampling for asbestos in the HCHB occupied areas (basement to the 7th floor), from pre 1990 to 1995, when it ceased due to GSA budget constraints. GSA reinstituted air sampling for HCHB occupied areas in 1999 and conducted such sampling annually thereafter, except for 2006 and 2009 when GSA budget constraints again precluded testing. All such sampling results were below the OSHA permissible exposure limit. In 2010 the GSA air sampling was expanded to include the 8th floor/attic. The last air sampling was performed in Q1 FY11 with all results below the OSHA permissible exposure limit. OAS Building Management has initiated its own annual air sampling surveys of the HCHB, including the 8th floor/attic area, to augment the annual GSA survey and to ensure semi-annual sampling is conducted throughout the HCHB.

CFO/ASA Actions Taken - Bullet 5: (Implementing a comprehensive asbestos management recordkeeping system to include thoroughly documenting and tracking the results of testing and resultant actions taken)

1. In 1985 the authority for the maintenance of the HCHB was delegated to DOC from GSA, however GSA retained monitoring responsibilities of the asbestos within the building. Asbestos work (whether abatement, containment or encapsulation) is and has been documented for all of the HCHB over this time period. This work has been memorialized in the operation and maintenance logs of OAS. Today, with the HCHB renovation project underway, OAS is responsible for maintenance actions on the occupied side of the HCHB, and the GSA renovation contractor is documenting asbestos abatement undertaken during renovations. GSA will provide DOC with documentation outlining what hazardous materials exist in the renovated section of the building at the end of each phase.

2. On September 3, 2009, OAS entered into a RWA with GSA to update the Asbestos Management Plan & Operations & Maintenance Program tailored for the HCHB by GSA in August 2000. The deliverable under Task One was a comprehensive survey of ACM and PACM in the HCHB. The survey data was delivered to GSA and OAS by Global Consulting Inc. in December 2010 for review. Task Two is the updating of the Asbestos Management Plan, which is now in draft form and is being benchmarked against other GSA management plans by OAS. Task Three is the development of an AutoCAD coverage that will graphically depict all ACM and PACM within the HCHB and allow for a more efficient management of these conditions. The AutoCAD program is expected to be operational by 1Q FY12.

3. Existing asbestos surveys: the Asbestos Management Plan & Operations & Maintenance Program, other individual studies (MACTEC 2003), and the new December 2010 deliverable (HCHB Asbestos Inspection Report by Global Consulting Inc.), are all used to plan and execute all maintenance projects within the HCHB. These resources are being incorporated into GSA's updating of the Asbestos Management Plan for the HCHB now in draft form.

4. OAS has collected all historical documentation (testing, air sampling, surveys, training logs, policy documents etc) related to asbestos and has consolidated them into a series of binders, which are held in the Building Management Office. These records are being updated with all new information related to asbestos management (test results, surveys,

training, operation and maintenance logs, abatement records, etc) and will be transferred to the new HCHB Building Safety Manager/Asbestos Program Manager once the position is filled, per bullet 1 above. The new HCHB Building Safety Manager/Asbestos Program Manager will also maintain any electronic records, such as those delivered in paragraph 2 above. These records will be used to develop a chronological record log, which will be maintained in both paper and electronic formats.

CFO/ASA Actions Taken - Bullet 6: (Benchmarking other similarly affected federal agencies to identify best practices for managing and controlling asbestos conditions)

1. OAS Building Management benchmarked the HCHB Asbestos Management procedures against the National Institute of Science and Technology (NIST) Asbestos Management procedures during a phone interview with Ms. Sharon Ray, the Asbestos Program manager for NIST on April 27, 2010 and during a site visit on June 24, 2010. Ms Ray is a recognized expert in this field, and she confirmed, via email dated April 29, 2010, that the OAS procedures for managing the accessible asbestos within the building (until it is abated during the renovation project) were acceptable and in line with NISTs procedures.

2. The OAS Building Manager met with the US Department of Agriculture (USDA) Asbestos Program Manager on January 25, 2011 to benchmark the HCHB Asbestos Program against theirs and identify practices which could be implemented within the Department of Commerce. The findings are being collated and any relevant items will be incorporated into the DOC asbestos management policies and procedures.

3. A meeting is being scheduled with the Internal Revenue Service (IRS) Asbestos Manager prior to February 14, 2011 to review their program. USDA and IRS were selected as their buildings are similar to the HCHB, necessitating similar asbestos management program requirements.

CFO/ASA Actions Planned - Bullet 6:

1. The updated HCHB Asbestos Management Plan being prepared by GSA, under the 2009 RWA with GSA, will be independently reviewed and benchmarked by the NIST Asbestos Program Manager Ms. Sharon Ray.

2. OAS is also working with GSA to benchmark GSA Triangle Building Asbestos Management Programs by reviewing copies of written Asbestos Management Plans and meeting with other Asbestos Program Managers to ascertain best practices.

OIG Recommendation 2: Commission a review of the 2005 asbestos survey of the building by a licensed asbestos building inspector/management planner to ensure that the location and condition of all asbestos-containing materials are recorded and up-to-date.

CFO/ASA Actions Taken:

1. OAS 2009 RWA with GSA to update the HCHB Asbestos Management Plan addressed this recommendation. As discussed above, GSAs contractor Global Consulting Inc.

reviewed existing asbestos documentation and undertook a comprehensive survey of asbestos locations and condition of ACM and PACM in the HCHB. The results of this survey were delivered to GSA and OAS in December 2010 and will complement the 2005 asbestos survey. Once the Global Consulting Inc. inspection data is reviewed, Global will provide a comprehensive combined data set of asbestos information for the HCHB. This information will be incorporated into the updated Asbestos Management Plan for the HCHB.

OIG Recommendation 3: Promptly abate or remove any damaged asbestos-containing materials identified in the course of surveys, inspections, and renovation work.

CFO/ASA Actions Taken:

1. OAS has procedures in place to promptly abate or remove any damaged asbestos-containing materials identified in the course of surveys, inspections or routine maintenance tasks. These processes were reinforced per OAS memorandum dated July 22, 2010. Maintenance logs are generated from the OAS Office of Space and Building Management for environmental audits and remediation within the occupied portion of HCHB, including the 8th floor/attic. Work done in the HCHB Building Renovation Project Phase II is executed and documented by construction personnel under the GSA contract. At the end of each phase of the renovation project GSA will provide DOC with documentation outlining what hazardous materials exist in that section of the building and any precautions which must be taken.

OIG Recommendation 4: Determine the universe of individuals subjected to potential exposure to impermissible levels of airborne asbestos in the 8th floor/attic, and (a) inform those individuals of applicable procedures for addressing such potential exposure; and (b) offer any such potentially affected current and former employees, including Mr. Lee, health-related measures as may be appropriate.

CFO/ASA Actions Planned:

1. OAS is reviewing all asbestos studies, air sampling results and other pertinent information, whether developed by or for OAS and/or GSA, to determine the relevant time period during which individuals may have been subjected to potential exposure to impermissible levels of airborne asbestos in the 8th floor/attic.

2. Asbestos work logs and known usage history of the 8th floor/attic (taking into consideration the type of activities concerned and likely length of exposure) will be assessed to determine the universe of people who may have been subjected to potential exposure to impermissible levels of airborne asbestos. This may include other agency personnel, contractor employees and vendors.

3. Based upon this review and consistent with OSHA regulations for asbestos found at 29 C.F.R. § 1901.1001, OAS in consultation with a Federal Occupational Health physician and the Office of Human Resources Management will determine what additional notice

and/or medical surveillance is appropriate. This task is anticipated to be completed by March 1, 2011.

OIG Recommendation 5: Develop a communication plan in accordance with GSA guidance to inform federal and contract employees at HCHB about the risks of and safeguards against potential asbestos exposure, particularly in light of ongoing building renovation.

CFO/ASA Actions Planned:

1. A communications plan will be developed by February 28, 2011, which will include an informative item in the OAS Office of Building Renovation news letter and web site addressing asbestos at HCHB in general and will also describe how the program is abating the material through the renovation project. The newsletters are issued bimonthly and placed in brochure racks at the Secretary's entrance, Reagan Tunnel entrance, Lobby, Cafeteria, and Swing Space floors A, C and D kitchenettes, within the HCHB. Approximately 500 newsletters are distributed and taken by the occupants of the building, each issue. The newsletters are also available for downloading from the Building Renovation website.

UNITED STATES DEPARTMENT OF COMMERCE
The Inspector General
Washington, D.C. 20230

2011 JAN 20 PM 3:33
U.S. EXECUTIVE SECRETARIAT

January 20, 2011

MEMORANDUM FOR: The Secretary

FROM: Todd J. Zinser

SUBJECT: Results of Investigation, Re: Whistleblower Disclosure of Asbestos Conditions in HCHB's 8th Floor/Attic

This memorandum presents the investigative findings and recommendations of the Office of Inspector General (OIG) stemming from whistleblower allegations that management officials at the Department of Commerce, Herbert C. Hoover Building (HCHB), Washington, DC, failed to inform employees in a timely manner of the existence of unsafe levels of asbestos in the HCHB 8th floor/attic. Further, the complaint asserted that management officials knowingly permitted employees to work in contaminated areas without personal protective equipment. These allegations, raised by Edgar Dion Lee, former Hazardous Waste Facility Assistant in the Department's Office of Administrative Services (OAS), were referred to you by the U.S. Office of Special Counsel (OSC) on January 8, 2010.

Pursuant to your delegation of January 22, 2010, we have conducted an investigation of Mr. Lee's disclosure and have provided our findings and recommendations to Scott Quehl, the Department's Chief Financial Officer & Assistant Secretary for Administration. The delegation designated Mr. Quehl as having responsibility for coordinating the Department's review and determination of what corrective actions should be taken in response to our findings and recommendations. In accordance with 5 U.S.C. § 1213(d), we recommend that you transmit this memorandum report to OSC, along with a statement detailing corrective actions taken or planned by the Department.

Summary of Results

Our investigation substantiated the foregoing allegations raised by Mr. Lee. In brief, we found that former OAS management failed over several years to properly address asbestos conditions in HCHB's 8th floor/attic. This led to an unknown number of Departmental and contractor employees who were in that area of the building, including Mr. Lee, being subjected to potential exposure to impermissible levels of airborne asbestos between February 2007 and April 2007—and perhaps even earlier than that period. More specifically:

- In 2003 and 2006, General Services Administration (GSA) contractors who were conducting pre-renovation surveys of the HCHB reported damaged and deteriorating asbestos-containing materials in the 8th floor/attic. OAS management effected remediation and some abatement pursuant to the 2003 findings. While a GSA official maintained that the 2006 report was also

provided to OAS per standard procedure, former OAS officials told us they did not receive the 2006 report—which recommended restricting access to personnel wearing respirators until the damaged asbestos was abated—and therefore took no action. In March 2007, an industrial hygienist contracted by the Department found the 2006 GSA report among OAS asbestos-related records she was reviewing in the basement of HCHB.

- Despite OAS's knowledge of damaged asbestos, no testing for airborne asbestos in the 8th floor/attic was carried out from 2003 to early 2007. Only after a maintenance foreman raised concerns in February 2007 did OAS management undertake air sample testing. Through testing in the 8th floor/attic on February 23, 2007, OAS's contractor found visibly damaged asbestos-containing materials and concluded that relatively high fiber-in-air levels contained airborne asbestos exceeding the Occupational Safety and Health Administration (OSHA) "Permissible Exposure Limit" (PEL—defined below). Subsequent testing by this contractor on April 25, 2007, with fiber analysis performed by an outside laboratory, confirmed that airborne asbestos in the 8th floor/attic exceeded the OSHA PEL.

- Given this serious health hazard, OAS officials had an affirmative obligation under OSHA and GSA regulations to take proper, timely measures to protect employees from asbestos exposure. Their responsibilities included implementing and following a comprehensive asbestos management plan providing for regular testing for airborne asbestos, awareness training, and remediation of damaged materials. Moreover, when airborne asbestos levels were found to exceed the legally permissible limit, OAS officials were required to restrict access to the area, notify employees, and post warning signage.

- However, OAS management at the time did not fulfill these critical responsibilities in a proper and timely manner. In particular, they did not adequately restrict access to the 8th floor/attic and post appropriate warning signage upon learning that airborne asbestos exceeded the permissible limit during the period of February to April 2007. It was not until much later—January 2008, in advance of scheduled abatement—that OAS management adequately restricted access. Further, it was not until February 2008 that OAS provided proper notification to some employees.

- This failure to act subjected an unknown number of employees to potential exposure to airborne asbestos above the permissible limit during February–April 2007. Further, based on the reported findings beginning in 2003 of damaged asbestos in the 8th floor/attic, it is reasonable to conclude that this potential exposure may have begun earlier than February 23, 2007—possibly up to years prior to that time. The responsible OAS officials are no longer with the Department.

- Recent testing, arranged by OIG and conducted throughout HCHB in June 2010, found no airborne asbestos exceeding the PEL in the 8th floor/attic or elsewhere in the building. However, asbestos-containing materials still exist throughout the building and could be damaged through ongoing renovations, as well as daily work activities, and again become airborne in concentrations exceeding the PEL. Underscoring this risk, in June 2010, an OSHA inspector collected several samples of particulate matter from damaged, exposed asbestos-containing material in an 8th floor/attic air handling room, some of which contained

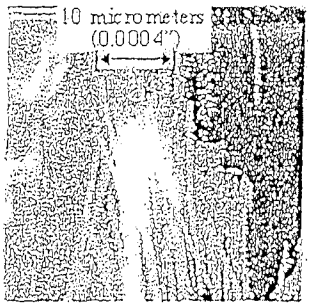
asbestos fibers. OAS repaired the damaged material in response to the OSHA inspector's finding.

- Notwithstanding, OAS still lacks a comprehensive, well-managed asbestos management plan in order to ensure future compliance with all applicable standards and prevent the reoccurrence of the hazardous conditions that Mr. Lee disclosed and our investigation substantiated. We recognize that asbestos management and control is a highly complex area of regulation, and that many federal agencies face this challenge. However, as detailed in our recommendations below, instituting a comprehensive asbestos management plan—to include regular air sample testing—should be addressed promptly, and with a strong sense of urgency, by the Department.

Background & Governing Regulations and Policies

Management of asbestos in federal buildings is governed primarily by the GSA and OSHA regulations. We reviewed and analyzed the relevant regulations and assessed the Department's compliance with these requirements. As highlighted below, asbestos-containing material is present in HCHB, and the Department is required to follow the pertinent regulations.

Asbestos is the name given to a group of naturally occurring fibrous minerals used in certain products, such as building materials and vehicle brakes, based on its heat insulating and other properties. Over the span of decades, asbestos-containing products were prevalent in commercial and government facility applications. According to OSHA publications, breathing asbestos fibers, which are mostly invisible to the unaided eye, can cause a buildup of scar-like tissue in the lungs, termed asbestosis, and may result in loss of lung function that leads to disability and/or death. It can also cause lung cancer and other often fatal diseases such as mesothelioma. Because asbestos does not cause any immediate health effects, the diseases caused by asbestos exposure do not typically appear until 15 to 40 years after initial exposure. Thus, asbestos poses a significant health hazard and its use and presence is regulated by OSHA, the Environmental Protection Agency (EPA), and also, for federal facilities such as HCHB, the GSA. Below is a scanning electron micrograph of a bundle of asbestos fibers[1].



[1] 1,000 micrometers = 1 millimeter. Comparatively, an asbestos fiber with a diameter of 1 micrometer is about 1/100th the thickness of the average human hair. Image source: EPA and the Centers for Disease Control.

HCHB was constructed to house the Department of Commerce in the late 1920s, and is part of the Pennsylvania Avenue National Historic Site. HCHB contains office space for approximately 4,000 employees. In addition, the building also houses the National Aquarium, the White House Visitor's Center, a children's day care center, a fitness center, and a credit union. GSA is the lessor of HCHB and the Department is the tenant. As the tenant and operator of the HCHB, the Department is required to follow all environmental laws and regulations, including GSA's Federal Management Regulation (FMR), which addresses asbestos control, as discussed below.

As in other federal buildings, asbestos-containing materials were installed, and remain, throughout HCHB, primarily in the form of spray-on fireproofing, pipe-wrap insulation, and on the underside of floor tile. These materials are particularly prevalent in the 8th floor/attic space of the HCHB, which was readily accessible to employees, contractors, and visitors and widely used by employees at the time of the events reported herein. During the relevant period and to date, the 8th floor/attic space of the HCHB contained mechanical equipment, air handling units and other building components, as well as multiple small rooms/offices for short-term use, an extensively used break room, bathrooms, temporary records storage space for Departmental bureaus, and mechanical servicing areas. The 8th floor/attic contains numerous pipes and other asbestos-containing materials, some of which are accessible from common walkways.

Among other requirements, GSA's FMR and OSHA regulations impose duties to assess and abate asbestos-related risks:

- The FMR requires federal agencies to inspect and assess buildings for the presence and condition of all asbestos-containing materials.

- The FMR also requires federal agencies to manage asbestos-in-place that is in good condition and not likely to be disturbed, as well as to abate damaged asbestos-containing materials and those likely to be disturbed.[2]

- OSHA regulations further prescribe that employers shall ensure that employees are not occupationally exposed to airborne concentrations of asbestos in excess of the PEL (PEL–0.1 asbestos fiber per cubic centimeter of air (f/cc), as an 8-hour time-weighted average[3]).

- Notwithstanding the established PEL, an OSHA risk assessment concluded that the current PEL serves to reduce, but not eliminate, "the significant risk of adverse health effects...[T]he [data] demonstrate[s] that a significant risk continues to exist even at the present PEL."[4] As

[2] See 41 CFR §102-80.15.

[3] See 29 CFR §1910.1001.

[4] OSHA Standard Interpretation entitled, *"OSHA's position on the risk associated with asbestos at the current PEL,"* dated 5/13/99, states, "When the Final Rule for the Asbestos Standard was published in the Federal Register on August 10, 1994, the OSHA risk assessment showed that reducing the PEL to the 0.1 f/cc level [from 0.2 f/cc] would reduce, but not eliminate, the significant risk of adverse health

such, OSHA requires employers to take certain actions to further reduce risk to employees posed by asbestos—e.g., providing comprehensive safety training, posting appropriate signage (see below graphic), and restricting access and requiring respirators for areas where airborne asbestos exceeds the PEL.

ASBESTOS
CANCER AND LUNG
DISEASE HAZARD
AUTHORIZED PERSONNEL ONLY

- Finally, OSHA regulations require prompt removal or abatement (e.g., encapsulation) of damaged asbestos or when air sample testing shows airborne asbestos exceeding the PEL.[5]

The complainant's duties at HCHB entailed activity in the 8th floor/attic areas during the relevant time period. As the sole Hazardous Waste Facility Assistant assigned to OAS's Office of Real Estate, Mr. Lee's position description included the following "Major Duties and Responsibilities":

> "Ensures hazardous materials and wastes are received, handled, stored, labeled, marked, inspected, documented and manifested/disposed of in compliance with applicable environmental regulations and safety requirements...Inspects storage areas... ."

While Mr. Lee was not directly involved in asbestos removal/abatement activities, according to a former supervisor, who at the time was the Environmental Program Manager, Mr. Lee's duties routinely included collecting waste of a hazardous nature and disposing of it in accordance with EPA standards. Mr. Lee's former supervisor stated that these duties included the removal and disposition of bagged lead-based paint and asbestos-containing materials, among other waste and debris. He further maintained that Mr. Lee regularly inspected and worked throughout the building, from the basement to the 8th floor/attic. This account is corroborated by several other individuals we interviewed, who confirmed that Mr. Lee routinely performed work in the 8th floor/attic from 2004 until 2008.

Methodology of the Investigation

Our investigation included conducting interviews with nearly 20 persons, including Mr. Lee; [redacted] OAS's Occupational Safety and Health Office, (who, at the time of critical

effects. Exposures at this level were still estimated to pose a lifetime risk of death from asbestos related cancer of 3.4 per 1,000 [industry] workers and a 20 year exposure risk of 2.3 per 1,000 [industry] workers (59 FR No. 153 at pg. 40966-7). These figures demonstrate that a significant risk continues to exist even at the present PEL."
(http://www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=INTERPRETATIONS&p_id=22884)

[5] See 29 CFR §1910.1001.

events, was responsible along with [redacted] for asbestos management and control); and other former and current OAS managers and federal/contract employees. We also reviewed hundreds of pages of records, emails, OSHA, EPA, and GSA regulations, Departmental directives, building survey reports, and air sample testing reports. In addition, we contracted with an independent firm of industrial hygienists to sample locations throughout HCHB for air and dust-borne asbestos. We also met and spoke with, on multiple occasions, officials from OSHA, EPA, and GSA, as well as current Departmental officials.

Findings

Our investigation found that between February 2007 and April 2007—and perhaps earlier than that period—airborne asbestos levels in the 8th floor/attic exceeded the PEL established by OSHA regulation and, because then-OAS management did not take prompt and sufficient action, an unknown number of employees and contractors in that area, including Mr. Lee, were potentially exposed to impermissible levels of airborne asbestos.

We note that our investigation was impeded in several respects by poor recordkeeping within OAS, inconsistent and conflicting recollections of events, and a lack of corporate knowledge and confusion on asbestos response requirements—attributable, at least in part, to the attrition of OAS management and nearly all other OAS personnel involved at the time. A chronology of key events is provided in Appendix A.

1. 2003–2006: OAS management fails to take adequate action in response to GSA contractor reports of damaged and deteriorating asbestos.

In 2003 and 2006, GSA contractors who were conducting pre-renovation surveys of the HCHB building reported damaged and deteriorating asbestos-containing materials in the 8th floor/attic. Although the GSA contractor air sampling of the 8th floor/attic, conducted on September 30, 2002, showed that airborne asbestos levels were below the PEL, the subsequent reports beginning in 2003 noted that damaged and deteriorating asbestos-containing materials could become airborne and thereby elevate levels above the PEL. Recognizing this risk, the GSA contractor reports recommended that access to the 8th floor/attic be restricted to asbestos-trained personnel until the visibly damaged and deteriorating asbestos could be repaired or removed; moreover, the 2006 report went further, recommending that only personnel utilizing respirators be allowed access to the area.

However, OAS officials at the time did not abide by these recommendations and did not conduct testing, restrict access, provide employees with respirators, or attempt to abate the damaged and deteriorating asbestos.[6] Although OAS performed some repairs in response to the 2003 report, we found no evidence that OAS addressed all the issues raised by the contractor. In addition, between 2003 and 2007, OAS did not provide HCHB janitorial, maintenance, and other staff (including Mr. Lee), who came into contact with materials in the 8th floor/attic, with asbestos-

[6] This failure could constitute a violation of 41 CFR § 102-80.15.

related training.[7] We further found that OAS did not adequately label asbestos-containing materials in the 8th floor/attic during that time period.

Although OAS management received the 2003 report and took some actions in response, former OAS officials maintain that they did not receive the 2006 report until after GSA was informed in early May 2007 of test results from February 2007 and April 2007 indicating that asbestos levels in the 8th floor/attic exceeded OSHA's PEL. However, in March 2007, while reviewing a prior building manager's asbestos-related records in storage in the basement, the contractor and an OAS building management specialist found the 2006 GSA report addressing the presence of damaged asbestos in the 8th floor/attic. Moreover, GSA's Regional Asbestos Program Manager stated that the GSA contractor reports, including the 2006 report, would have been contemporaneously provided to OAS in the normal course of business.

2. *February 2007: OAS maintenance foreman elevates growing concern about failure to conduct asbestos safety training and air sampling, resulting in testing of the 8th floor/attic for airborne asbestos.*

Despite GSA contractor report(s) provided to OAS detailing asbestos damage and deterioration in the 8th floor/attic area, the air in that area was not sampled for asbestos contamination from September 30, 2002, until February 20, 2007, when a Commerce heating/air-conditioning foreman sent an email to OAS management expressing concern that asbestos air sampling and other health-related measures had not been conducted for some time. This email, captioned "asbes," stated:

> "What is the latest on our [asbestos training] refresher courses, [respirator] fit testing, lung X-rays, breathing tests, and also having the attic tested for air borne fibers. We don't want to end up like NIH.[8] It has been a good while since we have addressed theses[sic] items. We need to protect ourselves from claims."

That same day, a half-hour later, the then-Building Manager forwarded the foreman's email to a building management specialist, recaptioned "Asbestos Training and Testing," including the following:

> "We are very over due on this!!!...[G]et a vendor scheduled for the training and testing immediately..."

[7] This failure could constitute a violation of 19 CFR § 1910.1001.

[8] This appears to be in reference to media coverage of a February 2007 congressional inquiry into asbestos issues at the National Institutes of Health campus.

OAS management responded to these emails by contracting with an industrial hygienist to conduct air sample testing in the 8th floor/attic, directing use of a basic testing method[9] that could only measure fiber-in-air, generically, and not determine the presence of asbestos fibers. The testing, conducted on February 23, 2007, found relatively high levels of fiber-in-air, generically. The contractor told us that based on the fiber-in-air levels and her observation of plainly visible damaged asbestos-containing materials in proximity to her air sampling equipment, she concluded that airborne asbestos exceeded the OSHA PEL. The contractor's report to OAS on February 24, 2007, included the following:

> "On the [sic] February 23, 2007, air samples were taken in the [8th floor/] attic for the detection of asbestos contamination. All of the results of the testing were above the [OSHA] permissible exposure limit of 0.1 f/cc. Therefore, it is our finding that the area is contaminated."

The contractor identified potential sources of airborne asbestos in the 8th floor/attic as damaged and deteriorating asbestos-containing materials—the same type of damaged and deteriorating asbestos-containing materials previously identified by GSA contractors in their 2003 and 2006 reports. The contractor told us that upon concluding that the air samples in the 8th floor/attic contained airborne asbestos exceeding the OSHA PEL, she recommended to OAS management that a common follow-on testing method be utilized in order to specifically identify airborne asbestos fibers.[10] OAS management declined at that time to conduct the recommended asbestos-specific testing because they did not believe the elevated fiber-in-air levels were attributable to asbestos. In March 2007, while reviewing a prior building manager's asbestos-related records in storage in the basement, the contractor and an OAS building management specialist found the 2006 GSA report addressing the presence of damaged asbestos in the 8th floor/attic.

With this additional information, the contractor convinced OAS management to carry out further air sample testing, which the contractor conducted on April 17, 2007, and April 25, 2007. The testing on April 25, 2007, for which fiber analysis was performed by an outside laboratory, specifically confirmed the presence of airborne asbestos exceeding the OSHA PEL. Appendix B contains two of several photographs of damaged asbestos-containing materials the contractor observed during the contractor's air sample testing on April 17, 2007, and included in her report to OAS.

Based on the previous reports of damaged and deteriorating asbestos in the 8th floor/attic, as well as a lack of airborne testing, it is reasonable to conclude that employee exposure may have begun months to even years prior to the initial test on February 23, 2007. In addition to disregarding the contractor's recommendation in February 2007 to immediately employ the asbestos-specific testing method and neglecting for several years to conduct routine air sample testing

[9] Testing for fiber-in-air, generically, is commonly done via low-cost Phase Contrast Microscopy (PCM), which cannot distinguish asbestos fibers from other fibers sampled (e.g., textiles, gypsum, fiberglass, etc.)

[10] Testing to identify and definitively establish the presence of asbestos fibers is commonly done through higher-cost Transmission Electron Microscopy (TEM).

recommended by GSA and OSHA, OAS also failed to provide routine OSHA-mandated asbestos awareness and asbestos refresher training to employees with access to the 8th floor/attic. When interviewed, employees told us they had not received the training for many years; or, in some instances, had never received asbestos training. Moreover, OAS could not produce any records demonstrating that employees received this required training between 2001 and 2007. Although OAS took initial steps to provide employees with training after the foreman's February 20, 2007, email, OAS did not come into full compliance with this training requirement until May 2009. As of December 2010, OAS remained in compliance with this mandate, as confirmed by an OSHA inspector.

3. *OAS management was aware of asbestos contamination risk in the 8th floor/attic and the need to take remedial measures to protect employees as early as 2003.*

Even if airborne asbestos exceeding the permissible limit had only begun in 2007, OAS management had been on notice as early as 2003 of damaged/deteriorating asbestos in the 8th floor/attic posing the potential risk for becoming airborne. Further, OAS reports in 2007 demonstrate that the office recognized the seriousness of the asbestos contamination. Between April 17, 2007, and April 25, 2007, an official in OAS's Office of Occupational Safety & Health prepared a draft paper entitled, "Asbestos in the HCHB Attic (8th Floor)", which, as addressed below, incorrectly reported the following action had been taken: "[T]he attic area is off limits to anyone unless they have the proper personal protective equipment." Significantly, this OAS paper referenced the April 17, 2007, testing results, but made no mention of the earlier February 23, 2007, testing results.

This draft paper also outlined additional steps to be taken in response to the situation, to include notifying employees and arranging for abatement of damaged and deteriorating asbestos-containing materials. Also, at that time, [redacted] about following through on the delinquent health examinations for maintenance employees who routinely worked in close proximity to asbestos-containing materials in the 8th floor/attic. [redacted] included the following in regards to the annual health examinations:

> "I'm sorry that this slipped thru the cracks in the past..."

On April 24, 2007, OAS notified GSA that 8th floor/attic airborne asbestos levels had exceeded the PEL. Shortly thereafter, on May 2, 2007, OAS emailed GSA's Regional Asbestos Program Manager with the above-referenced draft paper; we found no evidence, however, that this draft paper was ever finalized and formally issued. In response, GSA's Program Manager promptly commissioned a "Hazard Assessment" to identify, in advance of abatement, specific damaged/deteriorating asbestos-containing materials in the 8th floor/attic. GSA's May 2007 draft hazard assessment report included the following findings:

> "[The assessment contractor] identified damaged spray-on fireproofing and pipe insulation in the attic eaves areas, and damaged pipe insulation in the corridor and penthouse levels. Penetrations were observed in the walls separating the attic eaves areas from the access

corridors. These penetrations are conduits for the migration of asbestos fibers throughout the 8th floor and the penthouse levels. Sealing these openings with air tight impermeable barriers will prevent the migration of asbestos fibers. The types of penetrations in the corridor walls include door shaped openings, valve access openings, irregular shaped openings, and ventilation openings. Other types of asbestos containing materials identified include mudded pipe fittings, and cloth vibration dampers. The Hazard Assessment concludes that the asbestos contamination encompasses the entire 8th floor and the adjoining Penthouse."

4. Nonetheless, OAS management failed to take timely and proper action in response to air sample testing showing that the 8th floor/attic was contaminated with asbestos.

Our investigation found that OAS management failed to take timely, proper action to protect employee health and safety upon learning of the February 2007 asbestos testing results, and again when informed of the subsequent April 2007 testing results. More specifically, when the February 23, 2007, testing results showed airborne asbestos exceeding the PEL in the 8th floor/attic, OAS was required under OSHA regulations to take prompt action to prevent employee exposure. Among other measures, these regulations required OAS to immediately:

(a) restrict access to the area to authorized personnel and to provide and require use of respirators by those authorized personnel;

(b) post asbestos warning signage;

(c) notify employees; and

(d) ensure prompt abatement of all damaged asbestos-containing material from which airborne asbestos fibers may have originated.[11]

As shown below, OAS failed to take these critical measures in a timely manner. Although further testing in May 2007, October 2007, and November 2007 indicated that airborne asbestos in the 8th floor/attic had, for undetermined reasons, dropped below the OSHA PEL, access to the 8th floor/attic was required under OSHA regulations to be restricted from February 23, 2007, until at least the May 2007 testing.[12]

While former OAS management informed us that access to the 8th floor/attic had been restricted beginning around October 2006 and continuing through the February 2007 testing until abatement was completed in 2009, their account is contradicted by other witnesses, including the contractor who conducted the air sample testing in both February 2007 and April 2007. This contractor told us that she advised OAS management to shut down access to the 8th floor/attic immediately following the results of her February 2007 testing, but that when she returned in April 2007, the 8th floor/attic was open, without warning signage required by OSHA regulations.

[11] 29 CFR § 1910.1001.

[12] See 19 CFR § 1910.1001.

In addition, none of the individuals she observed in the area wore respirators—including janitorial staff, whom she observed cleaning. Multiple witnesses told us access to the 8th floor/attic was not adequately restricted until January 2008, in advance of scheduled asbestos abatement that commenced in April 2008.

Further, OAS management was unable to produce a record demonstrating that access to the 8th floor/attic was restricted for the period February through April 2007. For instance, we found no OSHA-required sign-in/out logs, documentation of locks installed, or directives such as memoranda or email. In addition, we found no record of OAS issuing respirators and other personal protective equipment to anyone through April 2007.[13]

Moreover, it was not until February 25, 2008—a year after the initial test results showed that airborne asbestos had exceeded the PEL at several times —that OAS notified Mr. Lee and about 40 other current and former employees in writing that they may have performed work in the 8th floor/attic and thus had been exposed to airborne asbestos. (See attached memorandum to Mr. Lee; identical memoranda/letters were sent to the other approximately 40 current/former employees.) Significantly, this letter includes the following statements:

> "In October 2007, follow-up air sampling was conducted on the 8th floor and throughout the HCHB. None of the samples showed detectable levels of asbestos fibers in the air."

For several reasons, we found these statements to be inaccurate and possibly misleading. First, the October 2007 testing results we obtained from the Department establish that testing was conducted in the 7th floor and 8th floor/attic, but <u>not</u> throughout the entire HCHB as stated. Secondly, while the latter statement is literally correct that the testing sample results showed no "detectable levels of asbestos fibers in the air," this obscures the fact that the tests did detect levels of fibers in the air, albeit below OSHA's PEL, but the type of test conducted was not capable of distinguishing whether the fibers were asbestos or another fibrous material. Accordingly, these statements by OAS's then-management, at a minimum, could have misled recipients of the notification.

5. *Consequently, we conclude that Mr. Lee and an unknown number of other employees were subjected to potential exposure to airborne asbestos exceeding the OSHA PEL in the 8th floor/attic between February 2007 and April 2007—and perhaps even earlier.*

[redacted] told us that Mr. Lee's job duties did not entail work in the 8th floor/attic, we find it credible that Mr. Lee was present and performed work in the 8th floor/attic during the subject period in which airborne asbestos exceeded the PEL. We base this conclusion on Mr. Lee's sworn statement to us; witness accounts, including former supervisors and colleagues, placing him in the 8th floor/attic; his position description and the nature of his duties conducting environmental inspections throughout HCHB; and his performance appraisal.

[13] Employees working in areas exceeding the PEL must be equipped with personal protective equipment including respirators. 19 CFR § 1910.1001.

Moreover, we concluded that Mr. Lee, among others, had access to the 8th floor/attic until January 2008, including the period between February 23, 2007, until April 25, 2007, when testing indicated that airborne asbestos levels exceeded the PEL. OAS did not adequately restrict access to the area until January 2008 in advance of abatement activities in HCHB. Then-OAS Director Fanning himself acknowledged that Mr. Lee had access to the 8th floor/attic by issuing the February 25, 2008, memorandum to Mr. Lee. That memorandum notified Mr. Lee that he may have performed work in the 8th floor/attic in the six months prior to February 2007, and thus may have worked in the presence of asbestos.

6. *Recent Conditions: Despite asbestos abatement completed in 2009 and airborne asbestos levels below OSHA's PEL, asbestos management remains a significant concern.*

Abatement in the 8th floor/attic did not commence until April 2008, due at least in part to a dispute between the Department and GSA over the question of which agency had financial responsibility for the work, estimated to cost up to approximately $500,000. The abatement project was completed in late March 2009. OSHA-mandated "clearance" testing of the 8th floor/attic shortly following completion of abatement work found no airborne asbestos above the PEL. However, since 2009, no air sample testing of HCHB, to include the 8th floor/attic, had been conducted by OAS or GSA—despite subsequent (and ongoing) asbestos abatement work. Thus, in June 2010, as part of this investigation, our office contracted for air sample testing throughout the building, including the 8th floor/attic. Those tests detected no airborne asbestos above the PEL in that space, or any other sampled area of the building.

As reflected in an update requested by the Department's Office of General Counsel in September 2010, OAS outlined containment measures that are in place for continuing asbestos abatement work in the 8th floor/attic, intended to isolate areas of abatement and protect against employee exposure. Notwithstanding the prior abatement, containment measures for ongoing abatement, and the June 2010 air sample test results, substantial asbestos remains in place throughout the building, including the 8th floor/attic, and could become airborne if disturbed. In fact, as indicated in the report prepared by the contractor we hired to conduct air sample testing in June 2010, there are numerous areas of damaged suspected asbestos-containing materials throughout the entire HCHB. Moreover, underscoring this continuing risk, in June 2010, an OSHA inspector collected several samples of particulate matter from damaged, exposed asbestos-containing material in an 8th floor/attic air handling room, some of which contained asbestos fibers. OAS repaired the damaged material in response to the OSHA inspector's finding.

Significantly, the Department continues to lack a comprehensive, well-managed asbestos management plan and program to properly address and mitigate risks posed by scheduled current and future building renovations, as well as daily work operations—despite requirements by OSHA, GSA, and the Department's Environmental Management Manual.[14] To date, OAS has

[14] See 41 CFR § 102-80.15, 19 CFR § 1910.1001, and the Department of Commerce's Environmental Management Manual, (authorized by DAO 200-0), Chapter 10 Asbestos Management, issued December 2006

only a rudimentary plan using a template from GSA that is not specific to HCHB and the Department.

In addition, we found overreliance on GSA for managing the Department's asbestos conditions. While GSA shares some responsibility as the Department's building lessor, the Department has primary responsibility for ensuring worker safety, including protecting employees against significant health hazards such as asbestos.

We note that a report our office issued in March 2000, which addressed issues following a fire and PCB accident in HCHB, included the following: "Several Commerce officials and employees expressed concern that, at the Department level, there are no staff knowledgeable about environmental regulations and compliance."[15] Our office made a similar observation in our September 2002 report, *"The Office of Administrative Services Needs Stronger Internal Controls and Management Oversight"*, which discussed OAS's then-Environmental Program Manager's departure after only one year, in part because of her "grave concerns about the state of the Department's compliance with applicable environmental statutes involving hazardous waste management, lead-based paint, asbestos and underground storage tanks."[16]

With respect to the present matter, we found, in effect, a revolving door of OAS employees who have been assigned environmental and occupational health/safety duties on an ancillary or secondary basis, rather than as a primary job responsibility. For instance, OAS's Associate Director for Building Management is presently functioning in the critical capacity of Asbestos Program Manager; however, he told us that he is not well-trained on, and has minimal knowledge of, asbestos management and control. This is particularly concerning in light of the recent fire on October 7, 2010, on an HCHB floor undergoing asbestos removal/abatement as part of the scheduled building renovation.

In December 2010, an OSHA inspector met with current OAS building management, advising them that, although the current airborne asbestos level was below the PEL, OAS needs to develop and implement a comprehensive asbestos management plan. The inspector also recommended that OAS post asbestos warning signs at 8th floor/attic access points. While the OSHA inspector declined to take official action citing, in part, the June 2010 air sample testing results, the ongoing renovation of the HCHB increases the risk that asbestos will be disturbed or damaged by ongoing construction. Without a comprehensive asbestos management plan in place, the well-being of Department of Commerce employees, contractors, and visitors could again be placed in jeopardy by asbestos contamination.

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[15] OIG Report No. IPE-12453, *"There Are Lessons to Be Learned from the October 1999 Fire and PCB Accident in the Herbert C. Hoover Building,"* March 2000. (www.oig.doc.gov/oig/reports/2000/OS-IPE-12453-03-2000.pdf)

[16] OIG Report No. IPE-15131, *"The Office of Administrative Services Needs Stronger Internal Controls and Management Oversight,"* September 2002. (www.oig.doc.gov/oig/reports/2002/OS-IPE-15131-2002-09.pdf)

Recommendations

Based on the foregoing findings, we recommend that the Department promptly take the following actions:

1. Develop, institute, and maintain a robust asbestos management plan in accordance with EPA guidelines and OSHA regulations, to include:

   - Appointing a qualified, trained Asbestos Program Manager;
   - Posting applicable asbestos warning signage at access points to and throughout the 8th floor/attic, as well as elsewhere in HCHB as appropriate;
   - Restricting access to, and requiring use of respirators for personnel working in, any asbestos hazard or containment area of HCHB;
   - Ensuring frequent (e.g., semiannual) inspection of asbestos-containing material and air sample testing (at least annually, as also recommended by GSA) in the 8th floor/attic and throughout HCHB;
   - Implementing a comprehensive asbestos management recordkeeping system, to include thoroughly documenting and tracking the results of testing and resultant actions taken; and,
   - Benchmarking other similarly affected federal agencies to identify best practices for managing and controlling asbestos conditions.

2. Commission a review of the 2005 asbestos survey of the building by a licensed asbestos building inspector/management planner to ensure that the location and condition of all asbestos-containing materials are recorded and up-to-date.

3. Promptly abate or remove any damaged asbestos-containing materials identified in the course of surveys, inspections, and renovation work.

4. Determine the universe of individuals subjected to potential exposure to impermissible levels of airborne asbestos in the 8th floor/attic, and (a) inform those individuals of applicable procedures for addressing such potential exposure; and (b) offer any such potentially affected current and former employees, including Mr. Lee, health-related measures as may be appropriate.

   Based on our findings, OAS's belated notification in February 2008 to Mr. Lee and approximately 40 other individuals does not appear broad enough to cover all potentially affected employees.

5. Develop a communication plan in accordance with GSA guidance to inform federal and contract employees at HCHB about the risks of and safeguards against potential asbestos exposure, particularly in light of ongoing building renovation.

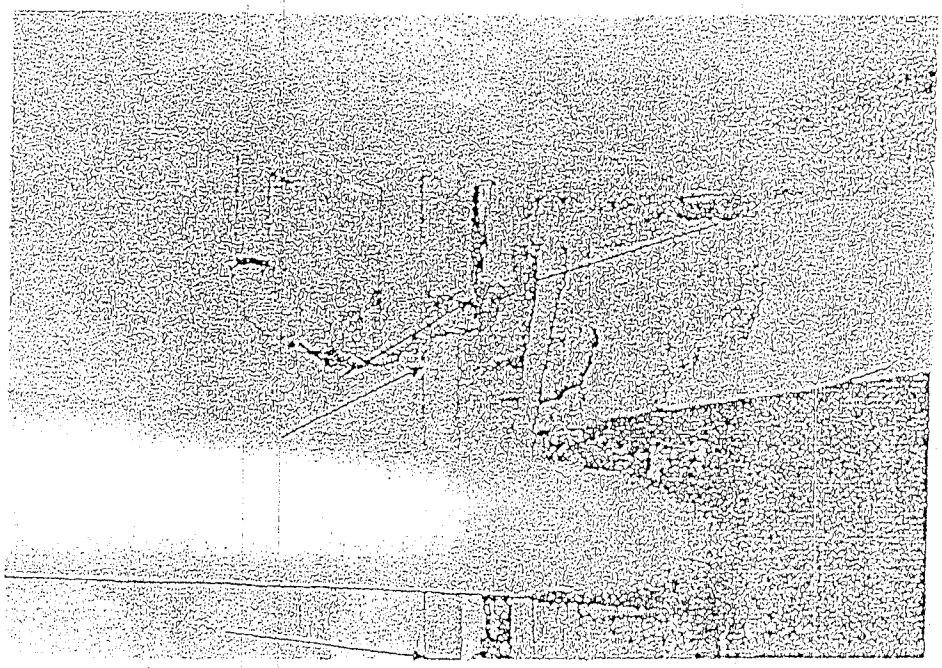
We do not have a recommendation that administrative action be considered for any responsible OAS personnel because those officials bearing responsibility for mismanaging HCHB's asbestos conditions are no longer with the Department.

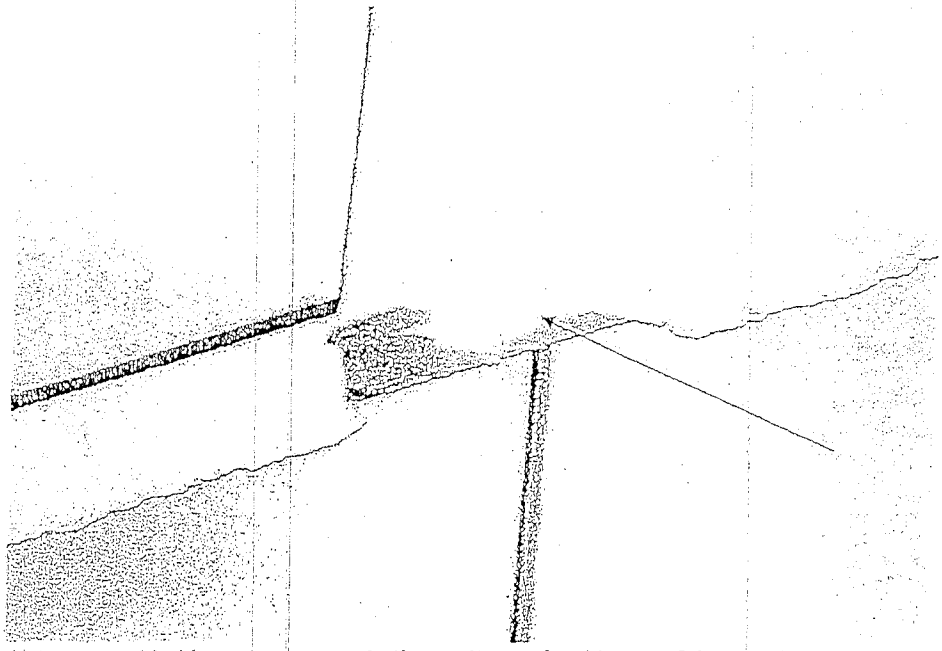
Appendix A—Timeline of Key Events

2002	SEP 30	GSA-contracted air sample testing – Results below OSHA Permissible Exposure Limit (PEL). Report notes potential asbestos hazard in 8th floor/attic.
2003	APR 18	GSA contractor survey report notes multiple locations of severe damage to asbestos-containing materials, including in 8th floor/attic. Based on this report and the foregoing report from 2002, OAS effects remediation and some abatement.
2006	APR 14	GSA contractor report references asbestos-containing materials in "poor, deteriorated condition." Recommends limiting 8th floor/attic access to trained personnel with respirators. GSA maintains report was provided to OAS; former OAS management denies receiving report.
2007	FEB 20	OAS HVAC foreman sends email to OAS, expressing concern about lack of asbestos training, air sample testing, and medical screening.
	FEB 23	DOC-contracted air sample testing (PCM method only) in 8th floor/attic – Results above OSHA PEL*.
	APR 17	DOC-contracted air sample testing (PCM method only) in 8th floor/attic – Results above OSHA PEL*.
	APR 25	DOC-contracted air sample testing (TEM method) in 8th floor/attic – Results above OSHA PEL, as determined by outside laboratory fiber analysis.
	MAY 2, 7	GSA-contracted air sample testing (TEM method) in 8th floor/attic – Results below OSHA PEL.
	OCT 5	DHHS conducts air sample testing (PCM method) in 8th floor/attic – Results below OSHA PEL.
	NOV 20	DHHS conducts air sample testing (PCM method) in 8th floor/attic – Results below OSHA PEL.
	(*Contractor conclusion based on high fiber-in-air per PCM testing and visibly damaged asbestos-containing materials in proximity to testing.)	
2008	JAN	OAS sufficiently restricts access to 8th floor/attic in advance of abatement project.
	FEB 25	Approx. 10 employees receive formal notification from OAS about possible exposure to asbestos.
	APR 25	Commencement of 8th floor/attic asbestos abatement project.
2009	MAR 31	Completion of 8th floor/attic asbestos abatement project.
2010	JAN 8	OSC refers whistleblower disclosure to Secretary for action, delegated to OIG for investigation.
	JUN 4	OSHA inspector collects several samples of particulate matter from damaged, exposed asbestos-containing material in an 8th floor/attic air handling room, some of which contained asbestos fibers. OAS subsequently repaired the damaged material.
	JUN 23	OIG-contracted air sample testing (TEM method) in 8th floor/attic and elsewhere throughout HCHB – Results below OSHA PEL.

Appendix B

Damaged Asbestos-Containing Materials in HCHB 8th Floor/Attic as Observed and Photographed by Department Contractor During 4/17/07 Air Sample Testing





(*Arrows added by contractor to indicate observed evidence of damage.)

FEB 28 2011

UNITED STATES DEPARTMENT OF COMMERCE
Chief Financial Officer and
Assistant Secretary for Administration
Washington, D.C. 20230

Catherine A. McMullen
Chief, Disclosure Unit
U.S. Office of Special Counsel
1730 M Street, N.W., Suite 218
Washington, D.C. 20036

Dear Ms. McMullen:

In response to your email to Justin Ehrenwerth dated February 10, 2011 titled Lee; DI-10-0454, the following information is provided.

OSC Question 1: When will the final draft of the Asbestos Management Plan be completed?

Response: On September 3, 2009, OAS entered into a Reimbursable Work Agreement (RWA) with GSA to update the Asbestos Management Plan & Operations & Maintenance Program tailored for the HCHB by GSA in August 2000. GSA contracted Global Consulting Inc. to complete this task. The draft of the data report was reviewed by GSA on February 18, 2011, with the final report scheduled to be delivered to GSA by Global Consulting Inc. on February 25, 2011. In parallel with this, a Memorandum of Understanding (MOU) is being drafted between the Department of Commerce and the Department of State to enable Commerce to utilize their asbestos management software program. Once the MOU is signed and the Department of State installs their software in the HCHB, Global Consulting Inc. will load the final data set into the software and provide an electronic and hard copy of the final Asbestos Management Plan to GSA and DOC. This is Task Two under the RWA and is scheduled to be completed by May 13, 2011.

OSC Question 2: When is it anticipated that the Asbestos Management Plan will be fully implemented?

Response: The updated Asbestos Management Plan will be fully implemented within two weeks of receipt of the electronic and hard copy. As it is anticipated to be delivered to DOC by Global Consulting Inc. by May 13, 2011, it will be implemented by May 27, 2011.

OSC Question 3: How long will the implementation of this plan be delayed if an Asbestos Program Manager cannot be hired by March 28, 2011?

Response: There will be no delay in the implementation of the plan if an Asbestos Program Manager cannot be hired by March 28, 2011. Existing OAS staff will fully implement and maintain the plan, and utilize the new software program until a dedicated Asbestos Program Manager assumes the responsibilities.

OSC Question 4: What interim measures are in place to ensure that employees are appropriately protected in advance of the implementation of the Asbestos Management Plan, and to ensure compliance with safety regulations?

Response: Current measures and procedures are in place to ensure employees are appropriately protected from any asbestos hazard within the HCHB. The 8th floor/attic area is accessible only through locked doors and elevators with a key or a key card. Doors of all entry points to regulated areas are also locked with padlocks. All access doors to the 8th floor/attic are checked daily by OAS staff members to ensure the integrity of the locks.

Asbestos warning signs are posted on the 8th floor/attic on all regulated areas and at entrances to equipment spaces containing non-friable asbestos. All warning signs are checked by GSA during their annual asbestos Operations and Maintenance inspections. DOC building maintenance staff also inspects signage as part of their daily duties to augment GSA inspections.

Access to any regulated area is controlled by a permit system to ensure all safety regulations are followed and that all personnel entering these areas are protected with personal protective equipment. Six OAS qualified asbestos AHERA Supervisors, who completed annual recertification on February 22, 2011, also pre-inspect all areas being accessed for maintenance or refurbishment to determine if there is any Asbestos Containing Materials (ACM) or Potentially Asbestos Containing Materials (PACM) in the work area. If ACM or PACM is identified they ascertain its condition to ensure work in the area is safe to proceed or take the necessary actions to contain and abate the materials.

GSA also conducts annual Operations and Maintenance surveys of the known non friable ACM within the HCHB to document its condition and identify any repairs required. All repairs are immediately addressed by the OAS asbestos AHERA Supervisors on notification of an issue. DOC and GSA both conduct separate annual air sampling of the 8th floor/attic (with a six month separation) to ensure compliance with the regulations for air quality in this area.

Sincerely yours,

Scott B. Quehl
Chief Financial Officer and
Assistant Secretary for Administration

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UNITED STATES DEPARTMENT OF COMMERCE
Office of Inspector General
Washington, DC 20230

April 25, 2011

Catherine A. McMullen, Esq.
Chief, Disclosure Unit
U.S. Office of Special Counsel
1730 M Street, NW, Suite 300
Washington, DC 20036-4505

Re: OSC File No. DI-10-0454

Dear Ms. McMullen:

This letter is in response to a March 24, 2011 email from Karen Gorman of your staff to Department of Commerce officials that requested additional information related to Edgar Dion Lee's whistleblower disclosure of asbestos conditions in the 8th floor/attic area of the Herbert C. Hoover Building (HCHB). In that email, your office requested supplemental information regarding individuals who Mr. Lee believes may have been responsible for the conditions that we described in our January 20, 2011 report to Secretary Locke addressing the initial whistleblower allegations.

Because our office conducted the initial investigation on behalf of the Department, your office and the Department have each agreed that it is appropriate for our office to respond directly to your email. Our responses to your questions are provided below:

> Question 1. You requested that we identify the names and titles of all responsible Office of Administrative Services (OAS) officials referred to in the statement on page 15 of our report that "[w]e do not have a recommendation that administrative action be considered for any responsible OAS personnel because those officials bearing responsibility for mismanaging HCHB's asbestos conditions are no longer with the Department."

Response: The former OAS officials referred to on page 15 of our report as bearing responsibility for mismanaging HCHB's asbestos conditions are: [redacted]

As noted in our report to Secretary Locke, our investigation disclosed that, among other things, these three individuals failed to take timely, proper action to protect employee health and safety upon learning that air samples from the 8th floor/attic taken in February and April 2007 exceeded the Occupational Safety and Health Administration (OSHA) Permissible Exposure Limit (PEL) for airborne asbestos.

Question 2. In Mr. Lee's comments to you regarding our report to Secretary Locke, he identified nine individuals whom he believes bear responsibility for mismanagement of asbestos conditions in the 8th floor/attic. You requested findings regarding any responsibility that those nine individuals may have had with respect to such conditions. To assist with this request, your office provided Mr. Lee's contact information.

Response: In addressing this question, our office both relied upon information previously gathered for our report to Secretary Locke and also conducted additional inquiry into Mr. Lee's expanded allegations. Although we had previously interviewed and spoke at length with Mr. Lee, his comments on our report were, to our knowledge, the first time that he had suggested that certain of these nine persons were involved in the mismanagement of 8th floor/attic asbestos conditions. Thus, to assist our follow-on inquiry, we again spoke with Mr. Lee to clarify his concerns regarding those individuals.

With the exception of Otto Wolff, former Chief Financial Officer/Assistant Secretary for Administration, all of the individuals named by Mr. Lee are or were employed within OAS or the Office of Human Resource Management (OHRM). As background, OAS is divided into the following sections: Office of Real Estate Policy and Major Programs (OREPMP), Office of Space and Building Management (OSBM), Office of Administrative Operations (OAO), Office of Management Support Services (OMSS), and the Office of Building Renovations (OBR). OHRM is divided into ten sub-offices, including the Office of Occupational Safety and Health (OSH). Both OHRM and OAS report to the Chief Financial Officer/Assistant Secretary for Administration.

As discussed in our response to Question 1, we previously determined that three of the individuals named by Mr. Lee in his comments — [redacted] — were responsible for mismanagement of asbestos conditions in the 8th floor/attic. As for the remaining six individuals identified by Mr. Lee, our investigation did not produce evidence indicating that those persons knew and failed to respond to, or should have known of, the conditions in the 8th floor/attic detailed in our report to the Secretary. A summary of Mr. Lee's allegations regarding each of these six individuals, along with our findings, is provided below:

A. Bill Fleming - Mr. Fleming was the Deputy Director of OHRM between 2005 and 2010, and has been Director of OHRM since 2010. Mr. Lee produced an email, dated May 4, 2007, from [redacted], several other OAS employees, and Mr. Fleming in which [redacted]ransmitted test results indicating that air samples taken from the 8th floor/attic on May 3, 2007 had not exceeded the Occupational Safety and Health Administration (OSHA) Permissible Exposure Limit (PEL) for airborne asbestos, but that 28.6% of the samples collected contained asbestos fibers.

OHRM is responsible for implementing Government-wide and Departmental policies, employee programs, and activities in all aspects of human resource management and administration. According to multiple individuals, Mr. Fleming has never had any

responsibilities for maintaining or controlling asbestos in the HCHB, as that task was assigned to OAS and outside the scope of the separate OHRM.

Regarding the May 2007 email from [redacted] our investigation indicates that Mr. Fleming was included on that communication for purely administrative reasons. At that time, [redacted] where [redacted] was a subordinate of Mr. Fleming. Peter Wixted, a former OAS employee, indicated that [redacted] likely included Mr. Fleming merely to provide Mr. Fleming with a record of [redacted] work while on [redacted] and that Mr. Fleming was not involved in OAS's handling of asbestos in the HCHB. [redacted]. This email is the only reason that Mr. Lee provided for believing that Mr. Fleming was responsible for asbestos conditions in the 8th floor/attic, and is also the only piece of documentation that we reviewed during our investigation that mentioned Mr. Fleming.

B. Nancy McWilliams - According to Mr. Lee, Ms. McWilliams, current Director of OSH within OHRM, had knowledge of asbestos conditions in the HCHB. To support this assertion, Mr. Lee provided us with a November 28, 2007 memorandum from the U.S. Public Health Service to Ms. McWilliams that indicates that air samples taken in the 8th floor/attic in that month were below OSHA's Permissible Exposure Limit (PEL) for airborne asbestos.

Ms. McWilliams was not hired as Director for OSH until June 24, 2007, by which time 8th floor/attic air samples no longer exceeded the OSHA PEL. Ms. McWilliams reported to Bill Fleming, then Deputy Director of OHRM, and to Deborah Jefferson, former Director of OHRM. As set forth in Department Organization Order (DOO) 20-8, OSH is responsible for preventing workplace injuries and illnesses and the associated costs, but it does this primarily by reviewing and analyzing injury and workers' compensation claims to assess causal factors and develop guidance for preventing injuries. Given the function of OSH, our investigation determined that any asbestos-related responsibilities that Ms. McWilliams had were limited to protecting employee health after conditions in the 8th floor/attic were discovered in 2007.

Specifically, we determined that Ms. McWilliams was the point of contact on an October 1, 2008, Memorandum of Understanding (MOU) between OHRM and Health and Human Services Program Support Center (DHHS PSC) under which DHHS/US Public Health Service would conduct airborne testing for asbestos in the 8th floor/attic and provide other employee health oriented services on behalf of the Department during FY 2008. The evidence suggests that Ms. McWilliams performed certain duties related to the MOU, including coordinating the procurement of physical exams and respirators for employees who might access the 8th floor/attic. However, we found that it was OAS's responsibility to notify OSH of individual employees who needed such protective equipment and services, and to ultimately pay for most services under the MOU. We found no evidence that Ms. McWilliams was aware that Mr. Lee or any other person was performing duties in the 8th floor/attic without personal protective equipment. Given its limited role, OHRM was not called upon to perform functions related to the MOU until after it was notified that OAS had allowed airborne asbestos in the 8th floor/attic to exceed the PEL.

We further determined that Ms. McWilliams [redacted]

C. Doug Elznic - Mr. Lee stated that Mr. Elznic, the former Director of OSBM and current Deputy Director for OAS, bears responsibility for mismanagement of asbestos conditions in the 8th floor/attic by virtue of his current position as Deputy Director of OAS.

Our investigation determined that Mr. Elznic was the Associate Director of OSBM in 2007 and has been the Acting Deputy Director for OAS since 2008. Mr. Elznic was subordinate to [redacted] n both roles.

Our investigation did not produce any evidence indicating that Mr. Elznic was assigned duties for asbestos management in the 8th floor/attic as Associate Director of OSBM. To the contrary, during the period during which the primary mismanagement identified in our report occurred — in early 2007 and prior years — the evidence indicates that [redacted] assumed all responsibilities related to asbestos in the 8th floor/attic. For instance, several employees whom we interviewed stated that [redacted] bypassed Mr. Elznic and other subordinate managers to work directly with [redacted] on asbestos-related matters. Although Mr. Elznic was included on the May 2007 email from [redacted] referred to above in connection with Mr. Fleming, that email was addressed to multiple personnel within OAS and was the only piece of evidence throughout our investigation to mention Mr. Elznic. In particular, the evidence suggests that Mr. Elznic was relegated during that time to OAS duties unrelated to asbestos management, such as recycling, energy conservation, and the Department's electronic stewardship initiative.

With regard to Mr. Lee's allegation that Mr. Elznic is a responsible person by virtue of his current position as Deputy Director of OAS, Mr. Elznic was not promoted to that position until 2008. By that time, asbestos abatement activities in the HCHB had already commenced and air samples from the 8th floor/attic no longer exceeded the OSHA PEL. As detailed in our report, samples from February and April of 2007 were found to have exceeded the PEL, but samples taken in May 2007 and later that year, and in every year since, were below the PEL. The Department had also taken steps by 2008 to achieve compliance in other areas, such as better restricting access to areas with asbestos-containing materials.

D. Larry Hess - According to Mr. Lee, Mr. Hess, current Associate Director of OBR, knew of asbestos conditions in the 8th floor/attic and failed to initiate corrective actions.

Our investigation determined that Mr. Hess was hired on April 16, 2007 as a supervisory general engineer in the OSBM. Mr. Hess was hired in this position solely to oversee the building renovation project. For this reason, combined with his start date, we concluded that Mr. Hess was not in a position to prevent airborne asbestos levels in the 8th floor/attic from exceeding the OSHA PEL in February and April of 2007, or earlier.

In Fall 2007, OAS created the separate OBR and made Mr. Hess its Director. As with his previous position in OSBM, Mr. Hess's sole duties in this role have been to manage the overall renovation of the HCHB. Phase I of the project commenced in January 2008 with the replacement of air-conditioning system cooling towers and construction of temporarily occupied (a.k.a., "swing") space in the HCHB basement. Mr. Hess told us he had peripheral knowledge of the 8th floor/attic asbestos issues in this role, as he was present in meetings where the general matter was discussed. However, our investigation established that management of the 8th floor/attic abatement issue was handled through OSBM (formerly headed by Mario Aquino) and was not a part of OBR's building renovation responsibilities. Mr. Hess told us that, given his asbestos management knowledge from prior employment, he once gave Mr. Fanning a fill-in-the-blank asbestos abatement plan from his former agency. Mr. Hess indicated that did not know, however, what Mr. Fanning did with the template.

E. David Wynn - Mr. Lee also stated that Mr. Wynn, former Safety and Health Specialist, had knowledge of asbestos conditions in the 8th floor/attic, given his subordinate position to Nancy McWilliams, and that he failed to ensure that appropriate action was taken.

We determined that Mr. Wynn was hired in December 2007, after unsafe conditions in the 8th floor/attic were known and remedial steps had begun, to serve as a subordinate to Nancy McWilliams of OSH. In that role, Mr. Wynn was assigned to work on a variety of employee wellness programs, such as health fairs and flu vaccination clinics. He was detailed shortly thereafter to OREPMP in OAS. Given these facts, we determined that he would not have had reason to know of or respond to asbestos conditions in the 8th floor/attic while subordinate to Ms. McWilliams.

We similarly found no evidence that Mr. Wynn had responsibilities related to asbestos in the 8th floor/attic during his detail to OREPMP. At OREPMP, Mr. Wynn was assigned to work on Department-wide environmental policy not specific to the HCHB. Our investigation established that OREPMP was responsible for managing all Department of Commerce buildings *except* HCHB. In fact, both Mr. Wynn and Mr. Wixted, whose duties Mr. Wynn partially assumed, indicated that [redacted] had refused their offers to assist on HCHB asbestos remediation because it was outside the scope of OREPMP responsibility.

Mr. Wynn left the Department in Fall 2010 for employment at another federal agency.

F. Otto Wolff - Mr. Lee stated that Mr. Wolff, former Chief Financial Officer and Assistant Secretary of Commerce from January 2001 to December 2008 (and former Acting Secretary of Commerce from January-March 2009), was aware of asbestos conditions in the HCHB but failed to take appropriate action.

Mr. Wolff left the Department in October 2009. As the former Assistant Secretary and Chief Financial Officer, Mr. Wolff reportedly was aware generally that asbestos was an identified environmental problem in the HCHB. For example, we reviewed several documents sent to Mr. Wolff which pertained to multiple potentially hazardous environmental concerns — including asbestos, in the HCHB. However, we did not uncover any evidence that, prior to abatement commencing in 2008, Mr. Wolff was specifically aware that the 8th floor/attic had

fallen into noncompliance with OSHA requirements. Moreover, our investigation did not produce evidence that Mr. Wolff was aware, or should have been aware, that Mr. Fanning's staff had failed to conduct regular testing of the 8th floor/attic, or that they had failed to implement prompt and appropriate corrective actions once it was discovered that airborne asbestos levels exceeded the OSHA PEL in early 2007.

If I can answer any additional questions or be of further assistance, please feel free to contact me at 202-482-2558, or [redacted] at 202-482-6351.

Sincerely,

Rick Beitel
Principal Assistant Inspector General
for Investigations & Whistleblower Protection

cc: Mary Pleffner, Director
Office of Administrative Services, U.S. Department of Commerce

UNITED STATES DEPARTMENT OF COMMERCE
Chief Financial Officer
Assistant Secretary for Administration
Washington, D.C. 20230

OCT 23 2006

MEMORANDUM FOR Peter Wixted, Office of Real Estate

FROM: Fred E. Fanning
Acting Director, Office of Administrative Services

SUBJECT: Collateral Duty Appointment – Asbestos Coordinator

Peter Wixted is appointed as the Collateral Duty Asbestos Coordinator for the Office of Administrative Services and the Herbert C. Hoover Building.

Effective date: October 23, 2006

Termination date: Until properly relieved

Duties:

Serve as the Collateral Duty Asbestos Coordinator for the Office of Administrative Services and the Herbert C. Hoover Building.

Develop and implement an Asbestos Management Plan for the Herbert C. Hoover Building.

Conduct evaluations of the offices and building identifying Asbestos hazards and concerns. Develop an abatement plan for identified Asbestos hazards and concerns, compile reports of evaluations, and conduct follow-up evaluations to ensure corrective measures have been applied.

Investigate and compile reports for Asbestos incidents occurring in the Herbert C. Hoover Building.

Complete the Asbestos Inspector & Management Planner Course and any annual refresher training required.

cc:
Director, Office of Real Estate
Peter Wixted Personal File
Acting Deputy Director, Office of Administrative Services

Fred,

I received the letter assigning me as the Asbestos Coordinator for the Office of Administrative Services and the Herbert C. Hoover Building (HCHB). I have no objections to the assignment however I wished you had discussed this with me first as I have the following concerns.

1. In performing these duties, I may be placed in a situation that increases my risk of exposure to asbestos and other potential inhalation hazards such as dust, lead-based paint dust, rodent hairs and feces. When encountering such potential exposures it is appropriate to wear a respirator. I ask that the letter be modified to put me into a respirator program or allow me to use my professional judgment to avoid those situations.

2. The letter specifies that I must complete the Asbestos Inspector & Management Planner Course. This is not one course but two. Below are course descriptions from the Federal Occupational Health webpage. Also please note that the Asbestos Inspector course is a prerequisite for the Management Planner course. I ask that the letter be modified to list both courses or revise the responsibilities.

> Asbestos Management Planner (DC/MD Accreditation)
>
> Prerequisite: The student must already be trained as an Asbestos Inspector.
> Overview: This course is designed for individuals who will write building control plans, as per the Asbestos Hazard Emergency Response Act (AHERA). Course topics include hazard assessment of asbestos in buildings, understanding asbestos survey results, evaluation and selection of asbestos control options, writing asbestos operations and maintenance plans, and asbestos response action cost estimations.
>
> Asbestos Building Inspector (DC/MD Accreditation)
>
> Overview: This course is designed for individuals who will engage in investigations for asbestos-containing materials (ACM). Course topics include legal considerations associated with environmental investigations, health effects associated with asbestos exposure, applicable asbestos regulations, understanding building systems, inspecting for the presence of ACM, asbestos bulk sampling, assessing the condition of ACM, and writing the asbestos inspection report.

3. I want to clarify that sampling and sample analysis will continue to be performed by the Office of Building Management contractor, as I do not have the equipment to perform such activities.

4. The collateral duty assignment letter states that I must develop abatement plans for identified asbestos hazards. This task requires certification as an Asbestos Abatement Project Designer, please see the course description below from the FOH website. I ask that the letter be modified to include this training or the task removed.

Asbestos Abatement Project Designer (DC/MD Accreditation)

Prerequisite: The student must already be trained as an Asbestos Inspector. Overview: This course is designed for individuals who are responsible for developing written project designs specifications ("specs") for asbestos abatement projects. Course topics include applicable asbestos regulations, health effects associated with asbestos exposure, personal protective equipment, work practices associated with asbestos disturbance, respiratory protection program, medical surveillance, and supervisor/contractor case studies. This course meets the Environmental Protection Agency (EPA) Asbestos School Hazard Abatement Reauthorization Act (ASHARA) requirements for an Asbestos Project Designer.

5. The collateral duty assignment letter states that I will be responsible for conducting follow-up evaluations to ensure corrective measures have been applied. This requires knowledge of asbestos removal to include standard work practices, protection of workers, containment practices, glove-bag procedures, decontamination practices, project closeout procedures and respirator requirements. In order to demonstrate sufficient knowledge with these topics, I recommend the letter be modified to include completing the Asbestos Abatement Contractor/Supervisor course. Please see the FOH Course description below.

Asbestos Abatement Contractor/Supervisor

Overview: This course is designed for individuals who will oversee asbestos abatement projects. The training offers practical instruction on all facets of asbestos removal to include project planning, work practices, protection of workers, and project closeout procedures. Topics also include protective clothing, respirator inspection and fit testing, containment practices, construction of decontamination facilities, and glove-bag procedures.

6. Attached is a suggested letter for your consideration.

H

DEPARTMENT OF HEALTH & HUMAN SERVICES

U.S. Public Health Service
Federal Occupational Health Service
4550 Montgomery Avenue, Suite 850
Bethesda, Maryland 20814
George.bearer@foh.hhs.gov (301) 594-02

MEMORANDUM

DATE: March 21, 2011

TO: Mr. Michael Rusten
Associate Director
Office of Space and Building Management
Department of Commerce

FROM: Mr. George Bearer, CIH
Senior Program Manager
Division of Federal Occupational Health, U.S. Public Health Services

SUBJECT: Department Of Commerce Asbestos Summary

CC: Dr. Marc Leffer, FOH

As per your request, the following is my summary of the OIG report and the asbestos sampling documentation dealing with the possible asbestos exposure in the attic area. Also attached is Dr. Leffer's thoughts about exposure.

DEFINITIONS

1. Phase Contrast Microscopy (PCM): Analysis method for testing for fiber in air. Cannot distinguish asbestos fibers from other fibers.
2. Transmission Electron Microscopy (TEM): Analysis method to identify and definitively establish the presence of asbestos fibers.
3. Permissible Exposure Limits (PEL) – Time Weighted Average (TWA): The employer shall ensure that no employee is exposed to an airborne concentration of asbestos in excess of 0.1 fiber per cubic centimeter (f/cc) of air as an 8-hour TWA as determined by NIOSH Method 7400 or an equivalent counting method.
4. Excursion Limit (EL): The employer shall ensure that no employee is exposed to an airborne concentration of asbestos in excess of 1.0 fiber per cubic centimeter of air as averaged over a sampling period of 30 minutes as determined by NIOSH Method 7400 or an equivalent counting method.
5. Exposure Monitoring: Determinations of employee exposure shall be made from breathing zone air samples that are representative of the 8-hour TWA and 30 minute short term exposures of each employee.

Representative 8-hour TWA employee exposures shall be determined on the basis of one or more samples representing full shift exposures for each shift for each employee in each job classification in each work area. Representative 30 minute short-term employee exposures shall be determined on the

basis of one or more samples representing 30 minute exposures associated with operations that are most likely to produce exposures above the excursion limit for each job classificaiton in each work area.

6. Regulated Area: an area established by the employer to demarcate areas where airborne concentrations of asbestos exceed or there is reasonable possibility they may exceed, the permissible exposure limits.
   Demarcation: Regulated areas shall be demarcated from the rest of the workplace in any manner that minimizes the number of persons who will be exposed to asbestos.

   Access: Access to regulated areas shall be limited to authorized persons or to persons authorized.

SAMPLING RESULTS (Samples referenced in OIG report)

8 samples collected on 04/25/07 had PCM results that ranged from 0.4 f/cc to 0.6 f/cc. The majority of samples were collected for 30 minutes. Sample 5E was collected for 120 minutes and sample 7G was collected for 80 minutes.

3 samples were collected on 04/25/07 and were analyzed via TEM analysis. Results ranged from 0.03 to 0.2 f/cc of air. All three samples were collected for 30 minutes.

The issue I have with these samples are that they are area samples and not personal samples. You can't compare area samples to a PEL or an EL since these regulatory levels are meant for comparison to exposure levels in a persons breathing zone.

The other issue I have with these samples is that they were collected for such a short period of time. If you are going to compare these levels with OSHA regs then you need to compare them to the excursion limit since most of the samples were 30 minutes long. You would need a sample (or combination of samples) that was collected over 8 hours to be able to possibly compare it to the PEL.

Even though the OIG report keeps stating that they received levels that exceeded the PEL, they really didn't since no personal samples were collected and none of the samples were collected for 8 hours.

The final issue that I have with the samples is that no blank samples were collected which is required by the sampling methodology.

HAZARD ASSESSMENT SURVEY

A hazard assessment of the attic spaces was prepared by a GSA contractor on May 7, 2007 highlighting the areas where damaged asbestos was located. All of the areas should be fixed by now. What the report does state is that there was damaged asbestos that could become airborne in the attic area. No air samples were collected to actually document exposure though. All of their recommendations and conclusions were based on visual inspection and the possibility of this asbestos becoming airborne. No definitive results.

DOC AIR SAMPLING RESULTS

PCM samples were collected on February 23, 2007 (2 samples) and on April 17, 2007 (7 samples) from the 8th floor attic area. The results of these samples are interesting in that they range from 1 f/cc to greater than (>) 2 f/cc. There are many issues with this sampling but the biggest is that a lot of the results are greater than a certain level. When performing sampling and analysis you can't report that a level is greater than a certain number. You can have less than but never greater than. Also the samples were only collected for a short period of time and were not personal samples. Once again no blank samples were collected and analyzed.

Samples were collected on May 2, 2007 (5 samples) and on May 7, 2007 (6 samples) and were analyzed via TEM analysis. No asbestos was detected on any of the samples.

GSA AIR SAMPLING RESULTS

GSA had a company perform air sampling on May 3, 2007. They collected 14 samples in the attic area and had them analyzed via TEM analysis. The sample results ranged from 0.002 to 0.10 f/cc of air. They also collected samples on May 4, 2007 at the exhaust fans in the courthouse and at the air intake to the White House Visitor Center and all sample results were less than 0.01 f/cc.

FOH AIR SAMPLING RESULTS

FOH collected air samples from the 8th floor attic area on April 15, 2008, July 7, 2008, and August 6, 2009. During each sampling, FOH collected a total of 15 samples and two blank samples. All samples were analyzed via PCM analysis and all results were less than 0.01 f/cc of air which is the EPA level for re-occupancy of an area after an abatement action.

MY THOUGHTS

I have the following issues with the way the samples were collected:

1. Samples were collected for to short of a duration.
2. Samples were collected as area samples and thus the result cannot be directly compared to OSHA regulatory levels. No personal samples were collected to document actual exposure.
3. No blank samples were collected (required by the sampling methodology)

I have the following issues with the OIG report:

1. The OIG report keeps stating that there were levels that exceeded the PEL While the actual level does exceed the PEL of 0.10, there is no way for them to confirm that anyone was exposed above the PEL without having data from personal samples being collected.
2. The OIG report compares all of the sample results to the PEL and not the Excursion Limit. For the 30 minute samples, the results should be compared to the excursion limit and not the PEL even though you technically cannot compare area samples to OSHA regulatory levels.

My final thoughts are as follows:

1. It is very difficult to answer the question of who was exposed and when because there is no actual exposure data available to analyze. The only data that we have is that there were elevated airborne levels when compared to the EPA re-occupancy level after an abatement action. You can't compare area samples with regulatory exposure levels for personal samples. This being said, there is no way to say for sure whether someone was exposed or not.
2. Based on the sampling data that we do have, I would reoommend that anyone who was in the attic area for more than 4 hours a day on a regular and on-going basis during the periods between 2003 and May 2007 receive a notification that they may have possibly been exposed to asbestos fibers in the attic area.

Memo from Dr. Lefler Re: risk

There is a myriad of scientific data documenting that the medical risks of asbestos exposure are dose related:

It is a risk of documented elevated airborne asbestos fiber levels on top of years of exposure.
In this particular circumstance, there is a lack of documentation of an actual airborne level of asbestos fibers consistent with a risk to any employees. In search of the 'worst case scenario' one can not completely rule out the possibility of a small airborne fiber risk, due to poor test technique and documentation.

The employee population at any risk only includes a small number of elevator maintenance personal who had an eighth floor office. However, even they were only actually present on the eighth floor for one to two hours per work day during the at risk period 2003 -07.

After reviewing the OSHA reportable illness/ injury logs for 2003- 2007, it was determined that no work related respiratory claims were filed over that time period. This is a key piece of data indicating that the employees' physicians did not have sufficient evidence to consider a work related etiology for any respiratory illness that occurred over the time span.

Therefore, the actual data for evaluating a possible asbestos exposure risk include:

1. No documentation of a actual asbestos fiber risk, as determined by the OSHA asbestos standard, after more than 25 air samples between 2003-07
2. A small at risk employee population represented by a few elevator maintenance men, who were only actually present on the eighth floor one to two hours per work day.
3. No actual recordable respiratory illness/ Injury employee claims over the time period

At the present time, there is no medical test available to determine whether the asymptomatic emloyees were actually exposed to asbestos between 2003 and 2008. All that can be done at this time is to notify them, via a written letter, that they could have possibly been exposed to asbestos fibers in the attic area. They should be instructed to give a copy of this letter to their personal physician for future reference.

In summary, based on the totality of the facts, although a small true risk of asbestos exposure for the few elevator maintenance employees can not be entirely ruled out, it is unlikely.

Dr. Lefler

UNITED STATES DEPARTMENT OF COMMERCE
Chief Financial Officer
Assistant Secretary for Administration
Washington, D.C. 20230

MEMORANDUM 3/22/2012

To: Douglas Shjeflo, Workers' Compensation Program Manager

From: Anthony J. Kesslak CIH, CHMM[1]

Subject: Statement Regarding the [redacted] Workman's Compensation Claim

Background Regarding Asbestos

Asbestos is the name given to a number of naturally occurring fibrous minerals with high tensile strength, the ability to be woven, and resistance to heat and most chemicals. The Toxic Substances Control Act defines asbestos as chrysotile (serpentine); crocidolite (riebecktie); amosite (cummingtonite/grunerite); anthophyllite; tremolite; and actinolite.

Historically, asbestos fibers have been used in a wide range of manufactured goods, including pipe insulation, sprayed-on fire proofing, and floor tiles. When asbestos-containing material is friable (able to be crumbled or pulverized by hand pressure) or becomes damaged, and when disturbed microscopic fibers can become airborne and be inhaled into the lungs. The inhalation of airborne asbestos fibers may increase an individual's risk of developing certain types of lung disease, including asbestosis, lung cancer, or mesothelioma. Disease symptoms may take many years (typically 12 to 40) to develop following significant exposure.

Regulatory Standards

Occupational Safety and Health Administration (OSHA) regulations require employers to ensure that employees are not occupationally exposed to airborne concentrations of asbestos in excess of the "Permissible Exposure Limit" (PEL), defined as 0.1 asbestos fibers per cubic centimeter (cc) of air (f/cc) for a sampling averaged over an eight-hour period.

The EPA has established a building occupancy standard for asbestos under the Asbestos Hazards and Emergency Response Act (AHERA) to designate a safe level of asbestos fibers in air for schools and other public buildings. The AHERA concentration for asbestos fibers in air is 0.01 fibers/cc (air), from a mandatory minimum 1200 liter air sample.

[1] Mr. Kesslak is a Certified Industrial Hygienist (CIH) by the American Board of Industrial Hygiene, a Master Certified Hazardous Materials Manager (CHMM) by the Institute of Hazardous Materials Management, a Certified Asbestos Inspector, a Certified Asbestos Project Designer and Manager of Occupational Safety and Health for the United States Department of Commerce, Herbert C. Hoover Building. Formerly, Mr. Kesslak was a Senior Scientist with the RJ Lee Group's Asbestos Litigation Consulting Division.

Asbestos within the Herbert C. Hoover Building

The Herbert C. Hoover Building (HCHB) contains and manages in place asbestos materials such as pipe lagging, sprayed-on fireproofing, and floor tiles. These materials are encapsulated (coated to prevent fibers release as per EPA protocols), not readily accessible to the general public, and may require action only if damaged and disturbed.

To ensure that occupants of the HCHB are not exposed to levels of asbestos above a regulated concentration:

- The building is inspected twice each year (every 6 months), once by an independent third party and once by the building asbestos manager to identify any areas of damaged asbestos.

- Twice a year, all occupied areas and the 8th floor and attic spaces are subjected to air sampling. Samples are laboratory-analyzed to determine if air quality meets the OSHA PEL and the EPA occupancy standard.

The Inspector General's January 20, 2011 Report

On January 20, 2011, the Department of Commerce's Office of the Inspector General (OIG) issued a report (OIG Report) regarding asbestos conditions in the HCHB 8th floor and attic. The findings of the OIG Report included that HCHB occupants were subjected to potential exposure to impermissible levels of airborne asbestos between February 2007 and April 2007 and perhaps earlier and that Department management officials had failed to implement a comprehensive asbestos management plan. By letter dated February 3, 2011, then-Secretary of the Department Gary Locke provided the OIG Report to the U.S. Office of Special Counsel (OSC). In a letter dated June 10, 2011, OSC provided the OIG's findings to the President. In the claimant's request for reconsideration, she stated that the new information from OIG corroborated her claim. As explained below, however, the claimant's contention is not correct, as the OIG Report does not apply to the claimant and even if it does apply, the OIG Report does not establish impermissible exposure of airborne asbestos to her or any HCHB occupant.

The findings of the OIG Report do not apply to the claimant. The claimant alleges that she was exposed to asbestos when DOC was in the process of removing asbestos from an area on the 7th floor. The OIG Report, however, regards asbestos conditions on or in the 8th floor and attic. As the OIG Report states, its investigation resulted from allegations regarding unsafe levels of asbestos "in the HCHB 8th floor/attic." The OIG Report's findings were correspondingly limited in scope to that location, finding that management allegedly did not properly address asbestos conditions "in the HCHB's 8th floor/attic." The claimant has alleged that she occasionally, not on a daily basis, retrieved files stored in the 8th floor or attic. The 8th floor has limited employee access and is not a consistently occupied area by DOC employees. The OIG Report thus should not apply to the claimant.

Even assuming the OIG Report does apply to the claimant, the OIG's findings do not establish that levels of asbestos on the 8th floor/attic ever exceeded the OSHA PEL. According to the OIG

Report, on September 30,[2] 2002, air sampling documented that airborne asbestos levels on the 8th floor/attic were below the PEL. Although the OIG Report states further that General Services Administration contractors had reported damaged and deteriorating asbestos-containing materials in the area as early as 2003, no air sampling was undertaken on the 8th floor/attic from September 13, 2002 until February 2007.

Air sampling conducted in February 2007 by Peak Safety Systems, Inc., furthermore, utilizing only the Phase Contrast Microscopy (PCM) method,[3] identified a high level of airborne particles but did not further analyze if any of the particles were actually asbestos. Further testing conducted on April 25, 2007, utilizing the Transmission Electron Microscopy (TEM) method, identified a level of airborne asbestos that *might* have exceeded the OSHA PEL, but these tests failed to comply with several OSHA established sampling protocols.[4] The contractor who performed these tests, moreover, no longer possesses any of the test slides. Hence, further evaluation or re-evaluation of the data could not be conducted. This contractor's results have not been reproduced by any other air monitoring conducted on the 8th floor, before or since.

On May 4 and 5, 2007, GSA contractor Global Consulting, Inc. collected 22 air samples on the 8th floor/attic. No asbestos fibers were detected during any of these tests. Post May 5, 2007, access to the attic was restricted, and all air sampling data following May 5, 2007 shows no evidence of airborne asbestos fibers above the relevant OSHA standard. Thus, the findings of the OIG Report do <u>not</u> establish that the claimant or any other HCHB occupant was ever exposed to impermissible levels of airborne asbestos.

Based on the assessment by experts at Federal Occupational Health (FOH) of the Department of Health and Human Services, a management tool was proposed to help define the requisite universe of potentially exposed individuals, consisting of the provision of a notice to persons who were on the 8th floor/attic area for more than 4 hours a day on a regular and ongoing basis Therefore, as stated before, the claimant did not work on the 8th floor/attic for four (4) hours or more each day and thus the OIG's findings should not apply to her.

Regarding the floor on which she did work—the 7th floor—sampling results between 1993 and 2004 indicate that asbestos levels were properly in compliance with regulatory standards. Sampling result letters dated March 25, 1993, April 29, 1994, August 16, 2000, September 5, 2000, October 17, 2001, September 30, 2002, October 21, 2004, and November 26, 2004 <u>all</u> contain results for the basement extending to the 7th floor well-below the fiber level

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[2] The sampling was conducted on September 13, 2002. The sampling report is dated September 30, 2002.

[3] PCM (NIOSH Method 7400) according to the published method's applicability statement gives an index of airborne fibers. It is primarily <u>used for estimating asbestos</u> concentrations. PCM analysis <u>does not differentiate between asbestos and other fibers</u>. This <u>method must be used in conjunction with electron microscopy (e.g., Method 7402) to identify asbestos fibers.</u>

[4] Personal samples were not collected, and the samples were not collected over the required eight hour period. Additionally, locations of the samples could not be determined and engineering controls (such as exhaust fans turned on) were not in place to replicate normal working conditions.

recommended by the EPA for office environments.[5] Thus, no evidence exists that the claimant was ever exposed to impermissible levels of airborne asbestos, and the OIG Report, which applies only to the 8th floor/attic, does not show otherwise.

Diagnosis of Asbestosis

To diagnosis asbestosis, it is essential to compile an individual's comprehensive occupational and environmental history when the disease is suspected. The occupational history should emphasize occupational and environmental opportunities for exposure that occurred about 15 years or more before the diagnosis of asbestosis.

The diagnosis of asbestosis should be based on an accurate exposure history, obtained whenever possible directly from the patient that defines the duration, intensity, time of onset, and setting of exposure experienced by the patient.

Asbestosis is commonly associated with consistent and prolonged exposure, usually over a 10 to 20 year exposure period, to respirable-sized asbestos fibers in air. Short, intense exposures to respirable asbestos, lasting from several months to 1 year or more in duration, may be sufficient to cause asbestosis.

No evidence exists of activities in the HCHB over the past 20 years that would produce either consistent or intense respirable asbestos exposures.

Prepared by:

Anthony J. Kesslak

Anthony J. Kesslak CIH, CHMM
CIH- CP:6923
Manager, Safety and Occupational Health
Office of the Secretary
United States Department of Commerce

[5] The January 26, 2012 Notice of Decision states that the September 30, 2002 results were "significant" "for some samples" on the 3rd and 4th floors. However, the September 30th report (attached) indicates that the samples deemed as "significant" by PCM analysis were subjected to additional conformational analysis by Transmission Electron Microscopy (TEM) which determined that the samples did not contain asbestos fibers above the EPA Occupancy standard.

ATTACHMENT 1
Tidewater, Inc. Fibers-inAir Rerport September 2002

Tidewater, Inc.
8950 Route 108, Suite 100, Columbia, Maryland 21045 Tel: (410) 997-4458 Fax: (410) 997-8713

September 30, 2002

Ms. Normajean P. Eleazer
General Services Administration, NCR, Service Delivery Support
Safety, Env. & Fire
7th & D Streets, SW, Room 2080
Washington, DC 20407

RE: Fiber in Air (FIA) Sampling, Commerce Building, Washington, DC
Order Number P-11-02-DC-0291; ACT Number P14576038;

Dear Ms. Eleazer:

In accordance with contract number GS11P01MQD0055, Tidewater, Inc. has performed a fiber in air (FIA) sampling event within the US Department of Commerce Building, located at 1401 Constitution Avenue, NW, Washington, DC.

This report summarizes findings from the monitoring performed by Tidewater between September 9, and September 16, 2002. Tidewater industrial hygienist Ms. Chamini Vithanage performed the FIA sampling.

During the sampling event, Tidewater's industrial hygienist collected a total of 120 air samples that were analyzed via phase contrast microscopy (PCM). All samples were collected using low volume air sampling pumps. The sampling pumps were calibrated to a flow rate of 2.5 liters/minute and samples were collected over an eight-hour period to obtain a minimum sampling volume of 1200 liters per sample. All samples were collected within the normal breathing zone during regular business hours of 8:00 a.m. and 5:00 p.m.

The samples were analyzed on-site using NIOSH Method 7400 by Tidewater's microscopist, who has successfully completed the NIOSH 582 equivalent course entitled "Analyzing Airborne Fibers" and participates in Tidewater's laboratory quality control/quality assurance program.

The PCM results indicate that some of the samples analyzed contained fiber levels above 0.01 fibers per cubic centimeter of air (f/cc). These samples were obtained from the 3rd and the 4th floors of the building as follows:

Sample ID	Date	Location
090902-COM-15	09-09-2002	3rd Floor by Room 3330S
090902-COM-16	09-09-2002	3rd Floor by Room 3312
090902-COM-18	09-09-2002	3rd Floor in Women's Rest Room, Corridor 7
090902-COM-19	09-09-2002	3rd Floor Corridor 2
091002-COM-2	09-10-2002	4th Floor by Elevator, Corridor O
091002-COM-5	09-10-2002	4th Floor in Room 4713
091002-COM-6	09-10-2002	4th Floor in Room 4898

Locations with PCM readings above 0.01 f/cc were re-sampled for upgraded analysis using transmission electron microscopy (TEM), to determine if asbestos fibers were present. TEM analysis was performed by EMSL Analytical, Inc. The TEM laboratory analysis results indicate that none of the samples contained asbestos or fiber levels at or above 70 structures per square millimeter (s/mm^2).

Tidewater, Inc.

The sample analysis results and corresponding locations at which the FIA samples were obtained are included in the attached tables 1 through 6. The field sampling data sheets are included in Appendix A of this report. The TEM analysis results and related chain of custody form are included in Appendix B.

A potential source of fibers may be particulate dust fibers being released from torn pipe insulation. Tidewater's industrial hygienist noted possibly asbestos containing pipe insulation located near the ladder used to go up to the roof in torn and damaged condition. Leaning against the pipe or equipment rubbing against the pipe while climbing the ladder could possibly have caused the damage observed. In addition, there was a door rubbing against the plastic wrap placed around the pipe insulation located at the entrance to the room near Elevator Group 4. The door has apparently abraded the plastic wrapping, which may possibly have released fibers into the air.

During the FIA survey, Tidewater's industrial hygienist also observed several partially torn pipe insulation wraps located in the attic of the building. The damaged pipe insulation was noted to be a potential hazard for releasing fibers in the air, especially at locations where objects contact the insulation wrap. Tidewater recommends further investigation of the attic area to determine if the observed pipe insulation is a asbestos containing building material (ACBM) and the need for any abatement or encapsulation work to the damaged pipe insulation. Tidewater also recommends that damaged pipe insulation in other areas be tested for ACBM and repaired or encapsulated, and preventive measures implemented to reduce the likelihood of future damage.

Tidewater is pleased to have performed this FIA study. Please call us at (410) 997-4458 if you have any questions regarding this report.

Sincerely,

TIDEWATER, INC.

Allen Cooley, CSP
Project Manager

APPENDIX A

PCM DATA SHEETS

APPENDIX B

TEM ANALYTICAL RESULTS

Tidewater, Inc.

Table 1
Fibers in Air Levels and Sample locations
Commerce Building, 1401 Constitution Avenue NW
Washington, DC
September 9, 2002

Sample ID	Location	Fibers/cc
COM -1	1st floor by room 1848	<0.01
COM -2	1st floor in room 1524	<0.01
COM -3	1st floor by room 1508	<0.01
COM -4	1st floor Main Lobby	<0.01
COM -5	1st floor in room 1317	<0.01
COM -6	2nd floor by room 2308	<0.01
COM -7	2nd floor in room 2845	<0.01
COM -8	2nd floor in the Auditorium	<0.01
COM -9	2nd floor by room 2041	<0.01
COM -10	3rd floor by stairwell #2	<0.01
COM -11	3rd floor by room 3021	<0.01
COM -12	3rd floor by elevator, Corridor 6	<0.01
COM -13	3rd floor by elevator, Corridor 5	<0.01
COM -14	3rd floor in room 3849	<0.01
COM -15	3rd floor by room 3330S	>0.01
COM -16	3rd floor by room 3312	>0.01
COM -17	3rd floor by room 3409	<0.01
COM -18	3rd floor in Women's Restroom, Corridor 7	>0.01
COM -19	3rd floor Corridor 2	>0.01
COM -20	3rd floor Corridor 1	<0.01

Tidewater, Inc.

Table 2
Fibers in Air Levels and Sample locations
Commerce Building, 1401 Constitution Avenue NW
Washington, DC
September 10, 2002

Sample ID	Location	Fibers/cc
COM -1	4th floor in the Office of Technology Administration	<0.01
COM -2	4th floor by elevator, Corridor 0	>0.01
COM -3	4th floor by room 4031	<0.01
COM -4	4th floor by elevator, Corridor 4	<0.01
COM -5	4th floor in room 4713	>0.01
COM -6	4th floor in room 4898	>0.01
COM -7	4th floor Corridor 5	<0.01
COM -8	4th floor by elevator, Corridor 3	<0.01
COM -9	4th floor by room 4304	<0.01
COM -10	4th floor by room 4830	<0.01
COM -11	4th floor in room 4728	<0.01
COM -12	4th floor in room 4703	<0.01
COM -13	4th floor Corridor 3	<0.01
COM -14	5th floor in room 5708	<0.01
COM -15	5th floor by room 5730	<0.01
COM -16	5th floor in room 5897	<0.01
COM -17	5th floor by room 5626	<0.01
COM -18	5th floor by elevator, Corridor 6	<0.01
COM -19	Field Blank	N/A
COM -20	Field Blank	N/A

N/A Denotes Not Applicable

Tidewater, Inc.

Table 3
Fibers in Air Levels and Sample locations
Commerce Building, 1401 Constitution Avenue NW
Washington, DC
September 11, 2002

Sample ID	Location	Fibers/cc
COM -1	5th floor by elevator, Corridor 5	<0.01
COM -2	5th floor by room 5882	<0.01
COM -3	5th floor in Women's Restroom, Corridor 4	<0.01
COM -4	5th floor by room 5045	<0.01
COM -5	5th floor by room 5310	<0.01
COM -6	5th floor in room 5323	<0.01
COM -7	5th floor in room 5128-NOAA	<0.01
COM -8	5th floor by room 5102	<0.01
COM -9	5th floor Corridor 2	<0.01
COM -10	6th floor in room 6102	<0.01
COM -11	6th floor by room 6217	<0.01
COM -12	6th floor in room 6015	<0.01
COM -13	6th floor by room 6029B	<0.01
COM -14	6th floor in room 6827	<0.01
COM -15	6th floor Corridor 3	<0.01
COM -16	6th floor in Women's Restroom, Corridor 2	<0.01
COM -17	6th floor Corridor 1	<0.01
COM -18	6th floor Corridor 7	<0.01
COM -19	6th floor in Copy Center, Corridor 8	<0.01
COM -20	6th floor Corridor 4	<0.01

Tidewater, Inc.

Table 4
Fibers in Air Levels and Sample locations
Commerce Building, 1401 Constitution Avenue NW
Washington, DC
September 12, 2002

Sample ID	Location	Fibers/cc
COM -1	5th floor in Secretary's Reception	<0.01
COM -2	6th floor in room 6826	<0.01
COM -3	6th floor by room 6057	<0.01
COM -4	6th floor in room 6874	<0.01
COM -5	6th floor by room 6631	<0.01
COM -6	6th floor in room 6703	<0.01
COM -7	7th floor Corridor 6	<0.01
COM -8	7th floor by room 7721	<0.01
COM -9	7th floor by elevator, Corridor 5	<0.01
COM -10	7th floor in the Library	<0.01
COM -11	7th floor by room 7029B	<0.01
COM -12	7th floor by room 7824	<0.01
COM -13	7th floor in room 7227	<0.01
COM -14	7th floor Corridor 2	<0.01
COM -15	7th floor by room 7118	<0.01
COM -16	7th floor by room 7804	<0.01
COM -17	7th floor by elevator, Corridor 3	<0.01
COM -18	7th floor Corridor 1	<0.01
COM -19	7th floor Corridor 0	<0.01
COM -20	7th floor in Women's Restroom, Corridor 4	<0.01

Tidewater, Inc.

Table 5
Fibers in Air Levels and Sample locations
Commerce Building, 1401 Constitution Avenue NW
Washington, DC
September 13, 2002

Sample ID	Location	Fibers/cc
COM -1	Sub Basement, Corridor 0	<0.01
COM -2	Sub Basement, Corridor 6	<0.01
COM -3	Sub Basement, Corridor 8	<0.01
COM -4	Sub Basement in room SB894	<0.01
COM -5	Basement Mezzanine in room BM07	<0.01
COM -6	Basement Mezzanine in room BM27	<0.01
COM -7	Basement Mezzanine by room BM15	<0.01
COM -8	1st floor in room 1617	<0.01
COM -9	1st floor by room 1603	<0.01
COM -10	Attic, by room 8014	<0.01
COM -11	Attic, by room of Elevator Group #4	<0.01
COM -12	Attic, by the ladder to roof	<0.01
COM -13	Attic, Corridor 0	<0.01
COM -14	Attic, Corridor 3	<0.01
COM -15	Attic, in room 8062	<0.01
COM -16	Attic, Corridor 8	<0.01
COM -17	Attic, Corridor 4	<0.01
COM -18	Attic, Corridor 2	<0.01
COM -19	Attic, Corridor 0	<0.01
COM -20	Attic, Corridor 8	<0.01

idewater, inc.

Table 6
Fibers in Air Levels and Sample locations
Commerce Building, 1401 Constitution Avenue NW
Washington, DC
September 16, 2002

Sample ID	Location	Fibers/cc
COM -1	Basement, in room B805	<0.01
COM -2	Basement, in room B826	<0.01
COM -3	Basement, by room B525	<0.01
COM -4	Basement, in room B626	<0.01
COM -5	Basement, in room B618	<0.01
COM -6	Basement, Corridor 2	<0.01
COM -7	Basement, Corridor 3	<0.01
COM -8	Basement, by the Market Place	<0.01
COM -9	Basement, Corridor 8	<0.01
COM -10	Basement, by the Credit Union	<0.01
COM -11	1st floor by room 1227	<0.01
COM -12	1st floor in room 1103	<0.01
COM -13	1st floor by room 1112	<0.01
COM -14	1st floor, by elevator, Corridor 0	<0.01
COM -15	1st floor by elevator, Corridor 8	<0.01
COM -16	2nd floor by room 2213	<0.01
COM -17	2nd floor by room 2015A	<0.01
COM -18	2nd floor in Women's Restroom, Corridor 1	<0.01
COM -19	2nd floor in room 2231	<0.01
COM -20	2nd floor by elevator, Corridor 8	<0.01

U.S. Department of Commerce
Office of Inspector General
INTERVIEW OF:

On January 28, 2010, the Department of Commerce, Office of Inspector General (DOC-OIG), received allegations referred by the US Office of Special Counsel (OSC) stating that DOC officials knew of the presence of asbestos in the Herbert C. Hoover Building prior to 2008, but did not take action to protect employees; and that directed employee Edgar Dion Lee to conduct inspections in the 8th floor attic without personal protective gear, knowing that the asbestos airborne particulate levels were at a level which were considered By OSHA standards to be unsafe.

On November 19, 2010, was interviewed and provided substantially the following information:

Background

1. Titles at DOC:

2. 1st line supervisor:

3. General Duties: Manage DOC Energy, Environment and Sustainable Program. Collateral Duty – Manage Saftey for the Office of Administrative Services (OAS)

4. Background in Supervising Hazardous Waste: 20 years working with or supervising hazardous waste removal and management.

Regarding Dion Lee [redacted]

1. What were Dion Lee's duties? *Lee was a Hazardous Materials Manager, then later was reclassified as an Environmental Technician. His duties remained the same.*

2. Who was his supervisor? *Originally it was Pete Wickstead, then Lee asked to be reassigned and I became his supervisor* [redacted]

3. What training did Lee have which authorized him to hold the position he held? *His position did not require that he take much training. He had annual Hazard Waste training, "green Government" training, and was enrolled in a few college courses on safety.*

4. Did Lee switch duties at any time during your tenure? *No*

5. Why did Lee report to you instead of someone in Building Management? *Environmental waste is a program which was covered* [redacted] *- When he was reclassified to an Environmental Technician* [redacted] *wanted to put him with all of the other Environmental Technicians,* [redacted]

6. Why would a hazardous waste assistant report to you [redacted]? *(same answer as above #6)*

7. What duties did you perform in the Office of Safety? [redacted] *the HCHB safety program in the Office of Administrative Services. This wasn't part of my job description, Fred (Fanning) asked that I to take on the responsibility because* [redacted] *doing it so I agreed.* [redacted]

8. How did your duties differ in the Office of Real Estate? *They had nothing to do with one another. I was* [redacted] *with collateral duties (non-paid / volunteer only) as* [redacted]

9. Did the Office of Real Estate manage issues only within HCHB? How about other DOC buildings in the area such as NIST or NOAA facilities? *The Office of Real Estate managed all DOC buildings (NIST, NOAA, etc.) with exception of HCHB, which was managed by the Office of Space and Building Management.*

10. If so, what other buildings did you oversee? *In my role* [redacted] *oversaw the Office of Administrative Services within HCHB. In* [redacted] *all the other DOC buildings (i.e. NIST, NOAA, EDA, Census, etc).*

11. Did you supervise staff in those buildings? *No.*

Regarding Asbestos in the DOC 8th Floor Attic

1. Were you aware that there was damaged asbestos was in the attic? If so when did you become aware? [redacted] *HVAC Engineer told me in approximately October 2006 that we might have an asbestos problem in the 8th floor attic of HCHB when he discovered a broken pipe up there.*

2. Did any employees ever express concern to you that damaged asbestos might be a potential safety concern prior to the "discovery?" *No.*

3. If so, what did you do about it? *After learning about the problem from* [redacted] *we sealed off the room and then contracted for testing. After the tests came back positive,* [redacted] *began negotiating with GSA to get them to fix the issue.*

4. What kind of records were in place to track identified asbestos and inspect it for damage? *We paid for testing on 2 occasions within a couple weeks from a contractor and* [redacted] *should have those records.*

5. What did you do about it this finding? *We initiated corrective action including: policy, training, closing the area, shutting down the fans, and additional testing.*

6. Does DOC have an obligation to protect all its workers from a level of fiber in air from asbestos containing materials which OSHA has determine exceed the allowable amount for exposure without personal protective gear? *Yes. We are required to provide protective gear for known threats and we did. We have no responsibility to abate the hazard. We always had the gear* [redacted] *procured newer better gear in early 2007.*

Regarding [redacted] sending Lee to work in the attic without protective gear

1. Did you ever send Lee into the DOC attic knowing it contained unsafe levels of asbestos containing materials as identified in the series of air samples conducted by Peak Safety and GSA? *Absolutely not. He had no job duties that required him to be in the attic.*

2. Was any consideration made to obtain personal protective equipment, including a respirator, for Lee? *No because it was not necessary for his official duties.*

3. When your office issued the February 25, 2008, letter to staff it was nearly one year after the tests had identified unsafe levels in the attic. Why did it take you one year to notify employees of potential exposure? *The approval process for the letter required long reviews with DOC Counsel and Otto Wolfe. However, we immediately told staff about the issue verbally.*

4. Was there a requirement under OSHA or DOC policy to notify all employees of DOC? *No. We were only required to notify employees known to have been exposed.*

Date of Interview: November 19, 2010
Time of Interview: 10:00am
Location of Interview: Drug Enforcement Administration
700 Army Navy Drive, Arlington, VA 22202
Reporting Agents: [redacted] Special Agent
Special Agent

Case Title: Asbestos
Case #: PPC-CI-10-0271-P

U.S. Department of Commerce
Office of Inspector General
INTERVIEW OF:

[redacted]

On January 28, 2010, the Department of Commerce, Office of Inspector General (DOC-OIG), received allegations referred by the US Office of Special Counsel (OSC) stating that DOC officials knew of the presence of asbestos in the Herbert C. Hoover Building prior to 2008, but did not take action to protect employees; and that [redacted] directed employee Edgar Dion Lee to conduct inspections in the 8th floor attic without personal protective gear, knowing that the asbestos airborne particulate levels were at a level which were considered By OSHA standards to be unsafe.

On November 17, 2010, [redacted] was interviewed and provided substantially the following information:

Background

1. Title at DOC: [redacted]
2. Dates at DOC: [redacted]
3. 1st line supervisor: [redacted]
4. General Duties: [redacted]
5. Background in Supervising Hazardous Waste: 21 years as a Safety and Occupational Health Manager.

Regarding Dion Lee [redacted]

1. What were Dion Lee's duties? *Lee was a Hazardous Materials Manager, then later was reclassified as an Environmental Technician. His duties remained the same.*
2. Who was his supervisor? [redacted]

3. What training did Lee have which authorized him to hold the position he held? *His position did not require that he take much training. He had "Basic Asbestos and Hazard Identification" training.*

4. Did Lee switch duties at any time during your tenure? *No*

5. What was your role relative to Lee's position? [redacted]

6. Why did Lee report to [redacted] instead of someone in Building Management? *When he was reclassified to an Environmental Technician* [redacted] *wanted to put him with all of the other Environmental Technicians,* [redacted] *We did the same for Rosslyn Hill when she was hired as an Environmental Technician.*

7. Why would a hazardous waste assistant report [redacted]? *(same answer as above #6)*

8. What duties did [redacted] perform in [redacted]

9. How did her duties differ in the Office of Real Estate? *She became* [redacted]

10. Did the Office of Real Estate manage issues only within HCHB? How about other DOC buildings in the area such as NIST or NOAA facilities? *The Office of Real Estate managed all DOC buildings (NIST, NOAA, etc.) with exception of HCHB, which was managed by the Office of Space and Building Management.*

11. If so, what other buildings did [redacted] oversee? *In* [redacted]

12. Did she supervise hazardous waste assistants in those buildings? *No. However, she developed policy and guidance regarding hazardous waste that those staff persons would have followed.*

13. If she did not, then why was she assigned oversight of the HCHB? *When DOC Safety Director,* [redacted] *Otto Wolfe directed my office to take on the role.* [redacted] *to take on the extra duty of* [redacted]

Regarding Asbestos in the DOC 8th Floor Attic

1. Were you aware that there was damaged asbestos was in the attic? If so when did you become aware? [redacted] *told me in approximately Fall/Winter of 2006 that we had an asbestos problem in the 8th floor attic of HCHB.*

2. Did any employees ever express concern to you that damaged asbestos might be a potential safety concern prior to the "discovery?" *No. I first learned of it* [redacted] *in late 2006.*

3. If so, what did you do about it? *After learning about the problem* [redacted] *we sealed off the room and then contracted for testing. After the tests came back positive, we began negotiating with GSA to get them to fix the issue. Because our delegated agreement with GSA did not specifically state that were responsible for asbestos abatement, we argued adamantly that GSA was responsible for removing the hazard.*

4. What kind of records were in place to track identified asbestos and inspect it for damage? [redacted] *brought the issue to our attention,* [redacted] *went to GSA to get copies of their air sampling data. We found that GSA had purposely not tested the attic. DOC paid for testing following* [redacted] *and the discovery that GSA failed to test the attic.* [redacted] *should have those records.*

5. Who had responsibility for ensuring that the personnel were properly trained to work around and handle asbestos? *When I was the* [redacted] *that would have been my responsibility. However, we were not aware of asbestos at that time so no training was done. Post 2006, I personally gave training to the work teams.* [redacted] *would have those records.*

6. Who had responsibility for tracking identified asbestos and performing inspections to ensure its integrity? GSA or DOC? Why? *This was GSA's responsibility per the terms of our delegated agreement for use of their building. The agreement specifically outlines what is DOC's responsibility. All other responsibilities belong to GSA. They own the building, and DOC is the tenant.*

7. Does DOC have an obligation under OSHA to perform these inspections? *No. Because of the landlord/tenant agreement with GSA, this is GSA's responsibility.*

8. If so, why were they not being conducted? *N/A*

9. If they were being conducted, how can we verify it? Who did them? Where are the inspection records? *N/A*

10. Does DOC have an obligation to protect all its workers from a level of fiber in air from asbestos containing materials which OSHA has determine exceed the allowable amount for exposure without personal protective gear? *Yes. We are required to provide protective gear for known threats and we did. We have no responsibility to abate the hazard. We always had the gear and* [redacted] *researched and procured newer better gear in early 2007.*

11. GSA indicates that you were made aware of the Applied Environmental Report issued in 2005 (draft) and 2006 (final) which identified areas of damaged asbestos in several areas of the building, including the attic, indicating that "access to the [Penthouse attic] should be limited to personnel that have proper respiratory protection [and] have received asbestos O&M training or Asbestos Worker training as defined under OSHA Standard 29 CFR 1926.1101 until this material is removed." *I received these reports in Spring 2007, not the dates on the covers. I do not know whether DOC received them early, as I was not in the position when the reports were issued.*

12. What did you do about it this finding? *We initiated corrective action including: policy, training, closing the area, shutting down the fans, and additional testing.*

13. If nothing, is DOC's failure to act on this finding a violation of OSHA regulations? *GSA should have come to DOC, gone over the report and outlined a game plan for GSA's abatement and DOC protective steps that needed to be followed while the abatement was organized. The reports are complicated and should have come with direction.*

14. If not, why do you say that? *The only OSHA requirement for DOC is to protect employees from known hazards. We did not know about it until 2006, and we took appropriate steps to informa and protect the employees.*

15. Why did Doug Elznic write to OSHA in September 2009 stating the Department was unaware of the existence of such a survey? *I don't know.* [redacted] *Elznic became* [redacted] *I do not known why anything was done regarding the asbestos matter post June 2009.*

16. Did you review the letter? If not, why not? *N/A*

17. Did you normally allow personnel such as Elznic to send correspondence to other agencies without your review? If so, why? *N/A*

18. [redacted] "we do have such a program under p. 39(a) ...in which case an asbestos management program conforming to the US Environmental Protection Agency guidance must be implemented."? [redacted] *This is a letter from GSA to DOC, outlining GSA's argument for why DOC should be responsible for the abatement.*

19. Why didn't you know that such a program existed? [redacted] *This was not a fact, only GSA's argument. DOC responded to this statement by pointing out that GSA was incorrect because of our delegated agreement as tenant.*

20. Did the program ever get implemented? *N/A*

21. If so, who had responsibility for the program and its oversight? Who can verify this? *N/A*

22. How do you respond to allegations that you provided misinformation or disingenuous information to OSHA [redacted] *That is impossible because I was* [redacted]

23. Was there a requirement or perceived need to obtain and wear personal protective gear such as a respirator, tyvec suit etc.? *Yes, there was a requirement to wear equipment in dangerous areas. We always had some respirators and suits, but bought newer, more comfortable equipment once the asbestos issue was brought to our attention in late 2006.* [redacted] *bought the equipment based* [redacted] *research and instruction. Originally, we followed the departmental program for policy guidance. Later, I wrote a building program specifically for HCHB.*

24. Who had the responsibility for procuring such items? [redacted] *was told to buy additional equipment and procure physicals for exposed employees. We told* [redacted] *we would transfer whatever money was needed to his budget to cover the expense.*

25. Did you ever refuse to obtain these items due to cost? *No.*

26. Please provide an overview of how things transpired with GSA to ultimately get the asbestos from the attic removed. *After a great deal of back and forth, they agreed to cover the bulk of expenses during the building renovation. We agreed to incur the cost of moving people as the abatement occurred.*

Regarding [redacted] sending Lee to work in the attic without protective gear

1. Did [redacted] ever send Lee into the DOC attic knowing it contained unsafe levels of asbestos containing materials as identified in the series of air samples conducted by Peak Safety and GSA? *No. I was not aware of Lee ever going up there. He had no job duties that would require it.* [redacted]

2. If you knew about this what action did you take to protect Lee? *N/A*

3. Did you attempt to obtain additional funding to abate the cracked asbestos in the attic, mechanical rooms or other areas of the building? *No. This was GSA's responsibility.*

4. How can you be certain that Lee was provided information pertaining to the condition in the attic and that he could not enter it without personal protective equipment? *Lee never went in the attic for authorized work purposes. He had no duties in the attic.*

5. Was any consideration made to obtain personal protective equipment, including a respirator, for Lee? *No because it was not necessary for his official duties.*

6. When [redacted] it was nearly one year after the tests had identified unsafe levels in the attic. Why did it [redacted] one year to notify employees of potential exposure? *First of all, it took a long time to get the testing done and figure out who had been in the attic. Additionally, this letter holds the department legally liable for damages, so the approval process required long reviews from DOC Counsel and Otto Wolfe.*

7. Is there a requirement under OSHA to notify employees of potential exposure within a certain time frame? *Yes. We notified employees verbally the day the testing came back. We talked about the issue freely at numerous meetings. This letter was issued at a later date to protect employees if future problems came along.*

8. Was there a requirement under OSHA or DOC policy to notify all employees of DOC? *No. We were only required to notify employees known to have been exposed.*

9. What actions did you take to restrict access to the attic after the test results came back? *We shut down the attic after* [redacted] *even before the test results came back.*

Date of Interview: November 17, 2010
Time of Interview: 1:00pm
Location of Interview: Department of Energy
7000 Independence Ave SW, Washington, DC
Reporting Agents: [redacted] Special Agent
Special Agent

Case Title: Asbestos
Case #: PPC-CI-10-0271-P

U.S. Department of Commerce
Office of Inspector General
INTERVIEW OF:
Edgar Dion Lee
Retired, former Office of Administrative Services employee
Washington, DC

On January 8, 2010, the US Office of Special Counsel referred allegations to Secretary Locke received from Edgar Dion Lee a former DOC Hazardous Waste Facility Assistant, who asserted that DOC Office of Administrative Services managers (including his [redacted], failed to inform employees in a timely manner of the existence of unsafe levels of asbestos in the HCHB attic (8th floor). In addition, DOC officials knowingly permitting these employees to work in contaminated areas without personal protective equipment. Specifically, Mr. Lee asserts he was not told that unsafe levels of asbestos existed in the attic, nor was he given personal protective gear such as a respirator, despite knowledge by senior OAS officials [redacted] that the attic contained unsafe levels of asbestos. On January 25, 2010, Secretary Locke delegated investigation of this matter to OIG.

On March 18, 2010, Edgar Dion Lee, retired, was interviewed and provided substantially the following information:

Lee, who resides at [redacted] stated he was first hired at DOC as a contractor security guard in December 1993. In November 1998, he was hired as a federal employee, working as a 0080 security assistant. In January 2002, he transferred to the Office of Administrative Services (OAS), where he was employed as a secretary. In January 2004, [redacted] Lee was made a hazardous materials waste handler (series 0303) for OAS. He performed these duties from January 2004 to January 2009 [redacted]

Lee stated that he worked in the office of Real Estate for OAS, and that his duties included inspecting offices throughout the building, the cafeteria, daycare and subbasement for hazardous waste, and if hazardous waste was found, his duties were to remove it in accordance with established protocol. Such waste included asbestos, mercury, lead-based paint, aerosol cans, and large batteries (50-60 lbs).

Lee stated his training consisted of one 40 hour course called "Hazwhopper" in Cary, NC, which was coordinated by Peter Wixted, the ORE Environmental Manager, and a three day refresher course some time from, 2003-2007. Lee stated he has never received asbestos awareness training from any employer or through other educational pursuits. Lee stated that [redacted] replaced Peter Wixted, who left the Department.

Lee related that the process was if someone had a building concern or had hazardous materials remaining from maintenance work that was performed, building management was notified and the information was passed to either Lee or Steve Savoy for inspection and removal or coordination for disposal. Lee reported that he inspected the area/item, and took photographs of the area and provided this information to [redacted] He also kept it in

a three ring binder which he called the "asbestos book." He told us that some time in 2007 or 2008 [redacted] asked him about the book and he told her what it was. Shortly thereafter, the book was removed from his desk. He stated he asked [redacted] about the matter and was told that [redacted] was keeping the book. He never saw it again. He added that when OGC was conducting inquiries into the DOC's handling of ACM, he mentioned the book but nobody in OAS seemed to be aware of who had the book.

Lee reported that almost all the building maintenance personnel would verify that he accessed all parts of the building as part of his duties. He named Steve Savoy, Rufus Cook, Melvin Clairborne, and [redacted] all as individuals who would verify his inspection of unknown hazardous materials throughout the building. Lee stated his [redacted] is lying when [redacted] that Lee's duties did not entail him to handle asbestos or to access the attic.

Lee clarified the role of several OAS individuals. He added that James Woods was the former Deputy Director of Administrative Services while Denise Wells was the Director. Woods and Wells left, and Fanning was hired into the position of Director. Doug Elznic was promoted from Office of Building Services to the Deputy Director position, until Fanning left in December 2009. Then Elznic was promoted to Fanning's old position.

Lee reported that after Wixted left the Department in 2007 or 2008 to work at Department of Homeland Security, [redacted] was hired to replace Wixted. Lee reported that James Beam was the old building manager (early 2000 time frame), and that Mick Rusten replaced Doug Elznic when Elznic was promoted. Jay Loveless is a building management supervisor who works for Mario Acquino.

Lee reported that Meghan Erb and Lisa Schneiderman from the Office of General Counsel (OGC) told him they were investigating his whistleblower complaint. OIG clarified that they may be looking into the reprisal piece as OSC was reviewing it; however, Secretary Locke had delegated the safety disclosure to OIG.

[redacted] Lee added that as the position was not in his chosen career field or profession, that he was unaware of what the training requirements and personal protection requirements were for the job. He was unaware and his supervisors did nothing to educate and train him. Both Lee and Monica Barnett (his personal representative who was present in the interview) stated that [redacted] was aware that Lee needed specialized training in order to handle asbestos and asbestos containing materials; however, she did not want to pay for the training.

In addition, Lee reported that [redacted] which existed upon his new assignment, which became [redacted] as the result of him performing hazardous materials jobs.

[redacted]

[redacted]

Lee reported he has provided the above information to OIG, DOC, and OPM. Lee was advised that the matter would be looked into separately from this OSC disclosure.

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Date of Interview: March 18, 2010
Time of Interview: 10:30am
Location of Interview: Takoma Park, MD
Reporting Agent: [redacted] Complaint Intake Unit

Case Title: Asbestos (OSC Referral)
Case #: PPC-CI-10-0271-P

U.S. Department of Commerce
Office of Inspector General
INTERVIEW OF:
Peter Wixted
Former Environmental Program Manager
Office of Administrative Services

On January 28, 2010, the Department of Commerce, Office of Inspector General (DOC-OIG), received allegations referred by the US Office of Special Counsel (OSC) stating that DOC officials knew of the presence of asbestos in the Herbert C. Hoover Building prior to 2008, but did not take action to protect employees; and [redacted] directed employee Edgar Dion Lee to conduct inspections in the 8th floor attic without personal protective gear, knowing that the asbestos airborne particulate levels were at a level which were considered By OSHA standards to be unsafe.

On November 3, 2010, Peter Wixted, former Environmental Program Manager, was interviewed and provided substantially the following information:

Wixted was employed as the Environmental Program Manager (EPM) for Department of Commerce, Office of Administrative Services from November 2002 to August 2007. He had a series of first line supervisors, including James Woods, Lance Feiner, and Francesca Ryan. His second line supervisor was Fred Fanning and he could not recall the name of the individual prior to Fanning. He stated during the time was the EPM for OAS, he was assigned to the Office of Real Estate/Real Property. He added that [redacted] was later transferred to oversee that office; however, [redacted] was assigned to OAS's Office of Safety during his time at DOC.

Wixted stated he was responsible for overseeing the overall policy for the entire Department (and all of its buildings) related to environmental issues, including asbestos. He had no direct involvement in the specific management of asbestos in HCHB, stating such duties would have fallen to [redacted] Wixted opined that [redacted] would have had knowledge, but it would not be specific. In addition, he stated that [redacted] was not real knowledgeable about asbestos and other hazardous materials, and that he relied heavily on the opinion of [redacted]

Wixted stated that during his tenure, he asked several times to see the policy related specifically to HCHB management of environmental hazards, was told one would be provided; however, he never received one. He also advised that because General Services Administration (GSA) owned the building, that it was often discussed that GSA was responsible for the oversight of the asbestos and any other hazards in the building.

Wixted stated he saw very few documents, stating he had never seen the Applied Environmental Report identified damaged asbestos in the attic. Wixted added that the conditions in the 8th floor attic were the same during his entire tenure at DOC, it did not deteriorate to that condition. He

also stated that the presence of asbestos containing materials in the attic was not a safety hazard and in his view, the Department overreacted when the fiber in air samples came back as unsafe according to OSHA standards in February 2007. Wixted stated he questioned the reliability of the results produced by contractor Monica Barnett, and later by GSA's contractor (name unrecalled). He stated that he was aware that periodic (annual) air sampling had been conducted by GSA, which always found no areas of concern. He never questioned the quality of the samples or the results of the tests until 2007.

Wixted stated that while the Department had the requirement to identify all areas of known asbestos and maintain periodic inspections of the known area, he did not believe such activity was done, but he was not entirely certain. He stated while he had responsibility for writing policy, he no authority to enforce the policy written. He added that he was performing the duties of what OAS has now hired three people to do, and that he just did not have time to always follow up with others in OAS. He added that he and the building management staff did not really coordinate or communicate with each other. [redacted] stating he had broad knowledge of all the policies for all buildings Department-wide, and his responsibility did not include overseeing the HCHB practices. In addition, he described [redacted]

Wixted stated that he met Dion Lee when he arrived in November 2002. He added that Lee was brought on as a hazardous waste assistant, and that Lee assisted him with building environmental issues, including inspections. Wixted stated that any maintenance service performed on the building generally produced waste, some of it hazardous. He added that while building maintenance personnel were responsible for repairing the identified problem, Lee was responsible for collecting the waste and disposing of it in accordance with EPA standards. Wixted stated such dispositions included lead-based paint, asbestos containing materials, general waste, debris, etc. Wixted stated that Lee inspected the building from the basement to the attic. Wixted stated he was responsible for sending Lee to HazWhopper training, which he stated was not required to perform Lee's duties, but Wixted felt it was a good idea. Wixted described HazWhopper training has how to handle chemicals and hazardous waste and how to fill out the forms to ensure proper disposal.

Wixted stated that [redacted] was the records custodian for the work performed throughout the building, including handling of hazardous materials. Wixted also reported that all personnel received training, which was kept on an Excel spreadsheet kept on the OAS shared drive. He added that GSA should also have maintenance records but he did not know for sure.

Wixted was asked about the rationale for why GSA would have records and not DOC. He stated both should have records; however, the rationale is that GSA as the owner of the building should have fully documented what the issues with the building are. He specifically described a situation in the 8th floor attic regarding an area of sprayed-on asbestos. He said if you look at the spray on asbestos and there are footprints in it, then we (DOC) are responsible for having disturbed the asbestos and therefore, the DOC holds the requirement for ensuring that damaged asbestos containing materials do not contaminate other areas (including being tracked about by

maintenance personnel). He described the spray-on asbestos in the building which has cracked and become damaged through the passage of time and having outlived its expected lifecycle as being the condition of the building, not caused by tenant damage, but just normal deterioration, which is therefore the responsibility of the building owners: GSA.

Wixted reported that he ensured that personnel had protective gear, and that even Lee owned a tyvec suit. He added that they couldn't just buy respirators for staff as they also needed training, medical exams, and fit tests in order to properly wear the respirators. He added that he believed one individual (Rufus Cook) was trained through classroom means on asbestos management for maintenance workers but he did not believe the other maintenance workers were. He added that he spoke to Doug Elznic (at the time building management services) regarding the need to protect the workers and the need to incorporate a specific policy on how workers in HCHB should handle asbestos containing materials; however, Elznic did not "champion" his staff enough because he did not push [redacted] into making things happen.

Wixted reiterated that [redacted] to handle all the problems in the building as [redacted] felt [redacted] knowledge was superior to that of Wixted, and that [redacted] DOC. Wixted believed [redacted] overreacted to the asbestos air sample results produced in 2007, and caused unnecessary disruption within the Department. He added that [redacted] should have ordered specific areas of the attic segmented and closed off until abatement work should be completed; however, the results were not indicative that the entire 8th floor was unsafe.

Wixted confirmed that a survey by MACTEC was performed in 2003 at the request of GSA, and that GSA should be inspecting the asbestos containing areas for damage on a periodic basis. However, to Wixted's knowledge, GSA has never come to the building to conduct a visual inspection.

Wixted confirmed that he received the February 2008 Fred Fanning letter stating he might have been exposed to asbestos, one year after the test results were determined to be unsafe. Wixted stated [redacted] initially wanted to provide the letter to every single person who has ever worked in the HCHB. Wixted expressed his disgust with the letter stating that such action would have created unnecessary panic, and that the letter itself did nothing to assuage worker concerns. Specifically, the letter contained no information such as what employees should do, or even how to answer the question of "How do I determine whether or not I have I been exposed?"

Wixted stated that building management did secure access to the 8th floor in 2007, including placing plastic sheeting and signs telling people not to enter. However, he added that one of the areas that tested positive for unsafe levels in the air sample also contained an air intake plenum in which the building's ventilation system was drawing air in through the attic, and then disbursing it throughout the building. Wixted said he questioned why people could not go any place in the attic; however, it was ok to pump that same air into the rest of the building. He never got an answer, and department DOC shortly thereafter.

Wixted said that the non-abatement of asbestos in the HCHB was money driven. He added that it was not the case that people did nothing because they didn't pay for it; rather that they were aware of the issues, did what they could, but couldn't abate the asbestos because there was a

question of funding. (He stated it was in GSA's best interests to not do the inspections because if the damage was related to deterioration of the building, it was GSA's responsibility to pay for it, however, he had no knowledge as to whether or not GSA was conducting inspections, just that he was not aware of any).

Wixted stated Lee never expressed concern to him regarding the performance of hazardous waste assistant duties and he believed Lee had appropriate training for the duties he performed. Wixted added that Lee was pulled out of the Hazardous Waste Assistant position [redacted] and placed somewhere in procurement in either 2006 (approximately one year prior to Wixted's departure) [redacted]

Wixted summed up the interview by stating that things have never been right in the department's handling of hazardous waste, their HCHB specific policies regarding asbestos and lead-based paint. He added that OIG could just change the date on the report issued in 2002 in which OIG identified problems with OAS's policies and practices related to environmental issues. He added that [redacted] had the responsibility for writing and enforcing practice and policy; however, neither did so, and that the high turnover rate in OAS meant nothing ever got done.

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Date of Interview: November 3, 2010
Time of Interview: 3:00pm
Location of Interview: Department of Homeland Security
650 Massachusetts Ave NW, 4th floor, Washington, DC
Reporting Agent: [redacted] Office of Special Investigations

Case Title: Asbestos
Case #: PPC-CI-10-0271-P

U.S. Department of Commerce
Office of Inspector General
INTERVIEW OF:
[redacted]
Building Management Specialist
Office of Administrative Services/Office of the Secretary

On January 28, 2010, the Department of Commerce, Office of Inspector General (DOC-OIG), received allegations referred by the US Office of Special Counsel (OSC) stating that DOC officials knew of the presence of asbestos in the Herbert C. Hoover Building prior to 2008, but did not take action to protect employees; and that [redacted] directed employee Edgar Dion Lee to conduct inspections in the 8th floor attic without personal protective gear, knowing that the asbestos airborne particulate levels were at a level which were considered By OSHA standards to be unsafe.

On April 14, 2010, [redacted] Building Management Specialist, was interviewed and provided substantially the following information:

[redacted] was employed as the [redacted] from 1991 to April 2010. He has been with the Department for over 26 years. His first line supervisor was Mario Acquino, his second was Doug Elznic. [redacted] began his new position two days ago). As [redacted] three shifts of engineers performing repairs, maintenance and renovation in the Hoover Building.

[redacted] stated that he knew Dion Lee (not well), and that Lee worked [redacted] but he really didn't know what Lee's duties were. He never observed Lee in the 8th floor attic. He stated that if one of his engineers found asbestos in the building, he was notified, and he would send an email to Acquino who would coordinate for its removal or encapsulation. He also stated that Melvin Clayborne frequently coordinates such activities and that Clayborne could have contacted Lee to do such activities.

Date of Interview: April 14, 2010
Time of Interview: 9:30am
Location of Interview: Room 7089
Reporting Agent: [redacted] Complaint Intake Unit

Case Title: Asbestos
Case #: PPC-CI-10-0271-P

[redacted] stated he has known that there is damaged asbestos in the attic for many years. He believes it was first identified in 1983. He added that during his time [redacted] Richard "Dickey" Moore (worked for Jim Beam, former Building Manager) would always tell the staff that the air samples identifying asbestos fibers were normal, and that he and the engineers were safe. He added that Moore would coordinate for training and physicals for the staff potentially exposed to hazardous materials. [redacted] provided emails from Moore dated September 27, 2001, which coordinates for asbestos worker review training. **(Attachment 3)** [redacted] said this was the last documentation he received that workers received the required biannual asbestos training. He stated that once Jim Beam left and Mario Acquino became the Building Manager, Acquino never reported to the USRO staff what the air samples were, or that they (Building Management) was doing anything to address asbestos.

[redacted] stated emphatically that the asbestos in the attic was known well before February 2007. He stated that he "heard" (nfi) that [redacted] was claiming [redacted] made this big discovery" which he resented because it was "false." On May 3, 2007, [redacted] sent an email to Acquino, Doug Elznic, Jay Loveless and Rufus Cook stating, "Attic/for the record." **(Attachment 1)**, stating that statements made suggesting that [redacted] discovering asbestos in February 2007 was inaccurate. His email reminds them that he questioned fit tests, physicals and such, and that when Monica was there, she went into the attic and conducted tests, which showed elevated levels. [redacted] also points out that the tests had contineud to remain elevated, and requests that the Department take action to pay for a CT scan for himself and Rufus Cook, employees with potential long-term exposure to asbestos.

[redacted] said the damaged asbestos was known by [redacted] well before February 2007, but that they [redacted] decided to use that date, because that is the date he sent an email inquiring about physicals and certifications. [redacted] stated he recalled something about hazardous materials being discovered at the Smithsonian in the media around that time. It triggered his memory regarding employee certifications at the same time he came across an old memo requiring personnel to have physicals. [redacted] then sent an email asking when the USRO shop would get their physicals as it had been quite some time. [redacted] provided the email to Acquino, dated February 20, 2007. **(Attachment 2)**. [redacted] opined that when he inquired about the physicals, Acquino realized he had been lax about training and quickly coordinated to have it done. When Barnett came to conduct the required training and physicals (fit tests) for respirators, engineers reported to her that the attic had gotten really bad and that management was doing nothing about it. She then went into the attic to take air samples, which confirmed the high levels of particulate matter containing asbestos fibers (Barnett began testing on February 23, 2007).

Date of Interview: April 14, 2010 | Case Title: Asbestos
Time of Interview: 9:30am | Case #: PPC-CI-10-0271-P
Location of Interview: Room 7089
Reporting Agent: [redacted] Complaint Intake Unit

After Barnett's tests came back multiple times reflecting high levels of asbestos particulate matter in the attic, Acquino told [redacted] that there was a problem with Barnett's certifications and that the tests would need to be redone by another company. [redacted] raised concerns in the May 3, 2007 email stating that as the employees had been told prior to 2007 that the levels were safe and that respirators were not needed, and that since the condition of the attic had not changed much since 1983, he and Mr. Cook likely had long-term exposure.

[redacted] said he was told verbally by Acquino that all air sample tests conducted prior to 2007 were fine, and that likely Ms. Barnett's elevated readings were an anomaly. He added that the next thing he knew, GSA was engaged, the attic was boarded up in 2008, and they were told not to enter without a respirator. [redacted] questioned whether information had been deliberately withheld because there had been no significant physical changes in the attic over time, but in particular since the 2001 time frame when Richard "Dickey" Moore left.

[redacted] was shown an album of photographs provided by Lee regarding the condition in the attic. [redacted] confirmed that the photographs are reflective of the condition in the 8th floor attic since 1983. [redacted] stated that the attic was very dark in places, and there was no air, so the men would often enter and turn the fans on, which just stirred the asbestos fibers around. He related instances in which it was so full of particulate matter, than when you shined a flashlight into the air, you could see fiberous particles in the air. The particles were confirmed as asbestos by Barnett during her February 2007 testing.

[redacted] was shown a copy which was provided to OIG as having been issued from Jana Brooks titled, *USRO Shop* (**Attachment 4**). [redacted] stated Brooks did not author the email/instructions, he did. [redacted] added that he was trying to take care of his guys after continued rumors were circulating that there were high levels of asbestos in the attic. Therefore he drafted what he believed were the best instructions he could give his staff given lack of guidance from higher up. He recommended to the engineers that they wear their respirators and ty-vec suits. In addition, when he told the staff in his instructions that their "honest answer" if an employee inquires as to what kind of dust they are wearing respirators for, their "honest answer is I'm not sure." He was not instructing his staff to lie, he said they were not briefed or given guidance from Fanning, Elznic, Acquino or Brooks as to whether there were high levels of asbestos in the attic or other particulate/hazardous materials in the attic, and they had heard only rumors. [redacted] provided OIG with the complete email and attachment. The email, sent May 8, 2007, containing his instructions was sent to Mario Acquino, Jay Loveless (Acquino's deputy) and Steve Savoy, requesting that Acquino review it, and that if he did not hear from Acquino or Loveless, he would "assume" they were "okay" with his instructions.

Date of Interview: April 14, 2010 | Case Title: Asbestos
Time of Interview: 9:30am | Case #: PPC-CI-10-0271-P
Location of Interview: Room 7089
Reporting Agent: [redacted] Complaint Intake Unit

[redacted] stated he did not recall Barnett having set up any kind of decontamination area including showers, but he does recall that there were plastic walls set up, and an area where the men would suit up in ty-vec suits and respirators gear prior to entering the attic space, and then disrobe and dispose of the suits in a haz-mat waste bag. He added that after the third readings came back as safe, the plastic sheets came down. He estimated that occurred 8-12 months after they were put up, which he believes was May 2007.

[redacted] stated that management of all the hazardous waste and safety programs for building management "went away" while under the management of Acquino (who assumed the position of Building Manager after Jim Beam retired in 2004)

[redacted] had no knowledge of what role [redacted] played in the asbestos management program, but confirmed that [redacted] was involved at a high level. He stated that since Lee worked [redacted] Lee might have gone into the attic to conduct rounds, and he might have removed hazardous waste, but it was not as a building management employee. He added that he did not know what role/involvement [redacted] had in the asbestos management program. He said only that [redacted] "didn't want to touch it" therefore it appeared that nobody wanted to take responsibility and ensure that employees had appropriate training, equipment, and that the appropriate steps to safeguard employees were taken.

[redacted] stated he doesn't know whether to believe DOC officials or not. He has been told it is safe to go back into the attic without ty-vec gear and a respirator by Jay Loveless and Mick Rusten; however, he was told it was safe before, and then suddenly it wasn't safe. He does not have confidence in what is being reported to him. [redacted] said the thing that concerns him the most is whether or not the building is currently safe, and why it took the Department over a year from the time they knew there were unsafe levels in the attic before they restricted access and began to remove it.

Moreover, he has never been told as to what the current asbestos readings are, and has never been provided copies of air quality reports confirming that the air samples reflect a safe level to employees. He expressed great concern and stated that he will continue to wear his respirator when accessing the 8th floor attic.

When asked about the thousands of air filters stored in the 8th floor attic during the initial time of discovery (2007) Cruz stated that Acquino had the unopened boxes moved to the basement but any opened boxes of air filters were disposed of.

Date of Interview: April 14, 2010 | Case Title: Asbestos
Time of Interview: 9:30am | Case #: PPC-CI-10-0271-P
Location of Interview: Room 7089
Reporting Agent: [redacted] Complaint Intake Unit

A

[redacted]HCHB/Osnet
05/03/2007 01:56 PM

To Douglas Eznic/HCHB/Osnet@osnet, Mariano Aquino/HCHB/Osnet@osnet
cc Jay Loveless/HCHB/Osnet@osnet, Rufus Cook/HCHB/Osnet@osnet
bcc
Subject Attic/ for the record

Mario,

Attic - I looked at the attic areas with Jay and Monica today, we looked at the two perimeter fans that serve the 6th floor, while I was there I made a sketch for installing the HEPA filters, if you decide to keep the fans running I can have a contractor make up a filter rack and supply filters for those two fans. Monica and Jay said they were going to discuss the two fans and the condition of the surrounding air. Also I asked Monica about the filter storage area on the 8 1/2 floor and Monica said that those filters are probably contaminated and that they should not be used, so I will need to find space to store new filters and funds to buy them.

Attic [redacted] & Rufus Cook - Here is my point of view on the x-ray requirement, Rufus and myself are the last two employees remaining from the Commerce delegation that took over the maintenance of the building in 1983. I walked the attic today with Monica & Jay, what I saw floating around by shining a flash light in the air made me aware & very concerned for my health. From what we have heard of all pre 2007 attic fiber testing, is that we did not need respirators because the air borne samples showed good readings. Now, suddenly in 2007 we have bad readings, and we have to ware our respirators when we are in the attic, my point is the attic has not changed very much since 1983, and as a long time employee I am looking at a possible exposure to the attic fibers of 23 years 7 months, I am aware that the CT scan is more expensive and probably not required unless they see something on the x-ray, but, as a long time employee with a possible long term exposure I request you approve a CT scan for myself and Rufus so that we get a better look at our lungs and to possibly help you in determining the risk factor of the rest of the shorter term employees, ie... if the CT scan shows nothing on your (Commerces) two longest term employees than that may help alleviate everyone's concerns.

For the record - I heard my name mentioned a few times yesterday in the meeting, something abou[redacted] found asbestos up in the attic and that's why we (Commerce) tested the attic. There must be confusion on this story and I feel the need to clear it up now. My e-mail on 2/10-07 stated that it had been a good while since we had our fit tests, x-rays, physicals, training and testing of the attic for asbestos fibers. That e-mail initiated the testing of the attic at the second corridor, Monica & Steve Savoy had me escort them to the attic and she selected a spot at the second corridor. I heard the test results from that reading came up high. I then (at a later date) was asked by Jay Loveless and Steve Savoy to go up to the attic and look at where Monica took her test sample, I showed Jay the spot where the sampling equipment was placed, and.... then" noticed a tear in the pipe insulation above from where she had her testing equipment. The three of us concluded that she probably got a bad reading because of the tear in the pipe insulation, especially since every attic reading done in the past (pre 2007) had shown there were no elevated readings of asbestos fibers. As we now know Monica has retested the entire attic two more times and still has elevated readings. So I am setting the record straight from what I heard yesterday about [redacted] finding asbestos in the attic", that is not an accurate description of events.

Rec'd - EV/OIG
Interview of [redacted] -B
Attachment 1
P. 1 of 4

Return Receipt

Your message:	Attic/ for the record
was received by:	Mariano Aquino/HCHB/Osnet
at:	05/04/2007 07:30:49 AM

Attachment 1
P. 2 of 4

Return Receipt

Your message:	Attic/ for the record
was received by:	Jay Loveless/HCHB/Osnet
at:	05/04/2007 06:36:16 AM

Attachment 1
P. 3 of 4

Return Receipt

Your message:	Attic/ for the record
was received by:	Rufus Cook/HCHB/Osnet
at:	05/03/2007 03:16:58 PM

Attachment 1
P. 4 of 4

Mariano Aquino/HCHB/Osnet
02/20/2007 10:02 AM

To Steven Savoy/HCHB/Osnet@osnet, Lisa Martin/HCHB/Osnet@osnet
cc Jay Loveless/HCHB/Osnet@osnet, [redacted] Osnet@osnet, Rufus Cook/HCHB/Osnet@osnet, William
bcc
Subject Asbestos Training and Testing

Steve,

We are very over due on this!!! Work with Lisa Martin and get a vendor scheduled for the training and testing immediately. Let us know the dates and times.

Mariano S. Aquino, Building Manager
Department of Commerce
Office of Secretary, Office of Building Management
Tel# 202-482-1340
Cell# 202-439-6211
MAquino@doc.gov

[redacted] HCHB/Osnet

[redacted] HCHB/Osnet
02/20/2007 09:30 AM

To Steven Savoy/HCHB/Osnet@osnet
cc Mariano Aquino/HCHB/Osnet@osnet, Jay Loveless/HCHB/Osnet@osnet, Rufus Cook/HCHB/Osnet@osnet, William Sexton/HCHB/Osnet@Osnet
Subject asbes

Steve,

What is the latest on our refresher courses, fit testing, lung X-rays, breathing tests, and also having the attic tested for air borne fibers. We don't want to end up like NIH. It has been a good while since we have addressed theses items. We need to protect ourselves from claims.

Rec'd EV-OIG 4/20/10
Interview

Attachment 2
Page 1 of 2

[redacted]HCHB/Osnet
03/06/2007 10:55 AM

To Steven Savoy/HCHB/Osnet@osnet, Jana Brooks/HCHB/Osnet@osnet
cc Mariano Aquino/HCHB/Osnet@osnet
bcc
Subject Fw: asbes

FYI,

The employees have started there physicals today, there reporting to me that they are not receiving the lung function test, I thought my communication was clear, that the technicians are in need of having this done??

—— Forwarded by [redacted]HCHB/Osnet on 03/06/2007 10:51 AM ——

[redacted]HCHB/Osnet
02/20/2007 09:30 AM

To steve savoy
cc Mariano Aquino/HCHB/Osnet@osnet, Jay Loveless/HCHB/Osnet@osnet, Rufus Cook/HCHB/Osnet@osnet, William Sexton/HCHB/Osnet@Osnet
Subject asbes

Steve,

What is the latest on our refresher courses, fit testing, lung X-rays, breathing tests, and also having the attic tested for air borne fibers. We don't want to end up like NIH. It has been a good while since we have addressed theses items. We need to protect ourselves from claims.

EN

Attachment 2
Page 2 of 2

[redacted]HCHB/Osnet
09/27/2001 01:32 PM

To Richard Moore/HCHB/Osnet@osnet
cc
bcc
Subject Re: Asbestos Worker Review

DATES,

OCT 18

CLAIBORNE
LATHAM
HAMILTON
HUGGINS

OCT 25

RAFFELT
THACKER
THOMAS

Richard Moore

Richard Moore
09/26/01 11:11 AM

To: [redacted]HCHB/Osnet@osnet, William Sexton/HCHB/Osnet@osnet, Rufus Cook/HCHB/Osnet@osnet
cc: James Beam/HCHB/Osnet@osnet, Ron Gellatly/HCHB/Osnet@osnet
Subject: Asbestos Worker Review

I have scheduled 2 asbestos worker review classes for October. The dates are Thursday October 18, 2001 and Thursday October 25, 2001. Employees who have asbestos worker training must attend one day or the other. Please submit a schedule to me showing who will attend each date.
I will let you know what room and the hours of the classes.
Thanks Dick

Interview of [redacted]
Attachment 3
1 page

[redacted]HCHB/Osnet
05/08/2007 07:49 AM

To Mariano Aquino/HCHB/Osnet@osnet, Jay Loveless/HCHB/Osnet@osnet, ssavoy1@doc.gov
cc
bcc
Subject Emailing: asbepro2007

Mario,/ Jay

Attached is the final copy of what I am going to present to the Engineer shop employees today at 12noon, I realize you need time to get us the SOP and other procedures for this issue, but I believe in staying on top things as best as possible, We can't have the men working with out some direction. So I am going assume you are okay with my temporary procedures, and expect you to give me a written SOP as soon as you are able.

Mario,/ Steve

As for documentation of my shops physicals, training, x-rays and fit testing, I still need documentation that [redacted]& Huggins attended training, and that [redacted] Whittington & Huggins passed there respirator fit test, can you make sure I get the paperwork. As for physicals I have documentation from the health unit of [redacted] as passing there physicals and spirometer, [redacted] failed and will retake. [redacted] are out until further notice. I will give you both a copy of what I have. Please see if you can get the copies that I need. Thanks!

The message is ready to be sent with the following file or link attachments:
asbepro2007

Note: To protect against computer viruses, e-mail programs may prevent sending or receiving certain types of file attachments. Check your e-mail security settings to determine how attachments are handled.

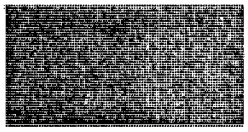
- asbepro2007.wpd

Attachment 4
Page 1 of 3

Return Receipt

Your message:	Emailing: asbepro2007
was received by:	Mariano Aquino/HCHB/Osnet
at:	05/08/2007 01:21:57 PM

MARIO OPENS the EMAIL
"After" My meeting with the MEN.



Attachment 4
Page 2 of 3

USRO SHOP

We still need to maintain this building even though current events dictate that we carry out our duties in a different fashion. Until we receive official instructions from BMD, we are going to use these "Temporary" procedures for Asbestos related issues.

1. Wear your respirator when ever you feel you need it, ie...dusty areas.
2. If you suspect the area you are working in, has what appears to be a Hazardous material, you should stop all work, leave the area, and e-mail me explaining what, where and when. I will then forward your e-mail to BMD for action.
3. Service calls to occupants - For now I would recommend that you wear your respirator every time you go above the ceiling, until we get more instruction/SOP from BMD this is how we should do our work. Refer to #2 procedure on working above the ceiling. As for communicating with the occupants, when they see you wearing a respirator and ask you why, the honest answer is... you are protecting your self from dust. If they ask what kind of dust, the honest answer is.... I'm not sure. If they need more info. Ask them to call BMD.
4. The attic is off limits to any one who cannot wear a respirator, and who has not passed the physical exam in Commerce's Health unit.
5. These next set of instructions are from Monica..... If you are compliant and need to enter the attic, you are to wear a double layer of ty veck protective clothing, hood and booties. Enter the attic only at 7th floor 3rd and 8 corr. Go up to the top of the stairwell, at the attic door there is a box of the ty veck suits and a yellow disposal bag. Put on the first ty veck suit, Next put on the second ty veck suit with the hood and booties. Next put on your respirator and go thru the proper procedures as they were shown to you by Monica. You can now enter the attic. Once you are in the attic you cannot open your suit to reach for things in your pockets or your keys, so have everything you need to work with tools radios beepers keys etc... in a bucket. You are not allowed to open up your suit! When you are done in the attic and are ready to leave, you should exit at the same entry point. You should remove the outer ty veck suit at the door (on the attic side, don't enter the stair well until you remove the outer ty veck suit) then put that suit in the yellow bag. Open the stair well door, close it, then you can remove your remaining ty veck suit and respirator, again.. put the ty veck suit in the yellow bag. Return to the shop and wash/clean your face, respirator and any tools or items you brought up to the attic, then properly store your mask. These "Temporary" instructions should be followed until BMD comes up with a SOP on how to deal with entering the attic or any other area in the building. Protocol and common sense.....You should not remove your mask while in the attic. You should not enter the attic alone, always have a co- worker with you. If you have an emergency situation go to the nearest exit to leave the attic. Have a way to communicate, ie Radio, cell phone or elevator room phone. No eating or drinking or smoking in the attic for obvious reasons.

Attachment 4
Page 3 of 3

U.S. Department of Commerce
Office of Inspector General
INVESTIGATIVE RECORD FORM

INTERVIEW OF: Rufus COOK
Building Maintenance
Office of Space and Building Management

On December 28, 2009, the Department of Commerce, Office of Inspector General (DOC-OIG), received allegations referred by the US Office of Special Counsel (OSC) stating that DOC officials knew of the presence of asbestos in the Herbert C. Hoover Building prior to 2008, but did not take action to protect employees; and that [redacted] directed employee Edgar Dion Lee to conduct inspections in the 8th floor attic without personal protective gear, knowing that the asbestos airborne particulate levels were at a level which were considered By OSHA standards to be unsafe.

On December 10, 2010, Rufus Cook, Pipefitting and Woodcrafting Supervisor, was interviewed via telephone and provided substantially the following information:

COOK has been with the Department for 32 years and has been in the Building Maintenance Division the entire time. His current duties include supervising all of the plumbing repairs and maintenance, carpentry, and other small projects around the building. Some of these duties do involve disturbing asbestos, including small abatement projects, but when he does he will wear his protective gear.

He has received yearly training on asbestos handling since the "early days" (i.e., 1980's). He is currently coming up on his annual recertification. He and his employees receive yearly recertification on asbestos handling and care. Training recertification is coordinated by his supervisors.

He and his staff have respirators and personal protective equipment (PPEs) and they have had gear as far as he can remember. He stated that the gear has gotten better over time, but they have always had something.

COOK wears his PPEs when doing work in the attic that requires disturbing the asbestos, but does not always wear it. He stated that the attic was rendered safe this year and access was opened back up. He is not "required" to wear the equipment, except by OSHA regulation, when his work will disturb the asbestos.

Date of Interview: December 10, 2010
Time of Interview: 10:00am
Location of Interview: Telephone
Reporting Agents: [redacted]

Case Title: Asbestos
Case #: PPC-CI-10-0271-P

Access was restricted for the attic from the 2008 – 2009 / 2010 time frame. Doors had card readers and some had locks, but his division always had access. Access was restricted via signs warning of restricted access and there was a "containment" unit where areas were cordoned off and PPEs were to be used beyond that point. However, use of PPEs was never enforced, per se, but "you knew the risks" of not wearing it.

With regards to Mr. Dion Lee, COOK stated that he did Health and Safety inspections for a few years, maybe 2006 – 2008, not exactly sure.

COOK did not recall ever asking Mr. Lee to look at damaged areas or debris for reporting to management. Further, COOK does not recall ever reporting deteriorating materials in the attic.

COOK is aware of asbestos surveys, specially recalls one survey that said that the air was bad and shortly after another that said the air was fine. He said that he was never worried and that "with the two different reports…who knows. [He has] seen way more hazardous things around the building."

This concluded the interview.

U.S. Department of Commerce
Office of Inspector General
INTERVIEW OF:
Monica Barnett
Industrial Hygienist

Peak Safety Systems
56 Menlena Circle
Hanover, PA 17331
301-370-0192
mbarnett@peaksafety.net

On January 8, 2010, the US Office of Special Counsel referred allegations to Secretary Locke received from Edgar Dion Lee a former DOC Hazardous Waste Facility Assistant, who asserted that DOC Office of Administrative Services managers (including his [redacted], failed to inform employees in a timely manner of the existence of unsafe levels of asbestos in the HCHB attic (8th floor). In addition, DOC officials knowingly permitting these employees to work in contaminated areas without personal protective equipment. Specifically, Mr. Lee asserts he was not told that unsafe levels of asbestos existed in the attic, nor was he given personal protective gear such as a respirator, despite knowledge by senior OAS officials [redacted] that the attic contained unsafe levels of asbestos fibers in the air. On January 25, 2010, Secretary Locke delegated investigation of this matter to OIG.

On March 18, 2010, Monica Barnett, industrial hygienist and personal representative to Dion Lee, was interviewed and provided substantially the following information:

Barnett first became affiliated with DOC in early 2000 when her company was hired to conduct training at the Department. Barnett came and taught a course on asbestos supervision, intended to instruct supervisors on how to ensure that their employees follow all appropriate requirements in the handling of asbestos containing materials. Barnett stated she taught various safety and training classes, and performed limited environmental reviews from 2000-2007. During a training class she was teaching in 2007, she stated that several heating and air conditioning employees mentioned a "ghost" employee named Dion Lee who also handled hazardous materials but whom Barnett had never met and who was never scheduled as an attendee on Barnett's training roster.

She stated also during this training session the employees (she recalled them as Melvin Clairborne, [redacted] and Rufus Cook) expressed concern to her about the condition of the friable spray-on asbestos contained in the 8th floor attic. She returned the next day with protective gear and air monitors and conducted the tests, which found unsafe levels of friable Asbestos fibers in the air.

Barnett reported she also works a lot with Tim Sleeth and his staff at the General Services Administration (GSA). Sleeth is the environmental property manager for the DOC building. DOC occupies and leases the space from GSA.

Barnett stated that she observed holes/breeches in the attic in which she could look down into the 7th floor from her location on the 8th floor. She stated she was concerned about potential contamination on the 7th floor as well as the 8th floor. She also observed a CHIMES contractor (handicapped person) dry sweeping dust with suspect asbestos particulate matter that had crumbled onto the floor (from asbestos containing pipes, insulation, etc.) She stated that an unrecalled OAS maintenance person told her the CHIMES people are always assigned to clean up in the attic when needed.

After her tests came back with asbestos fiber content the higher than OSHA allowed fiber in air per cubic centimeter for employees to occupy without respirators, she recommended to the DOC that it completely restrict the 8th floor attic to all employees. She stated that when she did so, [redacted] informed her that there was no problem in the attic, that Barnett's equipment and tests were wrong.

After GSA hired an industrial hygienist (contractor) to test the air for a third time in the 8th floor attic which also reflected an unsafe level of fibers in air, questions were raised as to whether the fibers were also contaminating the outdoor playground from the daycare center (which while outdoors, is stagnant in that it does not receive circulation from local winds. In addition, the air handling unit in the attic blows hot air out, so in theory it could be blowing unsafe levels of asbestos containing air onto the playground equipment. As asbestos particulate matter is very light, it can take up to three days for the material to settle on the ground. Barnett reported that DOC shut the air handling units off for a day, and then tested the playground air, which tested as safe.

Barnett stated that she told [redacted] that he had an obligation to continue testing as air particles shift and settle, in order to determine that the building is safe; however, he declined to order additional tests. She added that while GSA owns the HCHB and therefore "owns" the asbestos (owner of the building owns the building in whatever condition it is in), the Department of Commerce, as the employer, has a legal obligation to ensure that the health and safety of its workers is not compromised by the condition of the building. GSA has no legal obligation to the employees of DOC - that responsibility rests solely with the DOC.

Barnett reported that the fiber in air content was so thick on the day she first came to do tests in the attic, that she could shine a flashlight and catch glints of the fibers in air. She added that the condition of the attic "was the worst I'd ever seen before the abatement contractor" came and performed the work.

Barnett reported that [redacted] seemed unaware of what the employees in building maintenance did as part of their duties, and when Barnett reported to her that the employees were exposed to unsafe levels of asbestos fibers, [redacted] response was, "the guys don't take care of that." She added that from her perspective, the OAS officials, in particular [redacted] seemed to be taking whatever action they could to minimize her findings and avoid responsibility for fixing the problem. She related an anecdote in which she sat with [redacted] after a meeting and told her, "You have a problem, it's on the 7th floor, not just in the attic. The attic has grates, the grates are open – you can look down and see people on the 7th floor." She related that she could look down and see a drinking fountain, telecommunications and broom closets (note this is likely the intersection of corridor Zero and Nine on the 7th floor, which has all the noted items and

an open grate into the 8th floor attic.) Barnett stated that [redacted] only response was to tell Barnett she was wrong, and "you're not going to have a problem 'til 20-40 years down the road." [redacted] went on to tell them that cancer and asbestosis occurs to employees that work performing abatement work, not who are just exposed to the hazardous material or asbestos containing materials. She reported that [redacted] also told her (Barnett) that she was just trying to find asbestos to make work for herself with the Department. Barnett denied this assertion, stating she gets paid whether she finds asbestos in the building or not.

Barnett stated that after her tests in February 2007, when she returned to the DOC to conduct additional tests in the attic, she was escorted by Doug Elznic, Mario Acquino, Fred Fanning and Jay Loveless. In addition, during meetings on her findings, Tim Sleeth and Anthony Mundy from GSA attended, along with [redacted] Therefore, Barnett is certain that all employees identified above were aware that unsafe conditions existed in the attic from February 2007 forward.

Barnett stated she was told by Tim Sleeth at GSA that he was aware that DOC had a problem with asbestos since he started at GSA (date unknown)

Barnett stated that as far as she knew, the Department never had an asbestos management plan, despite an OSHA requirement to do so. Barnett believed such documents would reside with Doug Elznic.

Barnett repeated emphasized throughout the building that DOC had an obligation to protect its employees from hazardous or unsafe conditions, and a requirement to perform due diligence to ensure that areas known to contain asbestos or asbestos containing materials must be frequently inspected for deterioration. She also added that OSHA requires that all employees in DOC must be told of the hazards around them, and that any hazards are required to be posted in an area accessible to all employees.

Barnett added that Lee had no idea about the Fred Fanning February 28, 2008, letter which notified certain employees of their exposure to asbestos until Mario told him in front of Barnett in May 2008. Acquino stated only that Lee should have received a copy. She added that Fanning's letter was incorrect, that Fanning claims that employee [redacted] "discovered" asbestos in the attic in 2007. She added that they all knew it was there, and that it was likely unsafe. Because nobody had taken action to conduct tests/inspections, the Department needed to claim no pre-existing knowledge of the damage. She stated [redacted] will confirm he did not "discover" the damaged asbestos, it was already there and well-known.

Barnett explained that because Lee was in a different division within OAS, he was not sent to her training courses, which were scheduled for building maintenance personnel, not Office of Real Estate personnel like Lee. After the discovery of asbestos, Barnett stated Lee asked [redacted] about adding him (Lee) to the asbestos training class, and her response was, "I'll have to see what the budget is." Barnett said she was very surprised given that Lee's duties required exposure to all sorts of hazardous materials including asbestos.

When Barnett tried again to explain that asbestos was a hazardous material requiring

specialized protective measures, [redacted] told her, "I don't know anything on asbestos." Barnett states [redacted] appeared to take all of her (Barnett's) information dictate it to her staff.

Barnett showed a training roster of employees who attended an asbestos training class in 2008, pointing out that Ronette Simpkins was a secretary, and that [redacted] had managed to find money in the budget to train Simpkins; however, her budget did not include training for Lee. Barnett believed for unknown reasons (she'd never met Lee before mid-2007), [redacted] did not want Lee to receive training.

Barnett stated that Steve Savoy first mentioned the name Dion Lee during a training class and that Lee should attend the training too. (She didn't know who Lee was). She stated she thought it was odd that when she asked Mario Acquino about sending Mr. Lee, Aquino's response was, "Who is going to pay for it?" Barnett thought this was odd as her classes were based on a price per class of 25, not per student, and the classes were never full.

Barnett stated she was aware that [redacted] ordered respirators for his heating and air conditioning staff in 2006. She conducted the "fit tests" which are required in order to ensure that the respirators are fitted and worn correctly and therefore is protecting the individual from airborne contaminants. Barnett added that nobody ever asked her about Dion Lee and whether he should have a respirator or other personal protective items like tyvek suits, and as she was unaware of his existence, she did not bring it up.

In 2007, after the attic conditions were documented, [redacted] told Barnett that she was [redacted] and that his duties did not include accessing areas in which he would need a respirator.

Barnett stated that many, many people accessed the attic before and after her test results. She added that people sneak up there to eat, smoke, read and take a break. In addition, all the major telecommunications contractors access the attic on a regular basis to perform their work. [redacted] She added that none of those personnel were informed of their potential exposure, nor was the attic restricted from their access until over one year later.

She also related an incident occurring in October 2008, in which someone complained about asbestos containing materials in a broken floor tile on the first floor of HCHB. Mario Acquino contacted her, and she conducted tests which confirmed that the tile had ACM composition. She explained that the tiles are safe as long as they are intact; however, once they crack or break, weight on the tile creates rubbing/friction along the break which sends tile dust (containing ACM) into the air, on peoples' shoes or equipment, which is then tracked throughout the building, creating contamination. She stated that she recommended the tiles be removed, but to her knowledge, such action did not occur.

Barnett emphasized that the DOC needs to have an asbestos management plan, and to her knowledge one did not exist. To comply with OSHA standards, the asbestos management plan must identify the location of all areas of asbestos, the condition, color, and assign a designated person to walk the areas containing the known asbestos and

inspect the area at least every six months to check for damage, disrepair, etc.

Barnett stated she met Dion Lee in mid-2007 during a meeting at DOC she was attending. She said she had heard of him through comments from Steve Savoy and [redacted] but he had never attended her classes. When she spoke to him and learned that he had no training or background in asbestos management, yet he was frequently called upon to inspect and photograph damaged areas in a building known to contain asbestos, she was very surprised.

She reported that she did not believe Lee's Hazwhopper training was qualified. She explained that a 40 hour Hazwhopper training course requires three days of hands on training, which includes the use of personal protection gear and a respirator. Before the employee can get the hands on training, they must be "fit-tested" which includes being fitted for a respirator and other equipment. According to Lee and Barnett, such action never occurred, nor did Lee receive a three day hands on training following his 40 hour classroom instruction.

Barnett reported that [redacted] and that such was common knowledge and discussed between herself, [redacted] Lee insisted that Peter Wixted and Denise Wells knew as well.

Barnett stated that OAS personnel finally directed that the attic be off limits to all personnel around May 2008, but she was unsure of how well that rule was enforced. Up until May 2008, she believed all personnel regularly accessed the attic as their normal routine required, and without protective equipment or a respirator.

Barnett reported that in February 2007, she build a protective barrier and decontamination chamber in the attic (using plastic sheets) in an effort to keep the maintenance men from having their shoes and equipment track dust containing asbestos particulate matter throughout the building; however, when she returned in March 2007, the chambers/sheet barriers had been removed. She did not know who removed them or why.

Barnett also reported that they stored thousands of air filters in the attic (a hallway full of them). She told [redacted] that the filters would have to be discarded as hazardous waste given the potential that asbestos particulate matter was contained in the filters. If the filters were placed inside the air handling units, the blowing air would disrupt the particles and disburse them throughout the building. She stated that there was a reluctance to discard the filters and as far as she knew, the Department was still using them.

Barnett confirmed that at one point there was an asbestos book that contained documents and photographs of known areas of asbestos in the Department. She does not know -where the book is, or who might have it.

##

Date of Interview: March 18, 2010
Time of Interview: 11:30am
Location of Interview: Takoma Park, MD
Reporting Agent: [redacted] Complaint Intake Unit

Case Title: Asbestos (OSC Referral)
Case #: PPC-CI-10-0271-P

A

Beitel, Rick

From: Vincent, Erika
Sent: Friday, December 17, 2010 9:17 AM
To: Beitel, Rick
Subject: monica's response

No, the attic was not restricted in February of 07 in any way shape or form.
I told them to shut the attic off in Feb. of 07 but they kept it open. Pete Wixted sent out these two emails in March of 07.(I have attached them) Initially, the guys(shop) staged a containment area and put up signs. When I came back in April people from "chimes" were in the attic cleaning and the young man that handles all of the elevator work was still going into the area. When I came back in April all the signs were gone and other people were in the attic while I was sampling with no respirators. I was told that the moment I left, they took the signs down because they didn't want to scare people. Also Jana was telling everyone to call it "dust" not asbestos because they didn't want to scare people and liability. GSA (Tim Sleeth) did tell them to restrict the attic in late April or May 1st in the meeting but even when I was there in October of 07 the attic was still open. No signage was up and somebody even showed me how to take a short cut thru the law library. In October of 07 I was there with a Verizon sub(Concert Tech) the attic was still open. In fact, people were in the telecom room eating, smoking and reading during their lunch break. When I was there in Oct. 08, I was still able to go up.

U.S. Department of Commerce
Office of Inspector General
INTERVIEW OF:
Steven J. Savoy
Building Management Specialist
Office of Administrative Services/Office of the Secretary

On January 28, 2010, the Department of Commerce, Office of Inspector General (DOC-OIG), received allegations referred by the US Office of Special Counsel (OSC) stating that DOC officials knew of the presence of asbestos in the Herbert C. Hoover Building prior to 2008, but did not take action to protect employees; and that [redacted] directed employee Edgar Dion Lee to conduct inspections in the 8th floor attic without personal protective gear, knowing that the asbestos airborne particulate levels were at a level which were considered By OSHA standards to be unsafe.

On April 19, 2010, Steven Savoy, Building Management Specialist, was interviewed and provided substantially the following information:

Savoy has been employed at DOC as a Building Management Specialist since 1996 and at DOC since 1983. His current duties are to coordinate and ensure that building maintenance personnel (HVAC, plumbing, etc.) receive training to ensure they are qualified to resolve maintenance issues such as removal/disposal or mold, asbestos and other hazardous waste, along with other, practical training relevant to their duties.

Savoy stated the Department's process for confirming and disposing of asbestos is as follows: if a building maintenance person, during the course of performing their duties, discovers what they suspect is asbestos, the employee reports it to him. Savoy then coordinates for a maintenance person certified in asbestos abatement or removal to come and either remove the asbestos, or encapsulate it, to prevent asbestos fibers and particulate matter from being released. Savoy said two employees, Rufus Cook and Joe Kremer, are particularly good at this type of work. However, he knows that Dion Lee and others have been responsible for the disposal of asbestos after Cook or Kremer has removed it. Savoy recalled one specific incident in which Lee was assigned to dispose of several bags of asbestos waste being stored in the basement. Lee telephoned Savoy requesting guidance on how to dispose of it, which Savoy gave. Savoy believed this occurred in 2007 but was unsure of the exact date.

Savoy stated that safety management in general, and especially training and management of environmental hazards such as asbestos and other hazards within the Department fell by the wayside after Jim Beam (former Building Manager) retired in 2004. Savoy stated that Beam handled all potentially hazardous waste situations, to include training, certification, and delegation of staff for waste disposal. After Beam left, part of the duties fell to Peter Wixted until he departed in 2006; however, there were large gaps in the overall safety management program. Savoy believed that things became particularly slack once Fred Fanning was hired, as Fanning did not seem to require such a program. Therefore events like semi-annual training and re-certifications were not funded and did not occur.

Savoy stated the Dion Lee was assigned to the Office of Real Estate in 2004 or 2005 during which time he was assigned as a Hazardous Waste Technician. Savoy said Lee observed, reported, and disposed of hazardous waste, as part of his regular duties, which also including routine walks/inspections around the various floors on the building. Specifically, maintenance personnel, in particular Melvin Clayborne, evening shift maintenance, would make a report to Savoy of hazardous waste. Savoy would notify his supervisor Mario Acquino, and coordinate for someone to remove it. However, he said it was not uncommon for Clayborne to see Lee in the hallway and coordinate directly with Lee, notifying Savoy after the fact. Savoy stated it was common for HVAC guys to notify himself and Acquino or [redacted] of areas containing potential asbestos throughout the building and Lee might have gone to confirm the asbestos, however, he could not guess how many times this might have occurred.

Savoy stated things became confusing after Fred Fanning [redacted] within the Office of Real Estate. Savoy stated that Peter Wixted and then Mario Acquino were the Building Managers, and therefore they should have been were responsible for the duties of the maintenance staff, and the maintenance and upkeep of the building, to include the tracking, logging, removal and disposal of hazardous waste. However, Fred Fanning directed that [redacted] become engaged in many of these portions of building maintenance oversight. Therefore, the staff was confused as to who was running the building, and which supervisor was responsible for oversight. Savoy related that despite the established process of Savoy coordinating for removal/disposal of asbestos, and logging items in what he described as "The Asbestos Book" (a log of all reported asbestos throughout the building, when it was reported, and what was done), the book was removed from building services and placed in within easy access of [redacted] in the Office of Real Estate, on another floor.

Savoy stated on numerous occasions, he noticed that documents he had previously placed in the asbestos book were no longer in the book, and eventually the book disappeared. He said whenever there was a call or log of suspected asbestos; he would make a report, which was then placed in the book. When the book disappeared, he asked Acquino about it. Acquino told him that per direction from Fred Fanning, the book was being maintained by [redacted] and that anything Savoy had to go into the book should just be provided to [redacted] Savoy cited an instance in which employees were required to watch an asbestos awareness video and sign a sheet indicating they had done so. The sign in sheets and the video both were no longer in the book when he went looking for them. Savoy could not recall other specific items missing; only adding "something is not right" because the book seemed to be getting thinner, despite the passage of time, and presumably the increase in reports of confirmed asbestos locations.

Savoy believes many of the duties related to hazardous waste removal were given to Lee due to the large number of women working in the Office of Real Estate. Since [redacted] was assuming many of Acquino's duties, it would be natural that she would delegate someone to do the actual removal work. However, Savoy did not understand why [redacted] was performing duties that were normally performed by building management (Acquino or his staff), or why [redacted] and Acquino seemed to share the work, with [redacted] having Lee as her sole hazardous waste person, whereas Acquino had several staff personnel more properly trained. Savoy opined that nobody really knew who was in charge and nobody would ever accept responsibility on multiple maintenance issues, including

asbestos; and that decisions appeared to be made without coordination. Savoy stated under Acquino and [redacted] he would no longer receive copies of training certificates as he had previously. Therefore he did not have a record of who needed training or who had attended. He also reported that due to budget issues, training was on hold and nothing got done.

Savoy recalled Fred Fanning announcing that [redacted] was in charge of the asbestos program in 2007; but he said prior to 2008 [redacted] did nothing to manage the program (e.g., training, inspections, samples etc.) Savoy did not recall Lee ever attending any type of training related to his duties as hazardous materials waste technician. He stated Lee was used by [redacted] without rhyme or reason.

Savoy opined that [redacted] had no clue what [redacted] was doing, despite Acquino still holding the title of Building Manager. It was confusing to staff because they did not know who was responsible for decisions, training, etc. he told us Jay Loveless (Acquino's defacto Assistant Building Manager) questioned [redacted] Therefore nobody questioned [redacted] regarding decisions, including their management of the safety programs and oversight of hazardous waste.

Savoy stated he has observed damage to the known asbestos in the 8th floor attic since at least 2000, but is aware that it was becoming damaged since the early 1990s. He reported damaged asbestos to Jim Beam, and he believes Beam did what he could until he retired in 2004; however, nobody wanted to take responsibility upon Beam's retirement. In addition, Savoy added that there was a time when the Building Manager position was vacant, and believes this caused things to "start to slip." However, once [redacted] were hired, things kept falling by the wayside as neither appeared to have the knowledge and skill set required to ensure that the Department's asbestos management program continued.

Savoy reported that the attic in particular became more and more damaged as more and more contractors and DOC personnel would access the attic to install or move phone lines and cables, causing disruption to spray on insulation. He also related that Lee would tell him anecdotes of having been in the attic and how bad it was getting, however, it was not until 2007 that the Department did testing and determined that the levels of asbestos were unsafe. Savoy stated that while officials at DOC were aware of unsafe levels from 2007, they did restrict access to the attic until sometime in 2008.

Also in 2007, while they recommended that personnel wear their respirators and personal protective gear, at no time was it mandatory. Because it was hot up in the attic, most maintenance personnel did not wear respirators, not understanding that they needed to. Savoy stated that on at least five occasions in 2007 and 2008 he and Lee encountered each other in the attic (neither wearing protective gear as it had not been given to them), as each was performing some type of maintenance or inspection task assigned from their respective supervisors [redacted] He further reported that after initial tests were conducted showing unsafe levels in the attic, Acquino told the staff that there was a problem with Monica Barnett's credentials and that she had placed her testing equipment in an area likely to provide a higher reading than the rest of the attic. Given these reasons, another company was hired to come in and re-test the attic. Their results were

far lower than Barnetts' tests. Savoy stated that it was therefore emphasized that the attic was safe, it was just slightly elevated at the one reading, and given the disparity between the readings, it was likely that the next reading would be normal, therefore business as usual should occur. He said the next thing he knew, GSA was saying they had to shut the 8th floor attic off and restrict access (2008 timeframe), and that employees were required to wear personal protective gear and ty-vec suits.

Savoy added that HVAC personnel were given respirators and personal protective gear in 2006 he believed, not because of asbestos, but exposure to a variety of environmental hazards including lead, mold, etc. Savoy had no knowledge of Lee having any of that type of equipment since his duties were more ad hoc, based on direction from [redacted] versus actual regular, routine maintenance type duties. Savoy stated that the Heating and Air Conditioning (HVAC) personnel were not fully trained in asbestos awareness until 2009.

Savoy said the current Building Manager Mick Rusten held a meeting on April 16, 2010. One supervisor, Robert Hamilton (Engineering) inquired as to the current levels of asbestos in the attic, requesting information as to whether it was safe to enter the 8th floor attic. Rusten replied that it was. Hamilton requested a document attesting to this fact, which Rusten said he would look for and provide. Savoy said, "If it is safe, why don't they post it and have copies available for anyone that asks? Why do they have to go look for it?" He stated that there is a general feeling of distrust among the employees who feel they were lied to by [redacted] regarding the previous level of contamination.

Savoy confirmed that employees are again accessing the 8th floor attic without personal protective gear or respirators as there is no apparent requirement to do so. He related that there are still many areas that appear to be incomplete, which are marked "danger – asbestos" but appear to be a board over a pipe, and if someone removes the board in order to run cables, wires, or to repair something, then what keeps the asbestos from again being circulated throughout the attic?

Savoy stated Barnett told [redacted] that signs needed to go up in the attic notifying employees of the presence of asbestos, and that attic access needed to be restricted after her tests showed elevated asbestos levels (2007), however, signs were not posted until 2008 when the DOC officials and Fanning declared the attic off limits.

Date of Interview: April 19, 2010
Time of Interview: 1:30pm
Location of Interview: Room 7089
Reporting Agent: [redacted] Complaint Intake Unit

Case Title: Unsafe Asbestos levels
Case #: PPC-CI-10-0271-P

Approving Official: [redacted]
Date approved:

U.S. Department of Commerce
Office of Inspector General
INTERVIEW OF:
Fred Eberle
Project Manager
Applied Environmental Inc.
Reston, Virginia

On January 28, 2010, the Department of Commerce, Office of Inspector General (DOC-OIG), received allegations referred by the US Office of Special Counsel (OSC) stating that DOC officials knew of the presence of asbestos in the Herbert C. Hoover Building prior to 2008, but did not take action to protect employees; and that [redacted] directed employee Edgar Dion Lee to conduct inspections in the 8th floor attic without personal protective gear, knowing that the asbestos airborne particulate levels were at a level which were considered By OSHA standards to be unsafe.

On March 22, 2010, Fred Eberle, Project Manager, Applied Environmental, Inc (AEI)., was interviewed telephonically regarding a request to obtain a full and complete report from AEI purported to recommend closure of the 8th floor attic to DOC officials in 2006. Eberle was interviewed and provided substantially the following information:

AEI was the subcontractor to GGA Ehrenkrantz Eckstut and Kuhn, Architects. AEI was hired to conduct a full inspection and remodernization design of the Hoover Building for Department of Commerce. The contract was awarded in 2004 and funded with GSA monies. He stated there were some issues with slow payment and that their work (assessment and design) was not completed until 2006.

He stated that the reason for their work was due to a requirement to have a secondary source by GSA. The primary source, MACTEC, had conducted had conducted a pre-alteration survey assessment in 2003 or 2004 which was considered a primary source survey. They (AEI) were a secondary or confirmation survey.

Eberle was uncomfortable providing a complete copy of the contract as he believed it was the property of GGA. He provided the contact person at GGA as Catarina Ferreira, Architect, (202) 777-0412.

Date of Interview: March 22, 2010
Time of Interview: 12:30pm
Location of Interview: telephonic
Reporting Agent: [redacted] Complaint Intake Unit

Case Title: Unsafe Asbestos levels
Case #: PPC-CI-10-0271-P

U.S. Department of Commerce
Office of Inspector General
INTERVIEW OF:

James E. Woods
Former Deputy Director
Office of Administrative Services
Herbert C. Hoover Building (HCHB)
Washington, DC 20230
(703)351-5299

On April 28, 2010, [redacted] interviewed James E. Woods, former Deputy Director, Office of Administrative Services, US Department of Commerce at [redacted] pertaining to allegations received from Edgar Dion Lee that DOC officials were aware of unsafe levels of asbestos in the 8th floor attic of the Herbert C. Hoover Building; however, they failed to take appropriate measures to resolve the concern and mitigate risk to employees.

Woods related that he first started at DOC in 1992 in a dual role as both a mechanical engineer and the Energy Manager. These positions were eventually merged into the Office of Real Estate, under the Office of Administrative Services. Woods stated he was not senior manager at the time, rather a team lead in the safety and environmental office. Eventually his career progressed to the position of Director of the Office of Real Estate within the Office of Administrative Services. In this position, Woods hired Peter Wixted as the Environmental Programs Manager in 2002. Woods related that prior to Wixted's hire, a woman named Regina Larabee had held the position, but she had departed approximately one year earlier and had not stayed long at DOC. Woods departed DOC in 2006 as the Deputy Director for the Office of Administrative Services, which including the Office of Real Estate and the Office of Building Management. At the time, his first line supervisor was Denise Wells, and his second level supervisor was Otto Wolff, the Chief Financial Officer and Assistant Secretary for Administration. Woods related that then OAS Director Denise Wells departed DOC in April 2005. From April 2005 to October 2005, Woods was acting OAS Director. However, in October 2005, DOC hired Cherie Stallman, and Woods returned to his OAS Deputy Director position. He retired in August 2006 under an "early out." Woods related the following duties for each office during the time he was the Deputy Director: Office of Real Estate was responsible for agency wide policy and procedures related to building management on a national level - meaning ORE was to ensure that all DOC and bureau occupied buildings complied with national policy pertaining to safety and environmental hazards, to include asbestos, lead paint, etc.

The Office of Building Management existed solely to ensure that the HCHB operated in compliance with health and safety regulations as defined by ORE.
Woods stated that it was an "absolute lie" that OAS officials claimed they had no knowledge of unsafe or exposed asbestos in the HCHB attic. Woods stated he knew about it as did every senior official in the Department, including Otto Wolff and Denise Wells. He added that he personally briefed senior officials as to the presence of asbestos in the building. He added Wells and Wolff were aware that the asbestos in the attic was friable, meaning it was easily damageable and there potentially hazardous.

Woods reported a Michelle Kayon was hired to oversee the building renovation. As part of the renovation, she hired M.A.P Architects, a consulting firm, to work on phasing in the projects of blast proof windows and asbestos removal in a phase or tiered system of implementation. However, allegedly Otto Wolff refused to do the renovations as it would displace highly placed political appointees from their offices. Allegedly Wolff did not support the project on the Hill, and money was not allocated to the renovation projects. Woods added that what was originally to be completed in four phases was subsequently broken into 12 phases, which did less and cost considerably more. In frustration, Kayon is alleged to have left the Department. She now works at the Architect of the Capitol. Woods added that the cost of the renovation under the various phases then jumped from $30 million to $100 million all in order to prevent political appointees on the 5th floor from being displaced from their offices and their view of the White House. Woods related that he was aware that Dion Lee worked in the Office of Real Estate as an hazmat inspector. Woods believed Lee reported to Peter Wixted but was not certain.

Woods stated the ORE took over the personal connection to HCHB. Specifically, Lee conducted inspections and reported to Wixted whether the building was in compliance with national laws. If the building was not compliance, he and Wixted were to work with building maintenance personnel to ensure that the area was brought into compliance. Woods was certain that Lee had unrestricted access to every location of the building and that he would have been expected to go inspect any area with cause for concern regarding compliance with all applicable environmental laws.

During the brief time that Stallman was the Director (August 2006 to October 2006), she and Otto Wolff did not see eye to eye on projects. [redacted] and Wolff assigned Fred Fanning, an employee of Deborah Jefferson's office in Human Resources. Woods stated that current OAS Director Doug Elznic is completely aware of the asbestos problems in HCHB. He stated, "He [Elznic] knew then, and knows now that there is mold and asbestos throughout that building. He accompanied the GSA inspectors."

Woods stated that the Chimes employees were routinely sent to areas to clean, to include the basement, which flooded, and areas containing black mold. He stated hazardous materials were frequently discarded in the dumpster, not in accordance with hazardous materials handling requirements. However, Woods was unable to answer why nothing was ever done, either while he was Deputy Director or Acting Director, stating only that Otto Wolff ran things and that Wolff was protecting the political appointees.

Woods provided an Executive level briefing from 2004 which identified blast proof windows and asbestos as items needing additional funding.

Date of Interview: April 28, 2010
Reporting Agent: [redacted]
Time/Location: 10:00am
[redacted]

Case Title: Unsafe levels of asbestos
Case #: PPC-CI-10-0271-P

MEMORANDUM

TO: The File PPC-CI-10-0471-P

FROM: [redacted]

DATE: April 29, 2010 & April 30, 2010

SUBJECT: Brief Discussions with David Wynn, Real Estate, HCHB
Pam Swiatek, Real Estate, HCHB

On April 29, 2010, John Webb, DOC OIG was asked by [redacted] in casual conversation how the build out of the 7800 corridor was coming along. Webb stated there was a work stoppage because the contractors found a small bit of asbestos in the building so all building construction came to a stop. When asked how they determine if the area is clean, Webb responded with, he did not know, it was not his area of expertise but the Department Office of Real Estate and Policy and Major Programs (OREPMP) could answer that question. When asked who his contact was in OREPMP he provided David Wynn. .

On April 29, 2010, [redacted] stopped by OREPMP and located David Wynn since his telephone and email contact information was not in the DOC directory.

[redacted] identified herself as an investigator and stated she was briefing the IG on the asbestos situation on the 7th floor. Wynn stated all work has been stopped until an independent contractor could come in and assess the risk. He stated it was a very small amount of asbestos at the top and bottom of two poles but because it is present it has to be reviewed.

Wynn provided the drywall may also be a problem as well. He stated if the drywall came from Mexico then it would need to be professionally removed as drywall from Mexico contained asbestos. He an independent contractor would take a sample of the drywall and have it tested. Once the sample was cleared, construction could continue. Wynn further provided in the area of OIG, there is a penthouse above the 7800 area that may have not been abated of asbestos and that would have to be reviewed as well to determine if in 2006 this area was abated.

[redacted] asked how she could gain access to the 8th floor, specifically, what would be necessary to do to obtain access. Wynn stated the 8th floor was not accessible without the proper gear, specifically a respirator, protective clothing, training and a clearance form from a doctor. [redacted] stated the doors to the 8th floor all appear to be locked and card coded, Wynn stated that the doors should all be locked. When asked if anyone enters the 8th floor he stated no, they shouldn't be. When asked if signs were posted of the warnings on the 8th floor he stated yes.

On April 30, 2010, [redacted] passed by Stairwell 13 and two men of Hispanic origin were entering the stairwell and opening the door to the 8th floor. When approached, the men did not speak fluent English, very broken, and had white buckets in their hands. They motioned they were going up. I asked the one contractor if he had protective clothing to access the area and he stated no masks on another floor. I stated he needed a mask to enter the 8th floor attic area, he replied, "no mask."

After seeing the two men enter the stairwell, [redacted] went to Wynn's office and asked if he was aware that people enter the 8th floor. He stated well it depends on whom. Some contractors are entering the area because that is where they work. When asked if signs were posted, he stated no.

Wynn stated his supervisor Pam Swiatek is available and provided a telephone number of 202-482-0884. Wynn further stated if we need to interview him, she may also want to attend the interview.

On April 30th at 9:05am, Pam Swiatek called and left a voice mail message for [redacted] returned Swiatek's call. Swiatek was under the impression [redacted] was interested in the status of the IG Build-out space. Swiatek reported she has been with DOC for 20 years. When asked if the attic was closed off to personnel, she stated you need to contact Mick (Michael) Resten, Building Management to obtain access to the 8th floor. She further stated matters pertaining to renovations are handled by Larry Hess, DOC GSA coordinator of the project. Swiatek provided Hess can be reached at 202-482-1718 and Rusten can be reached at 202-482-0459.

[redacted] asked Swiatek, her knowledge of the ping pong room. Swiatek stated this was a room with a ping pong table and it was above the library on the 3rd floor of the 8th floor. The Ping Pong room was previously managed by the Recreation Association. The only item in the Ping Pong room was the ping pong table, hence the name of the room.

[redacted] asked Swiatek if she was aware there were now offices up on the 8th floor and she said no, that is supposed to be quarantined, how can they have offices up there? But then added, but then we do not manage this area any longer.

After talking with Swiatek, [redacted] went to the DOC Library, walked in the back room, walked up the open staircase and went to the second and third floor of the penthouse over the library. There were cages with many agency files on the second floor and on the third floor there were offices and a break room. Additionally there were long hallways that lead to open doors in the unfinished part of the attic on the 8th floor. [redacted] did not enter those areas.

End of Note to file. smc

U.S. Department of Commerce
Office of Inspector General
INVESTIGATIVE RECORD

Interview of:
Michael "Mick" Rusten
Associate Director
Office of Space and Building Management

On May 20, 2010, [redacted], Office of Inspector General received a return telephone call from Michael "Mick" Rusten, Associate Director, Office of Space and Building Management (202)482-0459. Rusten was responding to a message from [redacted] requesting asbestos air sample records for the 7th floor HCHB.

Rusten stated that there were no air sample records to provide as there had been no asbestos abatement work performed on the 7th floor. Air samples are only required when abatement activities occur. Rusten stated that OIG had requested an office refurbishment, which was submitted to the Office of Administrative Services (OAS). OAS in turn, via a CD-410 (type of contract) contracted the current 7th floor remodel to a company called G&E Construction. A different company will be contracted to install carpet, and a third company will install furniture.

Rusten stated that G&E would have been fully briefed by someone on his staff as to the location of any/all asbestos contained in the rooms affected by the remodel. Once the contractor has the asbestos location information, it is the contractor's responsibility to ensure they avoid disturbing it. Rusten did not know if anyone on his staff actually briefed anyone at G&E as he did not know whether there was asbestos in any of the OIG space on the 8th corridor 7th floor which would undergo the remodel.

Rusten advised the contractor reported what they suspected was asbestos in Room 7886; however, his staff (person unrecalled), surveyed the material visually, and declared that it was not asbestos containing materials. Rusten advised that no air sampling or particulate matter tests were conducted, it was a visual inspection.

When asked if David Wynn (former DOC Environmental Program Manager) was responsible for oversight of the construction activities, Rusten advised that Wynn had been detailed to his directorate to assist with ancillary duties related to the HCHB refurbishment. Rusten confirmed that Wynn was departing DOC to work for the Environmental Protection Agency (EPA) and that Wynn was on leave until he reported to EPA. Rusten confirmed that Wynn filled the position of Environmental Program Manager for a short time during his detail.

When Rusten was asked about the asbestos survey conducted by Rosalind Hill in May 2010, Rusten advised that Hill was participating in a GSA survey. GSA as the owners of the Hoover Building is inspecting all known areas containing asbestos to observe its condition and ensure it had not deteriorated. Rusten advised that the survey was being conducted by a GSA contractor named Global Consulting. When asked if this survey pertained to the remodel of the Hoover Building, as Hill had briefed, Rusten stated "no," that the survey was simply GSA doing their job as owners of the building. When asked if

Genevieve Walker was the new Environmental Program Manager who was overseeing the project, Rusten advised that Walker works on NEPA issues and would not be doing anything related to the building/remodel.
When asked if the 8th floor attic asbestos abatement work was complete, Rusten advised that the contractor (C&R Construction) had completed the majority of the work around July 2009; however there were still a few punch ticket items that needed to be completed. He stated these items were related to things GSA requested that they do, and did not pertain to safety concerns. Rusten stated that any area that an employee can access on the 8th floor is safe and has been tested by independent contractor Global Consulting. He stated he did not have the records pertaining to the tests showing the final evaluation, that GSA was the records custodian.

Rusten reported that there were certain areas under the eaves of the 8th floor attic which had not been abated, and that these areas had been sealed off with an airtight chamber seal and covered with particle board. He added a person would have to go to a great deal of effort to remove the particle board and the chamber barrier to get to the unabated asbestos.

When asked about Annual Fiber in Air Surveys conducted by GSA for 2009 and 2010, Rusten advised that GSA has no requirement to conduct such surveys unless they had reason to be concerned. Given that the attic was abated, there would be no reason to have a concern regarding asbestos in the building; therefore the testing was not performed. He advised that Tim Sleeth at GSA would be responsible for the actual testing and coordination of the FIA studies.

When asked about the performance of asbestos abatement by Hudak Construction, Rusten was unfamiliar with the name of that company. [redacted] read to him a work permit stating that Phase 1B & 1C of the building remodernization, but he did not recall the name. He advised that Phase 1B and 1C was the swing space currently occupied by ITA, and also includes some non-Commerce agencies like Department of Interior. He stated the work for the swing space was likely completed sometime in 2009.

When asked if there was any asbestos abatement work being performed in any location in the Hoover building, Rusten replied, "yes." Rusten did not know which company was performing the work or any of its subcontractors. He added that all the abatement work currently being conducted is in spaced owned by GSA and for which DOC no longer pays rent, as DOC had turned the space back over to GSA. Therefore, DOC has no responsibility as it has no tenants in the area. Rusten reported that the abatement is occurring from the basement to the 8th floor along Corridor 1, facing Constitution Avenue. Rusten stated, "there is no way to access Corridor 1 as it has been completely sealed off, signs put up, and the area restricted. He added that GSA had full responsibility for any abatement activities, to include testing/air samples.

[Investigator's note: Subsequent to this telephone call [redacted] went down to Corridor 1 (accessed via Corridors 0 & 8) on the 7th floor and observed large amounts of dust and particulate matter. The area did contained two doors, but the signs only stated that the area was authorized for construction personnel only. There were no signs warning of potentially hazardous materials. The doors were both unsecure and when opened, revealed large amounts of construction debris and a half-torn off ceiling

(Corridor 8) and recently remodeled space (Corridor 1). Investigator did not enter the area, only wanted to confirm whether entry could be obtained.)

Date of Interview: May 20, 2010
Time of Interview: 1:23pm
Location of Interview: Room 7089
Reporting Agent: [redacted]

Case Title: Unsafe levels of Asbestos
Case #: PPC-CI-10-271-P

Approving Official:
Date approved:

U.S. Department of Commerce
Office of Inspector General
TELEPHONIC INTERVIEW OF:

Tim Sleeth
Program Specialist for Industrial Hygiene Facilities Management & Services Program Division
Public Buildings Service National Capital Region
U.S. General Services Administration (GSA)
301 7th Street, SW - Room 2080
Washington, DC 20407
202-708-5257 - office
202-369-3209 - cell

On January 28, 2010, the Department of Commerce, Office of Inspector General (DOC-OIG), received allegations referred by the US Office of Special Counsel (OSC) stating that DOC officials knew of the presence of asbestos in the Herbert C. Hoover Building prior to 2008, but did not take action to protect employees; and that [redacted] directed employee Edgar Dion Lee to conduct inspections in the 8th floor attic without personal protective gear, knowing that the asbestos airborne particulate levels were at a level which were considered by OSHA standards to be unsafe.

On March 1, 2010, Tim Sleeth, Program Specialist for Industrial Hygiene Facilities Management, GSA was interviewed and provided substantially the following information:

Sleeth reported that the fiber in air test results conducted by GSA in 2004, were actually combined FY 2003 and FY 2004 results, with the report issued November 2004. He did not recall specifically why the two years were combined but speculated that it was likely due to budge, as all other Departments which lease space in buildings owned by GSA that had fiber in air sampling were combined during that time.

Sleeth reported that there is no specific statute requiring GSA to conduct the fiber in air sample testing. He added the guidelines were originally contained in the 1980's when the Environmental Protection Agency (EPA) issued their "purple book" which set forth the standards for ensuring that buildings containing known asbestos materials are maintained in a manner which does not create hazards.

Sleeth was asked if there is a requirement for DOC to do any testing to protect workers. He stated that OSHA guidelines apply -- that DOC is responsible for protecting the health and safety of its workers.

Sleeth had previously emailed [redacted] copies of the fiber in air results conducted by GSA at the HCHB for 2002 and 2006.

Date of Interview: March 1, 2010
Reporting Agent: [redacted]

Case Title: Unsafe levels of asbestos
Case #: PPC-CI-10-0271-P

U.S. Department of Commerce
Office of Inspector General
INTERVIEW OF:

Mario Aquino
Former Building Manager
Herbert C. Hoover Building (HCHB)
Washington, DC 20230

On January 28, 2010, the Department of Commerce, Office of Inspector General (DOC-OIG), received allegations referred by the US Office of Special Counsel (OSC) stating that DOC officials knew of the presence of asbestos in the Herbert C. Hoover Building prior to 2008, but did not take action to protect employees; and that [redacted] directed employee Edgar Dion Lee to conduct inspections in the 8th floor attic without personal protective gear, knowing that the asbestos airborne particulate levels were at a level which were considered by OSHA standards to be unsafe.

On November 30, 2010, Mario Aquino, former HCHB Building Manager, and current Facility Manager for Office of Personnel Management, 1600 E St. Washington, DC was interviewed telephonically and provided substantially the following information:

Aquino provided the following information to the predicate allegation: Aquino was employed as the HCHB Building Manager from 2004 to 2008. During this time, he was responsible for overseeing the general maintenance and operations of the building from the basement to the attic.

Aquino stated that the records related to asbestos management are maintained mostly by Tim Sleeth at General Services Administration (GSA) given that they are the landlords of the building and therefore own the asbestos. Aquino acknowledged that his office kept a set of records when asbestos was notified and that his staff was aware of areas of known asbestos; including locations of asbestos identified by surveys.

Aquino stated that GSA conducted annual fiber in air surveys of the HCHB during the time he was there; however, they did not test the attic because it was unoccupied space. He stated there were areas of known occupied space containing contractors for telephone services, elevator, etc., which were up on the 8th floor, and that such occupied space "would have been tested."

Aquino stated that Dion Lee originally worked for the Office of Real Estate, then he was assigned to the Office of Building Management and worked directly for Aquino for a period of approximately six months, then he was reassigned to the Office of Real Estate. Aquino stated that Lee's duties were to coordinate shipments of hazardous waste for pick up with EPA certified contractors, and that Lee did not have asbestos training because he had no duties which would have exposed him to asbestos. Specifically, Aquino's certified maintenance engineers would perform maintenance on pipes or remove a tile, and then would bag up such asbestos containing material, and transport it to the basement where it was stored. Lee's job was to coordinate the removal of the waste from the storage room in the basement by a contractor. Aquino stated that Lee never photographed areas of potential hazardous waste for further review, and that his job did not include inspections in the attic; however, he acknowledged that Lee conducted inspections, just not in the attic as the attic was sealed off. Aquino acknowledged that many people had access to the attic prior to it being restricted, as there was a ping pong room and

employees would go upstairs and play ping pong, take breaks and such. He stated it was open access until around 2007, and therefore Lee could have accessed the area; however, he had no official reason to do so.

Aquino stated that during the time Lee was assigned to ORE, he performed the same duties for [redacted] which was coordinating for waste removal. He indicated that Lee's transfer back and forth had to do with reorganizations within the Office of Administrative Services.

Aquino denied that Lee ever accessed the attic after the attic was restricted in 2007, denied ever receiving directions from [redacted] to send Lee to areas to remove hazardous waste; he insisted that all the waste was brought to the basement already contained.

Date of Interview: November 30, 2010
Reporting Agent: [redacted]
Time/Location: 3:30pm, Room 7089

Case Title: Unsafe levels of asbestos
Case #: PPC-CI-10-0271-P

U.S. Department of Commerce
Office of Inspector General
INVESTIGATIVE RECORD FORM

Interview of: Joseph DURBIN
Office of the Secretary (OS) – Building Management
U.S. Department of Commerce
1401 Constitution Avenue NW
Washington, D.C. 20230
202-482-2424

On June 23, 2010, the Department of Commerce (DOC), Office of Inspector General (OIG), Office of Investigations (OI), conducted an operation within the Herbert C. Hoover Building (HCHB) at 1401 Constitution Avenue NW, Washington, D.C. During the operation, [redacted] spoke with Joseph DURBIN. DURBIN works for the DOC OS and assisted the DOC OIG during the operation with locating offices within the building as well as the authorized access of various offices. Joe provided the following information during the operation:

DURBIN stated he recently was told by his management to close and lock any open doors within the building.[1] He was also instructed to place "No Access" signs in stairwells or access-ways leading to the 8th Floor.

[1] Agent note: Prior to DURBIN closing and locking all open doors in the HCHB, there were multiple doors propped open throughout the building. These open doors led to various locations including air pump rooms.

Date/Time of interview: June 23, 2010, 1800 hrs EST
Reporting Agent: [redacted]
Date Signed:

Case Title: UNIDENTIFIED
Case #: UNIDENTIFIED

Reviewed by [redacted]

U.S. Department of Commerce
Office of Inspector General
INTERVIEW OF:

Patrick C. Waller
Former Contracting Officer Representative
Office of Real Estate (renovations)
Herbert C. Hoover Building (HCHB)
Washington, DC 20230

On January 28, 2010, the Department of Commerce, Office of Inspector General (DOC-OIG), received allegations referred by the US Office of Special Counsel (OSC) stating that DOC officials knew of the presence of asbestos in the Herbert C. Hoover Building prior to 2008, but did not take action to protect employees; and that [redacted] directed employee Edgar Dion Lee to conduct inspections in the 8th floor attic without personal protective gear, knowing that the asbestos airborne particulate levels were at a level which were considered by OSHA standards to be unsafe.

On December 1, 2010, Patrick Waller, former Contractor Officer Representative for building renovations, Office of Real Estate (ORE), Office of Administrative Services (OAS), and current Director, Enterprise Services, Defense Media Activity, 601 N. Fairfax, Alexandria, VA was interviewed telephonically and provided substantially the following information:

Waller was employed as the Director for Management Support Staff (MSS) in OAS from 2006 until August 2007, when he was transferred to the Office of Real Estate as the Contracting Officer Representative to oversee building projects related to renovation activities. Waller held the COR position from August 2007 until November 2008 when he left the Department.

Waller stated he was transferred to ORE from MSS [redacted] related to hazardous waste, pollution and other environmental issues. Waller stated [redacted] background dealt with office of Safety/personal injury, worker's compensation.

Waller stated he had no specific details regarding Dion Lee's day to day activities; however, he could provide details on two incidents in which reports of asbestos materials were made to [redacted] and [redacted] esponse was to send Lee to verify.

Waller provided emails of photographs he took with his cell phone on March 11, 2008. He stated on that date, as the COR, he was inspecting work performed by the general contractor to renovate space in the basement to get it ready for swing space. He stated that he observed the pile of debris, which was a violation of the contract as the contractor is supposed to remove all debris from the premises. Upon closer inspection of the debris, Waller noted that the pile contained pieces of the green floor tiles and the mastic (adhesive) used to secure the tile, and also parts of pipe lagging, known to contain asbestos containing materials. Waller stated it was well known that the green floor tiles are adhered to the floor with an adhesive containing asbestos materials; and for that reason, the statement of work specifically stated that under no circumstances was the contractor to disturb the tile or the pipe laggings.

However, as Waller had discovered that the contractor did disturb the materials, he telephoned is [redacted] told him [redacted] would send Dion Lee down to inspect the debris to confirm what Waller reported. Waller was surprised as he stated [redacted] knew that the floor tile mastic had asbestos containing material. Lee came down, reported to [redacted] that indeed the tile was the type to have ACM. In response, [redacted] notified Doug Elznic, who sent in the building maintenance hazardous response team. Waller stated he and Lee were standing there in the room with the debris when the team arrived, wearing respirators and full suits. The team performed a swab test which confirmed the presence of ACM, and immediately set to work removing the debris, and vacuuming the area with a HEPA filter, but Waller noted that they did not clear the area (of himself and Lee), nor did they set up any type of protective barrier before commencing to vacuuming the dust. In addition, Waller stated that no air testing was conducted prior to the removal nor upon completion of the project, as is required by OSHA.

On another occasion in 2006 or 2007, Waller stated that he was working on determining the best route to run fiber optic cable from the attic down to the swing space. Waller went up to the attic, and using the blue prints, was accessing an area near the elevator. He stated that the air was so thick with pliable asbestos containing material that he could see the asbestos reflecting off his light just blowing around. He reported to [redacted] that there appeared to have been a disruption of the friable asbestos fireproofing material, and [redacted] told him that [redacted] would send Lee up to inspect. He stated that Lee reported to him three days later that he too had observed such dust. Waller could not be more specific about the dates, but stated it was prior to the attic being restricted after the air sample tests were conducted by Peak Safety. In fact, he believes it was this report that might have brought personnel in to conduct air sampling. Waller added that it was later determined the likely cause was that a contractor working on the renovation drilled through the wall and struck friable asbestos containing insulation on an air conditioning duct and had created an air pocket in which the air unit was just continuing to blow the dust and ACM around.

Waller reported that [redacted] was responsible for maintaining the book of asbestos records for the Department, IAW EPA's Red Book. According to federal law, all records of identified asbestos must be recorded as to the location, when it was discovered, what happened to it (how it was disposed of or encapsulated) and that such records were required for a long time. Prior to performing work on an area, the ORE and maintenance had to review the book to ensure that the area for which work will be performed had no identified asbestos. Waller stated Doug Elznic and [redacted] would have helped [redacted] maintain the book.

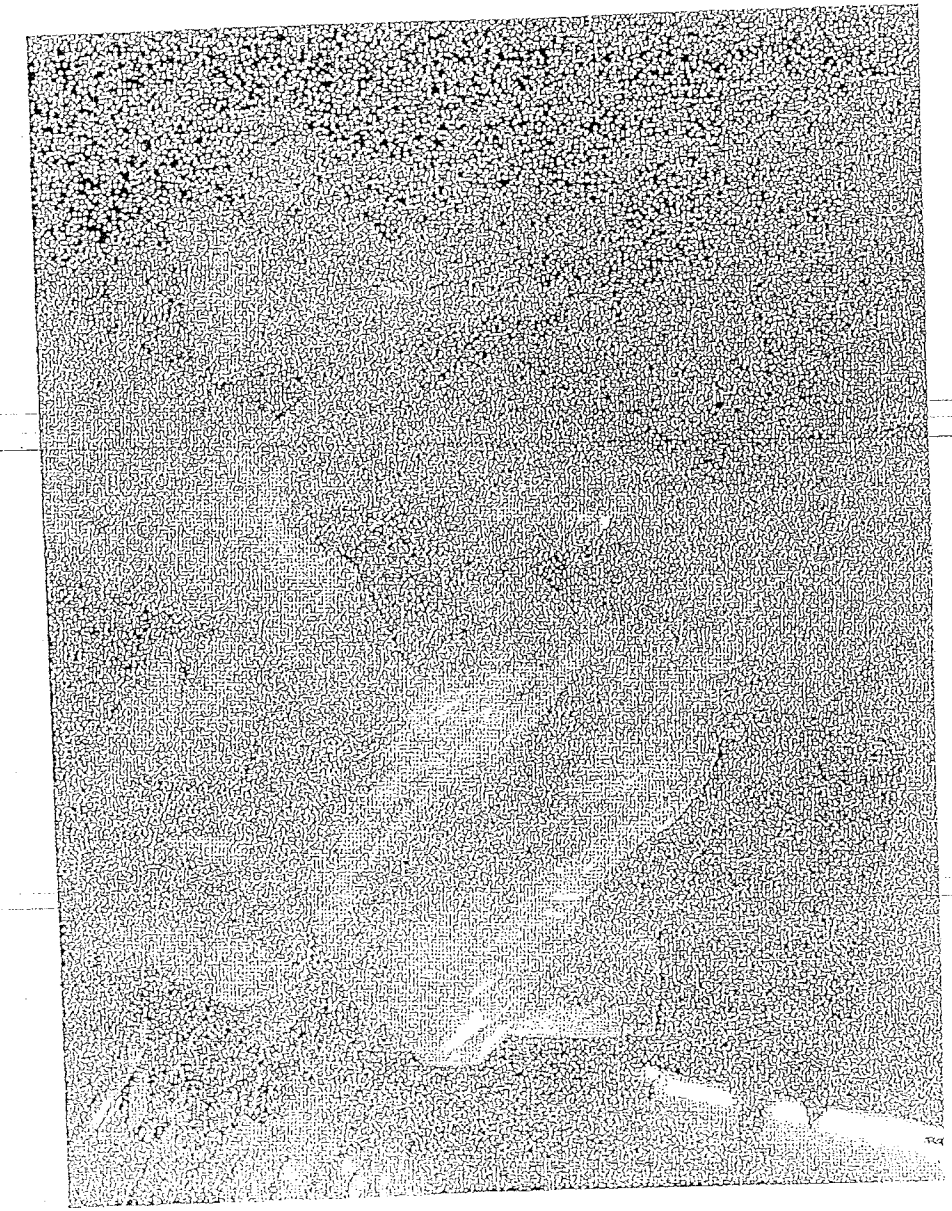
Finally, Waller reported that the Office of Real Estate had no personal protective equipment for any of its staff. Waller stated that former Environmental Engineer Peter Wixted has told [redacted] and OAS Director Fred Fanning that such equipment was needed, and that such activities need to include physicals, fit tests (for respirators) and a respirator. Fanning refused to procure such equipment, telling Waller and Wixted that such equipment was not necessary for ORE, and that as some maintenance personnel had the equipment, they could do whatever needed to be done in protective equipment.

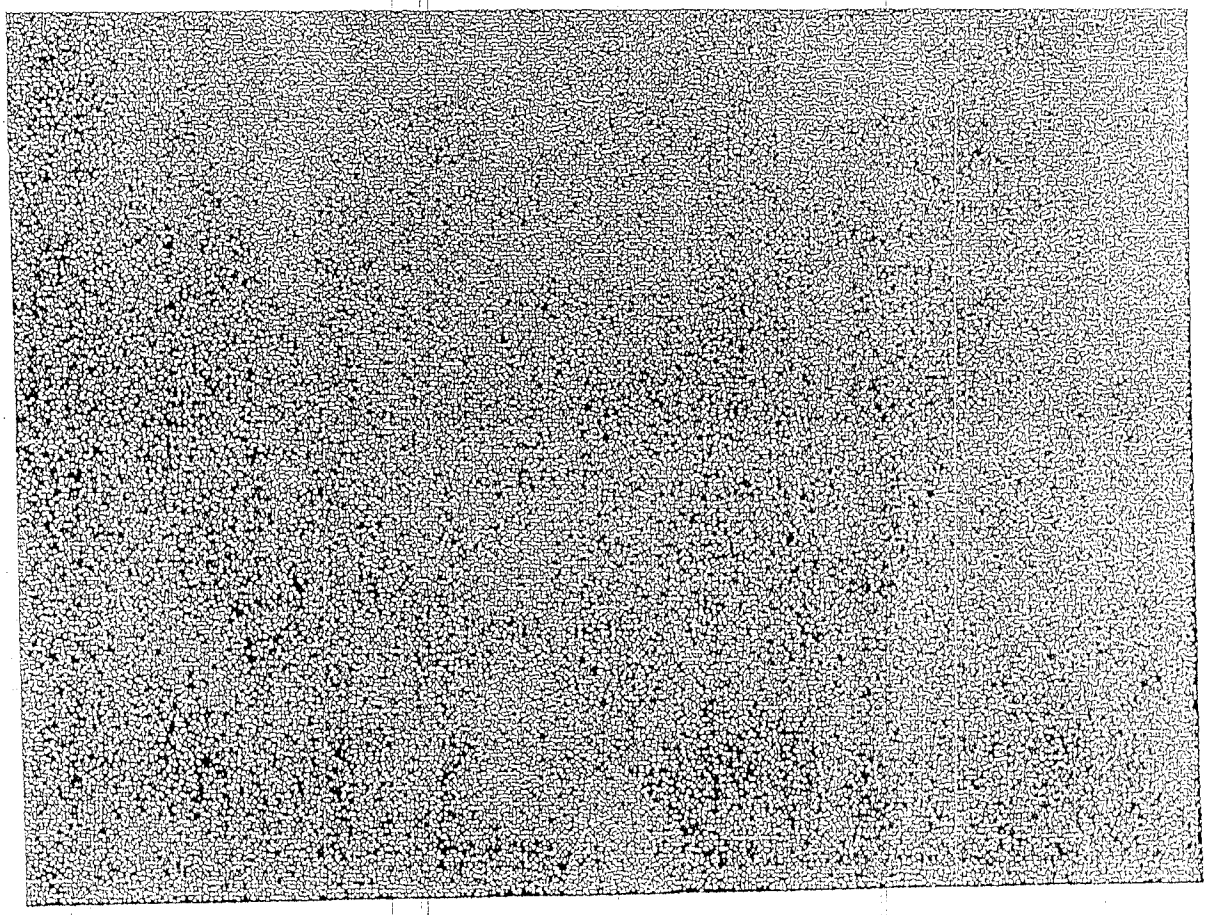
Waller added that the ORE staff (himself, Wixted, Lee and others) were responsible for the documentation and follow up of hazardous material clean up. The initial clean up is performed by GSA or a licensed contractor, or by building maintenance (if a small amount); however, if a large project such as the attic or the swing space is done, then ORE was responsible for inspecting the work and ensuring that the work was performed. Inspection of these locations should require a respirator and other protective gear until air samples were returned which

reflected an air quality which fell within OSHA standards. In addition to inspecting abatement areas after renovation, ORE had responsibility for environmental protection and pollution protection, and therefore needed protective equipment for those roles, which Fanning also refused to procure.

Date of Interview: December 1, 2010
Reporting Agent: [redacted]
Time/Location: 9:30am, Room 7089

Case Title: Unsafe levels of asbestos
Case #: PPC-CI-10-0271-P





DEPARTMENT OF DEFENSE
DEFENSE MEDIA ACTIVITY
601 NORTH FAIRFAX STREET
ALEXANDRIA, VIRGINIA 22314-2007

PUBLIC AFFAIRS

February 19, 2010

To Whom It May Concern,

From August 2007 through November 2008 I was assigned to the Building Renovation Division of the US Department of Commerce. One of my responsibilities was to act as the "Contracting Officer Representative" or COR for various projected related to the overall renovation of the Herbert C. Hoover Building. One such project was the renovation of a space in the basement of the building previously occupied by the Federal Aviation Printing Office. This area had been vacant for several years and was being renovated to be used as a storage area for the Law Library.

Sometime around March 2008, the general contractor responsible for this work completed the project and turned the space over for occupancy. Prior to acceptance I discovered that someone had left a pile of construction debris in an area off the room where the work had been performed. I reviewed the debris to determine if it was from the construction work or from some other area of the building. I discovered a plastic 5 gallon bucket which contained bits and pieces of the green floor tile similar to that which had been on the floor in the space renovated. Also the bucket contained a large quantity of dust and what appeared to be insulation. Upon closer review of the area a large pile of debris was discovered under a tarp within the same room. This pile also contained floor tile, pipe lagging and miscellaneous construction debris, which appeared to have come from the same area. I was concerned about the debris as the contractor was specifically instructed not to disturb the tile or the pipe lagging as both were know to contain asbestos along with the mastic used to glue the tile to the floor.

I notified the Office of Real Estate and Major Programs, which was responsible for identifying and overseeing the mitigation/removal of hazardous waste. Mr. Lee who worked for [redacted] was sent down to review the material and photograph the material. The Facility Hazmat response team was sent in to remove the material and clean the area. This was performed by collecting and double-bagging the material along with a vacuuming of the area using a heppa filtered vacuum. The vacuum bag and filter were added to the collection bag, which was sealed in a plastic over-wrap and sealed in Hazmat container. As this area was not under the air monitoring program, I am not sure if there were any follow-up air samples taken. I was not expecting to find hazardous material and did not not did Mr. Lee, wear any protective clothing or take any special precautions in examining the debris. I am not certain what documentation was completed on this action.

The Herbert C. Hoover Building was built between 1928 and 1932 and asbestos containing material was used throughout the construction of this building and the HCA/V upgrade that was performed in 1960's. GSA made an effort to clean-up the higher traffic areas, but those areas not being used or saw little traffic were deemed not cost effective to warrant removal and little was done to mitigate the hazard. When the renovation project began, these seldom used or abandoned areas were needed to contain those areas being displaced by the 8 phases of the project. Therefore we discovered many more areas of contamination as the project moved around the building. I left Commerce in November of 2008 and now work for the Department of Defense. Please feel free to contact me if you have any other question.

Patrick C. Waller
Director, Enterprise Services
Defense Media Activity
601 N Fairfax, Alexandria VA 22314
703-428-1104

U.S. Department of Commerce
Office of Inspector General
MEMO TO THE FILE

MEMO RE: KEY CARD ACCESS TO THE 8TH FLOOR

On January 8, 2010, the US Office of Special Counsel referred allegations to Secretary Locke received from Edgar Dion Lee a former DOC Hazardous Waste Facility Assistant, who asserted that DOC Office of Administrative Services managers (including his [redacted], failed to inform employees in a timely manner of the existence of unsafe levels of asbestos in the HCHB attic (8th floor).

On December 2, 2010 [redacted] of the U.S. Department of Commerce (DOC), Office of Inspector General (OIG) met with Corey Law, Office of Security (OSY) regarding key card access to the 8th floor. Specifically, [redacted] inquired whether former DOC employee Edgar Dion Lee (LEE) had access to the 8th floor and if so, was that access ever removed. LAW stated that an employee's security records are purged the day of departure from the Department unless OSY is informed of an ongoing investigation. LAW's query of the system confirmed that LEE had been removed from the system.

[redacted] then inquired whether Rufus COOK, a current DOC employee in the Building Maintenance group has access to the 8th floor. LAW queried the system and determined that COOK does in fact have access to the 8th floor. Further, LAW stated that all of maintenance, especially the engineers have access to the 8th floor because they must routinely inspect and fix that pipes up in the attic area. To his knowledge maintenance engineers have always had access to the 8th floor attic area.

Date of Interview: December 2, 2010
Location of Interview: HCHB, Rm 1033
Reporting Agent: [redacted]

Case Title: Asbestos (OSC Referral)
Case No.: PPC-CI-10-271-P

U.S. Department of Commerce
Office of Inspector General
INTERVIEW OF:

Melvin E. Claiborne
USRO Engineer
Office of Administrative Services
Herbert C. Hoover Building (HCHB)
Washington, DC 20230

On January 28, 2010, the Department of Commerce, Office of Inspector General (DOC-OIG), received allegations referred by the US Office of Special Counsel (OSC) stating that DOC officials knew of the presence of asbestos in the Herbert C. Hoover Building prior to 2008, but did not take action to protect employees; and that [redacted] directed employee Edgar Dion Lee to conduct inspections in the 8th floor attic without personal protective gear, knowing that the asbestos airborne particulate levels were at a level which were considered by OSHA standards to be unsafe.

On April 22, 2010, Melvin E. Clairborne, USRO Engineer, was interviewed and provided substantially the following information:

Clairborne provided the following information to the predicate allegation: Clairborne has been employed as a USRO engineer at HCHB for 22 years. He works the night shift (usually 11:30pm to 8:00am). He is considered a jack of all trades, performing maintenance work on heating/air conditioning or electrical issues, including lights, etc.

Clairborne stated if he sees an area containing what he considers to be asbestos the practice used to be that Clairborne would contact Dion Lee or leave him a voicemail (they worked opposite shifts.) He said Lee would then photograph the area, and send the photos to someone in building services to analyze for asbestos (some time until around 2007 as best he could recall). In 2006 or 2007, the practice became that he would send an email to [redacted] detailing the location of the suspected asbestos; and then [redacted] would dispatch Dion Lee to photograph it and write up the description. Dion's packet would then be processed by Acquino and possibly Jay Loveless. He said up until around 2006 or 2007, there was no paper trail as it was an informal process, completely almost exclusively by word of mouth. If the material was determined to be asbestos, then the documentation and a work order for asbestos removal, encapsulation or abatement would be placed in the asbestos book. Clairborne stated Rufus Cook at the USRO shop often was the employee responsible for the actual abatement or encapsulation, and that Cook seemed to like those responsibilities.

Clairborne was shown photographs provided by Lee as evidence the attic at one point contained large areas of damaged asbestos. Clairborne stated the attic had been in that type of condition for at least ten years, and that the timeline of discovery in 2007, as put out by the OAS, is simply not accurate. He said some of the attic asbestos had been damaged for as long as he can recall.

Clairborne reported that many of the mechanical rooms in HCHB still have large amounts of asbestos, and that even if the asbestos is not damaged, when pipes vibrate, they can still case asbestos particulate matter to be released into the air. He added that the air handling units are in

the mechanical rooms and that the air intake would include intake of particulate matter which would then be disseminated throughout the building.

Clairborne stated he has been briefed that the attic has been 95% cleaned of asbestos, and the remaining friable asbestos has been sealed and identified. He stated certain sections that could not be cleaned had been completely sealed.

Clairborne advised when the asbestos was being abated, there was no clean room. He described the set up as "eye candy." Meaning, there was a plastic barrier between the elevator and the contaminated area, but that was it. He stated he had to step through the plastic barrier to remove his protective gear, and then put the gear (ty-vec) suit into a hazardous waste bag; however, the barrier hung between the contaminated area and the elevator, so in essence he was discarding the contaminated suits right in front of the elevator, and then walking through the area he shed his protective suit and tracking any dust or particulate matter than came off his clothes and tools right into the elevator, which was then carried to all the floors. [Note: Clairborne is specifically referencing the 3rd corridor, elevator 16, which was the designated decontamination area.]

Clairborne said there was never another barrier between the elevator and the decontamination area, there was no shower, and no area to clean his tools or other maintenance equipment which he took into the contaminated area. All of those items could carry particulate matter, which was freely brought on and off the elevator on which ever floor next needed work.

Clairborne advised he had been trained that asbestos particulate matter remains in the air for 72 hours with no air flow, added that the dust then settles into an area, and can be stirred again by air flow, vacuums, sweeping, or if there is large enough volumes of dust, then by the shoes on people's feet. Clairborne stated they closed the attic some time in 2008, but questions the mechanical rooms again stating they are just as full of friable asbestos as the attic was.

Clairborne added that the USRO shop personnel now all receive initial and refresher training; however, at one point some of the men (names unknown) were not certified in certain areas like asbestos or other hazardous waste/materials.

Clairborne was shown a February 28, 2008, memo addressed to him from Fred Fanning, then OAS Director. Clairborne did not have knowledge of the memo, does not recall ever receiving the memo, and said it likely it was generated and never given to him. He was also shown an OSHA Notification which discussed the fact that a complaint had been filed regarding asbestos. Clairborne stated he had never seen the notice and did not recall it ever being posted in the USRO shop. He added that employees were certainly not brief on its receipt. He stated because he worked night shift, if there were discussions, briefings or notices, he was never privy to them. He added he had never received emails or other briefings from supervisors, and really did not know much about what was going on. He was given a maintenance task, which he performed. He advised that he knows David Wynn is his point of contact, but only because it is posted on the wall in the engineer shop. He never had contact with Jay Loveless or Mario Acquino regarding possible hazardous exposure, or how to handle it, or whether there were unsafe conditions in the attic.

Clairborne confirmed that he witnessed personnel from Chimes up cleaning in the attic. He stated they often came to clean the bathroom in Corridor 4, and that floors were cleaned and mopped, which would have only stirred up any asbestos particulate matter in the area.

Clairborne advised that once they had confirmed asbestos in the attic (some time in 2008 as best he could recall, he was directed by [redacted] to suit up and mask up when he went into the attic. He was never directed to go into an area he considered unsafe. If he thought the area was unsafe he told [redacted] "I am not going" telling he would take the consequences of his action versus entering an area he thought was unsafe without gear. He added that they did not originally have protective gear, but [redacted] bought it for them some time in either 2007 or 2008. Clairborne also added that [redacted] was there for approximately 3 years, and that he knew the attic was in the condition it was.

Clairborne stated that once the attic was confirmed to hold damaged asbestos and was restricted, he believed supervisors spent more time trying to discredit the original findings of Peak Safety Industrial hygienist Monica Barnett, stated he was told by an unrecalled individual that Barnett lacked certain certifications or that her credentials had expired. He asked OIG whether than made her any less knowledgeable about her job and the findings that she had. He believed that OAS did not want to address the problem because it created additional problems such as restricted access, concern among employees, and new procedures.

Clairborne was not aware of any additional air sample testing being conducted in any location of the HCHB after the abatement project in the attic was complete. He stated he has been told it is completely safe to enter the attic and perform his duties. He expressed concern as to whether this is truly the case, but intends to follow his supervisors' instructions.

Date of Interview: April 22, 2010
Reporting Agent: [redacted]
Time/Location: 9:30am, Room 7089
Approving Official:
Date approved:

Case Title: Unsafe levels of asbestos
Case #: PPC-CI-10-0271-P

K

8th Floor Asbestos - May 1 Update

- April 30 -- received confirmation that the fibers detected on the 8th floor are asbestos.
- Access to the 8th floor has been restricted since last week
- OAS employees are being medically cleared to wear a respirator and fit tested.
- 15 employees are currently cleared to wear protective gear/respirator
- GSA meeting with DOC at 10 a.m.
- Last samples taken from the 8th floor were conducted in 2002. At that time, the samples were within acceptable levels
- OAS/OOSH are compiling a list of people who accessed the 8th floor
- Working up a communication plan and medical monitoring plan
- There are no acute symptoms for asbestos exposure such as headaches or coughing

OAS
Asbestos Communication Plan Meeting
Date: May 22, 2007

SIGN IN SHEET

PLESE WRITE LEGIBLY CONFERENCE SIGN-IN INFORMATION WILL BE DISTRIBUTED ELECTRONICALLY

NAME	COMPANY/PHONE	EMAIL ADDRESS
Jana Brooks	OOSH	jbrooks@doc.gov
Peter Wixted	OREPMP	pwixted@doc.gov
Kenton Kilgore	OS/OCIO	kkilgore@doc.gov
FRED FANNING	OAS	ffanning@doc.gov
Mario Aquino	OSBM	MAQuino@doc.gov

L

Calendar Entry

Meeting Invitation Fred Fanning has invited you to a meeting

Subject	Asbestos Abatement Meeting with GSA	Chair	Fred Fanning/HCHB/Osnet
When	Date: Thursday 05/31/2007 Time: 03:00 PM - 03:45 PM (0 hours 45 minutes)	Sent by	Cheryl Elzie/HCHB/Osnet
Where	Location: 6316	Invitees: Required (to)	Douglas Elznic/HCHB/Osnet@osnet, Jana
		Optional (cc)	

The GSA NCR Safety and Environmental Branch recommendation for abatement is as follows:

Access is currently restricted to the 8th floor and above, and this restriction should continue until the abatement work is completed. The response actions recommended for abatement of the three areas of contamination on the 8th floor and above are as follows:

- Contain the spray-on fireproofing within the 8th floor eaves.
- Repair or replace damaged pipe insulation in the corridor and penthouse areas.
- Clean corridor surfaces, occupied spaces, and routine maintenance areas.

1) Response Action in Attic Eaves Areas: Enclosure

o Install air tight metal barriers at wall penetrations
o Provide access to steam shutoff valves form corridors
o Install decontamination facility at entry points
o Install window louvers for ventilation

2) Response Action for Access Corridors (8th Floor): Repair /Removal

o Isolate corridors into manageable containment zones for the execution of response actions.
o Repair damaged pipe insulation
o Remove contaminated debris
o Decontaminate area for occupation by HEPA Vacuuming and wet wiping all surface areas
o Test of air handling unit (AHU) insulation.
o Replace air filters in AHUs.
o Perform air clearance sampling, including TEM analysis.

3) Response Action for Penthouse Levels: Repair /Removal

o Repair damaged pipe insulation
o Remove contaminated debris
o Remove abandoned duct work and AHU

- o Decontaminate area for occupation by HEPA Vacuuming and wet wiping all surface areas
- o Install air tight barriers in floor openings
- o Repair damaged ceiling
- o Test of air handling unit (AHU) insulation.
- o Replace air filters in AHUs.
- o Perform air clearance sampling, including TEM analysis.

(See attached file: Main Commerce Asbestos Abatement Plan May21.2007.DOC)

Margaret Gates
Director
Triangle Service Center (WPZ)
Room 7660, GSA Regional Office Building
202-205-1714 (phone)

202-708-9920 (fax) Main Commerce Asbestos Abatement Plan May21.2007.DOC

M

UNITED STATES DEPARTMENT OF COMMERCE
Office of the General Counsel
Washington, D.C. 20230

January 25, 2009

JAN 25 2010

MEMORANDUM FOR: Todd J. Zinser
Inspector General

Scott Quehl
Chief Financial Officer and
Assistant Secretary for Administration

FROM: Brian D. DiGiacomo
Chief, Employment and Labor Law Division

SUBJECT: U.S. Office of Special Counsel (OSC) Investigation

I am transmitting to you the attached Delegation of Authority, wherein the Secretary provides the necessary authority to investigate, resolve, and report the Department's actions regarding an OSC investigation reported to the Secretary in a January 8, 2010, letter from the Associate Special Counsel. Based upon a preliminary investigation, the Associate Special Counsel has determined that there was a "substantial likelihood" that Department employees may have engaged in an abuse of authority and a substantial and specific danger to public health and safety from June 2004 through January 2008 by failing to inform employees in a timely manner of the existence of unsafe levels of asbestos in the Hebert C. Hoover Building eighth floor attic.

By law, OSC reviews the allegations and then requests the head of the agency to conduct an investigation, take corrective action, and submit a report within 60 days. The Secretary has directed this report be transmitted to OSC by March 1. However, before that report is filed, you must discuss with each other whether corrective action is necessary, and because this allegation relates to the building management function of the Department, the Chief Financial Officer and Assistant Secretary for Administration has the responsibility to take any corrective action that is necessary.

I am available to assist you in any way. Please feel free to call me at 2-5393.

Attachment

DELEGATION OF AUTHORITY

Pursuant to the authority vested in me as the Secretary of Commerce, I hereby delegate to the Inspector General, Todd J. Zinser, the authority to perform the following functions relating to completing and delivering to the U.S. Office of Special Counsel a report required by 5 U.S.C. § 1213(c) regarding allegations that Department of Commerce employees may have engaged in an abuse of authority and a substantial and specific danger to public health and safety from June 2004 through January 2008 by failing to inform employees in a timely manner of the existence of unsafe levels of asbestos in the Hebert C. Hoover Building eighth floor attic. I hereby direct that the Inspector General: (1) undertake and complete an investigation into these allegations, as reported to me by the attached January 8, 2010, letter from the Associate Special Counsel; (2) to discuss the findings of the completed investigation with the Chief Financial Officer and Assistant Secretary for Administration in order to obtain from him a determination of any corrective action that the Department should take as a result of the investigation's findings; and (3) to prepare, sign, and transmit to me and the Associate Special Counsel before March 1, 2010, an agency report to the Associate Special Counsel that contains all the requirements of 5 U.S.C. § 1213(d).

Pursuant to the same authority vested in me, I also delegate to the Chief Financial Officer and Assistant Secretary for Administration, Scott Quehl, the authority to take all necessary corrective action that he determines to be necessary based on the findings of the Inspector General's investigation into this matter and the subsequent discussion with him.

Gary Locke 1/22/2010

U.S. OFFICE OF SPECIAL COUNSEL
1730 M Street, N.W., Suite 218
Washington, D.C. 20036-4505

FACSIMILE COVER SHEET

TO:

Name: The Honorable Gary Locke	
Title: Secretary	
Organization: U.S. Department of Commerce	
Office / Location: Washington, D.C.	
Telephone: (202) 482-2112	Fax: (202) 482-2741

FROM:

Name: William E. Reukauf, Associate Special Counsel	
Organization: Office of Special Counsel	
Office / Location: Washington, D.C.	
Telephone: (202) 254-3636	Fax: (202) 653-5151

Date: January 8, 2010	Number of pages, including this cover sheet: 29

Message: Original and enclosures to follow by Federal Express delivery

If you did not receive the total number of pages shown, please call Denise Toney at (202) 254-3632.

Scott Quehl

THIS DOCUMENT IS INTENDED FOR THE USE OF THE PARTY TO WHOM IT IS ADDRESSED AND MAY CONTAIN INFORMATION THAT IS PRIVILEGED, CONFIDENTIAL OR PROTECTED FROM DISCLOSURE UNDER APPLICABLE LAW. If you are not the addressee, or a person authorized to deliver the document to the addressee, you are hereby notified that any review, disclosure, dissemination, copying or other action based on the content of this communication is not authorized. If you have received this document in error, please immediately notify us by telephone and return to us at the above address by mail.

N

U.S. OFFICE OF SPECIAL COUNSEL
1730 M Street, N.W., Suite 300
Washington, D.C. 20036-4505

EX. N

2013 JUL 22 AM 11:43

O S EXECUTIVE SECRETARIAT

The Special Counsel

July 19, 2013

The Honorable Penny Pritzker
Secretary
U.S. Department of Commerce
1401 Constitution Avenue, N.W.
Washington, D.C. 20230

Re: OSC File Nos. DI-10-0454, DI-13-0405, and DI-13-2292

Dear Madam Secretary:

Pursuant to my responsibilities as Special Counsel, I am referring to you a whistleblower disclosure from former employees of the Department of the Commerce (DOC), Herbert C. Hoover Building (Hoover Building), Washington, D.C. This case involves alleged negligence and misconduct by DOC investigators during a previous Office of Special Counsel (OSC)-ordered referral, which concerned possible asbestos exposure to employees at the Hoover Building. The whistleblowers allege your predecessor's reports to OSC, Congress, and the President contained gross fabrications and inaccuracies. My office referred the previous matter to former Secretary Gary Locke in January 2010. The whistleblower in that case, Edgar Dion Lee, is now joined by two new whistleblowers, [redacted] Together, they have provided information that raises serious concerns about the investigators' conduct and, consequently, the validity of the prior agency reports. In brief, the allegations are that:

- Employees, such as Mr. Lee, were knowingly exposed to asbestos in the Hoover Building. This allegation was originally brought by Mr. Lee in 2010 and was the subject of the earlier referral by OSC;

- The agency reports in response to the January 2010 referral relied upon fabricated evidence, inaccuracies, and omissions, most notably [redacted] nterview summary, which contains questions [redacted] was never asked and answers [redacted] never provided;

- The prior agency reports held [redacted] responsible for mismanaging the asbestos program without providing them a reasonable opportunity to explain the full extent of their involvement or lack thereof; and

- The air sample testing relied upon by the agency was of questionable validity and did not follow proper protocols.

We request that you consider the nature and complexity of the allegations as you determine the proper office for the investigation and reporting. We also recommend that the investigation of these allegations be tasked to an entity other than the DOC Office of Inspector General (OIG) because of the whistleblowers' allegations of problems with the prior OIG investigation, which are detailed below. I am enclosing copies of all the relevant documents from the earlier case. See Enclosures A, B, C, D, and E. All three whistleblowers consented to the disclosure of their names to the agency.

We also acknowledge that the three whistleblowers have divergent interests and have separate recollections of what transpired, particularly with respect to the issue of whether Mr. Lee was exposed to asbestos. However, we concluded that a single referral of all the relevant issues would be the most efficient and prudent manner in which to proceed. Each of the whistleblowers has given their consent to the combined referral.

I. Background

On January 8, 2010, OSC referred to then-Secretary Gary Locke allegations from Mr. Lee, who alleged that employees at the Hoover Building committed an abuse of authority and a substantial and specific danger to public health and safety by failing to inform employees in a timely manner of unsafe levels of asbestos in the Hoover Building eighth floor attic (attic), and for knowingly permitting these employees to work in contaminated areas without personal protective equipment. See OSC File No. DI-10-0454. We received the agency's report on February 4, 2011. The report concluded that although the asbestos conditions were mismanaged, the agency could not take administrative action against the responsible personnel because they were no longer employed by the DOC. These individuals were not identified in the report. The report also concluded that there was the possibility of asbestos exposure.

The agency's conclusions relied upon air sampling testing performed by a contractor, Monica Barnett, Peak Safety Systems, Inc., on February 23, 2007, April 17, 2007, and April 25, 2007. The testing of the samples taken by Ms. Barnett on February 23 and April 17 used the phase contrast microscopy (PCM) method and determined the fiber count exceeded the Occupational Safety & Health Administration's (OSHA) Permissible Exposure Limit (PEL). PCM testing only measures fiber counts and cannot determine whether the fibers are asbestos. The April 25 sample collected by Ms. Barnett was sent to an outside laboratory and tested using the transmission electron microscope (TEM) method. The results revealed the presence of asbestos in amounts exceeding OSHA's PEL.

While reviewing the DOC report, OSC twice requested additional information. We received supplemental reports dated February 28, 2011, and April 25, 2011. In the April 25, 2011, supplemental report, the agency identified three employees as bearing responsibility for the mismanagement: [redacted]

[redacted] The report noted that [redacted] was responsible only "to a lesser extent" compared to [redacted] On June 10, 2011, OSC notified the President and Congress that the agency reports contained all the information required by statute and the findings appeared to be reasonable, and closed the case.

Since that time, new information has been submitted to my office by the three whistleblowers, each of whom filed independently, which calls into question the accuracy of the earlier DOC reports and the validity of their conclusions.

II. [redacted]

[redacted] believes that no mismanagement of the asbestos program occurred and that Mr. Lee was not exposed to asbestos. Even if the mismanagement did occur, [redacted] maintains that the investigators did not provide her an adequate opportunity to fully explain [redacted] actual level of involvement regarding the allegations for which [redacted] was held responsible. Had [redacted] been given an opportunity, [redacted] believes [redacted] would have offered definitive proof that [redacted] was not responsible for the mismanagement of the asbestos program.

[redacted] first contends that Mr. Lee could not have been exposed to asbestos in the attic between February and April 2007. According to [redacted] from August 2006 to October 2007, Mr. Lee was detailed to the Office of Acquisition Management and had no duties in connection with the attic. When [redacted] later became Mr. Lee's supervisor in October 2007, Mr. Lee continued to have no job duties associated with the attic. Further, [redacted] states that the agency erred in its conclusion that access to the attic was not restricted until January 2008. Instead, [redacted] recalls that access was restricted to authorized personnel wearing personal protective equipment in April 2007, and [redacted] maintained a log of all persons entering the attic after it was restricted.

[redacted] alleges that [redacted] was not properly or fully interviewed before the agency reports found [redacted] responsible for the mismanagement of the asbestos program. [redacted] stated that DOC OIG [redacted] nformed [redacted] they were investigating Mr. Lee's alleged exposure to asbestos in the Hoover Building. They did not mention the existence of the OSC referral, which led [redacted] to believe the investigation concerned a disability claim by Mr. Lee. The agents limited their questions about asbestos to the time period [redacted] supervised Mr. Lee, which began six months after Ms. Barnett's April 25, 2007, air sampling. As a result, [redacted] was not afforded the opportunity to present evidence that [redacted] believes would have contradicted Mr. Lee's allegations. The agents did, however, ask [redacted] if [redacted] ever sent Mr. Lee to the attic. [redacted] replied that [redacted] did not and noted the attic was already closed when [redacted] became

[1] The report specifically found that "these three individuals failed to take timely, proper action to protect employee health and safety upon learning that air samples from the 8th floor/attic taken in February and April 2007 exceeded [OSHA's PEL] for airborne asbestos."

Mr. Lee's supervisor. [redacted] describes the agents' interview style as "flippant," conveying at one point that they believed there was no merit to Mr. Lee's allegations but they had to perform an investigation anyway.

The agency reports claimed [redacted] was detailed to OAS during the relevant time period in early 2007. However, [redacted] stated that no such detail took place and [redacted] did not work in OAS until September 2007. Between July 2006 and August 2007, [redacted] worked in the Office of Occupational Safety and Health, Office of Human Resource Management (OHRM). [redacted] alleges that this detail is important because the reports concluded OAS management officials were to blame for the mismanagement of the asbestos program and OHRM officials had no such responsibility. Thus, if the detail did not occur, as [redacted] claims, [redacted] could not have been responsible for the mismanagement of the asbestos program based on the reports' conclusions. Further, the agency reports suggested the mismanagement began as early as 2003. However [redacted] did not begin working for DOC until July 31, 2006.

[redacted] alleges that if the asbestos program had been mismanaged, the proper management official to hold responsible would have been Environmental Protection Specialist Peter Wixted, because he became Hoover Building Asbestos Coordinator on October 26, 2006. The agency reports failed to make this identification. [redacted] provided Mr. Wixted's appointment memorandum as well as a letter he sent to Mr. Fanning acknowledging receipt of the appointment. See Enclosures F and G. Additionally, [redacted] believes the agency reports' failure to identify the Asbestos Coordinator function is all the more alarming because the agency's investigators interviewed Mr. Wixted, as shown by the reference to a statement he made in the agency's second supplemental report.

[redacted] also presented information that calls into question the validity of the air sample testing performed by Ms. Barnett. [redacted] states that two independent certified industrial hygienists found that Ms. Barnett failed to follow air sample collection protocols. See Enclosures H and I. Next, the Maryland Department of the Environment (Maryland) revoked the accreditations and certifications of Ms. Barnett and Peak Systems, Inc. on July 6, 2006, which predates Ms. Barnett's air sampling testing in the Hoover Building attic. There is no record on Maryland's website to suggest the accreditations or certifications were restored, and we are unaware of any certifications or accreditations in any other jurisdiction. [redacted] also disclosed that Ms. Barnett later acted as a representative in [redacted] Mr. Lee verified the representation to OSC and [redacted], which [redacted] considered a possible conflict of interest.[2] Finally, [redacted] believes Ms. Barnett's air

[2] OSC learned that Mr. Lee and Ms. Barnett are currently business partners in an enterprise known as Lee Barnett & Associates, Inc. According to the South Carolina Secretary of State's website, the business was incorporated on April 5, 2011. http://www.sos.sc.gov/index.asp?n=18&p=4&s=18&corporateid=612713 (last visited July 18, 2013). An internet search for more information about this business revealed that it is also known as Barnett, Lee & Associates.

samples are suspect because Ms. Barnett was the only individual to take an attic air sample that tested above the OSHA PEL for asbestos. According to [redacted] Ms. Barnett was unable to replicate the same results when she took samples alongside another industrial hygienist from Global Consulting in May 2007.

Finally, [redacted] provided a document [redacted] obtained through a Freedom of Information Act request to DOC that purports to be a summary of [redacted] interview with [redacted] See Enclosure J. [redacted] expressed several concerns. First, [redacted] asserts that [redacted] was not asked many of the questions in the document. Second, [redacted] claims that many of the answers attributed to [redacted] in the document are false and [redacted] never gave them. Third, some of the answers attributed to [redacted] in [redacted] interview summary are exact quotations of the answers of another interviewee. See Enclosure K. While the name of this interviewee is redacted, [redacted] believes that it is [redacted]

III. [redacted]

[redacted] raises many of the same issues as [redacted] including that no mismanagement of the asbestos program occurred while [redacted] was employed with DOC and that even if mismanagement did occur, Mr. Wixted should have been identified as the responsible management official. [redacted] agrees that [redacted] should not have been found to be responsible. Rather, he believes that Director for Building Management Doug Elznik, Building Engineers' [redacted] and Plumbers' Supervisor Rufus Cook should have been considered responsible because, unlike [redacted] they actually supervised employees who had access to the attic between February and April 2007. [redacted] added that shortly after [redacted] learned about Ms. Barnett's test results, [redacted] notified the Assistant Secretary for Administration, the Office of Security Programs, the OIG, and the Office of Chief Information Officer about the asbestos issues. [redacted] even provided a formal briefing concerning asbestos to the OIG on October 30, 2007. Like [redacted] stated that [redacted] could not have been responsible for any mismanagement of the asbestos program in 2003 or 2004, because [redacted] did not begin work at DOC until May 2, 2005. [redacted] also stated that [redacted] interview by [redacted] consisted of only two questions: what [redacted] remembered about Mr. Lee's alleged exposure to asbestos in April 2007 and what [redacted] knew about an asbestos report. [redacted] recalls the agents told [redacted] that it looks like [redacted] did everything [redacted] could have done regarding the asbestos issues.

IV. Edgar Lee

Mr. Lee continues to maintain that he was exposed to asbestos in the attic and alleges that the original investigation was inadequate for many of the reasons cited by [redacted] He admitted to being detailed in early 2007 but stated that he still accessed the attic during that time. He believes that more individuals should be held responsible than the agency identified in its reports. Given the more specific concerns raised by [redacted]

[redacted] it appears that the investigation was inadequate to establish with certainty when, and under whose supervision, Mr. Lee worked during the relevant time-periods.

*****

The Office of Special Counsel (OSC) is authorized by law to receive disclosures of information from federal employees alleging violations of law, rule, or regulation, gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety. 5 U.S.C. § 1213(a) and (b). If OSC finds, on the basis of the information disclosed, that there is a substantial likelihood that one of these conditions exists, I am required to advise the appropriate agency head of my findings, and the agency head is required to conduct an investigation of the allegations and prepare a report within 60 days of notification of the allegations. 5 U.S.C. § 1213(c) and (g). OSC will not routinely grant an extension of time to an agency in conducting a whistleblower disclosure investigation. However, OSC will consider an extension request where an agency concretely evidences that it is conducting a good faith investigation that will require more time to successfully complete.

Upon receipt, the Special Counsel reviews the agency report to determine whether it contains all of the information required by statute and that the findings of the head of the agency appear to be reasonable. 5 U.S.C. § 1213(e)(2). The Special Counsel will determine that the agency's investigative findings and conclusions appear reasonable if they are credible, consistent, and complete, based upon the facts in the disclosure, the agency report, and the comments offered by the whistleblower under 5 U.S.C. § 1213(e)(1).

I have concluded that there is a substantial likelihood that the information that the whistleblowers provided to OSC discloses gross mismanagement in addition to the substantial and specific dangers to health and safety originally reported by Mr. Lee. As previously stated, I am referring this information to you for an investigation of the whistleblowers' allegations and a report of your findings within 60 days of your receipt of this letter. By law, this report should be reviewed and signed by you personally. Nevertheless, should you delegate your authority to review and sign the report to the Inspector General, or any other official, the delegation must be specifically stated and must include the authority to take the actions necessary under 5 U.S.C. § 1213(d)(5). The requirements of the report are set forth at 5 U.S.C. § 1213(c) and (d). A summary of § 1213(d) is enclosed. Please note that where specific violations of law, rule, or regulation are identified, these specific references are not intended to be exclusive.

As a matter of policy, OSC also requires that your investigators interview they whistleblowers at the beginning of the agency investigation when, as in this case, they consent to the disclosure of their names. Mr. Lee can be contacted at [redacted] and at [redacted] can be contacted at [redacted] and at [redacted] be contacted at [redacted] and at [redacted]

Further, in some cases, whistleblowers who have made disclosures to OSC that are referred for investigation pursuant to 5 U.S.C. § 1213 also allege retaliation for whistleblowing once the agency is on notice of their claims. I urge you to take all appropriate measures to ensure that those reporting wrongdoing are protected from such retaliation and from other prohibited personnel practices, including informing those charged with investigating the whistleblower's allegations that retaliation is unlawful and will not be tolerated.

As required by 5 U.S.C. § 1213(e)(3), I will send copies of the report, along with any comments on the report from the whistleblower and any comments or recommendations from me, to the President and the appropriate oversight committees in the Senate and House of Representatives. Unless the report is classified or prohibited from release by law or by Executive Order requiring that information be kept secret in the interest of national defense or the conduct of foreign affairs, OSC will place a copy of the report in a public file in accordance with 5 U.S.C. § 1219(a). To prevent public disclosure of sensitive personally identifiable information (PII), OSC requests that you ensure that the report does not contain any sensitive PII, such as Social Security numbers, home addresses and phone numbers, personal e-mail addresses, dates and places of birth and personal financial information. OSC does not consider names and titles to be sensitive PII requiring redaction. Agencies are requested not to redact such information in reports provided to OSC for the public file.

Please refer to our file number in any correspondence on this matter. If you need further information, please contact Catherine A. McMullen, Chief, Disclosure Unit, at (202) 254-3604. I am also available for any questions you may have.

Sincerely,

Carolyn N. Lerner

Enclosures

Enclosure

Requirements of 5 U.S.C. § 1213(d)

Any report required under subsection (c) shall be reviewed and signed by the head of the agency[1] and shall 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.

In addition, we are interested in learning of any dollar savings, or projected savings, and any management initiatives that may result from this review.

To prevent public disclosure of personally identifiable information (PII), OSC requests that you ensure that the report does not contain any sensitive PII, such as Social Security numbers, home addresses and phone numbers, personal e-mail addresses, dates and places of birth, and personal financial information. With the exception of patient names, OSC does not consider names and titles to be sensitive PII requiring redaction. Agencies are requested not to redact such information in reports provided to OSC for inclusion in the public file.

[1] Should you decide to delegate authority to another official to review and sign the report, your delegation must be specifically stated.

DEPARTMENT OF COMMERCE
HERBERT C. HOOVER BUILDING
ASBESTOS MITIGATION RESPONSE

GSA, NCR, SAFETY, ENVIRONMENT AND FIRE PROTECTION BRANCH RECOMMENDATIONS:

Contain the spray-on fireproofing within the 8th floor eaves. Repair or replace damaged pipe insulation in the corridor and penthouse areas. Clean corridor surfaces, occupied spaces, and routine maintenance areas.

- Response Action in Attic Eaves Areas: Enclosure
  - Install air tight metal barriers at wall penetrations
  - Provide access to steam shutoff valves form corridors
  - Install decontamination facility at entry points
  - Install window louvers for ventilation

- Response Action for Access Corridors (8th Floor): Repair /Removal
  - Isolate corridors intol manageable containment zones for the execution of response actions.
  - Repair damaged pipe insulation
  - Remove contaminated debris
  - Decontaminate area for occupation by HEPA Vacuuming and wet wiping all surface areas
  - Test of air handling unit (AHU) insulation.
  - Replace air filters in AHUs.
  - Perform air clearance sampling, including TEM analysis.

- Response Action for Penthouse Levels: Repair /Removal
  - Repair damaged pipe insulation
  - Remove contaminated debris
  - Remove abandoned duct work and AHU
  - Decontaminate area for occupation by HEPA Vacuuming and wet wiping all surface areas
  - Install air tight barriers in floor openings
  - Repair damaged ceiling
  - Test of air handling unit (AHU) insulation.
  - Replace air filters in AHUs.
  - Perform air clearance sampling, including TEM analysis.

GSA REGION 11
Triangle Service Center
Washington DC 20047
www.gsa.gov

DEPARTMENT OF COMMERCE
HERBERT C. HOOVER BUILDING
ASBESTOS MITIGATION RESPONSE

COST ESTIMATE:

INDUSTRIAL HYGIENE SERVICES INDEPENDENT GOVERNMENT ESTIMATE WORKSHEET

ITEM NO.	ITEM DESCRIPTION	WORK UNIT	ESTIMATED QUANTITY	GSA UNIT PRICE	Recurring Cost	Non-Recurring Cost	ESTIMATED PROJECT COST
1	Door-Shaped Openings	SF	1375	10.20		14,025	14,025
2	Valve Access Openings	SF	156	10.20		1,591	1,591
3	Irregular Shaped Openings	SF	480	10.20		4,896	4,896
4	Damaged Pipe TSI	LF	130	190.00	24,700		24,700
5	Surface Decontamination	SF	275,000	0.38	52,250	52,250	104,500
6	Containment Area (6 Phases)	ea.	6	14,212.00	42,636	42,636	85,272
7	Air Filtration Units Installed	ea.	6	855.00		5,130	5,130
8	Testing	ea.	120	500.00	30,000	30,000	60,000
9	Decontamination Facility					3,500	
	Subtotal				149,586	154,028	303,614
	General Conditions and Labor Burdun 32%				47,868	49,289	97,157
	TOTAL ESTIMATED COST				$ 197,454	$ 203,317	$ 400,771

Total Commerce Cost	$197,454
Total GSA Cost	$203,317
TOTAL	$400,771

May 31, 2007

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Washington DC 20047
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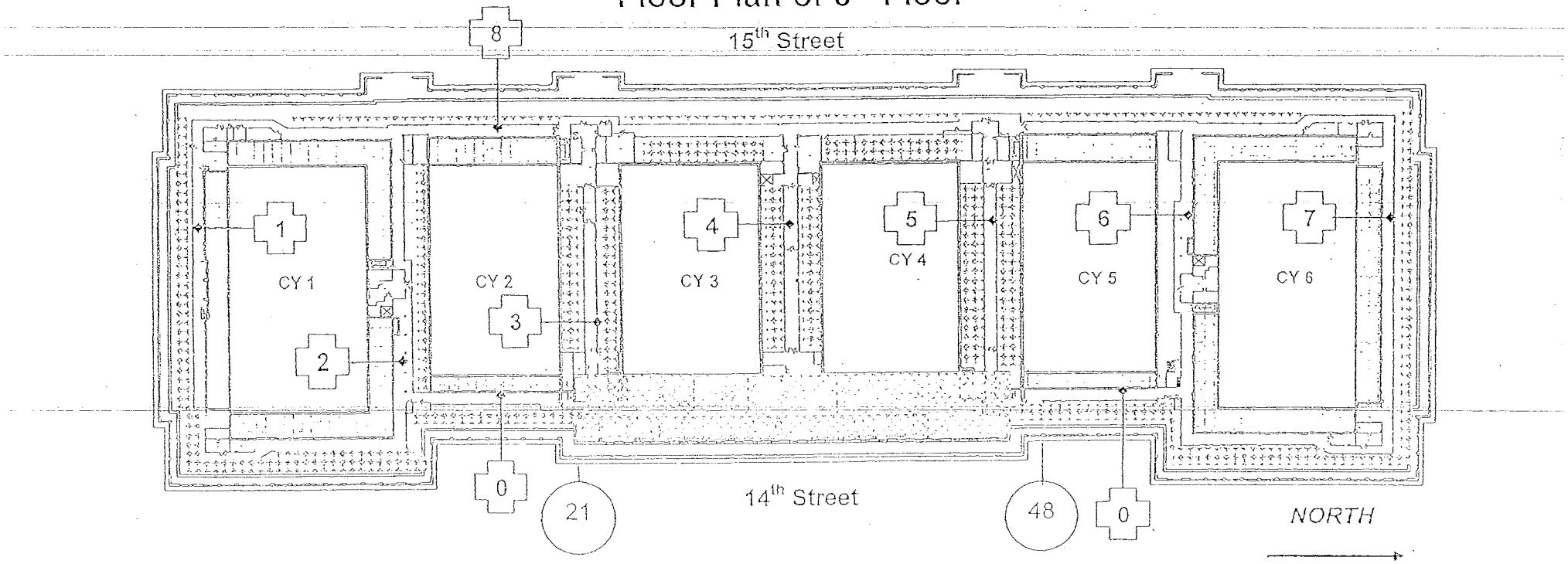
DEPARTMENT OF COMMERCE
HERBERT C. HOOVER BUILDING
ASBESTOS MITIGATION RESPONSE

Floor Plan of 8th Floor



Penthouse Levels Above

Court Yard Terrace Roof

Spray-on Insulation (ACM)

CY: Courtyard

Column Line

Corridor

May 31, 2007

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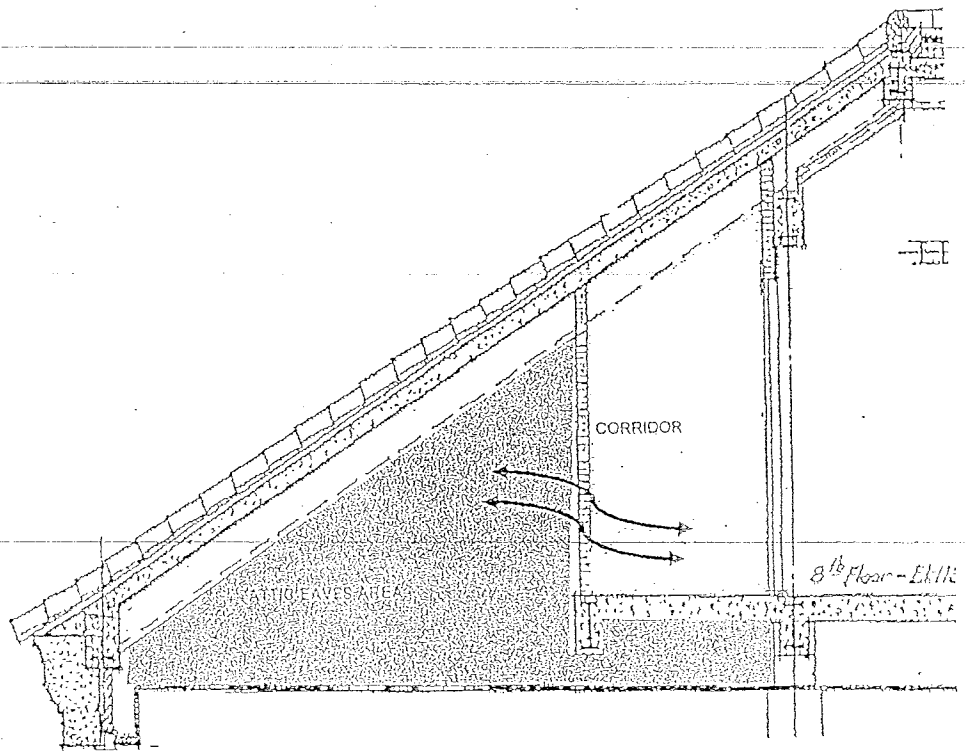
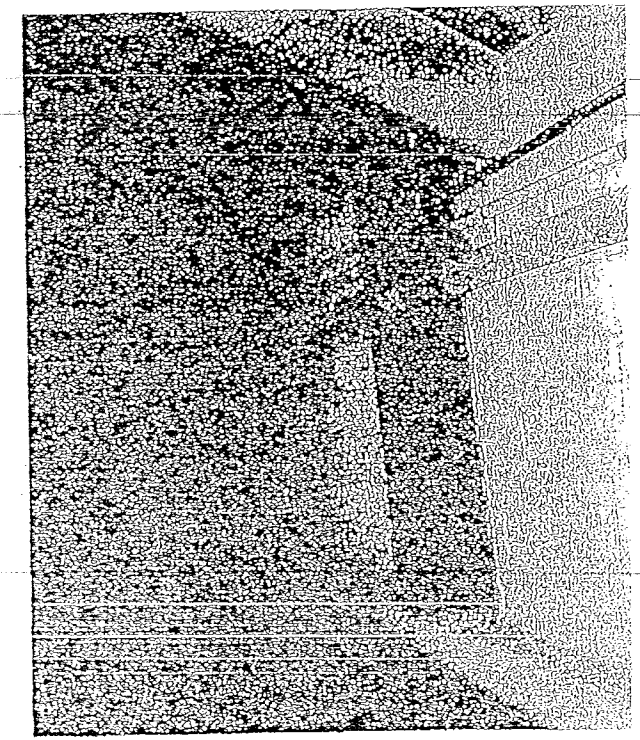
Typical Section through Corridor and Attic Eaves
Migration of Airborne Fibers through Penetrations in Corridor Walls





Opening in Corridor Walls

May 31, 2007

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Washington DC 20047
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P

Edgar D. Lee
[redacted]

March 18, 2011

U.S. Office of Special Counsel
1730 M Street, N.W. Suite 218
Washington, D.C. 20036-1505

Attention: Kevin Wilson

Re: Results of Investigation, Re: Whistleblower Disclosure of Asbestos Conditions in the HCHB's 8th Floor/Attic

Dear Mr. Wilson,

I am in receipt of the Results of Investigation re: Whistleblower Disclosure of Asbestos Conditions in HCHB's 8th Floor/Attic. I appreciate the fact that your office listened to me and that the Commerce Inspector General diligently investigated the matter. However, I am troubled by a statement made on page 15.

> "We do not have a recommendation that administrative action be considered for any responsible OAS personnel because those officials bearing responsibility for mismanaging HCHB's asbestos conditions are no longer with the Department."

As you well know, there is nothing more important to the well being of an agency than the relationship between it's' workers and its' managers. I counted on and respected management and relied on their expertise as did everyone else in the building. They however counted on my ignorance and the ignorance of others and knowingly with malice deprived me of my civil rights. These rights include the right to required training, general and respirator physicals, subsequent annual updates, personal protective equipment, the right to know the hazards to which I was being exposed, and the right to view the reports concerning the building so that I would know how to properly protect myself as well as others.

Further, some of these same individuals used their positions to block any hope that I had of receiving a reasonable accommodation that would remove me to some degree away from the hazards instead of working directly with them. These people had the duty to care for the facility and its' occupants. Nevertheless, they actually united to;

a) Ignore the hazards in the building,
b) Keep others from gaining access to building information,
c) Ignore the reports from industrial hygiene firms
d) Snub their noses at federal guidelines that were put in place to protect employees. (FMR, EPA and the Occupational Safety and Health Act regulations, and ADA.)

[redacted]

Because of these vile actions:

a) I unknowingly took home the hazardous materials exposing my family to them
b) [redacted]
c)
d)
e)

These employees however were able to move up or laterally in positions in the federal government without any type of disciplinary and criminal sanctions against them. Their activity was far reaching. Listed below are the following Department of Commerce officials who had firsthand knowledge about the public health and safety danger in the 8th floor attic area of the Department of Commerce as well as other hazards therein. Each of these people were hired into their respective positions and paid taxpayer dollars in respect to their expertise in safety, health, and building management. For example:

1. [redacted]
2. **Doug Elznic** (former Director for Building Management was upgraded to Deputy Director of OAS- and is still employed
3. [redacted]
4.
5. **Bill Fleming** (former Deputy Director Office of Human Resources, Human Capitol Officer and was over Occupational Safety and Health and is now Director of HR)
6. **Nancy McWilliams** (Director of Occupational Safety and Health is still employed)
7. **Larry Hess** (Associate Director Office of Building Renovation is still employed)
8. **David Wynn**- Safety and Health Specialist is now at EPA
9. **Otto J. Wolff**- Retired, former Chief Financial Officer

Each of these people were aware of the hazards from the first day (2007) and further back, but did nothing to help and everything to hinder me, my health and the health of others. The U.S. Department of Commerce as a federal agency has a responsibility to hold those federal employees liable. Instead again, the management officials and the former management who are liable have been allowed to move up and or leave the Department of Commerce and work for other federal agencies and go on to live their lives as though nothing never happened.

Great planning went into effect for the renovation of the HCHB well before 2007. The renovation was then funded. (See the report of the request for funds to Congress that you have). The attic was going to be impacted because of that renovation and there were funds delineated

for asbestos abatement. However, in 2007, management was insistent: first, that there was no asbestos, then, that it was not in poor condition, and finally, that it did not pose a health threat. However, the report shows that management was well aware of the conditions before 2007 and as far back as 2002. It seems that Commerce management was requesting funds for asbestos abatement that they had no intensions of conducting. There was a lot of lying, those listed, and probably some more, did the lying.

It is as simple as this: management knew about the hazards; management knew that that they were obligated to use federal funds to clean up the hazard and requested the funds; management knew that they were obligated to notify and train occupants and management did not fulfill any of their obligations. Further, they moved any and everyone who found out about hazards out of the way, in any way that they could. Management pretended not to know and then each one of the above listed used their power and authority to cover it all up. Their cover-up was far reaching but Commerce has the duty and responsibility to effectively remove and hand over for prosecution all management that were involved in these vile and dangerous acts against me, [redacted] the environment and those working in the HCHB. .

There is still liable management officials employed at the U.S. Department of Commerce that the agency could conduct administrative actions against. The agency is able to process both administrative and criminal charges against all Commerce employees involved at the least. From the report, I am led to believe that the agency refuses to take any type of disciplinary actions to include criminal charges because of the number of high-level officials involved.

I am the one who is suffering [redacted] This has placed a burden on my family as well and the agency seems to show no interest in punishing those individuals involved. What they did is criminal!

Sincerely,

Edgar D. Lee

EDL

Edgar D. Lee

Q

May 16, 2011

U.S. Office of Special Counsel
1730 M Street, N.W. Suite 218
Washington, D.C. 20036-1505

Attention: Kevin Wilson

Re: OSC File No. DI-10-0454

Dear Mr. Wilson,

I am in receipt of the Agency's Second Supplemental Report regarding the Whistleblower Disclosure of Asbestos Conditions in HCHB's 8th Floor/Attic. I very much appreciate the fact that your office continues to listen to me and that the Commerce Inspector General is continuing to diligently investigate this terrible matter. However, I am deeply troubled by some of the statements made by U.S. Department of Commerce's OIG.

It is apparent that Commerce does not clearly see nor understand the roles that each of the management officials that I listed played in the contamination of the HCHB. While I do agree that the main three were [redacted] the others that I listed worked in tandem to ignore and neglect the building maintenance issues as well as the occupational safety and health issues that led to high levels of asbestos in the building. In addition, there was a case of asbestosis reported to Commerce. [redacted] had knowledge of this case from her time spent in the Occupational Safety and Health Office, as did [redacted] Doug Elznic, Bill Fleming, Nancy McWilliams, Otto Wolff, David Wynn and [redacted] This is a part of what prompted Fred Fanning to write the memo in the first place. All of management that I listed had knowledge. They thought it out, argued and planned. It was even referenced in a memo that was giving directions on how they planned to handle the "incident". Each official that I listed played a part. Simply put, the complaint was made and [redacted] are partly dealt with by the office of Occupational Safety and Health. An investigation had to (or was supposed to) have taken place. (I don't think that it did) I am sure that Commerce is insisting that there was no asbestos that this person could have been exposed to. Had a proper investigation been conducted, the attic as well as every other part of the HCHB that was contaminated would have been noted and the areas would have been taken care of. The attic asbestos was not a "needle in a haystack"! The cause of the problem was gross mismanagment. It is unacceptable that each person in management can pick and choose which portion of their responsibilty they will accept and be accountable for.

According to page 2 of the Second Supplemental Report the IG's stated that Mr. Fleming was the Dupty Director of OHRM between 2005-2010, and has been Director of OHRM since 2010.

The May 4, 2007 email sent to Bill Fleming from Jana Brooks written by GSA Regional Asbestos Manager Tim Sleeth clearly states "Access to the 8th Floor Attic should remain restricted to authorized personnel only".

In his capacity as part of the management team Mr. Fleming had a shared responsibility. In his role as Deputy Director of OHRM, the Occupational Safety and Health Division was under his supervision, as was the FOH Health Unit. This division is responsible for the safety and health of all employees housed in the Commerce building. That includes investigating and protection from "occupational exposure". This division employs health and safety specialists whose specific duty and training is in that of occupational safety and health. They are Certified Safety Professionals, Certified Industrial Hygienists and the like. Mr. Fleming neglected his duty to assure that these recommendations by GSA were carried out. The Occupational Safety and Health Division wanted no part of this responsibility. Instead, they placed their sole focus on keeping the worker's compensation case percentages from rising. This is evidenced by the fact, that having the knowledge that Fred Fanning issued the memo to several employees and contractors informing them that they "may have been exposed to asbestos", (which was a case of occupational exposure) not one person from that office made contact with me regarding my exposure. It is the duty of their office to offer worker's compensation and to stay in compliance with the Occupational Safety and Health Act as well as the Americans with Disabilities Act. In fact, further adding insult to injury, Bill Fleming, in his capacity, did not bother to check to see what procedure had been taken regarding [redacted] until two years after [redacted] Moreover, his checking is evidence of a cover up. Another office in which Mr. Fleming has oversight of is Human Resources. This office took part in obtaining my medical records without my knowledge or approval after [redacted] This was to be done with my knowledge and cooperation two years prior under the supervision of David Wynn, Nancy McWilliams and Bill Fleming.

On page 2 and 3 of the Supplemental Report, OIG states "..merely to provide Mr. Fleming with a record of her work while on detail."

Mr. Fleming did not have the responsibility to maintain or control asbestos in the HCHB, however according to the attached document, he was the director of OHRM and Director of OSH before Nancy McWilliams took the position. In his capacity it was his responsibility to be apprised of all occupational safety and health issues as well as all "hazardous materials incidents" as evidenced in the attached HR Bulletin. In this capacity, he had knowledge of the September 2006 asbestos incident as well as the 2007 incident. [redacted] was required to report to Mr. Fleming and the report to Mr. Fleming was not a courtesy but a matter of duty. Mr. Fleming did not appropriately cause his office to act as he was required.

According to page 3 of the IG's Supplemental Report response they stated that Nancy McWilliams was not hired as Director for OSH until June 24, 2007, by which time 8th floor/attic air samples no longer exceeded the OSHA PEL.

Nancy McWilliam's appointment as Director of OSH on June 24, 2007 still places her in responsibility. The 8th floor/attic was to be under restriction to trained authorized personnel with respiratory protection which it was not. The request was given by GSA, and Industrial Hygene Firms. If Mrs. McWilliams claims no knowledge of this, then her survisor Bill Fleming knew according to the email forwarded to him from Jana Brooks on May 4, 2007. From June 24, 2007 when she was hired until eary 2008 when the 8th floor/attic was closed there was occupational exposure which was fully under her responsibility. In addition, Nancy McWilliams had knowledge because she had oversight of FOH who she herself contracted to do do testing, but not until 2008. She did have knowledge of the report of the person with asbestosis. Nancy McWilliams did contract with FOH later to do testing, but she had a duty to retrieve the list of potential employees and contractors who received the memo from Mr. Fanning and follow up with each individual instead of looking the other way. .

According to page 2 of the IG's investigation OAS was refered to as whole using the term OAS officials and or managers. Dispite OAS's knowledge of damaged asbestos, no testing for airborne asbestos in the 8th floor/attic was carried out from 2003 to early 2007 and OAS management was aware of the damaged and deteriorating of the asbestos within the 8th floor/attic.

During the stated time Doug Elznic was the Associate Director for Office Space Building Management (OSBM) and Mario Aquino was the Building Manager who reported to Mr. Elznic. Doug Elznic can not blame his inaction due to lack of knowledge. Nor can he point the finger to Fred

Fanning. From 2003 to July 2006 Doug Elznic was involved and or briefed in all asbestos matters. He even personally asked an industrial hygiene firm to investigate the daycare center after receiving a report of asbestos floor tile. (Peak Safety)

On page 6 of the IG's investigation it was stated that "between February 2007 and April 2007 – and perhaps earlier than that period airborne levels in the 8th floor/attic exceeded the PEL established by OSHA regulation and, because then- OAS management did not take prompt and sufficient action, an unknown number of employees and contractors in that area, including Mr. Lee, were potentially exposed to impermissible levels of airborne asbestos." Also within the investigation on page 6 it states between 2003-2006 OAS management fails to take adaquate action in response to GSA contractor reports of damaged and deterioating asbestos. Further on page 6 in the investigation, it is stated that the subsequent reports beginning in 2003 noted that damaged and deteriorating asbestos-containing materials could become airborne and thereby elevate above the PEL. During this period there were no testing conducted within the 8th floor/attic.

The IG's stated that [redacted] bypassed Doug Elznic on the asbestos issues regarding the 8th floor/attic and went straight to [redacted] However that statement maybe true between February 2007-April 2007, but it's definitely not the case between 2003-2006 because Doug Elznic was the Associate Director for Office Space Building Management (OSBM) and Mario Aquino was Building Manager who reported directly to Mr. Elznic.

- Doug Elznic was responsible for Building Management oversight. Mario Aquino and Doug Elznic had first hand knowledge of the asbestos problems in the building.
- [redacted] on July 5, 2006 which means Doug Elznic was aware of the asbestos issues prior to [redacted] coming to OAS because he was present at times when Mario Aquino contracted Peak Safety to do industrial hygiene.

On page 7 of the investigation OAS management lied to the IG investigator stating that they <u>did not</u> receive a copy of GSA's 2006 report. However, while reviewing a prior building manager's asbestos related records in storage in the basement, the contractor and an OAS building management speacialist found the 2006 GSA report addressing the presence of damaged asbestos in the 8th floor/attic in 2007. That report has a pull date of 2007 at the bottom which proves that they knew about the report and stashed it where they thought no one would ever look.

- Doug Elznic made it his business to get a respirator fit test by the industrial hygene contrator (Peak Safety) hired by the Office of Building Management in 2007 so he appreciated the need for one due to the asbestos in the building.
- In the May 4, 2007 email sent to Doug Elznic from Jana Brooks, Tim Sleeth, GSA Regional Asbestos Manager, clearly states "Access to the 8th Floor Attic should remain restricted to authorized personnel only". As part of the management team Mr. Elznic shared

responsibility. In addition, this was not a bypass as Mr. Elznic was clearly aware of the restriction of the attic.

- Mario Aquino was responsible for updating Doug Elznic on all building affairs which he did on April 25, 2007.

Page 9 of the investigation states: OAS management was aware of asbestos contamination risk in the 8th floor /attic and the need to take remedial measures to protect employees as yearly as 2003.

- Again as referenced on page 2 and 6 the IG's reference OAS management as a whole without specificifying the potential manager(s) at fault.
- It is clear that the managers are Mario Aquino and Doug Elznic. They controlled building management as early as 2003-2006 and their neglect of the building maintenance caused the disrepair of the attic and other areas of the HCHB.
- It could not have been [redacted] because they were not employed with the agency at the time, however Doug Elznic was the Associate Director for OSBM.

In a memo to Fred Fanning dated July 2, 2007 from Bart Bush (GSA Assistant Regional Administrator for Public Building Service) Mr. Bush stated to Mr. Fanning that on May 31, 2007, his staff met with members of OAS office to review the proposed Asbestos Mitigation Response Actions for abating asbestos containing material (ACM) loacated on the 8th floor and Penthouse levels of the Herbert C. Hoover Building. At that meeting Departmrnt of Commerce (Commerce) representatives were in agreement with GSA's plan for abating the ACM's and the overall cost estimate.

- In this memo it shows that Mr. Fanning was not the only Commerce representative attending this meeting so the question is who from OAS was in this meeting with GSA representatives on May 31, 2007?
- The memo shows that Commerce was reneging on its agreement with GSA in the Cost Sharing Proposal for Asbestos Abatement at the Hebert C. Hoover Building in the amount of $230,000.
- This memo shows that Commerce held the abatement project up for a year refusing to pay its portion of the reinburstable work authorization for $230,000.
- Another question raises, did Commerce have their funds available at the time to pay GSA? Or, was the hold up because they spent the funds on other things.

GSA's Draft

Department Of Commerce (HCHB) Asbestos Mitigation Response

The objective for this repsonse was to provide a safe and healthy work environment for the tenant by minimizing the risk of exsposure to airborne asbestos fibers.

- On page 4 of the draft Global Consultants (Industrial Hygiene Firm) stated in the Hazard Assessment that penetrations were observed in the walls separating the attic eaves areas from access corridors. These pentatrations are conduits for the migration of asbestos fibers throughout the 8th floor and penthouse levels. Sealing these openings with air tight impermeable barriers will prevent the migration of asbestos fibers. The type of penetrations in the corridor walls include door shaped openings, vavle access openings, irregular shaped openings, and venttilation openings.
- On page 3 Global Test: On May 3, 2007 14 air samples were collected on the 8th floor attic. The air samples were analyzed by TEM using the NIOSH Method 7402. The results of the 14 air samples ranged from less than 0.002 to 0.010 f/cc of air. 0.01 f/cc. Amosite and chrysotile asbestos fibers were detected in 4 of the samples. The OIG's investigation Appendix A-Timeline of Key Events failed to show this test result.

Final Input on the 2nd Supplemental Report:

Prior OAS management and the officials currently still employed with the U.S. Department of Commerce should be held liable for every rule, regulation and law broken. **NO EXCEPTIONS!** These individuals have placed numerous lives in danger for no reason and all they had to do was follow the recommendations that were handed down to them by federal regulations and professional Industrial Hygene firms. Instead, the OAS manangement wasted government funds by neglecting the building and disregaring the regulations as well as the information provided by the firms that they hired to give professional input and operate business their way. I must say that I am very disapointed that the OIG within the U.S. Department of Commerce is approving of the rules, regulations and laws broken by OAS officials by not punishing those responsible. I have seen that very same OIG enforce disciplnary actions on far less violations that did not contribute harm to anyone.

- The OIG removed an employee from federal service for misusing her metro checks and OIG proceeded with the prosecution procedure.
- The OIG stated in the 2nd supplemental report that those officials who are still employed had no part in the asbestos threat between February 2007 – April 2007 either because they weren't in position of authority or because it was not in their job description. These are both false and lame excuses and are unacceptable. In 2003 the potential threats of asbestos within the 8th floor attic was reported and 2008 was when the OAS officials decided to take action. The attic was never restricted until January 2008 according the investigation. The IG's stated that

Nancy McWilliams started her employment at the agency in June 2007 which still places her within the scope of assuring that the attic was to be restricted to authorized personnel knowing that her office handles asbestos issues/occupational exposure. Not once did Nancy McWilliams or her supervisor Bill Fleming ask the question was anyone exsposed? Knowing that Fred Fanning issued asbestos notification letters to some employees and contractors. Nancy McWilliams was the (Safety and Health Program Manager) assisting the William Fleming (Designated Agency Safety and Health Official). These individuals carry the title of Directors and SESer's and are being compensated for their titles, ignorance is no excuse!

- Those individuals get to leave and stay with the federal government advance in their careers [redacted]

Attachments Enclosed:

- Department of Commerce (HCHB) Asbestos Mitigation Response (Draft by GSA)
- Memo (To: Fred Fanning – From: Bart Bush)
- Matec 2003 Report
- U. S. Department of Commerce Occupation Safety and Health Manual
- 29 CFR. 1960.6 - Designation of Agency Safety and Health Officials
- Department of Commerce – Occupational Safety and Health Points of Contact
- Commerce OHRM Contacts (showing that Nancy McWilliams and her subordinate Richard Deny had responsibility in asbestos)
- HR Bulletin #07,FY06 29 CFR 1904.39

Sincerely,

Edgar D. Lee

Edgar D. Lee

Date: 05/16/11

May 16, 2011

PURCHASING REQUEST FORM

Type of Procurement			
☐ Bank Card _____ ☐ P.O. _____ ☐ BPA _____ ☐ Fedstrip _____	Name: Concentra Medical Centers Address: 811 Cromwell Pk. Drive Ste 104 Gllen Burnie, MD 21061 Contact: Customer Service Phone: 401-553-0110	Name: Address: Contact: Phone:	Name: Address: Contact: Phone:

DESCRIPTION	Qty	Issue Unit	Unit Price	Price	Qty	Issue Unit	Unit Price	Price	Qty	Issue Unit	Unit Price	Price
OSHA Respirator Exam	1	Pkg.		$167.00			$	$				$
TOTAL DOLLAR VALUE				$167.00				$				$

Justification: Personal protection for asbestos. A Health and Safety issue. Billable Document #_____

Requestor: Joseph Prebble Date: 5/01/07 Accounting Classification: 07/0181000/1109/2599

Approval _____ Date _____ GSA Activity Code _____

Qualitative Fit Test Form for Stannic Chloride

Name: [redacted] Date: 5/1/07

Company/Organization: Dept of Commerce

Medical Questionaire Completed? Yes No Date: _____

Respiratory Training Completed? Yes No Date: _____

Approved for Respirator use and wear? Yes No

Tested with necessary PPE? Yes No

Respirator Make: North Model: 7700 Series Size: Small

Canister or Cartridge used: Cartridge P100

Respirator Type: (Circle One) Dust Mask Air Purifying PAPR Supplied Air

Escape Only Pressure Demand SCBA

If respirator is a Dust Mask, please specify the rating:

N95 N99 N100 R95 R99 R100 P95 P99 P100

Tight fitting, positive pressure respirators are to be fit tested in the negative pressure mode.

Do not use a hood for this test

- Mirror available
- Respirator must be equipped with P100 filters.
- Position respirator
- Person must wear respirator for at least 5 minutes
- Check comfort
- Check fit
- Provide second choice of respirator if necessary
- Adjust properly
- Perform positive and negative pressure check
- Describe Test procedure and method
- Procedure: Normal Breathing 1 minute
- Deep breathing 1 minute turning head side to side
- Moving head up and down for 1 minute
- Talk loudly or read loudly for 1 minute
- Bend at the waist as if to touch toes for 1 minute
- Normal breathing for 1 minute
- Any adjustements during the test voids test and you must start over
- Cover the end of the tube with a short piece of plastic tube to protect wearer from jagged edges
- Take procautions to minimize wearers exposure to smoke.
- Perform test in area with adequate ventilation
- Smoke is administered for each of the test positions described earlier.
- No evidence of response, have wearer remove the respirator. Give wearer small dose without respirator if they respond, test is passed
- If there is no response by the wearer to the smoke, the test is void.

Qualitative Fit Test Form for Stannic Chloride

Name: [redacted] Date: 5/1/07

Company/Organization: _____

Medical Questionaire Completed? (Yes) No Date: _____

Respiratory Training Completed? Yes No Date: _____

Approved for Respirator use and wear? Yes No

Tested with necessary PPE? Yes No

Respirator Make: _____ Model: _____ Size: _____

Canister or Cartridge used: _____

Respirator Type: (Circle One) Dust Mask Air Purifying PAPR Supplied Air

Escape Only Pressure Demand SCBA

If respirator is a Dust Mask, please specify the rating:

N95 N99 N100 R95 R99 R100 P95 P99 P100

Tight fitting, positive pressure respirators are to be fit tested in the negative pressure mode.

Do not use a hood for this test

- Mirror available
- Respirator must be equipped with P100 filters.
- Position respirator
- Person must wear respirator for at least 5 minutes
- Check comfort
- Check fit
- Provide second choice of respirator if necessary
- Adjust properly
- Perform positive and negative pressure check
- Describe Test procedure and method:
- Procedure: Normal Breathing 1 minute
- Deep Breathing 1 minute turning head side to side
- Moving head up and down for 1 minute
- Talk loudly or read loudly for 1 minute
- Bend at the waist as if to touch toes for 1 minute
- Normal breathing for 1 minute
- Any adjustements during the test voids test and you must start over
- Cover the end of the tube with a short piece of plastic tube to protect wearer from jagged edges.
- Take procautions to minimize wearers exposure to smoke.
- Perform test in area with adequate ventilation
- Smoke is administered for each of the test positions described earlier
- No evidence of response, have wearer remove the respirator. Give wearer small dose without respirator if they respond, test is passed
- If there is no response by the wearer to the smoke, the test is void.

[redacted]

Historical Survey

Date: 5/7/07

Employment Start Date: [redacted]

Shop: Pipe

Duties: Plumber

Work you have personally completed or involved with in the attic:

Year water fountain filter repipe - 97

filter change

replace steam pipes

97 - 2004 - Every day - 2-3 hrs/day

How often do you enter the attic? 3-4 x's/week

What other contractors did you see working in the attic?

Contractor Name: Verizon Date:

Contractor Name: NRKFed Date:

Contractor Name: Date:

Have you ever made any penetrations in the attic? Yes/No

If yes, what for? Anchoring equipment

Are you aware of any penetrations made by any other contractors? Yes/No

If so, Where?

Qualitative Fit Test Form for Stannic Chloride

Name: [redacted] Date: 5/1/07

Company/Organization: Dept of Commerce

Medical Questionaire Completed? Yes No Date: _____

Respiratory Training Completed? Yes No Date: _____

Approved for Respirator use and wear? Yes No

Tested with necessary PPE? Yes No

Respirator Make: North Model: _____ Size: Medium

Canister or Cartridge used: _____

Respirator Type: (Circle One) Dust Mask (Air Purifying) PAPR Supplied Air Escape Only Pressure Demand SCBA

If respirator is a Dust Mask, please specify the rating:

N95 N99 N100 R95 R99 R100 P95 P99 (P100)

Tight fitting, positive pressure respirators are to be fit tested in the negative pressure mode.

Do not use a hood for this test

- Mirror available
- Respirator must be equipped with P100 filters.
- Position respirator
- Person must wear respirator for at least 5 minutes
- Check comfort
- Check fit
- Provide second choice of respirator if necessary
- Adjust properly
- Perform positive and negative pressure check
- Describe Test procedure and method
- Procedure: Normal Breathing 1 minute
- Deep breathing 1 minute turning head side to side
- Moving head up and down for 1 minute
- Talk loudly or read loudly for 1 minute
- Bend at the waist as if to touch toes for 1 minute
- Normal breathing for 1 minute
- Any adjustements during the test voids test and you must start over
- Cover the end of the tube with a short piece of plastic tube to protect wearer from jagged edges
- Take precautions to minimize wearers exposure to smoke.
- Perform test in area with adequate ventilation
- Smoke is administered for each of the test positions described earlier.
- No evidence of response, have wearer remove the respirator. Give wearer small dose without respirator if they respond, test is passed.
- If there is no response by the wearer to the smoke, the test is void.

PROCEDURE

1. Put on the respirator
   - Position the respirator on the face
   - Set strap tension
   - Determine an acceptable fit
2. Provide a mirror for employees to use.
3. Infom wearer that they are asked to select the respirator that provides the most acceptable fit.
   - Each respirator represents d different size and fit.
   - If fitted and used properly, each respirator will provide adequate protection
4. Hold respirator up to face and eliminate those that do not give an acceptable fit.
5. The most comfortable mask must be worn at least five minutes
   - If unfamiliar with mask, have them put it on several times.
6. Check for comfort by insuring room for eye protection, room to talk, position on face and cheeks.
   - Anytime during the testing procedure, if the respirator must be refitted to face, the test is void and must be started over.
7. Complete positive and negative seal check.
8. Insure no beards or stubble, hair or mustache and sideburns to affect sealing surface.
9. Normal breathing 1 minute.
10. Deep breathing 1 minute
11. Turning head side to side at extreme positions for 1 minute
12. Moving head up and down at extreme positions for 1 minute.
13. Talking out loud slowly and loud enough for tester to hear clearly for 1 minute, recite the rainbow passage or count down from 100.
14. Bending over at the waist as if to touch the toes for 1 minute
15. Normal breating again for 1 minute.
16. At each test step introduce smoke to the sealing surface.
17. Give wearer pssing the smoke test, without evidence of response a second sensitivity screening check with the smoke from the same tube. If they react to the smoke, they pass the test. The fit test is void if an employee does not respond to the smoke not wearing the respirator.

Did the wearer complete all the above requirements? Yes No

This respirator fit test is: Satisfactory Unsatisfactory

Reason for failure (if applicable):

Steps to be taken prior to the next fit test (if applicable):

Wearer's signature: _____ Date: _____

Program Administrator's Signature: _____ Date: _____

Fit Testing Official's Signature: _____ Date: _____

Fit Testing Official's Company: _____

My signature on this document indicates my agreement to use the assinged respirator in an approved manner in accordance with State and Federal requirements governing their use and limitations. I will abide by the policies of my employer regarding the use of the respirator for which I have been trained.

Qualitative Fit Test Form for Stannic Chloride

Name: [redacted] Date: 5/1/07

Company/Organization: Dept. of Commerce

Medical Questionaire Completed? (Yes) No Date: _____

Respiratory Training Completed? Yes No Date: _____

Approved for Respirator use and wear? (Yes) No

Tested with necessary PPE? (Yes) No

Respirator Make: North Model: 7700 Series Size: Medium

Canister or Cartridge used: Cartridge P100

Respirator Type: (Circle One)

Dust Mask (Air Purifying) PAPR Supplied Air

Escape Only Pressure Demand SCBA

If respirator is a Dust Mask, please specify the rating:

N95 N99 N100 R95 R99 R100 P95 P99 (P100)

Tight fitting, positive pressure respirators are to be fit tested in the negative pressure mode.

Do not use a hood for this test

- Mirror available
- Respirator must be equipped with P100 filters.
- Position respirator
- Person must wear respirator for at least 5 minutes
- Check comfort
- Check fit
- Provide second choice of respirator if necessary
- Adjust properly
- Perform positive and negative pressure check
- Describe Test procedure and method
- Procedure: Normal Breathing 1 minute
- Deep breathing 1 minute turning head side to side
- Moving head up and down for 1 minute
- Talk loudly or read loudly for 1 minute
- Bend at the waist as if to touch toes for 1 minute
- Normal breathing for 1 minute
- Any adjustements during the test voids test and you must start over
- Cover the end of the tube with a short piece of plastic tube to protect wearer from jagged edges.
- Take procautions to minimize wearers exposure to smoke.
- Perform test in area with adequate ventilation
- Smoke is administered for each of the test positions described earlier
- No evidence of response, have wearer remove the respirator. Give wearer small dose without respirator if they respond, test is passed.
- If there is no response by the wearer to the smoke, the test is void.

PERH SAFETY SYSTEMS
INCORPORATED

Qualitative Fit Test

Name: [redacted] Date: 12/3/07

Company/Organization: DOC/OSBM

Medical Questionaire Completed? (Yes) No Date:

Respiratory Training Completed? (Yes) No Date:

Approved for Respirator use and wear? (Yes) No

Tested with necessary PPE? (Yes) No

Respirator Make: North Model: 7700 Series HF Size: L

Canister or Cartridge used:

Respirator Type: (Circle One) Dust Mask (Air Purifying) PAPR Supplied Air

Escape Only Pressure Demand SCBA

If respirator is a Dust Mas k, please specif y the rating:

N95 N99 N100 R95 R99 R100 P95 P99 (P100)

Tight fitting, positive pressure respirators are to be fit tested in the negative pressure mode.

- Respirator must be equipped with P100 filters.
- Position respirator
- Person must wear respirator for at least 5 minutes
- Check comfort
- Check fit
- Provide second choice of respirator if necessary
- Adjust properly
- Perform positive and negative pressure check
- Describe Test procedure and method
- Procedure: Normal Breathing 1 minute

PERM SAFETY SYSTEMS
INCORPORATED

- Deep breathing 1 minute turning head side to side
- Moving head up and down for 1 minute
- Talk loudly or read loudly for 1 minute
- Bend at the waist as if to touch toes for 1 minute
- Normal breathing for 1 minute
- Any adjustements during the test voids test and you must start over
- Cover the end of the tube with a short piece of plastic tube to protect wearer from jagged edges.
- Take procautions to minimize wearers exposure to smoke.
- Perform test in area with adequate ventilation
- Smoke is administered for each of the test positions described earlier.
- No evidence of response, have wearer remove the respirator. Give wearer small dose without respirator, if they respond, test is passed.
- If there is no response by the wearer to the smoke, the test is void.

PROCEDURE

1. Put on the respirator Position the respirator on the face Set strap tension Determine an acceptable fit
2. Provide a mirror for employees to use.
3. Infom wearer that they are asked to select the respirator that provides the most acceptable fit. Each respirator represents d different size and fit. If fitted and used properly, each respirator will provide adequate protection
4. Hold respirator up to face and eliminate those that do not give an acceptable fit.
5. The most comfortable mask must be worn at least five minutes If unfamiliar with mask, have them put it on several times.
6. Check for comfort by insuring room for eye protection, room to talk, position on face and cheeks. Anytime during the testing procedure, if the respirator must be refitted to face, the test is void and must be started over.
7. Complete positive and negative seal check.
8. Insure no beards or stubble, hair or mustache and sideburns to affect sealing surface.
9. Normal breathing 1 minute.
10. Deep breathing 1 minute
11. Turning head side to side at extreme positions for 1 minute
12. Moving head up and down at extreme positions for 1 minute.
13. Talking out loud slowly and loud enough for tester to hear clearly for 1 minute, recite the rainbow passage or count down from 100.
14. Bending over at the waist as if to touch the toes for 1 minute
15. Normal breating again for 1 minute.
16. At each test step introduce smoke to the sealing surface.

PEAK SAFETY SYSTEMS
INCORPORATED

The Rainbow Passage

When the sunlight strikes raindrops in the air, they act as a prism and form a rainbow. The rainbow is a division of white light into many beautiful colors. These take the shape of a long round arch, with its path high above, and its two ends apparently beyond the horizon. There is , according to legend, a boiling pot of gold at one end. People look, but no one ever finds it. When a man looks for something beyond his reach, his friends say he is looking for the pot of gold at the end of the rainbow.

Did the wearer complete all the above requirements? Yes No

This respirator fit test is: Satisfactory Unsatisfactory

Reason for failure (if applicable):

Wearer's signature: [redacted]

Date: 12/3/07

Testing Official: Monica Burnett

Signature Monica Burnett

My signature on this document indicates my agreement to use the assigned respirator in an approved manner in accordance with State and Federal requirements governing their use and limitations. I will abide by the policies of my employer regarding the use of the respirator for which I have been trained.

PERK SAFETY SYSTEMS
INCORPORATED

Qualitative Fit Test

Name: [redacted] Date: 12/3/07

Company/Organization: DOC/OSBM

Medical Questionaire Completed? Yes No Date:

Respiratory Training Completed? Yes No Date:

Approved for Respirator use and wear? Yes No

Tested with necessary PPE? Yes No

Respirator Make: North Model: 7700 Series HF Size: L

Canister or Cartridge used:

Respirator Type: (Circle One) Dust Mask Air Purifying PAPR Supplied Air

Escape Only Pressure Demand SCBA

If respirator is a Dust Mask, please specify the rating:

N95 N99 N100 R95 R99 R100 P95 P99 P100

Tight fitting, positive pressure respirators are to be fit tested in the negative pressure mode.

- Respirator must be equipped with P100 filters.
- Position respirator
- Person must wear respirator for at least 5 minutes
- Check comfort
- Check fit
- Provide second choice of respirator if necessary
- Adjust properly
- Perform positive and negative pressure check
- Describe Test procedure and method
- Procedure: Normal Breathing 1 minute

PERK SAFETY SYSTEMS
INCORPORATED

- Deep breathing 1 minute turning head side to side
- Moving head up and down for 1 minute
- Talk loudly or read loudly for 1 minute
- Bend at the waist as if to touch toes for 1 minute
- Normal breathing for 1 minute
- Any adjustements during the test voids test and you must start over
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- No evidence of response, have wearer remove the respirator. Give wearer small dose without respirator, if they respond, test is passed.
- If there is no response by the wearer to the smoke, the test is void.

PROCEDURE

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4. Hold respirator up to face and eliminate those that do not give an acceptable fit.
5. The most comfortable mask must be worn at least five minutes If unfamiliar with mask, have them put it on several times.
6. Check for comfort by insuring room for eye protection, room to talk, position on face and cheeks. Anytime during the testing procedure, if the respirator must be refitted to face, the test is void and must be started over.
7. Complete positive and negative seal check.
8. Insure no beards or stubble, hair or mustache and sideburns to affect sealing surface.
9. Normal breathing 1 minute.
10. Deep breathing 1 minute
11. Turning head side to side at extreme positions for 1 minute
12. Moving head up and down at extreme positions for 1 minute.
13. Talking out loud slowly and loud enough for tester to hear clearly for 1 minute, recite the rainbow passage or count down from 100.
14. Bending over at the waist as if to touch the toes for 1 minute
15. Normal breating again for 1 minute.
16. At each test step introduce smoke to the sealing surface.

PERH SAFETY SYSTEMS
INCORPORATED

The Rainbow Passage

When the sunlight strikes raindrops in the air, they act as a prism and form a rainbow. The rainbow is a division of white light into many beautiful colors. These take the shape of a long round arch, with its path high above, and its two ends apparently beyond the horizon. There is , according to legend, a boiling pot of gold at one end. People look, but no one ever finds it. When a man looks for something beyond his reach, his friends say he is looking for the pot of gold at the end of the rainbow.

Did the wearer complete all the above requirements? Yes No

This respirator fit test is: Satisfactory Unsatisfactory

Reason for failure (if applicable):

Wearer's signature: [redacted]

Date: 12/3/07

Testing Official: Monica Burnett

Signature Monica Burnett

My signature on this document indicates my agreement to use the assigned respirator in an approved manner in accordance with State and Federal requirements governing their use and limitations. I will abide by the policies of my employer regarding the use of the respirator for which I have been trained.

Concentra Medical Centers (MD)
811 Cromwell Pk Dr Ste 104 Glen Burnie, MD 21061
Phone: (410) 553-0110 Fax: (410) 553-0197

Service Date: 05/02/2007

Physical Exam

Name: [redacted]

[redacted]

Date: 05/02/2007

Examination Results

✓ Able to perform essential functions as listed.

____ Unable to perform all essential functions as listed. Please list failed essential function(s):

✓ No medical restrictions are indicated.

____ The following medical restrictions are indicated:

____ Recommend further evaluation.

Remarks:

Marilyn Heins, PA-C
MD - C0002019

Provider Print Name Here

Provider Signature

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EMPLOYER AUTHORIZATION AND INFORMATION FOR RESPIRATORY EVALUATION

EMPLOYER TO COMPLETE THE FOLLOWING :

Employee Name: [redacted]

Address: [redacted]

Employer: Elevators

Employee SSN: [redacted]

Check Type of Respirator(s) To Be Used (Check ✓ ALL that apply)

- ☐ Air-purifying (non-powered)
- ☐ Air-purifying (powered)
- ☐ Atmosphere supplying Respirator
- ☐ Combination air-line and SCBA
- ☐ Continous-Flow Respirator
- ☐ Supplied-Air Respirator
- ☐ Open Circuit SCBA
- ☐ Closed Circuit SCBA
- ☐ Dust Mask
- ☐ 1/2 Face with Canisters
- ☐ Full Face with Canisters

Make: _____ Model: _____ Cartridge: _____

Extent of Useage (Check ✓ ALL that apply)

- ☐ On a daily basis _____ Total Hours
- ☐ Occasionally - but not more than twice a week _____ Total Hours
- ☐ Rarely - or for Emergency situations only _____ Total Hours

Expected Physical Effort Required (Check ✓ ALL that apply)

- ☐ Light
- ☐ Moderate
- ☐ Heavy

Exposure to Hazardous Materials (Check ✓ ALL that apply)

- ☐ Arsenic
- ☐ Benzene
- ☐ Coke Oven
- ☐ Cotton Seed / Dust
- ☐ Cadmium
- ☐ Formaldehyde
- ☐ Methylene Chloride
- ☐ Lead
- ☐ Textiles
- ☐ Chromium

Other(s): _____

Special Work Conditions
(Check ✓ ALL That Apply When Wearing Respirator)

- ☐ High Places
- ☐ Enclosed Places
- ☐ Protective Clothing
- ☐ Temperature Extremes
- ☐ Mostly Cold
- ☐ Mostly Hot
- ☐ Other: _____

Questionare will be: ☐ HAND CARRIED ☐ MAILED ☐ OTHER

EVALUATION AUTHORIZATION BY: _____
Signature of Employer Representative

DO NOT WRITE BELOW THIS LINE — DO NOT WRITE BELOW THIS LINE — DO NOT WRITE BELOW THIS LINE

PLHCP[1] WRITTEN STATEMENT for RESPIRATORS (EMPLOYER)

PHYSICIAN WILL COMPLETE THE FOLLOWING

This report may contain confidential medical information and is intended for the designated employer contact only. The Americans with Disabilities Act (ADA) imposes very strict limitations on the use of information obtained during physical examination of qualified individuals with disabilities. All information [illegible] be collected and maintained on seperate forms, in seperate files, and must be treated as a confidential medical record, with the following exceptions:

- Supervisors and managers may be informed about necessary restrictions on the work or duties of an employee and necessary accommodations.
- First aid and safety personnel may be informed, when appropriate, if the disability might require emergency treatment.

Based upon my findings, I have determined that this individual (Check ✓ ALL that apply)

- ☐ Employee must schedule a medical examination with _____ prior to respirator approval and usage.
- ☑ Class I - No Restrictions on Respirator Use
- ☐ Class II - Some Specific Use Restrictions
- ☐ To be used for Emergency Response or Escape Only
- ☐ Other: _____
- ☐ Class III - Respirator Use is NOT PERMITTED
- ☐ Further Testing / Evaluation is Required.[2]
- ☐ Fit Test Required
- ☐ Fit Test Performed Satisfactorily
- ☐ Fit Test Performed Unsatisfactorily
- ☑ Fit Test NOT Performed at: _____
- ☐ Special prescription eyewear needed to accommodate respirator
- ☐ Special prescription eyewear needed to accommodate respirator
- ☐ Facial hair needs to be shaved to assure tight seal on certain face masks.

[1] Physician or other Licensed Healthcare Professional

[2] Employee must seek further medical evaluation by a private physician who must submit a report to _____ of his/her findings to

(Check ✓ ALL that apply)

- ☑ The above individual HAS been examined for respirator fitness in accordance with 29 CFR 1910.134. This limited evaluation is specific to respirator use only. Employees should be instructed to report any difficulties in using respirators or change of any physical status to their supervisor or physician. This evaluation included the Respiratory Questionnaire outlined in 29 CFR 1910.134.
- ☐ The above individual HAS NOT been examined by me for respirator fitness. The employee's medical evaluation consisted of a review of OSHA's Medical Evaluation Questionnaire in Appendix C Part A Section 2. In accordance with 29 CFR 1910.134, this limited evaluation is specific to respirator use only. Employees would be instructed to report any difficulties in using respirators or change of any physical status to their supervisor or physician. This evaluation included the Respiratory Questionnaire outlined in 29 CFR 1910.134.
- ☑ In accordance with specific OSHA requirements, I have informed the above named individual of the results of this evaluation and of any medical conditions resulting from exposures that may require further explanation or treatment. Where applicable, the above named individual has been informed of the increased risk of lung cancer attributable to the combined effect of smoking and asbestos, lead and/or other chemical exposure(s).

Marilyn Heins, PA-C
Physician's Signature — Physician's Name (Printed)

MD - C0002019 — 5-2-07 — 5-2-08
Physician's License Number (Optional in Most States) — Date of Exam — Expires On

To be maintained in the employee's file with a copy to the employee

PLHCP[1] WRITTEN STATEMENT for RESPIRATORS (EMPLOYEE)

Service Date: 5.2.07

Employee Name: [redacted]

Employee SSN: [redacted]

Address: [redacted]

Employer: Elevator's

You were evaluated in this office of your medical status related to your physical capability to wear a respirator. (Check ✓ one that applies)

- ☑ There were no abnormal findings that would hamper your ability to perform your job duties while wearing a respirator.
- ☐ The abnormal findings listed below were not related to wearing a respirator but should be reported to your personal physician for further evaluation.

Based upon the results of this evaluation it is my opinion that you: (Check ✓ ALL that apply)

- ☑ ARE qualified to wear a respirator.
- ☐ Have the following restrictions concerning respirator usage: _____
- ☐ ARE NOT qualified to wear a respirator.
- ☐ Require further testing by your private physician who must submit a written report of his/her findings to _____ so that a final decision on your ability to wear a respirator can be made.
- ☐ Must wear Special prescription eye-wear needed to accommodate respirator.
- ☐ Must use an Eye glass conversion kit.
- ☐ May need to shave Facial hair to assure tight seal on certain face masks.
- ☐ Need to stop smoking.

(Check ✓ ALL that apply)

- ☑ The above individual HAS been examined for respirator fitness in accordance with 29 CFR 1910.134. This limited evaluation is specific to respirator use only. Employees should be instructed to report any difficulties in using respirators or change of any physical status to their supervisor or physician. This evaluation included the Respiratory Questionnaire outlined in 29 CFR 1910.134.
- ☐ The above individual HAS NOT been examined by me for respirator fitness. The employee's medical evaluation consisted of a review of OSHA's Medical Evaluation Questionnaire in Appendix C Part A Section 2. In accordance with 29 CFR 1910.134, this limited evaluation is specific to respirator use only. Employees should be instructed to report any difficulties in using respirators or change of any physical status to their supervisor or physician. This evaluation included the Respiratory Questionnaire outlined in 29 CFR 1910.134.
- ☑ In accordance with specific OSHA requirements, I have informed the above named individual of the results of this evaluation and of any medical conditions resulting from exposures that may require further explanation or treatment. Where applicable, the above named individual has been informed of the increased risk of lung cancer attributable to the combined effect of smoking and asbestos, lead and/or other chemical exposure(s).

Respirators must be properly selected based on the containment and concentration levels to which the worker will be exposed. Failure to follow the use and fitting instruction and warnings for proper use contained on the respirator packaging and/or failure to wear the respirator during all times of exposure can reduce the respirator's effectiveness and result in sickness or death. Wearer must be trained in the proper care of any respirator. Refer to product literature and packaging for specific information regarding fit, use and/or limitations.

PLHCP Signature

[redacted]

Employee's Signature

Marilyn Heins, PA-C

PLHCP Name (printed)

MD - C0002019

5.2.08

Expiration Date

[1] Physician or other Licensed Healthcare Professional

To be maintained in the employee's file with a copy to the employee

SPIROMETRY REPORT CONCENTRA
PB100 SW Rev: J-J

TEST DATE: 05/02/07
TIME: 09:32 AM

Patient Name:
Patient ID: [redacted] Age: [redacted] Height (in): [redacted] Weight (lbs): [redacted] PreMed Time: 09:34 AM
Sex: [redacted] Race Correction [redacted] Smoker: [redacted]
Barometric Pressure (mmHg): 760 Temp (deg F): 70 BTPS Correction: 1.110 Sensor: FS200 Insp Code: None
Last Cal Date: 05/02/07

FVC TEST DATA - Clinical Format ALL DATA FORMAT (* indicates best value) Knudson 83 Adult Predicted Normals

Measurement		PreMed QC	TRIAL 3	TRIAL 5	TRIAL 4	Pred	%Pred	PostMed QC	%Pred	%Change
FVC	(L)	B	5.25*	5.09	4.86	6.53	80%			
FEV1	(L)	C	3.90*	3.67	3.38	5.36	73%			
%FEV1	(%)		74.28*	72.10	69.54	81.48	91%			
FEF25%-75%	(L/S)		3.01*	2.61	2.25	5.46	55%			
PEF	(L/S)		8.90*	9.60	8.75	11.00	81%			
FEV3	(L)		4.90*	4.78	4.46	5.89	83%			
FET	(S)		7.13*	6.76	6.96					

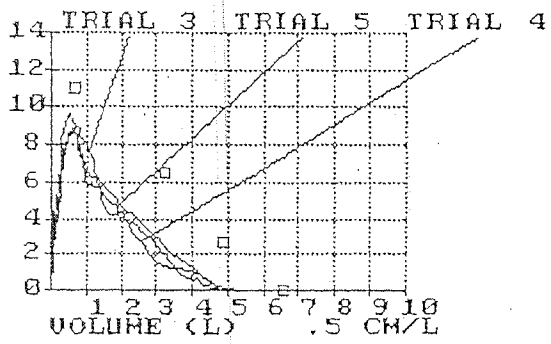
Variability: PreMed: FVC = 3.0%(160ml) FEV1 = 5.9%(230ml) PEF = 7.3%

PREMED

□ = PRED POINT

FLOW (L/S)

.25 CM/L/S

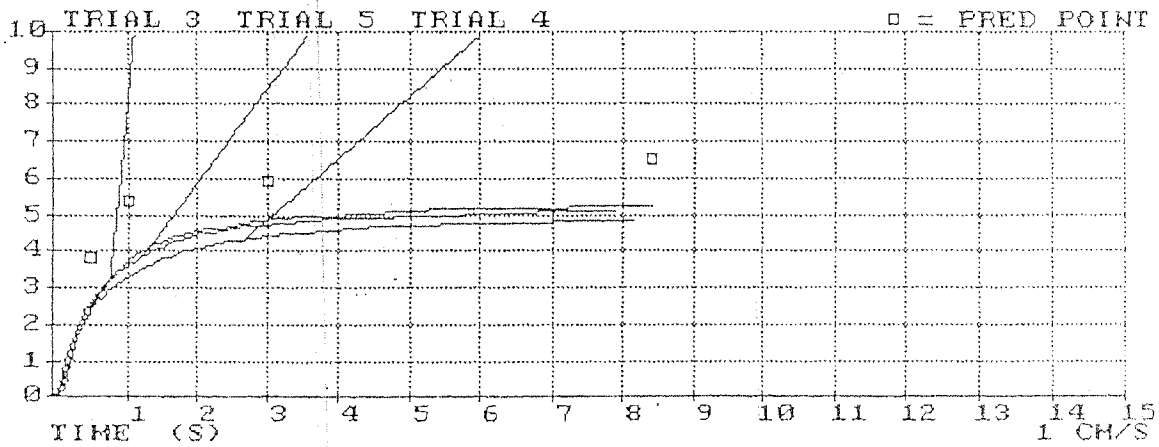


PREMED

□ = PRED POINT

VOLUME (L)

.5 CM/L



[redacted]

[redacted]

X-Ray# 010030

[redacted]

[redacted]

Service Date: 05/02/2007
Case Date: 05/02/2007
Employer:

Patient Shielded

Cyberlyte [redacted]

1 view

PA CHEST

The lungs are clear. Heart size is normal. There is mild to moderate mid dorsal right convex scoliosis.

IMPRESSION: There is no active cardiopulmonary disease.
There is incidental mid dorsal dextroscoliosis.

[redacted]

[redacted]

5/8/07

MAY 10 2007

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FEDERAL OCCUPATIONAL HEALTH

MEDICAL SURVEILLANCE MANAGEMENT PROGRAM
MEDICAL HISTORY AND PHYSICAL EXAMINATION FORM

Part V. Report to Employee
(to be completed by the reviewer)

NAME [redacted] SSN [redacted]

AGENCY DOC- Medical Surveillance EXAM DATE 05-02-07

CITY/STATE _____ HEALTH CENTER A7E

Summary of occupational medicine consultant review: Confidential report to the employee

The examiner who performed your medical surveillance exam should have discussed important findings of the exam, and made suggestions to you about any medical follow-up that was needed. THIS REVIEW DOES NOT CONSIDER ALL OF THE ABNORMALITIES THAT MIGHT HAVE BEEN NOTED ON YOUR EXAMINATION. That is the responsibility of the examining physician. The following comments relate to findings that might bear on your ability to safely and healthfully perform in your position.

Comments by the occupational medicine consultant: NONE

No Duty restrictions noted

7/25/07

If you have questions, please call me at Enclosed are copies of the (DOC Building Mgmnt Staff) Medical Surveillance Exams for your files.

Christopher S. Holland, MD, MPH [redacted]

MEDICAL SURVEILLANCE MANAGEMENT PROGRAM

MEDICAL HISTORY AND PHYSICAL EXAMINATION FORM

Part VI. Report to Employer

(to be completed by the reviewer)

NAME [redacted] SSN [redacted]

AGENCY DOC- Medical Surveillance EXAM DATE 05-02-07

CITY/STATE _____ HEALTH CENTER A7E

Medical Opinion: (*check all that apply*)

The employee has been informed of the following medical opinion.

[X] No medical findings were noted that indicate work-related injury/illness.

Where non-work-related significant findings were noted, a referral has been made at the employee's expense.

[ ] Medical findings support a work-related injury/illness or hazardous exposure, see recommendations below.

[ ] Medical findings or exposure history warrant a review of work activities, see recommendations below.

[ ] Decision deferred, additional documentation needed. Please provide the documentation listed below..

[ ] Work limitations recommended: (*Specify limitations and re-evaluation date below*).

Comments by the occupational medicine consultant: NONE

No Duty restrictions noted

Limitations should be reevaluated _____ (*Date*)

Clearances:

[X] Employee has been cleared for the routine duties outlined in the provided job description.

[ ] Motor Vehicle Clearance (DOT/DMV) Expires _____

[X] Other. Specify _____ Expires _____

(e.g., crane operator, diver, fire fighter, arduous duty)

Respirator Clearance (select one box ☐ and provide comments as appropriate)

X *This employee has been found to be physically able to use the following (check each [ ] that applies):*

(see Respirator Medical Evaluation Questionnaire form for specific types and uses requiring clearance)

[x] Single use, filter mask (four attachment points)

[x] Full-faced cartridge-type respirator, negative pressure

[x] Full-faced powered cartridge-type (PAPR)

[x] Hood/helmet powered cartridge-type (PAPR) (NOT positive pressure)

[x] Half-faced cartridge-type, negative pressure

[x] Half-faced powered cartridge-type (PAPR)

[x] Self-contained breathing apparatus (SCBA)

[x] Half-faced/Full-faced/Hood/Helmet (positive pressure airline respirator)

When wearing a respirator, the employee has been informed to limit activity level* to the following (check one [ ]):

[x] Mild Exertion [ ] Moderate Exertion [ ] Heavy Exertion (No specified limitations)

Other limitations needed (if any) when wearing a respirator: _____

This respirator clearance expires x1 2 3 years from the date below. (*If not marked, clearance expires in 1 year*) (*circle one*)

☐ *This employee has been found to be physically NOT able to use a respirator*

☐ *There is insufficient information to make a determination at this time*

The following additional tests, or medical information, will be required in order to make a determination regarding the safe use of a respirator by this employee: _____

Christopher S. Holland, MD, MPH — Reviewer's Name (Print)

Reviewer's Signature

07-23-07 — Date

* Light/Mild exertion (2-3 METS)= negligible lifting, extended walking (flat surface), extended standing, writing

Moderate exertion (4-5 METS) = lifting 10lbs (5 or more lifts/min), fast walking (4mph), gardening/digging, pushing, pulling

Heavy exertion (5-10 METS) = jogging (10minute mile), chopping wood, climbing hills, life-saving activities, firefighting

MEDICAL SURVEILLANCE MANAGEMENT PROGRAM

MEDICAL HISTORY AND PHYSICAL EXAMINATION FORM

Part V. Report to Employee

(to be completed by the reviewer)

NAME [redacted] SSN [redacted]

AGENCY DOC- Medical Surveillance EXAM DATE 04-30-07

CITY/STATE _____ HEALTH CENTER A7E

Summary of occupational medicine consultant review: Confidential report to the employee

The examiner who performed your medical surveillance exam should have discussed important findings of the exam, and made suggestions to you about any medical follow-up that was needed. THIS REVIEW DOES NOT CONSIDER ALL OF THE ABNORMALITIES THAT MIGHT HAVE BEEN NOTED ON YOUR EXAMINATION. That is the responsibility of the examining physician. The following comments relate to findings that might bear on your ability to safely and healthfully perform in your position.

Comments by the occupational medicine consultant: Follow-up with your cardiology physician if you experience any chest pain, chest tightness during work activities.

No Duty restrictions noted

If you have questions, please call me at 301-594-0272

Christopher S. Holland, MD, MPH _____ 07-17-07

MEDICAL SURVEILLANCE MANAGEMENT PROGRAM

MEDICAL HISTORY AND PHYSICAL EXAMINATION FORM

Part VI: Report to Employer

(to be completed by the reviewer)

NAME [redacted] SSN [redacted]

AGENCY DOC- Medical Surveillance EXAM DATE 04-30-07

CITY/STATE _____ HEALTH CENTER A7E

Medical Opinion: (*check all that apply*)

The employee has been informed of the following medical opinion.

[X] No medical findings were noted that indicate work-related injury/illness.

Where non-work-related significant findings were noted, a referral has been made at the employee's expense.

[ ] Medical findings support a work-related injury/illness or hazardous exposure, see recommendations below

[ ] Medical findings or exposure history warrant a review of work activities, see recommendations below.

[ ] Decision deferred, additional documentation needed. Please provide the documentation listed below..

[ ] Work limitations recommended. (*Specify limitations and re-evaluation date below*).

Comments by the occupational medicine consultant: Follow-up with your cardiology physician if you experience any chest pain, chest tightness during work activities.

No Duty restrictions noted Comments: NONE

Limitations should be reevaluated _____ (*Date*)

Clearances:

[X] Employee has been cleared for the routine duties outlined in the provided job description.

[ ] Motor Vehicle Clearance (DOT/DMV) Expires _____

[X] Other. Specify _____ Expires _____

(e.g., crane operator, diver, fire fighter, arduous duty)

Respirator Clearance (select one box ☐ and provide comments as appropriate)

X *This employee has been found to be physically able to use the following (check each [ ] that applies):*

(see Respirator Medical Evaluation Questionnaire form for specific types and uses requiring clearance)

[x]	Single use, filter mask (four attachment points)	[x]	Half-faced cartridge-type, negative pressure
[x]	Full-faced cartridge-type respirator, negative pressure	[x]	Half-faced powered cartridge-type (PAPR)
[x]	Full-faced powered cartridge-type (PAPR)	[x]	Self-contained breathing apparatus (SCBA)
[x]	Hood/helmet powered cartridge-type (PAPR) (NOT positive pressure)	[x]	Half-faced/Full-faced/Hood/Helmet (positive pressure airline respirator)

When wearing a respirator, the employee has been informed to limit activity level* to the following (check one [ ]):

[x] Mild Exertion [ ] Moderate Exertion [ ] Heavy Exertion (No specified limitations)

Other limitations needed (if any) when wearing a respirator: _____

This respirator clearance expires x1 2 3 years from the date below. (*If not marked, clearance expires in 1 year*) (*circle one*)

☐ *This employee has been found to be physically NOT able to use a respirator*

☐ *There is insufficient information to make a determination at this time*

The following additional tests, or medical information, will be required in order to make a determination regarding the safe use of a respirator by this employee: _____

Christopher S. Holland, MD, MPH — Reviewer's Name (Print)

Reviewer's Signature

07-17-07 — Date

* Light/Mild exertion (2-3 METS)= negligible lifting, extended walking (flat surface), extended standing, writing

Moderate exertion (4-5 METS) = lifting 10lbs (5/or more lifts/min), fast walking (4mph), gardening/digging, pushing, pulling

Heavy exertion (5-10 METS) = jogging (10minute mile), chopping wood, climbing hills, life-saving activities, firefighting

FEDERAL OCCUPATIONAL HEALTH

MEDICAL SURVEILLANCE MANAGEMENT PROGRAM
MEDICAL HISTORY AND PHYSICAL EXAMINATION FORM

Part V. Report to Employee
(to be completed by the reviewer)

NAME [redacted] SSN [redacted]

AGENCY DOC- Medical Surveillance EXAM DATE 04-30-07

CITY/STATE _____ HEALTH CENTER A7E

Summary of occupational medicine consultant review: Confidential report to the employee

The examiner who performed your medical surveillance exam should have discussed important findings of the exam, and made suggestions to you about any medical follow-up that was needed. THIS REVIEW DOES NOT CONSIDER ALL OF THE ABNORMALITIES THAT MIGHT HAVE BEEN NOTED ON YOUR EXAMINATION. That is the responsibility of the examining physician. The following comments relate to findings that might bear on your ability to safely and healthfully perform in your position.

Comments by the occupational medicine consultant. (1) Rt ear moderate/ severe hearing loss. Recommend review with a Masters trained audiologist or ENT physician. Avoid exposure to hazardous noise. When avoidance is not feasible, please wear appropriate hearing protection.

No Duty restrictions noted

If you have questions, please call me at 301-594-0272.

Christopher S. Holland, MD, MPH _____ 07-17-07

MEDICAL SURVEILLANCE MANAGEMENT PROGRAM

MEDICAL HISTORY AND PHYSICAL EXAMINATION FORM

Part VI- Report to Employer

(to be completed by the reviewer)

NAME [redacted] SSN [redacted]

AGENCY DOC- Medical Surveillance EXAM DATE 04-30-07

CITY/STATE _____ HEALTH CENTER A7E

Medical Opinion: *(check all that apply)*

The employee has been informed of the following medical opinion.

[X] No medical findings were noted that indicate work-related injury/illness.

Where non-work-related significant findings were noted, a referral has been made at the employee's expense.

[ ] Medical findings support a work-related injury/illness or hazardous exposure, see recommendations below.

[ ] Medical findings or exposure history warrant a review of work activities, see recommendations below.

[ ] Decision deferred, additional documentation needed. Please provide the documentation listed below.

[ ] Work limitations recommended. *(Specify limitations and re-evaluation date below).*

Comments by the occupational medicine consultant. (1) Rt ear moderate/ severe hearing loss. Recommend review with a Masters trained audiologist or ENT physician. Avoid exposure to hazardous noise. When avoidance is not feasible, please wear appropriate hearing protection.

No Duty restrictions noted

Limitations should be reevaluated _____ *(Date)*

Clearances:

[X] Employee has been cleared for the routine duties outlined in the provided job description.

[ ] Motor Vehicle Clearance (DOT/DMV) Expires _____

[X] Other. Specify _____ Expires _____

(e.g., crane operator, diver, fire fighter; arduous duty)

Respirator Clearance (select one box ☐ and provide comments as appropriate)

X *This employee has been found to be physically able to use the following (check each [ ] that applies):*

(see Respirator Medical Evaluation Questionnaire form for specific types and uses requiring clearance)

[x]	Single use, filter mask (four attachment points)	[x]	Half-faced cartridge-type, negative pressure
[x]	Full-faced cartridge-type respirator, negative pressure	[x]	Half-faced powered cartridge-type (PAPR)
[x]	Full-faced powered cartridge-type (PAPR)	[x]	Self-contained breathing apparatus (SCBA)
[x]	Hood/helmet powered cartridge-type (PAPR) (NOT positive pressure)	[x]	Half-faced/Full-faced/Hood/Helmet (positive pressure airline respirator)

When wearing a respirator, the employee has been informed to limit activity level* to the following (check one [ ]):

[x] Mild Exertion [ ] Moderate Exertion [ ] Heavy Exertion (No specified limitations)

Other limitations needed (if any) when wearing a respirator: _____

This respirator clearance expires x1 2 3 years from the date below. *(If not marked, clearance expires in 1 year)*
(circle one)

☐ *This employee has been found to be physically NOT able to use a respirator*

☐ *There is insufficient information to make a determination at this time*

The following additional tests, or medical information, will be required in order to make a determination regarding the safe use of a respirator by this employee: _____

Christopher S. Holland, MD, MPH _____ 07-17-07

Reviewer's Name (Print) Reviewer's Signature Date

* Light/Mild exertion (2-3 METS)= negligible lifting, extended walking (flat surface), extended standing, writing
Moderate exertion (4-5 METS) = lifting 10lbs (5 or more lifts/min), fast walking (4mph), gardening/digging, pushing, pulling
Heavy exertion (5-10 METS) = jogging (10minute mile), chopping wood, climbing hills, life-saving activities, firefighting

FEDERAL OCCUPATIONAL HEALTH

MEDICAL SURVEILLANCE MANAGEMENT PROGRAM
MEDICAL HISTORY AND PHYSICAL EXAMINATION FORM

Part V. Report to Employee
(to be completed by the reviewer)

NAME [redacted] SSN [redacted]

AGENCY DOC- Medical Surveillance EXAM DATE 05-01-07

CITY/STATE _____ HEALTH CENTER A7E

Summary of occupational medicine consultant review: Confidential report to the employee

The examiner who performed your medical surveillance exam should have discussed important findings of the exam, and made suggestions to you about any medical follow-up that was needed. THIS REVIEW DOES NOT CONSIDER ALL OF THE ABNORMALITIES THAT MIGHT HAVE BEEN NOTED ON YOUR EXAMINATION. That is the responsibility of the examining physician. The following comments relate to findings that might bear on your ability to safely and healthfully perform in your position.

Comments by the occupational medicine consultant: (1) Moderate hearing loss noted. Recommend: Avoid hazardous noise. When avoidance is not feasible, wear appropriate hearing protection.

Duty restrictions as noted

If you have questions, please call me at 301-594-0272

Christopher S. Holland, MD, MPH _____ 07-23-07

MEDICAL SURVEILLANCE MANAGEMENT PROGRAM
MEDICAL HISTORY AND PHYSICAL EXAMINATION FORM
Part VI. Report to Employer
(to be completed by the reviewer)

NAME [redacted] SSN [redacted]

AGENCY DOC- Medical Surveillance EXAM DATE 05-01-07

CITY/STATE _____ HEALTH CENTER A7E

Medical Opinion: (*check all that apply*)
The employee has been informed of the following medical opinion.
[X] No medical findings were noted that indicate work-related injury/illness.
Where non-work-related significant findings were noted, a referral has been made at the employee's expense.
[ ] Medical findings support a work-related injury/illness or hazardous exposure, see recommendations below.
[ ] Medical findings or exposure history warrant a review of work activities, see recommendations below.
[ ] Decision deferred, additional documentation needed. Please provide the documentation listed below..
[ ] Work limitations recommended. (*Specify limitations and re-evaluation date below*).

Comments by the occupational medicine consultant: (1) Moderate hearing loss noted. Recommend: Avoid hazardous noise. When avoidance is not feasible, wear appropriate hearing protection. Supervisors should be aware of this potential impairment when making duty assignments.

Duty restrictions as noted

Limitations should be reevaluated _____ (*Date*)

Clearances:
[X] Employee has been cleared for the routine duties outlined in the provided job description.
[ ] Motor Vehicle Clearance (DOT/DMV) Expires _____
[X] Other. Specify _____ Expires _____
(e.g., crane operator, diver, fire fighter, arduous duty)

Respirator Clearance (select one box ☐ and provide comments as appropriate)

X *This employee has been found to be physically able to use the following (check each [ ] that applies):*
(see Respirator Medical Evaluation Questionnaire form for specific types and uses requiring clearance)

[x]	Single use, filter mask (four attachment points)	[x]	Half-faced cartridge-type, negative pressure
[x]	Full-faced cartridge-type respirator, negative pressure	[x]	Half-faced powered cartridge-type (PAPR)
[x]	Full-faced powered cartridge-type (PAPR)	[x]	Self-contained breathing apparatus (SCBA)
[x]	Hood/helmet powered cartridge-type (PAPR) (NOT positive pressure)	[x]	Half-faced/Full-faced/Hood/Helmet (positive pressure airline respirator)

When wearing a respirator, the employee has been informed to limit activity level* to the following (check one [ ]):
[x] Mild Exertion [ ] Moderate Exertion [ ] Heavy Exertion (No specified limitations)

Other limitations needed (if any) when wearing a respirator: _____

This respirator clearance expires x1 2 3 years from the date below. (*If not marked, clearance expires in 1 year*) (*circle one*)

☐ *This employee has been found to be physically NOT able to use a respirator*

☐ *There is insufficient information to make a determination at this time*
The following additional tests, or medical information, will be required in order to make a determination regarding the safe use of a respirator by this employee: _____

Christopher S. Holland, MD, MPH _____ 07-23-07
Reviewer's Name (Print) Reviewer's Signature Date

* Light/Mild exertion (2-3 METS)= negligible lifting, extended walking (flat surface), extended standing, writing
Moderate exertion (4-5 METS) = lifting 10lbs (5 or more lifts/min), fast walking (4mph), gardening/digging, pushing, pulling
Heavy exertion (5-10 METS) = jogging (10 minute mile), chopping wood, climbing hills, life-saving activities, firefighting

MEDICAL HISTORY AND PHYSICAL EXAMINATION FORM

Part V. Report to Employee
(to be completed by the reviewer)

NAME [redacted] SSN [redacted]

AGENCY DOC- Medical Surveillance EXAM DATE 04-30-07

CITY/STATE _____ HEALTH CENTER A7E

Summary of occupational medicine consultant review: Confidential report to the employee

The examiner who performed your medical surveillance exam should have discussed important findings of the exam, and made suggestions to you about any medical follow-up that was needed. THIS REVIEW DOES NOT CONSIDER ALL OF THE ABNORMALITIES THAT MIGHT HAVE BEEN NOTED ON YOUR EXAMINATION. That is the responsibility of the examining physician. The following comments relate to findings that might bear on your ability to safely and healthfully perform in your position.

Comments by the occupational medicine consultant. NONE

No Duty restrictions noted

If you have questions, please call me at 301-594-0272

Christopher S. Holland, MD, MPH _____ 07-17-07

MEDICAL HISTORY AND PHYSICAL EXAMINATION FORM

Part VI. Report to Employer

(to be completed by the reviewer)

NAME [redacted] SSN [redacted]

AGENCY DOC- Medical Surveillance EXAM DATE 04-30-07

CITY/STATE _____ HEALTH CENTER A7E

Medical Opinion: (*check all that apply*)
The employee has been informed of the following medical opinion.
[X] No medical findings were noted that indicate work-related injury/illness.
Where non-work-related significant findings were noted, a referral has been made at the employee's expense.
[ ] Medical findings support a work-related injury/illness or hazardous exposure, see recommendations below.
[ ] Medical findings or exposure history warrant a review of work activities, see recommendations below.
[ ] Decision deferred, additional documentation needed. Please provide the documentation listed below..
[ ] Work limitations recommended: (*Specify limitations and re-evaluation date below*).

Comments by the occupational medicine consultant. NONE

No Duty restrictions noted

Limitations should be reevaluated _____ (*Date*)

Clearances:
[X] Employee has been cleared for the routine duties outlined in the provided job description.
[ ] Motor Vehicle Clearance (DOT/DMV) Expires _____
[X] Other. Specify _____ Expires _____
(e.g., crane operator, diver, fire fighter, arduous duty)

Respirator Clearance (select one box ☐ and provide comments as appropriate)

X *This employee has been found to be physically able to use the following (check each [ ] that applies):*
(see Respirator Medical Evaluation Questionnaire form for specific types and uses requiring clearance)

[x]	Single use, filter mask (four attachment points)	[x]	Half-faced cartridge-type, negative pressure
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Other limitations needed (if any) when wearing a respirator: _____

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(*circle one*)

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Reviewer's Name (Print) Reviewer's Signature Date

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MEDICAL HISTORY AND PHYSICAL EXAMINATION FORM

Part V. Report to Employee
(to be completed by the reviewer)

NAME [redacted] SSN [redacted]

AGENCY DOC- Medical Surveillance EXAM DATE 05-07-07

CITY/STATE _____ HEALTH CENTER A7E

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Comments by the occupational medicine consultant: (1) Abnormal chest x-ray. Rec: Follow-up with your regular physician. Review need for CT scan.

No Duty restrictions noted

If you have questions, please call me at 301-594-0272

Christopher S. Holland, MD, MPH _____ 07-17-07

MEDICAL HISTORY AND PHYSICAL EXAMINATION FORM

Part VI. Report to Employer

(to be completed by the reviewer)

NAME [redacted] SSN [redacted]

AGENCY DOC- Medical Surveillance EXAM DATE 05-07-07

CITY/STATE _____ HEALTH CENTER A7E

Medical Opinion: *(check all that apply)*

The employee has been informed of the following medical opinion.

[X] No medical findings were noted that indicate work-related injury/illness.

Where non-work-related significant findings were noted, a referral has been made at the employee's expense.

[ ] Medical findings support a work-related injury/illness or hazardous exposure, see recommendations below.

[ ] Medical findings or exposure history warrant a review of work activities, see recommendations below.

[ ] Decision deferred, additional documentation needed. Please provide the documentation listed below..

[ ] Work limitations recommended. *(Specify limitations and re-evaluation date below).*

Comments by the occupational medicine consultant: (1) Abnormal chest x-ray. Rec: Follow-up with your regular physician. Review need for CT scan.

No Duty restrictions noted

Limitations should be reevaluated _____ *(Date)*

Clearances:

[X] Employee has been cleared for the routine duties outlined in the provided job description.

[ ] Motor Vehicle Clearance (DOT/DMV) Expires _____

[X] Other. Specify _____ Expires _____

(e.g., crane operator, diver, fire fighter, arduous duty)

Respirator Clearance (select one box ☐ and provide comments as appropriate)

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[x]	Full-faced powered cartridge-type (PAPR)	[x]	Self-contained breathing apparatus (SCBA)
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[x] Mild Exertion [ ] Moderate Exertion [ ] Heavy Exertion (No specified limitations)

Other limitations needed (if any) when wearing a respirator: _____

This respirator clearance expires x1 2 3 years from the date below. *(If not marked, clearance expires in 1 year)*
(circle one)

☐ *This employee has been found to be physically NOT able to use a respirator*

☐ *There is insufficient information to make a determination at this time*

The following additional tests, or medical information, will be required in order to make a determination regarding the safe use of a respirator by this employee: _____

Christopher S. Holland, MD, MPH — Reviewer's Name (Print)

Reviewer's Signature

07-17-07 — Date

* Light/Mild exertion (2-3 METS)= negligible lifting, extended walking (flat surface), extended standing, writing
Moderate exertion (4-5 METS) = lifting 10lbs (5 or more lifts/min), fast walking (4mph), gardening/digging, pushing, pulling
Heavy exertion (5-10 METS) = jogging (10 minute mile), chopping wood, climbing hills, life-saving activities, firefighting

MEDICAL HISTORY AND PHYSICAL EXAMINATION FORM

Part V. Report to Employee
(to be completed by the reviewer)

NAME [redacted] SSN [redacted]

AGENCY DOC- Medical Surveillance EXAM DATE 05-15-07

CITY/STATE HEALTH CENTER A7E

Summary of occupational medicine consultant review: Confidential report to the employee

The examiner who performed your medical surveillance exam should have discussed important findings of the exam, and made suggestions to you about any medical follow-up that was needed. THIS REVIEW DOES NOT CONSIDER ALL OF THE ABNORMALITIES THAT MIGHT HAVE BEEN NOTED ON YOUR EXAMINATION. That is the responsibility of the examining physician. The following comments relate to findings that might bear on your ability to safely and healthfully perform in your position.

Comments by the occupational medicine consultant. NONE

No Duty restrictions noted

If you have questions, please call me at 301-594-0272

Christopher S. Holland, MD, MPH 07-17-07

MEDICAL HISTORY AND PHYSICAL EXAMINATION FORM

Part VI. Report to Employer

(to be completed by the reviewer)

NAME [redacted] SSN [redacted]

AGENCY DOC- Medical Surveillance EXAM DATE 05-15-07

CITY/STATE _____ HEALTH CENTER A7E

Medical Opinion: *(check all that apply)*

The employee has been informed of the following medical opinion.

[X] No medical findings were noted that indicate work-related injury/illness.

Where non-work-related significant findings were noted, a referral has been made at the employee's expense

[ ] Medical findings support a work-related injury/illness or hazardous exposure, see recommendations below.

[ ] Medical findings or exposure history warrant a review of work activities, see recommendations below.

[ ] Decision deferred, additional documentation needed. Please provide the documentation listed below..

[ ] Work limitations recommended. *(Specify limitations and re-evaluation date below).*

Comments by the occupational medicine consultant. NONE

No Duty restrictions noted

Limitations should be reevaluated _____ *(Date)*

Clearances:

[X] Employee has been cleared for the routine duties outlined in the provided job description.

[ ] Motor Vehicle Clearance (DOT/DMV) Expires _____

[X] Other. Specify _____ Expires _____

(e.g., crane operator, diver, fire fighter, arduous duty)

Respirator Clearance (select one box ☐ and provide comments as appropriate)

X *This employee has been found to be physically able to use the following (check each [ ] that applies):*

(see Respirator Medical Evaluation Questionnaire form for specific types and uses requiring clearance)

[x] Single use, filter mask (four attachment points)

[x] Full-faced cartridge-type respirator, negative pressure

[x] Full-faced powered cartridge-type (PAPR)

[x] Hood/helmet powered cartridge-type (PAPR) (NOT positive pressure)

[x] Half-faced cartridge-type, negative pressure

[x] Half-faced powered cartridge-type (PAPR)

[x] Self-contained breathing apparatus (SCBA)

[x] Half-faced/Full-faced/Hood/Helmet (positive pressure airline respirator)

When wearing a respirator, the employee has been informed to limit activity level* to the following (check one [ ]):

[x] Mild Exertion [ ] Moderate Exertion [ ] Heavy Exertion (No specified limitations)

Other limitations needed (if any) when wearing a respirator: _____

This respirator clearance expires x1 2 3 years from the date below. *(If not marked, clearance expires in 1 year)*
(circle one)

☐ *This employee has been found to be physically NOT able to use a respirator*

☐ *There is insufficient information to make a determination at this time*

The following additional tests, or medical information, will be required in order to make a determination regarding the safe use of a respirator by this employee: _____

Christopher S. Holland, MD, MPH — Reviewer's Name (Print)

Reviewer's Signature

07-17-07 — Date

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MEDICAL HISTORY AND PHYSICAL EXAMINATION FORM

Part V. Report to Employee
(to be completed by the reviewer)

NAME [redacted] SSN [redacted]

AGENCY DOC- Medical Surveillance EXAM DATE 04-08-07

CITY/STATE _____ HEALTH CENTER A7E

Summary of occupational medicine consultant review: Confidential report to the employee

The examiner who performed your medical surveillance exam should have discussed important findings of the exam, and made suggestions to you about any medical follow-up that was needed. THIS REVIEW DOES NOT CONSIDER ALL OF THE ABNORMALITIES THAT MIGHT HAVE BEEN NOTED ON YOUR EXAMINATION. That is the responsibility of the examining physician. The following comments relate to findings that might bear on your ability to safely and healthfully perform in your position.

Comments by the occupational medicine consultant: NONE

Duty restrictions noted - No respirator use when experiencing shortness of breath due to asthma.

If you have questions, please call me at 301-594-0272.

Christopher S. Holland, MD, MPH 07-17-07

MEDICAL HISTORY AND PHYSICAL EXAMINATION FORM

Part VI. Report to Employer

(to be completed by the reviewer)

NAME [redacted] SSN [redacted]

AGENCY DOC- Medical Surveillance EXAM DATE 04-08-07

CITY/STATE _____ HEALTH CENTER A7E

Medical Opinion: (*check all that apply*)
The employee has been informed of the following medical opinion.
[X] No medical findings were noted that indicate work-related injury/illness.
Where non-work-related significant findings were noted, a referral has been made at the employee's expense.
[ ] Medical findings support a work-related injury/illness or hazardous exposure, see recommendations below
[ ] Medical findings or exposure history warrant a review of work activities, see recommendations below.
[ ] Decision deferred, additional documentation needed. Please provide the documentation listed below.
[ ] Work limitations recommended. (*Specify limitations and re-evaluation date below*).

Comments by the occupational medicine consultant: NONE

Duty restrictions noted - No respirator use when experiencing shortness of breath due to asthma.

Limitations should be reevaluated _____ (*Date*)

Clearances:
[X] Employee has been cleared for the routine duties outlined in the provided job description.
[ ] Motor Vehicle Clearance (DOT/DMV) Expires _____
[X] Other Specify _____ Expires _____
(e.g., crane operator, diver, fire fighter, arduous duty)

Respirator Clearance (select one box ☐ and provide comments as appropriate)

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Other limitations needed (if any) when wearing a respirator: See above

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MEDICAL HISTORY AND PHYSICAL EXAMINATION FORM

Part V. Report to Employee
(to be completed by the reviewer)

NAME [redacted] SSN [redacted]

AGENCY DOC- Medical Surveillance EXAM DATE 04-30-07

CITY/STATE _____ HEALTH CENTER A7E

Summary of occupational medicine consultant review: Confidential report to the employee

The examiner who performed your medical surveillance exam should have discussed important findings of the exam, and made suggestions to you about any medical follow-up that was needed. THIS REVIEW DOES NOT CONSIDER ALL OF THE ABNORMALITIES THAT MIGHT HAVE BEEN NOTED ON YOUR EXAMINATION. That is the responsibility of the examining physician. The following comments relate to findings that might bear on your ability to safely and healthfully perform in your position.

Comments by the occupational medicine consultant: (1) Abnormal chest x-ray. Rec: Follow-up with your regular physician. Review need for CT scan.

No Duty restrictions noted

If you have questions, please call me at 301-594-0272.

Christopher S. Holland, MD, MPH _____ 07-17-07

MEDICAL HISTORY AND PHYSICAL EXAMINATION FORM

Part VI. Report to Employer

(to be completed by the reviewer)

NAME [redacted] SSN [redacted]

AGENCY DOC- Medical Surveillance EXAM DATE 04-30-07

CITY/STATE _____ HEALTH CENTER A7E

Medical Opinion: (*check all that apply*)

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07-17-07 — Date

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FEDERAL OCCUPATIONAL HEALTH

MEDICAL SURVEILLANCE MANAGEMENT PROGRAM
MEDICAL HISTORY AND PHYSICAL EXAMINATION FORM

Part V. Report to Employee
(to be completed by the reviewer)

NAME [redacted] SSN [redacted]

AGENCY DOC- Medical Surveillance EXAM DATE 05-02-07

CITY/STATE _____ HEALTH CENTER A7E

Summary of occupational medicine consultant review: Confidential report to the employee

The examiner who performed your medical surveillance exam should have discussed important findings of the exam, and made suggestions to you about any medical follow-up that was needed. THIS REVIEW DOES NOT CONSIDER ALL OF THE ABNORMALITIES THAT MIGHT HAVE BEEN NOTED ON YOUR EXAMINATION. That is the responsibility of the examining physician. The following comments relate to findings that might bear on your ability to safely and healthfully perform in your position.

Comments by the occupational medicine consultant: (1) Abnormal chest x-ray. Rec: Follow-up with your regular physician. Review need for CT scan. (2) Bilateral moderate/ severe hearing loss. Recommend review with a Masters trained audiologist or ENT physician. Avoid exposure to hazardous noise. When avoidance is not feasible, please wear appropriate hearing protection.

No Duty restrictions noted

If you have questions, please call me at 301-594-0272

Christopher S. Holland, MD, MPH 07-17-07

MEDICAL SURVEILLANCE MANAGEMENT PROGRAM
MEDICAL HISTORY AND PHYSICAL EXAMINATION FORM
Part VI. Report to Employer
(to be completed by the reviewer)

NAME [redacted] SSN [redacted]

AGENCY DOC- Medical Surveillance EXAM DATE 05-02-07

CITY/STATE _____ HEALTH CENTER A7E

Medical Opinion: (*check all that apply*)
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Reviewer's Signature
07-17-07 — Date

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Heavy exertion (5-10 METS) = jogging (10 minute mile), chopping wood, climbing hills, life-saving activities, firefighting

Phone: (410) 553-0110 Fax: (410) 553-0197

Physical Exam

Name: [redacted]

Date: 05/02/2007

Examination Results

✓ Able to perform essential functions as listed.

____ Unable to perform all essential functions as listed. Please list failed essential function(s):

✓ No medical restrictions are indicated.

____ The following medical restrictions are indicated:

____ Recommend further evaluation.

Remarks:

Marilyn Heins, PA-C
MD - C0002019

Provider Print Name Here

Provider Signature

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EMPLOYER AUTHORIZATION AND INFORMATION FOR RESPIRATORY EVALUATION

EMPLOYER TO COMPLETE THE FOLLOWING :

ployee Name: [redacted]

Address: [redacted]

Employer: Elevators

Employee SSN: [redacted]

Check Type of Respirator(s) To Be Used (Check ✓ ALL that apply)

- ☐ Air-purifying (non-powered)
- ☐ Air-purifying (powered)
- ☐ Atmosphere supplying Respirator
- ☐ Combination air-line and SCBA
- ☐ Continous-Flow Respirator
- ☐ Supplied-Air Respirator
- ☐ Open Circuit SCBA
- ☐ Closed Circuit SCBA
- ☐ Dust Mask
- ☐ 1/2 Face with Canisters
- ☐ Full Face with Canisters

Make: _____ Model: _____ Cartridge: _____

Special Work Conditions (Check ✓ ALL That Apply When Wearing Respirator)

- ☐ High Places
- ☐ Enclosed Places
- ☐ Protective Clothing
- ☐ Temperature Extremes
- ☐ Mostly Cold
- ☐ Mostly Hot
- ☐ Other: _____

Questionare will be: ☐ HAND CARRIED ☐ MAILED ☐ OTHER

Extent of Useage (Check ✓ ALL that apply)

- ☐ On a daily basis _____ Total Hours
- ☐ Occasionally - but not more than twice a week ____ Total Hours
- ☐ Rarely - or for Emergency situations only ____ Total Hours

Expected Physical Effort Required (Check ✓ ALL that apply)

- ☐ Light
- ☐ Moderate
- ☐ Heavy

Exposure to Hazardous Materials (Check ✓ ALL that apply)

- ☐ Arsenic
- ☐ Benzene
- ☐ Coke Oven
- ☐ Cotton Seed / Dust
- ☐ Cadmium
- ☐ Formaldehyde
- ☐ Methylene Chloride
- ☐ Lead
- ☐ Textiles
- ☐ Chromium

Other(s): _____

EVALUATION AUTHORIZATION BY: _____
Signature of Employer Representative

DO NOT WRITE BELOW THIS LINE DO NOT WRITE BELOW THIS LINE DO NOT WRITE BELOW THIS LINE

PLHCP[1] WRITTEN STATEMENT for RESPIRATORS (EMPLOYER)

PHYSICIAN WILL COMPLETE THE FOLLOWING

This report may contain confidential medical information and is intended for the designated employer contact only. The Americans with Disabilities Act (ADA) imposes very strict limitations on the use of information obtained during physical examination of qualified individuals with disabilities. All information must be collected and maintained on seperate forms, in seperate files, and must be treated as a confidential medical record, with the following exceptions:

- Supervisors and managers may be informed about necessary restrictions on the work or duties of an employee and necessary accommodations.
- First aid and safety personnel may be informed, when appropriate, if the disability might require emergency treatment.

Based upon my findings, I have determined that this individual (Check ✓ ALL that apply)

- ☐ Employee must schedule a medical examination with _____ prior to respirator approval and usage.
- ☑ Class I - No Restrictions on Respirator Use
- ☐ Class II - Some Specific Use Restrictions
- ☐ To be used for Emergency Response or Escape Only
- ☐ Other: _____
- ☐ Class III - Respirator Use is NOT PERMITTED
- ☐ Further Testing / Evaluation is Required.[2]
- ☐ Fit Test Required
- ☐ Fit Test Performed Satisfactorily
- ☐ Fit Test Performed Unsatisfactorily
- ☑ Fit Test NOT Performed at: _____
- ☐ Special prescription eyewear needed to accommodate respirator
- ☐ Special prescription eyewear needed to accommodate respirator
- ☐ Facial hair needs to be shaved to assure tight seal on certain face masks.

[1] Physician or other Licensed Healthcare Professional

[2] Employee must seek further medical evaluation by a private physician who must submit a report to _____ of his/her findings to

(Check ✓ ALL that apply)

- ☑ The above individual HAS been examined for respirator fitness in accordance with 29 CFR 1910.134. This limited evaluation is specific to respirator use only. Employees should be instructed to report any difficulties in using respirators or change of any physical status to their supervisor or physician. This evaluation included the Respiratory Questionnaire outlined in 29 CFR 1910.134.
- ☐ The above individual HAS NOT been examined by me for respirator fitness. The employee's medical evaluation consisted of a review of OSHA's Medical Evaluation Questionnaire in Appendix C Part A Section 2. In accordance with 29 CFR 1910.134, this limited evaluation is specific to respirator use only. Employees would be instructed to report any difficulties in using respirators or change of any physical status to their supervisor or physician. This evaluation included the Respiratory Questionnaire outlined in 29 CFR 1910.134.
- ☑ In accordance with specific OSHA requirements, I have informed the above named individual of the results of this evaluation and of any medical conditions resulting from exposures that may require further explanation or treatment. Where applicable, the above named individual has been informed of the increased risk of lung cancer attributable to the combined effect of smoking and asbestos, lead and/or other chemical exposure(s).

Marilyn Heins, PA-C
Physician's Signature — Physician's Name (Printed)

MD - C0002019
Physician's License Number (Optional in Most States)

5-2-07
Date of Exam

5-2-08
Expires On

PLHCP[1] WRITTEN STATEMENT for RESPIRATORS (EMPLOYEE)

Service Date: 5.2.07

Employee Name: [redacted]

Employee SSN: [redacted]

Address: [redacted]

Employer: Elevator's

You were evaluated in this office of your medical status related to your physical capability to wear a respirator. (Check ✓ one that applies)

- ☑ There were no abnormal findings that would hamper your ability to perform your job duties while wearing a respirator.
- ☐ The abnormal findings listed below were not related to wearing a respirator but should be reported to your personal physician for further evaluation.

_____

_____

Based upon the results of this evaluation it is my opinion that you: (Check ✓ ALL that apply)

- ☑ ARE qualified to wear a respirator.
- ☐ Have the following restrictions concerning respirator usage: _____
- ☐ ARE NOT qualified to wear a respirator.
- ☐ Require further testing by your private physician who must submit a written report of his/her findings to _____ so that a final decision on your ability to wear a respirator can be made.
- ☐ Must wear Special prescription eye-wear needed to accommodate respirator.
- ☐ Must use an Eye glass conversion kit.
- ☐ May need to shave Facial hair to assure tight seal on certain face masks.
- ☐ Need to stop smoking.

(Check ✓ ALL that apply)

- ☑ The above individual HAS been examined for respirator fitness in accordance with 29 CFR 1910.134. This limited evaluation is specific to respirator use only. Employees should be instructed to report any difficulties in using respirators or change of any physical status to their supervisor or physician. This evaluation included the Respiratory Questionnaire outlined in 29 CFR 1910.134.
- ☐ The above individual HAS NOT been examined by me for respirator fitness. The employee's medical evaluation consisted of a review of OSHA's Medical Evaluation Questionnaire in Appendix C Part A Section 2. In accordance with 29 CFR 1910.134, this limited evaluation is specific to respirator use only. Employees should be instructed to report any difficulties in using respirators or change of any physical status to their supervisor or physician. This evaluation included the Respiratory Questionnaire outlined in 29 CFR 1910.134.
- ☑ In accordance with specific OSHA requirements, I have informed the above named individual of the results of this evaluation and of any medical conditions resulting from exposures that may require further explanation or treatment. Where applicable, the above named individual has been informed of the increased risk of lung cancer attributable to the combined effect of smoking and asbestos, lead and/or other chemical exposure(s).

Respirators must be properly selected based on the containment and concentration levels to which the worker will be exposed. Failure to follow the use and fitting instruction and warnings for proper use contained on the respirator packaging and/or failure to wear the respirator during all times of exposure can reduce the respirator's effectiveness and result in sickness or death. Wearer must be trained in the proper care of any respirator. Refer to product literature and packaging for specific information regarding fit, use and/or limitations.

PLHCP Signature

[redacted]

Employee's Signature

Marilyn Heins, PA-C

PLHCP Name (printed)

MD - C0002019

5.2.08

Expiration Date

[1]Physician or other Licensed Healthcare Professional

To be maintained in the employee's file with a copy to the employee

SPIROMETRY REPORT CONCENTRA
PB100 SW Rev: J-J

TEST DATE: 05/02/07
TIME: 09:32 AM

Patient Name:
Patient ID: [redacted] Age: [redacted] Height (in): [redacted] Weight (lbs): [redacted] PreMed Time: 09:34 AM
Sex: [redacted] Race Correction: [redacted] Smoker: [redacted]
Barometric Pressure (mmHg): 760 Temp (deg F): 70 BTPS Correction: 1.110 Sensor: FS200 Insp Code: None
Last Cal Date: 05/02/07

FVC TEST DATA - Clinical Format ALL DATA FORMAT (* indicates best value) Knudson 83 Adult Predicted Normals

Measurement		PreMed QC	TRIAL 3	TRIAL 5	TRIAL 4	Pred	%Pred	PostMed QC	%Pred	%Change
FVC	(L)	B	5.25*	5.09	4.86	6.53	80%			
FEV1	(L)	C	3.90*	3.67	3.38	5.36	73%			
%FEV1	(%)		74.28*	72.10	69.54	81.48	91%			
FEF25%-75%	(L/S)		3.01*	2.61	2.25	5.46	55%			
PEF	(L/S)		8.90*	9.60	8.75	11.00	81%			
FEV3	(L)		4.90*	4.78	4.46	5.89	83%			
FET	(S)		7.13*	6.76	6.96					

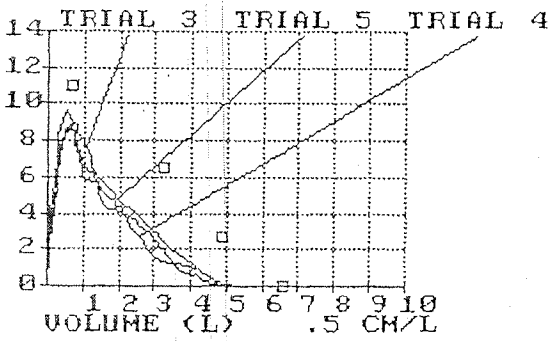
Variability: PreMed: FVC = 3.0%(160ml) FEV1 = 5.9%(230ml) PEF = 7.3%

PREMED

□ = PRED POINT

FLOW (L/S)

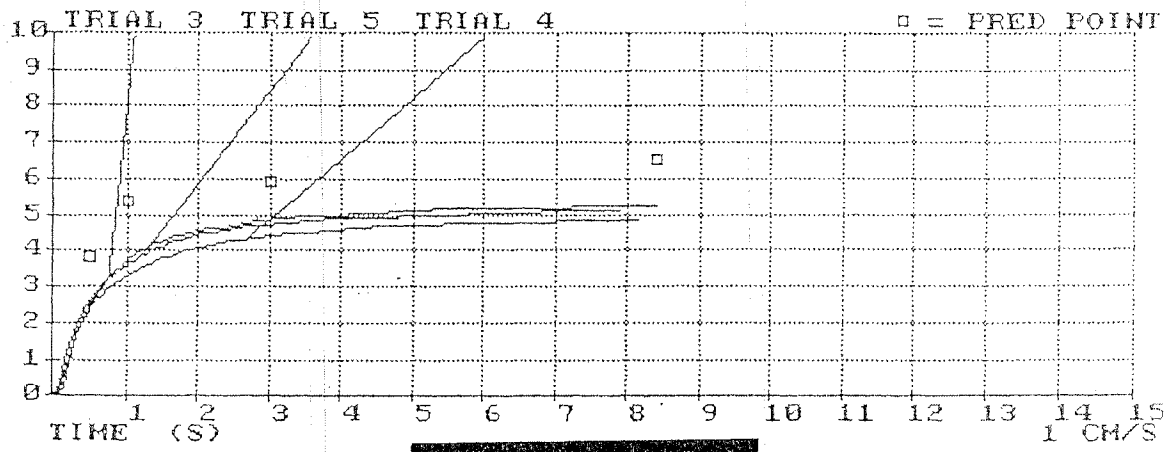
.25 CM/L/S



PREMED

LUME (L)

.5 CM/L



[redacted]

[redacted]

X-Ray# 010038

Service Date: 05/02/2007
Case Date: 05/02/2007
Employer:

[redacted]

[redacted]

Patient Shielded

Cyle [redacted]

PA CHEST

The lungs are clear. Heart size is normal. There is mild to moderate mid dorsal right convex scoliosis.

IMPRESSION: There is no active cardiopulmonary disease.
There is incidental mid dorsal dextroscoliosis.

[redacted]

[redacted]

MAY 10 2007

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MEDICAL SURVEILLANCE MANAGEMENT PROGRAM
MEDICAL HISTORY AND PHYSICAL EXAMINATION FORM

Part V. Report to Employee
(to be completed by the reviewer)

NAME [redacted] SSN [redacted]

AGENCY DOC- Medical Surveillance EXAM DATE 05-02-07

CITY/STATE _____ HEALTH CENTER A7E

Summary of occupational medicine consultant review: Confidential report to the employee

The examiner who performed your medical surveillance exam should have discussed important findings of the exam, and made suggestions to you about any medical follow-up that was needed. THIS REVIEW DOES NOT CONSIDER ALL OF THE ABNORMALITIES THAT MIGHT HAVE BEEN NOTED ON YOUR EXAMINATION. That is the responsibility of the examining physician. The following comments relate to findings that might bear on your ability to safely and healthfully perform in your position.

Comments by the occupational medicine consultant: NONE

No Duty restrictions noted

7/25/07

If you have questions, please call me at Enclosed are copies of the (DOC Building Mgmnt Staff) Medical Surveillance Exams for your files.

Christopher S. Holland, MD, MPH

[redacted]

MEDICAL SURVEILLANCE MANAGEMENT PROGRAM

MEDICAL HISTORY AND PHYSICAL EXAMINATION FORM

Part VI. Report to Employer

(to be completed by the reviewer)

NAME [redacted] SSN [redacted]

AGENCY DOC- Medical Surveillance EXAM DATE 05-02-07

CITY/STATE _____ HEALTH CENTER A7E

Medical Opinion: *(check all that apply)*

The employee has been informed of the following medical opinion.

[X] No medical findings were noted that indicate work-related injury/illness.

Where non-work-related significant findings were noted, a referral has been made at the employee's expense.

[ ] Medical findings support a work-related injury/illness or hazardous exposure, see recommendations below.

[ ] Medical findings or exposure history warrant a review of work activities, see recommendations below.

[ ] Decision deferred, additional documentation needed. Please provide the documentation listed below.

[ ] Work limitations recommended. *(Specify limitations and re-evaluation date below).*

Comments by the occupational medicine consultant: NONE

No Duty restrictions noted

Limitations should be reevaluated _____ *(Date)*

Clearances:

[X] Employee has been cleared for the routine duties outlined in the provided job description.

[ ] Motor Vehicle Clearance (DOT/DMV) Expires _____

[X] Other. Specify _____ Expires _____

(e.g., crane operator, diver, fire fighter, arduous duty)

Respirator Clearance (select one box ☐ and provide comments as appropriate)

X *This employee has been found to be physically able to use the following (check each [ ] that applies):*

(see Respirator Medical Evaluation Questionnaire form for specific types and uses requiring clearance)

[x] Single use, filter mask (four attachment points)

[x] Full-faced cartridge-type respirator, negative pressure

[x] Full-faced powered cartridge-type (PAPR)

[x] Hood/helmet powered cartridge-type (PAPR) (NOT positive pressure)

[x] Half-faced cartridge-type, negative pressure

[x] Half-faced powered cartridge-type (PAPR)

[x] Self-contained breathing apparatus (SCBA)

[x] Half-faced/Full-faced/Hood/Helmet (positive pressure airline respirator)

When wearing a respirator, the employee has been informed to limit activity level* to the following (check one [ ]):

[x] Mild Exertion [ ] Moderate Exertion [ ] Heavy Exertion (No specified limitations)

Other limitations needed (if any) when wearing a respirator: _____

This respirator clearance expires x1 2 3 years from the date below. *(If not marked, clearance expires in 1 year)* *(circle one)*

☐ *This employee has been found to be physically NOT able to use a respirator*

☐ *There is insufficient information to make a determination at this time*

The following additional tests, or medical information, will be required in order to make a determination regarding the safe use of a respirator by this employee: _____

Christopher S. Holland, MD, MPH — Reviewer's Name (Print)

Reviewer's Signature

07-23-07 — Date

* Light/Mild exertion (2-3 METS)= negligible lifting, extended walking (flat surface), extended standing, writing

Moderate exertion (4-5 METS) = lifting 10lbs (5 or more lifts/min), fast walking (4mph), gardening/digging, pushing, pulling

Heavy exertion (5-10 METS) = jogging (10 minute mile), chopping wood, climbing hills, life-saving activities, firefighting

MEDICAL SURVEILLANCE MANAGEMENT PROGRAM
MEDICAL HISTORY AND PHYSICAL EXAMINATION FORM

Part V: Report to Employee
(to be completed by the reviewer)

NAME [redacted] SSN [redacted]

AGENCY DOC- Medical Surveillance EXAM DATE 04-30-07

CITY/STATE _____ HEALTH CENTER A7E

Summary of occupational medicine consultant review: Confidential report to the employee

The examiner who performed your medical surveillance exam should have discussed important findings of the exam, and made suggestions to you about any medical follow-up that was needed. THIS REVIEW DOES NOT CONSIDER ALL OF THE ABNORMALITIES THAT MIGHT HAVE BEEN NOTED ON YOUR EXAMINATION. That is the responsibility of the examining physician. The following comments relate to findings that might bear on your ability to safely and healthfully perform in your position.

Comments by the occupational medicine consultant: Follow-up with your cardiology physician if you experience any chest pain, chest tightness during work activities.

No Duty restrictions noted

If you have questions, please call me at 301-594-0272

Christopher S. Holland, MD, MPH 07-17-07

MEDICAL SURVEILLANCE MANAGEMENT PROGRAM

MEDICAL HISTORY AND PHYSICAL EXAMINATION FORM

Part VI: Report to Employer

(to be completed by the reviewer)

NAME [redacted] SSN [redacted]

AGENCY DOC- Medical Surveillance EXAM DATE 04-30-07

CITY/STATE _____ HEALTH CENTER A7E

Medical Opinion: (*check all that apply*)

The employee has been informed of the following medical opinion.

[X] No medical findings were noted that indicate work-related injury/illness.

Where non-work-related significant findings were noted, a referral has been made at the employee's expense.

[ ] Medical findings support a work-related injury/illness or hazardous exposure, see recommendations below.

[ ] Medical findings or exposure history warrant a review of work activities, see recommendations below.

[ ] Decision deferred, additional documentation needed. Please provide the documentation listed below..

[ ] Work limitations recommended. (*Specify limitations and re-evaluation date below*).

Comments by the occupational medicine consultant: Follow-up with your cardiology physician if you experience any chest pain, chest tightness during work activities.

No Duty restrictions noted Comments: NONE

Limitations should be reevaluated _____ (*Date*)

Clearances:

[X] Employee has been cleared for the routine duties outlined in the provided job description.

[ ] Motor Vehicle Clearance (DOT/DMV) Expires _____

[X] Other. Specify _____ Expires _____

(e.g., crane operator, diver, fire fighter, arduous duty)

Respirator Clearance (select one box ☐ and provide comments as appropriate)

X *This employee has been found to be physically able to use the following (check each [ ] that applies):*

(see Respirator Medical Evaluation Questionnaire form for specific types and uses requiring clearance)

[x]	Single use, filter mask (four attachment points)	[x]	Half-faced cartridge-type, negative pressure
[x]	Full-faced cartridge-type respirator, negative pressure	[x]	Half-faced powered cartridge-type (PAPR)
[x]	Full-faced powered cartridge-type (PAPR)	[x]	Self-contained breathing apparatus (SCBA)
[x]	Hood/helmet powered cartridge-type (PAPR) (NOT positive pressure)	[x]	Half-faced/Full-faced/Hood/Helmet (positive pressure airline respirator)

When wearing a respirator, the employee has been informed to limit activity level* to the following (check one [ ]):

[x] Mild Exertion [ ] Moderate Exertion [ ] Heavy Exertion (No specified limitations)

Other limitations needed (if any) when wearing a respirator: _____

This respirator clearance expires x1 2 3 years from the date below. (*If not marked, clearance expires in 1 year*) (*circle one*)

☐ *This employee has been found to be physically NOT able to use a respirator*

☐ *There is insufficient information to make a determination at this time*

The following additional tests, or medical information, will be required in order to make a determination regarding the safe use of a respirator by this employee: _____

Christopher S. Holland, MD, MPH — Reviewer's Name (Print)

Reviewer's Signature

07-17-07 — Date

* Light/Mild exertion (2-3 METS)= negligible lifting, extended walking (flat surface), extended standing, writing
Moderate exertion (4-5 METS) = lifting 10lbs (5 or more lifts/min), fast walking (4mph), gardening/digging, pushing, pulling
Heavy exertion (5-10 METS) = jogging (10 minute mile), chopping wood, climbing hills, life-saving activities, firefighting

FEDERAL OCCUPATIONAL HEALTH

MEDICAL SURVEILLANCE MANAGEMENT PROGRAM
MEDICAL HISTORY AND PHYSICAL EXAMINATION FORM

Part V. Report to Employee
(to be completed by the reviewer)

NAME [redacted] SSN [redacted]

AGENCY DOC- Medical Surveillance EXAM DATE 04-30-07

CITY/STATE _____ HEALTH CENTER A7E

Summary of occupational medicine consultant review: Confidential report to the employee

The examiner who performed your medical surveillance exam should have discussed important findings of the exam, and made suggestions to you about any medical follow-up that was needed. THIS REVIEW DOES NOT CONSIDER ALL OF THE ABNORMALITIES THAT MIGHT HAVE BEEN NOTED ON YOUR EXAMINATION. That is the responsibility of the examining physician. The following comments relate to findings that might bear on your ability to safely and healthfully perform in your position.

Comments by the occupational medicine consultant. (1) Rt ear moderate/ severe hearing loss. Recommend review with a Masters trained audiologist or ENT physician. Avoid exposure to hazardous noise. When avoidance is not feasible, please wear appropriate hearing protection.

No Duty restrictions noted

If you have questions, please call me at 301-594-0272

Christopher S. Holland, MD, MPH _____ 07-17-07

MEDICAL SURVEILLANCE MANAGEMENT PROGRAM
MEDICAL HISTORY AND PHYSICAL EXAMINATION FORM
Part VI - Report to Employer
(to be completed by the reviewer)

NAME [redacted] SSN [redacted]

AGENCY DOC- Medical Surveillance EXAM DATE 04-30-07

CITY/STATE _____ HEALTH CENTER A7E

Medical Opinion: *(check all that apply)*
The employee has been informed of the following medical opinion.
[X] No medical findings were noted that indicate work-related injury/illness.
Where non-work-related significant findings were noted, a referral has been made at the employee's expense
[ ] Medical findings support a work-related injury/illness or hazardous exposure, see recommendations below.
[ ] Medical findings or exposure history warrant a review of work activities, see recommendations below.
[ ] Decision deferred, additional documentation needed. Please provide the documentation listed below..
[ ] Work limitations recommended. *(Specify limitations and re-evaluation date below).*

Comments by the occupational medicine consultant. (1) Rt ear moderate/ severe hearing loss. Recommend review with a Masters trained audiologist or ENT physician. Avoid exposure to hazardous noise. When avoidance is not feasible, please wear appropriate hearing protection.

No Duty restrictions noted

Limitations should be reevaluated _____ *(Date)*

Clearances:
[X] Employee has been cleared for the routine duties outlined in the provided job description.
[ ] Motor Vehicle Clearance (DOT/DMV) Expires _____
[X] Other. Specify _____ Expires _____
(e.g., crane operator, diver, fire fighter, arduous duty)

Respirator Clearance (select one box ☐ and provide comments as appropriate)

X *This employee has been found to be physically able to use the following (check each [ ] that applies):*
(see Respirator Medical Evaluation Questionnaire form for specific types and uses requiring clearance)

[x]	Single use, filter mask (four attachment points)	[x]	Half-faced cartridge-type, negative pressure
[x]	Full-faced cartridge-type respirator, negative pressure	[x]	Half-faced powered cartridge-type (PAPR)
[x]	Full-faced powered cartridge-type (PAPR)	[x]	Self-contained breathing apparatus (SCBA)
[x]	Hood/helmet powered cartridge-type (PAPR) (NOT positive pressure)	[x]	Half-faced/Full-faced/Hood/Helmet (positive pressure airline respirator)

When wearing a respirator, the employee has been informed to limit activity level* to the following (check one [ ]):
[x] Mild Exertion [ ] Moderate Exertion [ ] Heavy Exertion (No specified limitations)

Other limitations needed (if any) when wearing a respirator: _____

This respirator clearance expires x1 2 3 years from the date below. *(If not marked, clearance expires in 1 year)*
(circle one)

☐ *This employee has been found to be physically NOT able to use a respirator*

☐ *There is insufficient information to make a determination at this time*
The following additional tests, or medical information, will be required in order to make a determination regarding the safe use of a respirator by this employee: _____

Christopher S. Holland, MD, MPH — Reviewer's Name (Print)
Reviewer's Signature
07-17-07 — Date

* Light/Mild exertion (2-3 METS)= negligible lifting, extended walking (flat surface), extended standing, writing
Moderate exertion (4-5 METS) = lifting 10lbs (5 or more lifts/min), fast walking (4mph), gardening/digging, pushing, pulling
Heavy exertion (5-10 METS) = jogging (10minute mile), chopping wood, climbing hills, life-saving activities, firefighting

FEDERAL OCCUPATIONAL HEALTH

MEDICAL SURVEILLANCE MANAGEMENT PROGRAM
MEDICAL HISTORY AND PHYSICAL EXAMINATION FORM

Part V. Report to Employee
(to be completed by the reviewer)

NAME [redacted] SSN [redacted]

AGENCY DOC- Medical Surveillance EXAM DATE 05-01-07

CITY/STATE _____ HEALTH CENTER A7E

Summary of occupational medicine consultant review: Confidential report to the employee

The examiner who performed your medical surveillance exam should have discussed important findings of the exam, and made suggestions to you about any medical follow-up that was needed. THIS REVIEW DOES NOT CONSIDER ALL OF THE ABNORMALITIES THAT MIGHT HAVE BEEN NOTED ON YOUR EXAMINATION. That is the responsibility of the examining physician. The following comments relate to findings that might bear on your ability to safely and healthfully perform in your position.

Comments by the occupational medicine consultant: (1) Moderate hearing loss noted. Recommend: Avoid hazardous noise. When avoidance is not feasible, wear appropriate hearing protection.

Duty restrictions as noted

If you have questions, please call me at 301-594-0272

Christopher S. Holland, MD, MPH 07-23-07

MEDICAL SURVEILLANCE MANAGEMENT PROGRAM
MEDICAL HISTORY AND PHYSICAL EXAMINATION FORM
Part VI: Report to Employer
(to be completed by the reviewer)

NAME [redacted] SSN [redacted]

AGENCY DOC- Medical Surveillance EXAM DATE 05-01-07

CITY/STATE _____ HEALTH CENTER A7E

Medical Opinion: (*check all that apply*)
The employee has been informed of the following medical opinion.
[X] No medical findings were noted that indicate work-related injury/illness.
Where non-work-related significant findings were noted, a referral has been made at the employee's expense.
[ ] Medical findings support a work-related injury/illness or hazardous exposure, see recommendations below.
[ ] Medical findings or exposure history warrant a review of work activities, see recommendations below.
[ ] Decision deferred, additional documentation needed. Please provide the documentation listed below..
[ ] Work limitations recommended. (*Specify limitations and re-evaluation date below*).

Comments by the occupational medicine consultant: (1) Moderate hearing loss noted. Recommend: Avoid hazardous noise. When avoidance is not feasible, wear appropriate hearing protection. Supervisors should be aware of this potential impairment when making duty assignments.

Duty restrictions as noted

Limitations should be reevaluated _____ (*Date*)

Clearances:
[X] Employee has been cleared for the routine duties outlined in the provided job description.
[ ] Motor Vehicle Clearance (DOT/DMV) Expires _____
[X] Other. Specify _____ Expires _____
(e.g., crane operator, diver, fire fighter, arduous duty)

Respirator Clearance (select one box ☐ and provide comments as appropriate)

X *This employee has been found to be physically able to use the following (check each [ ] that applies):*
(see Respirator Medical Evaluation Questionnaire form for specific types and uses requiring clearance)

[x]	Single use, filter mask (four attachment points)	[x]	Half-faced cartridge-type, negative pressure
[x]	Full-faced cartridge-type respirator, negative pressure	[x]	Half-faced powered cartridge-type (PAPR)
[x]	Full-faced powered cartridge-type (PAPR)	[x]	Self-contained breathing apparatus (SCBA)
[x]	Hood/helmet powered cartridge-type (PAPR) (NOT positive pressure)	[x]	Half-faced/Full-faced/Hood/Helmet (positive pressure airline respirator)

When wearing a respirator, the employee has been informed to limit activity level* to the following (check one [ ]):
[x] Mild Exertion [ ] Moderate Exertion [ ] Heavy Exertion (No specified limitations)

Other limitations needed (if any) when wearing a respirator: _____

This respirator clearance expires x1 2 3 years from the date below. (*If not marked, clearance expires in 1 year*) (*circle one*)

☐ *This employee has been found to be physically NOT able to use a respirator*

☐ *There is insufficient information to make a determination at this time*
The following additional tests, or medical information, will be required in order to make a determination regarding the safe use of a respirator by this employee: _____

Christopher S. Holland, MD, MPH _____ 07-23-07
Reviewer's Name (Print) Reviewer's Signature Date

* Light/Mild exertion (2-3 METS)= negligible lifting, extended walking (flat surface), extended standing, writing
Moderate exertion (4-5 METS) = lifting 10lbs (5 or more lifts/min), fast walking (4mph), gardening/digging, pushing, pulling
Heavy exertion (5-10 METS) = jogging (10 minute mile), chopping wood, climbing hills, life-saving activities, firefighting

AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

H. R. 2764

One Hundred Tenth Congress of the United States of America

AT THE FIRST SESSION

Begun and held at the City of Washington on Thursday, the fourth day of January, two thousand and seven

An Act

Making appropriations for the Department of State, foreign operations, and related programs for the fiscal year ending September 30, 2008, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Consolidated Appropriations Act, 2008".

SEC. 2. TABLE OF CONTENTS.

The table of contents of this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.
Sec. 3. References.
Sec. 4. Explanatory statement.
Sec. 5. Emergency designations.
Sec. 6. Statement of appropriations.

DIVISION A—AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2008

Title I—Agricultural Programs
Title II—Conservation Programs
Title III—Rural Development Programs
Title IV—Domestic Food Programs
Title V—Foreign Assistance and Related Programs
Title VI—Related Agencies and Food and Drug Administration
Title VII—General Provisions

DIVISION B—COMMERCE, JUSTICE, SCIENCE, AND RELATED AGENCIES APPROPRIATIONS ACT, 2008

Title I—Department of Commerce
Title II—Department of Justice
Title III—Science
Title IV—Related Agencies
Title V—General Provisions
Title VI—Rescissions

DIVISION C—ENERGY AND WATER DEVELOPMENT AND RELATED AGENCIES APPROPRIATIONS ACT, 2008

Title I—Department of Defense—Civil: Department of the Army
Title II—Department of the Interior
Title III—Department of Energy
Title IV—Independent Agencies
Title V—General Provisions

DIVISION D—FINANCIAL SERVICES AND GENERAL GOVERNMENT APPROPRIATIONS ACT, 2008

Title I—Department of the Treasury
Title II—Executive Office of the President and Funds Appropriated to the President
Title III—The Judiciary

for specific activities in the report accompanying this Act, or any use of deobligated balances of funds provided under this heading in previous years, shall be subject to the procedures set forth in section 505 of this Act.

PACIFIC COASTAL SALMON RECOVERY

For necessary expenses associated with the restoration of Pacific salmon populations, $67,000,000, to remain available until September 30, 2009.

COASTAL ZONE MANAGEMENT FUND

(INCLUDING TRANSFER OF FUNDS)

Of amounts collected pursuant to section 308 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1456a), not to exceed $3,000,000 shall be transferred to the "Operations, Research, and Facilities" account to offset the costs of implementing such Act.

FISHERIES FINANCE PROGRAM ACCOUNT

Subject to section 502 of the Congressional Budget Act of 1974, during fiscal year 2008, obligations of direct loans may not exceed $8,000,000 for Individual Fishing Quota loans and not to exceed $59,000,000 for traditional direct loans as authorized by the Merchant Marine Act of 1936: *Provided*, That none of the funds made available under this heading may be used for direct loans for any new fishing vessel that will increase the harvesting capacity in any United States fishery.

DEPARTMENTAL MANAGEMENT

SALARIES AND EXPENSES

For expenses necessary for the departmental management of the Department of Commerce provided for by law, including not to exceed $5,000 for official entertainment, $44,294,000: *Provided*, That the Secretary, within 120 days of enactment of this Act, shall provide a report to the Committees on Appropriations that audits and evaluates all decision documents and expenditures by the Bureau of the Census as they relate to the 2010 Census: *Provided further*, That of the amounts provided to the Secretary within this account, $10,000,000 shall not become available for obligation until the Secretary certifies to the Committees on Appropriations that the Bureau of the Census has followed, and met all best practices, and all Office of Management and Budget guidelines related to information technology projects.

HCHB RENOVATION AND MODERNIZATION

For expenses necessary for the renovation and modernization of the Herbert C. Hoover Building, $3,722,000, to remain available until expended.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978 (5 U.S.C. App.), $22,020,000.

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MACTEC

REVISED REPORT OF HAZARDOUS MATERIALS SURVEY

Commerce Building
DC0013ZZ
14th Street and Constitution Avenue, Northwest
Washington, D.C.

Prepared for:
GSA National Capital Region
7th and D Streets, Southwest
Washington, D.C. 20407

Prepared by:
MACTEC Engineering and Consulting, Inc.
22455 Davis Drive, Suite 100
Sterling, Virginia 20164

April 18, 2003

MACTEC Project 20340-2-3144.*.606

MACTEC

April 18, 2003

Ms. Cathy Figuracion
Contracting Officer's Representative
General Services Administration, NCR, PBS
Safety, Environment & Fire Protection Branch (WPYG)
7th & D Streets, Southwest, Room 2080
Washington, DC 20407

Subject: Revised Report of Hazardous Materials Survey
Commerce Building – DC0013ZZ
14th Street and Constitution Avenue, Washington, DC
GSA Project Order No. P-11-02-DC-0366
MACTEC Project 20340-2-3144.*.606

Dear Ms. Figuracion:

MACTEC Engineering and Consulting, Inc. (MACTEC) is pleased to present this revised report of our hazardous materials survey at the Commerce Building in Washington, DC. Our services were provided at your request based on your acceptance of MACTEC Proposal No. 20399-0-0000.1188, dated September 13, 2002, and our knowledge of projects similar in size and scope.

The report has been revised to incorporate the comments sent to MACTEC by U.S. General Services Administration (GSA) Industrial Hygienist, Mr. Timothy Sleeth, via electronic mail on April 7, 2003. The revisions consist of referencing the GSA Project Order Number in the "subject" header and providing the homogenous sampling area (HSA) number on the Asbestos Assessment Data Forms continuation sheets located in Appendix B. The report includes sections describing project information, scope of services, results and findings, and conclusions and recommendations. Also included in the report are appendices consisting of an asbestos-containing material summary table, homogeneous sampling area assessment field forms, asbestos analytical laboratory reports, lead XRF testing data summary tables, fluorescent light ballast field forms, and field drawings indicating inaccessible areas.

We appreciate the opportunity to provide service to the U.S. General Services Administration for this project. Should you have any questions following your review of our report, or if we may be of further service please do not hesitate to contact us.

Sincerely,

MACTEC ENGINEERING AND CONSULTING, INC.

Eric Mercer
Project Environmental Scientist

Frank M. Yodie
Senior Environmental Scientist

Peter C. Frederick
Principal Scientist / Project Manager

MACTEC Engineering and Consulting, Inc.
22455 Davis Drive, Suite 100
Sterling, VA 20164
703-404-7000 · Fax: 703-404-7070

REVISED REPORT OF HAZARDOUS MATERIALS SURVEY

Commerce Building
DC0013ZZ
Washington, D.C.

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1.0 INTRODUCTION

1.1 Project Information

Based upon our current environmental contract with the General Services Administration (GSA), Contract GS-10F-0346K, your acceptance of MACTEC Engineering and Consulting, Inc.'s (MACTEC) Proposal No. 20399-0-0000.1188, dated September 13, 2002, and our knowledge of projects similar in size and scope, MACTEC has conducted a hazardous materials survey of the Commerce Building located at Fourteenth Street and Constitution Avenue, Northwest, Washington, D.C. This report presents MACTEC's scope of work, results and findings, and conclusions and recommendations.

The purpose of the hazardous materials survey was to identify asbestos-containing materials (ACM), lead-containing surface coatings (LCSC), and polychlorinated biphenyl (PCB) containing fluorescent light ballasts within the Commerce Building. The survey was conducted by a team of Environmental Protection Agency (EPA) accredited asbestos inspectors and a District of Columbia licensed lead paint inspector/risk assessor.

1.2 Executive Summary

1.2.1 Asbestos-Containing Materials

Based upon review of previous survey information, our observations, and laboratory analytical reports, the following asbestos-containing flooring and miscellaneous materials were observed during our survey.

12" x 12" Floor tile – white with green spots	Black floor mastic under floor tile throughout
Black mastic on uninsulated metal ducts	9" x 9" Floor tile – brown with white spots
9" x 9" Floor tile – tan with brown and white streaks	Brown mastic on uninsulated metal ducts
9" x 9" Floor tile – off-white with black streaks	Brown leveling compound under flooring materials
9" x 9" Floor tile – off-white with gray and black spots	12" x 12" Floor tile – brown with rock pattern
Brown glue dots above 12" x 12" spline ceiling tile	12" x 12" Floor tile – white with gray and blue specks
9" x 9" Floor tile – rust with dark brown spots	9" x 9" Floor tile –dark brown with red and white streaks
9" x 9" Floor tile – aqua with white specks	White mastic on fiberglass duct insulation
9" x 9" Floor tile – lime-green with white streaks	12" x 12" Floor tile – greenish beige with white streaks
12" x 12" Floor tile – brick with white streaks	12" x 12" Floor tile – off-white with black streaks

9" x 9" Floor tile – brown with orange, brown, white	9" x 9" Floor tile – yellowish with brown spots
9" x 9" Floor tile – Under 9" x 9" tan floor tile	12" x 12" Floor tile – tan with brown and white streaks
Brown floor covering underlayment and associated black floor mastic in child care center	12" x 12" Floor tile – tan floor tile under non-asbestos gray floor tile in child care center
Assumed asbestos-containing firedoors	Assumed asbestos-containing transite board
Cloth flexible duct connectors	

Based upon laboratory analytical reports the following asbestos-containing thermal system insulation and surfacing materials were observed during our survey.

Magnesia pipe hanger pads on fiberglass insulated pipes	Skimcoat mud on fiberglass insulated pipe valves and reductions
Mudded joint packings on pipes	Skimcoat mud on fiberglass insulated pipe elbows
Magnesia boiler insulation	Spray-on fireproofing on I-beams
Textured wall plaster	Felt wool pipe insulation
Corrugated duct insulation	Acoustical ceiling plaster
Assumed asbestos-containing magnesia pipe insulation within wall cavities	Assumed asbestos-containing magnesia pipe insulation throughout
Assumed asbestos-containing aircell pipe insulation throughout	

Refer to Section 2.2 for conclusions and recommendations based on our observations. In addition, refer to Appendix A - Asbestos-Containing Material Summary Table and Appendix B - Homogeneous Sampling Area Assessment Field Forms for approximate locations, conditions, and quantities of the materials observed during our survey.

1.2.2 Lead-Containing Surface Coatings

Based upon our observations and testing results, approximately 49% of the tested building components measured detectable concentrations of lead. Approximately 36% of the tested building components measured at or above the District of Columbia definition of lead-based paint and approximately 15% measured less than the detection limit of the instrument. Therefore, it is expected that surface coatings that are considered either lead-containing or lead-based will be impacted during renovation activities. Refer to Section 3.3 for conclusions and recommendations based on our findings.

Refer to the XRF summary data tables in Appendix D for individual test results and conditions of each component tested.

1.2.3 Polychlorinated Biphenyl (PCB) Containing Light Ballasts

MACTEC observed approximately 2,000 fluorescent light fixtures with suspect PCB containing light ballasts within the Commerce Building. Approximately 50% of the light fixtures were observed to have assumed PCB-containing light ballasts.

2.0 ASBESTOS-CONTAINING MATERIALS

2.1 Scope of Services

Prior to conducting the asbestos survey, MACTEC was provided access to available building drawings located in the Technical Resource Center in GSA's Regional Office Building (ROB). In addition, MACTEC was provided a spreadsheet of previous asbestos survey data collected by other environmental consulting firms to review and incorporate as part of our survey. This data was reported by GSA to be approximately 90% complete for the building and could be relied upon by confirmation. However, MACTEC was not able to confirm the data in the spreadsheet due to the variability of material descriptions, quantities, and sample locations. Therefore, following review of the previous asbestos survey spreadsheet, MACTEC conducted the survey without relying upon or using the previous survey information with authorization from GSA. Conducting the survey in this manner was not part of the original proposed scope of work of confirming the previous survey data. As such, MACTEC was required to collect significantly more bulk samples than originally proposed as well as requiring more survey time quantifying the ACM identified by MACTEC.

MACTEC was also provided a previous asbestos survey report by Applied Environmental, Inc. dated September 6, 2000 which consisted of asbestos survey data for the child day care center. The two identified miscellaneous asbestos-containing flooring materials are incorporated into this report.

The asbestos survey was primarily conducted during business hours as agreed upon by GSA. Areas that were not accessed and subsequently not surveyed are indicated on the hand annotated field drawings in Appendix F.

The asbestos survey was completed in general accordance with EPA Standards 40 CFR 763, Subpart E, Asbestos Hazard Emergency Response Act (AHERA), 40 CFR 61, Subpart M, National Emission Standards for hazardous Air Pollutants (NESHAP), and OSHA Standard 29 1926.1101 sampling protocol. Following a visual inspection of the building for suspect asbestos-containing materials, MACTEC collected representative bulk samples from suspect asbestos-containing homogeneous sampling areas (HSAs) that were observed at the time of the survey. Homogeneous sampling areas are materials that are similar in texture, size, color, age, etc. Destructive and exploratory testing was not conducted as part of the survey as the building is currently occupied. In addition, the roofing system and exterior of the building was not included in the scope of work.

The collected bulk samples were submitted to the EMSL Analytical, Inc. (EMSL) asbestos analytical laboratory located in Beltsville, Maryland for analysis. Selected bulk samples were analyzed by Polarized Light Microscopy (PLM) coupled with Dispersion Staining in accordance with EPA Method Determination of Asbestos in Bulk Building Materials (EPA 600/R-93/116). The EMSL asbestos analytical laboratory is accredited by the National Voluntary Laboratory Accreditation Program (NVLAP) and American Industrial Hygiene Association (AIHA) for bulk asbestos identification by PLM. Copies of the laboratory analytical reports are provided in Appendix C for your reference.

2.2 Findings and Results

MACTEC has presented a summary table of the observed suspect and confirmed ACM in Appendix A in the format requested by GSA. The table format used in summarizing the ACM data is used so that the information can be easily entered into an electronic data management system by GSA. The table summarizes the HSAs observed by MACTEC, the sample locations, analytical results, assessed condition in relation to whether the material is friable or non-friable and regulated or non-regulated, and the approximate quantity observed by MACTEC.

The ACM observed by MACTEC during the survey was generally in good condition, with the exception of the following areas. Refer to Appendix B – Homogeneous Sampling Area Assessment Field Forms for specific locations of other areas where damage was observed.

- A hole was observed in the ceiling of the "Ping Pong" room in the attic central eastern corridor, northwest corner of the room. Spray-applied fireproofing is above the ceiling and around the edges of the hole.
- MACTEC observed a metal grate above spray-applied fireproofing in Wing 5 of the attic, near column M3-119. Overspray was present on the metal grate. The grate was placed over the fireproofing to allow workers to service pumps and valves mounted over the fireproofing. There is a potential exposure hazard for workers walking on the overspray. MACTEC also observed the same condition on a metal grate in Wing 2 of the attic, near column M3-142.
- Spray-applied fireproofing was observed on the underside of the ceiling in Wing 3 on the 7th Floor.

- Spray-applied fireproofing debris was observed on the floor of the electrical closet in Room 7703, in Wing 7 of the 7th Floor. A hole in the ceiling was also observed in this electrical closet. Spray-applied fireproofing is present above the ceiling and around the edges of the hole.
- Significantly damaged magnesia pipe insulation was observed in the 1st Floor White House Visitors Center. The damage was observed in an electrical closet in the southeast corner in a hallway adjacent to the restroom area. Approximately 50 linear feet of pipe insulation was significantly damaged with several large pieces of insulation debris on the floor.
- Significantly damaged mudded joint packings on fiberglass pipe insulation were observed in Room B20 in the basement.
- Significantly damaged mudded joint packings on fiberglass pipe insulation were observed in in the Southeast Quadrant of the Attic.
- Significantly damaged Corrugated Duct Insulation was observed in the Basement Aquarium Corridor.
- Significantly damaged Aircell pipe insulation was observed in the Basement Aquarium Viewing Area.
- Significantly damaged magnesia pipe insulation was observed in the following areas:
    - Wing 3 Basement Mechanical Room
    - B003 in the basement
    - B626 and B612 in the basement
    - Records storage #2 in the basement mezzanine level
    - attic in wing 5, the west central corridor, and the east central corridor
    - attic above the entrance to Stairwell #4
    - attic in Room M3-141 of Wing 2
    - B-826 in the basement
    - Aquarium Viewing Area in the basement
    - Mechanical Equipment Across B511A in the basement
    - Men's Restroom Across from B884 in the basement
    - 7614 on the 7th Floor
    - 7th Floor Corridor 5
    - 5th Floor Central East Corridor
    - 5034 on the 5th Floor
    - 1851 on the 1st Floor
    - 1082 on the 1st Floor
    - 7th Floor Central East Corridor

MACTEC informed the Building Manager, Mr. Jim Beam, of the above mentioned areas with significantly damaged ACM. Mr. Beam's staff subsequently repaired the magnesia pipe insulation in the attic above the Stair #4 entrance. The staff also encapsulated the metal grates in the attic, near columns M3-113 and M3-142, and they covered the metal grates with plywood to allow work to be performed on the valves and pumps safely.

2.3 Conclusions and Recommendations

The observed ACM was assessed primarily by determining whether the material was either friable or non-friable as defined in EPA Standard 40 CFR Part 61, Asbestos National Emission Standards for Hazardous Air Pollutants (NESHAP); Asbestos NESHAP Revision; Final Rule. A non-friable asbestos-containing material is any material that contains more than one percent asbestos by weight that hand pressure cannot crumble, pulverize, or reduce to powder when dry. A friable asbestos-containing material is one that can be crumbled, pulverized, or reduced to powder by hand pressure when dry. The non-friable ACM that were observed by MACTEC were in good condition at the time of the survey.

MACTEC recommends that the building manager's staff address the problems listed. In addition, caution should be used when accessing above or moving ceiling tiles in the 3rd Wing of the 7th Floor due to the potential exposure from the spray-applied fireproofing on the I-beams.

The observed significantly damaged ACM within the building should be repaired or removed as soon as possible by a qualified, licensed asbestos abatement contractor in accordance with applicable federal and District of Columbia regulations and GSA asbestos abatement specifications. Access to areas where significantly damaged friable ACM was observed should be restricted to personnel with a minimum of two hour asbestos awareness training in accordance with OSHA regulations. Caution should be taken when accessing areas above ceilings where MACTEC observed damaged ACM. Engineering controls such as plastic drop cloths and vacuums equipped with High Efficiency Particulate Air (HEPA) filters may be necessary due to the presence of significantly damaged ACM lying on the ceiling tiles.

Specific locations where MACTEC observed ACM and the assessed friability of the materials are indicated in Appendix B Homogeneous Sampling Area Assessment Field Forms. Asbestos-containing materials must be removed by a qualified, District of Columbia licensed asbestos abatement contractor

prior to being impacted by any renovation or selective demolition activities in accordance with all applicable EPA, OSHA, and District of Columbia regulations.

Due to limited accessibility and the presence of building materials limiting the observation of large areas of the building, such as carpeting over floor tile or enclosed ceiling systems, MACTEC recommends that materials that are prevalent throughout the building be considered asbestos-containing unless specific location testing is conducted. In addition, suspect ACM in areas that were not accessed or observed by MACTEC should be compared to the information contained in Appendices A and B to determine whether or not the materials are homogeneous with the ACM identified by MACTEC.

MACTEC considers the black floor tile mastic observed generally throughout the building as asbestos-containing based upon the laboratory results. However, due to the inconsistency of the analytical results and the variability of the homogeneity of the material, MACTEC recommends that representative confirmatory bulk samples be collected from the black floor mastic to definitively determine the asbestos content in specific renovation project locations.

The EPA recommends that asbestos-containing materials be managed and maintained by use of an asbestos Operations and Maintenance (O&M) Program. The ACM should be periodically inspected for damage by properly trained building maintenance personnel as part of the O&M Program. ACM observed to be damaged should be repaired or removed by a licensed asbestos abatement contractor in accordance with all applicable regulations.

3.0 LEAD-CONTAINING SURFACE COATINGS

3.1 Scope of Services

MACTEC conducted a screening survey to identify suspect lead-containing surface coatings (LCSC) within the building. The survey was conducted by an EPA accredited Lead Paint Inspector/Risk Assessor licensed in the District of Columbia. Representative suspect surfaces were tested for the presence of lead using an X-Ray Fluorescence (XRF) spectrum analyzer field instrument. Over 1,000 readings were taken from representative interior surfaces at the subject site.

A Niton XL-309 XRF spectrum analyzer was used for the lead-based paint survey. The XL-309 is designed for measuring concentrations of lead using non-destructive techniques by emitting low level x-rays through layers of paint and measuring the total lead concentration in the layers of paint for the known surface area. The XL-309 software is designed to determine if the concentration of lead measured is either above or below the user-set action level within a 95% confidence level. The action level for the instrument was set to the District of Columbia definition of lead-based paint, greater than 1.0 mg/cm^2. Tests that measure above the detection limit of 0.03 mg/cm^2, but below the quantitation limit of 0.10 mg/cm^2, are considered as unquantifiable detectable concentrations of lead. Tests that measure above the detection limit and below the definition of lead-based paint are reported as lead-containing surface coatings or "LCSC". Tests that measure equal to or greater than the District of Columbia's definition of lead-based paint are reported as lead-based paint or "LBP". The evaluation of the XRF measurement test results is based upon the upper 95% confidence value as this value provides the statistically highest calculated measurement of lead for that sample.

3.2 Findings and Results

Based upon our observations and testing results, approximately 49% of the tested building components measured detectable concentrations of lead. Approximately 36% of the tested building components measured at or above the District of Columbia definition of lead-based paint and approximately 15% measured less than the detection limit of the instrument.

Refer to the XRF summary data tables in Appendix D for individual test results and conditions of each component tested.

3.3 Conclusions and Recommendations

If the intent of construction activities is to permanently eliminate lead-based paint hazards by removing LBP or permanently enclosing components containing LBP, then the work must be considered LBP abatement. Contractors or trade workers involved in the abatement of surfaces containing lead greater than the District of Columbia definition of lead-based paint, 1.0 mg/cm^2 as measured by XRF analysis or 0.5% lead by weight, must be licensed in the District of Columbia and adhere to the OSHA Lead in Construction Standard 29 CFR 1926.62, as well as applicable District of Columbia regulations for lead abatement. However, if the intent of the work activities is to repair or renovate components, and lead-based paint or lead-containing surface coatings are impacted during this process, then the work does not have to be considered as an abatement project. Trade workers involved in repairs or renovations will still have to comply with the OSHA Lead in Construction Standard but may not have to comply with District of Columbia lead abatement regulations.

The OSHA Lead in Construction Standard does not currently define a specific concentration of lead that must be present within paint for it to be considered "lead-containing." Therefore, painted and glazed surfaces that contain detectable concentrations of lead, including concentrations less than the District of Columbia definition of lead-based paint, must be handled in accordance with the OSHA Lead in Construction Standard. Contractors performing work that could impact paint films or glazing that have detectable concentrations of lead should be informed of the testing results, and should take appropriate actions to comply with the OSHA Lead in Construction Standard.

Workers performing renovation and selective demolition of lead-containing surface coatings must have, at a minimum, two-hour lead awareness training in accordance with OSHA Standard 29 CFR 1926.62. If lead-containing surface coatings are required to be stripped or removed from the building component substrate, then additional training would be required based upon the measured lead concentration of the surface coating and the airborne lead concentrations measured during the work activity.

The disposal of waste generated during any restoration, renovation, or demolition operations, including items coated with lead paint, is regulated by EPA Standard 40 CFR 261, Subpart C. This regulation requires that a Toxicity Characteristic Leaching Procedure (TCLP) test be utilized to determine if the construction debris is considered hazardous waste. A material is considered hazardous if it is ignitable, reactive, corrosive, or toxic.

It is generally recommended that items with relatively high concentrations of lead be segregated from other items and tested separately. The intent should be to assure that any item that is categorized as hazardous waste be identified and kept segregated from other waste material, while not to bias the sampling results (either positively or negatively) with regard to TCLP sampling. Depending on the renovation and demolition techniques, the TCLP sample should be collected in a manner to represent the whole construction waste stream. The collection of bulk samples for TCLP analysis was not included in the scope of work.

Position Description

AC# 511120070830 Preparation date: 4/12/2007

Validate: NO

Org: OFFICE OF THE SECRETARY

Div: OFF ASST SEC FOR ADMIN

Incumbent Name: VACANCY

Career Path: ZA Series: 0301 Band 4

Title: Supervisory Program Management Specialist

Function:

No specific function defined for this position.

Principal Objective:

Serves as Chief of a Division that implements the Department Environmental, Energy Conservation, and Historic Preservation programs as well as a safety program for the Herbert C. Hoover Building to include its renovation.

Series Definition:

Performs or manages administrative work not classifiable in a more specific series. Requires analytical ability, judgment, discretion, and knowledge of a substantial body of administrative or program principles, concepts, policies, and objectives.

General Duties and Responsibilities:

Serves as the policy and planning authority and the expert advisor to top managers and outside officials on a management function or major extramural program for a bureau or major line component; develops, recommends, and implements policies that lead directly to the accomplishment of major programs; or serves as the principal administrative advisor to the head of a major line component with operational responsibilities for budget, procurement, personnel, and/or other administrative functions; or spends at least 25% of time supervising a significant workload of administrative work, at least 25% of which has career-ladder to Pay Band III.

Knowledge, Skills, and Abilities:

Authoritative mastery of all aspects of a major management function, including concepts, laws, and public policy issues; ability to assess the political and institutional environment; ability to analyze and relate complex variables to a specific policy issue and frame feasible options; and ability to represent the organization and present controversial issues and recommendations orally and in writing; or ability to perform the full range of supervisory functions, including planning, assigning and reviewing work; providing or arranging training and development; and evaluating performance.

Incumbent's Supervisory Responsibilities:

Employee performs full range of supervision at least 25% of the time.

Specialty Description:

001820 Safety
Identifies and evaluates occupational hazards in a wide variety of industrial, laboratory, and administrative worksites; recommends control measures to eliminate or minimize unsafe conditions and practices; conducts safety reviews; investigates accidents; handles hazardous chemical waste for disposal when necessary; develops and conducts safety training programs; prepares written reports and procedural documents; uses, maintains, and calibrates environmental sampling instruments. Requires broad knowledge of safety and health standards.
080310 Environmental Compliance
Performs professional level technical work on matters of environmental compliance and protection including; environmental regulatory review; environmental compliance audits/monitoring; environmental compliance documentation/reports; hazardous/regulated waste management; and development/maintenance of emergency, contingency and spill prevention/containment/control plans. Requires professional level knowledge of chemistry, behavior of hazardous materials, and environmental regulations.

Position-Specific Key Phrases:

The incumbent serves as the Chief of the Energy, Safety, and Environmental Division in the Office of Real Estate and Major Programs. The incumbent supervises the Department wide application of energy conservation, environmental protection, and historical preservation as well as a safety program for the Herbert C. Hoover Building to include the renovation.

Position Requirements:

There are no special requirements for this position.

Position Sensitivity:

This is a Low Risk position.

Position Description

AC# 511120060595 Preparation date: 4/18/2006

Validate: YES

Org: OFFICE OF THE SECRETARY

Div: OFF ASST SEC FOR ADMIN

Incumbent Name: VACANCY

Career Path: ZA Series: 0018 Band 4

Title: Safety and Occupational Health Specialist

Function:

No specific function defined for this position.

Principal Objective:

Formulates Department-wide safety and health policies, develops programs and procedures to reduce accidents, injuries/illnesses, provides guidance and oversight to the Department and its operating units, evaluates safety and health programs to ensure compliance with regulatory agencies, collects and analyzes accident, injury/illness data, provides training, and conducts accident investigations.

Series Definition:

Manages or performs the administrative specialist work of a safety and occupational health program to eliminate or minimize human injury and property and productivity losses caused by harmful contact incidents, through the design of effective management policies, programs, or practices. Requires knowledge of (a) the principles, standards, and techniques of safety and occupational health management; and (b) pertinent elements of engineering, physical science, ergonomics, psychology, industrial hygiene, and physiology.

General Duties and Responsibilities:

Serves as the policy and planning authority and the expert advisor to top managers and outside officials on a management function or major extramural program for a bureau or major line component; develops, recommends, and implements policies that lead directly to the accomplishment of major programs; or serves as the principal administrative advisor to the head of a major line component with operational responsibilities for budget, procurement, personnel, and/or other administrative functions; or spends at least 25% of time supervising a significant workload of administrative work, at least 25% of which has career-ladder to Pay Band III.

Knowledge, Skills, and Abilities:

Authoritative mastery of all aspects of a major management function, including concepts, laws, and public policy issues; ability to assess the political and institutional environment; ability to analyze and relate complex variables to a specific policy issue and frame feasible options; and ability to represent the organization and present controversial issues and recommendations orally and in writing; or ability to perform the full range of supervisory functions, including planning, assigning and reviewing work; providing or arranging training and development; and evaluating performance.

Incumbent's Supervisory Responsibilities:

Employee does not meet supervisor titling criteria.

Specialty Description:

001810 Occupational Health
Performs professional industrial hygiene work to protect personnel and environments from occupational health hazards; identifies and evaluates potential occupational health hazards; develops procedures to eliminate, minimize, or control occupational health exposures to personnel and environment; develops medical surveillance screening protocols for evaluation of personnel exposures; monitors tasks and workareas to evaluate health exposures and compliance with safety and health standards; maintains and calibrates IH instruments.
001820 Safety
Identifies and evaluates occupational hazards in a wide variety of industrial, laboratory, and administrative worksites; recommends control measures to eliminate or minimize unsafe conditions and practices; conducts safety reviews; investigates accidents; handles hazardous chemical waste for disposal when necessary; develops and conducts safety training programs; prepares written reports and procedural documents; uses, maintains, and calibrates environmental sampling instruments. Requires broad knowledge of safety and health standards.
130610 Radiation Safety
Performs professional work to protect personnel and environments from the hazards of ionizing and nonionizing radiation; identifies and evaluates potential radiation hazards; develops procedures to eliminate, control, or minimize radiation exposure; monitors operating programs involving radiation sources to ensure license condition compliance; performs research and development of health physics instruments, methods, and procedures.

Position-Specific Key Phrases:

Manages an Occupational Safety and Health program for the Herbert C. Hoover Building. Serves as the COTR for the Interagency Agreement for the Herbert C. Hoover Building Health Unit. Serves as the program official for the Herbert C. Hoover Building Automatic External Defibrillator Program.

Position Requirements:

This position requires the operation of a Federal motor vehicle.

Position Sensitivity:

This is a Low Risk position.

U

EPA RFI: This week I worked with [redacted] to gather majority of the information needed for the EPA RFI.

Inspections : Held several safety and health office inspections. To include (Electric Shop, Renovation Programs, Space Management Division)

Week of: 02 – 06 June - *Inspection* : Held several safety and health office inspections. To include (Plumbing Shop)

Miscellaneous: Completed Environmental Manual rewrite for [redacted] on Saturday, June 7th 2008. Completed five more folders of the energy module data entry. Completed final draft of the OAS Safety and Heath Manual. Ready for [redacted] review. Completed the Recycling bins purchase sole source.

Week of: 9 – 13 June - *Inspection* : Held several safety and health office inspections. To include (Electric Shop)

TASKS: Completed the recycling invoice folder. Completed the issuance of BEA recycling boxes. Completed the Safety and Health Manual draft. Completed the Job Hazard Analysis.

Week of: 16 -21 June - *RPM Energy Module:* I have started inputting data into the RPM Energy Module on Friday. I have inputted several accounts.

EPA RFI: This week I worked with Joe Preble, Lisa Martin and AERA (Sima Clinge) gathering more information needed for the EPA RFI. We are still missing a couple more manifests from AERC.

Inspection : Held several safety and health office inspections. To include (HVAC Shop)

Week of: 30 – 4 July - *OAS Contractor's Space inspections:* Conducted inspections of the following areas and had the COTR's to walk with me.

- Cafeteria
- 6th Floor Snack bar
- 7th Floor Snack bar
- Paper Clips
- 7th Floor Library
- Law Library
- Mailroom

Inspection : Held several safety and health office inspections. To include (Electric Shop)

MOU's: Worked with Curtia Taylor on tracking down the MOU's with the Energy, Safety and Environmental Division.

Recycling: Distributed a couple of recycling boxes to employees.

FY 2007 – 2008 Accomplishments
Energy, Safety and Environmental Division

Week of 22 – 26 October

1.) OAS Social Gathering

Week of 29 – 02 November

1.) Draft posters for America Recycles Day is complete the posters are with the Print Shop for processing.
2.) Forward the "FY08" Health and Safety Inspection calendar to all of the Division Chiefs and Directors for an inspection date.

Week of 12 -16 November

1.) The recycling posters has been successfully completed and mounted at the proper entrances America Recycle Day.
2.) Met with Clean Harbors representative for a quote for the removal of the hazardous waste within the HCHB.

Week of 03 -07 December

1.) I have made contact with Linda Hayden (Business Continuity and Management Office NPC's Strategic Vision 2012) and David Hackbarth (Director) received the final estimate from Jeffersonville, IN.

Week of 17 -21 December

1.) Jeffersonville, IN MOU has been completed.
2.) COHO MOU has been completed.

Week of 31 – 04 January

1.) I completed the recycling logos, final closeouts before I go out on leave. I prep Rosaline Hill on her new duties while I'm out on leave. I worked on the MOA for release of the recycling funds.

Week of: 25 – 29 February

1.) Held ESE staff meeting to finalize on what items are to be purchased for the vent.

Week of: 10 – 14 March

1.) With three days to prepare for the inspection the corrections that were sighted was corrected. The EPA inspection went well, there were no discrepancies reported against DOC. The inspector inspected the following areas with zero discrepancies. (South Garage HAZMAT Storage Locker and Bulb Crusher Room; Plumbing, Electric and HVAC Shops; Mechanical Rooms B306, B315, B834, B836, B870, B878, B884, B885S, NPP Paint Room B529, Fire Pump Room B036; Outside Moats, and North Loading Dock) our training records was reviewed as well with no discrepancies.

Week of: 31 – 4 April

1.) *Recycle Centers*: Fred Fanning was pleased with the Recycle Center for the hallways. A meeting will be scheduled to present the center to Otto Wolf.

Week of: 07 - 11 April

1.) I attended Coop meetings and exercise site visit. Worked on Earth Day display board and conducted weekly hazardous waste inspection.

Week of: 21 - 25 April

1.) Earth Day was successful for HCHB and especially for ORE/ESED. Great feedback from DOC employees and the daycare center.
2.) Hazardous waste pick-up was successful (fluorescent bulbs, batteries, non PCB) by EPSI (Earth Protection Services).

Week of: 12 – 16 May

1.) Held several safety and health office inspections and hazardous waste inspections.
2.) Assisted [redacted] in allotting the recycling account, also contacted a concerned Census employee on their janitorial services consolidating their trash and recyclables together and which [redacted] stated that they have separated labeled containers.

Week of: 19 – 23 May

1.) I attended the 3rd Annual Mid Atlantic Construction Safety Conference held on Wednesday May 21, 2008 at Martin's Crosswinds, Greenbelt Maryland.
2.) Assisted [redacted] in gathering requested information for EPA.
3.) Assisted Ros in gathering recycling and energy items to be placed on our display table at census.
4.) Held my first mentor meeting with [redacted]
5.) Attended the GSA weekly project meeting.

Week of: 26 -30 May

1.) Visit to BEA on their recycling program.

2.) I have started inputting data into the RPM Energy Module on Thursday I completed 7

separate accounts for Silver Spring Metro Center (NOAA).
3.) I worked with [redacted] to gather majority of the information needed for the EPA RFI.

Week of: 02 – 06 June

1.) Attended three day 2008 Federal Environmental Symposium held at NIST.
2.) Held weekly safety and health shop inspections and hazardous waste inspections.
3.) Completed Environmental Manual rewrite for [redacted] on Saturday, June 7th 2008.
4.) Completed five more folders of the energy module data entry.
5.) Completed final draft of the OAS Safety and Heath Manual. Ready for [redacted] review
6.) Completed Recycling bins purchase sole source. Ready for [redacted] review

Week of: 9 – 13 June

1.) Completed the recycling invoice folder.
2.) Completed the issuance of BEA recycling boxes.
3.) Completed the Safety and Health Manual draft.
4.) Completed the Job Hazard Analysis.

Week of: 16 -21 June

1.) I have started inputting data into the RPM Energy Module on Friday. I have inputted several accounts.
2.) This week I worked with Joe Preble, Lisa Martin and AERA (Sima Clinge) gathering more information needed for the EPA RFI. We are still missing a couple more manifests from AERC.
3.) Completed Weekly inspection of the HVAC shop.

Week of: 30 – 4 July

1.) Conducted inspections of the following areas and had the COTR's to walk with me.
- Cafeteria
- 6th Floor Snack bar
- 7th Floor Snack bar
- Paper Clips
- 7th Floor Library
- Law Library
- Mailroom

2.) Conducted weekly inspection of the Electric shop.
3.) Worked with Curtia Taylor on tracking down the MOU's with the Energy, Safety and Environmental Division.
4.) Distributed a couple of recycling boxes to employees.

Week of: 07-11 July

1.) I have received the signed EMS MOU form OAM.
2.) This week I worked with Desrene Grant and Michael Halper on purchasing the 55

Recycled Recycling bins to be placed around HCHB for receiving our recycling goals
3.) Completed Weekly inspection of the Plumbing Shop carpentry room.

Week of: 21 – 25 July

1.) Conducted hazardous waste inventory count with Clean Harbors for pickup.
2.) Conducted weekly inspection of the Electric shop.
3.) Completed C.Request Requisition of the Recycling Bins. On Monday July 28th a meeting with Zerrin Langer on the bins.

Week of: 28 – 1 August

1.) Conducted inspections of the following areas loading docks and Electric shop bulb storage room B-321
2.) Worked with Zarrin Langer of OAM and Deb Fox of MidPoint International on the purchasing of the Recycling Bins.
3.) Distributed some to mouse pads to Census employees per their request via gogreen@doc.gov email.
4.) Designed ratio chart for FY 2006 and 2007 recycling and trash comparison.

Week of: 4 - 8 August

1.) Conducted inspections of the following areas loading docks and HVAC; basement compressor room.
2.) Distributed recycling bins to HCHB employees.
3.) Labeled ESED file cabinets; gave [redacted] draft copies of posters for review, completed mentor meeting with Fred Fanning, gave [redacted] office updates and progress reports per her return to the office, disposed of the hazardous waste that was accumulated.

Week of: 11 – 15 August

1.) Conducted inspections of the following areas loading docks and HVAC shop room B-830 and Chiller Room
2.) Worked with Zarrin Langer of OAM and Deb Fox of MidPoint International on the purchasing of the Recycling Bins. Mat with Zarrin Langer, Cathaline McGrath, Leo Taylor and [redacted] on the outstanding MOU's.
3.) Completed drafts of Recycling and E-Waste posters and forwarded it to graphics.
4.) Designed ratio chart for FY 2006 and 2007 recycling and trash comparison.
5.) Conducted OAS 4th quarter Safety and Health office inspections.

Week of: 25 – 29 August

1.) Conducted inspections of the following areas loading docks and Electric Shop.
2.) Inventoried all of the recycling products that were ordered for the Safety Fair.
3.) OAS All-Hands was a success.

Week of: 01 – 05 September

1.) Completed Plumbing shop inspection, hazardous waste inspection and recycling inspection.
2.) Cleaned out the ESED storage closet.

3.) Preparing for the Safety and Health Fair that will be held on September 17th, 2008.
4.) The Procurement action with MidPoint International is complete.

Name: E. Dion Lee
Week of: 22-26 October

Weekly Highlights:

OAS Social Gathering was a success from the beginning to the end. This week I have started working on several projects that was assigned to me by [redacted] Such as: The recycling of toner cartridges program with Paperclips and the design and preparation of America Recycles Day which is held on November 25th. Also I am working the market research for new inside recycling bins for the Department of Commerce brainstorming ways to promote more revenue into the recycling program here at HCHB.

FY 2007 Annual Recycling Report for Department Of Commerce (HCHB)

The Department of Commerce has generated a total of $5,097.82 for the 2007 annual GSA Recycling Report. The report also indicated that the Depart of Commerce has generated a grand total of 95.700 tons of recycling products.

Weekly Accomplishments:

Social Gathering
- Met with Braulio and the ORE staff on the Social Gathering for the final preparation which included my work assignments.

Recycling Reporting
- Discussed recycling reports with [redacted] such as: recycling funds, recycling products for the building, placement of current recycling bins, the recycling of toner cartridges and NOAA Warehouse cardboard pick-up contract.

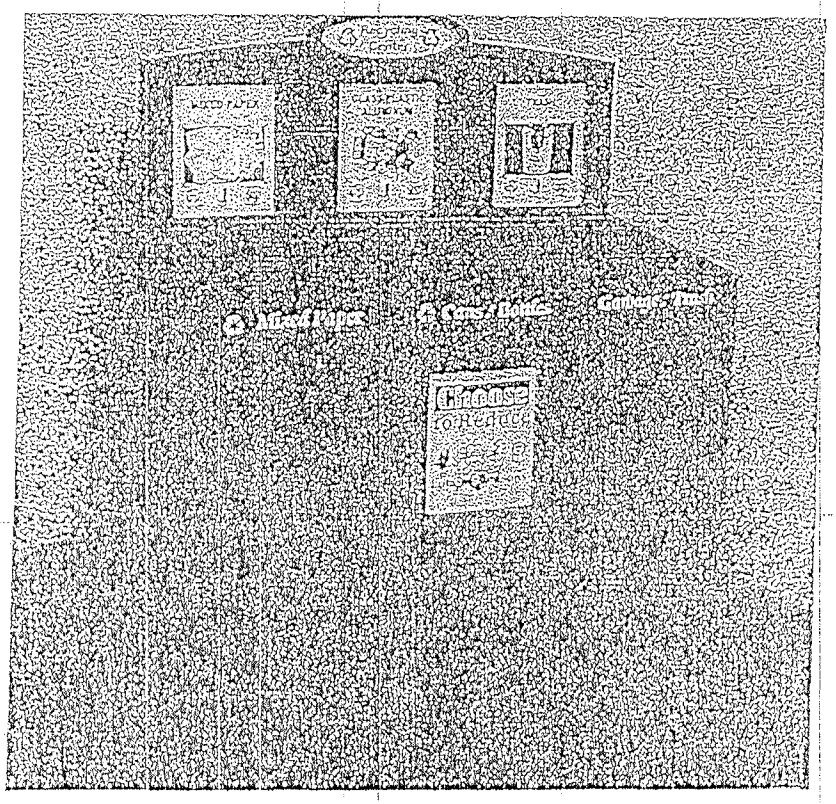
Other
- Attended a walk through of NOAA Warehouse

Name: E. Dion Lee
Week of: 29-02 November

Weekly Highlights:

I have conducted market research on the recycling bins that will be used in various locations through out the Department of Commerce. [redacted] and I are brainstorming ways to promote and bring in more revenue with recycling. We have come to the conclusion that we need to replace the old recycling bins with upgraded models.

If we send $1,458 on one bin within a year of participation we can generate at lease $1,045 in recycling. This for that first year recycling has paid for the bin already.



Weekly Accomplishments:

Recycling Reporting :

- Discussed recycling reports with [redacted] such as: recycling funds, recycling products for the building, placement of current recycling bins, the recycling of toner cartridges and NOAA Warehouse cardboard pick-up contract.
- The monies to purchase office recycling boxes was approved and the boxes will be purchased by Friday, November 02, 2007.
- Draft posters for America Recycles Day is complete the posters are with the Print shop for processing.

Other :

- Forward the "FY08" Health and Safety Inspection calendar to all of the Division Chiefs and Directors for an inspection date.

Name: E. Dion Lee
Week of: 02 -09 November

Weekly Highlights:

Working continuously on the Recycle Program getting quotes on the new recycling bins that will be placed around the building. Working closely with [redacted] to back track the recycling monies from all of the contributing bureaus within Commerce from FY00 to FY07, also we're working on finding ways to use the recycling money that the Recycling Program would benefit off of in the future.

America Recycles Day
The Department of Commerce will be celebrating America Recycles Day on November 15th 2007 in the Main Lobby of the HCHB. Their will be free give aways and we will be educating the employees on the new recycling program. We will motivate the employees and gather pledges from the employees to guarantee some dedication into the program. We also plan to give large office recycling boxes away to the employees.

Weekly Accomplishments:

Recycling Posters
- ORE and the Print Shop has been successfully completed the recycling posters for America Recycles Day.

Recycling Reporting
- Per [redacted] request the recycling spreadsheet for Department of Commerce was completed.

Other

Name: E. Dion Lee
Week of: 12 -16 November

Weekly Highlights:

Working continuously on the Recycle Program getting new quotes on the new recycling bins that will be placed around the building. We are requesting 80 Front Loading Multipurpose "Recycled Recycling" containers to be placed around the building to help support the recycling program and to beautify the building by replacing the old bins.

America Recycles Day
The Department of Commerce will be celebrating America Recycles Day on November 20th 2007 in the Main Lobby of the HCHB instead of the 15th.Their will be free give aways and we will be educating the employees on the new recycling program. We will motivate the employees and gather pledges from the employees to guarantee some dedication into the program. We also plan to give large office recycling boxes away to the employees.

Weekly Accomplishments:

Recycling Posters
- The posters has been successfully completed and mounted at the proper entrances

Hazardous Waste
- Met with Clean Harbors representative for a quote for the removal of the hazardous waste within the HCHB.

Name: E. Dion Lee
Week of: 19 -23 November

Weekly Highlights:

Working on locating the point of contact for the Jeffersonville, IN Census site for the recycling program, once this is accomplished I will find out what they needs are to help promote the recycling program more.

Weekly Accomplishments:

Jeffersonville, IN

- I was able to contact someone from Jeffersonville, IN, however it was not the correct person, but this individual did turn me onto the correct person.

Hazardous Waste

- I received the approval for Clean Harbors to remove the hazardous waste.

Name: E. Dion Lee
Week of: 03-07 December

Weekly Highlights:

Working on locating the point of contact for the Jeffersonville, IN Census site for the recycling program, once this is accomplished I will find out what they needs are to help promote the recycling program more.

Weekly Accomplishments:

Jeffersonville, IN

- I have made contact with Linda Hayden (Business Continuity and Management Office NPC's Strategic Vision 2012) and David Hackbarth (Director) received the final estimate from Jeffersonville, IN.

Name: E. Dion Lee
Week of: 03-07 December

Weekly Highlights:

Working on locating the point of contact for the Jeffersonville, IN Census site for the recycling program, once this is accomplished I will find out what they needs are to help promote the recycling program more.

Weekly Accomplishments:

Jeffersonville, IN

- I have made contact with Linda Hayden (Business Continuity and Management Office NPC's Strategic Vision 2012) and David Hackbarth (Director) received the final estimate from Jeffersonville, IN.

Name: E. Dion Lee
Week of: 10-14 December

Weekly Highlights:

Worked on clearing out the hazardous waste storage cabinet through Clean Harbors contractors. However the project had to be postponed do to construction within the Plumbers Shop near the south garage.

Weekly Accomplishments:

Jeffersonville, IN

- Myself and [redacted] successfully touched basis with Census Bureau in Jeffersonville, IN via conference call and they were please to hear from us and proud to hear that we were going to give them funds for their recycling program.

Name: E. Dion Lee
Week of: 17-21 December

Weekly Highlights:

Working on the MOU's for transferring of the recycling funds for Census Bureau Jeffersonville, IN site and the COHO Fitness Center.

[redacted] Braulio and I are in the mist of choosing which recycling bins to present to Fred for posting within the building.

Weekly Accomplishments:

Jeffersonville, IN

- MOU has been completed.

COHO

- MOU has been completed.

Name: E. Dion Lee
Week of: 31 – 04 January

Weekly Highlights:

I worked on recycling logos, final closeouts before I go out on leave. I prep Rosaline Hill on her new duties while I'm out on leave. I worked on the MOA for release of the recycling funds.

Weekly Accomplishments:

All of the above was accomplished.

Name: E. Dion Lee
Week of: 25 – 29 February

Weekly Highlights:

Held staff meetings to discuss Earth Day item purchasing and conducting Safety and Health class to OAS. [redacted] briefed me on moving the ESE files to one central location within the office and we worked on retrieving the trash, metal and wood recycling numbers from the contractors. I conducted the weekly hazardous storage area inspection.

Weekly Accomplishments:

Earth Day

- Held ESE staff meeting to finalize on what items are to be purchased for the vent.

Recycling Numbers

- Was able to retrieve only the trash number for FY07 for the contractors, unable to retrieve the metal and wood numbers.

Name: E. Dion Lee
Week of: 10 – 14 March

Weekly Highlights:

I prepared for the EPA inspection with HVAC, Electric and Plumbing shop.

Weekly Accomplishments:

EPA Inspection

- With three days to prepare for the inspection the corrections that were sighted was corrected. The EPA inspection went well, there were no discrepancies reported against DOC.
  The inspector inspected the following areas with zero discrepancies. (South Garage HAZMAT Storage Locker and Bulb Crusher Room; Plumbing, Electric and HVAC Shops;
  Mechanical Rooms B306, B315, B834, B836, B870, B878, B884, B885S, NPP Paint Room B529, Fire Pump Room B036; Outside Moats, and North Loading Dock) our training
  records was reviewed as well with no discrepancies.

2nd Quarter FY2008
ESED Accomplishments

1. Program Management

   - Completed about 85% of the required worked for Earth Day which will be held on April 22nd.

2. Customer Service

   - Supported internal customers and provided environmental technical knowledge to DOC operating units.
   - Assisted Building Management Division with Hazardous waste operations and asbestos management for the HCHB.

3. Professional Effectiveness
   - Attended EPA's Environmental Seminar to gain personal knowledge and to represent the Department's interest.

4. Contract Management
   - Processed the hazardous waste disposal through Clean Harbors.

Name: Dion Lee
Week of: 31 – 4 April

Weekly Highlights: Focused recycling products for Earth Day and retrieving health records and any hazardous waste training forms the Building Management shop employees, also 4', 8' and CFL containers was ordered for recycling through Clean Harbors.

Weeldy Accomplishments:

Recycle Centers: Fred Fanning was pleased with the Recycle Center for the hallways. A meeting will be scheduled to present the center to Otto Wolf.

Clean Harbors: The recycling boxes for the fluorescent bulbs should arrive this week or next week.

Training and shot records: The shop employees are gathering the requested information.

Name: E. Dion Lee
Week of: 07-11 April

Weekly Highlights:

I attended Coop meetings and exercise site visit. Worked on Earth Day display board and conducted weekly hazardous waste inspection.

Weekly Accomplishments:

Earth Day

- Display board set-up is complete.

Name: E. Dion Lee
Week of: 21-25 April

Weekly Highlights:

Preparation for Earth Day and the following two days celebrating the event.

Weekly Accomplishments:

Earth Day

- Was successful for HCHB and especially for ORE / ESED. Great feedback from DOC employees and the daycare center.

Hazardous Waste

- Hazardous waste pick was successful (fluorescent tubes, batteries, non PCB) by EPSI (Earth Protection Services, Inc.)

Name: E. Dion Lee
Week of: 12 – 16 May

Weekly Highlights:

Preparation for safety and health office inspections.

Weekly Accomplishments:

Inspections

Held several safety and health office inspections.

Miscellaneous

Assisted [redacted] in allotting the recycling account, also contacted a concerned Census employee on their janitorial services consolidating their trash and recyclables together and which she stated that they have separated labeled containers.

Name: E. Dion Lee
Week of: 19 – 23 May

Weekly Highlights:

I attended the 3rd Annual Mid Atlantic Construction Safety Conference held on Wednesday May 21, 2008 at Martin's Crosswinds, Greenbelt Maryland.

Weekly Accomplishments:

EPA Request Items

- Assisted [redacted] in gathering requested information for EPA.

Census Go-Green Event

- Assisted Ros in gathering recycling and energy items to be placed on our display table at census.

Mentoring Meeting

- Held my first mentor meeting [redacted]

GSA Project Meeting

- Attended the GSA weekly project meeting.

Name: E. Dion Lee
Week of: 19 – 23 May

Weekly Highlights:

I attended the 3rd Annual Mid Atlantic Construction Safety Conference held on Wednesday May 21, 2008 at Martin's Crosswinds, Greenbelt Maryland.

Weekly Accomplishments:

EPA Request Items

- Assisted [redacted] in gathering requested information for EPA.

Census Go-Green Event

- Assisted Ros in gathering recycling and energy items to be placed on our display table at census.

Mentoring Meeting

- Held my first mentor meeting [redacted]

GSA Project Meeting

- Attended the GSA weekly project meeting.

Name: Dion Lee
Week of: 26 -30 May

Weekly Highlights: Visit to BEA on their recycling program. RPM Energy Module and EPA RFI.

Weekly Accomplishments:

BEA visit:

[redacted] Rosaline, Braulio and I visited BEA on Wednesday, May 28 for a site visit and to discuss their recycling program and ways to improve their program.

RPM Energy Module:

I have started inputting data into the RPM Energy Module on Thursday I completed 7 separate accounts for Silver Spring Metro Center (NOAA).

EPA RFI:

This week I worked with [redacted] to gather majority of the information needed for the EPA RFI.

Name: E. Dion Lee
Week of: 02 – 06 June

Weekly Highlights:

Attended three day 2008 Federal Environmental Symposium held at NIST.

Weekly Accomplishments:

Inspections:

Held weekly safety and health shop inspections.

Miscellaneous:

- Completed Environmental Manual rewrite for [redacted] on Saturday, June 7th 2008.
- Completed five more folders of the energy module data entry.
- Completed final draft of the OAS Safety and Heath Manual. Ready for [redacted] review
- Completed Recycling bins purchase sole source. Ready for [redacted] review

Name: E. Dion Lee
Week of: 9 – 13 June

Weekly Highlights:

Completing Tasks given by [redacted]

Weekly Accomplishments:

TASKS:

- Completed the recycling invoice folder.
- Completed the issuance of BEA recycling boxes.
- Completed the Safety and Health Manual draft.
- Completed the Job Hazard Analysis.

Name: Dion Lee
Week of: 16 -21 June

Weekly Highlights: Complete gathering manifest for EPA RFI.

Weekly Accomplishments:

RPM Energy Module:

I have started inputting data into the RPM Energy Module on Friday. I have inputted several accounts.

EPA RFI:

This week I worked with Joe Preble, Lisa Martin and AERA (Sirna Clinge) gathering more information needed for the EPA RFI. We are still missing a couple more manifests from AERC.

Weekly Inspections:

Completed Weekly inspection of the HVAC shop.

Name: Dion Lee
Week of: 30 – 4 July

Weekly Highlights: OAS Inspections

Weekly Accomplishments:

OAS Space visit:

Conducted inspections of the following areas and had the COTR's to walk with me.

- Cafeteria
- 6th Floor Snack bar
- 7th Floor Snack bar
- Paper Clips
- 7th Floor Library
- Law Library
- Mailroom

Conducted weekly inspection of the Electric shop.

MOU's:

Worked with Curtia Taylor on tracking down the MOU's with the Energy, Safety and Environmental Division.

Recycling:

Distributed a couple of recycling boxes to employees.

Name: Dion Lee
Week of: 07-11 July

Weekly Highlights: EMS MOU and Jefferson MOU

Weekly Accomplishments:

MOU's:

I have received the signed EMS MOU form OAM.

Sole Source:

This week I worked with Desrene Grant and Michael Halper on purchasing the 55 Recycled Recycling bins to be placed around HCHB for receiving our recycling goals.

Weekly Inspections:

Completed Weekly inspection of the Plumbing Shop carpentry room.

Name: Dion Lee
Week of: 21 – 25 July

Weekly Highlights: OAS Inspections

Weekly Accomplishments:

Hazardous Waste Inventory:

Conducted hazardous waste inventory count with Clean Harbors for pickup.

Inspections:

Conducted weekly inspection of the Electric shop.

C. Request:

Completed C.Request Requisition of the Recycling Bins. On Monday July 28th a meeting with Zerrin Langer on the bins.

Name: Dion Lee
Week of: 28 – 1 August

Weekly Highlights: OAS Inspections

Weekly Accomplishments:

OAS Shop visit:

- Conducted inspections of the following areas loading docks and Electric shop bulb storage room B-321

MOU's:

Worked with Zarrin Langer of OAM and Deb Fox of MidPoint International on the purchasing of the Recycling Bins.

Customer Service:

Distributed some to mouse pads to Census employees per their request via gogreen@doc.gov email.

Designed ratio chart for FY 2006 and 2007 recycling and trash comparison.

Name: Dion Lee
Week of: 4 - 8 August

Weekly Highlights: OAS Inspections; Office Clean-Up; Hazardous Waste disposal

Weekly Accomplishments:

OAS Shop visit:

Conducted inspections of the following areas loading docks and HVAC; basement compressor room.

MOU's:

Worked with Zarrin Langer of OAM and Deb Fox of MidPoint International on the purchasing of the Recycling Bins.

Customer Service:

Distributed recycling bins to HCHB employees.

Miscellaneous:

Labeled ESED file cabinets; gave [redacted] draft copies of posters for review, completed mentor meeting [redacted], gave [redacted] office updates and progress reports per [redacted] return to the office, disposed of the hazardous waste that was accumulated.

Name: Dion Lee
Week of: 11 – 15 August

Weekly Highlights: OAS Inspections

Weekly Accomplishments:

OAS Shop visit:

- Conducted inspections of the following areas loading docks and HVAC shop room B-830 and Chiller Room

MOU's:

Worked with Zarrin Langer of OAM and Deb Fox of MidPoint International on the purchasing of the Recycling Bins. Mat with Zarrin Langer, Cathaline McGrath, Leo Taylor and [redacted] on the outstanding MOU's.

Miscellaneous:

Completed drafts of Recycling and E-Waste posters and forwarded it to graphics.

Designed ratio chart for FY 2006 and 2007 recycling and trash comparison.

Name: Dion Lee
Week of: 25 – 29 August

Weekly Highlights: OAS Inspections

Weekly Accomplishments:

OAS Shop visit:

- Conducted inspections of the following areas loading docks and Electric Shop.

Miscellaneous:

Inventoried all of the recycling products that was ordered for the Safety Fair.

Name: Dion Lee
Week of: 25 – 29 August

Weekly Highlights: OAS Inspections

Weekly Accomplishments:

OAS Shop visit:

- Conducted inspections of the following areas loading docks and Electric Shop.

Miscellaneous:

Inventoried all of the recycling products that was ordered for the Safety Fair.

GLOBAL ENVIRONMENTAL SOLUTIONS

This certifies that

PETER D. WIXTED

HAS MET THE ATTENDANCE REQUIREMENTS AND SUCCESSFULLY COMPLETED
THE COURSE ENTITLED

EPA AHERA ASBESTOS CONTRACTOR / SUPERVISOR INITIAL COURSE

FOR ACCREDITATION UNDER TSCA TITLE II

4/2/2007 to 4/6/2007	4/6/2008	4/6/2007
COURSE DATE	EXPIRATION DATE	EXAM DATE
MICHAEL NORRIS	89418	
COURSE DIRECTOR	CERTIFICATE NO.	

Virginia Asbestos Training Provider Accreditation No. 3322000045

8300 MERRIFIELD AVE UNIT # B FAIRFAX, VA 22031 (703) 205-9188 FAX: (703) 205-9186

W

Form CD-541
(3-06)

U.S. DEPARTMENT OF COMMERCE

DEMONSTRATION PROJECT • PERFORMANCE MANAGEMENT RECORD

PERFORMANCE APPRAISAL AND POSITION REVIEW

Employee's Name [redacted]

Position/Title [redacted]

Career Path/Series/Band ZA-0018-IV

Organization OHRM/OOSH Rating Period 10-01-06 to 09-30-07

RATING OFFICIAL'S CERTIFICATION

Certify That:

[x] This plan is a complete and accurate statement of the performance elements, objectives, and major activities that will form the basis of the employee's performance appraisal.

[x] The performance plan and position description reflect similar objectives, duties and responsibilities.

ame and Title of Rating Official	Signature	Date
anice L. Guinyard, Acting Director, OOSH		

HIGHER LEVEL SUPERVISOR CONCURRENCE

I agree with the certification of the position description and concur with the performance plan.

ame and Title of Higher Level Supervisor *(if appropriate)*	Signature	Date
illiam J. Fleming, Deputy Director, OHRM		3/9/07

PAY POOL MANAGER'S APPROVAL

I agree with the certification of the position description and I approve the performance plan.

me and Title of Pay Pool Manager	Signature	Date
illiam J. Fleming, Deputy Director, OHRM		3/9/07

REVIEWING OFFICIAL'S APPROVAL

This review is appropriate when the pay pool manager is also the rating official.

ne and Title of Reviewing Official	Signature	Date

EMPLOYEE ACKNOWLEDGMENT

signature acknowledges discussion of the position description and receipt of the performance plan, but does not necessarily signify agreement with either document.

[redacted]		Date
		3/13/07

SECTION 1 - PERFORMANCE PLAN

Employee's Name	Rating Period	Element No.
[redacted]	10-01-06 to 09-30-07	1 of

TEM 1. Performance Element, Objective and Point Weight

Critical Element:

Program/Project Manager, Project Team Member

bjective:

Provide high quality, cost effective and timely planning, implementation, and evaluation of occupational safety and health programs for the Department and the ffice of Human Resources Management.

oint Weight: 60

e weight must reflect the importance of the element or the time required to perform it, or both. Element weight must be in 5-int increments, with no element weight higher than 60 points, and all element weights must equal 100 points.

EM 2. Major Activities or Required Results Related to the Above Element *(Maximum of 5)*

the Department's occupational safety and health program for HCHB. 2. Department's Program Manager for the Radiation Protection Program. 3. nd provide occupational safety and health training to Department personnel. 4. Develop and review Departmental occupational safety and health ic, guidance, manuals and presentations for HCHB. 5. Coordinate and manage the HCHB Health Unit Inter-Agency Agreement (IAA).

M 3. Evaluation Criteria *(Benchmark performance standards must be used; add supplemental standards, if needed.)*

Develop HCHB OSH inspections schedule by October 31. Conduct HCHB safety inspections as scheduled and develop associated reports that are nically accurate and substantially free of other errors. 2. Develop and maintain a hazard assessment for HCHB. 3. Collaborate with NIST and NOAA on ting radiation safety programs and provide Department oversight. Conduct a review of the existing programs and provide recommendations for rovement if needed by August 1. 4. Coordinate and provide occupational safety and health training for HCHB personnel. Develop training materials as essary. 5. Conduct a complete review of the Department's OSH Manual to identify areas of improvement by 1 May and the Department's OSH DAOs and Bulletins by June 30. 6. Serve as COR for the HCHB Health Unit IAA. Conduct market research and develop the business case for continued use of IAA ugust 1. Develop and execute IAA documentation by September 30. Ensure technical requirements of the IAA are met. Conduct on-site evaluations of the ractor quarterly or more frequently if necessitated by employee complaints or other indicators. All submissions to the Contracting Office are accurate and plete. 7. Provide occupational safety and health expertise for the HCHB including safety inspections, accident investigations, emergency responses, nomic assessments, indoor air quality investigations and hazard assessments. 8. All products reflect current job knowledge and technical skills. pendently fields questions regarding regulations and provides interpretation and guidance to executives, Office Directors, program managers, and other M employees and clients; appropriately elevates problems which require attention/involvement of the Director. 9. Occupational safety and health ments and other deliverables are submitted with high quality, technical accuracy, and financial sufficiency. 10. Summarize weekly activities and submit ly accomplishments to the Director. 11. Serve as a member of the COOP team. 12. Protect and secure personally identifiable information.

SECTION 1 - PERFORMANCE PLAN

Employee's Name	Rating Period	Element No.
[redacted]	10-01-06 to 09-30-07	2 of

ITEM 1. Performance Element, Objective and Point Weight

Critical Element:

Technical Services/Special Projects

Objective:

Provide subject matter expertise to ad hoc projects, problems, situations, or tasks in support of OHRM/DOC's mission.

Point Weight: 20

The weight must reflect the importance of the element or the time required to perform it, or both. Element weight must be in 5-point increments, with no element weight higher than 60 points, and all element weights must equal 100 points.

ITEM 2. Major Activities or Required Results Related to the Above Element *(Maximum of 5)*

ponds to requests for ad hoc special projects and technical services. 2. Appropriate subject matter experts are consulted when the scope of a special , or issue is outside of the employee's area of expertise. 3. Ad hoc special projects and/or technical services are planned, researched, and/or inated.

ITEM 3. Evaluation Criteria *(Benchmark performance standards must be used; add supplemental standards, if needed.)*

. Responses for technical services are factually accurate and consistent with OHRM and Departmental guidance or policies. 2. Special Projects are ompleted by the due date and are accurate, effective and efficient. 3. Originality and creativity are evident in technical services and special projects and inimal guidance is required. 4. In accomplishing special projects, demonstrates ability to manage multiple tasks and competing priorities under short eadlines. 5. Demonstrates thorough knowledge of logistical, protocol, budgetary, and security requirements necessary for successfully manage ad hoc rojects or special events. 6. Analysis is well-reasoned, thorough, balanced and clearly articulated. 7. Written and oral communications are clear, convincing, nd effective.

SECTION 1 - PERFORMANCE PLAN

Employee's Name	Rating Period	Element No.
[redacted]	10-01-06 to 09-30-07	3 of

ITEM 1. Performance Element, Objective and Point Weight

Critical Element:

Customer Service

Objective:

Provide high quality service to recognized external and internal customers.

oint Weight: 20

he weight must reflect the importance of the element or the time required to perform it, or both. Element weight must be in 5-oint increments, with no element weight higher than 60 points, and all element weights must equal 100 points.

EM 2. Major Activities or Required Results Related to the Above Element *(Maximum of 5)*

program activity, or system operations and continually communicate with clients and their success/satisfaction with program. 2. Act as OHRM inquires, problems, issues, activity or system related problems and determine appropriate resolutions. 3. Promote use of human resources s, activities and systems through discussions, demonstrations, meetings, etc. 4. Provide leadership in accomplishing HR client initiatives as identified senior management. Establishes milestones, procedures, and measurements that define success. Review program results and makes adjustments as propriate.

M 3. Evaluation Criteria *(Benchmark performance standards must be used; add supplemental standards, if needed.)*

Client priorities are considered in planning and performing assigned responsibilities. 2. The work area is orderly, organized, work is easily located and us of work is easily determined. 3. Quarterly customer service surveys will be conducted to determine that the following standards are met: a) Within 24 rs of receipt, review and respond to e-mail messages. If on approved absence, e-mail must note that employee is out of the office, provide a period of ence and an alternative contact while away; b) Within 24 hours of receipt, responds to voice mail. If on approved absence, voice mail message must ide caller with information that you are out of the office with date of return and instructions to the caller for an alternative point of contact during your ence.

ITEM 4. Mid-Cycle/Progress Review *(Check appropriate box)*

☐ 1. Review indicates performance is Eligible.

2. Review indicates performance is Eligible; however, there are performance deficiencies, as stated below.

☐ 3. Review indicates performance is deficient and a performance improvement plan is needed. Deficiencies are stated below. *(If this block is checked, supervisor must contact the servicing HR office.)*

Key Achievements, Strengths: Be specific and relate these to performance elements. List areas where work was done well and identify the strengths exhibited by the employee during the rating period.

eficiencies, Areas of Concern: *(Must be filled in if box 2 or box 3 above is checked)*: Be specific and relate these to dividual performance elements. Note deficiencies or areas where performance has declined during the rating period.

ggestions/Strategies for Improvement: List areas in which the employee might enhance performance. Comments can o identify suggestions for career growth and development.

	Employee's Initials	Date	Rating Official's Initials	Date
-Cycle Progress Review				
Review				
gress Review:				

ITEM 5. Rating Official's End-of-Year Appraisal *(Includes consideration of attached employee accomplishments)*

☐ 1. Review indicates performance is **Eligible**.

☐ 2. Review indicates performance is **Eligible**; however, there are performance deficiencies, as stated below.

☐ 3. Review indicates performance is **deficient** and a performance improvement plan is needed. Deficiencies are stated below. *(If this block is checked, supervisor must contact the servicing HR office.)*

☐ 4. Review indicates that a PIP has not been successfully completed and performance is rated Unsatisfactory.

Key Achievements, Strengths: Be specific and relate these to performance elements. List areas where work was done well, and identify the strengths exhibited by the employee during the rating period.

ficiencies, Areas of Concern: *(Must be filled in if box 2 or box 3 above is checked)*: Be specific and relate these to al performance elements. Note deficiencies or areas where performance has declined during the rating period.

ggestions/Strategies for Improvement: List areas in which the employee might enhance performance. Comments can o identify suggestions for career growth and development.

SECTION 2 - PERFORMANCE SUMMARY RATING

Employee's Name	Rating Period
[redacted]	10-01-06 to 09-30-07

..zation

)HRM/OOSH

TEM 1. Scoring

- List each performance element and its weight.
- Assign a score to each element. Enter "Unsatisfactory" if element performance does not warrant a score.
- Complete total score by summing element scores. Total score can range from 40 to 100. If one or more elements are rated "Unsatisfactory," there is no total score and the overall rating is "Unsatisfactory."

Performance Element	Weight	Score
Program/Project Manager, Project Team Member	60	
Technical Services/Special Projects	20	
Customer Service	20	
	TOTAL SCORE	

:M 2. Rating and Payouts

] Eligible *(All elements scored in the Eligible range)*

] Unsatisfactory *(At least one element rated Unsatisfactory)*

] RIF Service Credit ☐ 10 Years ☐ 5 Years

formance Pay Increase Percentage _____ Dollar Amount _____ Bonus Amount _____

ıe and Title of Rating Official	Signature	Date
ıce L. Guinyard, Acting Director, OOSH		
e and Title of Higher Level Supervisor *(If Appropriate)*	Signature	Date
am J. Fleming, Deputy Director, OHRM		
e and Title of Pay Pool Manager	Signature	Date
ım J. Fleming, Deputy Director, OHRM		
; and Title of Reviewing Official	Signature	Date
Signature *(Signifies evaluation feedback meeting held)*	Employee comments attached? ☐YES ☐NO	Date

ELEMENT POINT RA[illegible]S AND BENCHMARK PERFORMANC[illegible]ANDARDS TABLE

This sheet must be used in conjunction with the performance plan. The benchmark performance standards are used to evaluate and score against the elements, objectives, and activities listed in the plan.

ELEMENT POINT RANGES	BENCHMARK PERFORMANCE STANDARDS
60 55 50 45 40 35 30 25 20 15 10 5 59 54 49 44 39 58 53 48 43 34 29 24 57 52 47 42 38 33 28 23 19 56 51 46 14 55 50 41 37 32 27 54 45 36 18 9 53 49 26 13 52 48 44 40 31 22 17 51 47 43 39 35 30 25 21 50 46 42 38 34 29 49 45 41 37 33 48 44 40 36 32 28 24 20 16 12 8 4	Element objectives were achieved with maximum impact through exemplary work that demonstrated exceptional originality, versatility, and creativity. Activities and related tasks were carried out with the utmost effectiveness and reliability, rarely needing room for improvement. Products were of the highest quality. Problems were solved with dedicated perseverance, penetrating insight, meticulous attention to detail, and unprecedented success. Potential sources of conflict were anticipated and avoided through creative alternatives. Cooperation and responsiveness were actively promoted wherever possible. Written and oral communication related to the performance of element activities maximized desired results, forged new cooperative relationships, and increased organizational prestige.
47 43 39 35 31 27 46 42 19 15 45 41 38 34 26 23 44 40 37 33 30 22 11 43 39 36 32 29 25 18 42 35 28 21 14 7 41 38 17 40 37 34 31 27 24 20 10 39 33 30 26 23 19 13 32 29 22 16 31 28 33 30 27 25 18 15 12 9 6 3	Element objectives were accomplished effectively and efficiency, with consistently good quality and quantity of work. Activities and related tasks were carried out in an efficient, orderly sequence that led to timely, correct, thorough and cost-effective results. Products were above-average in quality and reliability. Accepted procedures were carried out proficiently and constructively, and problems were dealt with skillfully and productively. Written and oral communication related to the performance of element activities were clear and convincing.
32 29 26 24 21 31 28 25 23 20 17 14 30 27 19 11 29 26 24 22 16 8 28 23 21 18 13 25 20 15 10 5 27 24 22 17 26 23 21 19 14 12 7 25 16 11 9 24 22 20 18 15 13 23 21 19 17 22 20 18 16 14 12 10 8 6 4 2	Element objectives, activities and related tasks were completed with adequate quality and quantity of work. Products were generally reliable and were delivered without unacceptable delays. Procedures were minimally correct and problems were dealt with satisfactorily. Work methods demonstrated a reasonable degree of cooperation with others. Written and oral communication related to the performance of element activities were generally understandable.

SATISFACTORY: Work not successfully completed; Failed to follow directions, guidance and procedures; Insufficient technical knowledge/skill; rk did not meet minimum specifications; Routine problems were not resolved satisfactorily; Written and oral communication poor and not erstandable; Exhibited uncooperative/unresponsive behavior; Negative impact to organization; Work unacceptably late; Poor leadership skills; vided no positive direction to staff; Unable to organize and prioritize work and/or wasted time; Ineffective in working with others.

	ELEMENT #1	ELEMENT #2	ELEMENT #3	ELEMENT #4	ELEMENT #5	ELEMENT #6	TOTAL
GHT							= 100
RE							

CD-341 (3-06)

INSTRUCTIONS

RESPONSIBLE OFFICIAL: The Rating Official is responsible for all steps except C-6, which is the responsibility of the Pay Pool Manager.

. PERFORMANCE PLANNING (Section 1, Items 1-3): Develop the performance plan in collaboration with the employee.

1. Performance Element: Establish the performance elements of the position (Item 1). Fill out a separate Section1 for each element.
2. Objectives: State the objective of each element.
3. Point Weight: Assign a weight to each element in terms of importance or time required, or both. The weight selected must be on the Element Point Range. The total weight of all elements must equal 100 points.
4. Major Activities: List the major activities or required results related to each element (Item 2).
5. Evaluation Criteria: If needed, enter a supplemental performance standard that defines at least the minimum level of "Eligible" performance to be applied along with the benchmark performance standards (Item3).

). Cover Sheet: Fill out and sign the cover sheet; obtain the signatures of higher level supervisor, (if appropriate) the pay Pool Manager, Reviewing Official*, and employee in this order.

)GRESS REVIEW 1, Item 4): Conduct at least one (mid-ar) progress review with the employee.

. Discussion: For each element, discuss with the employee and record: (a) progress toward accomplishing the element; (b) any need for changes in the plan; and (c) any performance deficiencies and how to correct them.

. Recording: Check one of the blocks.

Initialing: Initial and data, and have the employee initial and date, attesting that the progress review took place. If changing the plan, Rating Official, Pay Pool Manager, Reviewing Official*, and the employee must initial the change.

C. PERFORMANCE APPRAISAL (Section 1, Item 5; Section II): Appraise the employee's performance in accordance with the performance elements, their objectives, activities, weighted values, the benchmark performance standards, and any supplemental standards.

1. Notification: Notify the employee of (a) the requirement to submit a list of accomplishments; and (b) the date and time of the Performance Review meeting.
2. Performance Review Meeting: Meet with the employee to discuss accomplishments. Ratings and other outcomes ARE NOT discussed att his meeting.
3. End-of-Year Appraisal: In Item 5, describe the employee's performance, including consideration of employee's accomplishments and those accomplishments recognized by the Rating Official.
4. Scoring: Use the *Element Point Ranges and Performance Standards Table* to calculate a tentative total score: (a) measure the performance of each element against the *Benchmark Performance Standards* (and supplemental standards, if any); (b) from the column of scores headed my the weight of the element, select a score for the element that corresponds to the level of performance (e.g., if the weight of the element is 40 points and the performance on the element matched the highest benchmark, assign 40 points; if the performance matches the second highest benchmark, assign 28 points; if it matches the third highest benchmark, assign 16 points; if it falls between two benchmarks, assign an appropriate score); (c) sum the individual element scores to produce the total performance score.
5. Recommendations: Submit tentative overall scores and recommendations for pay increases and bonuses (through higher-level supervisor) to the Pay Pool Manager for approval.
6. Pay Pool Manager: Carry out the following steps using the automated performance payout system: (a) interleave peer groups; (b) make pay increase decisions; (c) make bonus decisions; (d) record decisions on Form CD-541; (e) sign the Summary Rating Sheet; (f) forward to Reviewing Official*; (g) return forms to Rating Official.
7. Rating Official: Signs the Summary Rating Sheet.
8. Evaluation Feedback Meeting: Rating Official meets with the employee to discuss the final decisions: rating any performance pay increase, and bonus. Obtains the employee's signature and gives the employee a copy of the completed appraisal.

---

the Pay Pool Manager is also the Rating Official for a position in the pay pool, the Reviewing Official (next higher level in management chain) must review sign the performance plan and appraisal before feedback to the employee.

X

Standard Form 50-B
Rev. 7/91
U.S. Office of Personnel Management
FPM Supp. 296-33, Subch. 4

NOTIFICATION OF PERSONNEL ACTION

1. Name (Last, First, Middle)	2. Social Security Number	3. Date of Birth	4. Effective Date
[redacted]	[redacted]		09/02/07

FIRST ACTION

5-A. Code	5-B. Nature of Action	6-A. Code	6-B. Nature of Action
721	REASSIGNMENT		
5-C. Code	5-D. Legal Authority	6-C. Code	6-D. Legal Authority
N3M	REG 335 102 COMP		
5-E. Code	5-F. Legal Authority	6-E. Code	6-F. Legal Authority

7. FROM: Position Title and Number	15. TO: Position Title and Number
[redacted]	[redacted]
OA 060180	OA 070187

8. Pay Plan	9. Occ Code	10. Grade/Level	11. Step/Rate	12. Total Salary	13. Pay Basis	16. Pay Plan	17. Occ Code	18. Grade/Level	19. Step/Rate	20. Total Salary/Award	21. Pay Basis
	0018					ZA	0301	IV	01		PA

12A. Basic Pay	12B. Locality Adj.	12C. Adj. Basic Pay	12D. Other Pay	20A. Basic Pay	20B. Locality Adj.	20C. Adj. Basic Pay	20D. Other Pay
	.00		.00	.	.00		.00

14. Name and Location of Position's Organization	22. Name and Location of Position's Organization
OFFICE OF THE SECRETARY CHF FINCL OFCR AND A/S FOR ADM DIR FOR HUMAN RESOURCES MGMT OFC OF OCCUPTNL SFTY & HEALTH	OFFICE OF THE SECRETARY CHF FINCL OFCR AND A/S FOR ADM OFC OF ADMIN SVCS OFFICE OF REAL ESTATE CM 51110900020000000000 PP 18 2007

EMPLOYEE DATA

23. Veterans Preference	24. Tenure	25. Agency Use	26. Veterans Preference for RIF
1 (1-None, 2-5 Point, 3-10 Point/Disability, 4-10 Point/Compensable, 5-10 Point/Other, 6-10 Point/Compensable/30%)	1 (0-None, 1-Permanent, 2-Conditional, 3-Indefinite)		YES [ ] NO [X]

27. [redacted]	28. Annuitant Indicator	29. Pay Rate Determinant
	9 NOT APPLICABLE	O

Retirement Plan	31. Service Comp Date (Leave)	32. Work Schedule	33. Part-Time Hours Per Biweekly Pay Period
K FERS AND FICA	02/08/98	F FULL TIME	

POSITION DATA

34. Position Occupied	35. FLSA Category	36. Appropriation Code	37. Bargaining Unit Status
1 (1-Competitive Service, 2-Excepted Service, 3-SES General, 4-SES Career Reserved)	E (E-Exempt, N-Nonexempt)		8888

38. Duty Station Code	39. Duty Station (City - County - State or Overseas Location)
11-0010-001	WASHINGTON DIST OF COLUMBIA DC

40. AGENCY DATA	41.	42.	43.	44.

45. Remarks

LECTED FROM SELECTED FROM MERIT PROMOTION CERTIFICATE #OS-OAS-2007-0040
AP ZA- DATED 8/06/07.
BJECT TO COMPLETION OF 1 YEAR PROBATIONARY PERIOD FOR ASSIGNMENT TO
UPERVISORY OR MANAGERIAL POSITION BEGINNING 09/02/2007.
NGRATULATIONS ON YOUR PROMOTION

Approving Department or Agency	50. Signature/Authentication and Title of Approving Official
EPARTMENT OF COMMERCE	LINDA L. KIRTON DIRECTOR, OFFICE OF HR OPERATIONS

Agency Code	48. Personnel Office ID	49. Approval Date
CM 51	1702	08/31/07

TURN OVER FOR IMPORTANT INFORMATION

Part 50-315

1 – Employee Copy – Keep for Future Reference

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NSN 7540-01-333-6257

Y

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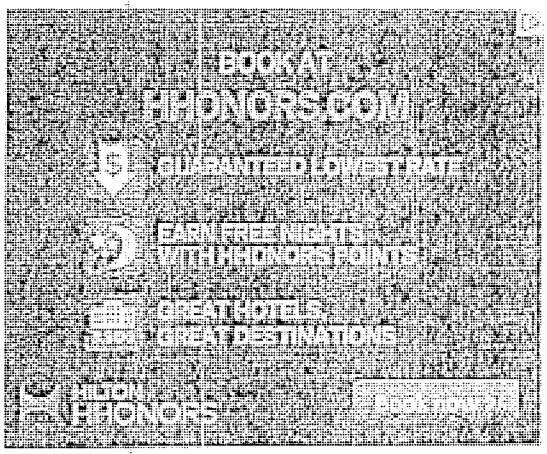
Barnett Lee & Associates Inc in Upper Marlboro, Maryland

Single Location

(301) 370-0192 Review Edit

Address: 3405 Halloway S, Upper Marlboro, MD, 20772-3215

User Ratings 0 ratings



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INFO CORPORATE DATA REVIEWS

General Information

CONTACT INFORMATION	
Organization	Barnett Lee & Associates Inc
Office Location	3405 Halloway S Upper Marlboro, Maryland 20772-3215 United States

COMPANY PROFILE

This listing is for Barnett Lee & Associates Inc's Single Location in Upper Marlboro, MD.

- Barnett Lee & Associates Inc was founded in 2012, and is Privately held.

OTHER CONTACT INFORMATION

General Phone	(301) 370-0192

JOBS IN THIS INDUSTRY

JOB TITLE	COMPANY	APPLY NOW
Customer Service Representative	Top Talent Solutions	Apply
Wireless Tower	SOS Employment Group	Apply
Wireless Tower	SOS Employment Group	Apply

How would you rate Barnett Lee & Associates Inc in Upper Marlboro MD?

Click stars to rate!

County Prince George's

General Phone Number

(301) 370-0192

FULL CONTACT LIST

NAME	TITLE
Edgar D Lee	President
Edgar D Lee	President
Edgar D Lee	President

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BARNETT LEE & ASSOCIATES INC EMPLOYEES

NAME	TITLE	BACKGROU CHECK
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Edgar D Lee	President	Get Info
Edgar D Lee	President	Get Info

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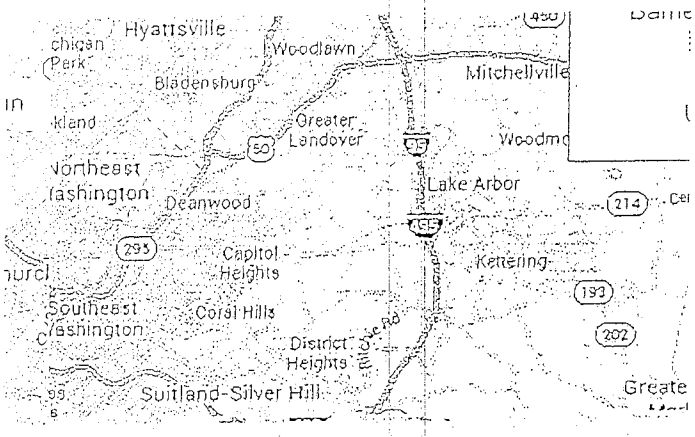
OFFICE LOCATION



View a map of all Companies and Organizations

Corporate Data

INDUSTRIES

- Unclassified

SIC INDUSTRIES

- Nonclassifiable Establishment

OWNERSHIP

Year Founded 2012

Reviews

There aren't any reviews yet. Be the first to write one.

1. Choose a rating
2. Add a title
3. Write a review

Detailed Ratings (optional)

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Employees

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Company Reports from Dun & Bradstreet

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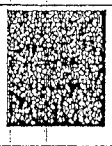
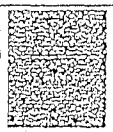

Robert Allen Velvet Geo Grey
$33.95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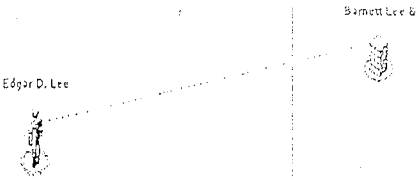
Covington Wilmington Multi
$18.15

Officers

Edgar D. Lee
President

Connection Visualizer - Click an icon below to explore!



Layout: View Large Format | Circular | Tree | ISOM | EfficientSugiyama | CompoundFDP

Barnett Lee & Associates Inc

Barnett Lee & Associates Inc has a location in Upper Marlboro, MD. Active officers include Edgar D. Lee. The company's line of business includes *Nonclassifiable Establishments*.

Category: Nonclassifiable Establishments
Source: Dun & Bradstreet last refreshed 3/13/2013

3405 Halloway S
Upper Marlboro, MD 20772

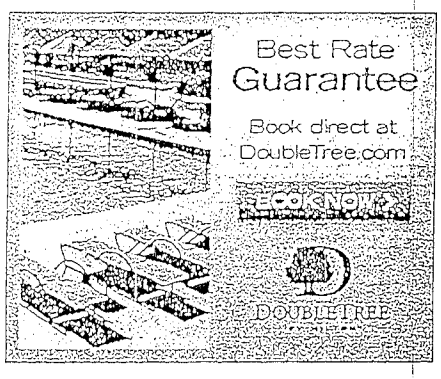
View nearby businesses

Company Reports from Dun & Bradstreet

Officers at Barnett Lee & Associates Inc

Click on to the left of the name to see the Connection Visualizer.

Edgar D. Lee	President at Barnett Lee & Associates Inc	Upper Marlboro, MD



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Located in Upper Marlboro, MD

Edgar D. Lee
Located in Upper Marlboro, MD

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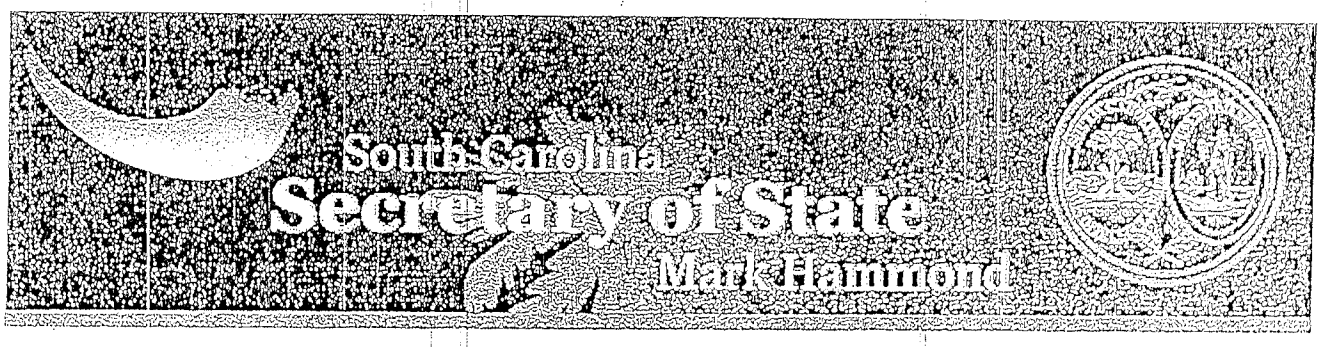

LEE BARNETT & ASSOCIATES, INC.

Note: This online database was last updated on 6/12/2013 6:01:59 PM.
See our Disclaimer.

DOMESTIC / FOREIGN:	Domestic
STATUS:	Good Standing
STATE OF INCORPORATION / ORGANIZATION:	SOUTH CAROLINA Profit

REGISTERED AGENT INFORMATION

REGISTERED AGENT NAME:	EDGAR D LEE
ADDRESS:	716 ELDERBERRY LN
CITY:	COLUMBIA
STATE:	SC
ZIP:	29229
SECOND ADDRESS:	

FILE DATE:	04/05/2011
EFFECTIVE DATE:	04/05/2011
DISSOLVED DATE:	/ /

Corporation History Records

CODE	FILE DATE	COMMENT	Document
Incorporation	04/05/2011	INCORPORATION	

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Physical Address: Edgar Brown Building - 1205 Pendleton Street Suite 525 Columbia, SC 29201
Mailing Address: SC Secretary of State's Office 1205 Pendleton Street Suite 525 Columbia, SC 29201

Z

ASBESTOS CONTAINING MATERIALS SURVEY

FINAL REPORT

Herbert C. Hoover Building
1401 Constitution Avenue, NW
Washington, D.C.

Prepared for:

GGA Ehrenkrantz Eckstut & Kuhn, Architects
2000 L Street, NW
Washington, D.C. 20036

April 14, 2006

Prepared by:

Applied Environmental, Inc.
11800 Sunrise Valley Drive, Suite 1200
Reston, Virginia 20191

Applied Environmental, Inc.
Project Number 1481-05-0010/002

FINAL ASBESTOS CONTAINING MATERIALS SURVEY REPORT

Herbert C. Hoover Building
1401 Constitution Avenue, NW
Washington, D.C

TABLE OF CONTENTS

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FINAL ASBESTOS CONTAINING MATERIALS SURVEY REPORT

Herbert C. Hoover Building
1401 Constitution Avenue, NW
Washington, D.C.

1.0 INTRODUCTION

This report replaces our previous report dated July 21, 2005. Our previous report summarized the finds of an asbestos verification survey report prepared by MACTEC Engineering and Consulting dated April 18, 2003. Our initial scope of work is outlined in the July 21, 2005 report. During the course of conducting the survey for the original scope of work it was determined that approximately one-third of the building was not surveyed by MACTEC. This report supplements the original report by including survey data of areas previously not surveyed.

The surveyed areas of the Herbert C. Hoover Building include the entire Courtyard 6 infill, Daycare Center, White House Visitors Center, and other areas that were deemed "inaccessible" or "not surveyed" during the MACTEC survey effort. A team of Environmental Protection Agency (EPA) accredited asbestos inspectors conducted the survey. Other hazardous materials such as lead based paint, mercury containing light tubes and Polychlorinated containing ballasts or articles were not included in this document or scope of work. Also, the exterior building components, cooling tower, and roofing system were not included in survey scope of work.

The original scope of work consisted of reviewing other available reports and drawings of previous surveys prior to conducting on-site survey work. Survey reports reviewed did not provide significant applicable information. The survey reports consisted of sampling data from: Biospherics, Inc. surveys dated January 1990, April 1990, 1991, May 1990, February 1991, and June 1992; Alpha Corporation survey dated June 1991, NuChemCo, Inc. survey dated June 1994, AMA, Inc. surveys dated August 1994, February 1995, April1995, August 1995, April 1996, and June 1996, ATC Associates, Inc. survey dated February 1997, and Applied Environmental, Inc. survey dated September 2000.

A brief description of our approach to the survey is presented within Section 3.0 of this report. A

summary of all suspect asbestos-containing materials (ACM), locations, and quantities of identified ACM is provided in Appendix A. "Table 1 Homogenous Material Listing" relates to newly identified materials and is separated into three unique areas and includes the main building, Courtyard 6 infill and the Daycare Center. The cost estimate provided in Appendix C, "Table 2 Asbestos Removal Cost Estimate", relates only to the newly identified ACM. A cost estimate of materials to be removed by the planned phase approach is being provided under a separate cover. Appendix D provides an extensive table of all identified ACM (including those identified by the MACTEC report) with the type and quantity of asbestos materials listed by location. Appendix F contains the July 21, 2005 verification survey report.

2.0 BUILDING DESCRIPTION

The Herbert C. Hoover Building is bounded by Pennsylvania Avenue on the north, Constitution Avenue on the south, 14th Street on the east, and 15th Street on the west. Proclaimed as the largest office building in the world upon its completion in 1932, the seven-story building contained more than 3,300 rooms joined by unbroken corridors over 1,000 feet long. The building also contains two penthouse levels and a basement. The building surrounded six landscaped interior courtyard, symmetrically placed to ensure that Department of Commerce employees in the inner offices had natural lighting and pleasant views. Currently, the exterior of the building remains virtually unchanged, while nearly all interior spaces retain most of their original fabric. The building is physically attached to the Reagan Building by way of a subsurface tunnel on the ground floor level below 14th Street.

Inside the Herbert C. Hoover Building are seven architecturally significant public spaces: on the first floor are the 14th Street Entrance Lobby, Conference Room, White House Visitors Center, and Law Library; on the fifth floor are the offices of the Secretary of Commerce; on the seventh floor is the Commerce Library; and in the basement is the National Aquarium.

The interior construction consists of plaster and gypsum board on the interior walls. In several areas plaster ceilings on a metal lath were observed. Suspended ceiling tile were observed in the

remaining sections of the building. Also, floor tile, resilient sheet flooring, and leveling compound were observed throughout the building. The majority of the corridors throughout the building contain terrazzo flooring and floor tile.

In addition, the Herbert C. Hoover Building has a three-story infill below structure facility located beneath Courtyard 6. The entire facility is located below a grade, and consists of multiple storage areas, guard locker rooms, mechanical rooms, and vacant offices. The exterior of the facility was observed to be constructed of concrete. The facility appears to have a history of persistent water leaks.

3.0 SURVEY AND EVALUATION PROCEDURES

3.1 Supplemental Asbestos Survey

During the survey, insulating and construction materials considered suspect were identified, and previous survey data was referenced to assure that adequate sampling had been performed in accordance with EPA Standard 40 CFR 763, Subpart E, Asbestos Hazard Emergency Response Act (AHERA). The results from previous surveys were accepted. Material not identified in the previous survey was sampled in accordance with EPA AHERA and OSHA Standard 29 1926.1101 inspection and sampling protocol. The areas that were deemed "inaccessible" in the hazardous material survey report prepared by MACTEC were surveyed. Due to the multiple renovations that have occurred in the building, materials in the main building, Daycare Center, and Courtyard 6 infill facility were established as separate homogenous areas and sampled separately.

A total of 277 representative bulk samples suspected to contain asbestos materials were collected from the main building, Daycare Center and Courtyard 6 infill. These materials included floor tile and associated mastic, resilient flooring, ceiling tile, wall tile, wall tile adhesive, plaster wall and

ceiling, leveling compound, seam mastic on duct, drywall, drywall with joint compound, exhaust stack breeching, baseboard mastic, duct insulation, tank insulation, pipe insulation, pipe hanger, mudded joint, and transite board panel.

All collected bulk samples were submitted to the Applied Environmental, Inc. asbestos analytical laboratory for analysis by Polarized Light Microscopy (PLM) in accordance with EPA testing methods. Samples were analyzed by EPA Method for the Determination of Asbestos in Bulk Insulation Samples (EPA 600M4-82-020). The Applied Environmental asbestos analytical laboratory is accredited by the U.S. Department of Commerce, National Institute of Standards and Technology, National Voluntary Laboratory Accreditation Program for bulk asbestos identification by PLM.

Building materials evaluated during the survey were placed in one of three categories are listed below:

- **Surfacing materials:** Including spray-applied or troweled-on wall/ceiling coatings, fireproofing materials, and acoustical treatments.
- **Thermal system insulation:** Including plumbing and heating, ventilation, and air conditioning system insulation.
- **Miscellaneous materials:** Including ceiling tiles, acoustical wall tiles (AWT), adhesive on AWTs, wall panel insulation, floor tiles/mastic, resilient sheet flooring, fire doors, and gypsum board spackling compounds.

Asbestos-containing materials homogeneous in nature (uniform in color and texture) were identified and evaluated to determine their current condition. The existing locations and quantities of ACM were also noted.

3.2 Accessibility Limitations

All areas of the building that could be accessed and inspected without interior demolition methods were evaluated during the survey. Areas that were considered to be inaccessible included locations within finished enclosed walls and ceilings, sealed utility chases, and within mechanical systems and duct work. Where possible, the presence of plumbing lines, or other systems observed to penetrate into inaccessible locations were noted, and their quantity estimated if considered to be consistent with adjacent accessible areas. Fire doors and vibration joints were not sampled so as not to damage the material and to preserve its integrity.

Limited access areas, such as above fixed walls and ceilings with small access hatches or within tightly confined crawlspaces were investigated where feasible. However, reported findings regarding the presence or absence of asbestos in these areas often require extrapolation, and can be less reliable than areas affording reasonable access.

Suspect ACM in these areas must be evaluated to determine if any material present is considered homogenous with other material samples. Suspect materials are assumed as asbestos-containing until confirmed.

3.3 Cost Estimates

Cost estimates for the removal of each building material identified to contain asbestos are provided in Appendix C. The estimates are based upon removal, decontamination, transportation, and disposal of the various materials including labor, materials, products (containments), and equipment. The cost estimate does not include costs associated with industrial hygiene monitoring, tenant relocation, or for protection and restoration of special finishes. Quantity estimates are not intended to be used for contractor bidding. Contractors should field verify quantities of material. Changes in the asbestos abatement industry, business cycles, and regulations affecting asbestos removal may have a significant effect upon the final cost at the time of contractor bidding.

3.4 Building Drawings

The building drawings provided in this report are based on architectural drawings provided to Applied Environmental, Inc. at the onset of the project by GGA Architects. The current locations of the identified ACM are indicated on building drawings included in the appendices. Areas marked as "NA" could not be accessed at the time of the survey. Carpet was present over floor tile in a majority of the spaces in the building and is identified on the drawings as "Carpet over flooring" (COF). The features displayed on the drawing include depiction of the ACM location via symbols and hatching.

4.0 RESULTS

4.1 Asbestos Survey Results

All identified homogenous materials considered to be potentially asbestos-containing and assumed ACM are indicated in Appendix A, Table 1, Homogenous Material Listing. Laboratory reports are also attached that supplement the table by providing results of all samples collected and percentage quantities of the entire sample composition (i.e., asbestos-containing and non-asbestos containing). In summary, the following types of new materials were identified as asbestos-containing:

- Floor tiles and associated mastics
- Mastic under brick flooring
- Resilient sheet flooring
- Duct insulation
- Seam mastic on duct
- Transite panel
- Stack breeching
- Pipe insulation
- Pipe hanger
- Tank insulation
- Mudded fitting

It should be noted that sample results of 12" x 12" dark brown with white and brown streaks floor tile (Hoover-FT6-22), and two types of 9" x 9" floor tiles (Hoover-FT-117, and Hoover-FT17-21) were reported as containing "less than 1%" of Chrysotile asbestos. Under the Asbestos National Emissions Standard for Hazardous Air Pollutants (NESHAP), these materials are considered to be

asbestos-containing unless by subsequent re-analysis the samples are deemed to contain less than one percent asbestos. These samples were re-analyzed by Transmission Electron Microscopy (TEM). The TEM results for the 12" x 12" dark brown with white and brown streaks floor tile sample was reported as containing 53% of Chrysotile asbestos; and the other two samples were reported as non-asbestos containing. Based upon the subsequent laboratory TEM analysis, the 12" x 12" dark brown with white and brown streaks floor tile is considered to be ACM and two other 9" x 9" floor tiles are not considered to be ACM in accordance with the EPA NESHAP regulation.

The types of ACM identified by MACTEC are consistent throughout the building. ACM identified to be present is provided below:

Material	Location(s)
Multiple types of floor tile and associated mastic	Throughout the building
Floor leveling compound	In electrical closets and 7th floor library areas
Pipe hanger insulation, pipe insulation, pipe elbow and valve insulation, boiler insulation	Pipe insulation is present in the risers in the walls adjacent to windows associated with radiators, in pipe chases, above ceilings, attic, sub-basement chiller room and mechanical rooms
Brown duct mastic on metal ducts and white mastic on fiberglass insulation	Throughout the building
12" x 12" Ceiling tile	Room 1832
Brown glue dots associated with 12" x 12" spline ceiling tile	In selected areas of the building
Spray-on insulation on I-beams	Throughout mechanical rooms and attic
Fire doors	Throughout the building in corridors, stairwells, Mechanical rooms and Electrical rooms
Textured ceiling plaster	Located primarily in the basement and third floor with select areas throughout the building
Corrugated duct insulation	Located randomly throughout the building
Transite board	Located in the basement print shop

5.0 RECOMMENDATIONS

5.1 Asbestos-Containing Materials

5.1.1 Survey Findings Requiring Response Actions

Basement: Slightly damaged pipe insulation was observed throughout the basement corridors above the suspended ceiling tiles. Ceiling tiles were also missing which allowed airflow into the corridor. The missing ceiling tiles should be replaced as soon as possible and access above the suspended ceiling should be limited to properly trained personnel until the damaged asbestos-containing pipe insulation can be repaired or removed.

Basement: Stack breeching insulation debris was observed above the suspended ceiling tile in Room B528. Access above the suspended ceiling tiles should be restricted until the material is removed, and damaged insulation on the unit is repaired and/or cleaned by a licensed abatement contractor.

First Floor: Damaged pipe insulation and pipe debris was observed in the pipe chase near the window in rear vacant mechanical room located inside Room 1869X. Access to this area should be restricted until the asbestos-containing pipe insulation and debris can be removed, and/or cleaned by a licensed abatement contractor.

Seventh Floor: Asbestos containing fire proofing materials were observed throughout the seventh floor above suspended ceiling tile. This friable material is in a poor deteriorated condition. Access above the suspended ceiling tiles should be limited to personnel with proper respiratory protection and training until this material is removed.

Contractors performing the telecommunication upgrades must be informed of the presence of the material throughout the floor and make efforts not to impact or disturb the material in any fashion. If the material is likely to be impacted by the telecommunication upgrades, it must first be removed by a licensed, abatement contractor, in accordance with all applicable EPA, OSHA, and District of Columbia regulations

Penthouse 1 (Attic): Asbestos containing fire proofing materials were observed throughout entire Penthouse 1 attics. Access to this area should be limited to personnel that have proper respiratory protection have received asbestos O&M training or Asbestos Worker training as defined under OSHA Standard 29 CFR 1926.1101 until this material is removed.

These response actions should be conducted immediately.

5.1.2. General Asbestos Recommendations

A. Under the OSHA Standard 20 CFR 1926.1101, all identified ACM must be removed by trained asbestos workers supervised by a competent person prior to being impacted by renovation or demolition activities. Asbestos materials must be placed in properly labeled waste bags. Disposal of these materials must be properly documented on the Waste Shipment Record and transported to an appropriate landfill for disposal as specified under the EPA Standard, 40 CFR Part 61, Asbestos NESHAP, Asbestos NESHAP Revision; Final Rule. Local District of Columbia regulations 20 DCMR, Section 800 "Control of Asbestos", require licensure of workers and companies performing removal and specify particular clearance testing using TEM analysis of clearance samples for work areas greater than 160 square feet and 260 linear feet.

B. The NESHAP Standard categorizes asbestos-containing pipe insulation, mudded joint, pipe insulation debris, pipe hanger, tank insulation, stack breeching, and duct insulation as friable materials. Also, textured ceiling plaster, corrugated duct insulation, transite panels, and sprayed-on fire proofing materials that were identified in the previous survey are categorized

as friable materials. A friable ACM is defined as any material that contains more than one percent asbestos by weight that by hand pressure can be crumbled, pulverized, or reduced to powder when dry. As the pipe systems within the Herbert C. Hoover Building are covered and effectively sealed within a canvas jacket, this particular material is not considered friable. However, any damage to the pipe jacket would expose the friable insulation beneath. Other than areas noted above, the pipe systems covered with canvas jackets are in good condition and are considered non-friable. Response actions, other than previously noted, are not required as long as the material remains in an intact condition.

C. The remaining ACM, such as flooring materials, fire doors, glue dots associated with 12" by 12" spline ceiling tiles, and seam mastics on duct are non-friable materials as defined in the EPA Standard 40 CFR Part 61, Asbestos NESHAP; Asbestos NESHAP Revision; Final Rule. A non-friable ACM is defined as any material that contains more than one percent asbestos by weight that hand pressure cannot crumble, pulverize, or reduce to powder when dry. The majority of the non-friable ACM were observed to be in fair condition with the exception of sporadic locations of slightly damaged flooring material. No response actions are necessary as long as the condition of the flooring does not deteriorate further.

D. Applied Environmental has made every effort to locate ACM throughout the building. However, access above fixed plaster ceilings was limited to access hatches. At these locations asbestos duct insulation, pipe insulation, and pipe fittings were observed. Pipe systems should be assumed to be present within wall chases and above fixed ceilings at any locations were plumbing systems are expected to be present. Precautions must be taken when walls and ceilings are penetrated to avoid impact to asbestos insulation in the wall cavities.

ADDITIONAL HAZARDOUS MATERIALS

Lead-Containing Surface Coating Findings

The MACTEC survey identified several building components coated with Lead-Containing Surface Coating (LCSC) and/or Lead-Based Surface Coating (LBSC). LCSC is defined as paint/coating containing detectable levels of lead, whereas LBSC is defined as paint/coating with lead concentrations that exceed 1.0 milligram/square centimeter (mg/cm^2). Over 500 readings were taken during the lead survey. Building components in 76 rooms from floors one through seven were tested, 10 basement rooms, the attic, White House Visitors' center, The National Aquarium, restrooms, and the library. Generally, lead testing was conducted in corridors and common areas. The LBSC/LCSC components identified by MACTEC include, but are not limited to:

- Plaster walls and ceilings;
- Ceramic tile walls;
- Metal radiators;
- Metal ductwork;
- Metal window components
- Door components;
- Metal and wood stairwell components;
- Porcelain restroom components; and
- Metal I-beams and structural supports.

Significant lead concentrations are present on many painted/coated surfaces. The majority of the readings taken were either lead-based (LB) paint or lead-containing (LC) paint. The MACTEC data table should be consulted for detailed locations of surfaces tested. All painted surfaces should be assumed to be LC or LB paint unless otherwise tested or verified to be non-LC based upon the MACTEC data.

Applicable Lead Regulations

Under all circumstances whether a project is deemed as a lead abatement project or not, the contractor impacting the LCSC/LBSC surfaces must comply with the OSHA Lead in Construction Standard, 29 CFR 1926.62. This standard currently does not define a specific concentration of lead that must be present within paint for it to be considered "LC." Therefore, painted and glazed surfaces that contain less than the District of Columbia, definition of LBSC, 1.0 mg/cm^2, as measured by XRF or 0.5% lead by weight, but still have detectable concentrations of lead, must be handled in accordance with the OSHA Lead in Construction Standard. Since OSHA does not define a specific concentration of lead that must be present within paint for it to be considered "LC," any contractor performing work that could impact paint films or glazing that have detectable concentrations of lead should be informed of the testing results, and should take appropriate actions to comply with OSHA Standard 29 CFR 1926.62. These appropriate actions include performing air monitoring to measure worker exposure; assuring that the workers are provided with adequate respiratory protection; and assuring that workers are provided with appropriate training.

The disposal of waste generated during any restoration, renovation, or demolition operations, including items coated with lead paint, is regulated by EPA Standard 40 CFR 261, Subpart C. This regulation requires that a Toxicity Characteristic Leaching Procedure (TCLP) test be utilized to determine if the lead paint is considered hazardous waste. A material is considered hazardous if it is ignitable, reactive, corrosive, or toxic.

It is required that samples that are representative of the waste stream be collected. The intent should be to assure that any item that is categorized as hazardous waste be identified and kept segregated from other waste material, while not to bias the sampling results (either positively or negatively) with regard to TCLP sampling. Depending on the renovation and demolition techniques, the TCLP sample should be collected in a manner to represent the whole construction waste stream.

Mercury-Containing Articles

Neither the MACTEC report nor our current scope of work addresses mercury-containing articles. We recommend that mercury-containing gauges, thermostats, and switches be identified, collected and removed prior to building renovation and/or demolition and treated as hazardous waste. In addition, fluorescent light tubes may contain concentrations of mercury that would categorize the light tubes as hazardous waste. If the building has not been maintained under a program to systematically remove light tubes that potentially contain mercury, testing of the light tubes should also be included in the scope of work.

Polychlorinated Biphenyl-Containing Articles

Per GGA's request received during negotiations (August 9, 2004), we are to rely on the MACTEC report for information regarding Polychlorinated Biphenyl (PCB) Light Ballasts. Similarly, the PCB section of the report noted that the majority of ballasts observed did not contain the "No PCBs" label and therefore are assumed to contain PCBs. The MACTEC survey observed 2,608 light ballasts. The presence of potential PCBs in transformers was not noted in the report. No verification of PCBs has been performed by Applied Environmental.

APPENDIX A

Homogenous Material Listing Table

APPENDIX B

Applied Environmental Laboratory Services, Bulk Sample Reports

APPENDIX C

Asbestos Removal Cost Estimate Table

APPENDIX D

Asbestos-Containing Material Estimated Quantities

APPENDIX E

MACTEC Lead paint testing results and PCB light ballast inventory

APPENDIX F

July 21, 2005 Report for the Original Scope of Work

APPENDIX G

Asbestos-Containing Material Drawings (14 drawings)

Exhibits to USPTO's July 24, 2014 Response to DOC re: OSC File Nos. DI-10-0454, DI-13-0405, and DI-13-2292 (OSC Whistleblower Referral re: OIG Asbestos Investigation)

Vol. 2 of 2

Table of Contents

OSC Asbestos Investigation

A. January 8, 2010 Letter from OSC to Secretary Locke (request for OIG investigation)

Attachments to Referral to OIG:

1. April 25, 2007 email from Peter Wixted, Environmental Manager to [redacted] Monica Barnett, industrial hygienist, Contractor for DOC, Anthony Mondy, and Steven Savoy, Building Management Specialist, Office of Space and Building Management, OAS re: "Summary of asbestos" forwarding file titled "asbestos in the HCHB Attic" [CMC NOTE: attachment titled "asbestos in the HCHB Attic" is the same as the attachment in tab 2 titled "status of Asbestos Containing Materials."

2. May 2, 2007 email from [redacted] to Steven Savoy, Building Management Specialist, Office of Space and Building Management, OAS and Jay Loveless, titled "please review background of asbestos" stating that the document was sent to Doug [Elznic]and [redacted]. Attachment "status of Asbestos Containing Materials"

3. December 2009 email from Monica Barnett, industrial hygienist, Contractor for DOC, to Edgar Lee re: Summary of asbestos." Email forwards April 25, 2007 email from Peter Wixted to [redacted] Anthony Mondy, M. Barnett, Steven Savoy, and [redacted] re: "Summary of asbestos" (TAB 1) stating that it is "one of the first emails sent to me after I gave them information regarding the attic"

4. Undated [February 25, 2008] notice from [redacted] to Dion Lee titled "Presence of Asbestos in the 8th floor of the Herbert hoover building". Letter in Tab 4A is undated, however Tab B states Letter is from February 25, 2008.

B. June 10, 2011 Letter from OSC to the President

C. [Blank]

1. February 3, 2011 DOC Report in response to January 8, 2010 request for investigation

2. OIG's January 20, 2011 Memorandum re: results of investigation

D. February 28, 2011 Letter from DOC CFO to OSC (response to email re: Lee dated 2/10/11)

E. April 25, 2011 Letter from DOC OIG to OSC re: March 24, 2011 email re: additional information re: Lee.

F. October 23, 2006 DOC CFO Memorandum to Office of Real Estate from [redacted] on Collateral Duty Appointment of Peter Wixted as Asbestos Coordinator

G. Undated Letter to [redacted] from (Peter Wixted??)

H. March 21, 2011 Memorandum from George Bearer, CIH, Senior Program Manager, Division of Federal Occupational Health, US Pub. Health Services to Michael Rusten, Associate Director, Office of Space and Building Management, DOC re: summary of OIG Report and asbestos sampling documentation and Dr. Leffer's thoughts about exposure

I. March 22, 2011 Memorandum from Worker Comp. Program Manager to Anthony Kesslak, Cert. Industrial Hygienist re: Statement regarding workers compensation claim

J. [Blank]

1. November 19, 2010 Interview of [redacted]

2. November 17, 2010 Interview of [redacted]

3. March 18, 2010 Interview of Edgar Dion Lee

4. November 3, 2010 Interview of Peter Wixted, Former Environmental Program Manager, OAS

5. April 14, 2010 interview of [redacted] Building Management Specialist and [redacted]

6. December 20, 2010 interview of Rufus Cook, Pipefitting and Woodcrafting Supervisor

7. March 18, 2010 interview of Monica Barnett, Industrial Hygienist

   a. December 17, 2010 email from Erika Vincent to Rick Beitel on conversation with Monica Barnett regarding condition of the attic.

8. April 19, 2010 interview of Steven Savoy, Building Management Specialist

9. March 22, 2010 interview of Fred Eberle, Project Manager, Applied Environmental Inc.

10. April 28, 2010 Interview of James Woods, Former Deputy Director, OAS

11. Summary of April 29 and 30, 2010 discussions with David Wynn and Pam Swiatek, Real Estate Office

12. May 20, 2010 interview of Michael Rusten, Associate Director, Office of Space and Building Management

13. March 1, 2010 interview of Tim Sleeth, Program Specialist for Industrial Hygiene Facilities Management & Services Program Division, GSA

14. November 30, 2010 interview of [redacted]

15. June 23, 2010 Interview of Joseph Durbin, Building Management

16. December 1, 2010 interview of Patrick Waller, former Contractor Officer Representative for building renovations, ORE, OAS

    i. Documents referenced in the interview

17. December 2, 2010 memo to file re: Key card access to 8th floor

18. April 22, 2010 interview of Melvin Claiborne, USRO Engineer, OAS

K. May 1, 8th floor asbestos update and May 22 sign in sheet

L. May 31, 2007 meeting planner for Asbestos Abatement Meeting with GSA

M. Delegation of Authority

N. July 19, 2013 OSC Referral

O. May 31, 2007 draft DOC Asbestos Mitigation Response

P. March 28, 2011 Letter from Lee to OSC re: OIG report of investigation

Q. May 16, 2011 Letter from Lee to OSC re: second supplemental report of investigation.

    1. Attachments (not in notebook. Over 200 pages. In PDF only):

        i. Occupational Safety and Health Manual Dated March 2000 (PDF pages 8-93 in PDF part 2); pages 1-61 (PDF part 3)

ii. Draft DOC Asbestos Mitigation Response (PDF 3 pages 61-67)

iii. GSA's Position Paper on Cost Sharing Proposal for Asbestos Abatement Project (PDF 3 p. 68-71)

iv. Letter from GSA to [redacted] dated July 2, 2007 re: transmitting above position paper on cost sharing (Part 3 PDF p. 72)

v. Department of Labor – Designation of Agency Safety and Health Officials (Part 3 PDF p. 74) (Part 4 PDF p. 1-20)

vi. Memos from DOC OGC to Director of Procurement re: liability of federal employees for violating Environmental Laws dated May 10, 1989 (Part 4 PDF p. 20-28)

vii. MACTEC Engineering and Consulting Inc. Revised Report of Hazardous Materials Survey to FAS, dated April 18, 2003

R. Documents related to qualitative fit tests and respirator exams (2007)

S. April 18, 2003 MATEC Revised Report of Hazardous Materials Survey

T. Position Descriptions for [redacted]

U. Lee's FY 2008 Journal entries for work performed

V. Peter Wixted Asbestos Training certification for course dated 4/2/2007 to 4/6/2007

W. [redacted] Performance Appraisal as [redacted]

X. [redacted] SF-50 from Office of Safety and Occupational Health Specialist to OAS as [redacted]

Y. Barnett and Lee business information

Z. April 14, 2006 Asbestos Containing Materials Survey, prepared by Applied Environmental, Inc.

2nd A. August 31, 2007 Draft GSA Report

2nd B. February 23, 2007 Perm Safety Systems testing

2nd C. May 2, 2007 EMSL Analytical, Inc. testing

2nd D. May 7, 2007 EMSL Analytical, Inc. testing

2nd E. October 10, 2007 AMA Analytical systems, Inc. testing

2nd F. October 29, 2007 Draft Memorandum from Otto Wolff Re: Notification of Presence of Asbestos in the HCHB

2nd G. May 2007 email communications among [redacted] and Sleeth regarding asbestos

2nd H. October 26, 2007 notes regarding controlled access of attic

2nd I. Transcript of [redacted]

2nd J. Transcript of [redacted]

2nd K. Transcript of Edgar Dion Lee

2nd L. Draft June 25, 2014 OIG Interview Summary

2nd M. October 6, 2009 Letter from Elznic to OSHA

2nd N. October 15, 2007 Letter to [redacted] from Braulio Ramon

2nd O. 2010 HCHB Testing

2nd P. April 17, 2007 email from [redacted] and Steven Savoy re: Quote for Additional Services

2nd Q. July 3, 2010 Letter from [redacted] to the President

2nd R. June 5, 2014 Extension Letter from USPTO to OSC

A

DEPARTMENT OF COMMERCE
HERBERT C. HOOVER BUILDING
ASBESTOS MITIGATION RESPONSE

DRAFT

OBJECTIVE:

To provide a safe and healthy work environment for our tenant by minimizing the risk of exposure to airborne asbestos fibers.

TRIGGER EVENT:

On April 24, 2007 the Department of Commerce (DOC) provided the General Services Administration (GSA) Triangle Service Center (WPZ) with air sampling results from the 8th floor attic that reportedly exceeded the Occupational Safety and Health Administration's permissible exposure limit for airborne asbestos fibers. This information was forwarded to the GSA, NCR, Safety, Environment and Fire Protection Branch (WPYG). WPYG met with DOC on April 27, 2007 to discuss the test results from the 8th floor. On May 2, 2007, WPYG conducted a survey to assess the conditions on the 8th floor and commenced air sampling on May 3, 2007. WPYG will continue to execute air sampling throughout the building to assess the potential for cross contamination. Cross contamination to other parts of the building is a concern; however, our test data has not led us to this conclusion and we conclude the contamination is confined to the 8th floor. The 8th floor is not occupied space; however, it houses air handling units, steam valves, elevator machine rooms, and other vital mechanical systems. Access to the 8th floor has been restricted to authorized personnel wearing personal protection equipment (PPE) for asbestos exposure.

AIR SAMPLING METHODOLOGY:

The National Institute for Occupational Safety and Health (NIOSH) Method 7400, Phase Contrast Microscopy (PCM) was used by DOC to determine the exposure level of airborne fibers on the 8th floor. PCM does not positively identify asbestos fibers; other fibers may be included in the count. Positive identification of asbestos fibers from samples analyzed using PCM is obtained using the Transmission Electron Microscopy (TEM), NIOSH Method 7402.

- The Occupational Safety and Health Administration's (OSHA) Permissible Exposure Limit (PEL) for airborne asbestos is 0.1 fibers per cubic centimeter (f/cc) as an 8 hour time-weighted average (TWA).

REGION 11
Triangle Service Center
Washington DC 20047
www.gsa.gov

- The OSHA Excursion Level (EL) for exposure to airborne asbestos is 1.0 f/cc as a 30-minute TWA.

AIR SAMPLING TEST RESULTS

- **Sampling Commissioned by DOC:**
  DOC commissioned Peak Safety Systems Incorporated to perform air sampling on the 7th and 8th floors.

  - Peak Tests:

    - On February 23, 2007, 2 air samples were taken in the 8th floor attic using PCM NIOSH Method 7400 to determine the concentration of air borne fibers. The concentration of airborne fibers in both samples exceeded the OSHA PEL. TEM analysis was not performed to determine if the samples contained asbestos fibers.

    - On April 17, 2007, 7 air samples were taken in the 8th floor attic using PCM and PCM Excursion analysis to determine the concentration of airborne fibers. The concentration of airborne fibers in all 7 samples exceeded the OSHA PEL. TEM analysis was not performed to determine if the samples contained asbestos fibers.

    - On April 25, 2007, 8 PCM and 3 TEM air samples were taken in the 8th floor attic to determine the concentration of airborne asbestos fibers. The concentration of airborne fibers in the 8 PCM samples exceeded the OSHA PEL. The 3 samples analyzed using the TEM NIOSH Method 7402 contained a percentage of chrysotile asbestos.

    - On May 2, 2007 5 air samples were taken, location not specified, using TEM analysis to detect the presence of airborne asbestos fibers. The concentration of airborne fibers in all 5 samples were less than 0.009 f/cc, no asbestos was detected.

    - On May 7, 2007, 6 air samples were taken at the penetration between the 7th and 8th floors using TEM analysis to check for the presence of asbestos fibers. The concentration of airborne fibers was less than 0.003 f/cc for all 6 samples, no asbestos was detected.

    - On May 7, 2007, Bulk sampling were taken from the two air-handling units on the 8th floor, no asbestos was detected.

- **Sampling Commissioned by GSA:**
  WPYG commissioned Global Consultants to perform air sampling on the 8th floor and Tidewater Incorporated to perform air sampling on the 1st through 7th floors and basement levels.

- **Global Tests**: TEM analysis for an 8 hour exposure interval was used to determine the concentration of airborne fibers and to identify the presence of asbestos in the samples. The OSHA PEL for airborne fibers is 0.1 f/cc for an 8 hour time weighted average.

  - On May 03, 2007, 14 air samples were collected on the 8th floor attic. The air samples were analyzed by TEM using the NIOSH Method 7402. The results of the 14 air samples ranged from less than 0.002 to 0.010 f/cc of air. The U.S. EPA recommended fiber level for office environments is less than 0.01 f/cc. Amosite and chrysotile asbestos fibers were detected in 4 of the samples.

  - On May 04, 2007, 8 air samples were taken at the exhaust fans in Courtyards 1 and 6 and at the air intake to the White House Visitor Center and analyzed using TEM analysis. The TEM readings on all 8 samples were less than 0.01 f/cc. No asbestos fibers were detected on any of the 8 samples.

- **Tidewater Tests**: PCM analysis for an 8 hour exposure interval is being used to determine the concentration of airborne fibers throughout the occupied spaces.

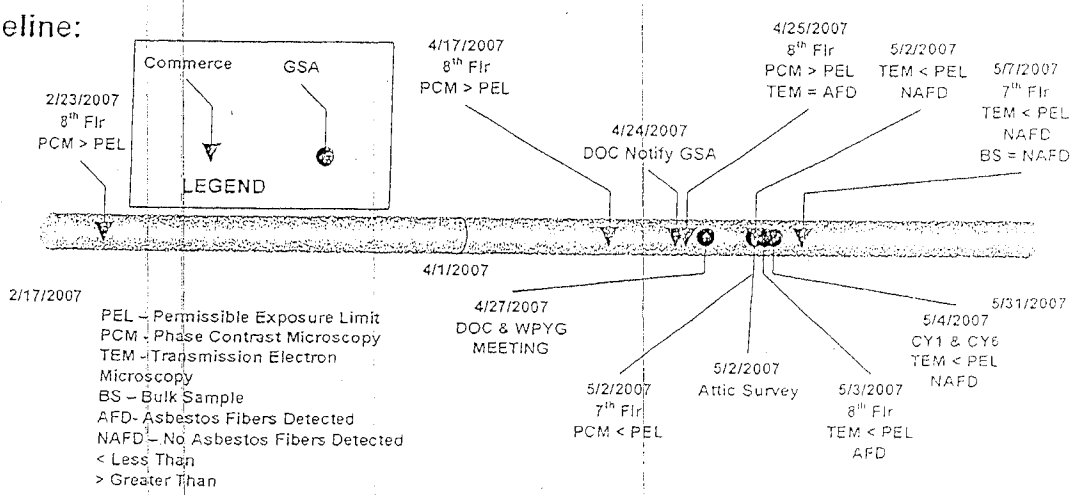
  - From May 2 through May 9, 2007 a total of sixty-five (65) air samples were collected from the 3rd through the 7th floors, and analyzed using the NIOSH Method 7400. The results of all 65 samples were less than 0.01 fibers per cubic centimeter of air (<0.01 f/cc), which is well below the EPA recommended fiber level for office environments. TEM analysis was not required per GSA Fiber-In-Air Protocol.

  - Air sampling of the 1st and 2nd floors and the basement levels are in progress.

➢ **Fiber-In-Air Analysis:**

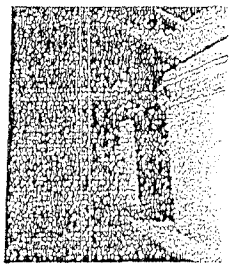
The results of all 22 samples analyzed by TEM indicated airborne fiber levels less than 0.01 f/cc of air which is below the EPA recommended fiber level for office environments. However, photographic documentation showing damaged ACM's and the presence of amosite and chrysotile asbestos fibers on a number of samples indicates that damaged ACM's are contributing to the concentration of airborne fibers in the breathing zone of personnel who may access the space. Since both spray-on fireproofing and pipe insulation appear to be damaged, it is not possible to determine which type of ACM is contributing to the airborne fiber levels in the attic area. Also note that certain operation and maintenance activities in the attic area could potentially result in elevated fiber concentration.

➢ Timeline:



HAZARD ASSESSMENT:

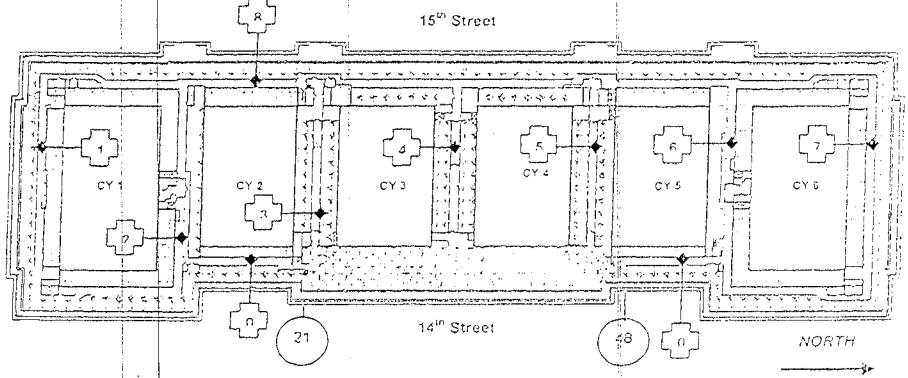
GSA NCR commissioned Global Consultants (Industrial Hygienist Firm) to perform a hazard assessment of the 8th floor to identify damaged asbestos containing material in the corridors, attic eaves areas, routine maintenance areas, and the Penthouse levels. Global identified damaged spray-on fireproofing and pipe insulation in the attic eaves areas, and damaged pipe insulation in the corridor and penthouse levels. Penetrations were observed in the walls separating the attic eaves areas from the access corridors. These penetrations are conduits for the migration of asbestos fibers throughout the 8th floor and the penthouse levels. Sealing these openings with air tight impermeable barriers will prevent the migration of asbestos fibers. The types of penetrations in the corridor walls include door shaped openings, valve access openings, irregular shaped openings, and ventilation openings. Other types of asbestos containing materials identified include mudded pipe fittings, and cloth vibration dampers.



Opening in Corridor Walls

The Hazard Assessment concludes that the asbestos contamination encompasses the entire 8th floor and the adjoining Penthouse. The footprint of the 8th floor is identical to that of the lower floors. The Penthouse traverses the east corridor between column lines 21 and 48 and has two levels, the 8-1/2 and 9th floors.

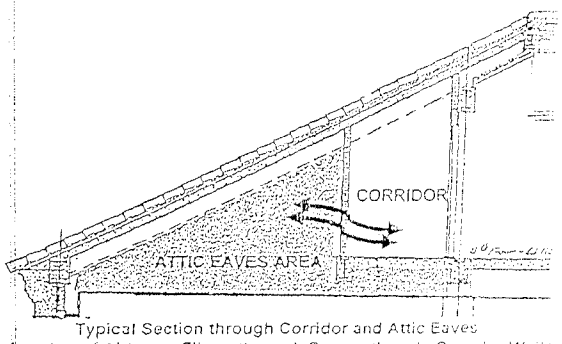
Floor Plan of 8th Floor



Penthouse Levels Above
Court Yard Terrace Roof
Spray-on Insulation (ACM)
CY: Courtyard
Column Line
Corridor

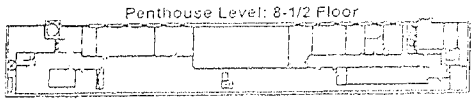
- **Access Corridor:** The 8th floor consists of 9 corridors identified as 0 through 8 which provide access to routine maintenance areas: including elevator machine rooms (11), electrical closets, steam line shutoff valves, and an air handling unit at the intersection of corridors 8 and 4. The asbestos containing material in the corridors include damaged pipe insulation and asbestos residue from cross contamination.

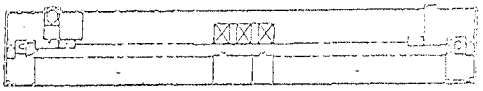
- **Attic Eaves Space:** The attic eaves areas encompass the perimeter corridors (0, 1, 8, and 7) forming a continuous loop that terminates at the Penthouse. Corridors 3, 4, and 5 have attic eaves on both sides. Corridors 2 and 6 have attic eaves on only one side. The asbestos containing materials in the attic eaves include spray-on fire proofing, damaged pipe insulation, and construction debris. The attic eaves areas serve as a chase for the steam distribution lines. Risers for the steam lines are space at 15 foot intervals with shutoff valves that are accessed through penetration in the corridor walls.



Typical Section through Corridor and Attic Eaves
Migration of Airborne Fibers through Penetrations in Corridor Walls

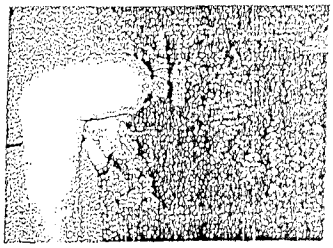
- **Penthouse Levels (8-1/2 & 9th Floors):** The Penthouse is located directly above the 8th floor East Corridor between column lines 21 and 48. The Penthouse contains an air handling unit telephone main frame, elevator machine rooms, and equipment rooms for Verizon Wireless, Nextel Communications, and Cingular Wireless on the 9th floor. It is also provides access to the cooling towers. The asbestos containing materials include damaged pipe insulation, demolition debris, and abandoned ductwork.


Penthouse Level: 8-1/2 Floor


Penthouse Level: 9th Floor

- **GSA, NCR, Asbestos Management Policy:**

GSA minimizes asbestos exposures for all building occupants through managing asbestos in place, where it is in good condition, and promptly abating the excess risk from asbestos that is damaged or subject to disturbance by routine operations or planned renovation. Undisturbed asbestos generally does not pose a health risk; exposure occurs when asbestos is disturbed, causing fibers to be released into the air and then inhaled. Asbestos management, inspection, and guidance documents include the EPA Green Book, EPA AHERA and ASHARA regulations, and the OSHA General Industry and Construction Standards. The federal Asbestos Hazard Emergency Response Act (AHERA) response actions include establishing an operations and maintenance plan, encapsulation, enclosure, repair, or removal.


Damaged Pipe Insulation

GSA, NCR, SAFETY, ENVIRONMENT AND FIRE PROTECTION BRANCH RECOMMENDATIONS:

Contain the spray-on fireproofing within the 8th floor eaves. Repair or replace damaged pipe insulation in the corridor and penthouse areas. Clean corridor surfaces, occupied spaces, and routine maintenance areas.

- Response Action in Attic Eaves Areas: Enclosure
  - Install air tight metal barriers at wall penetrations
  - Provide access to steam shutoff valves form corridors
  - Install decontamination facility at entry points
  - Install window louvers for ventilation

- Response Action for Access Corridors (8th Floor): Repair /Removal
  - Isolate corridors into manageable containment zones for the execution of response actions.
  - Repair damaged pipe insulation
  - Remove contaminated debris
  - Decontaminate area for occupation by HEPA Vacuuming and wet wiping all surface areas
  - Test of air handling unit (AHU) insulation.
  - Replace air filters in AHUs.
  - Perform air clearance sampling, including TEM analysis.

- Response Action for Penthouse Levels: Repair /Removal
  - Repair damaged pipe insulation
  - Remove contaminated debris
  - Remove abandoned duct work and AHU
  - Decontaminate area for occupation by HEPA Vacuuming and wet wiping all surface areas
  - Install air tight barriers in floor openings
  - Repair damaged ceiling
  - Test of air handling unit (AHU) insulation.
  - Replace air filters in AHUs.
  - Perform air clearance sampling, including TEM analysis.

COST ESTIMATE:

INDUSTRIAL HYGIENE SERVICES INDEPENDENT GOVERNMENT ESTIMATE WORKSHEET

ITEM NO.	ITEM DESCRIPTION	WORK UNIT	ESTIMATED QUANTITY	GSA UNIT PRICE	Recurring Cost	Non-Recurring Cost	ESTIMATED PROJECT COST
1	Door-Shaped Openings	SF	1375	10.20		14,025	14,025
2	Valve Access Openings	SF	156	10.20		1,591	1,591
3	Irregular Shaped Openings	SF	480	10.20		4,896	4,896
4	Damaged Pipe TSI	LF	130	190.00	24,700		24,700
5	Surface Decontamination	SF	275,000	0.38	52,250	52,250	104,500
6	Containment Area (6 Phases)	ea.	6	14,212.00	42,636	42,636	85,272
7	Air Filtration Units Installed	ea.	6	855.00		5,130	5,130
8	Testing	ea.	120	500.00	30,000	30,000	60,000
9	Decontamination Facility					3,500	
	Subtotal				149,586	154,028	303,614
	General Conditions and Labor Burdun 32%				47,868	49,289	97,157
	TOTAL ESTIMATED COST				$ 197,454	$ 203,317	$ 400,771

Total Commerce Cost	$197,454
Total GSA Cost	$203,317
TOTAL	$400,771

********** NOTICE **********

Restricted access to the 8th floor should continue until further notice.

All abatement work will be done during non-business hours with AHU shut down.

B

ebruary

PERIT SAFETY SYSTEMS
INCORPORATED

January 24, 2007

Re: Department of Commerce, Attic

Address: 14th & Constitution SW,
Washington, DC 20020

Project #: 123071A

Test Date: 02/23/2007

Dear Lisa

On the February 23, 2007, air samples were taken in the attic for the detection of asbestos contamination. All of the results of the testing were above the permissible exposure limit of 0.1 f/cc. Therefore, it is our finding that the area is contaminated.

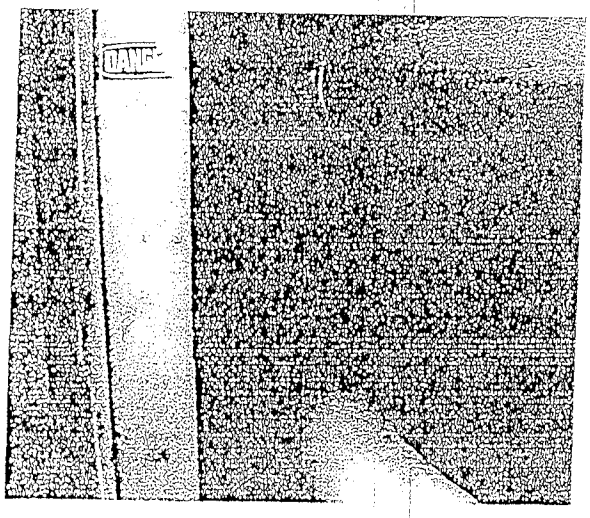
Sincerely,

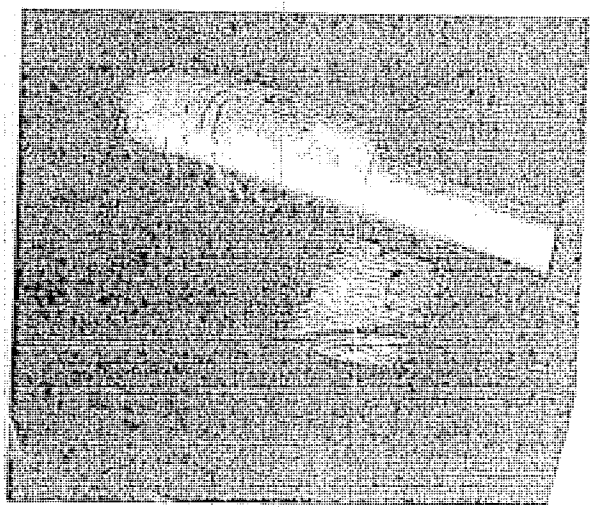
Monica D. Barnett,
Industrial Hygienist

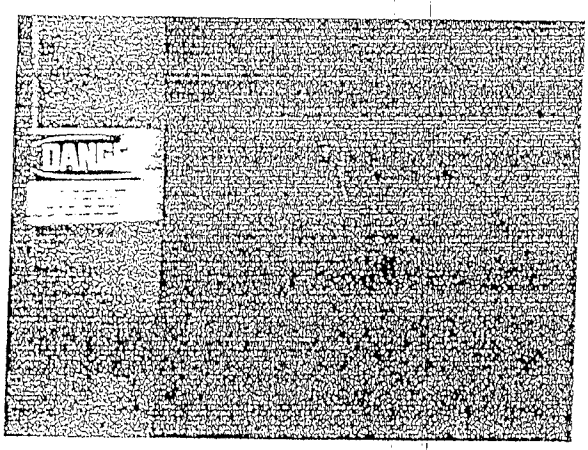
3023 Hubbard Road, Suite 214, Landover, Maryland 20785
Office: (240) 764-0462 Fax: (240) 764-0461

PENN SAFETY SYSTEMS
INCORPORATED

Attic







3023 Hubbard Road, Suite 214, Landover, Maryland 20785
Office: (240) 764-0462 Fax: (240) 764-0461

"Monica Barnett"
<mbarnett@peaksafety.net>
03/15/2007 12:09 AM

To <ssavoy1@doc.gov>
cc
bcc
Subject Attic & Training

Hi Steve,

I have gone through your records and see that to get you all up to speed, we will need to do the following:

Asbestos Supervisor
Asbestos Worker
OSHA 10
HAZWOPER
Respiratory Protection & Fit Tests
Asbestos Awareness

I am aware of the new people as well. Lets get together sometime this week if you are available and work out a schedule as well as an attack plan for the attic. You are in need of an O&M Plan and of course, we can provide you with one.

Give me a call when you get a moment,

Monica commatticcontamination doc.doc scan001001.pdf

Client: Dept. Of Commerce

Facility/Bldg:

Address: 14th & Const. Ave Sw

Instructions to Lab:

Project#: D.O.C Attic

Hygienist: M. Burnett

Date: 2/23/07

Sample ID	Pump #	Bkg	Room	Location	Pre-Post Calibration	Time On/Off	Total Time	Volume or Area	Result 2/cc	Fibers/field
022307-01	#1		Attic	H Corner	20/20	8:30/9:00	30 min	60 lpm	7.0 f/cc	2.0 f/cc
022307-02	#1		Attic	Rt Corner	20/20	9:00/12:00	180 min	360 lpm	7.1 f/cc	1.0 f/cc

3023 Hubbard Road, Suite 214, Landover, Maryland 20785, Office: (240) 764-0462 Fax:(240) 764-0461

Client: Dept. Of Commerce

Facility/Bldg:

Address: 14th & Const. NW

Instructions to Lab:

Project#: D.O.C Attic

Hygienist: M. Burnett

Date: 2/23/07

Sample ID	Pump #	Room	Location	Pre-Post Calibration	Time On/Off	Total Time	Volume or Area	Result	Fibers/field
020107-01	#1	Attic	Lt Corner	2.0 / 2.0	8:30 / 9:00	30 min	60 l/m	72.0 f/cc	2.0 f/cc
020107-02	#1	Attic	Rt Corner	2.0 / 2.0	9:00 / 12:00	180 min	360 l/m	71.0 f/cc	1.0 f/cc

3023 Hubbard Road, Suite 214, Landover, Maryland 20785, Office: (240) 764-0462 Fax:(240) 764-0461

Small damaged

C

EMSL Analytical, Inc.
10768 Baltimore Avenue, Beltsville, MD 20705
Phone: (301) 937-5700 Fax: 3019375701 Email: beltsvillelab@emsl.com

Attn: Steve Savoy
U.S. Dept. Of Commerce
1401 Constitution Ave., NW
Washington, DC 20230

Fax: (202) 482-2283 Phone: (202) 482-1340
Project:

Customer ID: +19USDCOMM
Customer PO: 05020701
Received: 05/02/07 10:20 AM
EMSL Order: 190703695

EMSL Proj:
Analysis Date: 5/2/2007
Report Date: 5/2/2007

Asbestos Analysis of Air Samples by Transmission Electron Microscopy via NIOSH Method 7402

Sample	Volume (Liters)	Non Asbestos Fibers	PCM F/cc	Asbestos Type(s)	Asbestos Fibers	Asbestos % of total	7402 Adjusted (TEM) F/cc	Notes
U461883 190703695-0001	300	0	n/a			0	<0.009	Reported using TEM data only
U460402 190703695-0002	300	0	n/a			0	<0.009	Reported using TEM data only
U460433 190703695-0003	300	0	n/a			0	<0.009	Reported using TEM data only
U460411 190703695-0004	300	0	n/a			0	<0.009	Reported using TEM data only
U460450 190703695-0005	300	0	n/a			0	<0.009	Reported using TEM data only

NIOSH 7402 method only reports fibers >= 5µm in length and >= 0.25µm in width. This method requires 2 field blank analyses per set. Since no blanks were analyzed, the results are not blank corrected.
Average number of asbestos fibers on field blanks: n/a
Average number of non-asbestos fibers on field blanks: n/a

Analyst(s)
Brett Macey (5)

Joe Centifonti, Laboratory Manager
or other approved signatory

EMSL is not responsible for data reported in fibers/cc, which is dependent on volume collected by non-laboratory personnel. The above report relates only to the items tested. This report may not be reproduced, except in full, without written approval by EMSL Analytical, Inc. The test results contained within this report meet the requirements of NELAC unless otherwise noted. The test results contained within this report meet the requirements of NELAC unless otherwise noted. Samples received in good condition unless otherwise noted.
Analysis performed by EMSL Beltsville

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D

19070 3856

Chain of Custody

Asbestos Lab Services

EMSL Analytical, Inc.
10768 Baltimore Avenue
Beltsville, MD 20705

Phone: (301) 937-5700
Fax: (301) 937-5701
http://www.emsl.com

Please print all information legibly.

Company:	US Department of Commerce	*Bill To:*	US Department of Commerce
Address1:	1401 Constitution Ave., NW	*Address1:*	1401 Constitution Ave., NW
Address2:		*Address2:*	
City, State:	Washington, D.C.	*City, State:*	Washington, D.C.
Zip/Post Code:	20230	*Zip/Post Code:*	20230
Country:		*Country:*	
Contact Name:	Steve Savoy	*Attn:*	Steve Savoy
Phone:	202-482-1340	*Phone:*	202-482-1340
Fax:		*Fax:*	
Email:	SSAVOY1@doc.gov	*Email:*	SSAVOY1@doc.gov
EMSL Rep:		*P.O. Number:*	05030702
Project Name/Number: DOC-7			

MATRIX			TURNAROUND			
☒ Air	☐ Soil	☐ Micro-Vac	☒ 3 Hours	☒ 6 Hours	☐ Same Day or 12 Hours*	☐ 24 Hours (1 day)
☒ Bulk	☐ Drinking Water		☐ 48 Hours (2 days)	☐ 72 Hours (3 days)	☐ 96 Hours (4 days)	☐ 120 Hours (5 days)
☐ Wipe	☐ Wastewater		☐ 144+ hours (6-10 days)			

, EM AIR, 3 hours, 6 hours, Please call ahead to schedule. There is a premium charge for 3-hour tat, please call 1-800-220-3675 for price prior to sending samples. You will be asked to sign an authorization form for this service.

*12 hours (must arrive by 11:00a.m. Mon -Fri.), Please Refer to Price Quote

10Am 5/8/07 DSR

PCM - Air	TEM Air	TEM WATER
☐ NIOSH 7400(A) Issue 2: August 1994	☐ AHERA 40 CFR, Part 763 Subpart E	☐ EPA 100.1
☐ OSHA w/TWA	☒ NIOSH 7402	☐ EPA 100.2
☐ Other:	☐ EPA Level II	☐ NYS 198.2
PLM - Bulk	**TEM BULK**	**TEM Microvac/Wipe**
☒ EPA 600/R-93/116	☐ Drop Mount (Qualitative)	☐ ASTM D 5755-95 (quantative method)
☐ EPA Point Count	☐ Chatfield SOP - 1988-02	☐ Wipe Qualitative
☐ NY Stratified Point Count	☐ TEM NOB (Gravimetric) NYS 198.4	
☐ PLM NOB (Gravimetric) NYS 198.1	☐ EMSL Standard Addition:	**XRD**
☐ NIOSH 9002:		☐ Asbestos
☐ EMSL Standard Addition:	**PLM Soil**	☐ Silica NIOSH 7500
SEM Air or Bulk	☐ EPA Protocol Qualitative	
☐ Qualitative	☐ EPA Protocol Quantitative	**OTHER**
☐ Quantitative	☐ EMSL MSD 9000 Method fibers/gram	☐

EMSL Analytical, Inc.
10768 Baltimore Avenue, Beltsville, MD 20705
Phone: (301) 937-5700 Fax: 3019375701 Email: beltsvillelab@emsl.com

Attn: Steve Savoy
U.S. Department of Commerce
1401 Constitution Avenue, Northwest
Room 1317
Washington, DC 20230

Fax: (202) 482-2283 Phone: (202) 482-1340
Project: DOC-7

Customer ID: USDC78
Customer PO: 05030702
Received: 05/07/07 3:50 PM
EMSL Order: 190703856

EMSL Proj:
Analysis Date: 5/7/2007
Report Date: 5/8/2007

Asbestos Analysis of Bulk Materials via EPA 600/R-93/116 Method using Polarized Light Microscopy

Sample	Location	Appearance	%	Non-Asbestos Fibrous	%	Non-Fibrous	Asbestos % Type
1A-BULK 190703856-0007	AIR HANDLER 1 8TH FL	Gray/Brown Fibrous Heterogeneous	25% 15% 10%	Cellulose Glass Synthetic	50%	Non-fibrous (other)	None Detected
2B-BULK 190703856-0008	AIR HANDLER 2 8TH FL	Gray/Brown Fibrous Heterogeneous	25% 10% 20%	Cellulose Glass Synthetic	45%	Non-fibrous (other)	None Detected

alyst(s)

orge Malone (2)

Joe Centifonti, Laboratory Manager
or other approved signatory

to magnification limitations inherent in PLM, asbestos fibers in dimensions below the resolution capability of PLM may not be detected. Samples reported as < 1% or none icted may require additional testing by TEM to confirm asbestos quantities. The above test report relates only to the items tested and may not be reproduced in any form without the ess written approval of EMSL Analytical, Inc. EMSL's liability is limited to the cost of analysis. EMSL bears no responsibility for sample collection activities or analytical method ati erpretation and use of test results are the responsibility of the client. The test results contained within this report meet the requirements of NELAC unless otherwise d s received in good condition unless otherwise noted.
ysis performed by EMSL Beltsville (NVLAP #200293-0)

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EMSL Analytical, Inc.
10768 Baltimore Avenue, Beltsville, MD 20705
Phone: (301) 937-5700 Fax: 3019375701 Email: beltsvillelab@emsl.com

Attn: Steve Savoy
U.S. Department of Commerce
1401 Constitution Avenue, Northwest
Room 1317
Washington, DC 20230

Fax: (202) 482-2283 Phone: (202) 482-1340
Project: DOC-7

Customer ID: USDC78
Customer PO: 05030702
Received: 05/07/07 3:50 PM
EMSL Order: 190703856

EMSL Proj:
Analysis Date: 5/7/2007
Report Date: 5/8/2007

Asbestos Analysis of Air Samples by Transmission Electron Microscopy via NIOSH Method 7402

Sample	Volume (Liters)	Non Asbestos Fibers	PCM F/cc	Asbestos Type(s)	Asbestos Fibers	Asbestos % of total	7402 Adjusted (TEM) F/cc	Notes
U460448 (1) 190703856-0001	1425	0	n/a			0	<0.002	Reported using TEM data only
U460396 (2) 190703856-0002	1800	0	n/a			0	<0.001	Reported using TEM data only
U461884 (3) 190703856-0003	1800	0	n/a			0	<0.001	Reported using TEM data only
U4 3 (4) 190703856-0004	1800	0	n/a			0	<0.001	Reported using TEM data only
U460431 (5) 190703856-0005	850	0	n/a			0	<0.003	Reported using TEM data only
U460397 (6) 190703856-0006	1800	0	n/a			0	<0.001	Reported using TEM data only

NIOSH 7402 method only reports fibers >= 5µm in length and >= 0.25µm in width. This method requires 2 field blank analyses per set. Since no blanks were analyzed, the results are not blank corrected.
Average number of asbestos fibers on field blanks: n/a
Average number of non-asbestos fibers on field blanks: n/a

Analyst(s)
George Malone (3)
Joe Centifonti (3)

Joe Centifonti, Laboratory Manager
or other approved signatory

EMSL is not responsible for data reported in fibers/cc, which is dependent on volume collected by non-laboratory personnel. The above report relates only to the items tested. This report may not be reproduced, except in full, without written approval by EMSL Analytical, Inc. The test results contained within this report meet the requirements of NELAC unless otherwise noted. The test results contained within this report meet the requirements of NELAC unless otherwise noted. Samples received in good condition unless otherwise noted.
Analysis performed by EMSL Beltsville

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Chain of Custody

Asbestos Lab Services

EMSL Analytical, Inc.
10768 Baltimore Avenue
Beltsville, MD 20705

Phone: (301) 937-5700
Fax: (301) 937-5701
http://www.emsl.com

Please print all information legibly.

Client Sample # (s) (1) - (6) Total Samples #: 6

Relinquished: STEVE SAVOY Date: 5/7/07 Time:

Received: DD Date: 5-7-07 Time: 3:50 pm

Relinquished: Date: Time:

Received: Date: Time:

SAMPLE NUMBER	SAMPLE DESCRIPTION/LOCATION	VOLUME (if applicable)
U460448 (1)	7th Floor Corr 1 Rm 7102 X inside	1425
U460396 (2)	7th Fl Corr 2 Rm 7231 union ofc. inside	1800
U461884 (3)	7th Fl Corr 1 Rm 7130 S UTIL Rm Inside	1800
U460446 (4)	7th Fl. Corr 1 Rm 7129 mech. equip. Rm Inside	1800
1460431 (5)	7th Fl. Corr 8 Rm 7822 EXT. AFFAIR INSIDE	850
U460397 (6)	7th Fl. Corr 3 Rm 7311 ABOVE DROP CEILING (FROM)	1800
U460389 B	Blank	
U460417 B	Blank	
#1A-Bulk	AIR HANDLER 1 8TH FLOOR	
#2B-Bulk	AIR HANDLER 2 8th FLOOR	

E

AMA Analytical Services, Inc.
AIHA (#100470) NVLAP (#101143-0) NY ELAP (10920)
4475 Forbes Blvd. • Lanham, MD 20706
(301) 459-2640 • (800) 346-0961 • Fax (301) 459-2643
www.amalab.com

CHAIN OF CUSTODY

(Please Refer To This Number For Inquires) 143169

Mailing/Billing Information:

1. Client Name: Federal Occupational Health
2. Address 1: 4550 Montgomery Avenue
3. Address 2: Bethesda, MD
4. Address 3:
5. Phone #: 301-594-9868 Fax #: 301-594-4991

Submittal Information:

1. Job Name: Department of Commerce Attic Area
2. Job Location: Hubert Humphrey Building
3. Job #: P.O. #:
4. Contact Person: Kiel Fisher @ phone # 301-594-9868
5. Submitted by: Kiel Fisher Signature:

☐ Please include COC/field data sheets with results

Reporting Information (Results will be provided as soon as technically feasible):

Date & Time Results Required: 10/10/07 @ 1600 ☐ Immd. ☐ 24hr ☐ 48hr ☒ 72hr ☐ 5 Day + ☐ Immd. After-Hours* ☐ 24hr After-Hours* ☐ Late-Night* (*must be pre-scheduled)

☐ Verbals: @ cell # ☐ Fax Copy: @ fax # ☒ Email Copy: kfisher @ psc.gov

Asbestos Analysis

PCM Air – Please Indicate Filter Type:
- PC MCE Porosity ____ in a 25mm 37mm
- ☒ NIOSH 7400 10 (QTY)
- ☐ Fiberglass ____ (QTY)

TEM Air – Please Indicate Filter Type:
- PC MCE Porosity ____ in a 25mm 37mm
- ☐ AHERA ____ (QTY)
- ☐ NIOSH 7402 ____ (QTY)
- ☐ Other (specify ____) ____ (QTY)

PLM Bulk
- ☐ EPA 600 -- Visual Estimate ____ (QTY)
- ☐ EPA Point Count ____ (QTY)
- ☐ NY State Friable ____ (QTY)
- ☐ Grav. Reduction ELAP 198.1 ____ (QTY)
- ☐ Other (specify ____) ____ (QTY)

TEM Bulk
- ☐ ELAP 198.4/Chatfield ____ (QTY)
- ☐ NY State PLM/TEM ____ (QTY)
- ☐ Residual Ash ____ (QTY)

TEM Dust
- ☐ Qual. (pres/abs) Vacuum/Dust ____ (QTY)
- ☐ Quan. (s/area) Vacuum D5755-95 ____ (QTY)
- ☐ Quan. (s/area) Dust D6480-99 ____ (QTY)

TEM Water
- ☐ Qual. (pres/abs) ____ (QTY)
- ☐ ELAP 198.2/EPA 100.2 ____ (QTY)
- ☐ EPA 100.1 ____ (QTY)

☒ All samples received in good condition unless otherwise noted.
(TEM Water samples ____ °C)

Lead Analysis
- ☐ Paint Chip ____ (QTY)
- ☐ Dust Wipe (wipe type ____) ____ (QTY)
- ☐ Air ____ (QTY)
- ☐ Soil/Solid ____ (QTY)
- ☐ TCLP ____ (QTY)
- ☐ Drinking Water ____ (QTY)
- ☐ Waste Water ____ (QTY)
- ☐ Dust Wipe Furnace (wipe type ____) ____ (QTY)

Mold - Direct Microscopic Analysis
- ☐ Spore-Trap ____ (QTY) ☐ Bulk ____ (QTY)
- ☐ Surface Swab ____ (QTY) ☐ Surface Vacuum Dust ____ (QTY)
- ☐ Surface Tape ____ (QTY) ☐ Other (Specify ____) ____ (QTY)

SAMPLE INFORMATION: CLIENT ID NUMBER	SAMPLE LOCATION/ IDENTIFICATION	DATE	VOLUME (LITERS)	WIPE AREA	ANALYSIS: TEM	PCM	PLM	LEAD	MOLD	AIR	MATRIX: BULK	DUST	WATER AND OTHER	SPORE TRAP	TAPE	SWAB	CLIENT CONTACT (LABORATORY STAFF ONLY)
100507GEB A1	Blank	10/5/07	0			X				X							Date/Time: Contact: By:
A2	Blank		0														
A3	Stairwell		540														
A4	Rm 7130S		540														
A5	Outside Rm 7083		540														Date/Time: Contact: By:
A6	Outside Rm 7705		540														
A7	Room 8807		1000														
A8	Near Fan F-27-119		600														
A9	Outside Rm 8308		1010														Date/Time: Contact: By:
A10	Outside Rm 8097		920														

LABORATORY STAFF ONLY: (CUSTODY)

1. Date/Time RCVD: 10/5/07 @ 1600 Via: Drop Off By (Print): Tricia Watson Sign: Tricia Watson
2. Date/Time Analyzed: 10/11/07 @ ____ By (Print): Crystal Allen Sign: Crystal Allen
3. Results Reported To: Kiel Fisher Via: Email Date: 10/11
4. Comments:

AMA Analytical Services, Inc.

A Specialized Environmental Laboratory

CERTIFICATE OF ANALYSIS

ACCREDITED LABORATORY AIHA Industrial Hygiene

100470

NY ELAP 10920

Client:	DHHS-USPHS-POH	Job Name:	Department Of Commerce Attic Area	Chain Of Custody:	143169		
Address:	4550 Montgomery Avenue, Suite 950	Job Location:	Hubert Humphrey Building	Date Submitted:	10/5/2007		
	Bethesda, Maryland 20814	Job Number:	Not Provided	Person Submitting:	Kiel Fisher		
		P.O. Number:	Not Provided	Date Analyzed:	10/11/2007	Report Date:	10/11/2007
Attention:	Kiel Fisher						

Summary of Phase Contrast Microscopy

AMA Sample Number	Client Sample Number	Volume Sampled (Liters)	Fibers Per Millimeter Squared	Fibers Per Cubic Centimeter	Analyst I.D.	Sample Type	Comments
0802739	100507GEB A1	0	< 7.0 *	*****	CK	BLK	0 fiber(s) per 100 fields
0802740	100507GEB A2	0	< 7.0 *	*****	CK	BLK	0 fiber(s) per 100 fields
0802741	100507GEB A3	540	24.2	0.017	CK	N/P	
0802742	100507GEB A4	540	< 7.0 *	< 0.005 *	CK	N/P	
0802743	100507GEB A5	540	< 7.0 *	< 0.005 *	CK	OWA	
0802744	100507GEB A6	540	< 7.0 *	< 0.005 *	CK	OWA	
0802745	100507GEB A7	1000	< 7.0 *	< 0.005 *	CK	N/P	
0802746	100507GEB A8	600	< 7.0 *	< 0.005 *	CK	N/P	
0802747	100507GEB A9	1070	< 7.0 *	< 0.005 *	CK	OWA	
0802748	100507GEB A10	920	< 7.0 *	< 0.005 *	CK	OWA	

his report applies only to the sample, or samples, investigated and is not necessarily indicative of the quality or condition of apparently identical or similar products. As a mutual protection to clients, the public, and these Laboratories, this report is bmitted and accepted for the exclusive use of the client to whom it is addressed and upon the condition that it is not to be used, in whole or in part, in any advertising or publicity matter without prior written authorization from us. Sample types, cations, and collection protocols are based upon the information provided by the persons submitting them and, unless collected by personnel of these Laboratories, we expressly disclaim any knowledge and liability for the accuracy and completeness of its information. Residual sample material will be discarded in accordance with the appropriate regulatory guidelines, unless otherwise requested by the client. NVLAP accreditation applies only to polarized light microscopy of bulk samples and transmission electron microscopy of AHERA air samples. This report must not be used to claim, and does not imply product certification, approval, or endorsement by NVLAP, NIST, or any agency of the Federal Government. All rights reserved. MA Analytical Services, Inc.

AMA Analytical Services, Inc.

A Specialized Environmental Laboratory

CERTIFICATE OF ANALYSIS

ACCREDITED LABORATORY AIHA Industrial Hygiene

100470

NY ELAP 10920

Client:	DHHS-USPHS-FOH	Job Name:	Department Of Commerce Attic Area	Chain Of Custody:	143169		
Address:	4550 Montgomery Avenue, Suite 950	Job Location:	Hubert Humphrey Building	Date Submitted:	10/5/2007		
	Bethesda, Maryland 20814	Job Number:	Not Provided	Person Submitting:	Kiel Fisher		
		P.O. Number:	Not Provided	Date Analyzed:	10/11/2007	Report Date:	10/11/2007
Attention:	Kiel Fisher						

Summary of Phase Contrast Microscopy

AMA Sample Number	Client Sample Number	Volume Sampled (Liters)	Fibers Per Millimeter Squared	Fibers Per Cubic Centimeter	Analyst I.D.	Sample Type	Comments

* The Reporting Limit for AMA Laboratory is 7.0 fibers per square millimeter of filter. The reporting limit for the air concentration of fibers (f/cc) is dependent on the sampled air volume. Fibers counts were determined by the methods described in NIOSH Analytical Method 7400, 'Fibers' (Revision 3, Issue 2, 8/15/94). All personnel samples were analyzed following the OSHA Reference Method.

Sample results shown here have been corrected for any field blank(s) submitted with this sample set.

Note: All samples were received in good condition unless otherwise noted.

Crystal Kellam

his report applies only to the sample, or samples, investigated and is not necessarily indicative of the quality or condition of apparently identical or similar products. As a mutual protection to clients, the public, and these Laboratories, this report is bmitted and accepted for the exclusive use of the client to whom it is addressed and upon the condition that it is not to be used, in whole or in part, in any advertising or publicity matter without prior written authorization from us. Sample types, cations, and collection protocols are based upon the information provided by the persons submitting them and, unless collected by personnel of these Laboratories, we expressly disclaim any knowledge and liability for the accuracy and completeness of its information. Residual sample material will be discarded in accordance with the appropriate regulatory guidelines, unless otherwise requested by the client. NVLAP accreditation applies only to polarized light microscopy of bulk samples and transmission electron microscopy of AHERA air samples. This report must not be used to claim, and does not imply product certification, approval, or endorsement by NVLAP, NIST, or any agency of the Federal Government. All rights reserved. MA Analytical Services, Inc.

F

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MEMORANDUM FOR Employees, contractors, and other interested parties

FROM: Otto J. Wolff
Chief financial officer and
Assistant secretary for Administration

SUBJECT: Employees, Contractors and other interested parties, Notification of Presence of Asbestos in the HCHB

This memorandum provides notification to present and past Department of Commerce employees, contractors, and other interested parties, of the presence of asbestos-containing materials (ACMs) on the 8th Floor of the Herbert C. Hoover Building (HCHB). The presence of asbestos in a building does not mean that the health of building occupants has been endangered. If ACM remains in good condition and is not disturbed, exposures will be negligible. However, when ACM is damaged or disturbed without proper controls, asbestos fibers are released into the air. These fibers may pose a threat to your health.

Asbestos is a common name given to a group of mineral fibers that occur naturally and have been incorporated into a variety of construction products such as wall plaster, floor tile, pipe insulation, asphalt roofing, and spray-on insulation. These materials pose no risk to health unless they are disturbed in such a way that asbestos fibers become airborne, are inhaled and deposited within the lungs. Increased incidence of several illnesses including asbestosis, a debilitating lung disease, lung cancer and mesothelioma, a rare cancer of the lung or stomach cavity lining, have been observed in individuals who were persistently exposed to high levels of airborne asbestos in work environments such as mining, milling, shipbuilding, construction and manufacturing.

During the course of your duties, any individual that had access to the 8th floor of the HCHB, may review the asbestos survey reports, results of bulk sampling, or air monitoring conducted in the 8th Floor of HCHB. All asbestos data will be available between the hours of 8:00 a.m. and 5:00 p.m. Monday through Friday at Building Management Division by appointment with Mariano Aquino (202-482-0459).

The Department of Commerce will continue to take whatever steps are necessary in order to ensure that our employees, contractors, and visitors have a healthy safe environment in which to work as well as to comply with federal, state, and local regulations.

G

[redacted]HCHB/Osnet
05/04/2007 05:54 PM

To [redacted]HCHB/Osnet@osnet
cc
bcc
Subject Re: Fw: HCHB TEM Air Sample Report

[redacted]

I can be there anytime between 1:00 - 6:30 pm on Monday.

Regards

[redacted]

05/04/2007 03:40 PM

To [redacted]Osnet@osnet, Douglas Elznic/HCHB/Osnet@osnet, [redacted]HCHB/Osnet@osnet, Bill Fleming/HCHB/Osnet@osnet, Peter Wixted/HCHB/Osnet@osnet, Steven Savoy/HCHB/Osnet@osnet, Jay Loveless/HCHB/Osnet@osnet
cc
Subject Fw: HCHB TEM Air Sample Report

For your information. It is my recommendation that we meet to discuss the results below.

[redacted]

[redacted]

tim.sleeth@gsa.gov
05/04/2007 03:06 PM

To trish.gretsky@gsa.gov, steve.richard@gsa.gov, anthony.mondy@gsa.gov, bill.barrientos@gsa.gov
cc [redacted]
Subject HCHB TEM Air Sample Report

GSA Report 5/4/07

Final — Shows Asbestos

Please see the attached copies of the Chain of Custody (COC) form and TEM Laboratory Analysis Report, for the HCHB, located at 14th and Constitution Avenue, NW, Washington, DC. On May 3, 2007, Global Consulting, Inc., collected a total of fourteen (14) air samples from the HCHB, 8th Floor Attic. The air samples were analyzed by Transmission Electron Microscopy (TEM), using the NIOSH Method 7402. The results of the 14 air samples ranged from less than 0.002 to 0.010 fibers per cubic centimeter of air (<0.002 - 0.010 f/cc). The U.S. EPA recommended fiber level for office environments is <0.01 f/cc. Both Amosite and Chrysotile Asbestos fibers were detected by TEM analysis on 4 (28.6%) out of the 14 air samples collected.

Please note that the room numbers indicated on the COC form are for corresponding room locations on the 7th floor. Steam riser valves are labeled on the Attic walls to correspond to the Room locations supplied by that particular steam riser. All air samples were collected in the 8th Floor Attic space at these labeled steam riser locations directly above the noted room locations.

Access to the 8th Floor Attic should remain restricted to authorized personnel only. Asbestos response action recommendations will be forwarded pending receipt of TEM air samples results from the exterior Courtyard areas.

Thank you,

Tim Sleeth
Industrial Hygienist/Regional Asbestos Program Manager
Safety, Environment and Fire Protection Branch (WPYG)
301 7th Street, SW Room 2080
Washington, DC 20407
p (202) 708-5257
c (202) 369-3209
f (202) 708-6618
tim.sleeth@gsa.gov

cc: DC0013ZZ Facility File

(See attached file: 190703771a.pdf)(See attached file: 190703771_coc.pdf)

190703771a.pdf 190703771_coc.pdf

Chain of Custody

Asbestos Lab Services

EMSL Analytical, Inc.
10768 Baltimore Avenue
Beltsville, MD 20705

Phone: (301) 937-5700
Fax: (301) 937-5701
http://www.emsl.com

Please print all information legibly.

Company:	Global Consulting, Inc	*Bill To:*	Global Consulting, Inc
Address1:	1818 New York Ave, Suite 220	*Address1:*	1818 New York Avenue
Address2:		*Address2:*	
City, State:	Washington, DC	*City, State:*	Washington, DC
Zip/Post Code:	20002	*Zip/Post Code:*	20002
Country:		*Country:*	
Contact Name:	Joyce Walker	*Attn:*	Joyce Walker
Phone:	240-417-6219	*Phone:*	240-417-6219
Fax:		*Fax:*	
Email:		*Email:*	
EMSL Rep:		*P.O. Number:*	
Project Name/Number:	Dept. Of Commerce		

MATRIX			TURNAROUND			
☐ Air	☐ Soil	☐ Micro-Vac	☐ 3 Hours	☐ 6 Hours	☒ Same Day or 12 Hours*	☐ 24 Hours (1 day)
☐ Bulk	☐ Drinking Water		☐ 48 Hours (2 days)	☐ 72 Hours (3 days)	☐ 96 Hours (4 days)	☐ 120 Hours (5 days)
☐ Wipe	☐ Wastewater		☐ 144+ hours (6-10 days)			

EM AIR, 3 hours, 6 hours, Please call ahead to schedule. There is a premium charge for 3-hour , please call 1-800-220-3675 for price prior to sending samples. You will be asked to sign an horization form for this service.

hours (must arrive by 11:00a.m. Mon.-Fri.), Please Refer to Price Quote

☐ NIOSH 7400(A) Issue 2: ust 1994
☐ OSHA w/TWA
☒ Other:

PLM - Bulk
☒ EPA 600/R-93/116
☒ EPA Point Count
☒ NY Stratified Point Count
☒ PLM NOB (Gravimetric) NYS 198.1
☒ NIOSH 9002:
☒ EMSL Standard Addition:

SEM Air or Bulk
☒ Qualitative
☐ Quantitative

TEM Air
☒ AHERA 40 CFR, Part 763 Subpart E
☒ NIOSH 7402
☒ EPA Level II

TEM BULK
☒ Drop Mount (Qualitative)
☒ Chatfield SOP - 1988-02
☒ TEM NOB (Gravimetric) NYS 198.4
☒ EMSL Standard Addition:

PLM Soil
☒ EPA Protocol Qualitative
☒ EPA Protocol Quantitative
☒ EMSL MSD 9000 Method fibers/gram

TEM WATER
☒ EPA 100.1
☒ EPA 100.2
☒ NYS 198.2

TEM Microvac/Wipe
☒ ASTM D 5755-95 (quantative method)
☒ Wipe Qualitative

XRD
☒ Asbestos
☒ Silica NIOSH 7500

OTHER
☒

Chain of Custody

Asbestos Lab Services

EMSL Analytical, Inc.
10768 Baltimore Avenue
Beltsville, MD 20705

Phone: (301) 937-5700
Fax: (301) 937-5701
http://www.emsl.com

lease print all information legibly.
lient Sample # (s) 1 - 14 Total Samples #: 14

elinquished: Date: 5/3 Time: 7:33
eceived: Date: 5/4/07 Time: 0500 AM
elinquished: Date: Time:
eceived: Date: Time:

SAMPLE NUMBER	SAMPLE DESCRIPTION/LOCATION	VOLUME (if applicable)

1	7733	
2	7096	
3	7609	
4	8899	
5	7423	
6	7814	
7	7215	
8	7006	
9	7118	
10	8308	
11	8042	
12	8040	
13	8060	

14	8032	

EMSL Analytical, Inc.
10768 Baltimore Avenue, Beltsville, MD 20705
Phone: (301) 937-5700 Fax: 3019375701 Email: beltsvillelab@emsl.com

Attn: Joyce Walker
Global Consulting, Inc.
1818 New York Avenue N.E.
Washington,D C 20002

Fax: (202) 832-1434 Phone: (202) 832-1433
Project: DEPT.O F COMMERCE

Customer ID: GLOC62
Customer PO:
Received: 05/04/07 6:17 AM
EMSL Order: 190703771

EMSL Proj:
Analysis Date: 5/4/2007
ReportD ate: 5/4/2007

Asbestos Analysis of Air Samples by Transmission Electron Microscopy via NIOSH Method 7402

Sample	Volume (Liters)	Non Asbestos Fibers	PCM F/cc	Asbestos Type(s)	Asbestos Fibers	Asbestos % of total	7402 Adjusted (TEM) F/cc	Notes
1 190703771-0001	288	6	n/a			0	<0.009	Reported using TEM data only
2 190703771-0002	1224	9	n/a			0	<0.002	Reported using TEM data only
3 190703771-0003	1185	3	n/a			0	<0.002	Reported using TEM data only
4 190703771-0004	1144	7	n/a			0	<0.002	Reported using TEM data only
5 190703771-0005	1610	6	n/a			0	<0.002	Reported using TEM data only
6 190703771-0006	1570	6	n/a	Amosite Chrysotile	1 1	25	0.002	Reported using TEM data only
7 190703771-0007	1550	1	n/a			0	<0.002	Reported using TEM data only
8 190703771-0008	1540	3	n/a			0	<0.002	Reported using TEM data only
9 190703771-0009	1480	6	n/a			0	<0.002	Reported using TEM data only

Analyst(s)
Brett Macey (14)

Joe Centifonti, Laboratory Manager
or other approved signatory

EMSL is not responsible for data reported in fibers/cc, which is dependent on volume collected by non-laboratory personnel. The above report relates only to the items tested. This report may not be reproduced, except in full, without written approval by EMSL Analytical, Inc. The test results contained within this report meet the requirements of NELAC unless otherwise noted. The test results contained within this report meet the requirements of NELAC unless otherwise noted. Samples received in good condition unless otherwise noted.
Analysis performed by EMSL Beltsville

EMSL Analytical, Inc.
10768 Baltimore Avenue, Beltsville, MD 20705
Phone: (301) 937-5700 Fax: 3019375701 Email: beltsvillelab@emsl.com

Attn: Joyce Walker
Global Consulting, Inc.
1818 New York Avenue N.E.
Washington,D C 20002

Fax (202) 832-1434 Phone: (202) 832-1433
Project: DEPT.O F COMMERCE

Customer ID: GLOC62
Customer PO:
Received: 05/04/07 6:17 AM
EMSL Order: 190703771

EMSL Proj:
Analysis Date: 5/4/2007
ReportD ate: 5/4/2007

Asbestos Analysis of Air Samples by Transmission Electron Microscopy via NIOSH Method 7402

Sample	Volume (Liters)	Non Asbestos Fibers	PCM F/cc	Asbestos Type(s)	Asbestos Fibers	Asbestos % of total	7402 Adjusted (TEM) F/cc	Notes
10 190703771-0010	975	15	n/a			0	<0.003	Reported using TEM data only
11 190703771-0011	1220	12	n/a	Amosite Chrysotile	1 1	14	0.003	Reported using TEM data only
12 190703771-0012	1250	9	n/a			0	<0.002	Reported using TEM data only
13 190703771-0013	1320	3	n/a	Amosite Chrysotile	1 1	40	0.003	Reported using TEM data only
14 190703771-0014	1250	8	n/a	Amosite Chrysotile	3 5	50	0.010	Reported using TEM data only

NIOSH 7402 method only reports fibers >= 5µm in length and >= 0.25µm in width. This method requires 2 field blank analyses per set. Since no blanks were analyzed, the results are notbl ank corrected.
Average number of asbestos fibers on field blanks:n/a
Average number of non-asbestos fibers on field blanks:n/a

Analyst(s)
Brett Macey (14)

Joe Centifonti,L aboratory Manager
or other approved signatory

EMSL is not r esponsible for data reported in fibers/cc, which is dependent on volume collected by non-laboratory personnel.T he above report r elates only to the items tested. This report m ay not be reproduced,e xcept in full,w ithout written approval by EMSL Analytical,I nc. The test r esults contained within this report meet the requirements of NELAC unless otherwise noted.T he test r esults contained within this report meet the requirements of NELAC unless otherwise noted. Samples received in good condition unless otherwise noted.
Analysis performed by EMSL Beltsville

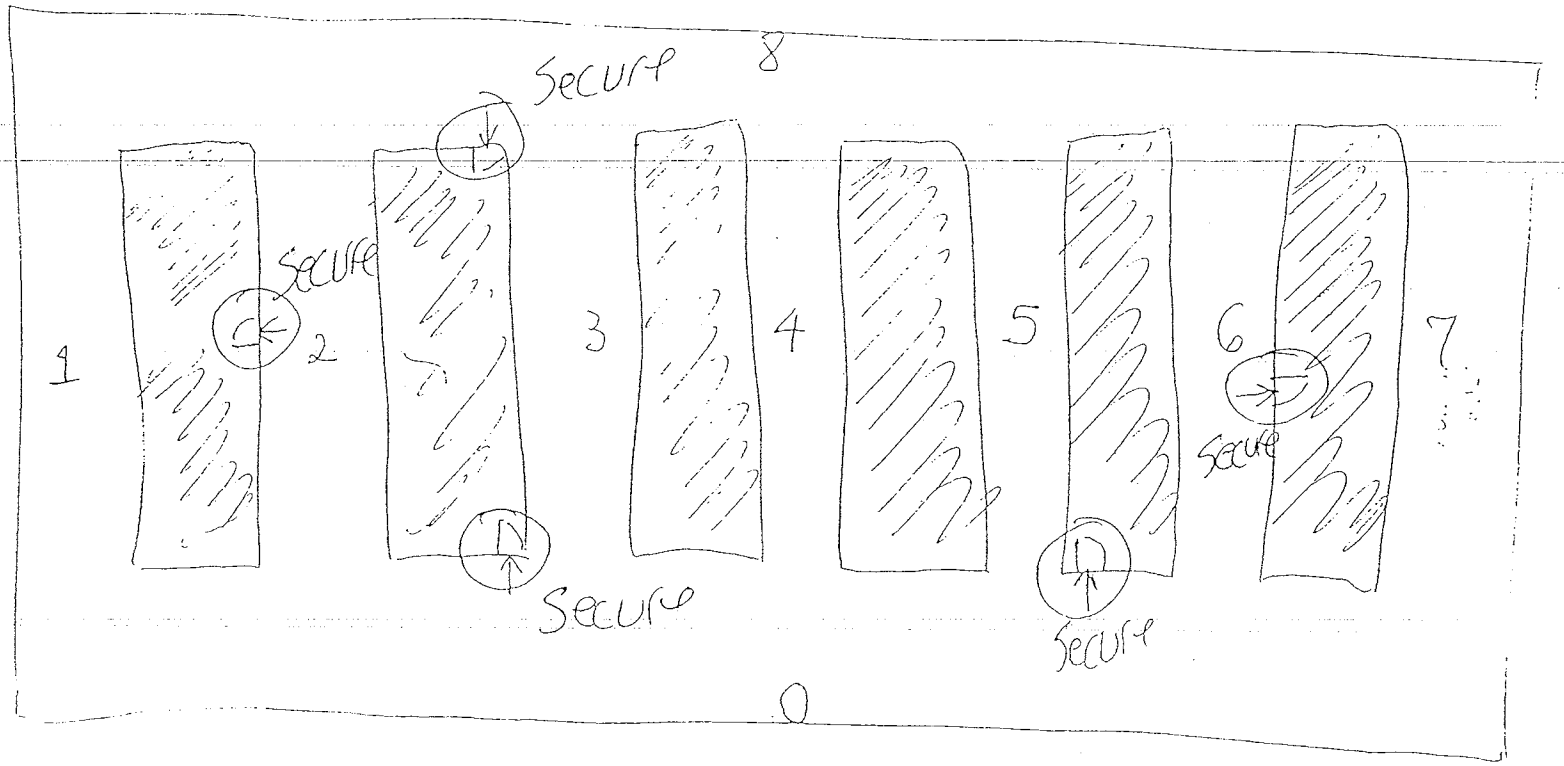
THIS IS THE LAST PAGE OF THE REPORT.

H

* 10 00 01

All doors Secure 7th FL Attic Door check

S.P. check Status of Each Door Lock and CARD Reader



Every Friday 4-12 Shift.

UNITED STATES PATENT AND TRADEMARK OFFICE

- - - - - - - - - - - - - - - X

IN RE: Office of Special Counsel

[redacted] File No. DI-10-0454,

DI-13-0405, and

DI-13-2292

- - - - - - - - - - - - - - - X

Alexandria, Virginia

Friday, April 11, 2014

Sworn Statement of:

JANA BROOKS

called for examination under oath by counsel on behalf of the Agency, pursuant to notice, taken in the offices of the United States Patent and Trademark Office, Madison East Building, Room 5A44, 600 Dulany Street, Alexandria, Virginia, beginning at approximately 10:39 o'clock a.m., before Patricia D. Staffa, a Verbatim Reporter and Notary Public in and for the Commonwealth of Virginia at Large, when there were present on behalf of the respective parties:

On Behalf of the Agency:

1

2 CHIEKO CLARKE, ASSOCIATE COUNSEL

3 OFFICE OF THE GENERAL COUNSEL

4 U.S. PATENT AND TRADEMARK OFFICE

5 600 Dulany Street

6 Madison Building, East Wing

7 Alexandria, Virginia 22313

8

9 C O N T E N T S

10

11 WITNESS PAGE

12 [redacted] 5

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1 E X H I B I T S

2 PAGE

3

4 Brooks Exhibit No. 1 54

5 -- OIG's Memorandum of

6 Results of Investigation,

7 1/20/11

8

9 Brooks Exhibit No. 2 178

10 -- Redacted Copy of [redacted]

11 Interview, 11/19/10

12

13 Brooks Exhibit No. 3 195

14 -- Redacted Interview of

15 Individual in OAS

16

17

18 (The exhibits were retained by counsel for the Agency,

19 Ms. Clarke.)

20

21

22

1 P R O C E E D I N G S

2 Whereupon,

3 [redacted]

4 was called for Examination Under Oath by counsel

5 on behalf of the Agency, and, having been duly

6 sworn by the notary public, was examined and

7 testified as follows:

8 MS. CLARKE: As I introduced myself, my

9 name is Chieko Clarke, and I'm an attorney here

10 at the United States Patent and Trademark

11 Office, and I'm investigating OSC referral

12 regarding the OIG's asbestos investigation.

13 It's OSC File Number DI-10-0454, DI-13-0405, and

14 DI-13-2292.

15 So I just am going to ask you basically

16 about your allegations regarding the report --

17 the OIG's report --

18 [redacted] Okay.

19 MS. CLARKE: -- for the asbestos

20 investigation. I think you gave your

21 allegations to the OIG -- I mean, to the OSC,

22 but I'll be asking about them again, so sorry if

you're repeating information.

[redacted] Yes.

EXAMINATION ON BEHALF OF THE AGENCY

BY MS. CLARKE:

Q I would just like to start first with background.

A Okay.

[redacted]

A Yes, I was.

Q And where do you work currently?

A I work for Department of Justice with the National Security Division.

Q And what's your current position?

A I'm chief of facilities and support services.

Q And when did you leave the Department of Commerce?

A February of -- I'm sorry. The dates are -- I didn't refresh any of this.

Q If you don't remember, that's okay.

A Yeah. Like February 2010 I think is the right year. Sometimes the years blur a little bit, but -- Yes, February 2010.

Q And at some point, you were detailed to the Office of Administrative Services?

A No.

Q You were not?

A I was never detailed to OAS. I left -- I actually was hired to work down in OAS, but I worked under the Office of Human Resources under Deborah Jefferson from the time I got to Department of Commerce in July of 2006 until I was hired in a position down there around September 2007.

Q Can you tell me about your job responsibilities from the time you were hired in 2006 until you -- and, you know, if they changed between the time you were hired and the time you left?

A Yes. When I was up at the Safety Office, I was responsible for -- I mean, I was a safety specialist. I was basically the

equivalent of a GS-13 Safety Specialist, 13/14.

I was in a pay band then and I was responsible for doing safety inspections of the building, investigating accidents, and I was the COR for the Health Services unit there within the Department of Commerce.

Q What does COR stand for?

A The contracting officer representative. And, actually, I wasn't actually formally the COR. I just handled the contract for the Health Services.

Q And what period of time did that cover?

A That was from July 2006 until around September 2007 when I went down and became the [redacted] there, the Energy and Environmental Division in the Office of Real Estate Policy and Major Programs, which was -- It was ORE at the time, Office of Real Estate, and then it changed its name. But that was under OAS.

Q So you worked for OAS starting in September 2007?

A Yes.

Q So then you weren't detailed because you worked there?

A I worked there; yes.

Q I understand; okay.

A The report says I was detailed there. I wasn't. I never was detailed there.

Q Gotcha.

A I always worked in the Safety Office until I got the job.

Q And the Safety Office was in OHR?

A OHR.

Q Gotcha. And then did you have any position at DOC after you were [redacted]

A Then I was hired as the associate director for the Office of Real Estate Policy Major Programs. So I was promoted from a [redacted]

Q In OAS?

A Uh-huh.

Q And when were you --

A That was in ORE. Because OAS is here, then there was ORE, and then there was Environmental. So I went from Environmental up [redacted]

Q Gotcha. I'm just trying to figure out the structure.

And the time period when you [redacted] and then when you were [redacted]

A I have that right here. It's been so long. I was hired as [redacted] in October -- around October, November of 2008.

Q Okay.

A Braulio Ramon was [redacted] so he's who I came down to work for when I was there.

Q And were you [redacted] until you left in 2010?

A Yes. But I was detailed out of that position into another position for about six months over to another associate director position. I had to switch jobs with another [redacted] It's complicated, I know.

Q For purposes of this, is that relevant? Is that change in position relevant?

A Not really.

Q And can you tell me your duties as [redacted]

A [redacted] I was responsible for the environmental and energy programs for the Department of Commerce.

Q And how about your duties and responsibilities as [redacted]

A [redacted] I was responsible for the real estate program and the energy and environmental programs.

Q Let me go back.

When you were a safety officer, did you have responsibilities for the asbestos -- for management of asbestos?

A No. And I have a copy of my job description from when I was there as well.

Q And how about when you were [redacted] Did you have --

A [redacted]

[redacted] I was responsible -- Well, it's sort of a split responsibility because there are two things with asbestos.

One is the management and abatement of asbestos in the building. That was under Building Management.

And then maintaining the records and environmental permitting was under the Environmental Office. It's a maintenance issue, but there's also environmental regulations that go with it.

Q I see. And so between those two divisions of responsibility, where did your responsibility fall?

A Mine was under the environmental regulations.

Q I see.

A All of the building management folks were responsible for the general maintenance, repair, because it's in the pipe insulation. So they had to repair pipes, and they were all trained to do the abatement and repairs and

things like that.

Q So who would be responsible for overseeing testing and making sure if people needed proper equipment?

A The training and management of it, it was always under Building Management. So they would hire anybody to come in and do the testing. They ensured that their people were trained.

When I was at -- Because I was responsible for Occupational Safety and Health and OSHA regulations at the Safety Office, I reached out to Mario at some point to say what is your status of your training.

He was responsible for having them trained. I just checked in with them to make sure they were getting their training and protective equipment that they needed for their job.

Q So you were responsible for -- Sorry. I'm not really understanding your responsibility with respect to OSHA, like what you just said.

A Not me solely personally responsible, but the Office of Safety was responsible for making sure safety and health regulations were followed.

Q So what about your particular responsibilities with respect to the environmental regulations and reporting?

A When I was under -- I don't know what you're asking me.

Q When you were [redacted] I'm trying to understand what your responsibilities were with respect to the asbestos program.

A We maintained the records for the surveys. If there was any permitting or disposal of asbestos material, we disposed of it. It's really just more oversight than --

Q Oversight of?

A Oversight of the overall asbestos program.

Q So you had oversight of the asbestos program, but you were not responsible for

management and abatement?

A Correct.

Q Sorry. I guess I don't understand the difference.

A The shop guys, if they went in and saw damaged asbestos, they are responsible because they have all been trained. They were respirator trained, they were AEHARA trained, and all the different types of training that they had to go in and abate a piece of asbestos.

They didn't have to come tell me they were abatement of asbestos. That was their responsibility as part of daily maintenance and operations.

Q And then where did you come in with respect to this?

A It's kind of -- It's not that easy to say. I didn't have these responsibilities until after Mr. Wixted left, who was the primary asbestos program manager, and he didn't do anything with asbestos.

So when I got there, I tried to say,

okay, we need to make sure that people get there and that the people that are doing the training have the -- or the people who are doing the abatements and stuff have the training and equipment they need.

But they hired their own trainer to come in. They did their own fit testing. We just did program oversight, not --

Q The day to day?

A Yeah.

Q So when you came in as [redacted] in 2006, July 2006 -- is that right? --

A No. That was Safety.

Q I'm sorry, you're right. What did you say? Oh, September 2007?

A Yes.

Q So when you came in in September of 2007, you would direct or you would oversee the Building Management people and --

A No.

Q -- in requiring training and, you know,

people getting proper equipment?

A No.

Q No.

A They did that. We just write like the program and department policies and stuff that they had to follow, and they were responsible -- That's like anybody at PTO or somebody out at NOAA. We wrote the program policies, and they were responsible for implementation.

Q So you were responsible for writing the policies.

Were you responsible for ensuring that they were followed?

A I guess ultimately we --

Q I guess compliance. Were you responsible for --

A Compliance.

Q -- ensuring that they complied with the policies?

A They were responsible for ensuring they complied with their policies. We would put the policy out there and we would go and do an

1 inspection and say show me that you're following
2 the policies.
3 Q So you had oversight of making sure
4 that they complied? I'm just trying to figure
5 out. So you got the policy, and now you're
6 done?
7 A Well, we're just headquarters, so -- It
8 would be like any inspector coming out and
9 inspecting and saying, okay, are your T&As done
10 correctly.
11 So you're responsible for making sure
12 you do your T&As correctly. We just come out
13 and do like oversight inspections.
14 Q So when you did oversight inspections,
15 did you find that they were following these
16 policies?
17 A I guess I shouldn't say we did
18 oversight inspections. We didn't do -- I mean,
19 we didn't do inspections.
20 Q Okay.
21 A I mean, we did inspections for
22 hazardous waste to make sure their hazardous

1 waste was being handled properly, but we didn't
2 do asbestos inspections.
3 Q Okay.
4 A I wasn't there long enough actually to
5 -- We didn't have an inspection program where
6 they went out and did like a -- I was just
7 trying to give an example of --
8 Q Oh, sorry. Okay.
9 A -- how the T&A stuff -- Like if you --
10 It's the same situation. We wrote the policy.
11 And because we were in the building, we
12 worked closely with the Building Management
13 folks, so if they had a question about -- We
14 were the subject matter experts is what I should
15 say we were. That's better. I'm sorry.
16 Q That's okay. This is all unfamiliar to
17 me, so --
18 A Yeah. And it's been a long time since
19 I talked about all this stuff, too.
20 Q So who was responsible for ensuring
21 they complied with the policies that you wrote?
22 A Building Management or anybody else at

1 the division were responsible for making sure
2 the policies were followed.
3 Q So Building Management was responsible
4 for ensuring that Building Management followed
5 your policies?
6 A Uh-huh. I mean, there's a safety
7 regulation that addressed asbestos and what the
8 people in the department had to do to follow
9 that.
10 Q I see.
11 So since you were the subject matter
12 experts, you just wrote the policies and that
13 was the end of your responsibility?
14 A Yes.
15 Q Did you have any other responsibilities
16 or duties with respect to the asbestos
17 management program besides writing the policies?
18 A No, not -- I mean -- Did we -- I don't
19 know exactly -- I'll just keep answering
20 questions, and then we'll see how it comes out.
21 Q That's fine.
22 So your answer is, no, you had no other

1 responsibilities with respect to the asbestos
2 management program?
3 A Well, we maintained the surveys for the
4 building.
5 Q And the surveys are?
6 A The surveys are -- A contractor would
7 come in and survey a building and say this has
8 potentially asbestos-containing material in it.
9 It's required by law that you have surveys.
10 They had been maintained under Building
11 Management up until when I went down to the
12 Environmental Office, and then we took the
13 surveys because of the closing of the attic and
14 things like that.
15 So then they gave the surveys and stuff
16 to me. Prior to that, Building Management had
17 all the surveys.
18 Q So when you --
19 A I mean, I was kind of building a
20 program, so it's kind of hard to say that this
21 was what we did and this was what our
22 responsibility was because I was starting to

1 take over some of the responsibilities.
2 I didn't -- There wasn't a program in
3 place really as far as from the Environmental
4 side goes. From an Environmental perspective,
5 Pete Wixted had been appointed as the asbestos
6 program manager, but I'm not sure what he was
7 doing in that capacity.
8 So Building Management had all the
9 surveys. Building Management was doing
10 everything for asbestos.
11 Q Until you came on board?
12 A Until I came on board.
13 Q And then when you came on board, your
14 shop took over writing the program policies --
15 A Uh-huh.
16 Q -- and maintaining the surveys by the
17 contractors?
18 A Right.
19 Q Anything else?
20 A That's about it; yeah.
21 Q Okay. And so when you took over
22 maintaining the surveys, was your responsibility

1 solely to just collect them and file them, or
2 did you review them and then have some sort of
3 follow-up responsibilities, if that makes sense?
4 A Well, what the surveys were for was if
5 Building Management wanted to do a project in
6 the building or they needed to repair a pipe,
7 then they have to come down and look at the
8 survey and see if that's been identified as
9 asbestos-containing material.
10 If that's the case, then they would
11 call a sampler to come and sample the material
12 and tell them if it is or it isn't. So from an
13 operational perspective, they were doing the
14 sampling and, you know, we just maintained the
15 book of surveys. And not that we would survey
16 it ourselves or anything like that.
17 I did try, after I was there for about
18 six months, in I think maybe about March of
19 2009, was sending my folks to asbestos training
20 so if they got a call from Building Management,
21 they could come and say they were building
22 inspectors, because you had to have special

1 training and stuff like that.
2 But up until the point that I got
3 there, Pete Wixted was the only person trying to
4 do the inspections.
5 So we were just trying to help our
6 folks so if they came across something, we would
7 have people that would understand and know how
8 to handle the asbestos. And that was about in,
9 like I said, March of 2009 or thereabouts.
10 Q So later --
11 A No, I'm sorry. That would have been
12 maybe March of 2008. Sorry. Yes.
13 Q So in March of 2008, some people in
14 your office started having more responsibility
15 with respect to asbestos management?
16 A That was the goal. We didn't actually
17 take it over, but we were trying to --
18 Q Get more involved?
19 A -- get more involved. Yeah.
20 Q So at the time you were in the
21 Environmental Division, [redacted]
22 [redacted] you just maintained the

1 surveys. You filed them for inspection later?
2 A Right. And we were trying to provide
3 advice because there was a letter that came from
4 OSHA because somebody called OSHA -- or EPA to
5 come in and provide answers on the asbestos
6 program. So we were providing it on asbestos
7 regulations and requirements and things like
8 that.
9 Q To EPA or to Building Management?
10 A To OAS. The Building Management and to
11 OAS. Because Building Management and OPE were
12 under OAS. So we both worked for Fred
13 basically.
14 Q Okay.
15 A And so when we got the letter, they
16 were saying what they did in the building, and
17 we were telling them what the laws and the
18 policies said.
19 Q I see, I see. Okay.
20 A Like we never called anybody in to do
21 surveys. It was all paid for under Building
22 Management --

Q I understand.
A -- and they paid for all of that.
Q Gotcha. And when you were [redacted]
A OREPMP.
Q -- OREPMP, did your responsibilities with respect to the asbestos management change?
A No.
Q Stayed this same?
A Yeah, the same.
Q You didn't take on any other responsibilities?
A No.
Q And between the time that you left, did you take on any other responsibilities?
A No.
Q That was helpful.
A It's hard to explain, because it was kind of evolving and I moved so much when I was there.
Q I understand that was evolving and it wasn't already set in place. I was just trying

to figure out, as it was evolving, what responsibilities did you take on.
So did we cover all of the responsibilities with respect to the asbestos management program that you took on during the time it was evolving?
A Yes.
Q Okay.
A And when I was in the Safety Office, I mean, if they had questions, they would call and ask us and we would just tell me them basically policy, what the law says, and things like that.
Q But you, otherwise, had no responsibilities with respect to managing the asbestos program --
A No.
Q -- when you were in the Safety Office?
A No.
Q I'm going to switch gears --
A Okay.
Q -- and I'm trying to figure out the best way to do this.

So I think I'm going to go through each area of your allegations.
A Okay.
Q I'll list them and then I'll go through them. I'll list them first, and if you have any other areas you want to cover, you can let me know and I'll write them down and we can go through them.
A Okay.
Q Does that sound good?
A Uh-huh.
Q So the first area is exposure of Mr. Lee and other employees to asbestos in the Hoover Building.
A Uh-huh.
Q The next one is your involvement. And I know we covered your responsibilities, but we'll just go a little bit more in depth with respect to what the OIG's report found.
A Okay.
Q So the next area would be your involvement, or lack thereof, in the asbestos

management program.
A Okay.
Q And then the next area is who, if not you, was responsible for the asbestos program.
A Okay.
Q And that includes your allegations regarding Mr. Wixted.
A Uh-huh.
Q And then I'd like to just briefly cover the supervision of Mr. Lee, who supervised him at what time and whether or not you did.
A Uh-huh.
Q And then I'd like to cover generally the allegation about mismanagement of the asbestos program and whether or not there was mismanagement.
A Uh-huh.
Q And then I'd like to cover the validity of the air testing sample performed by Mr. Barnett.
A Uh-huh.
Q And then I'd like to cover your

interview with the OIG during this investigation.

A Okay.

Q And then I'd like to cover any allegations you have regarding the OIG's report including the affidavits they relied on.

A Okay.

Q You know, if anything was omitted or fabricated or inaccurate.

A Okay.

Q And those are the areas I'm going to cover.

Are there any other allegations that don't fall within that area that you would like to cover?

A I'm sure there are.

Q I can ask them at the end, or if you want to --

A They might come out during some of those others, but I'm sure there are. I mean, my basic thing is Mr. Lee lied and colluded with other disgruntled or former employees for

personal gain to defraud the government, and this investigation is inept and completely false and has barely a shred of truth to it.

And I think the OIG investigators -- I think I got railroaded. They were looking for somebody to blame it on to make it easy -- make their job easy without doing any investigation, and I got the blame for things I did not do.

I was lied to. I think that they were corrupt.

And shortly thereafter, these investigators -- I did a FOIA request and got all the documents from the investigation and found that a statement that was supposedly my statement was pretty much identical statement.

That's not -- I didn't say any of those things to the investigators.

Q Any other topics you want me to put on my --

A I'm sorry. I'm very passionate about this because I've been dealing with this over a long time, so --

Q I understand. And I'm sorry you have to sort of rehash it for me, but I appreciate your cooperation and candor.

A Yes.

Q So I'm going to write those other issues down and we'll cover them --

A Okay.

Q -- but I'll go through my outline first --

A Okay.

Q -- and those areas that we discussed.

A I'm sure it will come up.

Q And then, you know, I'll ask you, of course, at the end if there's anything we didn't cover, please tell me. I want to make sure I get everything you have to say.

A Okay.

Q Now's the time to let me know.

A Okay.

Q So I will go back to the issue of -- So the report found that employees such as Mr. Lee and others were knowingly exposed to asbestos in the Hoover Building.

A Uh-huh.

Q Do you allege that is inaccurate?

A Yes.

Q Okay. Can you tell me about your allegations with respect to that finding and why, you know --

A Okay. From what I understand, I mean, I was only there from -- I came in July of 2006. So my understanding is -- That's another problem I have with this report is that I can't speak to any allegations prior to me being there.

Q That's fine.

A My understanding is that his big allegation is that he was exposed during this event on the eighth floor.

Q Event?

A Where they found asbestos fibers in the air on the eighth floor. My understanding is that's what his allegation is when he was exposed to this.

I don't actually -- Nobody has ever actually told me what his allegations are.

Q Okay. So I understand that in May of 2007 is when it was -- sorry -- April 25th, 2007 is when the testing results showed that there were asbestos fibers above OSHA-permissible exposure limits.

A Well, that's what Monica Barnett alleged, but that's not really true because, the way she did the sampling, you can't compare her samples to the permissible exposure limits.

So that's not really accurate, but that's when she alleged that that was above the --

Q Right. So are you alleging that the finding that Mr. Lee and others were exposed is inaccurate based on the fact that Ms. Barnett is the one who performed that test?

A No. I'm just asking, is that when he is alleging that he was exposed?

Q He's alleging he was exposed -- I believe he's alleging he was exposed -- he and others were exposed --

A For years, or just this event?

Q Yes. The testing event?

A Yes.

Q No, it's not just the testing event. It's over, you know, a period of years, and I'm sorry, I don't have it right in front of me. But I will find it in my notes. Yeah, it's for a period of time up until January 2008.

A Okay.

Q So it spans a number of years.

A Okay.

Q But it includes 2007. And so that's sort of what I wanted to address.

A Okay.

Q I understand that you don't know anything about before you arrived, so I only want to talk about after you arrived at DOC with

1 respect to this allegation.
2 A Okay.
3 Q So I'll restate it.
4 Do you allege that Mr. Lee and others
5 were not knowingly exposed to asbestos from --
6 when did you get to DOC? --
7 A I got there in July 2006.
8 Q -- right -- from 2006 on?
9 A Yes. That's my statement. Nobody that
10 I know of was knowingly exposed to asbestos.
11 Q Can you explain that, like why do you
12 think that or how do you know that? Do you know
13 what I mean?
14 A How do I know that? When I was there,
15 I don't know of any situation where an employee
16 was exposed to asbestos.
17 I know that they did asbestos sampling
18 throughout the building for fibers in the air
19 routinely, yes, they did that, and there was not
20 -- I think there was maybe one false positive
21 one time in all the years that they did
22 sampling. And they went back and re-sampled. I

1 can't remember that specifically.
2 And the time that I was there, the only
3 incident I know about that had the potential was
4 when that sampling was done. That is the only
5 time I know anybody even alleged there was any
6 exposure to asbestos.
7 Q Do you know if Mr. Lee and others
8 accessed the attic during this period of time?
9 A As soon as that sample -- well, not
10 that sample came back. Because what happened
11 was I wasn't involved in the beginning.
12 One of the foremen [redacted] reported
13 to Mario that there was damaged asbestos in the
14 attic. So, apparently, they hired -- Mario
15 brought in Monica Barnett to do the sampling --
16 to do some air sampling on the eighth floor, and
17 that came back positive.
18 Nobody told me about it. I wasn't
19 involved in any of it for probably maybe two
20 weeks after the event -- or after the tests came
21 back positive.
22 And the way I found out about it is,

1 actually, Dion had been detailed up to the
2 contracting office for a year, and he was still
3 really good friends with Steve Savoy who worked
4 in Building Management.
5 Q Do you know what his position was at
6 the time?
7 A Just a facility assistant, I think.
8 And so Dion came and told me that Steve had told
9 him that there was an asbestos sample that came
10 up high.
11 And so after Dion came and told me
12 that, I went to Steve in Building Management and
13 said, hey, what's going on? So that's how I
14 found out about it.
15 But other than that, I know no other
16 times -- I mean, we did some tile removal as
17 part of the old FAA space in there when they
18 were renovating that space, and I recommended to
19 Pete that he bring in -- because that
20 potentially had asbestos tile. I recommended to
21 Pete that he get GSA in there to do some air
22 samples just to be in accordance with the law.

1 So at that time, Pete Wixted brought --
2 he was working with Larry Hess, who's Building
3 Renovation, and Pete had the GSA come in and do
4 samples. There were no asbestos fibers in the
5 air with that project.
6 Q When was this?
7 A That was --
8 Q Approximately.
9 A -- approximately maybe October/November
10 time frame. I can't --
11 Q 2007?
12 A 2006.
13 Q Do you have any evidence to support
14 that GSA did this testing? I'm just asking,
15 because I have nothing, so I'm just wondering.
16 A I don't know if I have anything on
17 that.
18 Q Okay.
19 A But that was in a specific place when
20 they were doing the tile removal just to be sure
21 --
22 Q Oh, it wasn't in the attic?

A No. It was in the basement --
Q I see.
A -- when they were doing tile removal. And like I said, you all probably wanted to get somebody to do the air sampling while you're doing the removal.
Q Do you know if there was testing done in the attic prior to 2007?
A Yes, there was. GSA had done some. And there were actually asbestos signs posted in the attic.
Q What do you mean?
A It was labeled "Asbestos-Containing Material." I mean, it's allowed to be there as long as it's not friable. You just have to label it and tell people that it's there.
So there were asbestos signs, "Do Not Disturb, Asbestos-Containing Material." They were in the attic.
Q But because the asbestos wasn't above a certain level, you didn't have to seal it off or require people to wear protective gear; is that

right?
A If we walked in this room and those were asbestos tiles, you don't have to wear -- Asbestos is allowed to be here. You just don't -- If you were doing an abatement job or it was disturbed and you knew it was in the air, then you would have to wear a respirator.
But because the asbestos was in the attic did not mean that anybody had to wear a respirator.
Q What does it mean that it's "disturbed"? Does that mean like there's some part of like a ceiling that's missing or --
A If it's friable -- If it's disturbed -- I mean, it could be cracked. There could be a tile missing. But if it was friable, meaning it could become airborne --
Q Okay. So if there were little fibers floating around visible in the air, something like that?
A Well, you can't see asbestos. It's microscopic. Yeah, you can't see it. If you

see fibers, it's dust or something that's not -- you can't see asbestos flying around.
Q Okay.
A And it's part of something. It's typically in insulation. So asbestos fibers are typically part of something else. They're microscopic. That's how come they can get in your lungs and cause cancer. It's a rock is what it is. So it's a little fiber.
But there was testing done up there, and like I said, we knew -- the Department of Commerce knew asbestos was in the building. I mean, the surveys showed it was in tile. It was in the fireproofing in the attic.
It was part of the survey, and it was labeled. And they did do sampling every year. They did air sampling every year. And I do believe there were two sampling events in the attic prior to me getting there. I don't know -- I have records here somewhere probably about when that happened.
Q Okay.

A But seeing -- I didn't see or know of there being friable asbestos that anybody was allowed to be around. You're not even required to do that annual sampling. It's a GSA policy, so they were doing it.
Q They just do it on their own?
A Uh-huh.
Q You don't call them say, hey, it's time for our sampling?
A No. That was their program. GSA owned the building. It was just a delegated authority building, so they delegated operation and maintenance to Department of Commerce, but it was still a GSA building.
They actually did the surveys and gave that to Deposition of Commerce. And they would just tell us. We wouldn't call them in to do the air sampling. That was just part of their routine. They do it in all of their buildings.
Q . I see. So is it accurate that -- Because the way I understand it, as you've explained it, is that it's the statement that

1 Mr. Lee and others were knowingly exposed to
2 asbestos might be true, but that they were not
3 knowingly exposed to friable asbestos?
4 Because it seems like there was
5 asbestos. So maybe people were exposed. But --
6 Am I understanding? But it's not friable, and
7 so that's really the issue?
8 A Well, yeah. I mean, I guess how you
9 define "exposed" because --
10 Q I don't know what that means.
11 A "Exposed" is that you were exposed to
12 asbestos fibers. I mean, asbestos material is
13 everywhere.
14 Q I see.
15 A It's just are you exposed to the
16 friable asbestos, the fibers.
17 Q So you're saying that you don't believe
18 that Mr. Lee and others were knowingly exposed
19 to friable asbestos fibers --
20 A Right.
21 Q -- because you never were told or any
22 of the GSA tests never revealed that there was

1 friable asbestos?
2 A Right. And the workmen were trained.
3 The HVAC guys or, I think, the plumbers were all
4 trained in asbestos, which is why that damaged
5 pipe in the attic got reported in the first
6 place, because they were told that if there is a
7 -- They're the ones that are trained to do the
8 removal and know what asbestos is.
9 So there wasn't any -- As far as I
10 know, I don't know, but at least it was never
11 reported to me that there was any friable
12 asbestos. There wasn't any damaged pipe.
13 Nobody reported to me that there was damaged
14 pipe.
15 Q So --
16 A So you wouldn't even think that there
17 would be exposure because there's no reason they
18 would have been exposed.
19 Q I just can't really recall right now,
20 but if any of the building had -- that HVAC
21 people or any of the maintenance people were
22 wearing protective gear in the attic, you had no

1 knowledge of that?
2 A No. But there also was not a
3 requirement to wear --
4 Q Oh, I totally understand that.
5 A Yeah.
6 Q I just thought I read somewhere that
7 people were wearing it because they were
8 worried. And so I'm just wondering, did you
9 know that?
10 A No. And I don't know of anybody that
11 was wearing it. I know none of that.
12 Q Okay.
13 A But I know after we got the samples
14 back, I told Mario you have to shut the attic
15 down. You can't let anybody up there unless
16 they're wearing protective equipment.
17 And then we had everybody go through
18 and get their -- I say "we." I just
19 recommended. But they had to get training.
20 They had to make sure the respirator fit
21 tests were up to date, that everything was good
22 to go so they could wear respirators and stuff.

1 And they did start wearing it after we shut the
2 attic down.
3 Q And that was after the April 29th --
4 after Ms. Barnett's testing, right?
5 A Yes.
6 Q At the time that she did that testing,
7 did you know that she possibly had a conflict of
8 interest or --
9 A I didn't even know her.
10 Q Just wondering.
11 A I didn't even know her. Building
12 Management, like I said, they hired her and
13 brought her in. I didn't know anything about
14 her.
15 Q Regarding exposure --
16 A Uh-huh.
17 Q -- is there any evidence that you have
18 or support that you have that you didn't give to
19 the IG that backs up, you know, what you're
20 saying about there was testing prior, it didn't,
21 you know, exceed the limit, any of your
22 allegations with respect to your allegation that

there was no exposure to friable asbestos?

A I didn't take the air sampling results with me when I left Commerce. I never dreamed this was going to come up.

Q Sure.

A Commerce had all the sample results.

Q Okay.

A So Department of Commerce has them and GSA also has them because they gave them to Commerce. So GSA's the people that actually had the sampling results.

Q And do you know if -- Maybe you don't. But do you know if, during the OIG's investigation, they got those? Did you give them to them, or did you refer them to them, or do you know of anybody?

A No. When OIG came to me, they said, we just want to come talk to you for a minute. I didn't know anything about Special Counsel. I knew nothing about a whistleblower complaint.

[redacted]

[redacted]

And they walked in and they were with me for 30 minutes. And you see how much documentation I have. They were with me 30 minutes.

They walked in my office and said, we're investigating Mr. Lee's allegations that he was exposed to asbestos -- I'm not even sure they were that clear -- and that we don't believe anything he said and don't believe there's anything to his allegations. You know, we've talked to other people and basically we have to go through the motions.

And I said, I did not expose Mr. Lee to asbestos and I have plenty of documentation to prove that, and they said, we'll be in touch with you if we need your documentation.

Q So you --

A And they left, and that was it.

Q You told them you had documentation to support the fact that Mr. Lee was not exposed,

and they never asked you for it?

A No. Now, you have to understand that the asbestos exposure I thought he was talking about is not this. [redacted]

Q So what did you think they were talking -- I mean, what asbestos exposure did you think they were talking about when you said "I have documents to show that he wasn't exposed"?

[redacted]

Q Okay. Which is not in the attic?

A No.

Q Okay.

A Because like when they would do a glove bag removal for -- "Glove bag" is when the plumbers would go in and they'd put up a glove bag and they take down insulation that has asbestos and they put them in a bag and double-noose it. Then we would dispose of that for them.

Q So you had documents related to that?

A Yeah.

Q You didn't explain that's what you were referring to because you thought that's what they were referring to?

A Yeah. They literally asked me nothing.

Q So do you have any documents -- I'm sorry. I might have asked you this.

Do you have any documents to support your allegation that Mr. Lee and others were not exposed to friable asbestos at this time?

A Do you have the two studies from the industrial hygienist?

Q I do.

A Okay. That's what I would have given you. And then, also, the air samples that GSA did throughout the building.

Q Okay.

A And, also, at the same time that Mario did testing, as soon as I knew that anything -- as soon as Mario told me that there was a high sample, I called GSA because GSA was responsible for the building.

1 GSA sent another company, Global
2 Consulting, over, and they did side-by-side
3 analysis with Monica and they could not
4 replicate her results. And, miraculously, at
5 that time her same results were no detect as
6 well.
7 Q I don't know how much you know about
8 sampling, so I'll just ask, and if you don't
9 know that's fine.
10 A Uh-huh.
11 Q But when you say they did a side-by-
12 side analysis, do you mean that like her and
13 them together went to do the analysis, or that
14 they tried to replicate her analysis, or, I mean
15 --
16 A They both went up into the attic and
17 set up sampling machines and pulled samples at
18 the same time in the same locations.
19 Q I see. And --
20 A And then what happens is you set up an
21 air pump and you pull air through a filter and
22 you collect the fibers on the filter. And then

1 you take that filter and you send that to a
2 laboratory.
3 Monica did her own. You send that to a
4 laboratory, and they count the number of
5 asbestos fibers on the filter. It's a little
6 filter paper thing.
7 And that's what they did together.
8 They set up their sampling pump within the same
9 locations and sampled the same time in the same
10 locations.
11 Q And they got different results?
12 A They both got zero.
13 Q They got the same result?
14 A Yeah. But they could not replicate the
15 results that she had the first time.
16 Q And do you remember the date? Do you
17 know the dates of these testings?
18 A I can't remember the specific dates.
19 Q Okay. Do you think it was May?
20 A Yeah.
21 Q I see that there were two tests in May,
22 May 2nd and May 7th. Did they do this twice --

1 A Uh-huh.
2 Q -- or did they do this once?
3 A Yeah.
4 Q Do you want to look at this? This is
5 part of the report.
6 A If you don't mind. Let me refresh my
7 memory just a little bit.
8 MS. CLARKE: And I'll just mark as
9 Exhibit 1 the OIG's January 20th, 2011
10 memorandum on the results of the asbestos
11 investigation. And I'm referring the witness to
12 Appendix A.
13 (Whereupon, the document
14 was marked as [redacted]
15 Exhibit No. 1, for
16 identification.)
17 [redacted] Yeah, that -- Did they do
18 it twice? I think they did.
19 MS. CLARKE: Okay.
20 [redacted] I think they did for fiber
21 in there, and then I think they did totals. I'm
22 sure I have something here that I can go back

1 to.
2 Yeah, they basically did it. I think
3 they did the fiber in the air, and then I think
4 they went back and did it again. I don't have
5 the results, but --
6 MS. CLARKE: Okay.
7 [redacted] And she did it at the same
8 time.
9 BY MS. CLARKE:
10 Q Do you know of any reasons -- I mean,
11 other possible reasons, besides, you know, she
12 fabricated the results, but are there other
13 reasons why results would change over time?
14 A No.
15 Q Is it impossible that results would
16 change over time?
17 A We discussed this with GSA. We brought
18 in -- At the time, there was a bunch of people
19 at the table discussing the results, and GSA --
20 Tim Sleeth came, and he is the GSA asbestos
21 manager.
22 Q Sorry, can you tell me --

A Tim Sleeth.
Q Tim --
A S-l-e-e-t-h.
Q And you said people discussed it. Who else?
A Let's see. Pete Wixted was at the table. Mario. Doug Elznic. Monica. Global Consulting. I'm not sure Monica was always at the table.
We had several meetings. But we discussed with Tim Sleeth, the GSA representative and the asbestos manager, about why the results could have been so different because that attic is a huge space.
Q Uh-huh.
A And she had several samples, I think, that came back with high fiber count, and the asbestos would not have settled out of the air that quickly. They're microscopic fibers.
It would not have settled out of the air that quickly, and we could not figure out why she would have gotten those results.

I mean, I'm not an industrial asbestos expert, but Tim is, and he and Global could not figure out how she got the results that she got and then theirs wasn't even anywhere near there.
Q And you didn't discuss this with the IG; right?
A No. They didn't even ask.
Q Right. I might keep asking you that, and don't --
A Yeah.
Q I get it. That's just my, you know --
A Okay. I'm just going to keep telling you the same thing.
Q That's fine. That's fine.
So you discussed that this was strange and out of the ordinary.
Did anybody at any time decide to disqualify those results or throw them out or --
A Well, we thought about it, but we thought, well, she's got the results, so let's close the attic. Let's address it like it's a problem.

Q Okay.
A Even though there's no results that replicate that, let's do something about it because her results showed that. So -- I mean, we were trying to be conscientious and say -- and I say "we," but it was the group. It wasn't me.
Q Sure.
A I really wasn't in a position to make decisions. But why would you? I mean, she came back with a high result. Nothing else can confirm her results, but let's err on the side of caution and take the measures that we need to close the attic.
Because in the end, you know, she still had her sample results, even though there was -- more than likely, it was a false positive.
Q So the OIG report states that in 2003 and 2006 -- and I know this is before your time, but I'm just going to reference it anyway -- GSA contractors reported damage and deteriorating asbestos materials in the attic.

What does that mean, and does that mean necessarily that there was friable asbestos? What does that mean in sort of this --
A I don't know exactly what they're talking about. But if you told me that, then I would say there was probably some pipe insulation that had been damaged or --
Q If you were to hear that when you, you know, got to DOC, what would you have done? What would have had to have been done?
A Well, the folks that are responsible for the pipe insulation, we would ask them to go take a look at it and see if it needed to be repaired.
Q So your shop would have to ask them, or I'm just trying to figure out whose responsibility would it be to address that?
A I would have recommended to Mario that his folks repair the pipe insulation. They're responsible for operation and maintenance.
Q Okay.
A But I don't know what they were talking

about and I never saw any reports from 2003. I was surprised when I saw that because I never saw reports from 2003.

Q And nothing from 2006? Because you got there in --

A Yeah, I got there in 2006, and I never saw anything. It was news to me. I never saw anything. I might not have seen it, though, because my office didn't do a lot of the building safety.

I mean, when I first got there, I started doing -- I was hired to come in and start doing building inspections for Occupational Safety and Health inspections, not asbestos inspections.

Q Those are separate?

A Yeah. It's totally different.

Q Okay.

A Just general office and like the shop, go in and inspect and look for fire hazards and electrical hazards. And my office didn't have any real role in the asbestos.

Q So you wouldn't have seen this report because you wouldn't have had a role --

A No.

Q -- at that time in 2006?

A No. But after all of this happened and I started asking for, well, what documents do you have, I never saw it even at that point. Nobody ever gave me a document that said any of that stuff.

Q How about in March 2007? The OIG report said an industrial hygienist contacted DOC -- sorry -- contracted by DOC -- Never mind.

A That's Monica.

Q Oh, okay. Okay.

A March 2007.

Q Gotcha.

A That was Monica. And that's Building Management contracted with her.

Q So who would have been responsible for requesting testing for airborne asbestos?

A They did.

Q Who's "they"?

A Building Management.

Q Building Management was responsible for -- So GSA did some air testing every year routinely --

A Uh-huh.

Q -- but if the Agency were to learn about damage, then Building Management was responsible for getting testing done -- additional testing; is that right?

A Yeah.

Q Okay.

A They probably would have asked the Safety Office or the environmental guy for any technical expertise or any technical help on writing specifications or whatever, but Building Management contracted all that stuff out.

Q All right. I understand your support for the fact that no one was exposed to friable asbestos in the two studies, the GSA testing in 2006 and 2007, and then also the fact that there was no replication of those testings.

And you guys had discussed that it was

impossible for --

A I would say nothing is impossible, but it was highly --

Q Unlikely?

A -- improbable.

Q Okay. Gotcha.

Any other reasons why you think that no one was exposed to friable asbestos?

A Other than there's just no records of anybody reporting any damaged asbestos to anybody.

Q Anything else?

A No.

Q Okay. Now I want to talk about Mr. Lee's job duties and his access to the attic.

A Uh-huh.

Q Do you allege that Mr. Lee did not access the attic or did not --

A When I was his supervisor, he did not go to the attic because the attic was closed.

Q When were you his supervisor?

A I started being his supervisor in

1 around November of 2007 -- December of 2007.
2 Q Okay.
3 A And I, actually, was only Mr. Lee's
4 supervisor for about nine months.
5 Q So until August of 2008?
6 A Uh-huh. And a lot of the time I was
7 his supervisor, he was out of the office on sick
8 leave. So I wasn't -- There were several months
9 he wasn't even in the office.
10 And when I became his supervisor, there
11 was no access to that attic, and I never would
12 have sent him up there. I did not send him up
13 there ever.
14 Q Because that was after the testing had
15 come back high and you guys shut it down?
16 A It was closed. You couldn't get up
17 there.
18 Q No one could?
19 A If you broke a lock and --
20 Q Oh, it was locked?
21 A -- there was an instance where there
22 was a lock broken on a door. People did try to

1 get up there, but it was shut down, and people
2 were told they couldn't go up there.
3 If you wanted to go up into the attic
4 after it was shut down, you had to go through
5 Mario and show them your training certification
6 that you were trained in asbestos and could wear
7 a respirator.
8 You had to bring your fit test card,
9 and you were required to wear PPE when you went
10 up there.
11 Q PPE?
12 A Protective equipment. The respirator
13 and the full Tyvek suit and things like that.
14 Q I see.
15 A Mario was the gatekeeper for that. So
16 anybody that went in and out of there had to be
17 trained and had to have protective equipment.
18 This also became an issue.
19 It wasn't just the shop guys that were
20 going up and down there, because they had their
21 daily -- what do they call them, where they have
22 to go in and walk through and -- there was a

1 name for them -- but there was an elevator
2 repairman whose office was actually in the
3 attic, and his company had to send him through
4 training.
5 That's somebody else that can attest to
6 the fact that that attic was closed, even though
7 the report said it wasn't. Tim was his name,
8 and I can't remember his last name.
9 But the elevator maintenance company
10 had to send Tim to training, and he was not
11 allowed to go in the attic to maintain elevators
12 unless he wore a respirator.
13 Erin Fitzgerald, with the CIO's office,
14 had Verizon and Sprint folks that needed to
15 access the attic because there were -- they had
16 equipment up there. All of those folks were
17 required to get training and wear a respirator
18 when they accessed the attic.
19 So it wasn't that -- I mean, as soon as
20 that came through, the whole group, OAS,
21 mobilized and shut down that attic. So when
22 that report says it wasn't closed, that is not

1 true at all.
2 Q Besides the elevator repairman and Erin
3 Fitzgerald, are there other -- Mr. Aquino -- are
4 there other people who you can name that you
5 would say they could also attest to the fact
6 that the attic was closed?
7 A Yeah. Mario. Some of the folks that I
8 was working with in the Safety Office. Roz
9 Hill. Gosh. Genevieve Walker. Although she
10 came later. She came in about December. The
11 same time I started supervising Dion, she came
12 on board.
13 Q But it was closed in November, so she
14 would know if she came in December; right?
15 A It was closed in May of 2007.
16 Q Oh, right. So how long was it closed?
17 I should have asked that.
18 A It was closed. It never opened again.
19 It was closed. Everything was locked down.
20 Q So when she came, she would know that
21 it was closed?
22 A Yeah, it was closed. Absolutely.

Q So Genevieve Walker; okay.
A I mean, I could give you name after name after name. There were --
Q Just people in OAS and --
A OAS. Up in -- Morris Thompson. Who else would go up there?
Q You said that people were told not to work there.
A Uh-huh.
Q Who was told and how were they told? Was it through email or documentation?
A Mario had a meeting with all of his folks, and he told them. I was there. He ran the meeting. I was there and Monica was there in case they had any questions.
I was there because of the health unit, and we offered the health unit to get their physicals through the health unit and get baseline X-rays through the health unit just in case they were, you know, worried about their exposure, to get baseline X-rays. And that's why I was there.

But Mario had a meeting with all the guys. He had separate meetings so the third shift could be there to tell them do not go in the attic unless it's cleared through him and what the requirements were to access the attic.
Q Do you know when that meeting was?
A May.
Q And was Mr. Lee under his supervision?
A Mr. Lee, at the time of all of this happening -- you know, he alleged he wasn't told or anything -- Mr. Lee was detailed out of that office into the Contracting Office.
He did not come back -- He was gone from about October to October. October of 2006 to October of 2007, he was not involved in this at all.
Q Is there any -- How do you know that he wasn't still accessing the attic?
A If he was, he wasn't supposed to be because he was working in the Contracting Office and learning contracting -- assisting the contracting officers there. He would have had

zero role up in that attic during that time.
Q Is there anything --
A He was on an official detail, so I think HR should be able to give you any documentation on that. And Mr. Fanning can verify that because Mr. Fanning is the one that sent him up there on detail.
I had just gotten there, and Dion actually was the safety officer for OAS. And let me just back up to that with him talking about he didn't know anything. He was the safety officer for OAS, so he was doing safety inspections, too.
Q Mr. Lee?
A Uh-huh.
Q Was the safety officer for OAS?
A Yes. That was when he was a collateral duty safety officer, and that was one of his responsibilities.
Q Sorry. I'm not drawing the connection.
So because he was a safety officer --
A He alleges he didn't know anything and

nobody gave him training and all those things. He was actually serving as the OAS collateral duty safety officer and doing safety inspections and had been given collateral duty safety training, all those things.
Q Oh, okay.
A So the reason I got to know him is because I was in the Safety Office and I was working with him as a collateral duty safety person.
Q When was he a safety officer?
A When I got there.
Q So at least 2006?
A Yeah. When I got there in 2006, yeah.
Q So until --
A Until he went on detail.
Q In October of 2006?
A Uh-huh.
Q Okay. Do you know who supervised him before you?
A I believe it was Pete Wixted. I know he worked with Pete in the Environmental

1 programs, but I think prior to Pete -- because
2 Dion had, I think, problems with Mario -- but I
3 think prior to that, Mario supervised him. And
4 I'm not really sure between Mario and Pete who
5 exactly his supervisor was.
6 Q Before you, you mean?
7 A Yeah.
8 Q And now about after you? Do you know
9 who supervised him?
10 A He was gone. He left.
11 Q Oh, he left?
12 [redacted]
13 He left in about August and never came back.
14 Q 2008?
15 A Yeah.
16 Q Okay. So when you were his supervisor,
17 he was detailed?
18 A No. He came back from his detail and
19 went into -- Did I give you the wrong year?
20 Q He was detailed until -- Oh, so you
21 didn't supervise him when he was detailed?
22 A No.

1 Q Okay. So --
2 A I wasn't even in my job. I was still
3 in the Safety Office when he was on detail to
4 Contracting.
5 Q Do you know who supervised him when he
6 was on detail?
7 A I do not know.
8 Q When you were his supervisor, what were
9 his duties?
10 A He was a hazardous waste facility
11 assistant.
12 Q In his role, were some of his duties to
13 -- would some of his duties require him to be in
14 the attic?
15 A No.
16 Q Never?
17 A Never. The attic was closed. He had
18 no role to go up there.
19 Q I understand the attic was closed. I'm
20 just saying --
21 A No, nothing.
22 Q Notwithstanding the fact that it was

1 closed, did --
2 A If it was open, he still had no reason
3 to be up there.
4 Q I see. So --
5 A He mostly handled -- If the shop guys
6 generated hazardous waste, they would put in a
7 -- they we meet him down in -- We had a
8 hazardous waste container down in the basement
9 of the building, and he would meet them there
10 and make sure it was properly packaged and put
11 it for storage into the hazardous waste
12 container.
13 And then he would work with Pete at
14 that time or then me to get a contractor in, a
15 hazardous waste contractor, that would come in
16 and take the hazardous waste off and dispose of
17 it properly.
18 The main projects I had him working on
19 were some recycling. I had him helping me come
20 up with recycling containers and the design and
21 the procurement of the recycling containers
22 within the building.

1 I had also had him working on -- What
2 else did he do for me? I was trying to get him
3 to help me rewrite some chapters of --He was
4 trying to do some professional development
5 stuff, so I was letting him help me rewrite some
6 of the chapters of the environmental regulations
7 that we had.
8 He was doing some data entry for some
9 energy information. He basically didn't have
10 any environmental training, so we were just
11 really grooming him and teaching him.
12 He wore a suit every single day to work
13 and had a desk job. I mean, he did really a lot
14 of administrative work for me.
15 Q The entire time that you supervised
16 him?
17 A Yes. The entire time I supervised him.
18 Q And do you have any knowledge about his
19 duties before you supervised him?
20 A I think it was basically the same
21 thing.
22 Q Okay.

A I don't know what he did for Building Management. I mean, I know that Dion was an administrative assistant for the director of Administrative Services [redacted]

Q Are you familiar with this February 25th, 2008 letter from Mr. Fanning to Mr. Lee and others notifying --

A Yeah. I got one, too.

Q So do you know why it would have gone to Mr. Lee if he wasn't -- if he didn't perform any work in the attic?

A Because when we went to -- When we ask for anybody -- "We," me and Mario and all the folks that were working on this project, Pete Wixted, we asked for all of the folks' names that could have potentially accessed the attic.

And when I first got to Department of Commerce, Dion took me on a tour of the building because I was Safety and he was Safety, the OAS Safety.

He took me on a tour of the building, and he took me into the attic on a tour. So we knew he had been in the attic when he took me on that tour.

Q But this letter was notifying people that they may have been exposed -- they may have performed work in the attic in the six months prior.

A Uh-huh. He took me in about the September time frame, and six months prior to that, there was a line drawn in the sand about -- it was just a line drawn in the sand six months prior to the -- because there's no good

place to start about who could have been in the attic.

Q But the letter was in 2008, and he started in 2006.

A Six months prior to the --

Q 2008.

A Six months prior to the high reading.

Q Oh, okay.

A That was the management decision that six months prior to that high reading to ask all of the sections who could have been in the attic to try to explain to them -- or to try to give them notification that there was a high reading.

Q Gotcha.

A It took until 2008 to get that out because I was still in the Safety Office, and my boss, Deborah Jefferson, would not sign that letter and said Fred was going to have to sign it. So that's why it came out of OAS.

That letter also went through General Counsel, which took a while, but it was six months prior just to that high reading.

Q I see. In 2007.

A Uh-huh.

Q I gotcha. Okay.

So the OIG report found that it was credible that Mr. Lee performed work in the attic based on other witness accounts, former supervisors, colleagues, his position description, and the nature of his duties conducting environmental inspections?

A Uh-huh.

Q Do you have any thought about those --

A I know that he worked as a contract security guard at some point, and that might have been what they were talking about about going up into the attic.

But there was nothing up there. It's unfinished space. There would have been no reason for him to be doing environmental inspections up there.

He didn't do environmental inspections. He did the hazardous waste inspections, and those were all in the basement where the shops

1 were.
2 I don't know about witnesses or anybody
3 else, but I can tell you, when I did the FOIA
4 request, the people that they used as witnesses
5 weren't even at the department when I got there.
6 So I don't -- I don't know for a fact,
7 but I can put together because it's blacked out
8 -- I can put together probably within a degree
9 of certainty who some of these folks are, and a
10 lot of the witnesses were not even at the
11 department when I got there.
12 So what they attested to that he did
13 before I got there, I have no idea what he did
14 --
15 Q Before 2006.
16 A -- but I can tell you that after I got
17 there, the only reason that he had to go up
18 there was when we did that tour.
19 And that was just because he was
20 orienting me with the building. There was
21 nothing up there that I needed to be a part of
22 or him. That's the only time I went up there,

1 too.
2 Q When you were his supervisor, had you
3 had an opportunity to see his position
4 description?
5 A Uh-huh. I have a copy of it.
6 Q And does it reference environmental
7 inspections or, you know -- I mean, from a
8 reading of it, does it suggest that he would
9 have responsibilities in the attic?
10 A No. We would never tie it necessarily
11 to the attic. And if you don't know the
12 building, you might assume that hazardous waste
13 could be anywhere, but it's not.
14 It's in the basement. That's where
15 it's generated, and that's where it's moved to.
16 There's no real -- There's no -- Let's put it
17 this way. That I'm aware of, I don't know any
18 reason that hazardous waste was getting
19 generated up there.
20 If the shop guys had to do anything up
21 there, it was -- I mean, we were a conditionally
22 exempt small-quantity generator. We generated a

1 minimal amount of hazardous waste. It was
2 mostly spray cans and general stuff, not like
3 big 55-gallon drums of waste. We didn't
4 generate that much.
5 So if waste was generated up there,
6 which was his primary responsibility, the shop
7 folks would have brought it downstairs to him.
8 He typically didn't go into the shops and
9 collect stuff.
10 He met them at the hazardous waste
11 container in the basement, and then he would
12 store it in there. They always brought the
13 waste to him.
14 As a matter of fact, he would complain
15 because sometimes they would just bring it down
16 and drop it at the locker. So he did not go
17 around the building and collect it.
18 Q Do you have any support today to back
19 any of this up? You don't have to. I'm just
20 asking.
21 A Back up that he didn't go into the
22 attic?

1 Q Yes. Or that all the waste was brought
2 down, things like that.
3 A I don't necessarily have anything to
4 submit for that.
5 Q Okay.
6 A But like I said, that's before when the
7 attic was open. After I got there, he was not
8 up there.
9 Q That's right; yeah.
10 Q And we had minimal hazardous waste, so
11 I really had him doing other things as opposed
12 to a lot of environmental inspections.
13 And I have his -- I don't know if they
14 gave them to you, but I had his weekly reports
15 for the entire time --
16 Q I was going to ask if you had anything
17 to support what he was doing --
18 A Yeah, absolutely.
19 Q -- while --
20 A I have copies of all his weekly reports
21 for the entire time I was his supervisor, and
22 you can see that there is no mention of anything

with asbestos, nothing to do with the attic.

It's mostly -- He helped me with Earth Day activities, things like that. I have copies of all that.

Q Great.

A I mean, literally, he wore a suit and he did administrative work mostly. He did -- He was responsible for the hazardous waste, like I said, but not in a Tyvek suit and managing waste.

It was does it have the inspection date on the label. The shop guys mostly did that. He put a label on it and would put the date it was generated. He didn't pour waste from one container into another. He didn't do any of that kind of stuff.

Q In any event, it was in the basement?

A Yes.

Q Any other --

A I just want to make sure I don't have to put more money in the meter.

Q Just let me know.

A I'm still good. I have 30 more minutes.

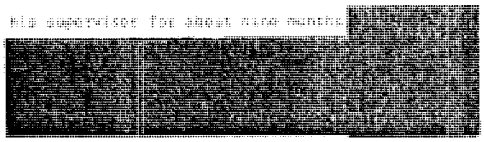
Q Any other documents or evidence you want to refer me to to support his job duty issue or exposure issue? You can just look -- I can write it down and look later.

Q I mean, I have -- He, at one point, gave me his resume, so I have copies of his resume that can tell you what he said he did --

Q Okay.

A -- and what he was presenting to other people of what he said his responsibilities were.

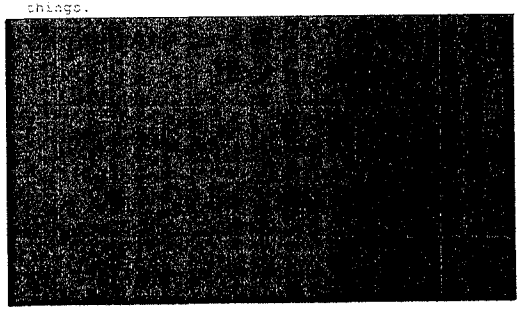
I have copies of his weekly report that says what he did. And like I said, I was only his supervisor for about nine months.

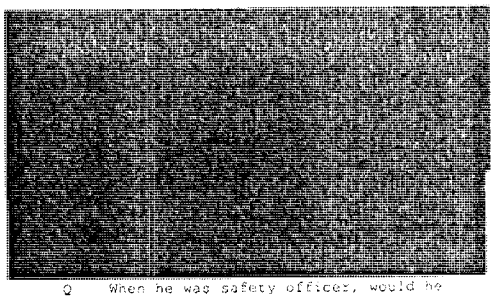


Q And before you were his supervisor, he was detailed, and before that you weren't even here?

A Right. He came to me in about -- When I was his supervisor, he came to me in about February/January time frame and he was wanting to -- I was actually mentoring him, and he wanted to figure out how he could progress in the federal government, and he really wanted to do more safety work.

So I got him signed up, as part of his training, for some college safety credits and stuff like that, and we were working toward where he wanted to be in ten years, and he wanted to be a safety person. So we got him signed up for training and safety and other things.





Q When he was safety officer, would he have any reason to go into the attic?

A Just the time we went up there just to look at it, but there wasn't anything to go do safety-inspection-wise. I just wanted to see every room in the building.

Q Gotcha.

A But he --

Q So why -- Sorry. So why did that 2008 letter from Mr. Fanning go to him again?

A Because we had accessed the attic. We didn't say, oh, if you've only gone up there one time or twelve times or every single day. It was --

Q Gotcha.

Do you know who determined who the letters would go to from Mr. Fanning?

A The directors -- the associate directors gave Mr. Fanning a list of the people that they thought had been up in the attic in the six months prior to that.

Q So when --

A Like Erin Fitzgerald sent folks that she had up there. Mario did. I was still in the Safety Office when all of that was going on, so we prepared our group of who had been up there.

Q Did you send a list of people as well?

A Yeah. I was helping write the letter. I was working with Mario and Fred and Deborah Jefferson and everybody to write the letter.

Q I'm just wondering how did they know to send it to him? How did they know that he, one time, gave you a tour of the attic?

A I probably said he did.

Q Oh, okay. So I'm wondering did they

send it to him because they thought he had job duties in the attic, or did they send it to him -- and maybe you don't know -- or did they send it to him because he gave you a tour of the attic once? Does that make sense?

A That's the reason I'm on the list. I'm pretty sure that's the reason he's on the list, but I can't --

Q Okay.

A -- I can't confirm that.

I mean, I might have even been the person that put him on the list later saying I know Dion was there, but I can't say that for sure.

Q Okay.

A I mean, we were going to try to pull the card reader, but we couldn't even do that, so we just asked for lists.

Q Oh, to the attic?

A Uh-huh. They don't keep them that long.

Q So if Mr. Lee claimed that he still

accessed the attic during his detail, is there anybody that you can think of that can dispute that or is there anything that you can think of, any documents or anything, to dispute that?

A I would ask Mr. Fanning, because Mr. Fanning is the one that put him on detail. And I know that one of the answers that Mr. Lee told Special Counsel was that he still had duties in OAS.

And my understanding, and when I asked if there was anything with Dion, I never saw him back in OAS. And my understanding is that Mr. Fanning had him strictly up at the Contracting Office and was not asking him to do -- continue with his duties. I mean, he was gone for a year.

Q Okay.

A I mean, Mario would know because -- Maybe even Pete Wixted. I don't know. I just can't remember any of the contracting people's names, and a lot of them are gone now.

Q But people in the Contracting Office

might be able to say he was always here or --

A Yes. I think it was an official detail, too, and I think it was you're gone, go do your thing.

Q So about this log that Mr. Aquino maintained for the closure of the attic, do you know, does he still have that log or what happens to that?

A At some point, somebody broke into some of the offices and a lot of documents were stolen.

Q And this is one of them?

A They can't find it.

Q Is there anyone else -- Oh, you told me some people who wore suits when they accessed the attic --

A Uh-huh.

Q -- so they would be able to --

A Yeah. Verizon -- I think it was Verizon, AT&T, the elevator repair person.

Q Okay.

A GSA, Tim Sloeth, can tell you because

he helped us with the access procedures. Global Consulting. The fellow from Global Consulting could tell you. I can't remember his name. But they were all a part of it.

Q I understand that you stated that you were not afforded an opportunity to present evidence that you believe contradicts Mr. Lee's allegations relating to, I'm guessing, his exposure on his --

A On anything. Anything he alleged.

Q Okay.

A All of it.

Q All of it. So what evidence do you have that contradicts Mr. Lee's allegations?

A Well, I have -- Number one, I have documents showing I wasn't his supervisor during any of this, and he said that I was.

I have his weekly reports that show that at the time I was his supervisor, he didn't do any of the work that he claimed he did.

I have a document showing that Mr. Pete Wixted, during this time, was actually appointed

as the asbestos program manager for the facility.

Gosh, what else do I have? Let me see what else I have. The documents for the HHS, Health and Human Services, that said her sample results were not unreliable, but just not true.

I have, also, a document that shows during the time that Ms. Barnett was doing sampling, her environmental certifications -- and I don't know if this was just specifically for lead or not, this is all I've got -- but that her certifications had been stripped of her, so she wasn't certified during the time she was doing any of this.

Let's see. What else do I have here? Here's Pete's letter. I don't know if they gave you any of this.

I have his resume, like I said.

I have his performance appraisal and his performance review about what he said he did in addition to his weekly reports in the time I supervised him.

I have other highlights from other things he did. I have an HHS letter. I have the study they had, Workers' Comp Commission, that was also with the Federal Occupational Health, I think.

I have Pete's training certificate that says he had taken training for asbestos.

Q Is that Mr. Lee?

A No, Mr. Wixted.

Q That Mr. Wixted had taken training?

A Uh-huh. And he was certified.

Q And that's relevant --

A Because he was the asbestos program manager, not me.

Q Okay.

A I have a letter from my boss and I have my performance review that says I was never detailed during this time. I was always an employee of OAS. Or not of OAS, but of Safety.

Q What was the relevance of them saying that you were detailed to the Safety Office?

A They were saying I was detailed to OAS.

I don't know why they said that.

Q Okay. So it was just inaccurate.

A I think that they were trying to say that I would have been responsible, and it was me and Fred.

Q So if you were detailed to OAS, that would make you responsible?

[redacted]

Q Oh, if you were detailed, you would have been working [redacted]

A [redacted] and we would have been conspiring to expose people. But I never -- I didn't. I have my 50 when I went down there.

Q When you went down?

A When I left the Safety Office in September of 2007.

Q So if you were detailed, OAS would have documentation?

A Absolutely. And I have the daily sign-

in sheets when I worked at the Safety Office. It shows that I was signing in to the Safety Office every day.

Q Okay.

A It's just one of the many inaccuracies of that report. It may be irrelevant. It's just one more thing --

Q It might not be. I was just trying to understand it.

A Yeah. It's just one more thing that --

Q Okay.

MS. CLARKE: Let's take a break.

(Whereupon, a lunch recess was taken from 12:11 o'clock p.m. until 12:54 o'clock p.m.)

MS. CLARKE: Now I've got to figure out where I left off.

[redacted] You were asking about him going to the attic, and I just want to say again that prior to me getting there, I don't know what he did, but I know that fairly quickly after me getting there he was detailed.

It was the fall, I think October, but it was the fall, and I don't know what he did --

BY MS. CLARKE:

Q Of 2006?

A 2006. I got there in July. So prior to July of 2006, I don't know what he did --

Q Sure.

A -- or why he would have been up there. But I know after that, it was closed after he came back from his detail.

Q Okay.

A It was closed while he was on detail. But when he came back, there's no way he was up in the attic.

And then you asked me about OAS, why are they making a big deal out of me being OAS, and I think that's because -- I mean, I actually had three supervisors above me that were working together with [redacted]

So I think if they try to connect me [redacted] Em I think that by

trying to connect me directly [redacted] that they say, well, [redacted] was in OAS and [redacted] and [redacted] did this, but that's not the case.

I had three supervisors who had -- We didn't have a head of the Safety Office at the time because that had been Mr. Fanning. When I came to work as a safety specialist, Mr. Fanning actually hired me into the job.

But two weeks before I got into the job, he got detailed up to be the director of OAS. So he was in the Safety Office before me -- I mean, as the director before I got there, and he got detailed to go be the director of OAS.

So the whole time I was in the Safety Office, we had an acting associate director. Camille Fields was there for a while, and then she left. And then Janice Guinyard took it over. And then Linda Kirton took it over.

And then we reported directly to Bill Flemming, and all of them then reported to Deborah Jefferson, who was the head of HR.

Q So I want to build an org chart.

A Okay.

Q So all of this was under OAS?

A No. Under HR.

Q Okay.

A Because I worked for HR until I moved down in like September of '07. So when all of this high sampling results and stuff occurred, I worked in the Safety Office.

I did not work in OAS at all. I wasn't detailed there. I had nothing to do with them. I worked under Ms. Jefferson's organization.

Q So it's you as a safety officer.

A I was just a safety specialist is all I was.

Q Safety specialist.

A I had no management. I didn't supervise anybody. I didn't make any management decisions. I was just a specialist.

Q And you reported to?

A I reported to -- We had three acting associate directors, like I said. Camille

Fields --

Q You reported to the associate director?

A To the associate director.

Q Of?

A Of OOSH, Office of Occupational Safety and Health.

Q And that's completely separate from OAS?

A Right. OOSH reported to HR, the Office of Human Resources.

Q Okay.

A And that was Deborah Jefferson.

Q And then tell me about when you were in OAS.

A In OAS, there's OAS and then there was ORE --

Q Okay.

A -- and then there was the Energy and Environmental section.

Q That you were in?

A Uh-huh. And then Building Management is equivalent to ORE. And when all of this was

occurring, ORE, the Environmental Office, had an associate director, had an environmental person.

You know, they all had -- There were all people and supervisors and managers in the chain that are not named in this report at all. So here I'm pulled from a whole other organization, pulled in as being responsible for mismanaging things.

Q Okay.

A So I just want to make that clear. Because you asked why they kept doing -- I think it's why because they're trying to tie me and [redacted] together for whatever reason.

You know, of course, me [redacted] are the three that left the Agency, too, and the three that are named in this report.

Q And I understand that you don't really know why they did what they did. I was just asking because I have zero inclination --

A Yeah.

Q -- and I figured maybe you would have some. So I understand.

A Yeah. This is what I can think of is because my boss wasn't named. My boss' boss wasn't named. The head over ORE wasn't named. It was just me pulled out of the Safety Office.

Q I've got you.

A And then even when I went over, I worked for somebody else [redacted] so there was no --

Q Where does [redacted] fall in this?

A [redacted]

Q [redacted] okay. And you said that you brought along position descriptions for yourself when you were in HR?

A Uh-huh.

Q Is there anything -- Performance review, position descriptions. Is there anything else that you want to direct me to supporting your role in --

A Well, the other thing is when I was in HR, around -- I'm not exactly sure of the time frame, but maybe around June, July time frame --

Q Of?

A -- of 2007 --

Q Okay.

A -- Nancy McWilliams was hired as the OOSH associate director.

Q Okay.

A So that was just a couple of months after I started. She was actually my boss before I moved to the environmental section.

When Dion came back and made accusations against her, the OIG came back and said, oh, Nancy couldn't have done any of this because she was in the Safety Office.

She was my boss. So if she has no responsibility, how could I when I worked for her?

Q I see. So I want to talk about who you think was responsible for the mismanagement -- or for the asbestos program.

A Okay. Because I don't believe they mismanaged, but --

Q I misspoke. So who do you allege was responsible for the asbestos program?

1 A Two people. Building Management was
2 responsible for the execution, operation, and
3 maintenance of asbestos. And then Pete Wixted
4 was assigned as the asbestos program
5 coordinator.
6 Q So you say "Building Management." Do
7 you have particular people or --
8 A Mario was the building manager. Doug
9 Elznic was in charge of -- was Mario's boss. I
10 can't think of the name of their -- They were
11 Space and Building Management and Doug Elznic
12 was the associate director of that, so he would
13 have been responsible as well.
14 Q Anybody else?
15 A Not really.
16 Q So --
17 A I mean, GSA had responsibility, too.
18 Q Because they --
19 A They owned the building and they were
20 in the delegation authority, which I don't have
21 a copy of, but the old delegation authority, it
22 says that they're responsible for asbestos and

1 we were responsible for operation and
2 maintenance.
3 That we were only responsible for doing
4 small glove bag removals and repairs, and they
5 were responsible for the overall program, that's
6 in the delegation of authority that was signed
7 between the Department of Commerce and GSA.
8 Which is why, when it came to doing the
9 abatement program, when they decided to go up
10 and seal all of the eaves and the asbestos
11 upstairs, Commerce wasn't willing to pay for all
12 of it because it was a GSA responsibility. It
13 was their building, it was their asbestos. They
14 owned it.
15 Q And was GSA the one who ended up paying
16 in the end?
17 A They paid a good portion of it, yeah.
18 All they delegated to Department of Commerce was
19 just the routine incidental stuff that's part of
20 -- I guess that's a better way to say it.
21 It was asbestos that was encountered as
22 part of routine maintenance and operations is

1 what they were supposed to do. If there was a
2 huge room that was damaged asbestos -- Let's say
3 everything in this room was damaged asbestos,
4 our folks would not have handled that.
5 That would have been a GSA
6 responsibility because all we were responsible
7 for was -- I say "we" as the Department of
8 Commerce -- was just incidental to operation and
9 maintenance and that's it.
10 And that's why the HVAC guys and the
11 plumbers were trained and could wear a
12 respirator is because they went in and did small
13 glove bag jobs that don't require permits and
14 any of that kind of stuff.
15 They just did small glove bag jobs.
16 They needed to know what asbestos was, because
17 they worked around it and things, but they did
18 not do big abatement jobs. Just small repairs.
19 Q Did they do any small repairs in the
20 attic while you were at DOC?
21 A I don't know.
22 Q Okay.

1 A If they did a glove bag job, they would
2 just do it. They didn't do it to remove the
3 asbestos. They did it because they had to
4 repair the pipe.
5 Q But they were wearing all that stuff?
6 A If it's a glove bag job, there's
7 specific OSHA requirements about how you do a
8 glove bag job.
9 And, basically, you tape plastic around
10 the section of pipe you're going to work in, and
11 your hands go up through -- in through the glove
12 bag, and you work inside a glove bag. So
13 there's nothing ever released from outside the
14 bag. So think of a big old plastic bag that
15 gets taped around a piece of pipe.
16 Q Uh-huh.
17 A And they went up and in and then worked
18 on the asbestos that way. They never did
19 abatement jobs.
20 Q I see.
21 A If something needed to be removed, that
22 would be contracted out. Our folks would not

1 have done that. They had to do the asbestos
2 work as part of their routine maintenance of the
3 pipe, but they were not asbestos abatement
4 workers.
5 Q I see. So assuming there was a finding
6 of mismanagement, who do you -- do you allege
7 the same persons that were responsible for the
8 asbestos program would be responsible for any
9 mismanagement, if there were any?
10 A Uh-huh.
11 Q And like besides their positions,
12 anything else to support your contention?
13 A Well, I have a delegation letter for
14 Pete Wixted saying he's responsible for it.
15 Q Okay.
16 A And he acknowledged it.
17 Q Okay.
18 A He was the asbestos coordinator. I can
19 show you --
20 Q I've seen that letter. I'm just asking
21 for reference.
22 A Yeah.

1 Q Okay. Anything else?
2 A I have his training certificate -- I
3 don't know if you've seen that -- where he
4 actually was a trained asbestos supervisor.
5 Q Okay.
6 A And this just so happened to be April
7 right about the same time all that was going on,
8 so he was being trained --
9 Q Okay.
10 A -- in asbestos at the time. I have no
11 asbestos certification. I'm not trained for
12 that.
13 Q Okay.
14 A And then he also had a letter where he
15 said he acknowledge it and he said I would like
16 to take these courses and he would be the
17 asbestos coordinator.
18 Q Anything else for anybody else or you?
19 A No.
20 Q And you don't know whether the OIG
21 considered this information in their
22 investigation, do you?

1 A I don't -- No. And the funny thing is
2 they, actually, from what I can pull out for the
3 FOIA documents, they interviewed him, and he
4 never made mention of the fact that he was
5 appointed as the coordinator.
6 Q Okay.
7 A And, actually, his appointment date is
8 before this even happened. It's October 23rd,
9 2006.
10 Q Do you know if he had direct
11 involvement of management of the asbestos
12 program? I guess there's a difference between
13 getting a letter and you actually --
14 A Well, he's the one that arranged for --
15 And it happened about this time frame. About
16 the October, November time frame is when they
17 were working in that old FAA space there.
18 Q 2006?
19 A 2006. This is October 23rd, 2006.
20 Q Okay.
21 A Six months before this happened. And
22 this is about the same time that we had the tile

1 removal job in the old FAA space that he
2 coordinated with the contractor to get air
3 sampling done and worked with Larry Hess on the
4 renovation to get the air sampling done during
5 that abatement job. So he did have a role in
6 it.
7 And, also, after I found out, after I
8 was told about the readings, I coordinated with
9 him, and he was in every single meeting that I
10 was in.
11 Q Sorry. The last thing you said again?
12 A He was in every meeting that I attended
13 after those high readings. He was there. He
14 was just as involved as I was in all of this.
15 Q He was there in the capacity of
16 asbestos coordinator?
17 A Uh-huh.
18 Q And you were there in the capacity of?
19 A Safety specialist.
20 Q Safety specialist. Okay. Anything
21 else?
22 A What was the question again?

Q Oh, just anything to support, you know, the contention that he had direct involvement in the specific management of asbestos in the attic.

A Yeah. He was -- That's it, I think.

Q Okay. That's fine.

Do you know if he was responsible for writing policy for asbestos in that position?

A I believe so; yeah.

Q Do you know if he was responsible for enforcing the policies as well?

A I don't know.

Q Do you know who would be responsible for enforcing the policies relating to asbestos?

A Well, I guess the building manager and all the supervisors. I mean, anybody -- I guess it's like I told you with the T&A policy.

I mean, he was at the same office level I was at because I went down -- he left a month before I came down there. But he was writing the policies and, you know, providing subject matter expertise. I'm not sure he --

Q The same way you were?

A Yeah.

Q I see; okay. So he might not have -- I mean, you don't know?

A Yeah. He left about a month before I became associate director down in the environmental office. So when I went down there, he would have worked for me if he wouldn't have left.

Q So when he left, who was the asbestos coordinator?

A There wasn't anybody there.

Q So nobody took on that role?

A There was no -- nobody -- There was nobody. There was no personnel. There was no staff.

Q So because there was nobody in that role, were you supposed to take it on?

A I wasn't part of the office.

Q Oh, no, no, no. I'm saying when you went over; right?

A Uh-huh.

Q You said he had left and you went over to OAS. And you said, if he were still there, he would have reported to you --

A Uh-huh.

Q -- as asbestos coordinator. So my question was --

A He -- This was like a collateral duty. It actually says "collateral duty." He was the environmental program manager.

Q Okay. So you're saying he would --

A So as the environmental program manager, he would have reported to me.

Q I see. But the environmental program manager didn't necessarily have responsibility for coordinating the asbestos program. He just happened to have responsibility?

A They -- You had to have somebody to do it, and he was the only environmental person there, I think. I don't know -- I don't know why he got appointed. But it should have been that role. That person should have had that responsibility as overall -- the overall

asbestos program.

Q So if nobody was in the environmental program manager position, which would have responsibility for asbestos, would you have responsibility then or -- as being the direct report for that position?

A I never was appointed as a -- I never was appointed as the asbestos coordinator. I don't know that anybody else was ever appointed as the coordinator.

Q Do you know who would be responsible for, I guess, either finding an asbestos coordinator or delegating those responsibilities? Is there someone who would --

A Yeah. It wouldn't necessarily be -- This is not a required position, and kind of how I think this came about is that he did not want to do asbestos and he got appointed. You don't have to have an asbestos coordinator appointed.

Q Okay. I see.

A So I think that's -- He didn't really want anything to do with it, and I think he got

appointed because there's part of it that are environmental, permits and disposal and things like that, and the EPA runs some of it. And then there's, like I said, the operations and maintenance particular of it.

Q So if he were -- Because he's on the environmental side; right?

A Uh-huh.

Q So would he be responsible for any mismanagement because wouldn't he just be responsible for reporting? I mean, I don't know. I'm just trying to figure out like wouldn't it be Building Management that would be responsible for any mismanagement?

I'm not suggesting that. I'm just asking how you sort of came to the conclusion -- Because earlier, we discussed Building Management was responsible -- Environmental was responsible for reporting. And so you're saying also that he, in his positions as an environmental program manager was responsible. Was he --

A Well, let me show you what his duties say they are. "Serve as a collateral duty asbestos coordinator; develop and implement an asbestos management plan; conduct evaluations of the offices and buildings identified as asbestos hazards and concerns; develop an abatement plan for identified asbestos hazards and concerns; compile reports of evaluations and conduct follow-up evaluations; investigate and compile reports for asbestos incidents; and complete the asbestos inspector and management planner course."

I don't know who did that before he got appointed this --

Q I see.

A -- and when I was down there, we were more policy and --

Q Reporting.

A -- like writing the Department of Commerce -- if you have asbestos in your building as the Department of Commerce, this is what you do --

Q Uh-huh.

A -- as opposed to managing the day-to-day asbestos programs.

Q But before you came, there was some sort of overlap with respect to his position, it sounds like?

A Yeah.

Q Okay.

A That's what I -- I mean, like I said, we would write if you have asbestos in this building, this is what you have to do, you know, not we are managing the daily -- the daily program.

Q Okay. And so we went over Mr. Wixted's position, Mario, and Mr. Elanic.

A Uh-huh.

Q Do you allege anyone else could have been responsible?

A Well, you were asking about when he wasn't there, there was a director of ORE. Braulio Ramon was in that position.

Q ORE?

A Yeah. Braulio Ramon was the director.

Q Braulio --

A Yeah. And Pete reported directly to Braulio. Actually, when I went down there, they created a section, so they made the environmental manager and the energy manager report to the section chief, and then that section chief reported to Braulio.

But before that happened, before I went down there as the section chief, I was the first section chief. Before that, Pete and Regina, that energy manager, they reported directly to ORE. They were program managers. There was no environmental section.

Q Okay.

A I know that's confusing, but --

Q No, no, no. I understand what you're saying. Before you got there when Peter Wixted was reporting to the associate director, it was Braulio Ramon?

A Braulio, B-ra-u-l-i-o.

Q Okay. I see.

A And so they wanted to grow the environmental program, so they made a section, and then I came down to be a [redacted]

Q But there was no one that reported to you?

A Regina did. The energy manager did. The Environmental position was then vacant because Pete left, and so I had to fill that position. And then I brought Dion over as well as part of the section.

Q Who --

A My position didn't exist before I got there.

Q Who's Regina?

A She's the energy manager. Regina Larabee.

Q L-a- --

A L-a-r-a-b-e-e.

Q And there was no Environmental manager?

A Pete.

Q But he left?

A But he left; yeah. He left, like I

said, just a couple weeks -- I don't even think it was a month before I got there.

Q And it wasn't your responsibility to fill his role?

A Not -- Well, not to fill his role, but to create the section and fill -- I was given a bunch of positions, so to fill his role plus other positions.

Q But none of the positions were asbestos coordinator?

A No.

Q Is there anything else you want to talk about related to, you know, management of the asbestos program that we didn't cover?

A I don't think so. I think that's it.

Q Okay.

A Like I said, I just want to be clear, he left after -- I mean, when I went down there, it was long after this was closed, so he was still on board up until about August of 2007, Pete was.

And, really, through the entire -- you

know, this whole process of getting sampling and things back in and we really deferred to GSA, like I said, Tim Sleeth came in and we had several meetings with them.

They kind of told us what to do, and they were the ones that did the design for the closing off of the attic upstairs and --

Q Oh, right. Because you said GSA, you would also hold them responsible for the management of the asbestos program.

A Uh-huh.

Q You referenced the delegation of authority.

Is there anything else you want to talk about with respect to their responsibility?

A No. I mean, they were -- they did the design. They built the design for the remediation up there. They designed and paid for -- I mean, we paid for some of it, I think. I don't really even know. But they did the design.

Everything that had to do with any sort

of remediation up there, they did and designed. We just coordinated efforts with them. They took a lead when we told them about the reading.

Q Can I ask kind of a stupid question?

A Uh-huh.

Q When the OIG in their report says that they found mismanagement, what does that mean?

A I don't know.

Q Okay.

A I really don't know. It says a lot of things in that report, but specifically what is mismanagement, I really don't know.

Q Okay.

A That's a really good question. And asbestos is very complicated because it's covered by several laws, and I don't think that the IG investigators really knew what they were saying when they said "mismanagement."

Q Gotcha.

A I don't think they referred to an industrial hygienist. I don't think -- I mean, I think the report was really sloppy and it was

1 let's blame somebody and get this off our plate.
2 And I don't think they actually knew
3 what they were saying because some of the things
4 they say were mismanaged and they quote in there
5 as regulations are not right.
6 Q Do you want to point me to the -- I
7 mean, I can -- Or are they in your letter?
8 A Yeah. I have them in my letter.
9 Q Okay. I'll reference that then.
10 A So I think they really just said, oh,
11 this is complicated and hard and this is what
12 Dion says and they went with it, and I think
13 they were happy to be done with it.
14 Q So when you refer to "asbestos program"
15 or "asbestos management," what does that then
16 mean?
17 A Well, there's all types of it. Like I
18 was saying, what is the policy? What are you
19 going to do if you have it in your building?
20 What are you required to have?
21 And then there's the actual you have
22 asbestos in your building and you have to do

1 something about it on the operations and
2 maintenance side of it. So it's kind of -- And
3 then there's also worker exposure and the OSHA
4 side of it.
5 So it means a lot of different things.
6 I mean, that's why I -- I don't mean to really
7 sound confused when I answer your questions.
8 It's just such a broad thing and there are so
9 many pieces of the puzzle when it comes to
10 asbestos.
11 Q And so do you know when the OIG --
12 Maybe you don't.
13 Do you know when the OIG report refers
14 to "asbestos program," which one of those
15 components they're referring to?
16 A I don't know. And I'm not an asbestos
17 expert. I'm not trained in it, and I have never
18 professed to be the asbestos expert. I'm not an
19 industrial hygienist.
20 Q You just developed like some policy
21 related to asbestos?
22 A The OSHA regulations when it comes to

1 that and, you know, following the OSHA
2 regulations of making sure that people, before
3 they wear a respirator and do asbestos work,
4 that they have a fit test and things like that,
5 that they follow the OSHA regulations.
6 And then, also, when it comes to the
7 EPA side of it when it's more are you releasing
8 fibers into the air and are you -- because there
9 are OSHA requirements for not releasing asbestos
10 fibers into the air outside. And, also,
11 disposal of asbestos.
12 And when it comes to the construction
13 and maintenance and abatement, that's not what I
14 do.
15 Q So your involvement was limited to OSHA
16 requirements -- to ensure compliance with OSHA
17 requirements and EPA requirements; is that
18 right?
19 A Yes. But more at a department level,
20 not at the operational level in the weeds, if
21 that makes sense.
22 Q Okay. And if you've covered

1 everything, that's fine. I just want to make
2 sure.
3 So you allege that even if
4 mismanagement did occur, the OIG's investigation
5 did not provide you with an adequate opportunity
6 to explain your actual level of involvement.
7 And your level of involvement was what we
8 just discussed, compliance with OSHA
9 requirements and EPA requirements at a
10 department level; is that correct?
11 A Uh-huh.
12 Q Is there anything else you want to talk
13 about with respect to your involvement or lack
14 thereof with respect to that allegation?
15 A No. I mean, I just want to be clear, I
16 was just a specialist working in the office,
17 too. I had no authority to make any decisions
18 whatsoever. More of just a subject matter
19 expert. I wasn't the enforcer or anything like
20 that.
21 Q And now about after September 2007 when
22 you went over to OAS?

A When I went over to OAS, I was a supervisor, of course, with the folks that worked for me, and I more was -- at that point was more of an Environmental program.

I mean, I didn't have anything to do with Safety at that point. It was more -- I mean, I totally left Safety and went to Environmental.

That's more of the air fibers and maintaining the -- We took over the surveys, the asbestos surveys and things like that from Building Management.

Q Okay.

A And then, like I said, we were answering the letters from OSHA. We, as a team, the whole management staff, were answering letters.

Q Anything else with respect to your involvement or lack thereof in any alleged mismanagement?

A I think that's it.

Q And as far as documentation or support,

is there anything you want to point me to that we haven't already discussed?

A No. I think that's it.

Q Okay.

A You know what? And I would like to say, when I say some of these things, I'm talking about as the office to not mean necessarily myself that I was responsible for writing the policy.

I had a small portion of things as a worker in the office. I wasn't the director that was responsible for implementing these things.

Q Okay. I am interested in knowing your particular involvement and your particular role, so is there anything that you've said previously that you want to clarify?

Because you said, when we were discussing policies, that you had no responsibility for implementation. So does that mean that your office had a responsibility for implementation and you didn't, or --

A No.

Q -- the office had no responsibility for implementation?

A I mean, it's our policy, so you want people to follow it, but you didn't -- I didn't -- I wasn't responsible for implementing the policy. You know what I mean?

Q Yeah. I understand that.

Was your office responsible for implementing the policy? Because we discussed -- Because I asked, you know, who was responsible, and you said Building Management.

A Uh-huh. They were responsible for following the policy. We wrote the policy. They had to follow the policy. We didn't develop their programs to implement the policy. We wrote the policy.

Q Okay. I'm just trying to understand because you said you weren't involved in implementation, but I thought we had established that.

I mean, was your office involved and

you weren't, or were you guys completely removed from that?

A From -- Which office? I'm sorry. I got myself confused.

Q When you were writing policy, you were in OAS, right? You were in OAS on this side of the --

A Right. In OAS. I was talking about the Safety Office, but -- That policy was written and I did safety inspections and things like that.

We were developing policy and there actually was a policy written -- I mean, we didn't write the policy. The policy was already -- I didn't write the policy. The policy was already written.

Q When you were a safety officer -- when you were a safety specialist?

A Yeah, in both positions really. They're just two different types of policy. My office was responsible -- If we had to write the policy, we would write the policy or change the

1 policy or whatever. You know, there was a
2 standing policy that was already in place that
3 we were responsible for.
4 Q Okay. So I think we've covered the
5 asbestos program. Unless you have anything
6 else, I'll move on to the air testing.
7 A Okay.
8 Q So you allege that the validity of the
9 air sample testing relied upon by the OIG was
10 questionable?
11 A Say that again?
12 Q I understand that you allege that the
13 validity of the air sample testing was
14 questionable.
15 A Uh-huh.
16 Q Can you tell me about this allegation?
17 A Well, because of all the testing that
18 ever occurred in the attic, Monica's was the
19 only one that was ever high.
20 Q Okay.
21 A And I don't mean to regurgitate what
22 the report said there from Health and Human

1 Services and another two industrial hygienists
2 said she didn't do it for over any standard
3 testing time, and they lay out specifically why
4 those sample results should not be -- are not
5 valid.
6 Q Do you know anything about the
7 protocols or methodology or anything like that
8 required for a proper sample?
9 A A little bit: yeah.
10 Q Okay. So can you tell me about the
11 proper protocols that you allege should have
12 been followed but weren't? And/or the
13 methodology that should have been followed and
14 wasn't?
15 A No. I mean, because I'm not an
16 industrial hygienist --
17 Q Okay.
18 A -- I just relied back to what they said
19 because they're the experts.
20 Q That's what I was wondering. You had
21 an independent understanding. I'm totally fine
22 to refer to the report.

1 A Yeah. I mean, I understand and I do
2 know, but because I'm not that, I would just
3 rely back to what they say.
4 Q Sure.
5 A My opinion on that would be that. And
6 it was questionable because they could not be
7 replicated, even when they did them side by
8 side. Miraculously, hers were negative.
9 Q And when you were interviewed by the
10 OIG, did you discuss with them that you thought
11 the validity of the testing by Ms. Barnett was
12 questionable?
13 A They didn't ask. I didn't know -- Like
14 I said, I didn't even know what we were talking
15 about. [redacted]
16 [redacted]
17 Q Did you tell --
18 A I had no idea.
19 Q Sorry. Did you tell anyone at the
20 Department before the investigation about your
21 concerns about the testing?
22 A Well, we met -- we had those meetings

1 --
2 Q That's right.
3 A -- and really questioned her results,
4 and we couldn't figure out why. Because she had
5 done initial testing, and then a couple days --
6 I mean, maybe even two weeks -- I don't
7 remember, because I wasn't involved in the
8 initial time -- but it was a little bit of time
9 afterwards that she did testing again and
10 actually found fibers in the air.
11 And then very quickly after that,
12 Global came in. And so there was a longer time
13 between the first set of sampling that I recall,
14 and then when Global came in and all of a sudden
15 there weren't any fibers in the air, so it --
16 they don't settle that fast.
17 Q And when you say "first set of
18 sampling," you mean Ms. Barnett's sampling?
19 A Yes.
20 Q And, you know, these meetings regarding
21 her results and the other company's results of
22 the air testing, did you guys produce any notes

from these meetings or do you have any notes or were there any reports?

A I didn't take any of that with me when I left the Department.

Q No worries. Just wondering.

A There was a video of when they went up and did the sampling. It was when Monica and Global went up and did the sampling, and Jay Lovelace.

Jay Lovelace was involved in this, too. He went up and he could verify -- he's the best person who could verify that the attic was closed because they took a video when they went up to do the sampling.

It's on a DVD somewhere, and it shows them all in Tyvek and protective equipment, the respirators and such.

Q Do you know who would have it or where the video would be, in which office, or anything like that?

A Mick Rusten, Building Management. All the asbestos records were maintained by Building

Management, and he had the video.

Q Did you say a name?

A Mick Rusten. He took Mario's position when Mario left. M-i-c-k R-u-s-t-e-n, Mick Rusten.

Q He succeeded Mario?

A Yeah. I mean, he had all the -- I mean, Mario had all of the asbestos records in his office. So all of that -- The video was left there.

Mick has called me since when I was at my last job, and he asked if I knew where any of that stuff was because I told you about the logs, a lot of this stuff disappeared.

Q I was just about to ask.

Do you know if the video was one of those things that disappeared as well?

A I don't know that for sure --

Q Okay.

A -- but I know that a lot of stuff -- it was called the "red book," it disappeared. That's one of the things that report talks about

is they -- After Monica came in and they just happened to be in the basement and stumble upon records. Where were those records? I never saw those records before. I don't know -- How did that just miraculously appear? So --

Q Although I understand there was a lot of turnover in that area or department or something like that? At least, that's what the OIG report says.

So could that have contributed to misplacement of --

A In the Building Management section, there was not a lot of turnover.

Q And they would be the ones that would have that report?

A Yeah. They maintain all of the -- Like I said, they were responsible for managing the asbestos in that building, so they had the records, they had all the red book that had the surveys. It was given to Building Management. Everything for asbestos was handled by Building Management.

Q So you wouldn't have been the report even if there was knowledge of it before; right? Because you said Building Management would have it.

A Right. Except for after we got the high readings, I started digging and asking, can I see, what do you all have, show me what you've got, because I was being asked to help as the subject matter expert.

So I started asking for things. Nobody had anything. I never was shown any records until that showed up in that report.

Q So when you were asked to help, that was just in your capacity as an advisor -- as a subject matter expert; right?

A Yes.

Q And who asked you to help?

A Mario and Doug.

Q Oh, they asked for your advice?

A Yes.

Q I see.

A And we were also helping because of the

1 worker exposure, potential exposure, and I had a
2 health unit --
3 Q Okay.
4 A -- and doing chest X-rays and things
5 like that.
6 So I was surprised to see that there
7 were all these records supposedly in this report
8 because when, you know, we were trying to dig
9 back and find what was going on and what records
10 existed for testing, none of that was ever
11 brought up. The first time I ever saw it was in
12 that report.
13 Q So you are you alleging that like Ms.
14 Barnett -- I guess what is your allegation?
15 A I'm saying how did they miraculously
16 find it? Did they -- I mean, she's a contractor
17 coming in.
18 Now, I think there was some other
19 nepotism or some other things going on there
20 with her and the OAS and some of the Building
21 Management folks, so I don't know why she was
22 down there looking for records. Why would she

1 have been in the basement looking for records to
2 begin with?
3 Q So is your allegation that it's just
4 strange that she was down there or it's strange
5 that she found some things?
6 A It's strange that -- I think she's a
7 little corrupt.
8 Q You think she planted that report?
9 A Or -- Yeah.
10 Q Okay. That's fine.
11 A Or they took the report. Because if
12 they would have found it, why didn't they bring
13 it to anybody's attention? But it's available
14 later for OIG, but it wasn't available to
15 anybody in OAS?
16 Q Oh, you're saying that when she found
17 it in 2007, she didn't mention anything to
18 anybody?
19 A Yes.
20 Q I see.
21 A And those records were never available,
22 and I think the report says that in -- they

1 found a 2006 report that says there was
2 deteriorated asbestos all over the building.
3 But I never saw that. I don't know if
4 Mario ever saw it. You know, we're asking for
5 what records do you have because I was trying to
6 help Tim talk to GSA about a sampling that had
7 happened in the building, and there's no
8 records.
9 Or there's records of air sampling, but
10 -- I tried to pull together -- I shouldn't say
11 there was no records. There were records. But
12 I thought that I had all of the records or I
13 thought I had seen all of the records, and then
14 they show up in the report.
15 Q That thing that Monica found was from
16 GSA; right?
17 A I don't know.
18 Q You don't know?
19 A No.
20 Q Because I would imagine if it's real,
21 they would have the other copy.
22 A And it might be real, but it may be an

1 intent to -- I don't know what the intentions
2 were and why they would not have presented them.
3 Q So you're not making any allegations
4 regarding the intent. You're just saying it's
5 strange? Or maybe you are making allegations.
6 A I think I'm subliminally making
7 allegations.
8 Q Can you just like explicitly tell me
9 like what you're thinking in your head?
10 A I really believe that they were in --
11 that they conspired in this whole thing.
12 Q "They." Ms. Barnett --
13 A Monica and Dion conspired.
14 Q So you're thinking they were like let's
15 plant --
16 A Let's take whatever we can as evidence
17 that there was this big mismanagement so we can
18 sue the government and get money.
19 Q So you think she found it. She just
20 took it?
21 A Yeah. Or I don't know if it exists or
22 not. She showed something to them -- to the

1 investigators. But I strongly believe that Dion
2 and Monica conspired.
3 Q I mean, regardless of whether they
4 conspired, if the report exists, does that mean
5 something, though?
6 A It could. I don't know. I don't know
7 what it says. I don't know if GSA was in the
8 building in 2006 or not to write the report.
9 Q But they do testing every year.
10 A They do. And we had test sample
11 results. And if they were in the building and
12 its says that there was all this damaged
13 asbestos, then why were they surprised when we
14 called them?
15 Q So you called GSA?
16 A Yeah. As soon as we got high test
17 results.
18 Q Okay. Let's talk about that.
19 You get the high test results, and you
20 -- or who? -- somebody --
21 A I called GSA.
22 Q You called GSA. And who did you --

1 A Tim Sleeth.
2 Q Spell?
3 A S-l-e-e-t-h. Because he was the
4 asbestos program manager for GSA and he worked
5 in the Safety Office there.
6 Q So would he have been responsible for
7 any -- for the asbestos program at DOC? When
8 you say "GSA" --
9 A Yeah.
10 Q -- do you mean including him, because
11 he was asbestos program manager?
12 A I don't know that that was his
13 responsibility, but I wouldn't want to speculate
14 that it was because I'm not sure.
15 Q Oh, no. I'm just asking you if that's
16 within your knowledge.
17 A Mario and Doug Elznic, they talked to
18 the -- I don't remember who specifically made
19 the call, but they were talking to their side of
20 the house with -- I don't remember the name of
21 the person that handled it.
22 Because there was a Facilities Building

1 side and they were talking to the Building side,
2 and I called Tim because he was in the Safety
3 Office and he's an industrial hygienist.
4 Q And what was the substance of your
5 conversation?
6 A I just let him know that we had
7 received some results with high results and
8 could he look at them and could he help us.
9 Q And did he?
10 A Yes. We set up a meeting, and he came
11 over straight away.
12 Q And then what happened? Because this
13 is the first time I've heard his name, so I'm --
14 A Oh, we all got together and met. He
15 pulled in Global. We closed off the attic
16 immediately. We --
17 Q So he was involved in the closing of
18 the attic?
19 A Oh, yeah.
20 Q What else was he involved in?
21 A The additional sampling with Global.
22 Q Did he procure Global?

1 A Yeah.
2 Q Was he involved in meetings where you
3 guys were discussing why are these test results
4 --
5 A Yes.
6 Q -- different from later ones?
7 A Uh-huh. He was helping us with entry
8 and exit procedures for what was required to go
9 in and out of the attic as far as PPE.
10 Q So was he someone who could corroborate
11 that the attic was closed --
12 A Yes.
13 Q -- that this book was maintained --
14 A Uh-huh.
15 Q -- and that people were wearing
16 protective gear when they went in and out?
17 A He was not on-site, so --
18 Q Okay.
19 A -- he could say what the requirements
20 were and what we said that the requirements
21 were, but not --
22 Q Okay.

1 A Yeah. He wasn't on-site watching
2 people go in and out. He also helped with the
3 remediation plan and the design of that.
4 Q So regarding the proper sample
5 methodology for testing, you're referring me to
6 those two?
7 A Yes.
8 Q Okay.
9 A And Tim Sloeth could collaborate that,
10 too.
11 Q So can you tell me about how these
12 reports came about? I notice that the data is
13 from 2011, and these tests occurred in 2007.
14 So, you know --
15 A I don't know actually.
16 Q Okay.
17 A I don't know why they did them.
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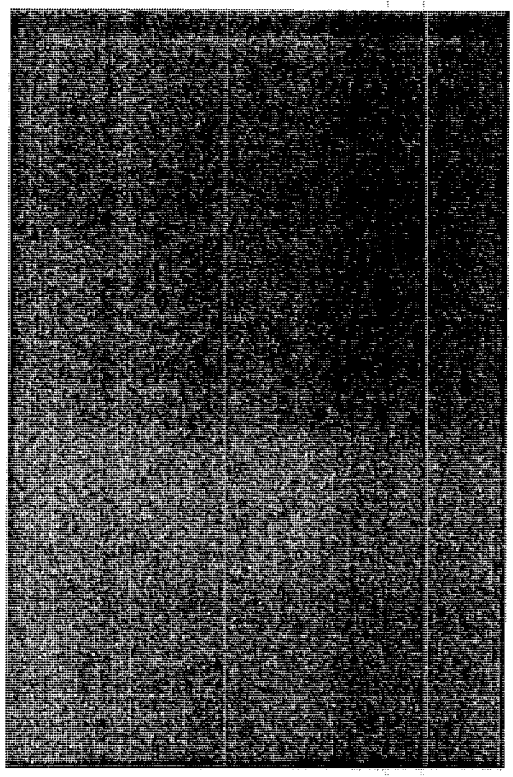
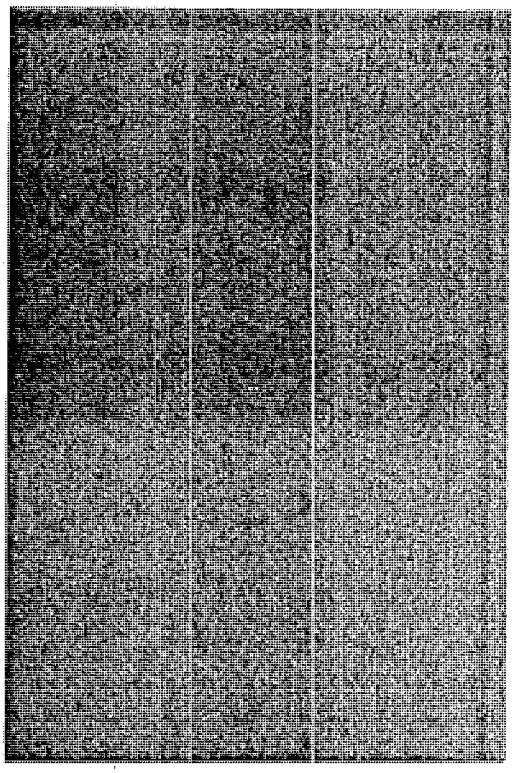
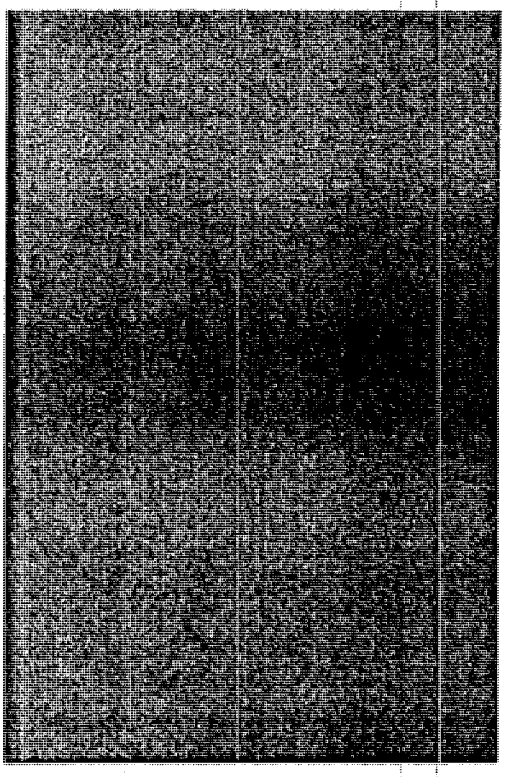
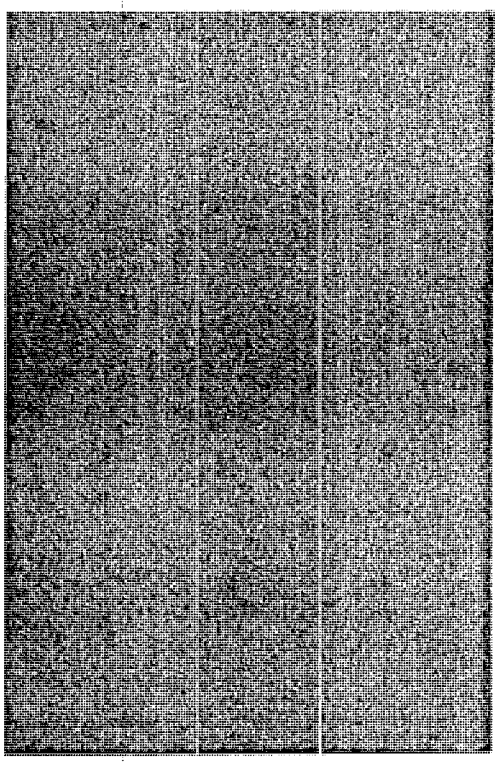
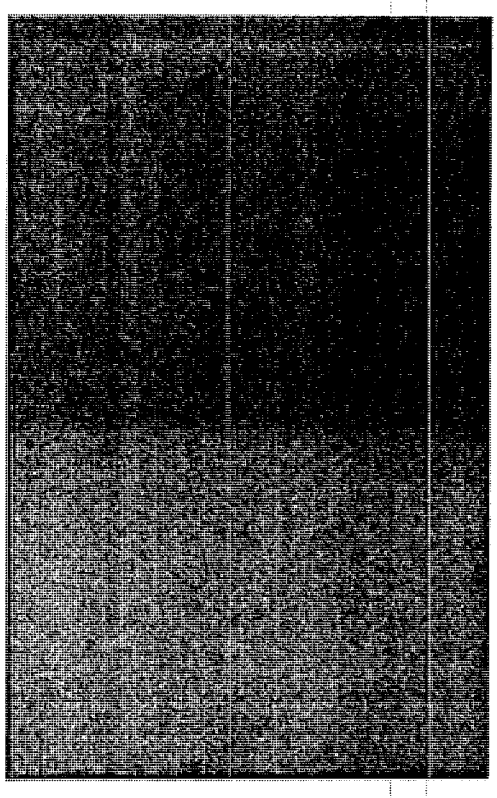
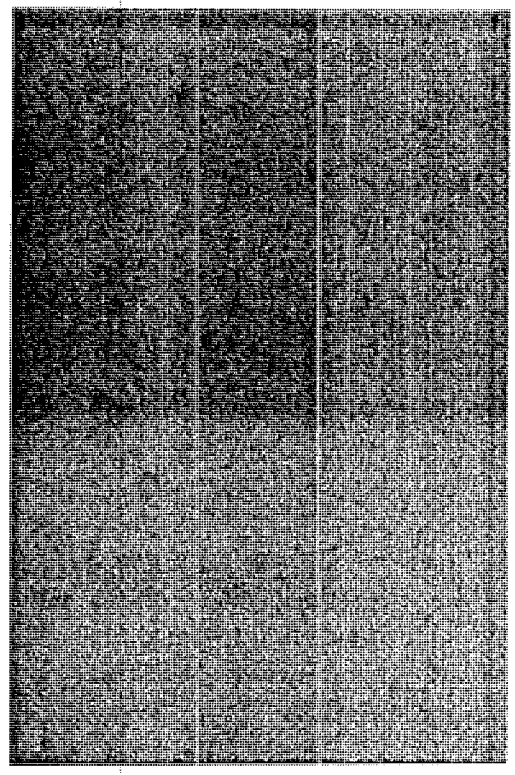


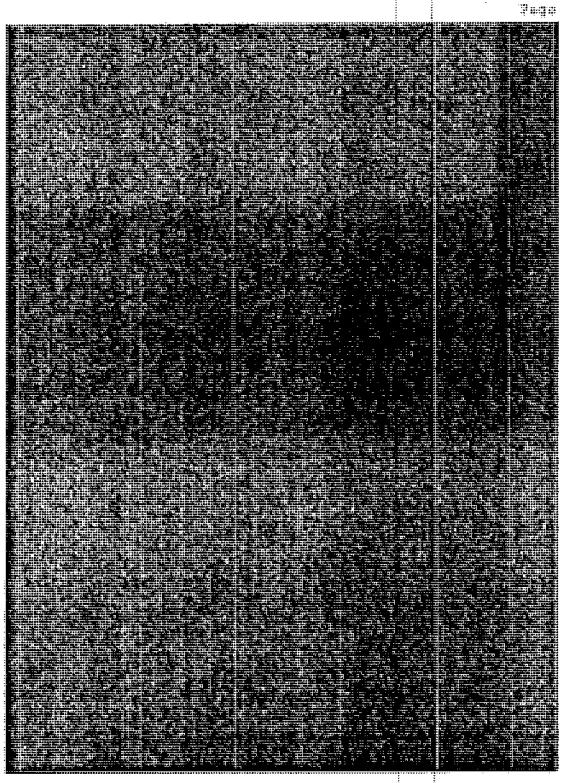


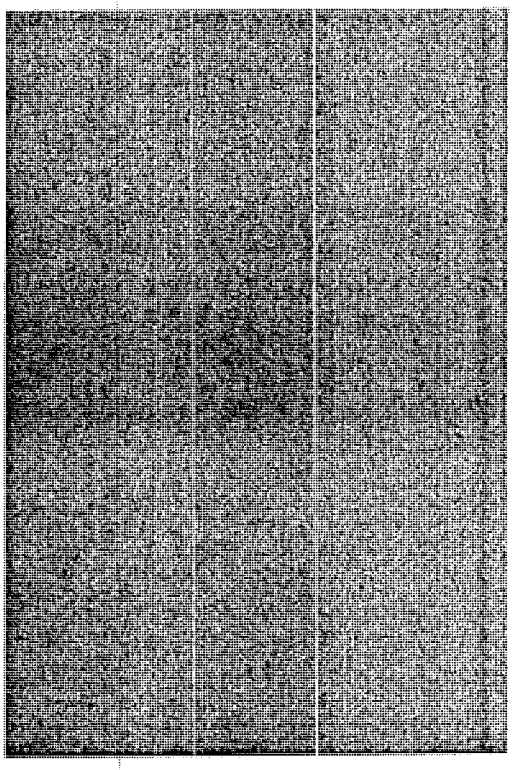












[redacted]

[redacted]

Q All right. Do you know no idea -- back to these reports from DHS, you don't know how they came about?

A No.

Q Okay.

[redacted]

[redacted]

Q Any other reasons why you think that the air samples, aside from what we discussed, were invalid or questionable?

A No. Just everything we talked about.

Q Great. And is there any other documentation you want to direct me to regarding this?

A No.

Q And you guys, when you met to discuss the testing, you didn't come up with any variables that would, you know, make the test change? You guys didn't think of anything in your meeting?

A No. But it was brought up that we were comparing to -- you know, when she said you're exceeding the PEL, a PEL was never exceeded because of the way she did her sampling.

If you read the HHS report, it talks about how the PEL was exceeded. Well, we couldn't have exceeded the PEL because the PEL

is a personal sample that you wear around, and a PEL is an eight-hour sample.

It's a personal exposure level, or permissible exposure level, and it's based on personal sampling. And so you could be exposed to asbestos at a certain level, but if it's not over an eight-hour time-weighted average, an eight-hour period, you don't exceed a PEL.

And she did area sampling, which is you go set up a sample and you pull from a specific area. The PEL was never exceeded.

Q Because she didn't do the sample over an eight-hour period?

A Right.

Q Okay.

A And the way she did the sampling -- A PEL, you have to wear a personal sampler, and that's what that person's exposed to. It's not what's in the air up there. It was what that person was exposed to over an eight-hour time-weighted average.

Q So --

A So we discussed that, that you can't really compare it to the PEL, there's not really a standard for area samples --

Q You guys discussed that during your meeting way back in 2007?

A Yes.

Q And you guys still didn't throw out her samples; right?

A We did not. But even though that report doesn't say that, we were trying to err on the side of caution --

Q Oh, I totally understand.

A -- just in case. What if her sample was right?

Q Yes.

A So let's proceed like it is even though we have all indications that it's not. Because, you know, personal safety was more important --

Q Absolutely.

A -- so that's kind of why we proceeded the way we did.

Q Were there any other things that you

guys discussed? I mean, you discussed they couldn't replicate it, that's weird.

A Uh-huh.

Q You discussed --

A We turned the attic fans off, because the attic fans had been going, to see if that would settle. I mean, there were some issues with attic fans and the way the sampling was conducted. I mean, various things.

We tried to -- you know, "we," the group, tried to figure out what was going on and why she got those high samples. And there was no -- There was never a good explanation of why they were high.

Q Anything else? I know it's like a lot, but I just -- I mean, it's helpful to know the extent to which your discussions overlapped with the issues that were highlighted in that report sort of compounds, you know, the questionability of them.

So if there's any other variables --

A Yeah, I can't --

Q -- that you remember --

A That's all I really can remember --

Q Okay.

A -- or I can think of at the moment. I'm sure there's more, but --

Q Anything else with respect to testing you want to talk about?

A No.

Q So let's talk about the conflict of interest or what I call the conflict of interest between Ms. Barnett -- regarding Barnett.

A Uh-huh.

Q You said the Maryland Department of the Environment revoked her accreditation and certifications?

A Uh-huh.

Q Can you tell me about that?

A It's on the website. It's on their website, and if you look it up you can find it. And we had one of the safety specialists, after I went down, the guy that back-filled me in the Safety Office found this out. He was on

searching her and found this accreditation.

Q And he found this when?

A Oh, gosh. Probably in about -- I don't know. Maybe late 2008, 2009 time period.

Q Okay.

A Because she did training for us right about all at the same time this was going on. Not for us. For DOC. I always say "we" and "us."

She did training. Mario brought her in to do training, and she never would give them their cards.

So when they did the asbestos training, you get cards saying I've been trained, and she never would give a card or a certificate or anything to the HVAC folks saying that they had been getting their asbestos awareness training.

And so David -- I can't think of his name right this minute, but David started questioning why won't she give you the cards? So when he finally figured it out, it was because she's not certified to be teaching. She

1 lost her accreditation.
2 Q So the accreditation you're referring
3 to was for teaching or --
4 A Yes. And --
5 Q Did she need to be accredited and
6 certified to be testing?
7 A Yes.
8 Q And is the accreditation for teaching
9 and testing the same?
10 A I don't know specifically the Maryland
11 accreditation, but they're --
12 Q Okay. So you don't know what the
13 Maryland accreditation refers to, just that she
14 was not accredited?
15 A Right. It's here. It's in a different
16 book maybe. This is what happens when you have
17 too many documents, then you can't find
18 anything.
19 Q I think I saw it at some point. It was
20 in color; right?
21 A Yes. It's definitely here. I just
22 don't know which one it is. Yes, I have it.

1 Q Okay. Did you raise this with anyone
2 when you guys found out?
3 A I think -- Yeah, I think we did. I
4 don't really remember.
5 Q Do you remember anything that you did
6 do after you found out? Did you guys fire her
7 or --
8 A Well, we never used her again. I mean,
9 it was soon -- Also, after I got down to OAS
10 after I was in the Environmental Office, I was
11 there for about -- I don't even know if it was a
12 year, and then I got detailed into another
13 position, and then I came back.
14 So some of this was going on at the
15 same time, so I was kind of out of it for a
16 year. And then I --
17 Q Did we discuss when you were detailed?
18 A I was detailed, but it was within OAS.
19 I told you that I had to switch positions with
20 another associate director.
21 Q But your responsibilities didn't
22 change, or did they?

1 A Yeah. They completely changed. But it
2 was after Dion had left the department. It was
3 in 2009.
4 Q Okay.
5 A But this is kind of when we found out
6 about Monica.
7 Q Gotcha.
8 A And, honestly, they didn't use her
9 again after those readings. They never used her
10 again.
11 Q Do you know, if you escalated it, who
12 you would have escalated it to?
13 A I think Mario is who I talked to about
14 it, and I think David let Nancy McWilliams know.
15 Because it was the Safety and the Training. He
16 was handling it at that point.
17 Q Was David in the HR office?
18 A Yeah. He took my position in the
19 Safety Office.
20 I'm not crazy. You did see it; right?
21 Q I did. It was in color because it
22 looked like a website printout. Of course, you

1 can't find it when you're looking for it.
2 A I know. You talked about writing
3 policy. That's the manual that I'm talking
4 about. You might have seen those.
5 Q And you said, also -- I understand you
6 allege that Peak Systems --
7 A Peak Safety. Yeah, that's Monica.
8 Q Oh, okay. Because I have Barnett and
9 Peak Systems had their accreditation and
10 certification revoked.
11 A Yes. That's Peak Safety. That's
12 Monica.
13 Q So the organization that employed her --
14 --
15 A She had her own company, and it was
16 just her.
17 Q And do you know whether they were
18 required to be certified and accredited to
19 conduct their testing?
20 A Uh-huh.
21 Q They were?
22 A Yes.

Q Is there any like support or a regulation or any kind of --

A I could probably figure that out. I don't know it off the top of my head.

Q Okay. Yeah, could you?

A Yes.

Q Do you want to write it down?

A Yes.

Q Do you know whether their certifications were restored?

A I don't know.

Q Do you know whether they're required to have certification in D.C. or like state by state or anything like that?

A I'm not one hundred percent sure, but I think you can cross D.C., like D.C. honors Maryland --

Q Okay.

A -- but I don't know that for a fact.

Q Okay. And you don't know if she was certified or accredited in any other state?

A I don't know.

[redacted]

[redacted]

Q Okay. Do you have anything else about Ms. Barnett and their relationship or Peak Systems that you want to talk about related to your allegation?

A I mean, other than what I've already said, that I think they conspired to get money from the government.

Q And any other documents you want to refer me to that we haven't already discussed? I mean, I'm going to look through the ones you referenced, but any other documents you want to reference?

A No.

Q I'd like to move on to your interview with the OIG.

A Yes.

Q Can you tell me once again about your

interview with the OIG?

A Yeah. They called me -- Or they sent me an email and asked if they could come over and interview me about Dion Lee, and I said okay.

We set up a time. They came to my office and they came in. I wasn't sworn in or anything else like that. They just sat down and gave me their cards and said, we're from the Department of Commerce and we're investigating -- we'd like to talk to you, we're investigating Dion's -- Mr. Lee's asbestos allegations.

[redacted] as I didn't actually ask a lot of questions because they said we're almost done, but we don't believe anything Dion says, or, you know, we don't feel like there's anything to his claim, and basically asked me was he up in the attic.

And I said no, because what I knew about, when I was his boss, he wasn't in the

1 attic. I don't know what he did before me. But
2 when I was there, no, he wasn't in the attic.
3 And that's basically about it. And I
4 don't remember any other specific questions.
5 That's really about it. And that's it. I mean,
6 they didn't ask me about prior -- nothing.
7 Q And you didn't ask them what it was
8 about because you thought it was about --
9 A Yeah. I made a big mistake. I assumed
10 it was more what I was dealing with. I won't do
11 that again, because, obviously, look what it got
12 me. But I just assumed that it was the other.
13 Q And did they tell you the purpose of
14 the interview?
15 A No. I had no idea that there was a
16 whistleblower complaint or that it was against
17 me or they were investigating me. I had no
18 idea.
19 Q Were you asked about asbestos
20 mismanagement?
21 A I don't recall being asked that, no. I
22 can't say one hundred percent, but I can't

1 recall being asked that.
2 Q Were you asked about your
3 responsibilities regarding the asbestos program?
4 A No. I don't recall being asked that;
5 no.
6 Q And were you asked to explain your
7 involvement in the asbestos program?
8 A No. It was more about Dion and his
9 exposure and was he exposed in the attic and why
10 would he have been in the attic and what did he
11 do for me.
12 I mean, they asked the questions in the
13 beginning about what was my role in Department
14 of Commerce, my time line of being there, and
15 then asked about Dion. I didn't take notes or
16 anything. I don't have anything to refer back
17 to.
18 Q Do you allege that -- So I have -- This
19 is what you submitted?
20 A Yes.
21 MS. CLARKE: I'll mark as Exhibit 2 a
22 redacted copy of [redacted] interview from

1 November 19th, 2010.
2 (Whereupon, the document
3 was marked as [redacted]
4 Exhibit No. 2, for
5 identification.)
6 BY MS. CLARKE:
7 Q Do you allege that there were any
8 questions that are in this report that you
9 weren't asked -- I'm sorry -- in this interview
10 that you were not asked?
11 A Yes.
12 Q Can you tell me them?
13 A Okay. I'm going to have to look at it.
14 Q Yes. Take your time. And if they're
15 numbered, maybe you can just refer me to the
16 number.
17 A I was not asked Number 3.
18 I might have been asked 4. I don't
19 recall.
20 Is this the one I submitted? Because I
21 thought I could read more of mine.
22 Q I believe so. That's what I was given,

1 but you should feel free to look in your own
2 FOIA documents.
3 A Yes, Number 5 I was not asked. And
4 this even has my name in it.
5 Number 6 I was not asked.
6 Number 7 I might have been asked, but
7 that never would have been my answer.
8 I don't recall being asked 8, and that
9 would not have been my answer.
10 I don't recall being asked 9, but that
11 never would have been my answer.
12 I don't recall being asked 10 or 11.
13 I don't know about Number 1 on the back
14 page, but that never would have been my answer.
15 I don't recall being asked Number 2.
16 I don't know about Number 3.
17 Number 4 I was not asked.
18 I might have been asked some form of
19 these, but I don't recall being asked Number 5.
20 And I was not asked Number 6.
21 Q Okay.
22 A Oh, there's more. This is kind of

1 messed up. I don't know if this is the right
2 one.
3 Yeah, they did ask me this one, Number
4 1 on the back -- the last page, about did I send
5 anybody up there.
6 They might have asked me 2, but that
7 would not have been my answer.
8 I was not asked Number 3.
9 I was not asked Number 4 that I can
10 recall.
11 Q Okay.
12 A And I could have been asked in a
13 different form, but I don't recall those --
14 Q Verbatim being asked those questions?
15 A No.
16 Q Okay. So the questions you weren't
17 asked, are the answers accurate?
18 A No.
19 Q No. Okay. Let's go over the answers
20 then of what the answers would be.
21 A Okay. I'm going to find my documents
22 here so I can help myself with this.

1 Q So Number 3, general duties. And if
2 we've already discussed this, you can say that.
3 A Okay.
4 Q So is there anything you want to
5 discuss about the -- So what would your answer
6 have been?
7 A Look what I just found.
8 Q What would your answer have been if
9 they had asked about your general duties? You
10 said that was inaccurate, that you weren't asked
11 that.
12 A But that's general duties for -- It's a
13 little bit different here. Oh, is that the same
14 one?
15 Q Is that a different document?
16 A No. This is [redacted]
17 Q Oh, okay.
18 A That's very similar. I mean, you've
19 seen that; right? They're the same.
20 Dion's duties, I probably was asked
21 that.
22 Q Okay. Is the answer that's on Exhibit

1 2, is that what you -- is that accurate?
2 A For Number 1? No. I wouldn't have
3 said that. I can't read half of it, but I would
4 never have said he was reclassified because he
5 wasn't.
6 Q Sorry. What number are you referring
7 to?
8 A Number 1.
9 Q Oh, I'm looking at Number -- I'm just
10 starting with the beginning. You said Number 3
11 you weren't asked. Number 3 on the first page,
12 general duties.
13 A Yeah. I would not have said I was the
14 collateral duty safety for OAS. I don't know if
15 I -- Actually, I was the -- They're asking me
16 about -- What dates, though?
17 I mean, I had a whole lot more than
18 that, so I don't know what time they're talking
19 about. It depends which objection they're
20 asking me about there.
21 Q Can I just refer back to your answers
2 earlier when I asked you your duties?

1 A Uh-huh.
2 Q Are there any other duties that you
3 would have told them either when you were in HR,
4 or when you were in OAS that --
5 A No. I mean, this is basically correct,
6 but the Energy and Environmental sample programs
7 also had real property.
8 At one point, I did Safety, you know,
9 the general duties there. What I've already
10 given you for general duties will be fine.
11 Q Okay. So you said you weren't asked
12 this question; right? General duties.
13 A I don't know if I was talking about
14 this specific question. I think that I said I
15 was asked that stuff.
16 Q Okay.
17 A I'm sorry if I said it wasn't.
18 Q Oh, I was just looking at numbers.
19 Let's look at Number 5. Oh, you know, maybe you
20 were referring to the second page?
21 A Yeah.
22 Q So Number 3, were you asked this

1 question?
2 A No.
3 Q If you were asked this question, would
4 this have been your answer?
5 A I would never have said it didn't
6 require that much training. That's not
7 something I would have said. I don't even know
8 what "green government training" is. That
9 doesn't exist.
10 I would have said that he was given
11 hazardous waste training. He had been given --
12 I have a list of the other training that he was
13 given, that he was receiving environmental
14 training.
15 And whatever the answer to Number 1 up
16 there is when it says -- it's kind of blocked
17 out -- I'm sorry, before we get to Number 3 --
18 "what were" blank "duties"? "He was" blank,
19 blank "then later reclassified." I don't -- He
20 wasn't reclassified. I wouldn't have said that.
21 Q So on the second page of Exhibit 2 you
22 wouldn't have given that answer for Number 2?

1 A No. For Number 1.
2 Q For Number 1. I'm sorry.
3 A Uh-huh.
4 Q Okay. So we've discussed the answer
5 you would have given for Number 3 on Page 2;
6 right?
7 A Yes.
8 Q And you said that on Page 2 you were
9 not asked Question 5?
10 A Yes.
11 Q If you were asked, would that have been
12 your answer?
13 A I don't know what the whole answer
14 says, so that's hard to say.
15 Q Okay. Well --
16 A He was never reclassified. He was in
17 my office because he asked to come over to my
18 office.
19 Q Is there any HR documentation regarding
20 him moving offices?
21 A No. When he came back from his detail,
22 he was detailed -- I believe this is correct --

1 he was detailed down to -- from the other
2 complaint, he went down to Office of Real Estate
3 and he worked with Pete Wixted.
4 And at some point, they had a falling
5 out, and he went and started working with Mario
6 for a little bit. And then he went on detail.
7 I don't know at what point he went to Mario, and
8 maybe he didn't even go to Mario at that point,
9 and then he went on detail to the contracting
10 office.
11 And when he came back, he and Pete
12 didn't get along, so I think he moved over -- he
13 did move over, but I'm trying to think how far
14 after our detail he moved over and started
15 sitting in Building Management space and started
16 working for Mario.
17 Q This is before or after he reported to
18 you?
19 A Before.
20 Q Okay.
21 A And then, because he wanted to come
22 back to Real Estate because Pete was leaving,

1 after Pete left and I came down, they moved him
2 back over to me. He came and asked me would I
3 take him, and I did.
4 Q And you don't think any of these moves
5 were documented by HR or --
6 A I don't think so because when I went to
7 move him back on the TA, he wasn't moved or
8 anything. I think it was just go over there. I
9 don't know.
10 Q Okay.
11 A I think Mario told me, no, he's still
12 on your TDA so you're good. I think his detail
13 was documented, but I don't think the move when
14 he went over -- I think it was more just go sit
15 with Mario.
16 Q So you weren't asked Number 5, and that
17 would not have been your answer if you were?
18 A No, I was not asked 5.
19 Q And the answer that is written would
20 not have been the answer that you gave; right?
21 A No.
22 Q And Number 8 on Page 2, you were not

asked this question; right?

A Yes. Number 7 either. Or Number 6.

Q Oh, yes, Number 6, I skipped that.

And would the answers to 6, 7, and 8 be accurate, or are they inaccurate?

A I can't say because I don't know what the question says in Number 6.

Q Gotcha. How about Number 7?

A No. That would not have been my answer because the Safety Office isn't even in the Office of Administrative Services. That wasn't part of my job description.

When I was in the Safety Office, I wouldn't have been doing environmental management either.

Q How about Number 8? Is this the answer -- I know you said you weren't asked this question.

A No. And collateral duties are not non-paid or volunteer ever, so I wouldn't have said that either. And I don't know what the blacked-out stuff is.

Q Number 9, would that have been your answer?

A No. The Office of Real Estate does not manage all DOC buildings. They have their own facility management. I would not have answered it that way.

Q Ten?

A I don't know specifically what that question says, but I would not -- No.

Q Did you oversee any buildings?

A No. We managed the leases and -- When I had real property, we managed the leases and the space, we worked with GSA on space and leases, but we didn't -- I had no role as a building manager.

Q Number 11?

A That's a true statement that I didn't supervise anybody else.

Q Were you asked that question?

A I don't think so.

Q Page 3, Number 1. You said you weren't asked 1, 2, 4, 5, and 6.

A I was probably asked Number 1 in some form.

Q Okay.

A But I'm not -- I can't say I was asked if I knew there was damaged asbestos. I know they asked me if he went to the attic, but I can't -- They probably did ask me this question, but I don't recall.

And that never would have been my answer, "In October 2006, we might have had an asbestos problem on the eighth floor." No, I never would have said that. I didn't know that. That's absolutely not true.

Q Were you aware that there was damaged asbestos in the attic?

A In April when the reading came back and I was told.

Q But not before that?

A No, absolutely not.

Q Number 2 on Page 3?

A Yeah. No.

Q You weren't asked --

A I wasn't asked that, but I also was not -- No employee ever expressed concern to me.

Q You said maybe you were asked 3; right?

A No, I don't -- I don't think so.

Q You don't think you were asked Number 3?

A No. I don't think I was asked 3.

Q Is the answer inaccurate as well?

A It's sort of truthful, but I don't know that I would have -- I wouldn't have said "the room" because I know it's a huge eaves and attics and stuff. It's not just a room.

I don't think I would have answered it like that. Not that it's not -- It's somewhat true, but not really true. It's definitely not a room.

Q Okay. How about Number 4 on Page 3?

A No. They didn't ask me that.

Q Is the answer accurate?

A "What kinds of records were in place to track asbestos and inspect it for damage?" If they would have asked that question, I would

have talked about the records, not testing. No.

Q How about Number 5?

A I don't know if they asked me that or not.

Q Is the answer inaccurate?

A It's fairly accurate; yeah. There's more to it, but it's not necessarily wrong. But there's a whole lot more to what was done.

Q And Number 6, were you asked that question?

A No, I was not asked that question, and I definitely would have said that we don't have a responsibility to abate the hazard. Never would I have said that. "We always had the gear and somebody procured better gear in" -- I never would have said that.

Q Okay. And now we're on Page 4.

A I probably was asked this, yeah, or some form of that.

Q Numbers 1 and 2. You said you were not asked Numbers 3 and 4; is that right?

A Yeah. I wasn't asked that one.

Q Which one?

A Number 3. And I would not have -- I wasn't asked Number 4.

Q And are the answers to 3 and 4 accurate?

A No.

Q Okay.

A I mean, it was a long approval and the staff was told it's accurate.

Q You allege that many answers in your interview are an exact quote of another interview?

A Yes.

Q Can you tell me which answer to which question?

A Number 1.

Q On which page? Sorry.

A Oh, of what I presume is [redacted] interview.

Q Okay. Let's mark as Exhibit 3 the redacted version of someone in the Office of Administrative Services which [redacted] thinks

is [redacted]

(Whereupon, the document was marked as [redacted] Exhibit No. 3, for identification.)

BY MS. CLARKE:

Q Okay. Can you please refer me to the page number and the questions numbers.

A Okay. On my Question Number 1 on Page Number 2 --

Q Of Exhibit 2.

A -- is exactly the same as what I believe is [redacted] Question 1.

Q You can just say "Exhibit 3."

A Exhibit 3, Question 1 on the first page.

Q Okay.

A [redacted] Question Number 3 --

Q Number 3, Exhibit 3?

A -- uh-huh -- part of that is exactly the same as mine when it says, "his position did not require all that much training." It's the

exact same thing that mine says. Some of the rest of it's not, but --

Q And you're alleging that that statement is also inaccurate; right?

A Yes. I'm just saying it's very questionable that both answers are word for word the same in words that would not necessarily be my words.

Q Okay. But you're not alleging that [redacted] wouldn't have said that? You're just --

A I don't know if [redacted] would have said it.

Q Okay.

A I just think it's funny that it's word for word the same.

Q Right; okay.

A [redacted] Question Number 6 is almost the -- I think it's word for word the same as my Number 5.

Q Number 5 on Exhibit 2?

A Uh-huh. And [redacted] Number 7 on Exhibit 3 would have been the same as my Number 6.

Q Number 6, Exhibit 2?

A Uh-huh. My Number 8 --

Q Number 8, Exhibit 2.

A -- is the same as [redacted] Number 9.

Q Okay.

A My Number 9 is the same as [redacted] Number 10.

My Number 10 is the same as [redacted] Number 11.

And then on the next page, Page 3 --

Q Of Exhibit --

A -- of Exhibit 2 --

Q Okay.

A -- mine is the same if you go to [redacted] Exhibit 3, Page 3. Number 3 is the same as [redacted] Number 3.

And then Number 4 is the same as [redacted] Number 4.

Q Okay.

A Oh, wait, no it's not. It's a different one. I thought that was exactly the same. It's similar. Very similar.

And then my Number 6 is the same as [redacted]

Number 10.

And then on Page 4 of Exhibit 2, if you go to Page 6 of Exhibit 3, my Number 2 is the same as [redacted] Number 5.

Q Which page of Exhibit 2?

A Exhibit 2 is Page 4.

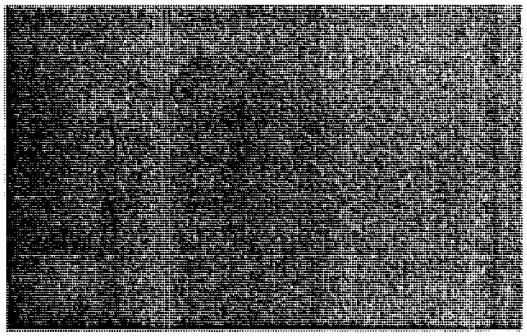
Q Okay.

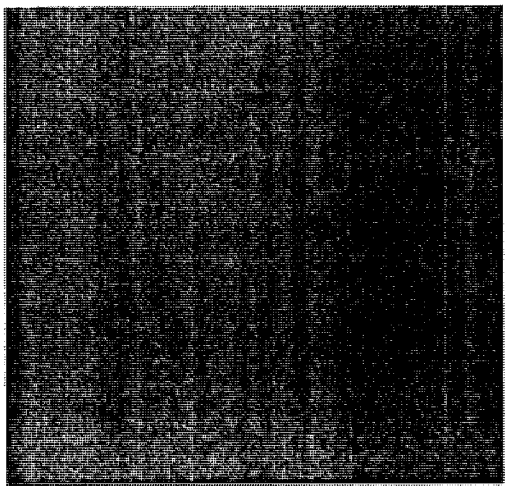
A And then Number 3 on mine is the same as [redacted] Number 6.

And then my Number 4 is the same as [redacted] Number 8.

I think that's it.

Q Okay.





Q Right. Okay. Is there anything else you want to talk about with respect to the interviews, your interview or the interview notes that you've seen from the FOIA requests?

A Other than what I've already told you, I wasn't sworn in at all. I don't know if that's a requirement or not.

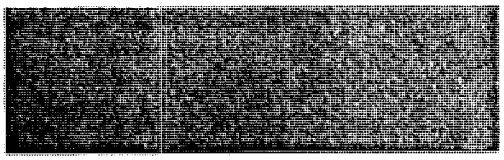
But I never heard or saw anything from

them. I offered. I said I've got documents, whatever you need, [redacted] They never contacted me again and never asked for any documents.

And the next thing I know, this report is out on the Internet, and I'm getting it from this group of disgruntled employees. And I'll show you some of that in a little bit.

The other thing, as part of the interview process, they interviewed -- they didn't interview anybody that we actually worked with there in the Environmental -- well, Pete Wixted -- but as far as the Safety Office, when I worked up there when all this was going on, they didn't interview any of those people.

And then they interviewed people that were at the Department that were gone long before I ever got there.



1 [redacted]
2
3
4 I was never asked for any witness to
5 collaborate my side of the story, nothing. They
6 never asked for any of that. I don't know how
7 they got this list of people.
8 One of the guys that's in the shop who
9 works the third shift is on this. I don't know
10 that I met him twice over. And he works third
11 shift and would not have been around during the
12 day when any of this was going on.
13 Q What's his name? Do you remember?
14 A I can't remember his name. I have it
15 in here somewhere. I don't know where I have
16 that information, but I can look it up and get
17 it to you.
18 Q Okay.
19 A I think I sent it to Kevin, who I
20 thought that they were --
21 Q Would it be in your letter to the
22 president or --

1 A No. Because I got all this after I
2 wrote the letter. I wrote the letter based on
3 the original IG report, and then I finally just
4 did a FOIA request to get all this information.
5 And, you know, the other thing, if you
6 actually look at the -- I don't know if you have
7 copies of all the -- Do you have this stuff?
8 Q I've asked for it.
9 A So if you go through here and go
10 through all of these interviews, none of them
11 say I mismanaged asbestos. None of these
12 interviews that I could find substantiate that
13 report.
14 And I might be missing one and not
15 remembering one, but I don't recall anybody
16 substantiating the fact that I was responsible
17 for any of this.
18 Like I said, some of them weren't even
19 there. They were gone from the Department when
20 I got there, so I don't know how they could
21 testify to what I did.
22 Q Anything else with respect to the

1 interview?
2 A That's it. No.
3 Q So I want to talk about the evidence
4 that the report relied on.
5 A Uh-huh.
6 Q Do you allege that the Agency reports
7 -- that the OIG's report relied on fabricated
8 evidence?
9 A Yes.
10 Q And what evidence do you allege was
11 fabricated?
12 A A lot. Mr. Lee's statements.
13 Q Okay.
14 A Ms. Barnett's statements. Well, that I
15 can see are Ms. Barnett's. I'm guessing.
16 And I don't know what other evidence
17 they actually used other than what I've got
18 here, but there seems -- I don't think they
19 based anything on evidence. I don't know what
20 they based it on.
21 Q Anything else you think is fabricated
22 that you know of?

1 A Well, let me think. I think, like I
2 said, Mr. Lee's statements and testimony. I
3 think Monica's statements.
4 I think that my statement was
5 fabricated. As we just went over, I didn't say
6 or do any of those things.
7 [redacted]
8 statements. I can't speak for those. Besides
9 the sampling results that are potentially
10 fabricated by Monica.
11 I don't know if there is a shred of
12 evidence that they actually looked at that said
13 there was mismanagement of asbestos and who was
14 responsible for it.
15 I think they strictly went on what Mr.
16 Lee said. And in that report, it actually says
17 that Mr. Lee provided sworn testimony -- or a
18 sworn statement and we believe him. That's in
19 that report.
20 That's not a fact. That's his
21 statement. And so we believe him, and they
22 don't believe me [redacted] It doesn't point to

1 any really hard evidence. They just, in my
2 opinion, made this up.
3 Q We probably covered this, but why do
4 you think that this evidence was fabricated?
5 A Money.
6 Q Who do you think fabricated -- I mean,
7 you've mentioned -- Who do you think fabricated
8 the evidence? You've mentioned, you know, Mr.
9 Lee and Ms. Barnett. Do you allege that the IG
10 fabricated evidence?
11 A Yes, potentially. Uh-huh, I sure do.
12 Q Do you know why they would?
13 A I think, number one, it's a complicated
14 case and they wanted to get it off of -- they
15 wanted it done and they weren't willing to do
16 the work that it took to do the investigation,
17 so it's much easier to blame three employees who
18 are no longer there.
19 I think there could have been a
20 kickback from Mr. Lee.
21 And, you know, I don't know if you know
22 this, but Dion contacted me not that long ago

1 and said, I have lots of evidence if you want to
2 see it, [redacted] He sent me an email --
3 Q Evidence --
4 A -- about two months ago. I have over
5 700 pages of documents that I'd like to share
6 with you, [redacted] I don't know why that OIG
7 report railroaded you. I have that email here.
8 I'll find that in just a minute when I go
9 through this.
10 So, you know, you think big picture, I
11 think Dion's trying to get a big case built
12 against the Department to go back for big money,
13 and some of these potential people that are
14 witnesses are probably interested in the same
15 amount of money.
16 Q Can you see if you can find that email?
17 A Sure. I'm sure I have it. I forwarded
18 it to Kevin Wilson, too. I have it sorted in
19 some logical order until I start looking for it.
20 Oh, here. It's a copy of it, and I
21 forwarded it to Mr. Wilson. He sent that to me
22 on January the 9th.

1 But I think there's a bigger picture
2 here of trying to get more money out of
3 Commerce, which is why I think he's gone back
4 in.
5 [redacted]
6
7
8
9 [redacted] ## ##
10 soon as he got a copy of my letter to the
11 president, he contacted OCS to go back after
12 them to open the case again.
13 Q I see.
14 A So I think now he sees me as an ally to
15 go against the Department to try to prove that
16 there was this big asbestos exposure, and now
17 that I've said I'm mad at Commerce or whatever,
18 that he is trying to get me on his side and say,
19 see, there was this big cover, yeah, there was a
20 big coverup now. So I think it's more to go
21 back in and just, honestly, get more money from
22 Commerce.

1 Q When was your letter to the president?
2 A It was 2012. July 3rd, 2012.
3 Q And his email to you was?
4 A His email to ## was January 2014.
5 [redacted]
6
7
8
9 Is there any other evidence that you
10 can think of that you allege was fabricated that
11 you know of?
12 A Yeah. Just -- I mean, like I said, all
13 of it. Dion failed to tell you or anybody that
14 he was on detail when all this happened and that
15 he made it sound like he was part of this -- he
16 was up there and he was working and doing all of
17 these things.
18 Well, he wasn't. He was out of there.
19 He neglected to tell anybody when I was actually
20 really his supervisor. I mean, there's just so
21 -- All of it. I think all of it is --
22 Everything I've told you today.

I just think a lot of it's fabricated. It's not based on any fact, and I don't think they used any facts or any evidence.

Q I want to talk about inaccurate evidence.

A Okay.

Q Do you allege that the OIG's report relied on inaccurate evidence?

A Uh-huh.

Q And what evidence do you think was inaccurate?

A Well, I guess, what's the difference in inaccurate and fabricated? Because I think most of it was fabricated to meet the story.

Q So everything you allege was fabricated, it would also be inaccurate?

A I think so. Yes, I was Dion's supervisor, so that would not be fabricated. But the fact that I was his supervisor all that time is fabricated.

So I think a lot of it's inaccurate and fabricated. And I, actually, in this letter to

the president, I kind of go line by line about the report about what is not true.

Q Okay. So I should just rely on that as far as what's inaccurate?

A Uh-huh.

Q And do you allege that these inaccuracies were material to the findings of the report?

A Yes, absolutely.

Q And do you allege that the IG purposefully included inaccurate evidence in their report?

A Yes. I don't think they cared, and I think that, like I said, they were trying to get the report done and off their desk and didn't care about the repercussions, take the easy way out, and then they could potentially have financial gain from it.

Q And besides Mr. Lee, Ms. Barnett, do you allege that anyone else purposefully gave the IG inaccurate or fabricated information?

A I think Mr. Wixted did.

Q You think he gave the IG inaccurate information?

A Uh-huh. And he -- I think he was the one who told them I was on detail. He was down there. I wasn't on detail. I think he might have been the one that told them that.

And he also failed to mention that he was responsible for asbestos -- that he was the asbestos coordinator.

Q Anybody else?

A That's all I can think of right now, but -- I'm just focused on them right now.

Q Sure. You can write it down if you think of other people later.

Do you allege that the OIG purposefully omitted information from the report?

A I don't -- No, I don't.

Q Okay.

A I don't think they purposely omitted anything.

Q But do you allege that the OIG omitted evidence from the --

A I don't think they had any evidence to omit. I don't think they went and looked for evidence to omit. I mean, does that count? If I don't go look for it so it doesn't get put in, is that purposefully omitting it?

Q Probably not. They didn't have it and then say I'm going to ignore it; right? You're not alleging that they had something and said I'm going to ignore it; right?

A Right.

Q Okay.

A I mean, they had my statement and [redacted] statement and they ignored it and determined we weren't telling the truth, and then they've never asked me for documents.

Q Besides the documents that you're going to give me today, is there any other evidence that you allege was omitted, not purposefully, but was left out of the investigation?

A I don't think so.

Q And besides what we discussed, is there anything else that you -- any other information

that you think was left out of the report besides what we've been discussing?

A Anything I haven't told you, in other words?

Q Yeah.

A I don't think so. I think that's about it.

You know, asbestos is scary and you see commercials about it all the time every day about law firms wanting to represent you to get

you money for asbestos.

So I think the more they thought they were going to get from the government, the more they pursued this.

-- I was trying to get some of my folks in the office trained on asbestos so that they could assist.

This was probably about four months after I got down there and knew that I needed to do something with the asbestos and my folks as far as managing it from the environmental perspective.

And I didn't have anybody that knew anything about asbestos, so I was trying to bring in some training for some of my folks over there. Roz Hill, Genevieve Walker, Ronette

Simpkins were all in training.

And Dion wanted to do asbestos. He asked me at one point he'd like to get into the asbestos program, could I help him with that -- I mean, could he go to the training. And I said, sure, you can take the training, I'll bring in training and you can go.

your skills.

I was always trying to get my folks trained or whatever. And not because we had to have that responsibility.

But if something happened, you know, I wanted somebody in my office to be able to provide expert advice, and we didn't have that because Pete had left.

[redacted]

A I don't remember what I was going to say.

Q Okay.

[redacted]

[redacted]

What else do I need to tell you? Do you have more questions?

Q Do you have anything else with respect to the report that we haven't covered that you want to highlight?

A I think I'll give you that letter to the president, and that will go line by line so you can see what's specifically in that report.

Q That you take issue with?

A Yes. And I was very anal, but, you know, I hit everything. The whole point was to show not that this is a stupid little -- so what

if that's not true, but if you can't even get that true, it's just the magnitude of everything that's not true in the report. That's why I did it the way I did it.

Q Additionally -- and I haven't seen your letter; right? -- but additionally do you allege that the inaccuracies in the report and the issues that you are highlighting in the report affect the conclusion and the finding of responsibility?

A Absolutely.

Q That's all the questions that I had with respect to my outline.

But in the beginning you had listed a bunch of other issues that you wanted to discuss, and so I'll go through those --

A Okay.

Q -- and then if you have anything else, please let me know.

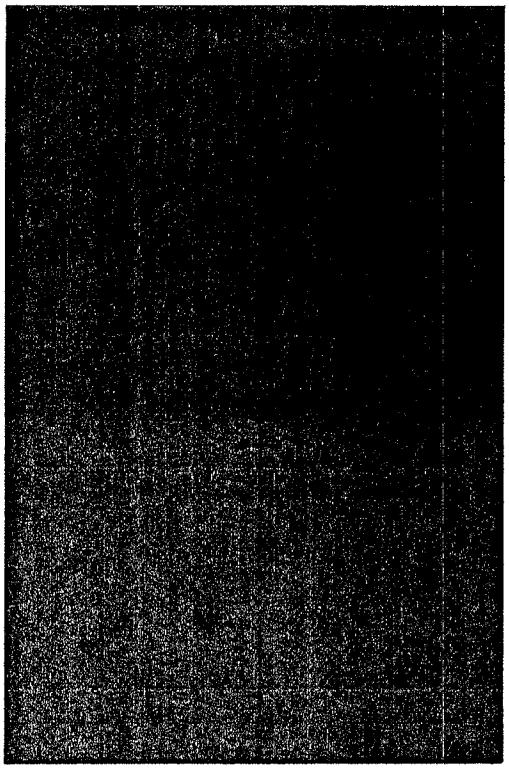
A Okay.

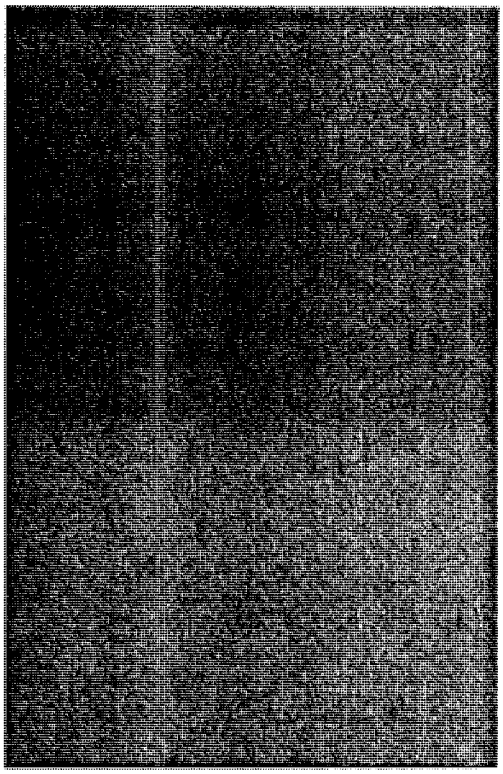
Q You said Mr. Lee lied and colluded with other employees to defraud the government?

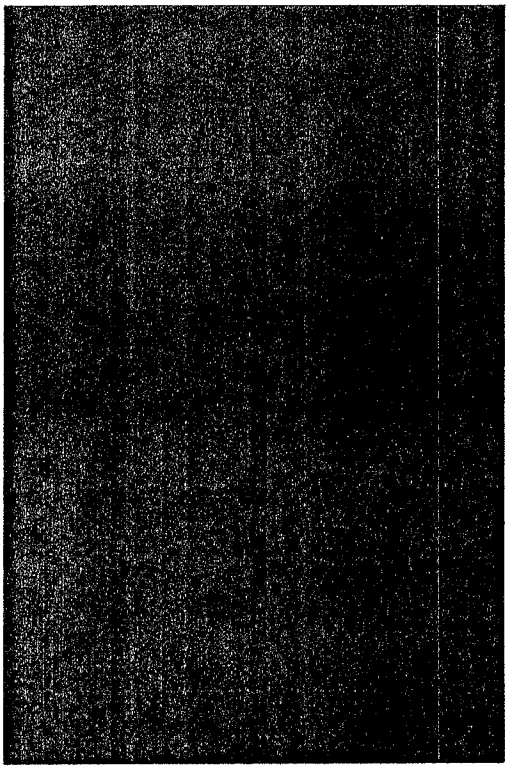
A Uh-huh.

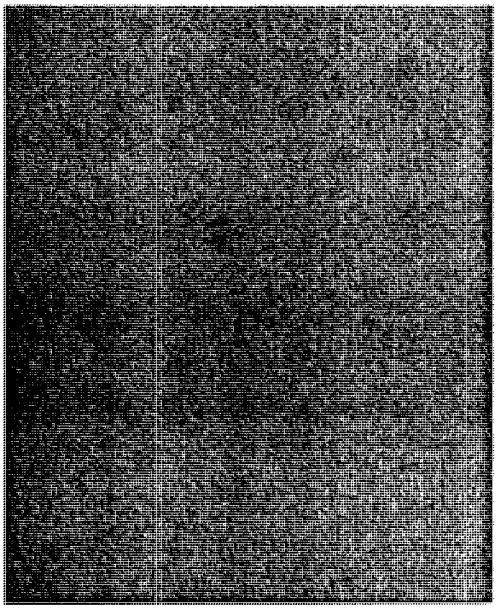
Q Do you want to -- Or anything else you want to --

[redacted]









Q And then, you know, we discussed your allegation that the investigation was false and barely had any shred of truth to it.

A Uh-huh.

Q And you had mentioned no evidence, the inaccuracies, the fabrications.

Is there anything else you want to highlight with respect to that?

A No. That pretty much gets it.

Q And you have an allegation you were railroaded by investigators to make the investigation easier. We discussed that.

A Uh-huh.

Q Anything else that you want to talk about with respect to that?

A Yeah. I just want to talk about the fact that -- I've mentioned this already -- but, you know, it's three employees that left. We're not there anymore.

And when Dion went back to them, they came back and said -- because he said, why isn't anybody being punished? And their response back was, well, they're not with the Department anymore.

So it's three people that left the Department. We were easy to blame. We are not

in the same chain of command so there's somebody between [redacted] There was a supervisor in between there. He's not mentioned.

Q Where is [redacted] in this chain of command?

A [redacted]

Q Oh, okay.

A He's under the [redacted]

Q Which is -- what's the word? -- on the same level as ORE; right?

A No. That's [redacted] are under there. [redacted] is the equivalent of like the Environmental down there under [redacted]

Q [redacted]

A Uh-huh.

Q Which is [redacted]

A Uh-huh.

Q And so you're talking about the person who's here (indicating)?

A The person there is not mentioned. They find a way. They say he wasn't involved. The person that was -- I mean, I wasn't actually -- I was mostly in Safety, as I've already told you, when all of this was going on. But even when I went there --

Q To OAS?

A -- to OAS -- there was a person between [redacted]

Q The associate director.

A And that person's not mentioned. Braulio's not mentioned. The three bosses up that I have in Safety that would have been responsible -- I wasn't responsible. I couldn't do anything. I'm a GS-13. None of those people are --

Q Mentioned?

A -- mentioned.

Q Who was [redacted]

A Doug Elznic.

Q Anything else with regard to the

railroading? OIG lied?

A Yes. I was not told anything. [redacted]

Q Anything else?

A No.

Q Just regarding that, do you think you were led to believe that, or do you think they just didn't explain the purpose?

A I've thought a lot about that. I think both.

Q Okay. And can you explain why both? It's not clear to me.

A Yeah.

Q Like why do you think --

A Like I said, I've thought a lot about, well, maybe I just didn't ask the question. Maybe I made assumptions, and I did make assumptions.

But they also did not -- I mean, I wasn't asked about my role -- I mean, I wasn't -- It's the way they asked me. I can't remember

1 what they said, but it was more just no big
2 deal, we don't believe him, we don't think
3 there's anything to this, and we just have a
4 couple questions.
5 Q Anything else with regard to that
6 allegation?
7 A No.
8 Q And then the corruption. You said you
9 believe that OIG was corrupt --
10 A Uh-huh.
11 Q -- and you've discussed the newspaper
12 and how, you know, they were trying to take the
13 easy way out and how maybe they were getting a
14 kickback.
15 A Well, and there's also super friendly
16 emails between them and Dion, maybe even
17 inappropriate, that I got as part of the FOIA
18 request.
19 Q Okay.
20 A I also pointed those out to Kevin
21 Wilson.
22 Q Anything else with regard to that?

1 A No.
2 Q And any other evidence you want to
3 direct me to with regard to that?
4 A No.
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13 Q You allege collusion between Mr. Lee
14 and investigators. You referenced the emails,
15 the friendliness. Anything else?
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4 Q Okay.
5 A Yeah. And then when the letter went
6 out and how all that was done --
7 Q Which letter?
8 A The letter that he got and I got saying
9 that there was potential exposure to asbestos --
10 Q Uh-huh.
11 A -- Brian DiGiacomo is the one who
12 approved that letter.
13 Q Okay.
14 A So that went out through General
15 Counsel.
16 Q Okay.
17 A And then the other is that Mr. Fanning
18 even briefed -- I found a copy of that -- even
19 briefed the IG's office around -- I can't
20 remember, but it's around like the July time
21 frame about -- July of 2007 now. They knew --
22 The IG's office knew about it in a couple months

1 right after --
2 Q The testing?
3 A -- right -- after the testing.
4 Q And do you have any support for that?
5 A I do. I have his presentation with a
6 date on it.
7 Q Okay.
8 [redacted]
9
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16 Q So Mr. Panning, after getting the
17 results, why would he brief the OIG?
18 [redacted]
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22

1 [redacted]
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21 So Fred went and briefed them and told
22 them about everything that had happened in the

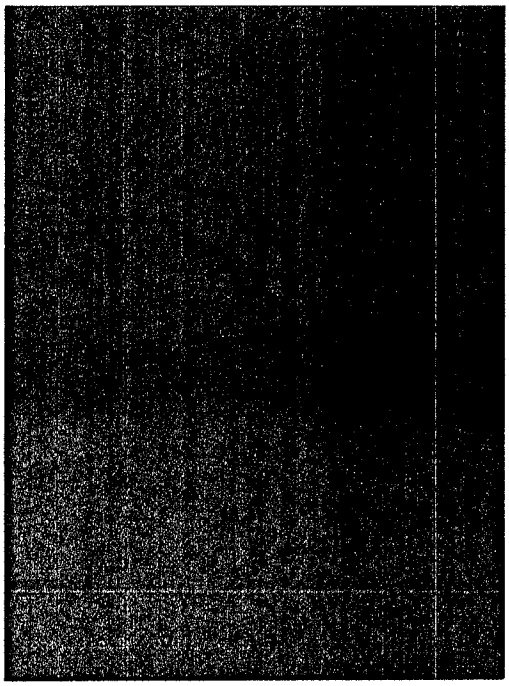
1 attic. So OIG knew very early on, too. That
2 report says that Otto Wolff was not briefed.
3 Otto Wolff was briefed.
4 Everybody was aware of what was going
5 on. Because I sat at a meeting in Otto's office
6 that Fred was at, Doug Elznic, Mario -- I don't
7 remember every single person at the table, but
8 -- Bill Flemming, because he was my boss at the
9 Safety Office -- where they briefed Otto about
10 the asbestos in the attic.
11 And they also had to talk to Otto about
12 the funding and getting the money for that
13 remediation and all that. He was aware very
14 early on about what was going on and the high
15 reading and kind of what we were doing.
16 Q Are you alleging that he's a
17 responsible official for the program or --
18 A You know, I --
19 Q Or you don't know?
20 A I don't know.
21 Q Okay.
22 A He was the assistant secretary. So at

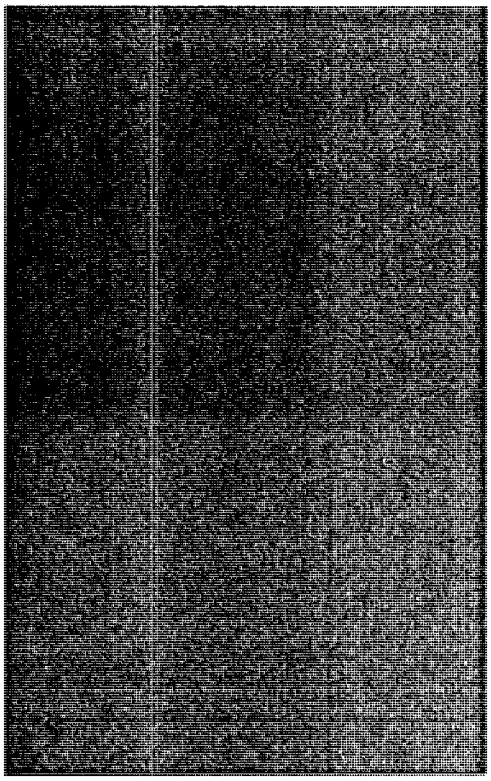
1 that level, he was --
2 Q Aware?
3 A -- aware. I mean, but that would get
4 back to did we mismanage it. And, you know, I
5 can't speak to anything before I got there. I
6 don't know what they did before I got there.
7 But after I got there and during this
8 instance, I don't think there was any
9 mismanagement.
10 Q Anything else with respect to DOC's
11 OGC, Office of General Counsel?
12 A No. Other than they were aware and --
13 I mean, they were briefed. I mean, part of the
14 thing about the report, it says that it was
15 mismanaged because nobody was told.
16 Q Uh-huh.
17 A But that's not true. The report makes
18 it sound like we operated in secret and that's
19 not the case. And there were a lot of people
20 involved in trying to do the right thing, not
21 hide it and cover it up or anything like that.
22 Q You said DOC's OGC had evidence

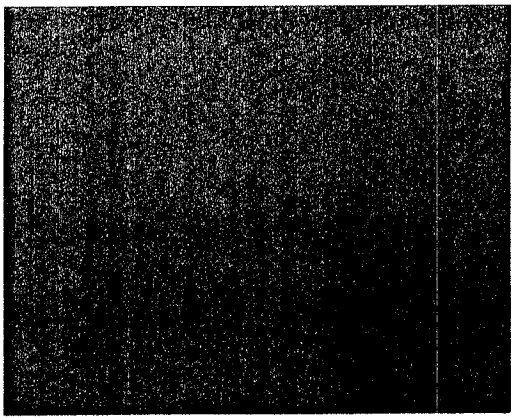
contradicting OIG's report?

A Yes.

Q And that evidence is what?

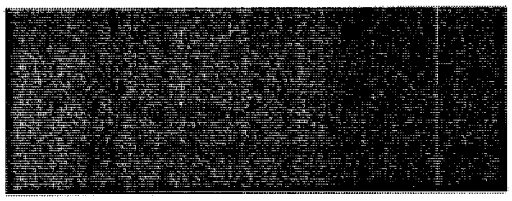


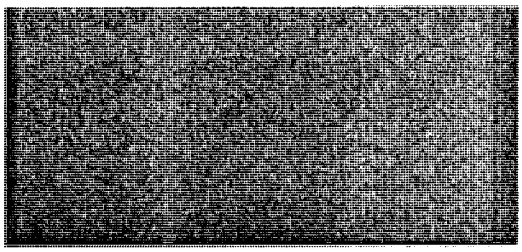




Q Anything else related to that you want to bring up?

A No. Other than, I think I told you, he's now in business with her in South Carolina and they have an environmental company.





Q Anything else with respect to that you want to discuss?

A No.

Q Okay.

A They're actually in Upper Marlboro now. They moved from South Carolina back up here and are still in business here. Barnett Lee and Associates.

Q Okay. That's all I have written down that you raised in your allegations.

Is there anything else that you want to discuss or any other evidence or support that you want to point me to?

A If I could just look through this real quick?

Q Sure.

A I know this has been a long day already.

Q No. I appreciate your time.

MS. CLARKE: Let's go off the record for a second.

(Whereupon, there was a brief pause.)

BY MS. CLARKE:

Q So you referred me to the email that he sent to you regarding you being targeted?

A Yeah. And "Why did they use you and [redacted] as fall guys? Why didn't they abate? What happened to the money to abate? Believe me, I told the OIG that it's no way that you and [redacted] could be fully responsible for this, and I had in my possession over 700 pages of documents dating back to 2002 from environmental firms conducting inspections on the eighth floor attic stating deteriorated and damaged asbestos up there."

Then he says down here, "You and [redacted] were the last to come and the first to leave.

Why didn't they go after Doug?"

So I don't know what his motive was, but I sent that on to Special Counsel.

Okay. I do have the list of the folks that I think maybe are the -- who were interviewed under FOIA, but you're going to get those and you'll know who they are; right?

Q Uh-huh.

A And, you know, Mr. Clayburn is the one that's like a third-shift guy.

Jim Woods used to be the director of ORE before Braulio, and then he was in Fred's position as OAS. So he is one of interviewees in that request.

[redacted]

Q And you're alleging that that was improper because he was in those positions before you got there?

A I'm saying that I don't know what he

would know about me.

Q Gotcha.

A Whatever he thinks happened before I got there, I don't know, but I don't know what he would know about me.

Q So you're saying that these people who were interviewed couldn't possibly have given information about you personally?

A Uh-huh.

Q I see what you're saying.

A One of them is Pete Wixted's interview, and he states that he was responsible -- Oh, however it appears that he stated he had no direct involvement in the specific management of asbestos in the HCHB.

I thought he didn't even take any responsibility. So he didn't have any management of asbestos in HCHB.

Q So what do you think about that statement? Is it inaccurate, do you mean?

A Well --

Q Or is it possible that he didn't?

A In the role in the environmental program, he should not have been managing asbestos in the HCHB. However, he was appointed as the asbestos coordinator and given those specific duties.

Q So, therefore, you're alleging that that statement is inaccurate?

A Yes. He also said I worked overseas [redacted]

He also says "the presence of asbestos-containing material" -- he even says, "the presence of asbestos-containing material in the attic was not a safety hazard and the DOC and [redacted] overreacted."

So if I mismanaged and didn't do what I was supposed to do, how could I have overreacted? And that's coming from him.

He worked with Lee for several years in the environmental program, and Mr. Lee assisted him. That's true.

And then an email that's potentially from Mr. Lee and it states that "they have an

1 inside person also."
2 Q What does that mean?
3 A It's an email he sent. I'm just
4 looking through -- I'll give you all of this so
5 you can tie it back to -- When I got the FOIA
6 requests, I went through all of them, and that's
7 what one of them says. I think it's from Mr.
8 Lee.
9 It's been blacked out, but it appears
10 to be from him. And it says "they have an
11 inside person also." So alluding to the fact
12 that maybe they have an inside person.
13 Q Who's "they"?
14 A I don't know.
15 Q Oh, okay.
16 A There's a whole email chain here.
17 Anyway, I'll give you copies of all these. This
18 is stuff that I looked through, those
19 interviews, and said what is this.
20 So -- Let me see. What else? I'll
21 just give you copies of all this about the FOIA
22 documents.

1 Q Okay.
2 A That's the HHS stuff that really -- I
3 mean, their opinion was there wasn't an
4 exposure. Here's both of the -- I think it was
5 you cannot draw -- They weren't willing to say
6 there wasn't any exposure. I think that -- I'm
7 not sure.
8 I think that they said you could not
9 say that there was an exposure based on the
10 facts. I'm not sure if it said that, but -- Let
11 me see. Yeah, it's how the samples were
12 collected. "Final thoughts are it's difficult
13 to answer. There's no actual exposure data
14 available to analyze," is what it says.
15 There's no way to say for sure whether
16 someone was exposed or not based on the
17 information that she provided and the way the
18 samples were collected. They say that any
19 exposure is unlikely. That's what that letter
20 says, "any exposure to employees is unlikely."
21 Like I said, that's where she lost her
22 license. And then this is their business

1 together.
2 And here's the crap I get from C4C all
3 the time with their emails.
4 Q C4C?
5 A The --
6 Q Coalition?
7 A -- Coalition; yeah. I also referred
8 this to the integrity committee. And they've
9 got all kinds of issues in the OIG's office -- I
10 don't know if you know that -- with Mr. Zinser,
11 and other agents have accused him of
12 intimidation and some other things. They've
13 accused the OIG, Mr. Zinser, of that.
14 [redacted]
15
16 These are other documents. I'm just
17 trying to make sure there isn't anything else I
18 needed to tell you.
19 My letter, I'll give you that.
20 Here's his accomplishments, all these
21 other things I've told you about already.
22 I think that's it.

1 MS. CLARKE: Thank you so much for your
2 time and for bringing these documents and for
3 going over these issues. I appreciate your
4 thoroughness and detail.
5 If you remember anything else that you
6 think you forgot to tell me, feel free to email
7 me. If there are any documents that you think
8 you forgot to include in these things, please
9 email me. I'll be reviewing them for a while --
10 [redacted] Okay.
11 MS. CLARKE: -- so feel free on a
12 continuing basis to let me know of anything you
13 think of afterward.
14 [redacted] Okay.
15 MS. CLARKE: But I appreciate your
16 time, and I have nothing else.
17 COURT REPORTER: Just before we go off
18 the record, normally in a sworn statement what
19 our firm does is we send along with your
20 transcript an errata sheet and a letter for her
21 that, if you make a copy and send it to her, she
22 can --

1 MS. CLARKE: Yeah. She can review it?
2 COURT REPORTER: -- look over the entire
3 transcript and then there is a place in the back
4 where, line and page, you can write something if
5 you felt that I didn't get it correctly.
6 [redacted] Okay.
7 COURT REPORTER: And then mail it back
8 in to Ms. Clarke.
9 [redacted] I just want to make sure
10 I've been really clear.
11 If there's anything that's even muddled
12 in your mind that I haven't --
13 MS. CLARKE: It's a lot of information,
14 so I'll digest it. And I think if there's
15 anything I have questions on, if I can, you
16 know, email you and clarify, that would be
17 helpful.
18 [redacted] Yes, that's fine.
19 (Whereupon, at approximately 3:35 o'clock p.m.,
20 the sworn statement of [redacted] was
21 concluded.)
22

1 ERRATA SHEET
2 JOB NO. 91195
3 CASE CAPTION: Sworn Statement In Re: [redacted]
4 SWORN STATEMENT DATE: Friday, April 11, 2014
5 DECLARATION UNDER PENALTY OF PERJURY
6 I declare under penalty of perjury that I
7 have read the entire transcript of my Sworn
8 Statement taken in the captioned matter or the
9 same has been read to me,, and that the same is
10 true and accurate, save and except for changes
11 and/or corrections, if any, as indicated by me on
12 the ERRATA SHEET hereof, with the understanding
13 that I offer these changes as if still under oath.
14 Signed on the day of , 20 .
15 Subscribed to and sworn before me this day
16 of , 20 , in .
17 Notary Public
18
19 My commission expires: , 20 .
20 Notary Public Registration No.
21
22

1 ERRATA SHEET
2 Page No. Line No. Change to:
3 Reason for Change:
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1 CERTIFICATE OF NOTARY
2 COMMONWEALTH OF VIRGINIA AT LARGE, to wit:
3
4 I, Patricia Dean Staffa, Notary
5 Public in and for the Commonwealth of Virginia at
6 large, and whose commission expires March 31,
7 2016, do certify that the aforementioned appeared
8 before me, was sworn by me, and was thereupon
9 examined by counsel; and that the foregoing is a
10 true, correct, and full transcript of the
11 testimony adduced.
12 I further certify that I am neither
13 related to nor associated with any counsel or
14 party to this proceeding, nor otherwise interested
15 in the event thereof.
16 Given under my hand and notarial seal
17 at Fairfax County, Virginia, this th day of .
18 2014.
19 PATRICIA DEAN STAFFA
20 Notary Registration No. 126026
21 Commonwealth of Virginia at Large
22

J

1 UNITED STATES PATENT AND TRADEMARK OFFICE

2 - - - - - - - - - - - - - - - - X

3 IN RE: Office of Special Counsel

4 File No. DI-10-0454,

5 [redacted] DI-13-0405, and

6 DI-13-2292

7 - - - - - - - - - - - - - - - - X

8 Alexandria, Virginia

9 Monday, April 21, 2014

10 2:48 p.m.

11 Sworn Statement of:

12 [redacted]

13 called for examination under oath by counsel on behalf

14 of the Agency, pursuant to notice, taken in the offices

15 of the United States Patent and Trademark Office,

16 Madison East Building, Room 5A44, 600 Dulany Street,

17 Alexandria, Virginia.

18

19

20 lipka.com, inc.

21 888.lipka.com

22 transcripts@lipka.com

1 APPEARING:
2 On Behalf of the Agency:
3 KIMERE KIMBALL, ASSOCIATE COUNSEL
4 CHIEKO CLARKE, ASSOCIATE COUNSEL
5 OFFICE OF THE GENERAL COUNSEL
6 U.S. PATENT AND TRADEMARK OFFICE
7 600 Dulany Street
8 Madison Building, East Wing
9 Alexandria, Virginia 22313
10
11 C O N T E N T S
12 WITNESS PAGE
13 [redacted]
14 Examination by Ms. Kimball 6
15
16 E X H I B I T S
17 PAGE
18 [redacted] Exhibit No. 1 136
19 -- Collection of [redacted] Documents
20 (Retained by counsel)
21
22

1 P R O C E E D I N G S
2 Whereupon,
3 [redacted]
4 was called for Examination Under Oath by counsel
5 on behalf of the Agency, and, having been duly
6 sworn by the notary public, was examined and
7 testified as follows:
8 MS. KIMBALL: I'm Kimere Kimball. I'm
9 with the U.S. Patent Office, Office of General
10 Counsel, and with me is Chieko Clarke, also with
11 the U.S. Patent Office, Office of General
12 Counsel.
13 We are independent investigators.
14 We've been asked to investigate your allegations
15 to the OSC regarding the Department of Commerce
16 reports on the asbestos investigation submitted
17 to the Office of Special Counsel in response to
18 the January 2010 OSC referral.
19 So those reports are the January 20th,
20 2011 report, the February 28th, 2011
21 supplemental report, the April 25th, 2011
22 supplemental report, and we're just going to

1 collectively refer to all of those as "the
2 Agency reports."
3 So our goal today is to understand your
4 allegations and determine whether you have any
5 information that the IG didn't consider.
6 In order to avoid any misunderstanding,
7 let me briefly explain how this interview is
8 going to go.
9 I'll be asking you questions, and the
10 court reporter will be transcribing them.
11 She'll transcribe both my questions and your
12 answers.
13 Please remember that the court reporter
14 can't take down head nods or "uh-huhs" or "uh-
15 uhs." You need to answer questions audibly and
16 with a "yes" or a "no" where that's appropriate.
17 Please also let me finish my question
18 before you provide any answer. This makes it
19 easier for the court reporter to take everything
20 down.
21 So I'm going to ask you a few questions
22 about how you're feeling today, and the goal

1 isn't to pry into your medical history. I just
2 want to make sure that you're able to give
3 accurate testimony today.
4 Are you currently under a doctor's care
5 for any illness that would affect your ability
6 to testify accurately and honestly?
7 [redacted] No.
8 MS. KIMBALL: Are you currently taking
9 any medication that could affect your memory,
10 your concentration or alertness, or otherwise
11 interfere with your ability to fully and
12 accurately testify?
13 [redacted] No.
14 MS. KIMBALL: Are you under the
15 influence of any alcohol or any drug that could
16 otherwise affect your memory and concentration,
17 alertness, or otherwise interfere with your
18 ability to testify accurately and fully?
19 [redacted] No.
20 MS. KIMBALL: And to your knowledge, is
21 there anything at all preventing your ability to
22 give truthful and accurate testimony today?

1 [redacted] No.
2 MS. KIMBALL: Do you understand that
3 you were administered an oath by the court
4 reporter and that you're testifying today under
5 penalty of perjury?
6 [redacted] Yes.
7 MS. KIMBALL: Do you have any questions
8 before we begin?
9 [redacted] No.
10 EXAMINATION ON BEHALF OF THE AGENCY
11 BY MS. KIMBALL:
12 Q So I'm just going to start with some
13 background questions.
14 Where do you currently work?
15 A U.S. Department of Energy.
16 Q And what's your position there?
17 A [redacted]
18
19 Q And what kind of position is that?
20 What are your duties?
21 A Facility management, real property,
22 personal property, and facility alterations.

1 Q Is that the same type of position that
2 you had at Commerce?
3 A No. It's part of the position that I
4 had at Commerce.
5 Q What dates did you work at Commerce?
6 A 2005 through November of 2009. May of
7 2005 through November of 2009.
8 Q What was the last position that you
9 held at Commerce?
10 A [redacted]
11 Q What were your duties as [redacted]
12 [redacted]
13 A Running ten department-wide programs,
14 mail, logistics, facilities, historical
15 preservation, real and personal property,
16 managing the Herbert C. Hoover Building --
17 Q And --
18 A -- and fleets.
19 Q I'm sorry?
20 A Fleets.
21 Q Is that cars or --
22 A It's cars, trucks, vans, whatever

1 vehicles the Department has.
2 Q I see. And what role did you have, if
3 any, in overseeing the management of any
4 asbestos problems?
5 A None.
6 Q And in your role of overseeing
7 facilities, that didn't involve anything to do
8 with asbestos or --
9 A Yes. The asbestos management program
10 belongs to the General Services Administration.
11 Q And who was your supervisor while you
12 worked at DOC?
13 A Otto Wolff. And then he was followed
14 by John Charles.
15 Q John Charles?
16 A Yes.
17 Q And what dates did Mr. Wolff supervise
18 you?
19 A Do you mean as [redacted]
20 [redacted] Because that was not
21 the only job I held at the Department of
22 Commerce.

1 Q All right. Let's start with just
2 [redacted]
3 A From March of 2007 until January 2009.
4 And then John Charles was about May of 2009
5 through November.
6 Q And who was between January and May of
7 2009?
8 A There was an acting person. It was
9 John Phalen.
10 Q Phaley?
11 A P-h-a-l-e-n.
12 Q And did you start as [redacted]
13 [redacted] in March of 2007?
14 A That's when I was hired for the
15 position. I acted in the position on a detail
16 for eight months prior to that. So July of 2006
17 to March of 2007 I was detailed to the position
18 Q And who was your supervisor then?
19 A Otto Wolff.
20 Q What position did you have prior to
21 July 2006?
22 A [redacted]

1 [redacted]
2 Q And who was your supervisor there?
3 A There were two people. The second
4 supervisor was Bill Flemming. I can't remember
5 the exact date, but he started in late
6 2005/early 2006. And then prior to that, it was
7 Deborah Jefferson.
8 Q While you were [redacted]
9 [redacted]
10 [redacted]
11 A No. I never supervised [redacted]
12 Q [redacted] wasn't anywhere in your chain of
13 command?
14 A [redacted] was two levels below me.
15 Q Okay.
16 A I was [redacted] second-level reviewer. [redacted]
17 was supervised -- I don't know who supervised
18 [redacted] the first few months, but later on [redacted] was
19 supervised by Rhonda Jackson, who was the acting
20 deputy director.
21 Q And what were [redacted] duties two
22 levels below you?

1 A Well, originally, she was three levels
2 below me. No, wait. [redacted] was four levels below
3 me. [redacted] was the -- I believe [redacted] was the
4 [redacted] I don't know if
5 that was [redacted] exact title, but --
6 Q And then when [redacted] was two levels below
7 you, what was [redacted] then?
8 A [redacted]
9 [redacted]
10 was two levels below me.
11 Q What's involved in the Office of Real
12 Estate?
13 A That was real property. It was
14 overseeing construction for the bureaus
15 underneath Department of Commerce. It was
16 energy, it was some environmental, and it was
17 payment of rents, I think.
18 Q And when you say "environmental," does
19 that include hazardous waste cleanup on the
20 current properties or --
21 A No. That belonged to Building
22 Management. [redacted] was responsible for -- Somebody

1 in her office was responsible for recycling and
2 buying energy credits. Basically, working on
3 the balanced scorecard from the White House,
4 those types of energy things.
5 Q Edgar Dion Lee, was he within your
6 chain of command?
7 A Edgar Dion Lee? Yes.
8 Q And where was he in your chain of
9 command?
10 A Well, yeah, in the chain of command;
11 yes. I never supervised him, though. But in
12 the chain of command, he was -- When I first got
13 there, he would have been five levels below me,
14 I believe.
15 Q And who was his direct supervisor?
16 A I don't recall the gentleman's name,
17 but he was the director of the Office of Real
18 Estate and Major Programs.
19 Q So he was within the Real Estate Office
20 --
21 A Yes, he was.
22 Q -- as opposed to the Building

1 Management office?
2 A Correct.
3 Q And so what were Mr. Lee's duties?
4 A He basically took care of the hazardous
5 waste that was in the building, generated paint
6 cans, metal, batteries, paint removal supplies,
7 things like that. Light bulbs, I think, was
8 also in his area.
9 Q You said earlier that the hazardous
10 waste section was within Building Management,
11 but that Mr. Lee worked --
12 A No.
13 Q -- in the Office of Real Estate?
14 A It was originally in the Office of Real
15 Estate and Major Programs when I got there.
16 Q I see.
17 [redacted]
18
19
20
21
22

1 A And it made more sense for him to be in
2 Building Management anyway, so Doug Elznic, who
3 was the acting director of the office at that
4 time, spoke to the director of the Office of
5 Real Estate and Major Programs.
6 Doug's full-time job was the Office of
7 Building Management. So the two of them agreed
8 that it would be better if Lee moved over to --
9 on the building facilities side.
10 Q So when you started, Mr. Lee was in
11 Real Estate, but he moved to Building
12 Management?
13 A Yes.
14 Q So he was originally under -- somewhere
15 under [redacted] command --
16 A No. [redacted] was not even there at
17 this time.
18 Q I see.
19 A There was another gentleman. I don't
20 recall his name, but he now works at NOAA doing
21 real estate or I think he's a special projects
22 officer at NOAA. But I don't recall his name.

1 Q So then Mr. Lee moved over to Building
2 Management --
3 A Correct.
4 Q -- and was never in Real Estate again?
5 A No.
6 Q Or during the time that you were there?
7 A No. He was back in Real Estate later
8 on --
9 Q I see.
10 A -- when Doug Elznic reorganized the
11 office to put him under the Environmental
12 Office, which, by this time, [redacted] had
13 been hired into.
14 Q I see; okay.
15 And throughout the time that Mr. Lee
16 was there, was he doing hazardous waste cleanup
17 type stuff?
18 A During the time he was where?
19 Q I'm sorry. During the time that he was
20 at Commerce and you were at Commerce, was he
21 consistently in the same position of dealing
22 with hazardous waste?

1 A Except for a detail to the Office of
2 Acquisition Management for eight months.
3 Q Okay. But both when he was in the
4 Office of Real Estate and when he was in
5 Building Management?
6 A Correct.
7 Q Was Mario Aquino within your chain of
8 command?
9 A Yes.
10 Q And where was he in your chain of
11 command?
12 A Three levels below me.
13 Q And what were his duties?
14 A He was the building manager.
15 Q And what office was that in?
16 A The Office of Building and Space
17 Management.
18 Q And so that was the same office that
19 Mr. Lee moved to from Real Estate?
20 A Yes.
21 Q Okay.
22 A And that was his supervisor, Mario

1 Aquino.
2 Q Okay. And during the time that [redacted]
3 [redacted] and Dion Lee and [redacted] were in
4 your chain of command, were you [redacted]
5 [redacted] for all of that time?
6 A When they were in my chain of command?
7 Q Yes.
8 A No. While I was acting as [redacted]
9 [redacted] was
10 hired into the Office of Occupational Safety and
11 Health.
12 Q Okay.
13 A So for my full-time position, [redacted] would
14 have been in my chain of command. But since I
15 wasn't there, [redacted] worked for Bill Flemming, who
16 was acting in my stead.
17 Q I see. So is the Office of Safety and
18 Health not under the director of Administrative
19 Services?
20 A It is not.
21 Q I see; okay. All right.
22 The IG report found that employees were

1 knowingly exposed to asbestos in the Hoover
2 Building.
3 Do you allege that this is inaccurate?
4 A Well, I allege that we don't know
5 whether it's accurate.
6 Q And when you say "we," who do you mean?
7 A Anybody that's tested the air space or
8 anybody that has made that accusation.
9 Q Why don't they know if it's accurate?
10 A Because no one has been tested with a
11 personal air monitor on their body which counted
12 asbestos fibers in the air that they breathed
13 while they were on the eighth floor of the
14 building.
15 The tests that have been taken so far
16 count dust fibers or fibers without any
17 specificity to what type of fibers they are, and
18 at times fibers have been identified in the
19 eighth floor, but there has been no direct
20 correlation on the exact days that the fibers
21 have been taken and people being on the eighth
22 floor.

1 Q Is it accurate to say that there's
2 asbestos in the eighth floor attic?
3 A That's correct. There is asbestos in
4 the eighth floor.
5 Q So you're saying that we don't know
6 whether people are breathing the asbestos,
7 whether or not it's actually affecting them or
8 —
9 A Correct. That's exposure.
10 Q Okay.
11 A Exposure is to asbestos friable fibers
12 in the air.
13 Q Okay.
14 A That is the way I'm defining it here.
15 Not whether it's just laying on the floor or in
16 a ceiling tile.
17 Because if that were true, then the
18 entire -- well, I wouldn't say the entire -- but
19 several floors of the Herbert C. Hoover Building
20 have asbestos in the floor tiles. So if you use
21 another definition then, everybody that worked
22 on that floor would be exposed to asbestos.

1 Q I see. So when you say it's inaccurate
2 to say that people were exposed, do you mean
3 it's inaccurate to say that the asbestos was in
4 the air at the time that people were breathing
5 it?
6 A Correct. We have nothing that leads us
7 to believe that with specificity. You can make
8 a generalization saying that since it was in the
9 air, it may have been in the air last week, but
10 we don't know that.
11 So sometime between the tests that
12 showed no asbestos fibers and the test that
13 showed asbestos fibers, obviously, somewhere in
14 there the asbestos fibers were in the air. But
15 we don't know what day and we don't know what
16 day the people were there.
17 Q Okay. So —
18 A So the answer is we don't know.
19 Q So you agree that there are asbestos
20 fibers in the air. It's just not clear whether
21 people were exposed to it?
22 A No. What I believe is, based on

1 testing by credible samplers and testing labs,
2 there have been asbestos fibers in the air at
3 specific times, not all the time.
4 Q Okay. And we don't know exactly when
5 people were up there?
6 A Correct.
7 Q Okay.
8 A Well, let me rephrase that.
9 We don't know when the people were up
10 there or when the fibers were there. We only
11 know that the fibers were there the day that we
12 tested. It's a one-time sample.
13 Q It's a snapshot?
14 A That's exactly what it is, a snapshot.
15 Q Okay.
16 A And the only way that you know a person
17 is tested, which is a permissible exposure
18 limit, is if you put a breathing device on them
19 and they wear it while they're in the attic.
20 Q I see; okay.
21 And so were any actions taken to
22 mitigate employees' exposure to asbestos that

you're aware of?

A When?

Q **During the time period 2006 through 2009.**

A Well, I did not know that there was asbestos in the attic until April of 2007 [redacted]

Q **And do you mean that that was the first time you knew there was asbestos with the possibility of it being in the air, or anywhere?**

A Anywhere. That was the first time anybody even mentioned asbestos in the building

to me. I don't recall it ever being mentioned to me before that.

But as I said, since it's a General Services Administration building, they would be the ones that come in and take the air sampling and do the remediation and everything.

So if it would have been made to me, it would have been made something in passing, but I don't recall that being done.

[redacted]

And so we -- I -- I think it was a "we," but I can't talk for Doug, so I know it was I asked her to make a determination as to what steps we needed to take to protect the employees, not to deal with the asbestos.

And Rhonda Jackson, I believe she was

also in the meeting with us because she was the acting deputy director of Administrative Services at this time.

But I immediately placed the attic off limits and asked [redacted] to give us some idea of what had taken place and what the consequences were.

Q **And what do you mean by you "placed the attic off limits"?**

A Well, the attic is the eighth floor. There should be nobody in the eighth floor except for our workers.

However, there are people that access the eighth floor that work on the cell phone towers, and GSA would work on the eighth floor

[redacted]

[redacted]

And so the attic was locked off because our people had the key. So you went to [redacted] [redacted] if you wanted access to the roof and [redacted] gave it to you.

And it was kind of a normal everyday thing until that day, and then I told them, no, everybody had to go through [redacted] and nobody was to go to the attic unless they had the suits or the protective equipment that [redacted] was going to recommend to us.

Q **And then did [redacted] recommend that?**

A [redacted] did.

Q Okay.

A I think it was a day or two later [redacted] came back and recommended that we make an attempt to identify everybody who could have had access to the attic.

[redacted] said that we had failed to properly train the employees and that we had failed to

1 properly issue and train the people with
2 hazardous protective equipment, so that none of
3 our people could actually go upstairs until we
4 did those things.
5 Q And so all of this is still happening
6 in April of 2007?
7 [redacted]
8
9 Q And then did you get the safety
10 equipment for employees?
11 A We did. But what actually happened
12 first was [redacted] and Doug
13 Elanic to get the medical physicals done for the
14 employees, because they had to have that first.
15 Then [redacted] identified the specifics --
16 [redacted] along with the Federal Occupational Health
17 Services, which was the health clinic which is a
18 branch of the Center for Disease Control, I
19 believe, they identified the respirators that we
20 needed.
21 And then they got trained, but I'm not
22 exactly sure who trained them. We may have

1 contracted that part out. I don't remember.
2 And then those few people that were medically
3 qualified and had the respirator were allowed to
4 go work in the attic.
5 And these were predominantly engineer
6 people which is our definition for somebody
7 who's heating, ventilation, plumbing, electrical
8 type person.
9 Q And all of this was still happening in
10 April of 2007?
11 A No. This would have been in the early
12 parts of May, the first week or so. Because it
13 took several days, maybe even a week. But I
14 don't think this took past the middle of May,
15 somewhere in that time frame.
16 Q Okay.
17 A But no one was supposed to be going in
18 the attic while this was being done.
19 Q And [redacted] had the controlled
20 access; correct? The key that -- Nobody was
21 allowed in without the key?
22 A Well, no. We don't know how many

1 people had keys because there was no control
2 over the master keys that exist for the
3 Department of Commerce Headquarters building.
4 But [redacted] had control of the
5 attic, and he locked the doors. I know he put
6 signs up. And I believe I was told he re-keyed
7 them, but I don't know what exactly that meant,
8 that he "re-keyed" them.
9 Q And what did the sign say?
10 A I don't recall what the sign said. It
11 was the wording that was recommended by [redacted]
12 [redacted] and the asbestos coordinator for GSA.
13 Q Were they -- Do you remember whether
14 they were warning signs regarding asbestos, or
15 were they signs saying please contact [redacted]
16 [redacted] to get in? Do you know the general
17 content of the signs?
18 A I don't believe they mentioned
19 asbestos. I just think they would have said
20 something like "warning, hazardous material, no
21 access," or something to that nature. But I
22 honestly don't recall what the signs said.

1 Q Okay. Do you have any evidence to
2 support that these protective measures were
3 taken? Do you have emails or --
4 A I have no emails. I left the
5 Department of Commerce, and all that has to stay
6 behind. I have the word of Doug Elanic and
7 [redacted] and that's all I have. In
8 meetings, I was told that it was done.
9 I also have -- or I also had a number
10 of calls speaking with the lady who was in
11 charge of the cell towers and the director for
12 Information Management, the OCIO's office.
13 Her name was Erin Fitzgerald. Because
14 she would call me about once a week complaining
15 that she couldn't get the Verizon people up to
16 work on their cell tower because they weren't
17 trained and didn't have the protective gear.
18 Q And did you provide this information to
19 the IG?
20 A What information to the IG?
21 Q The information regarding the
22 protective gear and all of the steps that were

1 taken in April and May of 2007?
2 A Provided to which IG?
3 Q Sorry. When the IG investigated and
4 interviewed you for the original whistleblower
5 complaint, did you provide information regarding
6 the protective measures taken?
7 A I gave a brief overview of the steps
8 that I took to them. That was the first
9 question they asked me was can you please
10 explain -- I don't remember the exact wording,
11 but it was something like could you please
12 explain to us the steps you took once you were
13 notified that there was asbestos on the eighth
14 floor and some of your employees may have been
15 exposed.
16 And I gave them sort of a thumbnail
17 overview of what we've said here today plus
18 probably some more.
19 Q Okay.
20 A But while all this was going on, Peter
21 Wixted, who was the asbestos manager, was
22 supposed to be working with Doug Elznic and

1 [redacted] to control the asbestos itself in
2 the building.
3 So he was supposed to be working with
4 the GSA coordinator. [redacted] was only responsible
5 for the health effects, and that was because [redacted]
6 supervisor -- acting supervisor, Bill Flemming,
7 gave [redacted] those duties.
8 Q And when you say that Mr. Wixted was
9 supposed to be working to control the asbestos,
10 what does that mean?
11 A That means that he was supposed to be
12 coordinating with the GSA representative to
13 identify what we could do in the attic that
14 would allow our workers to go up in the space
15 without personal protective equipment or to
16 gather information about whether or not we were
17 going to abate the asbestos, which would have
18 been removal, and express our concerns that we
19 had other people like Verizon and other people
20 that wanted access to the roof that we couldn't
21 give access because of the personal protective
22 equipment requirements. He was the asbestos

1 coordinator for the office.
2 Q And for the abatement, is that
3 something that Mr. Wixted would have had control
4 over implementing, or is that something that he
5 would have worked with GSA with?
6 A Would have worked with GSA because it
7 was a GSA building. He would have just
8 coordinated between GSA and Doug Elznic to get
9 it done.
10 Q And is this information that you
11 provided to the IG during interview?
12 A I remember telling them that Peter
13 Wixted was coordinating with GSA. I don't
14 remember how elaborate I provided that
15 explanation.
16 Q Okay.
17 A But I do remember telling them that he
18 was the asbestos coordinator.
19 Q And do you believe that the IG
20 considered this information and evidence in
21 deciding who had fault with the asbestos
22 exposure?

1 A As a personal opinion?
2 Q Sure.
3 A As a personal opinion, I don't believe
4 they did, and I believe -- I don't believe that
5 Peter Wixted provided that information to them.
6 Q Provided what information?
7 A That he was the asbestos coordinator
8 for the office at the time.
9 Q Was that his official title, or was
10 that a function that he had?
11 A It was a collateral duty.
12 Q What does that mean?
13 A That means his full-time job was
14 Energy, and that I assigned him the additional
15 duty with the responsibilities of acting as the
16 asbestos coordinator for the building.
17 And I provided him with the basic level
18 of training provided by ASHRAE that gave him the
19 knowledge to perform those duties.
20 Q Sorry. What is ASHRAE?
21 A American Society of Heating,
22 Refrigeration and Air Conditioning Engineers.

Q And what sort of training is that?
A Well, it's different levels. We gave him the basic, which was a week. There's another one to actually abate projects, which would have been another week.
And then there was another one to actually design projects, which was another week. But we only gave him the basic.
Q And was that asbestos-focused or --
A Yes.
Q Okay.
A I have a copy of the certificate if you'd like it?
Q Sure. Are these materials your only copies? Should we make a copy of them all, or --
A No. These are your copies.
Q Okay, great. Thank you.
A And here is his email -- or document back to me -- I'm sorry, here's the second page of it confirming that he did not disagree with the duties but that I should find him training,

and here is the collateral duty orders that I gave him.
Q So the collateral duty appointment was in 2006, so that predates when you knew that there was asbestos in the building?
A Correct.
Q And so why did you appoint him as the asbestos coordinator?
A If I remember correctly, the General Services Administration was coming over to do air sampling, and I was talking to [redacted] about doing air sampling.
I'm not sure if it was Doug Elanic or [redacted] but one of them mentioned that we didn't have an asbestos coordinator. It was GSA's job to take care of it, but we were supposed to have a coordinator to facilitate the discussions.
And that's when it precipitated me appointing him because I asked Doug who we should give that duty to. And even though Wixted was hired as an energy engineer, he is in

fact trained to be an environmental engineer, or at least that's what I was told. So this would have been very easy work for him to do.
Q So was he in your chain of command throughout your tenure at Commerce?
A No. He left -- Well, I think he left before I did. I'm not positive about that, but I think he did.
Q And so in 2006 at that time that you were in the Office of Safety and Health -- is that correct? -- or was this --
A Well, until July of -- This is when I was [redacted]
Q I see; okay.
A Because in July of 2006, I was detailed to the Office of Administrative Services.
Q I see. And Mr. Wixted was in your chain of command --
A Yes.
Q -- when you were the [redacted]
A Yes.

Q And was Mr. Wixted still in your chain of command and still the asbestos coordinator in 2007 when you discovered the asbestos in the attic?
A Yes, he was.
Q And was Mr. Wixted part of the discussions on what to do for employees' safety?
A No. Because he wasn't related to the safety. He was only related to the asbestos material.
Q I see. So he was more on the abatement front and not on the protection-while-the-asbestos-was-there front?
A Yes. That was the supervisor's responsibility, which [redacted] Rufus --
Q Cook?
A -- yes, Cook, and I don't remember the other guy's name. But they were responsible for safety.
Q Okay.
A We had no other safety people in the

1 organization at that time.
2 Q Okay. We're going to come back to Mr.
3 Wixted's involvement, but I have a couple of
4 questions regarding Mr. Lee's exposure first.
5 A Okay.
6 Q The IG report concluded that it was
7 credible that Mr. Lee was present and performed
8 work in the eighth floor attic during the period
9 between February 23rd, 2007 and April 25th 2007
10 and all the way through to January 2008, and
11 they made this determination based on the nature
12 of his duties and his position description.
13 Do you dispute the fact that Mr. Lee
14 was exposed or could have been exposed?
15 A During those time frames, I do dispute
16 that.
17 Q Okay. And what's your basis for that?
18 A My recollection is that he was detailed
19 to the Office of Administrative Services -- or
20 excuse me, I'm sorry -- he was detailed to the
21 Office of Acquisition Management during that
22 time period, and therefore his duties were to

1 perform acquisition procurement-related
2 marketing reviews for the director of that
3 office.
4 So my understanding was that he worked
5 for them full-time for the eight months. I
6 don't recall him being in our work area or doing
7 any work that was there.
8 The second reason I dispute that is
9 that at no time that I'm aware of was he
10 responsible for asbestos as a hazardous material
11 because it requires special training and special
12 removal to deal with asbestos.
13 So I am not aware of any time during
14 that time frame that he should have been, as a
15 part of his job, working with asbestos as a
16 hazardous material.
17 I don't believe it's in his job
18 description and I don't believe that the
19 manifest that -- and I don't know this -- but I
20 don't believe that the manifest that he tracked,
21 where he had to list all the hazardous
22 materials, ever showed asbestos.

1 Q And as part of his job duties, was he
2 required to be up in the eighth floor attic
3 area?
4 A Not to my knowledge. There would have
5 been no hazardous material up there that he
6 should have been dealing with. It was all taken
7 downstairs to the garage for him to turn in.
8 That was my understanding.
9 Q I see. Okay.
10 A So there may have been an opportunity
11 for him to have probably gone to a mechanical or
12 an electrical room or maybe an electric vault
13 just to pick up light bulbs or cans of oil or
14 something like that.
15 But, honestly, my own opinion is I
16 don't see any reason for him to have ever been
17 on the attic eighth floor.
18 Q So, to your knowledge, he wasn't
19 responsible for cleaning up after other
20 individuals who had been through the attic like
21 the Verizon people and other contractors who had
22 been traipsing through the attic?

1 A No. That wasn't his job at all. His
2 job was to -- Once the hazardous material was
3 collected, his job was to manifest it and get it
4 to the contractor -- I'm trying to think of the
5 name of the contractor -- who disposed of it for
6 us.
7 So there are manifests that show
8 everything that he dealt with and touched. His
9 job was never to go to the eighth floor. His
10 job was never to clean up after anybody.
11 Q I see.
12 A It was simply to go to the collection
13 points or, as I guess you would call it a best
14 practice, he could actually go to the mechanical
15 rooms or the electrical vaults where some of the
16 material might be at and pick it up for the
17 workers and take it downstairs. But that would
18 have been the most that he would have ever done.
19 Q I see. And so who would have actually
20 collected the materials that Mr. Lee disposed
21 of?
22 A The workers themselves usually did.

1 For example, if they changed oil in a control,
2 they would take the old oil and put it down in
3 the old oil collection point.
4 Q I see.
5 A And then they would put new oil in the
6 machine, and Dion would go down to the
7 collection point and list everything on a
8 manifest and then turn it in.
9 Q I see; okay.
10 MS. CLARKE: I have a question.
11 Do you recall, did Mr. Lee conduct
12 inspections of the attic, or would he have
13 reason to conduct inspections?
14 [redacted] I have no knowledge of
15 him ever conducting inspections of the attic. I
16 do believe that there may have been -- Well, he
17 gave [redacted] a tour of the building when [redacted]
18 first came over to that side when [redacted] first was
19 hired.
20 I believe [redacted] was a safety person at
21 that time. And he did give [redacted] a tour of the
22 building. Now, I don't know if that may have

1 included the attic. I don't know.
2 But, usually, it should not have
3 because the attic has nothing to do with normal
4 people. It was only there for -- The attic has
5 a penthouse that is for the elevator staff, and
6 that's where all the elevator equipment is.
7 And then the rest of it is like your
8 attic at home where they have asbestos sprayed
9 around for insulation.
10 So there was no reason for anybody to
11 be up there except for one of the engineers to
12 work on something or for the people that had
13 access to the roof and the Verizon and Comcast
14 and all those other guys to go up to the roof
15 and work on antennas. Because the antennas
16 weren't on the eighth floor. They were above on
17 the roof.
18 BY MS. KIMBALL:
19 Q And so after the attic was shut off,
20 after [redacted] locked up the attic --
21 A Well -- Can I interrupt you for a
22 second?

1 Q Sure.
2 A The attic was off limits all the time.
3 It was never a common area. So it should have
4 been locked up from day one back in 1986 when
5 the building opened. And what I did was
6 reinforced [redacted] to make sure it was done.
7 Q I see; okay.
8 And so once it had been reinforced that
9 it was a controlled area, then you mentioned
10 that the contractors absolutely had to go
11 through [redacted] because you got these calls from
12 the communications people; correct?
13 A Yes.
14 Q And the other people that may have
15 needed to be up there, were they all Commerce
16 employees?
17 A No. The only Commerce employees that
18 should have been on the eighth floor worked for
19 [redacted]
20 Q Okay.
21 A And the other people -- Well, I take
22 that back. There may have been a contracting

1 officer representative that went up with Verizon
2 or Comcast. I don't know if that took place.
3 [redacted]
4
5
6
7 So at the most, a COR might have
8 accompanied somebody, but everybody else should
9 have worked for [redacted]
10 Q So what's a COR?
11 A COR, contracting officer
12 representative.
13 Q Okay. And the people who worked for
14 [redacted] were the engineers?
15 A Yes. That should have been [redacted]
16 office.
17 Q And so [redacted] would have been the
18 second-line supervisor?
19 A Yes, [redacted] would have been.
20 Q And so the engineers that would have
21 been up there, would that have been individuals
22 that Mr. Lee would have been collecting

1 hazardous waste from?
2 A They would have been individuals that
3 should have dropped off hazardous material to
4 the collection points in the basement.
5 Q But you said that Mr. Lee may have gone
6 and collected from these individuals directly.
7 A No. From the -- I'm sorry. He may
8 have collected from them in the mechanical and
9 electrical rooms and the electrical vaults
10 because that's where we have oil, light bulbs,
11 things like that that are waste.
12 Q I see.
13 A So those are the only places that he
14 would have gone. There would have been no
15 reason to collect anything from the attic
16 because that's not where anything is that holds
17 oil, gasoline, antifreeze, or any of these other
18 chemicals that we use.
19 Q I see. And then the engineers that
20 would be working up in the attic, what would
21 they have been doing?
22 A Mostly air conditioning, heating,

1 ventilation, controlling the fans in the attic.
2 They may have been running electrical line
3 through to another part of the building.
4 They might have been working on some of
5 the electronic equipment outside the elevator
6 room. Something of that nature.
7 Q I see; okay. So as part of OSC's
8 review of the IG investigation, they felt like
9 the IG investigation was inadequate to establish
10 who supervised Mr. Lee when.
11 Do you know who supervised Mr. Lee in
12 2007?
13 A Originally, in 2007, I believe it would
14 have been Francesca Ryan, who was the acting
15 director of the Office of Real Estate and Major
16 Programs because the person that had the full-
17 time job had already left. I believe he had
18 already left. That's my recollection. I think
19 he left in the fall.
20 Q And that would have been his first-line
21 supervisor?
22 A I believe so; yes. Because she was the

1 only supervisor in the office that I'm aware of.
2 Q And then while he was detailed from
3 August 2006 to October 2007, who would have
4 supervised him then?
5 A That would have been -- I don't
6 remember his first name, but it's Anastasio. He
7 was the director of the Procurement Office. But
8 if I may add, I believe in December is when he
9 was transferred to [redacted]
10 So from December to March is when he
11 was -- December to February is when he was
12 detailed to Anastasio. Anastasio's name might
13 have been Michael.
14 Q Okay. And then after December 2007,
15 was he with [redacted] from then through 2009?
16 A Well, from then until he was detailed
17 in 2007. And then after he came back off the
18 detail in October, I believe, or somewhere
19 around there. I don't remember the exact dates
20 of the detail, but it would have been the fall.
21 Q So the detail is not August 2006 to
22 October 2007?

1 A No, I don't believe it was. I believe
2 it was -- And I could be wrong, but I don't
3 remember it that way. I remember it being
4 February to October.
5 Q And he was with [redacted] both
6 before and after his detail?
7 A Yes. And [redacted] remained his
8 supervisor of record through the detail.
9 Q You stated that you weren't afforded
10 the opportunity to present evidence that you
11 believe would have contradicted Mr. Lee's
12 allegations regarding his exposure and regarding
13 the exposure of asbestos overall.
14 A Yes.
15 Q What specific allegations are you
16 referring to?
17 A I don't understand your question.
18 Q Sorry. In the OSC's summary of your
19 allegations regarding the IG complaint --
20 MS. CLARKE: Which he hasn't seen, by
21 the way.
22 MS. KIMBALL: -- right --

BY MS. KIMBALL:

Q -- it states that you don't believe that Mr. Lee had been exposed to asbestos. Sorry. Let me find the exact statement.

In your initial interview, you stated that you did not believe that Mr. Lee had been exposed to asbestos.

Have we covered all of the issues that you have with Mr. Lee's allegations of his exposure, or are there other things that you take issue with?

A I've never actually been told what his accusations were. I've only been allowed to read the report. And prior to the report being published, I didn't even know that he had filed allegations against me.

When the IG inspectors came to me, they explained to me that they were doing an administrative look at the way the asbestos response had been handled at Commerce.

Q Okay.

A That was their explanation. They

didn't tell me that somebody had whistle blown or that accusations were made against me or anything.

Q Okay.

A So all I know is what I read in the report, and what I read in the report is not true. What we did do, though, was we provided papers to everybody who may have had access to the attic at any time in the last six months prior to April.

And since Edgar Dion Lee was part of the office -- there were people that said they saw him up there -- and so his name was included on the list just in case something happened, he would have documentation from the government substantiating his potential exposure.

But this didn't have anything to do with the exposure in March. It had to do with the exposure six months before that. Because what we did was went back and looked at everybody that might have had access to the attic six months prior [redacted]

Q Okay.

A And there was a big list of people. There were all kinds of people that should not have been in the attic, but were.

Q Okay.

A And what we found out was that even prior to that, I don't remember the name that it was given, but it was like the Commerce Employees' Club met on the eighth floor.

There was a ping pong table. They used to go up there and drink beer. They used to go up there and smoke, drink sodas. At least, that's what I was told.

[redacted]

Q Okay. And the Commerce Club Employees and all those people were included in the people that got the letter because they may have been

there within six months of that report?

A I think the answer is yes, but let me rephrase.

The people that we had someone either or someone else other than themselves. You wouldn't volunteer yourself to have been up there. Someone else had to see you up there.

Q Okay.

A And if someone else had remembered seeing you up there in the six months prior to the exposure, whatever purpose you were up there for, those names were collected and they were given a letter.

Q I see; okay.

MS. CLARKE: And how did Mr. Lee's name get on that list? If you recall.

[redacted] Somebody saw him up there, and I don't remember who it was. It may have been Camille Fields. For some reason that rings a bell to me.

BY MS. KIMBALL:

Q And who is she?

A She was the director of Mail Services, I think was her job, and she recalled seeing him up there. I think she was another one of the people that got a letter because she was up there.

And as I said, none of those people should have been, but this was before my time, so they had been smoking and drinking sodas, I guess, primarily.

Because that's what [redacted] found up there were soda cans, soda bottles, water bottles, cigarette butts. The ping pong table had been removed much earlier than that. I don't know when.

But -- So those were the circumstances under which I believe he may have been exposed to some asbestos fibers in the attic because he shouldn't have been there in the first place, but he had been. And we don't know if the fiber count existed when he was there or not.

Q So you contend that no mismanagement of the asbestos program occurred; correct?

A No, I don't contend that.

Q Okay.

A I contend that my response to the asbestos report [redacted] was proper and that the asbestos management prior to me, I have no knowledge of.

I do know that GSA was not testing air samples or conducting air sampling tests in the attic, which should have been done, but they tested every floor except the attic.

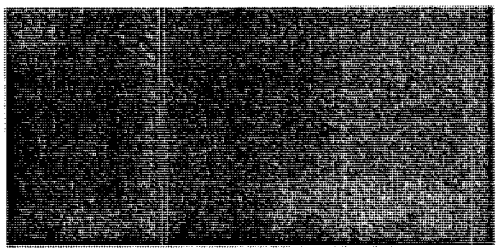
So I honestly don't know if the program was mismanaged or not. I know when I was notified, I took proper and appropriate steps for my level to manage the program properly, and I believe that I went above and beyond.

The original person who was supposed to sign the letters for the employees was Deborah Jefferson, the director for Human Resources Management. The letters were vetted by the Office of General Counsel. She still refused to sign.

I thought it was important for the

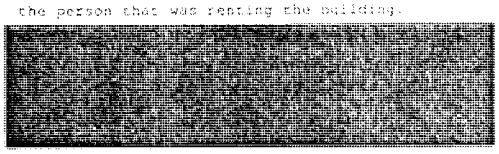
employees for any future health incidents -- because you may know that asbestos strikes 20 or 30 years into the future -- [redacted]

I briefed the IG about what was happening in the attic long before the whistleblower complaint was ever filed. I briefed the assistant secretary. We had several meetings with the General Services Administration.



We received a copy of an old memorandum that the General Services Administration had sent around to their regional offices saying that the responsibility for asbestos belonged to

the person that was renting the building.



Q Okay.

A And it was not even sent to us. It was sent to GSA regional administrators. So I briefed everybody I could. I took all the precautions.

We sent all these people to medical surveillance. I took the heat for not letting anybody on the roof. And this went on for seven or eight months.

Q What made it end? At what point did you start letting people on the roof?

A When -- Well, I never started letting people on the roof. We went through and we let people go up there that had personal protective equipment.

Q Okay.

A And then we turned the program over to

1 Doug Elznic and Mario Aquino to manage, and they
2 were supposed to manage it based on the air
3 samples that were conducted by the General
4 Services Administration based on the General
5 Service Administration's guidance.
6 But at that time, it was my
7 understanding that we had people trained, we had
8 people that had physicals, we had people that
9 had received the equipment that they needed and
10 were using it on the floor, the eighth floor.
11 **Q And when you said you briefed the IG,**
12 **who did you brief in the IG?**
13 A I believe the -- I briefed the director
14 of Administration, [redacted]
15 [redacted] was her name. Because that was my
16 liaison to the Inspector General.
17 **Q And what did you tell Ms. Rickenbach?**
18 A We told her that there was asbestos on
19 the eighth floor. She had a couple of employees
20 that had concerns that the asbestos might have
21 gotten down into their area because, as you
22 know, there are penetrations between the seventh

1 and eighth floor of every building.
2 Every floor is penetrated with the
3 floor above and below. So we had air sampling
4 done of the seventh floor, specifically the
5 Offices of the Inspector General, and those
6 offices came out negative.
7 We also did the common areas, the
8 hallways, the corridors, and they came out
9 negative.
10 So my briefing to her was, even though
11 there's asbestos on the eighth floor and even
12 though there are penetrations between the
13 floors, there is no information that we have
14 that indicates that the asbestos fibers are
15 coming down into the seventh floor.
16 **Q So your briefing to the IG was solely**
17 **based on the protection of her employees. It**
18 **wasn't based on anything regarding the IG's**
19 **functions as an IG?**
20 A No. I wasn't aware of anything at that
21 time.
22 **Q Okay.**

1 A All I was aware of -- My
2 responsibilities, as a director of the building,
3 was to tell people what the hazard was and give
4 them recommendations on what their response
5 should be. And if they had employees that were
6 concerned, we answered those concerns.
7 **Q During your interview with the IG, were**
8 **you asked to explain your involvement in the**
9 **asbestos program?**
10 A No. I was only asked -- I only recall
11 being asked a couple questions. First of all, I
12 was asked if I could give them just a synopsis
13 of what had taken place.
14 Well, first of all, they told me they
15 were there to do an administrative look at the
16 asbestos program for the Herbert C. Hoover
17 Building because they understood that there had
18 been some people that might have been exposed.
19 It was something very loosely described like
20 that. No specificity. No allegations or
21 anything.
22 And so I answered their questions,

1 first of which was to give them just a brief
2 overview of what took place and what my role in
3 it was. And it was very brief. I don't think
4 it was more than just a couple of minutes, maybe
5 three at the most.
6 And then they pulled out a document,
7 which was a report that was submitted by or
8 given to us by GSA in 2006, which described
9 asbestos conditions on the eighth floor.
10 And they asked me if I had ever seen
11 that report, and I described to them that I had
12 seen the report but in April, May of 2007 when
13 [redacted] gave it to me.
14 And then they said, well, do you think
15 that -- do you recall ever seeing it before that
16 or something like that, and I said no. But then
17 I wouldn't have gotten it. It would gone to
18 [redacted]
19 Then [redacted] and Doug Elznic should have
20 taken care of these things so they never got to
21 my level. But I had not seen it prior to the
22 April, May time frame when it was shown to me.

1 And then he explained to me that it
2 sounded like I did everything right and then
3 indicated that since I was no longer an employee
4 of the Department of Commerce that they probably
5 wouldn't come and bother me anymore.
6 It was just -- He didn't think anything
7 would come of it. And then he and -- there were
8 two of them -- and they both left. Maybe 20
9 minutes. I don't remember it taking more than
10 that.
11 **Q And so did you give them any documents**
12 **or anything regarding your involvement in the**
13 **asbestos program?**
14 A No. I don't remember giving them any
15 documents nor do I remember them asking for any.
16 It was sort of a laissez faire meeting. It was
17 like they were punching a check mark or
18 something, you know, and they had to come and
19 talk to me, so they did.
20 **Q And do you have documents that support**
21 **each step of your role in the asbestos project?**
22 A Well, I have -- I don't have each role

1 because, of course, I have to leave those
2 documents with Commerce when I leave.
3 **Q Right.**
4 A But this is a chronology that I believe
5 represents what actually took place. I have
6 several analytical tests that show that no
7 asbestos was present. And these are simply
8 presence of asbestos, not within the breathing
9 area or breathing zone.
10 **Q So when you say "presence," does that**
11 **include it being affixed to the walls or the**
12 **floor or --**
13 A No.
14 **Q Okay.**
15 A Because I was looking at it from a
16 health perspective which means it's friable, it
17 is in the atmosphere, and it is in the
18 atmosphere to an extent greater than one fiber
19 per -- I think it's one centimeter.
20 **Q So these are air tests?**
21 A Yes. But they're general air tests,
22 not personal air tests. There were none of

1 those ever taken to my knowledge.
2 **Q And so the general air test just tests**
3 **the air that's out there, not necessarily what a**
4 **person would be breathing --**
5 A Correct.
6 **Q -- or what's the difference there?**
7 A Well, the difference is that air
8 samples in the atmosphere mean almost nothing to
9 a human being because you're in a specific space
10 and time slot right here where you're sitting.
11 So whether you're breathing in two or
12 three cubic feet per minute, what's over in the
13 corner may have no relevance to what you're
14 breathing in.
15 So in order to find out what you're
16 really breathing in, they put a small pump on
17 your pocket and they put the monitor up here by
18 your collar somewhere within so many inches of
19 your mouth and nose, and that breaths in at the
20 same rate that you breath in.
21 And then those test results are sent
22 back, the cartridge is, and they tell you how

1 much, if any, exposure the person had in their
2 breathing zone, and that's where the permissible
3 exposure limit comes in.
4 **Q I see; okay.**
5 A And no tests like that were ever taken
6 that I'm aware of.
7 **Q Okay.**
8 A And then here we have additional
9 information on the tests. And then this is
10 additional information showing that it had less
11 than 0.01 fibers per cubic centimeter.
12 **Q And what is the acceptable limit?**
13 A Well, the generally acceptable limit is
14 one fiber per one cubic centimeter. I believe is
15 what it is. Or maybe it's 0.01 cubic
16 centimeters. But these all show that the test
17 samples were zero.
18 **Q Was any of this evidence provided to**
19 **the IG?**
20 A No.
21 **Q Okay.**
22 A There was no allegation.

1 Q And did you do this chronology -- When
2 did you draft the chronology?
3 A That's the chronology from when we were
4 actually doing the event.
5 Q What event?
6 A In the April, May time frame.
7 Q I see.
8 A It was probably something we kept track
9 of during the summer and during October. It was
10 just something we kept track of during the whole
11 time. And here are some additional lab tests
12 that show that asbestos fibers were zero.
13 And then here's one from a certified
14 industrial hygienist explaining the differences
15 between the fibers per cubic centimeter and the
16 permissible air limits and the exposure that,
17 according to him, did not occur.
18 Q And he is who? Who is the person who's
19 doing this test?
20 A He is Anthony Kesslak.
21 Q And what relationship does he have with
22 Commerce?

1 A I think he was a director.
2 Q Okay. He was a Commerce employee? He
3 wasn't a contractor?
4 A No, I don't -- It says here, "Manager,
5 Safety and Occupational Health, Office of the
6 Secretary, Department of Commerce."
7 Q Okay. What evidence do you have to
8 support your contention that you were not
9 responsible for the management of the asbestos
10 program?
11 A I don't have any with me. But the
12 building delegation for the building at that
13 time did not designate the Department of
14 Commerce having physical responsibility for the
15 asbestos program.
16 Q And by "asbestos program," are you
17 meaning the abatement of the affixed asbestos?
18 A No. It would have been an overall
19 management program. It would have been annual
20 testing. It would have been annual visual
21 inspections.
22 It would have been periodic testing.

1 It would have been abatement, if necessary, or
2 it would have been encapsulation or some other
3 process to the physical asbestos, which was all
4 building-related.
5 Q Okay.
6 A It had nothing to do with the people
7 that rent the building.
8 Q And do you believe that your role had
9 -- or your position had responsibility over the
10 management of the employee aspect of the
11 asbestos --
12 A Yes.
13 Q -- so the air quality?
14 A Employee safety and health, we did.
15 Q Okay.
16 A As soon as I became aware of that, I
17 took the actions to protect the safety and
18 health of the employees.
19 Q And did you provide any evidence to the
20 IG regarding the duties of your position versus
21 the GSA?
22 A No.

1 Q Do you have any evidence that supports
2 your contention that after learning of the test
3 results showing that there was asbestos in the
4 air, that you notified the assistant secretary
5 for Administration, the OIG, the CIO, et cetera?
6 A I never received evidence or
7 information that there were asbestos fibers in
8 the eighth floor.
9 Q Did you receive Ms. Barnett's test
10 results?
11 A Which showed fibers in the attic. Did
12 not, with specificity, identify what those
13 fibers were. I was never given a test that
14 showed that.
15 Q And so did her test show that there
16 were fibers in the air but not necessarily the
17 fibers that a person breathes, or did her tests
18 show that there was asbestos affixed to surfaces
19 but not necessarily in the air?
20 A Her tests showed that there were fibers
21 in the air, but did not identify what those
22 fibers might have been. And there are a number

1 of fibers that can float around in the air.
2 Even in this room, there would be fibers.
3 **Q So there are fibers, but not**
4 **necessarily asbestos fibers?**
5 A Correct.
6 **Q I see.**
7 A There could be, but we don't know
8 because I never saw any tests that showed --
9 See, there are several tests you can take. She
10 took the -- My understanding was she took the
11 general test which just counts the fibers.
12 There's another test that you have to take
13 that requires a lot more due diligence, and
14 everything is looked at with a specific
15 microscope to identify what those fibers are.
16 And those test results would have -- or
17 could have identified asbestos if it were
18 present. To my knowledge, those tests were
19 never taken.
20 **Q I see. So in addition to there not**
21 **being any tests as to what a particular person**
22 **breathes, there was also no test that identified**

1 **asbestos fibers within the fibers in the air?**
2 A Correct. To my knowledge. I never saw
3 a test result that showed that. In fact, the
4 test results that I gave you here don't show
5 that.
6 **Q So when you notified the assistant**
7 **secretary for Administration, the OIG, and the**
8 **CIO about asbestos, you were notifying them that**
9 **there was asbestos affixed to the walls and**
10 **floors, et cetera, or --**
11 [redacted]
12
13
14
15
16
17 And in response to that, [redacted]
18 had contracted with an industrial hygiene firm
19 to come in and do air samples. The individual
20 that did those air samples has made the
21 allegation that those air samples showed that
22 asbestos was in the atmosphere of the attic.

1 However, subsequential tests show that
2 there were no asbestos fibers. But my
3 recommendation was that, in order to be safe,
4 that we respond to it as if some of those fibers
5 in the air were asbestos and take appropriate
6 steps.
7 My briefing to the Office of the
8 Inspector General was because employees within
9 the Office of Inspector General found out that
10 we had asbestos on the eighth floor of the attic
11 and were concerned that some of the asbestos
12 might have entered the seventh floor areas that
13 they worked in due to normal ventilation.
14 We had air samples taken and then I
15 went back to [redacted] and explained the
16 over arching situation and that we had taken air
17 samples and that our air samples did not show
18 any asbestos had infiltrated into the seventh
19 floor.
20 The CIO briefing to Ms. Fitzgerald was
21 an explanation of why she could not have the
22 Verizon, the Comcast, the Nextel, and all the

1 other companies go up to the room and repair
2 their antennas.
3 And if they were -- I explained to her
4 that if they were properly trained, had the
5 respirators, had the suits, that we would be
6 happy to let them through the attic to the roof
7 so that they could do the work.
8 And, of course, her response was, you
9 know they don't do that. So we didn't allow
10 them up there for several weeks.
11 **Q And just to be clear, "friable**
12 **asbestos" means what?**
13 A "Friable asbestos" means that it has
14 broken free from whatever type of material it is
15 and it is now floating in the atmosphere so that
16 it could be breathed in if someone should walk
17 by.
18 **Q Do you have any evidence of your**
19 **briefing to the OIG on October 20th, 2007? Any**
20 **emails or anything?**
21 A I don't have any emails because I had
22 to leave those at Commerce.

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Q Right.
A I don't think I have a copy of the slide show. However, I could check.
Q Okay.
A But I don't know that I do.
Q And who all attended? Was it just [redacted] or —
A No, [redacted] and two or three other people. I don't know who those other people were. I was probably introduced to them, but I don't recall their names or their positions. She had a staff, so it could simply have been her staff.
Q And did you provide anything regarding this briefing to the IG —
A No.
Q — when they did the investigation?
A No.
Q Did you mention your conversation with — or your briefing to Ms. Rickenbach to the IG when they did the investigation?
A No.

Q Let's talk for a minute about [redacted] responsibility.
You allege that [redacted] should not have been found responsible for the asbestos mismanagement — alleged mismanagement.
What do you allege [redacted] involvement or lack thereof was in the asbestos management?
A Well, if I can tell you something first.
Q Sure.
A If you read the report, it says that [redacted] supervisor, Ms. — I'm sorry, the name just skipped me. The lady who was the director of the Office of Occupational Safety and Health was [redacted] supervisor.
It was said that she and the Office of Human Resources was not found to be responsible for any action or inaction taken during this event.
So if her supervisor isn't responsible, then how on earth could [redacted] be held

responsible? I don't understand that. So that's my first concern.
My second concern was that [redacted] was not an employee of the Office of Administrative Services until sometime towards the fall of 2007.
[redacted] As a safety official of the department, [redacted] was responding to that request.
[redacted] and then [redacted] came and told me and I believe Rhonda Jackson and I believe Doug Elmie [redacted]
And then [redacted] was simply that of an advisor. If we asked a question that was related to safety and occupational health, our job was to help us answer that question or help

us coordinate with the health unit or whomever else we needed to help with just to get our job done.
It was our responsibility, me, Rhonda Jackson, Doug Elmie, [redacted] Rufus Cook, and then the guy that was in charge of the electrical section. It was our job to take care of the employees, not [redacted]
But, yet, somehow they found that [redacted] was responsible, which I don't quite understand how that could be. If you're not an employee of an organization, you're simply a parallel organization, a sister organization, and your boss was told that she's not responsible, how could an employee then suddenly be responsible?
Q And did you talk to the IG at all about [redacted] involvement?
A No.
Q So who do you allege was responsible for the asbestos program at Commerce?
A I allege there were two parts to the asbestos program in the Department of Commerce.

1 First of all was the material
2 environmental side, which is the physical
3 asbestos. That belonged to GSA because it was
4 their building. We simply rented it.
5 The second part was the personal safety
6 belonged to [redacted] and Doug Elznic, the
7 second- and third-line supervisors of the
8 section, as well as the individual crew chiefs,
9 [redacted] Rufus Cook, and, I'm sorry, I can't
10 remember the third guy's name.
11 Those were the ones that were
12 responsible for the workers' safety and health.
13 I was also responsible for the workers' safety
14 and health, but at a level five or six levels
15 above them. And then Rhonda Jackson was also
16 responsible four or five levels above them.
17 But at no time did we direct workers
18 into the attic because they were so far below
19 us. I don't know what the workers did from day
20 to day. I don't know what Rufus Cook did. I
21 don't know what [redacted] did. I honestly don't
22 know what Doug Elznic did every day. Those

1 individuals had work assignments, and they did
2 them as far as I know.
3 Q And so what role -- Sorry.
4 Do you allege that Mr. Wixted was also
5 responsible for the asbestos?
6 A Yes. He was the coordinator between
7 the Office of Administrative Services and the
8 General Services Administration.
9 Q So his only role was as coordinator --
10 A Right.
11 Q -- in terms of the asbestos program?
12 A Correct.
13 Q Okay.
14 A But if I may add that during this time,
15 if you're going to hold [redacted] responsible,
16 then why on earth don't you hold Pete Wixted,
17 who should have been responsible for helping get
18 the signs posted, getting locks changed, working
19 with GSA to get the material isolated so that it
20 was off limits, or get the material abated and
21 completely removed from the facility?
22 Q Why should he have been responsible for

1 the locks and the signs?
2 A Because those things should have been
3 coordinated with GSA. It was their building.
4 See, GSA had access to the -- should have had
5 access to the eighth floor whenever they wanted
6 it as well.
7 Q And to your knowledge, did he have any
8 involvement with that?
9 A He attended every meeting that was
10 aware -- that I recall.
11 Q I'm sorry. To your knowledge, did he
12 do anything in terms of posting signs or
13 changing locks?
14 A I don't know what his role was there.
15 I don't know what he actually physically did.
16 But I know he was at every meeting and that
17 whenever we discussed -- and we discussed often
18 -- what GSA was going to do about the asbestos,
19 the answer was they don't know yet.
20 And there was a big push to get us to
21 abate the hazard at about a million dollars
22 which we didn't have. So I remember those

1 conversations, but as to what he did on a day-
2 to-day basis, I don't know.
3 Q And who would have been his direct
4 supervisor?
5 A That would have been Francesca Ryan as
6 the acting director, because I believe the
7 director was gone at this time.
8 Q And do you have any evidence to support
9 Mr. Wixted's role as coordinator with GSA or as
10 the person who would have responsibility over
11 the locks and signage, et cetera?
12 A His appointment orders that I have you,
13 his training certificate that I have you, his
14 acknowledgement letter that he sent to me
15 acknowledging the duties if he was provided
16 training.
17 Q Okay.
18 A As a bigger picture, he should have
19 been aware that asbestos was in the eighth floor
20 because, as the physical coordinator, he should
21 have notified [redacted] and Doug Elznic that it was
22 there.

1 Not that they probably wouldn't have
2 already known, but that should have been the
3 first thing he did based on the training that he
4 completed was to do an inventory and identify
5 where the asbestos is at.
6 Q So he did his training in April of
7 2007?
8 A Yes. April 6th. April 2nd to the 6th.
9 Q And the first reports of asbestos in
10 the attic came in March of 2007; correct?
11 A Uh-huh.
12 Q So you're saying he should have
13 informed -- I don't understand. If he wasn't
14 trained in the asbestos until after it was
15 already an issue, why should he --
16 A He was appointed in October, and he
17 could have simply talked to the GSA
18 representative, who was his coordinator or his
19 counterpart at GSA, and should have been
20 actively involved in the program prior to being
21 sent to training.
22 And then training should have

1 reinforced what little knowledge he got from GSA
2 and then expounded upon that so he would have a
3 fuller understanding of what his duties were.
4 Q Why was he not trained until six months
5 later?
6 A I don't know.
7 Q Or six months after the asbestos
8 appointment?
9 A I don't know.
10 Q Would you have been responsible for
11 approving training or suggesting training?
12 A No. That would have been done by his
13 supervisor, Francesca, and should have been
14 approved by Doug Elznic as the acting deputy
15 director.
16 Q And with regard to the allegation that
17 [redacted] and Mr. Elznic were responsible for
18 the personal safety of employees, et cetera, as
19 well as Mr. Cook and Ms. Jackson, what evidence
20 do you have to support your contention that
21 that's their responsibility?
22 A Well, as supervisors, they're

1 responsible for the employees. And I believe it
2 was also in the Safety Manual for the Office of
3 Occupational Safety and Health that outlines
4 supervisors' responsibilities as being
5 responsible for the health and safety of the
6 employees.
7 Q Okay.
8 A And this was clearly a safety and
9 health issue.
10 Q And did you provide any of this to the
11 IG?
12 A No, I did not.
13 Q So one of the IG's findings is that
14 Wynn and Wixted offered to assist on HCHB
15 asbestos remediation and that you refused to
16 allow them to assist because it was outside of
17 the scope of the Office of Real Estate Policy
18 and Major Programs.
19 Do you dispute that finding?
20 A Could you read that to me again? I
21 don't understand.
22 Q Sorry. One of the allegations in the

1 IG report is that David Wynn and Peter Wixted
2 offered their assistance on the HCHB asbestos
3 remediation but that you refused to allow them
4 to assist because it was outside the scope of
5 the Office of Real Estate Policy and Major
6 Programs, or OREPMP.
7 A David Wynn didn't work for the Office
8 of Real Estate Policy and Major Programs, so I
9 have no idea -- I don't recall any conversations
10 with him.
11 He was a Safety and Occupational Health
12 specialist in the Office of Human Resources
13 Management, so I don't recall speaking to him at
14 all.
15 And then Peter Wixted was appointed as
16 the asbestos coordinator, so I did not nor would
17 I have refused him to participate in the
18 response to the potential exposure because I
19 appointed him.
20 Q Do you believe that Mr. Elznic was
21 responsible for any mismanagement of the
22 asbestos program?

1 A First of all, I don't believe the
2 asbestos program was mismanaged as described in
3 the investigation report. However, if [redacted]
4 [redacted] is held responsible [redacted]
5 responsible, then Doug Elznic between the two of
6 us has to be held responsible.
7 And so does Ms. Rhonda Jackson, my
8 deputy. You can't skip four levels and say
9 [redacted] but Rhonda and
10 Doug aren't.
11 Q Can you go through each level of the
12 chain of command so that I have the order?
13 A [redacted]
14 [redacted] Rhonda Jackson was the deputy
15 director of Administrative Services.
16 She had direct supervisory control over
17 I believe it was four subordinate offices or
18 associate directors for Space and Building
19 Management, Logistics Support and Services, then
20 there was like a Resource Management Office, and
21 then there was a Building Renovation Office.
22 Those guys all reported directly to her, and

1 then she reported to me.
2 Q Okay.
3 A And then Doug underneath him had
4 Building Management.
5 Q Wait a second. Was Doug one of the
6 four that reported to Rhonda?
7 A Yes. He was the Space and Building
8 Management.
9 Q And he was a direct report to Rhonda?
10 A Yes. I was his second-level
11 supervisor.
12 Q Okay. Sorry. Go ahead.
13 A So under Doug was [redacted] Doug
14 had other staff, but [redacted] of
15 them. And [redacted]
16 and a couple of other building specialists.
17 But the three branch chiefs were Rufus
18 Cook, [redacted] and then the third person that
19 I can't recall his name.
20 Then they had wage-grade employees that
21 worked for them, the electricians, the plumbers,
22 the HVAC engineers, and the carpenters.

1 Q And where was [redacted] in this chain
2 of command?
3 A [redacted] was not even working for the
4 organization at this time.
5 Q Oh, okay.
6 A [redacted] worked for the Office of Human
7 Resources.
8 Q And Mr. Lee was directly under [redacted]
9 [redacted] as well?
10 A Yes, he was. He was a non-supervisory
11 person under [redacted]
12 Q And so then once [redacted] began
13 working in the Safety and Health -- or the
14 Building Administration -- or, I'm sorry -- in
15 the Real Estate Division, where did [redacted] fit into
16 this chain of command?
17 A [redacted] worked for another office that was
18 parallel to Doug's office. Doug's office was
19 the Office of Space and Building Management.
20 The office [redacted] worked for was the Office of Real
21 Estate Policy and Major Programs.
22 Q And that was also a direct report to

1 Ms. Jackson?
2 A Yes. And the acting person was
3 Francesca Ryan. But she may have left because a
4 lot of people were leaving, and Doug was acting
5 part-time. There were a lot of people acting,
6 but that's who had the position.
7 Q I'm sorry. Ryan was in the parallel
8 position to Elznic --
9 A Yes.
10 Q -- or Ryan was in the position that Ms.
11 Jackson was in?
12 A No. Ryan was parallel to Doug Elznic.
13 Q And then where was [redacted] under
14 Ryan?
15 A She was two levels below -- No. She
16 was one level below her. She was a supervisor
17 of the Environmental Division.
18 And then Francesca was the acting
19 director, and she was replaced by Braulio I
20 want to say Ramirez. Braulio Ramirez took her
21 job. So he reported to Ms. Jackson and
22 supervised [redacted] in the way I remember it.

1 Q Okay.
2 A But that was not until October, I
3 believe, of 2007. October or November.
4 Q Okay.
5 A So prior to that, she worked for the
6 Office of Occupational Safety and Health.
7 Q And so when you say that Mr. Elznic
8 should have been responsible for the program --
9 A Uh-huh.
10 Q -- and, I'm sorry -- when you say you
11 can't skip four levels of supervision --
12 A Yes.
13 Q -- what four levels of supervision are
14 you skipping?
15 A They blamed [redacted] for
16 mismanagement of the asbestos program.
17 Q Right.
18 A Then they skipped Doug Elznic who had
19 been in the office for about ten years, much
20 longer than I have been there.
21 He had been in that position,
22 supposedly knew the building, had been

1 responsible for the asbestos in the attic and
2 the employees exposed to it.
3 Then he reported to Rhonda Jackson,
4 whom they found had no culpability in the entire
5 process. And then suddenly, [redacted]
6 for the mismanagement.
7 Q I see.
8 A So all I'm saying is [redacted]
9 [redacted] it only makes common
10 sense or logic to find the people between [redacted]
11 [redacted]
12 Q Okay.
13 A Because they were there longer than we
14 were. I had only been there -- At that point, I
15 had just got the job, and I had only been acting
16 eight months.
17 And the eight months that I had been
18 acting were focused on finding the 1,100 laptops
19 that that same office, Administrative Services,
20 had lost. So I had a lot more to do than just
21 the building.
22 Q Right.

1 A But the IG report makes it sound like
2 I'm the building manager, which I was not.
3 Q I see; okay. And did you provide any
4 evidence regarding Mr. Elznic's role in the
5 management of the asbestos program to the IG?
6 A No.
7 Q Do you have any evidence that Mr.
8 Elznic supervised employees who had access to
9 the attic between February and April of 2007?
10 A I don't have any evidence. But there
11 is evidence in his performance appraisals and
12 his duty assignment and those types of things
13 that show he was the director of Building
14 Management for a number of years.
15 Q You said before that [redacted] had
16 responsibility over who had access to that area.
17 So does Mr. Elznic only have
18 responsibility in the sense that he supervises
19 [redacted] or did he have responsibility over
20 who had access to that area independently?
21 A No. The only person that had control
22 over who had access was [redacted] It was

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8 Q Oh, I see; okay.
9 A So I was agreeing with you that he
10 didn't let people into the attic, nor did he
11 stop people from the attic. That was [redacted]
12 job.
13 What Doug did was he oversaw [redacted]
14 performance and oversaw the duties that [redacted]
15 fulfilled. And prior to this, I believe that he
16 knew that there was asbestos in the upper floor
17 attic.
18 I don't believe he could not have known
19 that. He was [redacted] This is what
20 we paid him for. He was only responsible for
21 the [redacted] He had no
22 department-wide responsibilities.

And so he should have known there was asbestos in the attic. He should have been checking with [redacted] as to how it was being controlled, who was being exposed to it, are they trained, do they have equipment, do they have physicals, are we monitoring it.

To my knowledge, he never did any of that. So then this case occurs. Then my answer to that or my description of his duties were that he was an active member in responding to the incident.

When I told [redacted] in a meeting that we called with [redacted] with Doug Elznic, with Rhonda Jackson and me that we were closing off the eighth floor and that no one was to have access until [redacted] verified that they had protective equipment training and a physical, Doug should have followed up and made sure that [redacted] did what I told him to do.

Doug's other responsibility was to work with [redacted] to make sure that the safety and health of the employees was taken care of.

So when they came to meetings, which we had every week, they would come in and [redacted] would explain what they were doing in terms of physicals, protective equipment, training, identifying who was in the attic.

And then Doug was supposedly checking with [redacted] as to keeping people out of the attic, letting people in that were allowed, not allowed, things of that nature.

And then Rhonda's job was directly supervising Doug. So she should have been making sure that Doug was doing those things that I had told them to do.

Q And do you have any evidence that Mr. Elznic had knowledge of the asbestos issues prior to the meetings that you had with him regarding the protective gear?

A I have no evidence that he did.

Q Okay.

A But if I may add, I cannot believe that he didn't. He worked in that building all those years. He was responsible for the building.

He's a civil engineer. And if he was not told by anyone prior to that, I would be absolutely flabbergasted.

Q So when you say that he had knowledge, he should have at least had knowledge that it was in the attic or that it was in the air?

A No. That it was in the attic.

Q Okay.

A I agree with you completely. There was no test information that I ever saw that said it was in the air --

Q Okay.

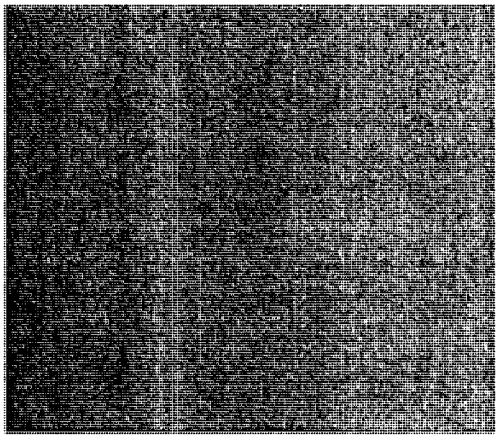
A -- so I would not expect him to have that knowledge.

Q And what evidence do you have that [redacted] was responsible for any management of the asbestos project?

A I don't believe that he was responsible for any management of the asbestos process, but I do believe he was responsible for the engineers that worked for him.

And if he knew that he was placing them

in the attic, which he was the only one that would have known outside of [redacted] because I certainly wouldn't have, then he should have taken steps prior to that to go to the Safety Office and say I have people in the attic, I think the asbestos is friable, can you help me get physicals, can you help me get training, can you help me get protective equipment.



[redacted]

A [redacted] allows GSA, allows the antenna, allows the security people. [redacted] has nothing to do with those. But what [redacted] does have is HVAC employees.

He needs to make sure they're not exposed to lead, to copper, to refrigerants, or to slips, trips, and falls, or asbestos or any other hazard that the employees might become exposed to. And I have no knowledge that he did any of that.

[redacted]

Q I see. And was the asbestos there

beforehand that he should have known it or —

A It's my knowledge that the asbestos has been there since 1966 --

Q Okay.

A -- when they put air conditioning in the building.

Q Okay.

A Because, see, the eighth floor and above is not air conditioned. The seventh floor and below are. So you fill the bottom of the eighth floor with insulation, which is asbestos.

So everybody should have known it was there since 1966. But, see, Rufus Cook had the same responsibilities as [redacted] So I'm not saying that [redacted] did anything wrong.

Q Right.

A I'm just saying, if you spread the responsibility out, why wasn't he found responsible?

Q I see.

A If [redacted] were, I don't understand why the people that directed those employees to

go to the attic weren't. And that was not me.

I never at any time directed any employees to go to the attic. That wasn't my job. I was five, six levels above that. But [redacted] did tell them to go. Well, tell them to go wherever it was they went.

Q Right.

A Because they directed their work.

Q And did you provide any evidence of [redacted] role and responsibility to the IG?

A No.

Q And what evidence do you have that [redacted] supervised employees who had access to the attic?

A I have no evidence. But he has a job description that outlines his roles and responsibilities and he has performance reports that shows, and the Occupational, Safety, and Health Manual for the Department says that he is responsible as a supervisor. Not for asbestos specifically, but for safety in general, and that's all we're talking about here.

He was supposed to protect his employees. So was Rufus Cook and so was the electrician supervisor.

And I'm only saying this in the context of if [redacted] and Rufus Cook and the other electrical supervisors not be at fault as well? It makes no sense to me.

Q And did you at any point instruct [redacted] to provide his employees with protective gear?

A No, I did not. I told Doug Elznic to provide the employees with the protective gear that [redacted] recommended.

Q And what is the relationship of Mr. Elznic to [redacted] Is Mr. Elznic above [redacted]

A Yes. Mr. Elznic is two levels above [redacted] He's his reviewing official.

Q And so with regard to Mr. Cook, what role did he have in the asbestos program?

A None.

1 Q Okay.
2 A Because I don't think there were any
3 plumbing issues on the eighth floor because it
4 was not heated, which meant they would have
5 frozen.
6 So I believe all his work was from the
7 basement to the seventh floor. But he only has
8 the inherent safety responsibility for his
9 employees that Rufus Cook did -- or excuse me --
10 that [redacted] did.
11 Q But would any of his employees have
12 been on the eighth floor, or should they have
13 been?
14 A There should not have been any reason
15 for them to have been up on the eighth floor.
16 Q And to your knowledge, did Mr. Elznic
17 instruct Mr. Cook to instruct his employees to
18 wear protective equipment if they went up into
19 the eighth floor?
20 A He told me that he did when [redacted]
21 recommended the respiratory equipment and
22 coveralls to buy.

1 Q Okay. Mr. Elznic recommended that
2 protective gear to Mr. Cook's employees?
3 A No. [redacted] as a Safety
4 Occupational and Health person, recommended the
5 coveralls, the gloves, and the respirator that
6 we were to wear based on the employee physicals
7 that they took with the Occupational Health
8 Services.
9 Q Okay.
10 A Doug Elznic, I told him to buy the
11 equipment and make sure that they had the
12 equipment and that they were it. Now, what
13 normally should have happened was he told [redacted]
14 to do it, because [redacted] worked for him.
15 Q Okay.
16 A So then [redacted] should have told [redacted]
17 [redacted] to do it, and then [redacted] should have
18 made the people wear the equipment.
19 Q So did [redacted] work for [redacted]
20 A Yes. Because [redacted]
21 [redacted]
22 Q And so both [redacted] and Mr. Cook

1 worked for [redacted]
2 A [redacted] yes.
3 Q Do you allege that anyone else in DOC
4 was responsible for the asbestos management?
5 A I don't allege that anyone in DOC was
6 responsible for asbestos mismanagement. I have
7 no information that leads me to believe that
8 asbestos was ever mismanaged in the Department
9 of Commerce.
10 Q Do you allege that anyone else was
11 responsible for the asbestos management, though,
12 for the management of the employees other than
13 [redacted]
14 A In the context of the investigation
15 done by the IG, Rhonda Jackson, as the deputy
16 director of the Office of Administrative
17 Services, should have been held responsible for
18 [redacted]
19 Q Okay.
20 A Because she was the person that
21 supervised all of the people. [redacted]
22 [redacted] And I rated Doug and Francesca and

1 [redacted] but Braulio and Pat Walker.
2 But [redacted] and
3 that was Rhonda.
4 Q Okay.
5 A So even though I don't believe any
6 mismanagement occurred, I do not believe you can
7 say [redacted]
8 [redacted]
9 Q You allege that GSA should have had
10 responsibility for addressing the asbestos
11 issues in terms of the affixed asbestos;
12 correct?
13 A I do.
14 Q And what is your basis for that
15 allegation?
16 A Delegation agreement signed between the
17 General Services Administration and the
18 Department of Commerce which describes in detail
19 how the building is managed and who has what
20 responsibility.
21 Q And did you provide that agreement to
22 the IG?

1 A No.
2 Q And would GSA have had responsibility
3 to warn DOC employees of the asbestos and
4 provide protective gear, or would that have
5 fallen within DOC's responsibility?
6 A That would have been DOC's
7 responsibility.
8 Q And what did you do to alert GSA to the
9 problem of the asbestos on the eighth floor?
10 A As soon as the notification was given
11 to me, I asked Doug and Rhonda to make sure that
12 Peter Wixted coordinated with GSA, because I
13 wanted to have them do the actual control
14 measures, whatever that was going to be, whether
15 it was going to be encapsulated, abated,
16 whatever. Because that was a much bigger
17 problem to solve rather than just give everybody
18 respirators.
19 Q So did you ever speak with anyone from
20 GSA personally?
21 A No, I did not.
22 MS. CLARKE: Do you know if Mr. Wixted

1 or Ms. Jackson coordinated with GSA after you
2 gave them that direction?
3 [redacted] Peter Wixted and Doug
4 Elznic both gave updated reports on GSA's
5 actions or lack of action at the weekly meetings
6 that we had.
7 GSA said, because they had this letter
8 between GSA headquarters and the regional
9 administrators that said we were responsible,
10 they weren't doing anything.
11 So my main focus was to close off the
12 attic, make sure that whatever people I had had
13 the protective equipment to go up.
14 BY MS. KIMBALL:
15 Q Do you have any allegations regarding
16 the validity of the air sample testing performed
17 in 2007?
18 A Could you repeat that?
19 Q Do you have any allegations regarding
20 the validity of the air sample testing performed
21 in 2007?
22 A Yes. I believe the air sampling that

1 was done by Ms. Barnes, I believe it is --
2 Q Barnett?
3 A -- Barnett, I'm sorry, thank you -- was
4 inadequate and improper. She should have asked
5 for a microproscopic test -- I believe that's
6 what it's called -- to determine how many
7 asbestos fibers were in the samples that she
8 took.
9 I also know that in the fall, I believe
10 it was, of 2006, she had her license from the
11 State of Maryland to do such testing pulled for
12 irregularities. And, yet, she did our testing
13 after that period without a license.
14 Of course, I will admit, we are not the
15 state of Maryland or the District of Columbia,
16 so -- But the State of Maryland had to have a
17 reason to pull her documentation.
18 I also believe her testing was fouled
19 because of these reports that I gave you that
20 show that there is no asbestos, and especially
21 the paper put together by the Director of
22 Occupational Safety and Health that describes

1 that her tests were also flawed.
2 And I believe you have it over there by
3 you. Yes. He also describes how her tests were
4 flawed.
5 Q And who hired her?
6 A My understanding is it was [redacted]
7 [redacted]
8 Q And did you see her test results at the
9 time when they were taken?
10 A No. I only saw them after they were
11 provided to Rhonda, Doug, [redacted]
12 Q And when was that?
13 A That would have been a few days --
14 about a week later, I would think. Maybe ten
15 days later.
16 Q But still in 2007?
17 A Oh, yes. And probably still in the
18 month of April.
19 Q And at the time that you saw the test
20 results, did you see anything wrong with the
21 method that she conducted the tests, et cetera?
22 A The only thing I saw was wrong -- yes,

1 I did see something wrong. But the only thing I
2 saw was wrong was that we were claiming -- I'm
3 sorry -- she was claiming that we had asbestos
4 in the air in the attic, and yet the paperwork
5 that she provided only showed fiber counts, and
6 those are two completely different things.
7 Q And so did you request additional
8 testing?
9 A I did not request additional testing
10 because Doug Elznic, I believe it was, had
11 informed me he had already asked for follow-up
12 testing to verify or negate her testing.
13 Q Was that follow-up testing with Ms.
14 Barnett as well or with a different company?
15 A It was with a different company.
16 Q And what company was that? Do you
17 remember?
18 A I believe it was Global Consulting. I
19 believe that's who it was, but -- The Office of
20 Building Management actually made the contract.
21 Q And the Office of Building Management,
22 again, is Mr. Elznic?

1 A It is [redacted]
2 Q [redacted] okay.
3 A The Office of Space and Building
4 Management is Doug Elznic.
5 Q Okay. Are there fans up in the attic?
6 A Yes. There's a fan at each end of the
7 attic.
8 Q Would anything regarding the fans being
9 turned on or turned off have any effect on the
10 testing that was done?
11 A It would probably affect the testing
12 that was done, but it pulls air out of the attic
13 and pushes it outside.
14 Q When the fans are on?
15 A When the fans are on.
16 Q I see. So if, for example, Ms.
17 Barnett's testing was done with the fans turned
18 off and the later testing was done with the fans
19 turned on, would that have an effect on the test
20 results?
21 A It would, but that's not what occurred.
22 Q Okay. So what did occur?

1 A Both tests were taken when the fans
2 were on.
3 Q I'm sorry. Were on or off?
4 A On.
5 Q Okay.
6 A That was my understanding. I believe
7 Doug Elznic reported that to me.
8 Q I see; okay.
9 Do you have any concerns about the
10 manner in which the IG conducted your interview?
11 A Yes.
12 Q And what are your concerns?
13 A I believe they lied to me.
14 [redacted]
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1 [redacted]
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12 A No. They came to me and they lied
13 intentionally by telling me it was simply an
14 administrative look. I had no idea it was an
15 investigation.
16 Q Okay.
17 A It was an administrative look at the
18 way that -- I believe the exact words that they
19 used that we had handled the report of asbestos
20 on the eighth floor. Something to those terms.
21 It was very general.
22 [redacted]

[redacted]

They also told me that this was not a big deal. And they told me that since I didn't work at Commerce anymore, all I had to do was answer these questions and it would be over with, that this was just a look at.

Q Okay.

A And then they only asked me two or three questions. The interview was over very quickly. There was no transcription of it. I was never read my rights. I never got a note back saying what the answers or the questions were.

And before they left, they told me that it seemed like I did everything I could and that this was just a -- I don't remember their exact words -- but this was like a bogus complaint.

Q Okay.

A And I shouldn't worry about it because nothing should ever occur from it.

Q Okay.

A And I think that was all a lie because I think they knew -- in fact, I know they knew up front it was an OSC investigation and that they should have read me my rights, at which time I would have gone and got a lawyer and not talked to them anymore.

And they did not make any allegations at all towards me. They simply asked me to explain what took place. The only direct question I was asked was if I had ever seen the memo.

Q I'm sorry. Which memo?

A From GSA that said there was asbestos on the eighth floor.

Q I see.

A That was the only direct question other than, you know, tell us what happened.

Q Have you ever seen the IG's write-up of your interview?

A Yes. I have seen the interview write-up. I got it in a FOIA request.

Q And do you allege that there are any inaccuracies in that write-up?

A Yes. I allege that the entire thing is a fabrication. It never occurred.

Q They didn't ask you any of those questions?

A No, they did not.

Q I see.

A Complete lie.

Q The questions you say they did ask you are what?

A I remember two or three questions. I remember them asking me to give them sort of a brief summary of what happened with respect to the alleged report of asbestos in the eighth floor attic.

So I did that. Two or three minutes tops. I just gave them a one-over-the-world. Then they asked me if I had ever seen this memo.

Q Right.

A And they showed me the memo from GSA -- I think it was July or September the year

before, I don't recall which -- and I said I had seen the memo.

And then they said, do you remember when you saw the memo? And I said, yes. I believe it was in the last part of April, first part of May as we were responding to this asbestos potential exposure in the attic. And those are the only questions that I recall them asking.

Q Okay.

A They were in, out, and gone in less than 20 minutes if I remember right.

Q I'm going to show you my copy of your interview.

MS. CLARKE: This is probably what you received from FOIA.

BY MS. KIMBALL:

Q Can you point to anything in that -- any of the answers that they allege that you gave that are inaccurate answers or incorrect answers or questions that you would have answered differently?

A This was not my statement. It looks like it would have been Dion's statement. At the bottom, I believe the question is who is your supervisor? I received an unredacted copy of my statement.

Q Oh, I think this is the correct one. The answer is who was his supervisor, not who is your supervisor at the bottom.

A I honestly can't tell what most of this is. But the parts that I can read, I was never asked those questions.

Q So you weren't asked who Mr. Lee's supervisor was?

A No, I was not.

Q Would you have responded that [redacted] was his supervisor?

A I would not because I knew better.

Q And regarding Mr. Lee's training and his positions, do you know anything regarding what training he received?

A No. I have no knowledge of any training that he received.

Q Okay.

A I take that back. When he applied for the interview, I remember he said he had an associate's degree in contracting, but -- So that would have been all that I was aware of.

Q Did you ever suggest that Mr. Lee receive any training regarding asbestos or hazardous waste or anything else?

A I don't recall ever recommending him for training.

Q How would you describe your role to Mr. Lee's position?

A I would have been his fourth-level reviewing official.

Q Were you also his mentor?

A I was his mentor at one time, yes.

Q Okay.

[redacted]

[redacted]

Q I see; okay. And you said that you were never asked any of these questions?

A No. Not that -- I can't read all the questions --

Q Right.

A -- but the questions I can read I was never asked.

Q Were you asked anything regarding Mr. Lee's reporting to [redacted] as opposed to Building Management?

A Mr. Lee was never mentioned by the investigators at all nor was I asked any questions about Mr. Lee. I did not have any knowledge of his involvement until the investigation came out.

Q And were you asked any questions regarding [redacted] responsibilities?

A No, not at all. In fact, [redacted] came up in the closing. I don't remember how it went, but like if you think of anything else, give us a call, or if you knew of anybody else we should talk to.

And I said, well, you may want to talk to [redacted] handled the safety and health part of it. So that's how I thought [redacted] became involved. I did not know [redacted] was alleged to have committed some egregious acts by Dion

1 Lee.
2 Q Okay.
3 A Because, again, I understood this was
4 just an administrative look at the way we
5 handled the asbestos.
6 Q Did you ever direct [redacted] to take
7 on the role of safety program manager?
8 A [redacted] was appointed the collateral duty
9 after [redacted] came to work for us. When [redacted] was the
10 [redacted] we had
11 -- Doug and I appointed her -- no, it would have
12 been me and Rhonda appointed her as the
13 collateral duty safety officer for the Office of
14 Administrative Services because we didn't have
15 any safety people.
16 Q Okay.
17 A But this would have been the fall of
18 2007, early 2008 time frame.
19 Q And were you asked about that at all --
20 A No.
21 Q -- in the investigation?
22 A I was not.

1 Q Did they ask you about the testing that
2 you did of the eighth floor attic regarding
3 asbestos?
4 A No, they did not.
5 Q When you were the safety and health
6 occupational manager, would you have had any
7 responsibility for training people who would
8 work around asbestos? Would that have been
9 part of your duties?
10 A No. That would have been the
11 supervisor's job to go through some contractor
12 organization to do that. Because asbestos is
13 specific.
14 Q Okay.
15 A So the safety and occupational health
16 people employed by the government do not have
17 the credentials that I've ever seen to do
18 asbestos training.
19 Q Okay.
20 A Asbestos is normally handled by a
21 person that has an industrial hygiene
22 background, not a safety background.

1 MS. KIMBALL: Let's take a short break.
2 (Whereupon, a recess was taken from
3 4:44 o'clock p.m. until 4:48 o'clock p.m.)
4 BY MS. KIMBALL:
5 Q Do you allege that anything in the IG's
6 agency report -- not your interview, but the
7 agency report -- do you allege that anything in
8 there was fabricated?
9 A Yes.
10 Q What do you allege was fabricated?
11 A The whole connection with [redacted]
12 to the incident was fabricated.
13 The summary or the judgment that was
14 made was at the -- Excuse me.
15 The summary that was made that said
16 that asbestos was mismanaged is incorrect.
17 The fact that they didn't mention the
18 other people that should have been involved is
19 incorrect.
20 And the fact that the investigation,
21 which in my personal experience, is the worst I
22 have ever read, was approved by the Inspector

1 General leads me to believe that he collaged in
2 the submission of a bad report that identified
3 only three people who just happened not to work
4 for the Department of Commerce anymore as
5 responsible for the entire thing. It's either
6 that --
7 Q Do you know --
8 A I'm sorry. It's either that, or you
9 have to believe they're all completely inept.
10 Q Do you know if any of the other people
11 -- like if Mr. Cook, Mr. Elznic, or Ms. Jackson,
12 if they still work for Commerce?
13 A I don't know, but I believe they do. I
14 haven't heard anything to the contrary.
15 Q And why do you think the connection of
16 [redacted] was fabricated?
17 A Because I believe that Dion Lee wants
18 to hurt [redacted] in a specific sense. And in a
19 larger sense, he's trying to get money out of
20 the Department for this whole process, and [redacted]
21 was the most likely target.
22 Q Why is [redacted] the most likely target?

A Because [redacted] was physically there at the time. Not the time that this incident took place, but [redacted] was physically there as his supervisor at one time.

[redacted]

Q So was [redacted] his supervisor?

A For a short period of time after he returned from the detail, he was returned to the Office of Real Estate Policy and Major Programs as [redacted] employee.

Q Okay.

A But not until nine months or eight months after this actually occurred -- the

incident with the asbestos occurred.

Q And is there anything else that you think was fabricated in the report?

A Like I said, I think the whole report was fabricated. It created things that don't exist. It created linkages that never existed.

And the fact that the IG actually read through the report and didn't question those gaping holes that demonstrated cause and effect, a logical sequencing, makes the entire report subject to question.

Q And what logical flaws do you think there are in the linkages?

A Well, the first one is that [redacted] was his supervisor.

If the investigators would have taken five minutes and called the Office of Human Resources Management, they would have found the exact dates [redacted] worked for that office, which would have indicated to them positively that [redacted] wasn't there when it occurred.

Q Okay.

A So that was a lie.

Q Okay.

A They could have gone back and checked all these test reports and found out that the asbestos that they claim in the report wasn't exactly the way Ms. Barnett described it.

And there were -- they could have asked why no DOC employees were found guilty of anything. That would have been the obvious question to me after reviewing that report was how on earth did the three people who are responsible just happen to leave the Department? And, yet, the other seven people that were in a logical chain of supervision did nothing wrong?

It just doesn't make any sense. So the IG should have stopped it right then and had the report redone or reinvestigated.

Let me see on my sheet here where I listed out the predominant ones.

Oh, the other one is it would have only taken a phone call to find out about -- that Edgar Dion Lee was detailed at the time.

And then we also have a video taken by Mr. Tim Sleeth at GSA that I understand was known to the investigators that the attic was placed off limits in his video. He documented it, so -- But they say it was never secured.

And the fact that Ms. Barnett had her Maryland Department of Accreditation certifications pulled should have raised red flags with the Office of Inspector General as well.

So the dust sampling is flawed, Edgar Lee was not exposed, the attic was placed off limits contrary to the report, Monica Barnett, Peak Safety Systems, having lost their certification, and [redacted] not even belonging to the organization were all massive holes in the report.

Q I see; okay.

MS. CLARKE: I have a question.

MS. KIMBALL: Uh-huh.

MS. CLARKE: About the video, do you know if it was given to the OIG during this

1 investigation?
2 MR. FANNING: No, I don't know.
3 BY MS. KIMBALL:
4 Q And do you have a copy of the video --
5 A No.
6 Q -- or do you know who would have a copy
7 of the video?
8 A Mr. Jim Sleeth at GSA.
9 Q And what was Mr. Sleeth's role?
10 A He was the GSA regional asbestos
11 program manager. And in a GSA mitigation
12 response dated 5/31/2007, he explains that the
13 attic was placed off limits. I don't have a
14 copy of that document either.
15 MS. CLARKE: What was the date again?
16 [redacted] The memo that he sent was
17 May 31st, 2007. And I don't know that it was a
18 video. I know that what they said was it was
19 documented by Mr. Tim Sleeth.
20 BY MS. KIMBALL:
21 Q And do you allege that the report
22 omitted any evidence?

1 A Yes.
2 Q And what evidence do you allege was
3 omitted?
4 A Well, that it omitted the fact that the
5 licenses and certifications have been revoked
6 for Ms. Barnett.
7 It did not mention at all that Mr.
8 Peter Wixted was the asbestos coordinator.
9 Instead, blamed everything on [redacted],
10 who did not have any responsibility.
11 It doesn't mention that Edgar Lee was
12 detailed at all.
13 And it doesn't mention any of the
14 contradictions in the dust sampling. Which even
15 if the investigators didn't agree with me, those
16 things don't show -- those test results don't
17 shown asbestos borne in the air.
18 There's at least enough information
19 there to make them contradictory, and that
20 should have been questioned. So in those areas
21 I believe there were intentional lies.
22 Q Anything else?

1 A No. No.
2 Q And are there any other allegations
3 that you would like to discuss?
4 A Yes. I think the main perpetrators are
5 Edgar Dion Lee and the IG investigators.
6 [redacted]
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1 [redacted]
2 So I find out the investigation is
3 posted on the website when [redacted] calls me
4 and says, hey, have you seen this? And I said,
5 no. [redacted] said, have you seen
6 this? No, nobody said anything to me.
7 [redacted]
8
9
10 And so all this you have to find out on
11 your own. Nobody says a word to you.
12 [redacted]
13
14
15
16 And I think if somebody doesn't go back
17 and at least place in question the
18 investigation, he will or he will convince
19 somebody else in the office to give him money.
20 [redacted]
21
22 And it just go on.

1 the website, he is now in business with Ms.
2 Barnett doing environmental testing, which, as
3 far as I know, he knows nothing about.
4 So it all sounds too coincidental to
5 me. Too many corrupt people responsible for too
6 many things.
7 [redacted]
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15 So I think the whole thing is a sham.
16 I only know that these two people -- I believe
17 these two people were involved with Mr. Lee.
18 And I believe the other IG people are
19 either the most incompetent people you've ever
20 met or they're in on it, too, and they just
21 wanted to get somebody found guilty and they
22 just happened to be three people who don't work

1 for the Department anymore.
2 Q And why do you believe that the IG
3 investigators were in collusion with Mr. Lee?
4 A Because they want to find somebody
5 guilty.
6 Q Okay.
7 A And they did find three people guilty
8 of mismanagement.
9 Q Is there anything else that you allege
10 is relevant that the IG did not consider?
11 A Just the things I've mentioned here.
12 Q Is there anything else you'd like to
13 add?
14 A No.
15 MS. KIMBALL: Do you have any other
16 questions?
17 MS. CLARKE: I don't have any other
18 questions.
19 MS. KIMBALL: We would like to mark
20 this. Is this all of your stack, or did you not
21 intend for the full stack to become --
22 [redacted] Those were just the

1 answers that I gave you.
2 MS. KIMBALL: Oh, I see. Great.
3 (WHEREUPON, the documents were marked as [redacted]
4 Deposition Exhibit No. 1 for identification.)
5 COURT REPORTER: And you have an
6 opportunity to read the transcript when it's
7 provided --
8 [redacted] Yes.
9 COURT REPORTER: -- and we agreed the
10 other day that, because it's a statement under
11 oath, you can make a copy of it and send it to
12 him to read?
13 MS. KIMBALL: Yes.
14 MS. CLARKE: Yes.
15 COURT REPORTER: And you would like to
16 read it?
17 [redacted] Yes, I would like to read
18 it.
19 (Whereupon, at approximately 5:01
20 o'clock p.m., the sworn statement of [redacted]
21 [redacted] was concluded.)
22

1
2 A C K N O W L E D G M E N T
3
4 STATE OF _____:
5 COUNTY OF _____:
6
7
8 I, [redacted] certify that I have
9 read the transcription of my testimony,
10 and that the foregoing is a true and
11 accurate transcription of same.
12
13
14
15 _____
16 [redacted]
17 Signed and subscribed to before me this
18 _____day of_____20____.
19
20
21 NOTARY PUBLIC
22

ERRATA SHEET FOR THE TRANSCRIPT OF:

Case Name: In Re: [redacted] Sworn Statement

Case Number: 01-13-0484, 01-13-0485 and 01-13-0390

Dep. Date: April 21, 2014

Deponent: [redacted]

CORRECTIONS:

Pg.	Ln.	Should Read:	Reason Therefore:

Signature of [redacted]

Date Signed

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K

UNITED STATES PATENT AND TRADEMARK OFFICE

- - - - - - - - - - - - - - - X

IN RE: Office of Special Counsel
File No. DI-10-0454,
EDGAR DION LEE DI-13-0405, and
DI-13-2392

- - - - - - - - - - - - - - - X

Alexandria, Virginia
Tuesday, April 15, 2014

Sworn Statement of:

EDGAR DION LEE

called for examination under oath by counsel on behalf of the Agency, pursuant to notice, taken in the offices of the United States Patent and Trademark Office, The Randolph Building, Room 5D44, Alexandria, Virginia, beginning at approximately 9:43 o'clock a.m., before Patricia D. Staffa, a Verbatim Reporter and Notary Public in and for the Commonwealth of Virginia at Large, when there were present on behalf of the respective parties:

1 On Behalf of the Agency:

2 CHIEKO CLARKE, ASSOCIATE COUNSEL
KIMERE KIMBALL, ASSOCIATE COUNSEL
3 OFFICE OF THE GENERAL COUNSEL
U.S. PATENT AND TRADEMARK OFFICE
4 600 Dulany Street
Madison Building, East Wing
5 Alexandria, Virginia 22313

6

7 C O N T E N T S

8 WITNESS PAGE

9 Edgar Dion Lee

10 Examination by Ms. Clarke 8

11

12 E X H I B I T S

13 PAGE

14

15 Lee Exhibit No. 1 90

16 -- Binder of Documents

17 (The exhibit was retained by counsel for the Agency, Ms.

18 Clarke.)

19

20

21

22

1 P R O C E E D I N G S

2 Whereupon,

3 EDGAR DION LEE

4 was called for Examination Under Oath by counsel

5 on behalf of the Agency, and, having been duly

6 sworn by the notary public, was examined and

7 testified as follows:

8 MS. CLARKE: Good morning, Mr. Lee.

9 MR. LEE: Good morning.

10 MS. CLARKE: As I mentioned, my name is

11 Chieko Clarke and this is my colleague, Kimere

12 Kimball, and we are attorneys and independent

13 investigators --

14 MR. LEE: Uh-huh.

15 MS. CLARKE: -- and we've been asked to

16 investigate your allegations to the Office of

17 Special Counsel regarding Department of

18 Commerce's reports on the asbestos investigation

19 submitted to the OSC in response to their

20 January 2010 referral.

21 In order to avoid any

2 misunderstandings, let me briefly describe the

1 procedures of our interview today.

2 We'll be asking you questions, and the

3 court reporter will transcribe my questions and

4 your answers.

5 MR. LEE: Uh-huh.

6 MS. CLARKE: Please remember that the

7 court reporter cannot take down nods or shakes

8 of your head, so you'll need to answer my

9 questions verbally.

10 MR. LEE: Okay.

11 MS. CLARKE: Also, please let me finish

12 my question before you provide an answer to the

13 court reporter can take everything down easier.

14 MR. LEE: Okay.

15 MS. CLARKE: Before we start, I'll ask

16 you a few questions about how you're feeling.

17 It's not to pry into your medical situation.

18 It's just to understand for the record whether

19 you're able to give accurate testimony today.

20 MR. LEE: Okay.

21 MS. CLARKE: Are you feeling ill today?

22 MR. LEE: I feel a little cold, but I'm

1 able to take this -- do this.
2 MS. CLARKE: Are you under a doctor's
3 care for any illness?
4 MR. LEE: [redacted]
5 MS. CLARKE: Are you taking any
6 medication this morning that would affect your
7 memory --
8 MR. LEE: No. Nothing that would
9 affect this.
10 MS. CLARKE: -- or your ability to
11 accurate testify?
12 MR. LEE: Yes, I am.
13 MS. CLARKE: To your knowledge, is
14 there anything preventing you from giving
15 accurate testimony today?
16 MR. LEE: No, not at all.
17 MS. CLARKE: And do you understand that
18 you were administered an oath by the court
19 reporter and are testifying under penalty of
20 perjury?
21 MR. LEE: Yes, I do.
22 MS. CLARKE: And do you have any

1 questions before we begin?
2 MR. LEE: No, I do not.
3 MS. CLARKE: Okay. So our goal today
4 is to understand your allegations and to
5 determine whether you have any additional
6 information you want to submit along with your
7 allegations.
8 MR. LEE: Okay.
9 MS. CLARKE: Before we start, I'll just
10 let you know the areas that I plan to cover as I
11 understand your allegations --
12 MR. LEE: Okay.
13 MS. CLARKE: -- and then you can let me
14 know if you have any additional subject matter
15 areas that you want to cover.
16 MR. LEE: Okay.
17 MS. CLARKE: So I would like to cover
18 whether you allege that the Agency reports
19 contain any inaccuracies, omissions, or
20 fabricated evidence.
21 I'd like to talk about the individuals
22 you allege are responsible for any mismanagement

1 of asbestos for the relevant time period.
2 MR. LEE: Uh-huh.
3 MS. CLARKE: I'd like to discuss your
4 job responsibilities while you were a hazardous
5 waste facility assistant for the Department of
6 Commerce.
7 MR. LEE: Uh-huh.
8 MS. CLARKE: The detail that you went
9 on in 2007.
10 MR. LEE: Okay.
11 MS. CLARKE: Who supervised you from
12 2006 until you left the Department of Commerce.
13 MR. LEE: Okay.
14 MS. CLARKE: Whether you have any
15 concerns about your interviews with the OIG, the
16 Office of the Inspector General.
17 MR. LEE: Okay.
18 MS. CLARKE: And that's all I have to
19 cover.
20 Is there anything else that you'd like
21 -- any other areas that you'd like to cover that
22 I can write down?

1 MR. LEE: I will probably as it goes on
2 and once we get into it. Yes.
3 MS. CLARKE: Okay. Let me know. At
4 the end, you can let me know if there's any
5 other areas that you'd like to cover.
6 MR. LEE: Okay.
7 EXAMINATION ON BEHALF OF THE AGENCY
8 BY MS. CLARKE:
9 Q I'd like to start with some background
10 questions.
11 A Okay. No problem.
12 Q Are you currently employed?
13 A No, ma'am.
14 Q Were you employed after you left the
15 Department of Commerce?
16 A No, ma'am.
17 Q And we'll go to the Agency report, the
18 January 20th, 2011 report, the February 28th,
19 2011 supplemental report, and the April 25th,
20 2011 supplemental report.
21 A Okay.
22 Q I'll just refer to those collectively

as "Agency reports."

A Okay.

Q So the referral that I received alleges that the Agency reports relied upon fabricated evidence, inaccuracies, and omissions.

A Uh-huh.

Q Do you allege that the reports submitted by the DOC contain any fabricated evidence, inaccuracies, or omissions?

A Yes.

Q Okay. Let's start with the inaccuracies.

A The inaccuracies, as far as management, there are far more managers involved than just [redacted]

And they have [redacted] down there also, but [redacted] as a lesser manager involved, and that's not true. [redacted] was hands-on involved.

It was two investigators that investigated [redacted] that [redacted] mentioned in [redacted] letter that [redacted] wrote to the president. I

never heard of those two investigators within the report.

I don't know if Kevin Wilson spoke to you about that, but I never heard of them two investigators that investigated her. The prime investigator was [redacted]

Q And that's who interviewed you?

A Yes, ma'am. That's the head investigator.

Q Okay.

A I need to see the other -- I need to see the actual report.

Q Sure.

A Okay. Oh, and I don't believe that what the IG stated in the report that several employees told them that [redacted] overrode Doug Elznic and didn't tell him about anything. I don't believe that.

They didn't mention any employees in the report, and all the employees know that Doug was hands-on in it. He was the associate director for Building Management.

And off the tip of my head, that's about it of the inaccuracies that I can think of right now.

Q Okay. So do you allege that the reports contained inaccurate evidence? I mean, you mentioned the statements from several employees that you think are inaccurate.

A From the employees? Yes.

Q Do you allege that the report -- Can you think of any other evidence that is inaccurate that the reports contained?

A Evidence-wise?

Q Uh-huh.

A As far as me looking at the report, you know, evidence-wise, no, because I gave them all of my reports that I can think of. I gave them my reports and all.

Q Okay.

A I don't know what else they collected on their end --

Q Okay.

A -- but I know what I gave them.

Q And do you have any evidence to support your statement that Mr. Elznic was involved and that [redacted] did not override his authority?

A That he was hands-on and he knew about the investigation all along?

Q Uh-huh.

A Yeah, I have that. Even before 2007. It dates before back then.

Q Do you have that evidence with you? Do you have any support with you today that you want to direct me to?

A We'll have to make copies then.

Q Oh, no, absolutely. Absolutely.

A Okay.

Q You have a binder with you. If you'd like us to make a copy of the whole binder, we could do that.

A That's up to you. I have no problem with it.

Q But if you want to just direct me to certain documents.

A I have no problem with that. You can copy the whole binder and take a look at it. Okay. Here you go.

Q At which tab are you?

A I'm sorry?

Q Which tab is this?

A Six.

Q Tab 6?

A Uh-huh.

Q All right. And what am I looking at here?

A Pete Wixted is the Environmental manager. I used to work up under him before he left the Department of Commerce.

He wrote up a -- what does he call it? -- a routing transmittal slip, and he was informing all of the higher-ups within the Office of Administrative Services of all of the environmental compliance issues that was going on at Commerce from the environmental -- GSA's contract -- environmental firm that was hired.

OBM is also Building Management. Doug

Elznic is the associate director at that time.

Q I see.

A He initialed on it. And the back of it also, you see listed where he had openings. I mean, anywhere it was open, it meant it wasn't closed, it never was issued.

Q Okay.

A So, yeah.

Q And did you give this document, Routing and Transmittal Slip, to the OIG during their investigation?

A Yes, I did.

Q Do you have any other evidence that you want to --

A Other than all the reports. I have all of the environmental audits that was done for the attic that shows the asbestos issues up in the attic.

Q Do you have those with you today?

A Yes, ma'am, I do.

Q Do you want to tell me the tab numbers?

A I'm sorry?

Q Do you want to direct me to the tab numbers?

A Sure. Okay. Tab 3 is Tidewater, Incorporated. That's the 2002 report.

Q That implicates Mr. Elznic?

A I'm sorry?

Q This is regarding Mr. Elznic's --

A Mr. Elznic would have known about it because he was also at Commerce at that time, Building Management.

Q Okay.

A April 2003 is the MACTEC report, and that's Tab 4.

Q Okay.

A Tab 5 is the Tetrahedron 2005 report -- March 2005 reports.

Tab 7 is the April 2006 Applied Environmental report. And this is the report that the environmental firm -- I'll tell you what. I'll let you see what they actually stated. I gave everything to the IGs.

Q You gave all of the tabs that you've

just referenced --

A Yes.

Q -- to the IG during their investigation?

A Yes.

Q And is it written on these reports that you've just referred me to that they went to Mr. Elznic?

A That these reports?

Q Uh-huh.

A Now, within the IG's report, [redacted] told me that Building Management told them that they never received these reports.

Q I see.

A GSA told them it was a lie, they received every response of these reports.

Q So my question is, do you have any --

A Do I have any proof that they received it?

Q That Mr. Elznic or Building Management received it? Maybe you don't.

A No. I don't have that.

Q Is there any other evidence that you want to discuss with respect to Mr. Elznic that you want to direct me to?

A No, not as of right now

Q Any other inaccurate evidence that you want to discuss from the Agency reports?

A No, not right now that I can think of.

Q Next, I'd like to discuss the omissions.

A Uh-huh.

Q Do you allege that evidence was omitted from Agency reports submitted in response to the 2010 referral from OSC?

A When you mean "omitted" --

Q Did the reports leave out any evidence that you think is important or would have had -- or would have changed the findings?

A I feel that they would have -- Yes. As a matter of fact, yes. Hold on one second.

On Tab 9, GSA wrote Mr. Fanning -- I gave this to OIG also -- wrote Mr. Fanning and letting him know that they met with their staff

about the cost -- how much it would cost to abate the attic. I don't recall ever seeing that within the report.

Q Okay.

A And in their report they only mention -- they only blame it on [redacted] but I knew there was more members in the meetings they was having.

Q Is there any other evidence that you allege was given to the IG but was not considered in the report?

A I'm sorry?

Q Is there any other evidence that you think was left out of the report?

A As of now that I can put my hands on, no.

Q All right. How about fabricated evidence? Do you allege that the Agency report --

A I'm sorry. Yes, there is. I apologize.

The OIG hired their own contractor to

-- got their own contractor, environmental firm, to go upstairs in the attic to conduct an audit. Tab 12. And the name of the firm is Geller Environmental Labs.

And they still found asbestos issues up in that attic and concerns up in there, and this was after the fact that Commerce paid a contractor -- well, not Commerce -- GSA paid a contractor half a million dollars supposedly to close it down -- I mean, to --

Q So I'm confused. So the OIG hired a contractor?

A Uh-huh.

Q In what year?

A This was during the investigation now.

Q In 2010 or 2011?

A I believe it was 2010.

Q And you're saying that the contractor found asbestos issues?

A Yes. And here's what they found.

Q This is Tab 12?

A Yes, this is Tab 12.

Q Okay. Is there any other evidence that you can think of that was not on the report? You should get it all out. That's why we're here.

A No, not at this -- Yeah, the photos. They didn't even submit the photos that I gave them.

Q And which tab are you referring to?

A I had to start the tabs over, so this would be Tab 3 in the back.

Q And can you tell me about the photos?

A The photos show the attic, all the asbestos in the attic, the penetrations in the attic and how it leaks through the -- how it can be leaked to other areas of the building.

Q Who took those photos?

A Contractors.

Q Under what circumstances? The contractors went up to the attic and they were working and they took photos?

A No. This program contractor was the contractor that was working up under Building

1 Management in February 2007. And some photos
2 were mine that I have. A couple photos were
3 mine from when I do my inspections.
4 Q You do inspections of the attic?
5 A Of the whole building.
6 Q And were you and/or the contractors
7 required to take the photos as part of their
8 job?
9 A I did it. Part of my job is backup to
10 show what was happening. It didn't have to be
11 of asbestos. It could be of anything I feel was
12 a hazard.
13 Q And who did you submit the photos to
14 after you took them?
15 A [redacted] Whoever I
16 felt it needed to go to to correct the issue.
17 Q So for the photos that are in Tab 3 in
18 the back --
19 A Uh-huh.
20 Q -- when you took them, who did you give
21 them to?
22 A These photos here?

1 Q Uh-huh.
2 A Monica from Peak Safety took these
3 photos, so she gave me a copy of these photos.
4 She gave a copy to Building Management.
5 Q Do you know why she gave you a copy of
6 the photos?
7 A Because I asked her for them.
8 Q This was -- When did you ask her for
9 the photos?
10 A It had to be during the time I filed my
11 whistleblower, around the first time I filed my
12 whistleblower and I reached out to her.
13 Q And, I'm sorry, who did she give the
14 photos to? She gave them to you and someone
15 else, you said.
16 A And Building Management. And her
17 contact within Building Management was Mario.
18 MS. KIMBALL: I'm sorry. Are these
19 photos that you took or photos that Monica took?
20 MR. LEE: Some is here and maybe like
21 two or three in here is mine. I believe. Yeah.
22

1 BY MS. CLARKE:
2 Q And the photos that you took you
3 submitted to who?
4 A [redacted]
5 Q Did you have any discussions with [redacted]
6 about the photos after you gave them to [redacted]
7 A I'm not sure photos of -- They don't
8 even have to be of the attic. They can be of
9 anything because the shop guys will come and
10 bring it to my attention that we have issues of
11 asbestos; okay?
12 I'd go take the photos of the room
13 number or wherever it is, bring it back to [redacted]
14 From there, [redacted] would give it to Mario.
15 Q So for those particular photos that you
16 took --
17 A You're talking about the ones I
18 particularly took? Okay.
19 Q -- yes -- you then gave them to [redacted]
20 [redacted]
21 A Uh-huh.
22 Q And then --

1 A [redacted] don't actually take them. [redacted] just
2 looks at them.
3 Q And then what happened? Do you
4 remember?
5 A Yeah. From there, then I go around to
6 Building Management because, usually, the shop
7 guys have -- if the job isn't too big, they'll
8 take care of the asbestos problem. But if it's
9 too big, they're going to need a contractor to
10 come in and do it.
11 Q So what happened after you --
12 A I don't know what happened after that.
13 Q Any other evidence that you think was
14 not included in the report?
15 A No. That's all I can think of.
16 Q And all the evidence that we just
17 discussed, Tab 3 in the back, Tab 12, Tabs 4, 5,
18 and 7 --
19 A Uh-huh.
20 Q -- did you give all these documents to
21 the OIG during the investigation?
22 A Yes, I did.

Q Are there any documents that you did not give to the OIG that you think are important or relevant to the investigation?

A The only evidence I didn't give to the OIG is that Geller report because I didn't have it. They had the report, and I FOIA'd that from them. They gave it to me.

Q Okay.

A So that's the only one. Everything else I submitted to them.

Q So I want to talk about any fabricated evidence.

Do you allege that any of the Agency reports relied upon fabricated evidence, made-up evidence?

A Yes. Let me go back to this to make sure I give it to you accurately.

Q Which tab are you looking at?

A It's Tab 4, the last tab in the back. I'm looking at the January 20th, 2011. I think I told you about it already, though, about the employees -- the statement about the employees

[redacted] overrode Doug Elznic -- Okay, yes -- they fabricated on. I don't believe that at all. Okay. That's it.

Q Regarding these statements from former employees -- or, sorry -- statements from employees discussing that [redacted] overrode Mr. Elznic --

A Uh-huh.

Q -- do you think that people gave the IG false statements, or do you think the IG just made up these statements?

A IGs made it up.

Q Do you have any idea why or thoughts about that?

A To cover up.

Q Can you explain?

A Can I explain?

Q I don't understand what you mean.

A No. They -- The asbestos issue in the attic goes far back and it should have been corrected. [redacted] just came to GAS in -- well, [redacted] came in 2006, [redacted] came in October

2007.

Those are the only two people that you can blame it on. And it was a contractor and one of the shop foremen who discovered how bad it was really getting again, even though in 2006 an environmental firm told you to shut it down to potential people with respiratory -- you know, to wear the mask for training and all.

But the problem should have been corrected back in, I think, 2003, 2002, whatever the case may be. But they let it go on whatever the issues and the reason was for and all.

And to be honest -- and it's just my opinion -- it's because of funding, because GAS always had an issue of moving money from one account to another.

And I believe when the GSA representative had that meeting with that -- the email that I showed you -- [redacted] it was over money to abate it. And that was the issue. Commerce didn't want to give up the money. I don't believe they had it at that

point in time and all.

Q So how does Commerce not having the money affect the OIG not wanting to put the blame on Mr. Elznic?

A It still falls up under Mr. Elznic. It still goes way back -- It still goes way back. You see, [redacted] wasn't even in the picture then, but Mr. Elznic was.

He was the decision maker to go ahead and fix that attic and all, not [redacted] They wasn't nowhere around in the picture. They didn't even know about it at all. But Doug did. [redacted]

Q Okay. Let's talk about the people you allege are responsible for the asbestos mismanagement.

A The people who?

Q That you're alleging are responsible for the asbestos mismanagement.

A Uh-huh.

Q So I understand that you allege that individuals should be held responsible?

A Yes, ma'am.

Q And those individuals I have are [redacted]

A Uh-huh.

Q [redacted]

A Uh-huh.

Q [redacted]

A Uh-huh.

Q -- Bill Flemming, Nancy McWilliams, Doug Elznic --

A Uh-huh.

Q -- Larry Hess, David Wynn, and Otto Wolff. Okay, that's nine.

A Okay. Yeah.

Q Is there anyone else that you allege is responsible for the asbestos mismanagement?

A I believe that was it.

Q So the report found that -- One of the reports found that [redacted] were officials bearing responsibility for the mismanagement of the asbestos in the Department of Commerce's attic?

A Yes. And [redacted] is lesser. They gave [redacted] lesser responsibility.

Q So do you have any other allegations regarding those three with respect to the findings, the OIG's findings?

A Showing that they were responsible?

Q Uh-huh.

A No, ma'am, I do not.

Q The investigation did not produce evidence indicating that the other seven people -- the other six people that you listed were responsible. They found that those individuals failed -- They found that there was no evidence indicating that they knew or failed to respond or should have known about the conditions in the attic.

Do you have any allegations with respect to that finding?

A Yes. They knew about it.

Q All six of the people knew about it?

A Yes. They knew about it and failed to do anything about it at all.

Q Let's take each one one by one --

A Okay.

Q -- and I'd like to discuss what particularly you -- what evidence particularly you have indicating that they knew or should have known and failed to do anything about it.

A Uh-huh.

Q So let's start with Mr. Flemming.

A Uh-huh.

Q Can you tell me about your allegations with respect to him?

A I think his position was -- Well, he changed titles so many times. But at that particular time, he was over -- I think he was director of Human Resources, and Office of Safety and Health fell up under his office.

And [redacted] was detailed to the Office of Administrative Services, and during this time, [redacted] was emailing him also what was going on with the asbestos issues.

Q Do you have any support for the statement that [redacted] was detailed to OAS?

A I don't think I have -- I'm sorry?

Q Do you have support for the statement that [redacted] was detailed to OAS?

A I don't have that one in this book.

Q Okay.

A I don't feel that was pertaining to asbestos. But when I go home, I'll email it to you.

Q Okay.

A I'll try to find it and email it to you.

Q Okay, sorry. Continue.

A That's okay. Bill Flemming, right?

Q Yes.

A Okay. And that was about it on that issue and for Bill Flemming.

Q So the reason that you think he was responsible is because the Office of Safety and Health fell under his responsibility?

A Yes. And I believe he was -- I want to say he was -- Oh, what's the name of that program?

1 I can't think of the program he was
2 over that oversees the safety and all, so I'm
3 not going to state it in here now.
4 Q All right. Any other reason why you
5 think that Mr. Flemming is responsible besides
6 the fact that the Office of Safety and Health
7 fell under his responsibility?
8 A No, ma'am.
9 Q So do you have any evidence that Mr.
10 Flemming was responsible for the asbestos
11 conditions in the attic?
12 A Do I have any evidence showing it? No,
13 I don't have any evidence showing that.
14 Q How about Ms. McWilliams?
15 A Nancy McWilliams?
16 Q Yes.
17 A Nancy McWilliams was the director of
18 Office of Safety and Health. It was her
19 responsibility to make sure that the safety and
20 health of every tenant of that building is safe
21 and all, and she was in on that email traffic as
22 well.

1 Q I'm sorry. You said she was on the
2 email --
3 A She was in on that email traffic as
4 well as far as the attic. And I don't have that
5 email with me either, and I'll forward that to
6 you also.
7 Q Do you have any documents you can point
8 me to with respect to Ms. McWilliams'
9 responsibilities as you allege them?
10 A No. Not on me.
11 Q Do you have any other reason to believe
12 that Ms. McWilliams was responsible for the
13 asbestos mismanagement or should have known
14 about it?
15 A About -- She would have known about?
16 Q About the asbestos.
17 A She did know about it, so -- because
18 I've seen her name on the email. I know she
19 knew about it.
20 And I have another email where I know
21 she contacted somebody, a contractor or somebody
22 at NIS, to come out and take asbestos results,

1 air samples and all, but I have the paperwork at
2 home. I didn't think it was relevant. So like
3 I said, I'll send them to you.
4 Q Do you have any evidence that Ms.
5 McWilliams should have responded to the asbestos
6 problem?
7 A I feel she should have taken it more
8 serious and made sure that that attic was shut
9 down when it should have been shut down.
10 Q Do you have any evidence that that was
11 part of her responsibility?
12 A No, I do not.
13 Q Do you have any other allegations with
14 respect to Ms. McWilliams' responsibilities or
15 knowledge or anything about the asbestos
16 mismanagement?
17 A No.
18 Q We've discussed Mr. Elzaic a little
19 bit, but do you have any other allegations
20 regarding his responsibilities with respect to
21 the asbestos mismanagement?
22 A His responsibilities?

1 Q Uh-huh.
2 A It's his responsibility to make sure
3 all asbestos is abated, maintained if it's in
4 good condition as associate director for
5 Building Management because that was his
6 position.
7 Actually, he held two positions. He
8 was associated director for Building
9 Management/acting deputy director for OAS.
10 I lost my train of thought. I'm sorry.
11 Q That's okay. I was just asking you why
12 you think Mr. Elzaic was responsible, and you
13 were saying because of his position as the
14 deputy director --
15 A Yes. As his position as the associate
16 director of Building Management and the deputy
17 director for OAS -- acting director for OAS.
18 Q Is there any other reason that you
19 think he's responsible besides his title?
20 A To me, his title stands alone because,
21 as Building Management, you serve as the
22 building and it's your responsibility to make

1 sure that building is up and running and
2 everybody in that building is safe.
3 Q Do you have any evidence to dispute the
4 finding that [redacted] bypassed Mr. Elznic and
5 other subordinate managers to work directly with
6 [redacted] on asbestos-related matters?
7 A No. I don't have no evidence of that.
8 Q Do you have any evidence that Mr.
9 Elznic was responsible for the asbestos
10 mismanagement before he became deputy director
11 in 2008 of OBM?
12 A Yes. That's what I showed you that
13 Peter Wixted addressed them in 2005.
14 MS. KIMBALL: That's Tab 6?
15 MR. LEE: I'm sorry?
16 MS. KIMBALL: Are you talking about Tab
17 6?
18 MR. LEE: Yes. I think it was Tab 6
19 where he initialed off on that I showed you. I
20 think it was Tab 6. Let me go back to it just
21 to make sure. Tab 6; correct.
22 MS. KIMBALL: Okay.

1 BY MS. CLARKE:
2 Q Do you have any other reasons you think
3 he's responsible or any other evidence you want
4 to discuss with respect to Mr. Elznic?
5 A I don't have it with me, but I do have
6 the -- I have a statement from the former acting
7 director and the former acting director of OAS,
8 Jim Woods.
9 He wrote a statement stating that Doug
10 Elznic was aware of the asbestos throughout that
11 building, and he was also interviewed by [redacted]
12 [redacted]
13 Q Is the statement that you're referring
14 to the statement that [redacted] took during
15 the OIG investigation, or is this a separate
16 statement that he made --
17 A It's a separate statement.
18 Q That he made to you?
19 A Yes. That he made for me.
20 MS. KIMBALL: Did he make that orally
21 or --
22 MR. LEE: It was written, and I'll send

1 that over to you. And all his contact
2 information is on it, so you can verify it with
3 him.
4 BY MS. CLARKE:
5 Q So I was reading -- You submitted a
6 couple of responses to the OIG's report and
7 supplemental reports --
8 A Uh-huh.
9 Q -- from 2011. There's one statement I
10 wanted to ask you about.
11 You stated that Mr. Elznic made it his
12 business to get a respirator fit test by a
13 contractor in 2007.
14 A Uh-huh.
15 Q Can you tell me about that?
16 A Yeah. If he had no involvement in it,
17 if he knew nothing about it, why did he make it
18 his -- I didn't understand why did he make it
19 his business to get a respirator fit test. And
20 everybody was getting it who was supposedly
21 going into the attic.
22 Q Did you get a respirator fit test?

1 A No. I didn't get one.
2 Q Who got the fit tests?
3 A Who?
4 Q Yes. You said everybody who was going
5 in the attic.
6 A It was a number of people. Mainly, the
7 shop guys got them. Let's see. Some of the
8 names I remember seeing on their list, I
9 remember seeing like the shop guys.
10 Mainly, all the shop guys that worked
11 downstairs and some of the guys that worked in
12 the Building Management area, you know, where
13 Doug and Mario work.
14 Q And after they got their fit tests, did
15 they also wear protective gear when they went
16 into the attic?
17 A I never seen them go into the attic. I
18 mean, after that, I didn't see them. They only
19 got fitted just in case they had to go in there
20 so they'd know what size mask to go buy. That's
21 what I mean by "fit test," so they'd know what
22 size mask to go get for them.

Q You don't know if they ever got the masks?
A I never seen a mask on them.
Q You stated that Mr. Elznic asked an industrial hygiene firm to investigate the day care center after receiving a report of asbestos floor tile?
A Uh-huh.
Q Does that have anything to do with the attic?
A No. That's separate.
Q And do you have any evidence to back up that statement that he asked a firm to investigate the day care center?
A Yes. I don't have it here, but I have it.
Q Besides the Tab 6 that you referred us to, do you have any other evidence that between 2003 and 2006 Mr. Elznic had firsthand knowledge of the asbestos problems in the building?
A Can you repeat that one more time?
Q Yes. You referred us to Tab 6.

A Uh-huh.
Q Is there any other evidence that you have that Mr. Elznic knew of the asbestos problems?
A No.
Q Any other evidence that he was involved or briefed on the asbestos problems?
A No.
Q Do you have anything else with respect to Mr. Elznic that you want to discuss?
A No, nothing.
Q Okay. Let's talk about Larry Hess.
A Uh-huh.
Q Can you tell me about your allegations regarding Mr. Hess?
A Larry Hess is head of Renovations department, meaning he would know -- he sat in on the asbestos meeting. He knew about the asbestos in the attic because it had to be abated. I don't know Larry Hess' title. I'm sorry.
Q Associate director of OBR, Office of --

A Renovations or something.
Q -- Building Renovations.
A So I don't know how much power Larry Hess had, but it fell up under him also. And I don't know -- like I say, I don't know how much power he had.
Q Do you have any evidence to show that he was responsible for correcting any problems, any asbestos issues? Or do you allege that he was responsible for fixing the issues?
A Up in the attic or asbestos issues period?
Q Up in the attic.
A They started on -- The contractors for the renovation, they started on the asbestos, but it was further down in the other end of the -- I mean, in the attic part of the building, so that still falls up under him because it's part of Renovation. You know, that's part of Renovation. They work their way up. So, yeah, he knew about it and all.
Q I understand that but --

A You ask me do I have any direct evidence, that's what you're asking? No.
Q I understand that you're alleging that he knew about it. Are you also alleging that he had responsibility for fixing it?
A Yes.
Q But you have no evidence to show that?
A No evidence.
Q Do you have any other allegations with respect to Mr. Hess?
A Mr. Hess?
Q Uh-huh.
A No, ma'am.
Q And how about David Wynn?
A David Wynn, he was up in the Office of Safety and Health. He came down. I don't know if he was detailed or they hired him down there as the Energy manager within the Office of Administrative Services. But he was assisting them with the asbestos issue, also.
Q Do you have any evidence to support that statement that he was assisting with

1 asbestos issues?
2 A Yes. Because as I was putting in FOIA
3 requests, he was my direct contact, you know,
4 and it was about the asbestos issues for the
5 attic.
6 Q Any other reason that you think he knew
7 or should have responded to the asbestos issue
8 besides the fact that he was your direct contact
9 for the FOIA requests?
10 A As his position that he had upstairs --
11 I think he was the safety and health specialist
12 upstairs -- he would have known as his job
13 position right there and then coming down and
14 being Environmental manager, I mean, he should
15 have known the seriousness of the issue and all.
16 So I feel that he should have had a
17 much better responsibility than what he did.
18 But he didn't last long in that position. He
19 left. I think he went to EPA.
20 Q Any other reasons that you think he was
21 responsible?
22 A No. No. Of anybody to be lesser

1 responsible, it would be David Wynn.
2 Q Why do you say that?
3 A Because he came in at the tail end of
4 it.
5 Q Which was when?
6 A I think David Wynn came downstairs, or,
7 I want to say somewhere around 2010 or so. It
8 was right after [redacted] left.
9 Q One of the findings in the report was
10 that after Mr. Wynn was hired, he was detailed
11 to the Office of Real Estate Policy and Major
12 Programs --
13 A Uh-huh.
14 Q -- and was assigned to work on
15 Environmental policy not specific to the attic.
16 Do you dispute any of that finding?
17 A I have no idea what that -- I mean, I
18 don't know if he was working on policy.
19 Q Okay.
20 A I know when I left, Genevieve Walker
21 was working on policy.
22 Q Any other reason that you think that

1 Mr. Wynn had knowledge of the asbestos or
2 responsibility to do anything about it?
3 A No, ma'am. No.
4 Q One of the findings was that [redacted]
5 [redacted] refused -- No. That's all I have for
6 that.
7 A Okay.
8 Q Let's talk about Mr. Otto Wolff.
9 A Uh-huh.
10 Q Can you tell me about your allegations
11 regarding him?
12 A Former chief financial officer?
13 Q Yes.
14 A Otto knew about all of the asbestos and
15 that was brought to my attention by the former
16 director of OAS, Jim Woods.
17 He said he sat down with Otto Wolff and
18 his assistant, Jeff Nuff, and told them about
19 all of the asbestos and lead within the building
20 to include the attic, and they didn't want to
21 abate it. They didn't want to do anything with
22 it.

1 Q Mr. Woods told you that Mr. Wolff
2 didn't want to do anything about the asbestos?
3 A Yes. He told me and he told [redacted]
4 [redacted] that.
5 Q Do you have anything -- any documents
6 to support that?
7 A Did I bring his -- I don't think I
8 brought that one either, that email either.
9 Q Okay. Do you want to --
10 A I'll have that sent to you also, the
11 Jim Woods email.
12 Q Do you want to write these down?
13 A I need a pen. I remember Jim Woods
14 email. Why don't you tell me what you want, and
15 then I can --
16 Q I think there were some others you
17 mentioned.
18 A Okay. What else did you say you
19 needed?
20 MS. KIMBALL: So there's the email
21 regarding Jim Woods -- any documents regarding
22 Jim Woods telling Otto Wolff about the asbestos.

1 Documents regarding Jim Woods saying
2 that Doug Elznic was aware of the asbestos.
3 MR. LEE: Okay. That wasn't an email
4 to Doug Elznic. That was a statement that he
5 had wrote. I can get that for you.
6 MS. KIMBALL: There was also an email
7 chain showing that Nancy McWilliams was aware of
8 the asbestos in the attic.
9 MR. LEE: Okay.
10 MS. KIMBALL: And then I have a
11 document regarding Bill Flemming, but I don't
12 have anything more about that.
13 MS. CLARKE: I think it was the email
14 regarding the detail of [redacted]. You said
15 [redacted] was detailed to OAS, and I asked if you had
16 any support that [redacted] was detailed to OAS.
17 MR. LEE: Right. The document showing
18 that [redacted] was detailed to OAS. Gotcha.
19 BY MS. CLARKE:
20 Q Okay. You mentioned in one of your
21 responses that Mr. Wolff was aware that [redacted]
22 [redacted] failed to conduct regular

1 testing on the eighth floor.
2 Do you recall that?
3 A Mr. Wolff failed -- Please state that
4 one more time.
5 Q Mr. Wolff was aware that [redacted]
6 [redacted] did not conduct regular testing on the
7 eighth floor attic.
8 Do you recall that statement?
9 A I probably did say that, and if I did,
10 it's true. I know he was aware of it.
11 Q How do you know he was aware that there
12 was no testing?
13 A They reported to him.
14 Q [redacted] reported to Mr.
15 Wolff?
16 A No, [redacted] reports to Gale Wolff
17 any findings. Doug Elznic reports to [redacted]
18 Q Do you have any support for that
19 statement that [redacted] reports --
20 A No. I have no -- No. That's protocol,
21 though, but no, I don't have no support -- no
22 evidence of that.

1 Q Do you have any evidence that that's
2 protocol?
3 A I'm thinking back. I'm going to say no
4 for now.
5 Q Okay. If you think of something --
6 A I need to go back and check.
7 Q If you think of something, you can
8 email us and let us know.
9 A Okay.
10 Q Do you have any other allegations or
11 evidence with respect to Mr. Wolff and his
12 responsibilities for the asbestos mismanagement?
13 A No, ma'am.
14 Q So I'd like to talk about who
15 supervised you while you were at DOC.
16 The Office of Special Counsel stated
17 that they didn't think that the OIG's
18 investigation established, you know, who
19 supervised you when and during what time period
20 --
21 A Uh-huh.
22 Q -- so I'd like to discuss that.

1 A Okay.
2 Q So let's go all the way back to the
3 beginning of this asbestos issue which, I think,
4 is 2002.
5 A Uh-huh.
6 Q Who supervised you in 2002?
7 A In the beginning of 2002, it would have
8 been Lejuene Desmukes.
9 Q Can you spell that?
10 A Okay. Lejuene is L-e-j-u-e-n-e.
11 Desmukes, D-e-s-m-u-k-e-s.
12 Q Okay.
13 A And in 2003 it was Pat McNutt.
14 Q Pat?
15 A McNutt. M-c-N-u-t-t.
16 Q Do you recall their positions?
17 A They was over there in the Contract
18 Office over there. It's in OAS. They was my
19 first-line supervisor. Doug was my second-line
20 supervisor.
21 Q When was he your second-line
22 supervisor?

A It started in 2002, 2003.

Q Okay.

A I can't remember the exact name of the office, but it was dealing with contracts, and it fell up under the Office of Building Management.

Q You said OAS. You meant OBM?

A No. Office of Administrative Services is the overall office, but Office of Building Management is where Doug was.

Q I see.

A But this sub-office where Contracts was, which is where I was detailed to, fell up under Doug, and he was my second-line supervisor.

Q And this was in 2002, 2003?

A Yes, ma'am.

Q So Pat McNutt was your first-line in 2003?

A Yes.

Q And then --

A Then Lejuene was 2002.

Q And who was after Pat?

A In 2004, that's when I became the hazardous waste facilities assistant.

Q Okay.

A And that was -- I was up under Pete Wixted and Lance Fiener.

Q Pete Wixted was your first-line supervisor?

A Yes. I was under him. He was Environmental manager.

Q And who was your second-line?

A Lance Fiener.

Q Okay. And then after that?

A Then in 2006, I went over to -- I was detailed over to Office of Building Management. [redacted] became my first-line supervisor, and I still had the title of hazardous waste facilities assistant. Doug Elznic was my second-line supervisor.

Q So Mr. Elznic was your second-line supervisor in 2002 and 2003, and then someone else was your second line, and then again in

2006 he was your second-line supervisor?

A Yes, ma'am.

Q Okay. And then --

A Sometime in 2006, I want to say it was between -- I want to say it was around September of 2006, September, October of 2006, I was on a 120-day detail to the Acquisitions Office.

Q Okay.

A And what is his name? Mike Anastasio was the supervisor.

Q He was your first-line supervisor?

A Yes. I don't know who the second-line supervisor was.

Q Okay.

A And I know in January, he asked for -- he went back to Fred and asked can he keep me.

Q Okay.

A Fred said no, but I'll give you an extension. I think he even granted 30 or 45 days. I think it was somewhere around April I came back to OAS.

Q April of 2007?

A Yes. Somewhere around April 2007.

Q And when you came back, who was your first-line?

A [redacted]

Q And Doug was your second-line supervisor?

A Doug was second line.

Q And then was there any change after that?

A And in October 2007 it became [redacted] and [redacted] was my supervisor until I departed Commerce [redacted]

Q And who was your second-line?

A Braulio Ramon is his name. Braulio, B-r-a-u-l-i-o, Ramon, R-a-m-o-n, I believe it is.

Q And what was his position?

A He was associate director for Real Estate.

Q And were you detailed while you were under [redacted] supervision?

A Under [redacted] No.

Q Okay. So the only detail you had in

2007 was --

A [redacted]

Q -- was when you were detailed to the Acquisitions Office?

A Yes, ma'am.

Q But [redacted] wasn't your supervisor then. That was Mike Anastasio?

A Mike Anastasio; yes.

Q Not [redacted] though?

A No. [redacted] was --

Q When you came back to OAS?

A When I came back. But I'll just wait until the next question you have.

Q No, go ahead.

A I still had to conduct my duties, though, while I was up there at Acquisitions in the detail.

And the reason for that, Paul Taylor was doing my duties, but he came up to Acquisitions and said, Dion, Pat McNutt is complaining and saying it ain't fair for us to do your duties.

Q Paul?

A Paul Taylor. Saying it ain't fair for us to do your duties and we're doing ours. So he said, I don't have a problem with it, but we can split it up.

I said, okay, no problem. So that's what we did. I still continued to do my inspections and everything, and he did some duties.

Q Who was supervising --

A His supervisor was Pat McNutt.

Q I see. And do you have any documents to support that, that you guys split up the duties and you still conducted --

A No, I don't.

Q Okay. Well, since we're on that subject, let's talk about your job responsibilities --

A Uh-huh.

Q -- as a hazardous waste facility assistant.

Can you tell me about your duties?

A Sure. Just maintain, dispose the hazardous waste throughout the building regardless of which hazardous waste it is, asbestos, lead, PCP, mercury, old paint, oil, whatever the case may be, any hazardous waste I did.

I conducted inspections throughout the building from the basement up to the attic to include office inspections, inspections of the shop guy areas, and that was the bulk of my duties. Oh, and recycling. I handled recycling.

Q What was the purpose of your inspections?

A Safety and health. It was part of my duties. Any faults that I seen, like I said, I took it over to Building Management and the shop guys usually corrected it all, whether I seen something wrong with an outlet, that was an electrical issue.

Like I say, they'd tell me asbestos or anything. The shop guys -- You've got an

electric shop, a plumbing shop, and the HVAC shop. I took it to each one of them shops, and they took care of the problem.

Q So when you say collecting and dispose of hazardous waste --

A Uh-huh.

Q -- where did you collect the hazardous waste?

A We had a hazardous waste cabinet in the South Garage. I tagged and labeled all the hazardous waste, got it prepared for the contractor, and the contractor came and picked it up.

Q So who collected the waste?

A I did.

Q Did someone collect the waste and put it in the garage --

A Either I collected it --

Q -- for you --

A -- or -- I'm sorry. I forgot. No, no, go ahead.

Q Did someone collect the waste and put

it in the garage for you to tag and bag and all that?

A It went both ways. Usually, I'm pretty sure the shop guys, they're the only ones that do it.

They would just leave it right there in front of the cabinet because the cabinet remained locked because of hazardous waste that was already in there. Or during my inspections, I may see it. I have to go back and get it.

Q So you would collect the hazardous waste and put it into the basement?

A Uh-huh.

Q Did you collect hazardous waste from the attic and bring it to the basement?

A Yes. I'm glad you said that. Pete Wixted, one of my former supervisors, wrote a statement for me also for my workers' comp, but it pertains to the attic. I guess it would be Tab 2 in the back. And I have James Woods' statement also.

Q And these are statements saying what?

A This is about --

Q About your duties; correct?

A Correct. And responsibilities.

Q Okay.

A And he's talking about the attic also and how Doug Elznic with Jim Woods -- it tells you how Doug Elznic knew about it.

Q And these are both from Tab 2?

A Correct; yes.

Q How often did you access the attic?

A Maybe three times a week.

Q For what purposes?

A Inspections. That was my only purpose up there, inspections. Cleanliness.

Q So you would go up to the attic three times a week to check on the cleanliness?

A Cleanliness and inspections of it and for safety and health inspection-wise.

Q Sorry. I just want to check.

So if you went up on Monday to inspect it --

A Uh-huh.

Q -- then you would also go back up there to inspect it again --

A On Wednesday.

Q -- on Wednesday?

A Because you had contractors up there. You had shop guys up there.

Q I see.

A And they leave trash behind. They leave parts behind.

Q Was there some point at which the attic was closed?

A At some point in time it should have been closed, but it wasn't closed.

Q Yeah, that's what I'm asking.

Was there a point in time when it was closed and there was no access to it?

A When it was closed on me when I couldn't get back up there my last time going up there it was around March '08.

Q And do you have any documents -- You mentioned the statement of Mr. Woods and Mr. Wixted.

Any other documents that support the statement that you accessed the attic through your job as a hazardous waste facilities assistant?

A Any document?

Q Yes. Any other documents. Those two statements.

A No. I'll give you a list of witnesses. I'll give you half of OAG if you need them. They'll tell you I went up there. That's my job.

Q Did you submit weekly work reports to [redacted]

A I didn't hear you.

Q Did you submit weekly work reports to [redacted] detailing the work you performed while [redacted] was your supervisor?

A Yes, ma'am, I did.

Q And did they discuss the inspections of the attic?

A I can't recall. I believe some did and some didn't if I went up there.

Q What type of things would you put in these reports?

A Oh, the inspections. What else would go in there? It was mainly more of an accomplishments type of thing.

If [redacted] had me to do anything, if I completed these accomplishments, you know, weekly accomplishments -- That's what it was mainly called.

Q So if you did an inspection of the attic, it might be in there?

A Yeah. Or anything I was working on in the office. Stuff like that goes up in there.

Q Did the Department of Commerce issue you any protective gear for your work as a hazardous waste facility assistant?

A No, ma'am, they didn't.

Q No gloves or face mask --

A No.

Q -- or any type at all?

A No, ma'am, they didn't.

Q So when you were collecting the

hazardous waste material, you didn't use any protection?

A No.

Q Did you receive any training as part of your -- any training related to your job?

A I received one training, and I believe the HAZWOPER course, and Pete Wixted sent me to that. I asked for asbestos training from [redacted] on two occasions. [redacted] denied it.

Q So I know you said you weren't issued any protective gear, but were you required to wear any protective gear?

A If you're handling hazardous waste, yes, because you don't know if it's going to spill on you.

Q So you were required to wear it, but you weren't issued it?

A Correct.

MS. KIMBALL: Did Commerce require you to wear it?

MR. LEE: What do you --

MS. KIMBALL: Did your employer require

you -- As part of your job, were you required to wear hazardous waste protective gear?

MR. LEE: Yes. As a matter of fact -- I don't have it with me. Commerce had their own guideline for hazardous waste handlers and all, trainers and everything. I don't have it with me, though.

MS. KIMBALL: So if they required you to wear the gear but they didn't issue it to you, where were you supposed to get it?

MR. LEE: They're supposed to buy it, pay for it. I can't pay for my own gear. They're supposed to pay for all that. That's Commerce's responsibility.

MS. KIMBALL: Do you have any documentation showing that they required you to wear it?

MR. LEE: Nothing.

BY MS. CLARKE:

Q During this HAZMAT training that you referenced, did you discuss, you know, the requirement of wearing protective gear?

A I'm sorry?

Q Did you discuss the requirement that you had to wear protective gear?

A Did I discuss it?

Q During the training, did they tell you? Like what did they train you on during this training? Like what did you learn?

A Yeah. I learned about the protective gear and the different types of hazardous waste and how to clean up hazardous waste and so forth.

Q And when you came back from that training, did you ask for protective gear since they trained you that you should wear it?

A No, I didn't ask for -- They bought a spill kit; okay? That's what they bought. But it didn't contain a suit. It only contained absorbants to clean up, you know, if there was a spill. That's it.

Q Okay.

A That's it.

Q And you might have answered this, but

1 did you receive any training related to asbestos
2 -- any type of training at all related to
3 asbestos while you were in that position?
4 A No, ma'am. They denied it. And the
5 thing about this, Mario was doing the training
6 for his guys.
7 He had a contractor to do the training
8 for his guys, and he said it was okay for me to
9 come in there and do the training. [redacted] denied
10 it. This was when I was up under [redacted] said
11 I couldn't do it.
12 Q Do you know why?
13 A Didn't say. [redacted] never gave me a reason
14 why.
15 Q Do you have any support for that?
16 A No. I have no support for --
17 Q An email or --
18 A That was verbal. You can tell it to
19 Mario. He'll tell you [redacted] said no.
20 Q And how about in --
21 A I have witnesses to support that.
22 Q I'm sorry?

1 A I have witnesses who were there,
2 though, to support that [redacted] wouldn't do it when
3 Mario said yes. I could come in and do the
4 class.
5 Q And who are your witnesses?
6 A Steve Savoy, who was a building
7 management specialist who is over at Commerce
8 still now.
9 And Monica Barnett. She was the
10 contractor up under Peak Safety up under
11 Building Management at the time.
12 Q In April 2007 when you were under the
13 supervision of [redacted] --
14 A Uh-huh.
15 Q -- did [redacted] offer asbestos training then?
16 A No. That issue -- That attic issue --
17 Well, you know what? [redacted] didn't. I didn't even
18 know nothing about that attic. I was out of the
19 loop of it, and also they didn't.
20 Q What do you mean you were out of the
21 loop?
22 A They didn't offer me no training.

1 Q I understand that they didn't offer you
2 any training, but what do you mean that you were
3 out of the loop of the attic issue?
4 A When I mean out of the loop of it means
5 that I didn't know it was that serious.
6 Q Even though you had been doing
7 inspections of the attic?
8 A Yes. See, even though I do inspections
9 of the attic, I didn't know the seriousness of
10 asbestos because I wasn't trained in it.
11 Q I see.
12 A That's why I take pictures. [redacted] is
13 the one who has the master's degree in
14 environmental. [redacted] has all these degrees and
15 everything. I have nothing.
16 So if you don't give me the training, I
17 don't really know nothing about it. That's why
18 I take pictures to back myself up to come back
19 and show you.
20 Q I see. I see. Okay.
21 So sitting here today, do you have any
22 knowledge of asbestos? Like have you since

1 received any asbestos training or anything like
2 that?
3 A I've never taken no training, but I
4 know a little bit more than when I left Commerce
5 now.
6 Q So you didn't do any work besides
7 disposal related to asbestos while you were a
8 hazardous waste facility assistant?
9 A Did I dispose of it?
10 Q No. Did you do any work related to
11 asbestos besides --
12 A Oh, you mean abate it? No.
13 Q Any type of work. I'm just wondering
14 --
15 A Oh, no, no.
16 Q -- what your experience was.
17 A I did no abatement.
18 MS. KIMBALL: You said that you have
19 more knowledge of asbestos now that you did when
20 you left Commerce.
21 Where did you learn about asbestos
22 since you left Commerce?

MR. LEE: Reading up-wise I'm talking about. Reading up on it wise.

MS. KIMBALL: Reading what?

MR. LEE: Asbestos. You know, Internet and studying up more on it wise.

MS. KIMBALL: Okay.

MR. LEE: You know, health-wise issues and stuff like that; yeah.

MS. KIMBALL: And all of your study has been on the Internet or --

MR. LEE: Uh-huh. I didn't go pay for no training or nothing like that if you're trying to say that; no.

MS. KIMBALL: Okay.

BY MS. CLARKE:

Q Anything else you want to discuss about your job responsibilities?

A No.

Q Oh, I did have one more question about that.

A Uh-huh.

Q When you were on detail, did you still

inspect the attic the same amount of time, two to three times per week?

A Yes.

Q You didn't split up -- Because you said you split your work responsibilities with someone else.

A Uh-huh.

Q I was just wondering if you split up the responsibility of inspecting the attic?

A No. Because I don't know -- Somebody else had the cleaning contract, because they was up there quite frequent also, and I would see them cleaning the attic when I would go through doing my inspections.

Q I want to go back to your detail.

A Uh-huh.

Q Can you tell me about the work that you were doing while you were on detail?

A I was learning more into contracts because I have a degree in contracts. I was learning more into contracts, and I was working with Curtis Taylor. I believe that's her name.

Q What's her name?

A Curtis Taylor.

Q Can you help me spell it?

A Oh, man. C-u-r-t-i-s. The last name is Taylor.

Q Okay.

A I don't think she's no longer there, though. I think she left.

Q Okay.

A And I also did the COR certificates for OAS, maintaining and tracking who was on top or needed training or so forth.

Q So it was mostly administrative work?

A Yes.

Q So what percentage of your work was your old responsibilities versus this administrative work?

A Meaning going back to my hazardous waste in between times? About a 60-40, 40 is hazardous waste, going back into it; yeah.

Q And do you have any -- I think you said that you could give me a list of people who

could back up that you still accessed the attic while you were in detail?

A Uh-huh.

Q Any documents you can point me to that would support that you --

A Any documents?

Q Uh-huh.

A No. I mean, Any of my inspections that I did, I'm pretty sure they got rid of all my books also. I had -- I kept a book for my inspections, a book for my recycling, a book for my hazardous waste, and I'm pretty sure all of them are gone by now.

Q Why do you say that?

Q Do you know why?

A Uh-uh. I don't know why.

Q Can you tell me about your interview with the OIG during the investigation? No. Let me take that back.

A Okay.

Q Do you have any concerns about your interview with the OIG?

A With the OIG?

Q During the investigation.

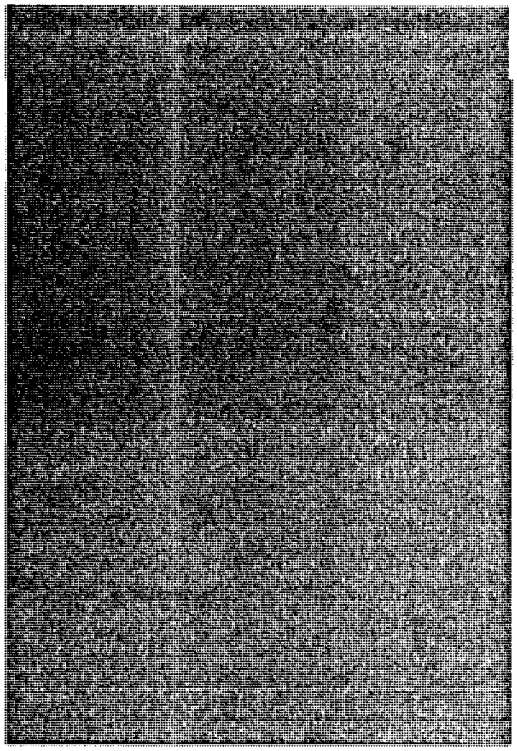
A I was confident with [redacted] during the investigation. [redacted] made me feel -- I mean, too many people I don't trust during the investigation.

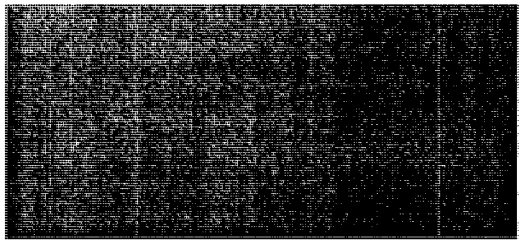
I'll be honest with you, I don't trust them, and I made that clear to [redacted] also. But [redacted] made me feel comfortable. I could trust [redacted] And I did trust [redacted] throughout the investigation. I didn't trust her boss Rick Beitel at all.

Q Why do you say that?

A It was brought to my attention that him and [redacted] came from Transportation Department. [redacted] worked on the asbestos complaint there, and he edited [redacted] report.

And both of them ended up at Commerce, and now [redacted] doing another asbestos report and he's [redacted] boss again. [redacted]





MR. LEE: No, no, no. I'm talking about Rick Beitel is the one we didn't trust.

MS. KIMBALL: Okay.

MR. LEE: He's the one who wanted her to not say certain things.

BY MS. CLARKE:

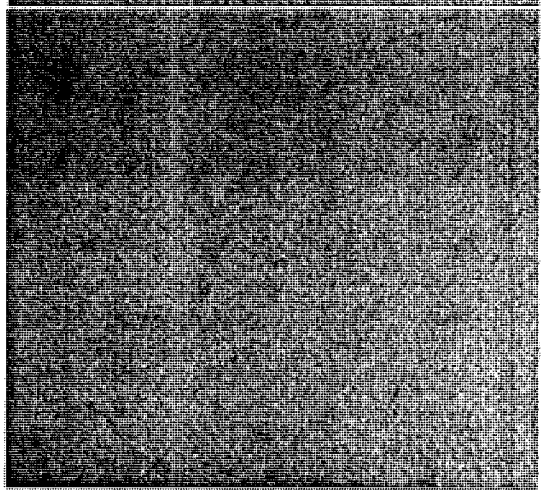
Q What types of things?

A Whatever was dealing with that attic and all, you know, about the attic. She is the one who took the photos. You know, she's the contractor of Peak Safety.

Q Do you remember what kinds of things he didn't want her to say?

A I can't recall, so I can't -- I'm not going to quote her on it. But whatever it was,

he didn't want her to say.



[redacted]

I do believe [redacted] when [redacted] said that in [redacted] letter to the president that [redacted] - [redacted] notified someone in the IG. I forgot the person's name that Kevin Wilson told me.

I didn't know that at first. Because right after this investigation was over with, [redacted] left right after it was over with. [redacted] didn't stick around. [redacted] went somewhere else. [redacted] wasn't at Commerce no time. So I don't think [redacted] knew anything about it, that people who was over [redacted] head knew about it and all.

Q Sorry. I don't understand.

A I don't think [redacted] knew about it. I think whoever was overhead -- I don't think [redacted]

knew about it until at the end.

I think [redacted] found out probably after [redacted] did all this investigation that [redacted] own -- [redacted] own office knew about the asbestos in that attic already. You see what I'm saying?

Q I see.

A Yeah. I just think [redacted] an innocent party -- investigator.

Q Okay. Anything else with respect to your interview?

A No.

[redacted]

Q Can you tell me about your relationship with her?

A I met Monica -- Honestly, I didn't meet Monica until -- not until I filed, I believe, my whistleblower. That's when I needed the information. [redacted]

Even at Commerce, I haven't -- I bumped into Monica one time, and that's to try to get

in her class. I never had interaction with Monica.

Q Okay. Let's go back.

What class are you talking about?

A The asbestos class. She taught that asbestos class. She was the contractor up under Building Management at Peak Safety.

Q So she taught an asbestos class, and you wanted to get in it?

A Yes, ma'am.

Q But you didn't get approval?

A Correct. I didn't get cleared for the class.

Q So you didn't get in her class. Fast forward until when?

A I'm sorry?

Q You didn't get into the class.

A Uh-huh.

Q So when was the next time that you interacted with her?

A Not until I filed my whistleblower.

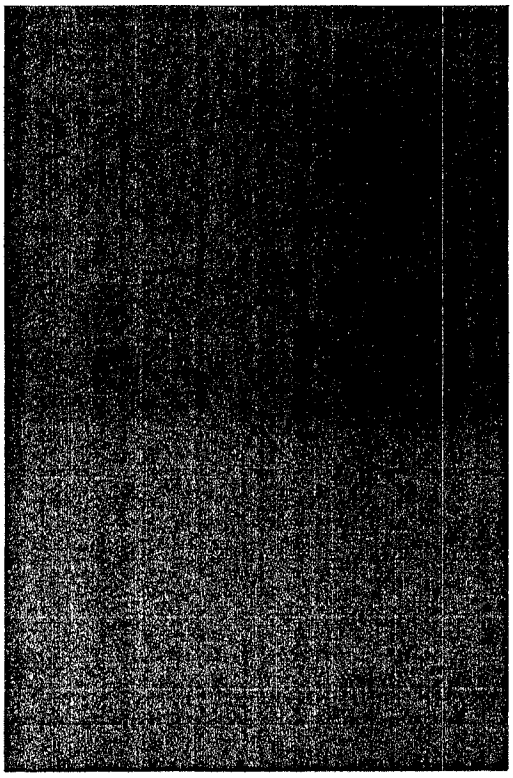
Q Which was?

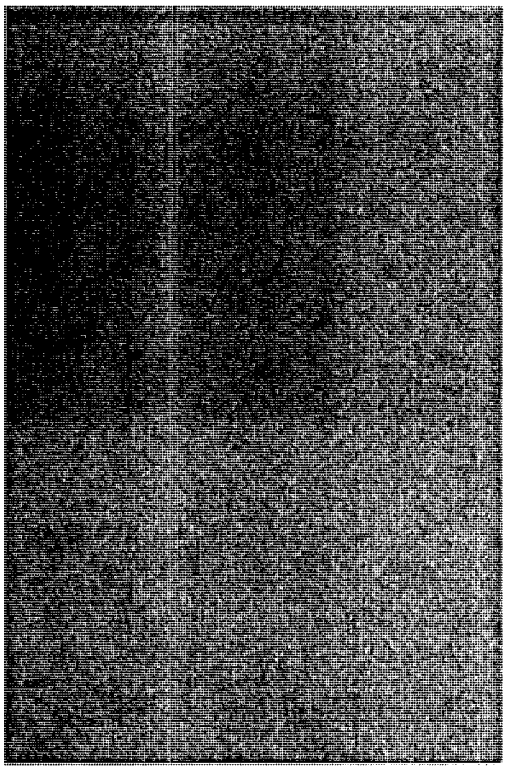
A Oh, what was the date of that? [redacted] January 2009, I believe, I reached out to her.

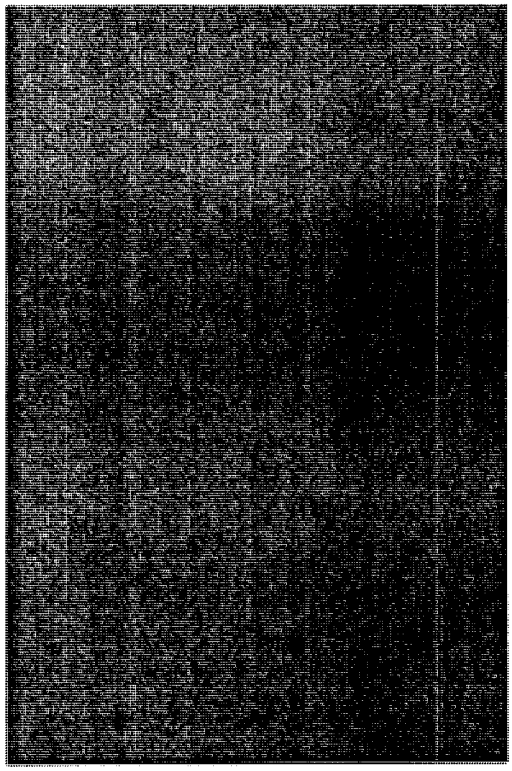
Q And you filed the complaint that started the asbestos investigation?

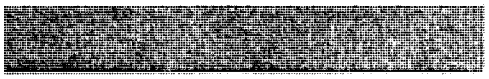
A Yes, ma'am.

[redacted]





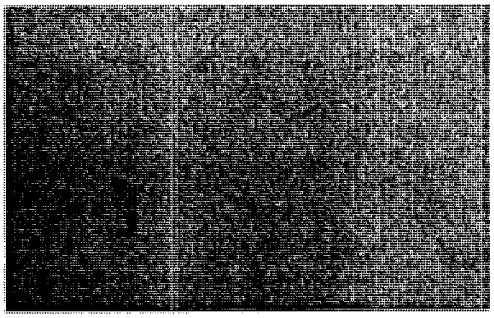




Q Okay. So how did your relationship begin again? You said you were -- in January 2009, how did you get in contact with her or why?

A I needed some information because I knew that she was the contractor that went up into the attic and brought everything down. Steve had her contact information.

I said, tell her to give me a call. So she gave me a call. And from there, that's the way it went.



MS. KIMBALL: Did they interview her separately regarding her findings?

MR. LEE: No. We was at the table -- we was all at the table.

MS. KIMBALL: Okay.

BY MS. CLARKE:

Q Did you know her before the asbestos testing in 2007?

A Did I know her?

Q Did you know her?

A No. And, like I said, I was only hearing about her, but I never saw her. Only but that one time, and Steve said, here's Monica who's going to be giving the class. After that --

Q And what was the nature of your discussions after you contacted her in 2009 in January?

A I told her about the whistleblower, about the asbestos in the attic. [redacted]

She said, I was warning them about that attic.

And after hearing what she said -- she told me that verbally -- in conferring with what other reports said, you know, the other environmental firms warning them about the attic, so then it went from there -- our conversation went from there.

Q Do you work with her currently?

A No. Me and Monica probably talk, oh, maybe once -- I'm going to say two or three times a month now.

Q About the case?

A No. We're just speaking generally just to see how each other's doing.

Q I think I read somewhere that you guys set up a business together; is that correct?

A Yes. There's no business now. We don't do anything together now.

Q Now. But did you have a business with her?

A We was going to start a business together; yes.

Q You were?

A Were.

Q But you did not?

A We put together the name and started it, but nothing ever came about. No work ever came about it.

Q You say you started it?

A We started it, but no work came about.

Q Why not? Do you know why not?

A We didn't get no work.

Q Okay.

MS. KIMBALL: What kind of business was it?

MR. LEE: Environmental.

MS. KIMBALL: Can you be more specific?

MR. LEE: It would be safety and health. She was going to be doing training and -- Mainly, she was going to be doing all the work because I was just there. Training and abatement, but no asbestos abatement. It would be lead abatement.

BY MS. CLARKE:

Q And what was your role?

A I was the president. [redacted]

Q Did you have any other -- Did you guys plan -- Did you plan to have any other role in the business?

A No. Other than try to -- I was going to assist to get contracts, you know, but --

Q Were you going to do any of the training or any --

A No.

Q And did you have any support in the division of labor like who was going to do what or --

A No. I said we didn't get that far in

it.

Q Oh, I know. I'm just saying do you have any documents to like show who's going to do what --

A Uh-uh.

Q -- like when you were starting it?

A No.

Q And can you tell me the timeline for when you planned it and when it got up and running and when it sort of collapsed?

A I think it was in -- Don't quote me. I think it was in 2011. Because we started it in South Carolina and we transferred it over to Maryland, and that's it. Nothing happened nowhere in either state.

Q So now it's completely dissolved?

A Yeah.

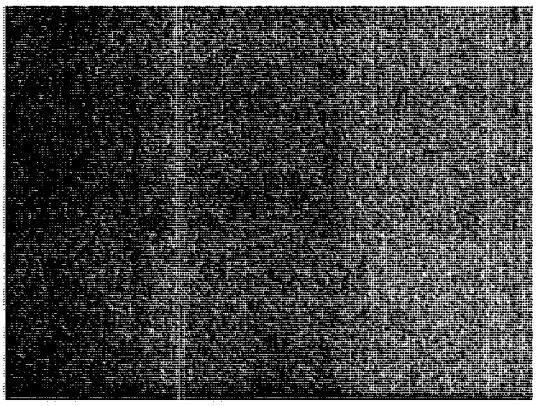
Q So for this company, at any time did you hold yourself out as an asbestos expert or knowledge of asbestos work?

A No. I didn't put myself out there.

Q Oh, I do have one more question.

Do you have anything else you want to discuss with respect to Ms. Barnett?

A No, unless you have some other questions.



MS. KIMBALL: And what was their -- Were they supervisors or -- What's Jim Moss' relationship to you -- or what was his relationship to you while you were working?

MR. LEE: While I was working?

MS. KIMBALL: Yes.

MR. LEE: Nothing. I was way down the chain. He was --

MS. KIMBALL: What was his position?

MR. LEE: He was acting director and acting deputy director, so he was Doug's immediate supervisor.

MS. KIMBALL: And Mr. Wixted, what was his position?

MR. LEE: He was -- I reported to -- I worked up under Pete.

MS. KIMBALL: So he was your supervisor?

MR. LEE: He was.

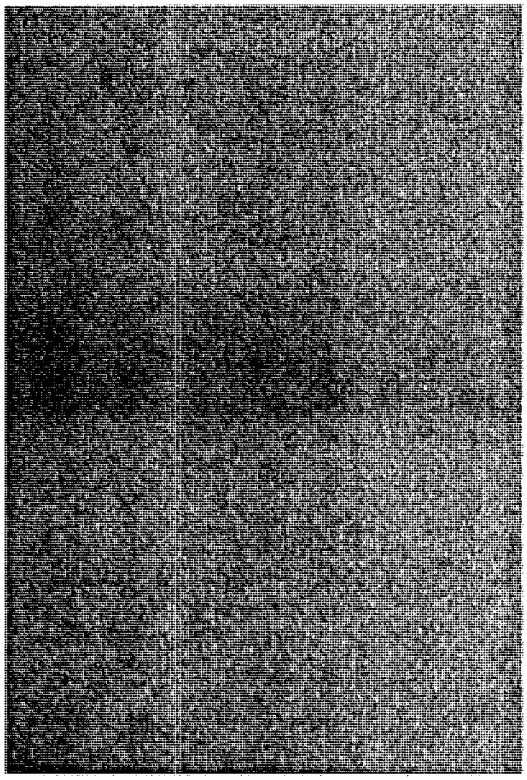
MS. KIMBALL: When was he your supervisor?

MR. LEE: Pete?

MS. CLARKE: Yeah. I don't think he discussed him.

MR. LEE: From 2004 until sometime in 2006 when I left.

MS. CLARKE: Oh, that's right.



[redacted]

MS. CLARKE: That's all of the questions that I've prepared.

Do you have any other questions?

MS. KIMBALL: No.

MS. CLARKE: Do you have anything else you want to discuss with respect to your allegations because, you know, we're here to understand any other allegations you have regarding the report and the findings?

So if there's anything else you want to

discuss or other evidence you want to point us to, we'd love to hear it.

MR. LEE: I don't -- I can't think of anything.

MS. CLARKE: Okay. And you've brought a binder today with you.

MR. LEE: Uh-huh.

MS. CLARKE: Can you tell us about what's in it?

MR. LEE: Oh, this is just my asbestos record, you know, of the attic, mainly of the timeline that's been going on to keep me on track.

MS. CLARKE: I see.

MR. LEE: [redacted] was always famous for saying it takes 20 to 40 years before you can see any real disease, so in that case they know the majority of people ain't going to have no documents in 20, 40 years. But in 20, 40 years, I will have documents. So that's how I look at it.

MS. CLARKE: I see. So I'd like to

mark this binder as Exhibit 1.

MS. KIMBALL: We'll make a copy of it.

MR. LEE: No problem.

(Whereupon, the document was marked as Lee Exhibit No. 1, for identification.)

BY MS. CLARKE:

Q Oh, I do have one final question.

A Okay.

Q Regarding the testing of the attic, do you have any knowledge about the testing that was done in 2007?

A What do you mean, "knowledge"?

A I understand that Ms. Barnett did the testing in 2007 that -- you know, where there was the finding of -- it was a high reading.

A Uh-huh.

Q And, subsequently, in May there were two other tests done that didn't match her reading.

Do you have any thoughts about that or

any knowledge about that?

A No. Now, I know at the time Monica will tell me the fans were running. Like I said, the HVAC fans were up there.

Q Uh-huh.

A So if the fans are running, it's going to shake asbestos. So, of course, fibers are going to be in the air, so that probably made the readings high. And it may -- They probably took it when the fans were off and the readings were low.

Q Okay. Thanks.

A That's the only explanation I have.

Q It's more than I could come up with.

MS. CLARKE: All right. I don't have any other questions. I think we don't have any other questions unless you have anything else.

MR. LEE: I was going to say something, but I lost my train of thought when you said something.

MS. CLARKE: Sorry.

MR. LEE: No, that's okay.

Oh, okay. If you want to talk to somebody, if you go to GSA, Tim Sleeth and Anthony Mondy.

MS. CLARKE: Okay.

[redacted]

Q Okay.

A So if you want to talk, Tim Sleeth and Anthony Mondy.

Q And they'll have knowledge about the asbestos --

A They'll have firsthand knowledge. They will tell you [redacted] knew everything.

Q Okay.

A Not only Fred.

MS. CLARKE: Okay. I think we're done.

COURT REPORTER: You have an opportunity to read this transcript and make any changes to it if you need to, or you can just say you'll waive it and accept the transcript in it's final form.

MR. LEE: Okay. I trust you.

COURT REPORTER: Okay. So you waive signature?

MR. LEE: Yes.

(Whereupon, at approximately 1:50 o'clock p.m., the sworn statement of Mr. Edgar Dion Lee was concluded.)

CERTIFICATE OF NOTARY PUBLIC

COMMONWEALTH OF VIRGINIA AT LARGE, to wit:

I, Patricia Dean Staffa, Notary Public in and for the Commonwealth of Virginia at large, and whose commission expires March 31, 2016, do certify that the aforementioned appeared before me, was sworn by me, and was thereupon examined by counsel; and that the foregoing is a true, correct, and full transcript of the testimony adduced.

I further certify that I am neither related to nor associated with any counsel or party to this proceeding, nor otherwise interested in the event thereof.

PATRICIA DEAN STAFFA

Notary Registration No. 126628

Commonwealth of Virginia at Large

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Memorandum[1]

TO:	**The File**
RE:	**Meeting with Todd Zinser and Rick Beitel Regarding 2010/2011 OIG Asbestos Investigation**
DATE:	**July 21, 2014**
ATTENDEES:	**Inpsector General Todd Zinser (DOC OIG), Rick Beitel (DOC OIG), Maria Campo (USPTO), Chieko Clarke (USPTO), Kimere Kimball (USPTO)**

On June 25, 2014, we met with Inspector General ("IG") Zinser from the Department of Commerce ("DOC") Office of Inspector General ("OIG") to discuss the OIG's 2010/2011 investigation into DOC's management of asbestos in the Herbert C. Hoover Building ("HCHB") and subsequent January 2011 report and supplemental reports. We also met to discuss the Office of Special Counsel's ("OSC") 2013/2014 investigation of those reports and the three components of the OSC investigation that DOC referred to the USPTO, (1) whether there is sufficient evidence to conclude that Mr. Lee was potentially exposed to impermissible levels of airborne asbestos in the 8th floor attic of HCHB during the time period covered by the 2010/2011 OIG Asbestos Investigation; (2) whether the air sampling reports referenced in the 2010/2011 OIG Asbestos Investigation reasonably support a conclusion that the DOC's asbestos program in HCHB was mismanaged during the timeframe of the investigation; and (3) whether there is sufficient evidence to conclude that [redacted] were responsible for mismanagement of the asbestos program, if any.

We began by explaining that we had been tasked by DOC to investigate the three questions identified above. We explained that we understood that we had no authority to investigate the OIG and that we had no intention of conducting such an investigation. We explained that if, at any point, IG Zinser believed that our questions crossed into an investigation of the OIG, we would immediately desist in that line of questioning. IG Zinser noted the circularity of the referral of the OSC investigation of the OIG investigation to the USPTO, because the USPTO, as an agency within DOC, falls wholly under the OIG's jurisdiction and the OIG therefore would have full authority to investigate the USPTO for its investigation of the OIG's investigation of the asbestos at DOC. Mr. Beitel and IG Zinser both noted that their answers will be based on their unrefreshed recollection, three years after the January 2011 report and supplemental reports were submitted.

[1] This interview summary is based on the interview notes and recollections from Ms. Campo, Ms. Clarke, Ms. Kimball and Mr. Beitel.

IG Zinser then explained that the focus of the 2010/2011 OIG report had been to determine whether there was a problem with the management of the asbestos program and to recommend solutions moving forward, not to lay blame on any individual for the program. When the OIG provided OSC with their report, however, the OSC insisted that they name an individual responsible for the mismanagement and threatened not to approve the OIG's report if it refused to name any management officials responsible. He stated that Rick Beitel and [redacted] then went through the agency file to identify management officials that could be identified as responsible to the OSC, and determined that [redacted] each bore at least some responsibility for the mismanagement of the program. IG Zinser then asked Mr. Beitel to join the meeting to provide further information regarding the report.

With respect to this disclosure inquiry, Mr. Beitel noted that the Department's 2010 referral and correspondence to the OIG from Brian DiGiacomo in DOC's OGC's office, referenced a preliminary investigation by OSC, finding substantial likelihood of the complainant's (Mr. Lee's) assertions being valid. Mr. Beitel recalled this contributing to the OIG's assessment of the complainant's credibility. We asked what standard of proof the OIG typically uses in developing conclusions in reports such as the January 2011 report on asbestos issues at HCHB. Mr. Beitel and IG Zinser noted that their role was not to come to an ultimate judgment about an individual's culpability, but rather to provide the factual background for a management official to conclude whether an individual was culpable. The policy makers apply a standard of proof and conduct an analysis whereas the OIG gathers facts. Mr. Beitel noted that there is no set criteria for disclosure inquiries but that generally the standard could best be described as a preponderance of the evidence, and that in coming to such conclusions, credibility determinations and judgment calls are used.

We asked how the OIG reconciles conflicting or competing evidence. The OIG noted that sometimes they can't reconcile the facts, so they just lay out the conflicting testimonies. They may try to re-interview witnesses to reconcile issues if possible. They may also try to track down leads to reconcile issues.

We then noted, that with respect to the first question referred to us, whether there is sufficient evidence to conclude that Mr. Lee was potentially exposed to impermissible levels of airborne asbestos in the 8th floor attic of HCHB during the time period covered by the 2010/2011 OIG Asbestos Investigation, we had identified ten items in the agency file pertaining to Mr. Lee's access to the attic. We had identified 1) Mr. Lee's interview summary, Tab J3;[2] 2) [redacted] interview summary, Tab J2; 3) [redacted] interview summary, Tab J1; 4) [redacted] interview summary, Tab J14; 5) Peter Wixted's interview summary, Tab J4; 6) [redacted] interview summary, Tab J5; 7) Steven Savoy's interview summary, Tab J8; 8) Patrick Waller's interview summary, Tab J16; 9) August 2007 Draft GSA Report, Tab 2nd A; and 10) 10/26/07 Map and notes

[2] "Tabs" refer to tabs in the binder of exhibits attached to the USPTO's July 21, 2014 report.

regarding restricted access to 8th floor attic, Tab 2nd H. We asked if there was any additional evidence regarding Mr. Lee's access we may have missed.

Mr. Beitel noted that there may have been some additional interviews and that they had also considered the letter Mr. Fanning sent to Mr. Lee informing him of his potential exposure and that there were photos showing the entries were not sealed as they were supposed to be and that signage was also an issue. Mr. Beitel also stated that members of the OIG staff had attempted and succeeded in getting into the attic during the investigation and noted that it was not sealed as it was supposed to be. Mr. Beitel also noted that there had been a revolving door of management in OAS during the time period covered by the investigation and that no one had been designated as the asbestos coordinator to track training and other various requirements, but that it had been a collateral duty of several different individuals. We asked the time period for which Lee and others may have been exposed and the OIG stated that they found programmatic failures for years.

We then discussed the second question referred to us, whether the air sampling reports referenced in the 2010/2011 OIG Asbestos Investigation reasonably support a conclusion that the DOC's asbestos program in HCHB was mismanaged during the timeframe of the investigation. Mr. Beitel explained that they considered mismanagement to include failure to test, failure to train employees, failure to effectively seal off the affected areas of HCHB, failure to timely notify employees of potential exposure and inadequate record keeping which the OIG noted in its report was a complicating factor. Mr. Beitel noted that OSC's press release stated that the investigation substantiated employee exposure but noted that this was inaccurate since what OIG found and reported was potential exposure; Mr. Beitel noted that this was a significant distinction. His recollection was also that there was a requirement for testing every 6 months to a year but that the DOC had not conducted testing for a period of time during the time period relevant to the 2010/2011 investigation. When brief by the OIG and provided an advance copy of the report for review and response, Scott Quehl, then CFO and Assistant Secretary for Administration and Mary Plessner, then Director for OAS, expressed having their own concerns about the state of asbestos management when they came into their positions, including lack of a dedicated program manager and reportedly missed testing. Mr. Beitel noted that the department had no comments or questions in reviewing an advance copy of the OIG's report, rather it responded concurring and with a detailed action plan for implementing the OIG's recommendations.

Mr. Beitel also recalled that the asbestos tests during the time period in question had produced very mixed results, but that it was clear that particulate asbestos had been in the air at least at some times during the period, which OIG believed required some action on DOC's part. He explained that GSA had implemented certain asbestos remediation measures in the 2008 time period and that the OIG hired a contractor to conduct asbestos testing during its 2010/2011 investigation and consulted with OSHA, GSA, and independent testing laboratories to determine whether the GSA's remediation efforts were effective. The OIG stated that it was concerned with making sure the workforce wasn't currently (then) being potentially exposed to asbestos.

We then discussed the third question that had been referred to us, whether there is sufficient evidence to conclude that [redacted] were responsible for mismanagement of the asbestos program, if any. Mr. Beitel noted that OSC had not identified any criteria for determining which individuals were responsible for the mismanagement, and OIG was unable to find any criteria for mismanagement in any of OSC's regulations. The Department referred OSC's requirement for identification of responsible officials to OIG. [redacted] carried out the assessment based on the information that was in the IGs possession at the time and documented the assessment which appeared to Mr. Beitel during his review, to be reasonable, and he signed it out to OSC. IG Zinser noted that, because of the lack of criteria for mismanagement provided by OSC, they were looking for individuals who were at least partially responsible for the mismanagement. IG Zinser noted that there wasn't a particular threshold of responsibility, for example, they had not made a determination that [redacted] was 10% responsible or 20% responsible. They merely made the determination that [redacted] bore some responsibility. Mr. Beitel and [redacted] made the assessment based on the information in their possession and the organizational hierarchy. They found that senior management was responsible for the asbestos program flaw. The OIG's report and follow on correspondence, along with the Department's action plan passed OSC's sufficiency review conducted by their disclosure unit, which had full access to the OIOG and DOC investigation file materials.

Mr. Beitel noted that of particular import with regard to [redacted] responsibility was [redacted] during the relevant time period and the fact that [redacted] issued the notice to employees regarding their potential exposure, but issued it almost a year after [redacted] had learned of the potential exposure and that it appeared that [redacted] tried to keep the notice under wraps. He noted that [redacted] seemed to have to be pushed into issuing the notice. He further noted that, as [redacted] had ultimate responsibility for all responsibilities [redacted] and thus had ultimate responsibility for the mismanagement of the program. They also noted that people tried to bring the asbestos problem to [redacted] attention.

Mr. Beitel noted that [redacted] had been in a position to address the asbestos issues and thus was responsible for the problems with that program. IG Zinser further noted that [redacted] concerns regarding the OAS report appeared to focus on [redacted] supervision of Mr. Lee, but that the OIG had not focused on Mr. Lee's potential exposure as a primary component of its report. They focused on how the program was managed, including testing, whether the attic was properly sealed off and restricted, training and untimely notification. The OIG had found [redacted] responsible because [redacted] had been squarely in charge of the asbestos program during the relevant time period, and that program had had significant problems.

We also noted that we had not been able to locate the April 17, 2007, or April 25, 2007, test results in the agency file. Mr. Beitel stated that he would look for any copies he had and send them to us.

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UNITED STATES DEPARTMENT OF COMMERCE
Chief Financial Officer
Assistant Secretary for Administration
Washington, D.C. 20230

OCT 0 6 2009

Mr. Michael Walterschied
Occupational Safety and Health Administration
1099 Winterson Road
Suite 140
Linthicum, MD 21090

Dear Mr. Walterschied:

Thank you for your September 28, 2009 letter, Complaint No. 206040792, concerning the report of alleged hazardous working conditions at the Department of Commerce (DOC), Office of Administrative Services (OAS). DOC is fully committed to providing employees a safe workplace, where hazards are identified and abated in an expeditious manner. I appreciate the opportunity to respond to the allegations.

I have investigated the specific allegations contained in your letter and provide the following responses:

1. *Employees are exposed to damaged asbestos and are not provided with personal protective equipment in the following area: 2852 Mechanical Room, 6127 Mechanical Room, 8th Floor Attic area.*

All employees within OAS that may potentially come into contact with asbestos containing materials (ACM) during the course of their jobs have been given 2-hour General Asbestos Awareness Training as required and have been instructed to immediately report any damage to suspected ACM to their supervisors. Additionally, any employee that would be required to work in an area with damaged ACM has been given further training depending on his or her responsibilities, either Asbestos Worker or Supervisor Training, and has been provided medical screening and appropriate Personal Protective Equipment (PPE), as required.

The allegations specifically refer to Room 2852, Room 6127 and the 8th Floor Attic area. Room 2852 is an office reception area with no exposed ACM and there have been no employee reports of damaged ACM in this room. Room 6127 is a mechanical room and has assumed ACM in the sprayed-on fire proofing and thermal systems insulation. There are no reports of damaged ACM in this room and an inspection on September 30, 2009, by the OAS Certified Asbestos Inspector indicated no damaged materials.

OAS is aware of ACM in the 8th floor attic area and has taken every step to protect employees from exposure in this area. In February 2007, damaged ACM was identified in the 8th floor attic areas. OAS management immediately closed the area to all employees. At the same time, DOC engaged the General Services Administration (GSA) to assist with the area and, together, we systematically developed a plan to address remediation of the area, ensure compliance with all Federal regulations, and fully protect the health and safety of employees. Following discovery of the damaged ACM, OAS provided notification, information, and medical screening for employees that had accessed the area. Additionally, all employees that would be required to access the area for emergency work were provided the appropriate asbestos training and appropriate PPE. DOC and GSA have worked together during the last year to remediate the area by isolating and containing the damaged ACM. The abatement and remediation work has been completed, and the contractor is currently finalizing the project.

In support of the DOC response to this allegation, the following documentation is provided: 5-Day EPA AHERA Supervisor Course Outline and employee training rosters (Enclosure 1), photographs of Rooms 2852 and 6127 (Enclosure 2), and GSA Asbestos Work Practices for abatement in the 8th floor attic area (Enclosure 3).

2. *Employee concerns regarding damaged asbestos are not followed up by management in the following areas: HVAC shop, Plumbing shop, Engineer shop.*

All OAS employees including those from the HVAC Shop, Plumbing Shop, and Engineer Shop are encouraged to report damaged ACM to their supervisors. All concerns and reports of damaged ACMs have been immediately and appropriately addressed by OAS management. Work orders for repairing damaged ACM are recorded in the facility management system to ensure follow-up and completion. For the Herbert C. Hoover Building, the OAS Plumbing Shop staff has been trained as Asbestos Workers and the Shop Foreman as an Asbestos Supervisor. When damaged ACM is reported, the Plumbing Shop responds and takes the appropriate corrective action to repair any damaged ACM.

All employees within OAS that have the potential to come into contact with ACM during the course of their jobs have been given 2-hour General Asbestos Awareness Training as required and have been instructed to immediately report any damage to suspected ACM to their supervisor. Any employee that would be required to work in an area with ACM has been given additional training depending on his or her responsibilities, either Asbestos Worker or Supervisor Training, and has been provided medical screening and appropriate PPE, as required.

In support of the DOC response to this allegation, the following documentation is provided: 5-Day EPA AHERA Supervisor Course Outline and employee training rosters (Enclosure 1) and samples of work orders for hazard abatement (Enclosure 4).

3. *Specifically in the 8th floor attic area, a survey conducted in 2006 by Allied Environmental Inc. recommended the area be closed to all personnel/employees not qualified to handle/remove asbestos and that employees entering the area be provided with a respirator, however management failed to disclose the hazard to employees entering the area until 2008.*

OAS is not aware of a survey conducted in 2006 by Allied Environmental Inc. that is cited in the allegations. OAS became aware of damaged asbestos in the 8th floor attic areas in February 2007, when an employee reported it to his supervisors. OAS management took all precautionary measures and immediately restricted access to the area by all employees. OAS employees were verbally notified by the Director of OAS of the damaged ACM and the potential exposure to asbestos. Employees were provided voluntary medical screenings through the Federal Occupational Health. Finally, all employees that accessed the area during the time frame immediately before the report were provided written notification documenting the potential exposure.

In support of the DOC response to this allegation, the following documentation is provided: the DOC agreement with GSA for asbestos hazard abatement in the 8th floor attic area (Enclosure 3) and the letter sent to potentially exposed personnel dated February 25, 2008 (Enclosure 5).

Finally, as required, a copy of your September 28, 2009 letter was posted in the general OAS work areas including the Electrical Shop, Plumbing Shop, HVAC Shop, Elevator Maintenance Shop, Building Management general office, and the Office of Real Estate Policy and Major Programs, where it is readily accessible for review by all employees. The signed Certificate of Posting is provided (Enclosure 6) for your records.

Thank you for the opportunity to provide a response to these allegations and confirm the DOC internal processes for addressing workplace hazards. DOC and OAS continue to be fully committed to providing a safe and healthy workplace for all employees.

If you have further questions, please feel free to contact me at (202) 482-0227 or via email at delznic@doc.gov.

Sincerely,

Douglas F. Elznic
Acting Director for Administrative Services

Enclosures

Aerosol Monitoring & Analysis, Inc.

Environmental, Health & Safety

January 9, 2009

Ms. Rosalind Hill
United States Department of Commerce
1401 Constitution Avenue
Washington, DC 20230

Re: **Proposal for 5-Day EPA AHERA Supervisor**
AMA Proposal No. 101637

Dear Ms. Hill:

Aerosol Monitoring & Analysis, Inc. is pleased to present the following training and price information as you requested.

Course: 5-Day EPA AHERA Supervisor
Course Location: DOC - DC
Dates of Training: TBD
Course Time: TBD
Course Fee: *$6,750.00 for up to 15 students.
Each additional student is $460 with class maximum of 20 students.

***Fee is a 20% discount off of the AMA/GSA Contract GS-10F-0368K 5-Day course rate.**

Course fees include all course materials, training certificates and Maryland identification cards for each student who successfully completes the course. AMA training certifications are accepted in Maryland, DC and Virginia.

It is AMA's understanding that your training location will be equipped with chairs and writing surfaces for the students, and a projection screen or write-on board. **AMA will also require a warehouse-like area for Hands-On activities.** Please advise if any of these items are not available at your location.

If this proposal meets with your approval, kindly sign below and return fax to our office at (410) 684-3724 at your earliest convenience. Thank you for considering AMA for your training needs and we look forward to working with you. Please contact me should you have any questions.

Sincerely,

Staci Delesandri

Staci Delesandri
Training Division Manager

Accepted By:

_____
Representative – U.S.D.O.C.

1331 Ashton Road • P.O. Box 646 • Hanover, MD 21076 • 410-684-3327 • FAX: 410-684-3384

Encl 1-1

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UNITED STATES DEPARTMENT OF COMMERCE
Chief Financial Officer
Assistant Secretary for Administration
Washington, D.C. 20230

DATE: October 15, 2007

FROM: Braulio Ramon
Associate Director, Office Real Estate Policy and Major Programs
Office of Administrative Services

TO: Fred E. Fanning
Director, Office of Administrative Services

SUBJECT: Response to question concerning Legal Review of Asbestos Records Review

The following is provided in response to your question regarding legal review of the Herbert C. Hoover Building asbestos records review transmittal letter and supporting documents:

Question: Jana, what does legal say?

Response: The asbestos records review package and transmittal letter were forwarded to Mr. Brian DiGiacomo, Office of General Counsel for review. Mr. DiGiacomo reviewed the air sampling documents and the transmittal letter to Ms. Rickenbach of the Office of Inspector General (OIG), and researched the Workers' Compensation claim from the OIG employee. Although the Department of Labor (DOL) has subsequently denied the claim, Mr. DiGiacomo agreed that it was in the best interest of the Department to follow-through with the request for information from DOL.

[redacted]

O

10905 Fox Sparrow Court
Fairfax, VA 22032

GELLER ENVIRONMENTAL LABS, INC.

Phone: 703-978-4683
Facsimile: 703-250-4960

FINAL REPORT
ASBESTOS AIR FALLOUT SAMPLING with TEM ANALYSIS

Department of Commerce Building
1401 Constitution Avenue, NW
Washington, DC 20230

Project Date: June 23 to June 24, 2010

Report Prepared: July 2, 2010

Prepared For: Ms. Erika Vincent
Director, Complaint Intake Unit
Office of Investigations
Office of Inspector General
1401 Constitution Avenue, NW Room 7089
Washington, DC 20230

Prepared By: Geller Environmental Labs, Inc.
10905 Fox Sparrow Court
Fairfax, VA 22032

July 2, 2010

Ms. Erika Vincent
Director, Complaint Intake Unit
Office of Investigations
Office of Inspector General
1401 Constitution Avenue, NW Room 7089
Washington, DC 20230

Regarding: TEM Air and Dust Sample Results
Department of Commerce Building
1401 Constitution Avenue, NW, Washington, DC 20230

INTRODUCTION

At the request of Ms. Erika Vincent, Director, Complaint Intake Unit, Office of Investigations, Office of Inspector General, Geller Environmental Labs, Inc. (GEL) was authorized to conduct an internal investigation with air and surface dust sampling throughout the Department of Commerce building located at 1401 Constitution Avenue, NW, Washington, DC 20230. Concerned that suspect damaged asbestos exists in several areas throughout the building, GEL was contracted to conduct indoor air and surface dust sampling for selected internal areas of the property. Results of this sampling along with findings from the inspection performed by GEL, Inc. will be discussed later in this report.

On the evenings of June 23 and June 24, 2010, properly accredited and licensed representatives of Geller Environmental Labs, Inc., Mr. Jack Geller, Mr. Paul Burger, Mr. Pat Gorski, and Ms. Rebecca Hicks performed this work.

While on site Mr. Burger and Ms. Hicks collected 57 ambient air samples (55 samples with two sample blanks) and Mr. Geller and Mr. Gorski collected 50 surface dust bulk samples (49 samples with one sample blank) in various locations throughout the building. Analysis for these samples was by a properly licensed and accredited laboratory using the TEM (transmission electron microscopy) method.

It should be noted that Ms. Erika Vincent selected the locations of these samples. Results of these samples are discussed on Page 4 of this report.

INITIAL OBSERVATIONS

While performing the air and surface dust sampling throughout the building a visual assessment of the selected locations was made. During the visual assessment several suspect asbestos containing building materials (ACBM's) were observed by licensed asbestos building inspectors.

The suspect asbestos containing building materials (ACBM's) seen during this investigation included but were not limited to the following:

- Thermal System Insulation (TSI)
- Spray-on Fireproofing
- Plaster (wall and ceiling systems)
- Drywall/Joint Compound (wall and ceiling systems)
- Vinyl floor tiles
- Flooring mastics (glues)
- Ceiling tiles
- Wall tiles

The majority of the suspect ACBM was found to be intact, however there were suspect materials located throughout the building that were found to be severely damaged or damaged with the potential to become severely damaged. They include spray-on fireproofing, thermal system insulation (TSI), mudded elbows, tank insulation, ceiling plaster, floor tiles, and ceiling tiles. The locations of the severely damaged or damaged suspect ACBM's seen during our site visits are as follows:

- Spray-on fireproofing – 8th floor (attic) and mechanical rooms throughout the building.
- TSI/Mudded elbows – 8th floor (attic) mechanical rooms throughout the building, and the boiler room B606.
- Tank Insulation – Boiler room B606.
- Plaster – 7043 Library.
- Vinyl floor tiles/flooring mastics – areas currently under construction.
- Ceiling tiles – several areas throughout the building.

METHODOLOGY

Air Sample Collection

A total of fifty-five (55) air samples were collected by a licensed asbestos building inspector and/or project monitor employed by Geller Environmental Labs, Inc. on June 23 and June 24, 2010. The samples were collected on Environmental Express cassettes with a 25mm diameter and a pore size of 0.45μm. The flow rate of the sampling pumps was calibrated on site to a rate of 10.0 L/min by the use of a secondary standard method (rotometer) before sample collection. After sample collection the flow rate was again verified by the rotometer.

All samples were analyzed by a NVLAP, and EPA licensed TEM laboratory for analysis by the Environmental Protection Agency's approved method, as given in 40 CFR Part 763, by means of Transmission Electron Microscopy (TEM) by using the latest EPA guidelines. TEM is currently the most precise method available for asbestos analysis.

Preparations are screened at 20,000X under the microscope. Structures having an aspect ratio of 5:1 or greater are recorded on data sheets and are examined by electron diffraction to determine if their crystalline composition is consistent with chrysotile or amphibole asbestos. Sample results are included on a separate sheet in this report package.

Surface Dust Sample Collection

A total of forty-nine (49) surface dust samples were collected by a licensed asbestos building inspector and/or project monitor employed by Geller Environmental Labs, Inc. on June 23, 2010. The samples were collected on Environmental Express cassettes with a 25mm diameter and a pore size of 0.45μm. The flow rate of the sampling pump was calibrated on site to a rate of 2.0 L/min by the use of a secondary standard method (rotometer) before sample collection. After sample collection the flow rate was again verified by the rotometer.

Following the collection of the surface dust samples, they were delivered to SanAir Technologies Laboratory, Inc. in Powhatan, VA, a NVLAP, and EPA licensed TEM laboratory for analysis using Transmission Electron Microscopy (TEM) Microvac ASTM D-5755-03 analysis in accordance with the latest EPA guidelines. Preparations are screened at 20,000X in the Transmission Electron Microscope. Structures possessing an aspect ratio of 5:1 or greater are recorded and later examined by electron diffraction to determine if their crystalline composition is consistent with chrysotile or amphibole asbestos.

Following collection of air and dust samples, a chain of custody was filled out by GEL, Inc. and was overnight shipped (FedEx) to a properly accredited, NVLAP licensed asbestos analytical laboratory (SanAir Technologies Laboratory, Inc. in Powhatan, VA).

CONCLUSIONS

Air Sample Results/Findings (July 2, 2010)

The analytical results for the fifty-five (55) TEM air samples (collected in various areas throughout the building) confirmed that <14.0 asbestos structures/mm^2 were detected on all 55 of these samples. Note: 14.0 str/mm^2 is the lowest level of detection using this analytical method with 1,200 liters of air detected. Actual results were no (0) asbestos structures detected.

Dust Bulk Sample Results/Findings (July 2, 2010)

The analytical results for the forty-nine (49) vacuum dust samples confirmed that asbestos was not present on any of these samples.

The attached sampling logs provide information regarding the specific locations of these samples (Section I). In addition, the actual analytical results are found on the attached SanAir Technologies Laboratory, Inc. analysis reports (Section II).

Based upon the results of the 55 TEM air samples and the 49 TEM surface dust samples collected, it appears unlikely that there is a current contamination issue related to airborne asbestos fibers in the locations sampled on the evenings of June 23 and June 24, 2010.

RECOMMENDATIONS

During our investigation of the selected areas in the Department of Commerce building located at 1401 Constitution Avenue, NW, Washington, DC 20230, we did notice that suspect asbestos containing building materials do exist. It should be noted that Geller Environmental was not contracted to review any documentation regarding the presence of asbestos containing building materials within the building. To that end we make the following recommendations:

- If an asbestos survey of the building has been performed and documentation related to this inspection (as well as any re-inspections) is available, have a licensed asbestos building inspector/management planner review this documentation and update the inspection report as needed. This review should also include any documentation related to any asbestos abatement and/or renovation projects that may have been performed at this site.
- If no asbestos survey of the building has been performed or no original asbestos survey is available, have a licensed asbestos building inspector perform a complete survey with all necessary sampling and analysis needed to properly identify all remaining asbestos containing building materials that currently exist at this site.
- If an asbestos management plan exists for the building, have a licensed asbestos management planner review all relevant documentation and update the management plan as required.
- If no asbestos management plan exists for the building, have a licensed asbestos management planner review all relevant documentation related and write an asbestos management plan. Note: This document will most likely need to be written after a full internal asbestos inspection of the property has been completed.
- Upon completion of the above listed tasks, have pertinent building personnel (i.e. building engineers, management, cleaning crews as well as any individuals who have the potential of coming in contact with the identified asbestos containing materials, attend a two hour asbestos awareness training class. This training will also be required for the person designated on site to enforce the management plan and insure that it is being properly followed.
- Have the building reinspected by the designated person on a regular basis, and at a minimum, have a trained and licensed asbestos building inspector re-inspect the building every three years in order to update the management plan.
- Repair or remove any damaged asbestos or suspect asbestos containing materials.

Until properly identified, all building materials that currently exist at this site that are suspect for being asbestos containing must be assumed to be asbestos containing and treated as such. What this means is that only properly trained and licensed individuals will be allowed perform renovation or demolition activities to these materials until proper sampling with accredited analysis confirms these materials to be non-asbestos containing.

CLOSING

The survey team completed this inspection to the best of their ability within the owner's or owner representative's designated areas within the building surveyed. Since this inspection was limited to specific internal areas of the building, additional air and/or surface dust sampling with analysis may be required in areas where suspect asbestos containing building materials could potentially exist.

It was a pleasure performing this service for your organization. If you have any questions about this report or its attachments or have any other concerns, please feel free to call our office (703-978-4683).

Respectfully Submitted,

Jack Geller
President
Geller Environmental Labs, Inc.

Attachments:
Section I: Sample Collection Information (Air and Dust)
Section II: Laboratory Analysis Reports with Chain of Custody Documentation

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SECTION I

SAMPLE COLLECTION INFORMATION AIR AND DUST

10905 Fox Sparrow Court
Fairfax, VA 22032

GELLER ENVIRONMENTAL LABS, INC.

Phone: 703-978-4683
Facsimile: 703-250-4960

DAILY AIR SAMPLE LOG

Collection Date:	June 23, 2010
Project Location:	1401 Constitution Avenue, NW Washington, DC 20230
Abatement Contractor:	N/A
Supervisor:	N/A
IH Technicians:	Paul Burger/Rebecca Hicks

AMB	Ambient Air Quality	CC	Clean Change
PRE	Background Sample	STEL	Short Term Exposure
OA	Outside Area	BZ	Breathing Zone
WA	Inside Work Area	FB	Field Blank
FC	Final Clearance	LB	Laboratory Blank

Sample ID #	Type	Location	Sampling Information				Volume (liters)	Result (str/mm^2)	Result (str/cc)
			FLOW	Time On	FLOW	Time Off			
1401-01 10008113-001	AMB	7886 inside office	10.0	1642	10.0	1842	1200.0	<14.00	<0.0045
1401-02 10008113-002	AMB	7882 inside office	10.0	1643	10.0	1843	1200.0	<14.00	<0.0045
1401-03 10008113-003	AMB	Hallway at 7898C	10.0	1657	10.0	1857	1200.0	<14.00	<0.0045
1401-04 10008113-004	AMB	7810 inside office	10.0	1703	10.0	1903	1200.0	<14.00	<0.0045
1401-05 10008113-005	AMB	7520 inside office	10.0	1649	10.0	1849	1200.0	<14.00	<0.0045
1401-06 10008113-006	AMB	7517 inside office	10.0	1650	10.0	1850	1200.0	<14.00	<0.0045
1401-07 10008113-007	AMB	Hallway at 7616	10.0	1715	10.0	1915	1200.0	<14.00	<0.0045
1401-08 10008113-008	AMB	Hallway at 7810	10.0	1709	10.0	1909	1200.0	<14.00	<0.0045

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Project Location:	1401 Constitution Avenue, NW Washington, DC 20230
Abatement Contractor:	N/A
Supervisor:	N/A
IH Technicians:	Paul Burger/Rebecca Hicks

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Sample ID #	Type	Location	Sampling Information				Volume (liters)	Result (str/mm²)	Result (str/cc)
			FLOW	Time On	FLOW	Time Off			
1401-09 10008113-009	AMB	7622 inside office	10.0	1722	10.0	1922	1200.0	<14.00	<0.0045
1401-10 10008113-010	AMB	Hallway at 7705 across from access ladder to 8th floor	10.0	1729	10.0	1929	1200.0	<14.00	<0.0045
1401-11 10008113-011	AMB	Hallway at 7409	10.0	1734	10.0	1934	1200.0	<14.00	<0.0045
1401-12 10008113-012	AMB	7009 inside office	10.0	1943	10.0	2143	1200.0	<14.00	<0.0045
1401-13 10008113-013	AMB	Hallway at 7009	10.0	1943	10.0	2143	1200.0	<14.00	<0.0045
1401-14 10008113-014	AMB	Inside 7211 mechanical room	10.0	1947	10.0	2147	1200.0	<14.00	<0.0045
1401-15 10008113-015	AMB	Next to elevator #7 adjacent to 7217	10.0	1950	10.0	2150	1200.0	<14.00	<0.0045
1401-16 10008113-016	AMB	7029C across from vending machines	10.0	1954	10.0	2154	1200.0	<14.00	<0.0045

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Sample ID #	Type	Location	Sampling Information				Volume (liters)	Result (str/mm^2)	Result (str/cc)
			FLOW	Time On	FLOW	Time Off			
1401-17 10008113-017	AMB	Hallway at 7308	10.0	1957	10.0	2157	1200.0	<14.00	<0.0045
			FLOW	Time On	FLOW	Time Off			
1401-18 10008113-018	AMB	7324 inside office	10.0	1959	10.0	2159	1200.0	<14.00	<0.0045
			FLOW	Time On	FLOW	Time Off			
1401-19 10008113-019	AMB	Hallway at 7327	10.0	2002	10.0	2202	1200.0	<14.00	<0.0045
			FLOW	Time On	FLOW	Time Off			
1401-20 10008113-020	AMB	7043 inside library below damaged ceiling plaster	10.0	2009	10.0	2209	1200.0	<14.00	<0.0045
			FLOW	Time On	FLOW	Time Off			
1401-21 10008113-021	AMB	7th floor library upper level cage	10.0	2020	10.0	2220	1200.0	<14.00	<0.0045
			FLOW	Time On	FLOW	Time Off			
1401-22 10008113-022	AMB	7089 inside office	10.0	2026	10.0	2226	1200.0	<14.00	<0.0045
			FLOW	Time On	FLOW	Time Off			
1401-23	FB	Field Blank	-	-	-	-	-	-	-
			FLOW	Time On	FLOW	Time Off			
1401-24	LB	Laboratory Blank	-	-	-	-	-	-	-

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Sample ID #	Type	Location	Sampling Information				Volume (liters)	Result (str/mm^2)	Result (str/cc)
			FLOW	Time On	FLOW	Time Off			
1401-25 10008164-001	AMB	8039 across from ITA storage 7	3.0	1655	3.0	2353	1254.0	<14.00	<0.0043
1401-26 10008164-002	AMB	8206 at the intersection of "0" corridor and "2" corridor	3.0	1658	3.0	2355	1251.0	<14.00	<0.0043
1401-27 10008164-003	AMB	Intersection of 8800 and 8600	3.0	1705	3.0	2402	1251.0	<14.00	<0.0043
1401-28 10008164-004	AMB	8730 at cage M3-21	3.0	1707	3.0	2404	1251.0	<14.00	<0.0043
1401-29 10008164-005	AMB	8702 at access ladder	3.0	1709	3.0	2406	1251.0	<14.00	<0.0043
1401-30 10008164-006	AMB	8th floor @ elevator 16	10.0	1653	10.0	1853	1200.0	<14.00	<0.0045
1401-31 10008164-007	AMB	8th floor "clean room" M3-14 near 7609 sign	10.0	1723	10.0	1923	1200.0	<14.00	<0.0045
1401-32 10008164-008	AMB	7606 inside mechanical room	10.0	1732	10.0	1932	1200.0	<14.00	<0.0045

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Sample ID #	Type	Location	Sampling Information				Volume (liters)	Result (str/mm^2)	Result (str/cc)
			FLOW	Time On	FLOW	Time Off			
1401-33 10008164-009	AMB	Hallway at 6606	10.0	1741	10.0	1941	1200.0	<14.00	<0.0045
1401-34 10008164-010	AMB	Inside mechanical room adjacent to 6608	10.0	1745	10.0	1945	1200.0	<14.00	<0.0045
1401-35 10008164-011	AMB	Inside 6315 mechanical room under damaged beam spray-on fireproofing	10.0	1752	10.0	1952	1200.0	<14.00	<0.0045
1401-36 10008164-012	AMB	Inside 6210 mechanical room	10.0	1755	10.0	1955	1200.0	<14.00	<0.0045
1401-37 10008164-013	AMB	6808 inside office	10.0	1759	10.0	1959	1200.0	<14.00	<0.0045
1401-38 10008164-014	AMB	Inside 5526 mechanical room	10.0	1805	10.0	2005	1200.0	<14.00	<0.0045
1401-39 10008164-015	AMB	5893 inside office	10.0	1810	10.0	2010	1200.0	<14.00	<0.0045
1401-40 10008164-016	AMB	Inside 5724 mechanical room	10.0	1813	10.0	2013	1200.0	<14.00	<0.0045

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			FLOW	Time On	FLOW	Time Off			
1401-41 10008164-017	AMB	5410 inside conference room	10.0	2020	10.0	2220	1200.0	<14.00	<0.0045
1401-42 10008164-018	AMB	Hallway at 4519	10.0	2025	10.0	2225	1200.0	<14.00	<0.0045
1401-43 10008164-019	AMB	Inside Mechanical Room 4607	10.0	2031	10.0	2231	1200.0	<14.00	<0.0045
1401-44 10008164-020	AMB	4610 inside office	10.0	2033	10.0	2233	1200.0	<14.00	<0.0045
1401-45 10008164-021	AMB	3807 inside office near door to construction area	10.0	2041	10.0	2241	1200.0	<14.00	<0.0045
1401-46 10008164-022	AMB	3321 inside office	10.0	2045	10.0	2245	1200.0	<14.00	<0.0045
1401-47 10008164-023	AMB	Inside Mechanical Room 3311	10.0	2048	10.0	2248	1200.0	<14.00	<0.0045
1401-48 10008164-024	AMB	2852 inside office at reception area	10.0	2055	10.0	2255	1200.0	<14.00	<0.0045

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Sample ID #	Type	Location	Sampling Information				Volume (liters)	Result (str/mm^2)	Result (str/cc)
			FLOW	Time On	FLOW	Time Off			
1401-49 10008164-025	AMB	2810 inside office	10.0	2102	10.0	2302	1200.0	<14.00	<0.0045
			FLOW	Time On	FLOW	Time Off			
1401-50 10008164-026	AMB	2006 inside office	10.0	2107	10.0	2307	1200.0	<14.00	<0.0045
			FLOW	Time On	FLOW	Time Off			
1401-51 10008164-027	AMB	Hallway at aquarium entrance below sharks	10.0	2117	10.0	2317	1200.0	<14.00	<0.0045
			FLOW	Time On	FLOW	Time Off			
1401-52 10008164-028	AMB	Swing space Suite A-300 at Cubicle AA323	10.0	2327	10.0	0127	1200.0	<14.00	<0.0045
			FLOW	Time On	FLOW	Time Off			
1401-53 10008164-029	AMB	Hallway at water fountain adjacent to elevator #30	10.0	2329	10.0	0129	1200.0	<14.00	<0.0045
			FLOW	Time On	FLOW	Time Off			
1401-54 10008164-030	AMB	Inside entrance to daycare adjacent to elevators #29 & #30	10.0	2332	10.0	0132	1200.0	<14.00	<0.0045
			FLOW	Time On	FLOW	Time Off			
1401-55 10008164-031	AMB	Swing space inside magazine room	10.0	2334	10.0	0134	1200.0	<14.00	<0.0045

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PRE	Background Sample	STEL	Short Term Exposure
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WA	Inside Work Area	FB	Field Blank
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Sample ID #	Type	Location	Sampling Information				Volume (liters)	Result (str/mm^2)	Result (str/cc)
			FLOW	Time On	FLOW	Time Off			
1401-56 10008164-032	AMB	Basement inside B626 locker room	10.0	2338	10.0	0138	1200.0	<14.00	<0.0045
			FLOW	Time On	FLOW	Time Off			
1401-57 10008164-033	AMB	Inside B606 boiler room across from air handler unit	10.0	2346	10.0	0146	1200.0	<14.00	<0.0045
			FLOW	Time On	FLOW	Time Off			
1401-58	FB	Field Blank	-	-	-	-	-	-	-

Samples were analyzed by Transmission Electron Microscopy (TEM) and was performed by a NVLAP, EPA and licensed TEM analytical laboratory.

*The analytical results for the fifty-five (55) TEM air samples collected confirmed that <14.0 asbestos structures/mm^2 were detected on the air samples run during our site visit. Note: 14.0 str/mm^2 is the lowest level of detection using this analytical method with 1,200.0 liters of air detected. Actual results were no (0) asbestos structures detected. These results confirm that appreciable airborne concentrations of asbestos dusts were not detected, during the sampling times on our June 23 & 24, 2010, site visit.

Jack Geller
President

10905 Fox Sparrow Court
Fairfax, VA 22032

GELLER ENVIRONMENTAL LABS, INC.

Phone: 703-978-4683
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Client: Office of Investigations
Office of Inspector General

Address: 1401 Constitution Avenue, NW, Room 7089
Washington, DC 20230

Project Location: 1401 Constitution Avenue, NW
Washington, DC 20230

Inspector(s): Jack Geller/Pat Gorski

Date Collected 06/23/10

SAMPLE ID #	Lab ID #	Material	Location	Asbestos Structures	Asbestos Concentration (s/cm^2)	Asbestos Fibers
D-01	10008112-001	Dust Bulk	7886 door transom in hallway	<2.99	<2930	None Detected
D-02	10008112-002	Dust Bulk	Hallway across from 7882 on floor under radiator	<2.99	<2930	None Detected
D-03	10008112-003	Dust Bulk	Inside 7520 on carpeted shelf between 2 windows	<2.99	<2930	None Detected
D-04	10008112-004	Dust Bulk	Threshold from hallway into Office 7517	<2.99	<2930	None Detected
D-05	10008112-005	Dust Bulk	7th floor vending top of Pepsi® machine	<2.99	<2930	None Detected
D-06	10008112-006	Dust Bulk	Across from 7009 on baseboard under windows near construction door	<2.99	<2930	None Detected
D-07	10008112-007	Dust Bulk	7013 door transom in hallway	<2.99	<2930	None Detected
D-08	10008112-008	Dust Bulk	Water fountain across from 7205 on fountain grill	<2.99	<2930	None Detected

10905 Fox Sparrow Court
Fairfax, VA 22032

GELLER ENVIRONMENTAL LABS, INC.

Phone: 703-978-4683
Facsimile: 703-250-4960

Client: Office of Investigations
Office of Inspector General

Address: 1401 Constitution Avenue, NW, Room 7089
Washington, DC 20230

Project Location: 1401 Constitution Avenue, NW
Washington, DC 20230

Inspector(s): Jack Geller/Pat Gorski

Date Collected 06/23/10

SAMPLE ID #	Lab ID #	Material	Sample Location	Asbestos Structures	Asbestos Concentration (s/cm^2)	Asbestos Fibers
D-09	10008112-009	Dust Bulk	Near Room 7808 on baseboard at construction area	<2.99	<2930	None Detected
D-10	10008112-010	Dust Bulk	7812 door transom in hallway	<2.99	<2930	None Detected
D-11	10008112-011	Dust Bulk	Water fountain next to Room 7233 on fountain vent	<2.99	<2930	None Detected
D-12	10008112-012	Dust Bulk	Inside 7810 on carpet behind doorway	<2.99	<2930	None Detected
D-13	10008112-013	Dust Bulk	7th floor landing floor in Stairway 13	<2.99	<2930	None Detected
D-14	10008112-014	Dust Bulk	7th floor elevator #33 on transition strip	<2.99	<2930	None Detected
D-15	10008112-015	Dust Bulk	Ladder left of Mechanical Room 7704	<2.99	<1172	None Detected
D-16	10008112-016	Dust Bulk	Water fountain left of 7703 on louvers	<2.99	<1172	None Detected

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Fairfax, VA 22032

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Facsimile: 703-250-4960

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Office of Inspector General

Address: 1401 Constitution Avenue, NW, Room 7089
Washington, DC 20230

Project Location: 1401 Constitution Avenue, NW
Washington, DC 20230

Inspector(s): Jack Geller/Pat Gorski

Date Collected 06/23/10

SAMPLE ID #	Lab ID #	Material	Location	Asbestos Structures	Asbestos Concentration (s/cm^2)	Asbestos Fibers
D-17	10008112-017	Dust Bulk	Inside 7089 on top of file cabinet against hall wall	<2.99	<2930	None Detected
D-18	10008112-018	Dust Bulk	Inside 7046 on top of wood partition wall to the right of door	<2.99	<2930	None Detected
D-19	10008112-019	Dust Bulk	Inside 7043 on the window blinds	<2.99	<1172	None Detected
D-20	10008112-020	Dust Bulk	Inside 7043 Library Annex on Stack #31	<2.99	<2930	None Detected
D-21	10008112-021	Dust Bulk	7324 on top of door to unit	<2.99	<1172	None Detected
D-22	10008112-022	Dust Bulk	7327 on louvers over door to unit	<2.99	<1172	None Detected
D-23	10008112-023	Dust Bulk	6808 transom in hallway	<2.99	<2930	None Detected
D-24	10008112-024	Dust Bulk	Mechanical Room 6315 on floor under sprayed beam	<2.99	<1172	None Detected

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Fairfax, VA 22032

GELLER ENVIRONMENTAL LABS, INC.

Phone: 703-978-4683
Facsimile: 703-250-4960

Client: Office of Investigations
Office of Inspector General

Address: 1401 Constitution Avenue, NW, Room 7089
Washington, DC 20230

Project Location: 1401 Constitution Avenue, NW
Washington, DC 20230

Inspector(s): J. Geller/P. Gorski

Date Collected 06/23/10

SAMPLE ID #	Lab ID #	Material	Location	Asbestos Structures	Asbestos Concentration (s/cm^2)	Asbestos Fibers
D-25	10008112-025	Dust Bulk	Inside Mechanical Room 6315 on floor at exit door	<2.99	<2930	None Detected
D-26	10008112-026	Dust Bulk	Hallway outside Mechanical Room 6315 on floor at doorway	<2.99	<1172	None Detected
D-27	10008112-027	Dust Bulk	6512 transom in hallway	<2.99	<1172	None Detected
D-28	10008112-028	Dust Bulk	Inside Mechanical Room across from 6606 on floor near pipes @ windows	<2.99	<2930	None Detected
D-29	10008112-029	Dust Bulk	Inside mechanical room across from 6606 on floor at door	<2.99	<2930	None Detected
D-30	10008112-030	Dust Bulk	Mechanical room across from 6606 on floor in the hallway at the door	<2.99	<1172	None Detected
D-31	10008112-031	Dust Bulk	Inside mechanical room 5607M on floor by window	<2.99	<2930	None Detected
D-32	10008112-032	Dust Bulk	Inside mechanical room 5607M on floor by exit door	<2.99	<2930	None Detected

10905 Fox Sparrow Court
Fairfax, VA 22032

GELLER ENVIRONMENTAL LABS, INC.

Phone: 703-978-4683
Facsimile: 703-250-4960

Client: Office of Investigations
Office of Inspector General

Address: 1401 Constitution Avenue, NW, Room 7089
Washington, DC 20230

Project Location: 1401 Constitution Avenue, NW
Washington, DC 20230

Inspector(s): Jack Geller/Pat Gorski

Date Collected 06/23/10

SAMPLE ID #	Lab ID #	Material	Location	Asbestos Structures	Asbestos Concentration (s/cm^2)	Asbestos Fibers
D-33	10008112-033	Dust Bulk	Inside 5893 on top of book shelf behind main desk	<2.99	<2930	None Detected
D-34	10008112-034	Dust Bulk	Mechanical Room 5526 on floor in hallway at entrance door	<2.99	<1172	None Detected
D-35	10008112-035	Dust Bulk	5410 on threshold under door	<2.99	<2930	None Detected
D-36	10008112-036	Dust Bulk	4519 transom in hallway	<2.99	<1172	None Detected
D-37	10008112-037	Dust Bulk	Inside 4610 on radiator in back office	<2.99	<1172	None Detected
D-38	10008112-038	Dust Bulk	Inside 3321 on carpet floor by entrance	<2.99	<2930	None Detected
D-39	10008112-039	Dust Bulk	Inside 3807 on carpet floor in active work space	<2.99	<1172	None Detected
D-40	10008112-040	Dust Bulk	2006 on floor in hallway	<2.99	<2930	None Detected

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Client: Office of Investigations
Office of Inspector General

Address: 1401 Constitution Avenue, NW, Room 7089
Washington, DC 20230

Project Location: 1401 Constitution Avenue, NW
Washington, DC 20230

Inspector(s): Jack Geller/Pat Gorski

Date Collected 06/23/10

SAMPLE ID #	Lab ID #	Material	Location	Asbestos Structures	Asbestos Concentration (s/cm^2)	Asbestos Fibers
D-41	10008112-041	Dust Bulk	Inside 2810 on top of cubicle by entrance to office	<2.99	<1172	None Detected
D-42	10008112-042	Dust Bulk	1st floor magazine room on top of magazine shelf	<2.99	<1172	None Detected
D-43	10008112-043	Dust Bulk	Daycare 1614 on top of display case near exit to parking	<2.99	<1172	None Detected
D-44	10008112-044	Dust Bulk	8th floor on hallway floor at the intersection of "6" and "8"	<2.99	<2930	None Detected
D-45	10008112-045	Dust Bulk	8730 on floor in hallway under pipe	<2.99	<2930	None Detected
D-46	10008112-046	Dust Bulk	8th floor hallway near 8702 on floor under damaged thermal system insulation	<2.99	<2930	None Detected
D-47	10008112-047	Dust Bulk	8039 ITA storage cage in hallway on beam	<2.99	<2930	None Detected
D-48	10008112-048	Dust Bulk	8th floor near Elevator #16 on floor by ladder	<2.99	<2930	None Detected

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Fairfax, VA 22032

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Phone: 703-978-4683
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Client: Office of Investigations
Office of Inspector General

Address: 1401 Constitution Avenue, NW, Room 7089
Washington, DC 20230

Project Location: 1401 Constitution Avenue, NW
Washington, DC 20230

Inspector(s): Jack Geller/Pat Gorski

Date Collected 06/23/10

SAMPLE ID #	Lab ID #	Material	Location	Asbestos Structures	Asbestos Concentration (s/cm^2)	Asbestos Fibers
D-49	10008112-049	Dust Bulk	8th floor on the floor at 8206	<2.99	<2930	None Detected
D-50	10008112-050	-	Blank	-	-	-

Samples were analyzed by Transmission Electron Microscopy (TEM) and were performed by a NVLAP, EPA, and Commonwealth of Virginia licensed TEM analytical laboratory.

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Fairfax, VA 22032

GELLER ENVIRONMENTAL LABS, INC.

Phone: 703-978-4683
Facsimile: 703-250-4960

SECTION II

LABORATORY ANALYSIS REPORTS WITH CHAIN OF CUSTODY DOCUMENTATION

SanAir Technologies Laboratory

Analysis Report

prepared for

Geller Environmental Laboratory

Report Date: 6/30/2010
Project Name: OIG
Project #: 311
SanAir ID#: 10008113

NVLAP LAB CODE 200870-0

AIHA LAP, LLC ACCREDITED LABORATORY

Virginia SBE
Certification # 652931

Texas Licensed Mold Analysis Laboratory
License # LAB0166

Technologies SanAir Laboratory

804.897.1177 www.sanair.com

SanAir Technologies Laboratory, Inc.
1551 Oakbridge Drive, Suite B, Powhatan, VA 23139
804.897.1177 Toll Free: 888.895.1177 Fax: 804.897.0070
Web: http://www.sanair.com E-mail: iaq@sanair.com

Geller Environmental Laboratory
10905 Fox Sparrow Court
Fairfax, VA 22032

June 30, 2010

SanAir ID # 10008113
Project Name: OIG
Project Number: 311

Dear Jack Geller,

We at SanAir would like to thank you for the work you recently submitted. The 23 sample(s) were received on Friday, June 25, 2010 via FedEx. The final report(s) is enclosed for the following sample(s): 1401-01, 1401-02, 1401-03, 1401-04, 1401-05, 1401-06, 1401-07, 1401-08, 1401-09, 1401-10, 1401-11, 1401-12, 1401-13, 1401-14, 1401-15, 1401-16, 1401-17, 1401-18, 1401-19, 1401-20, 1401-21, 1401-22, 1401-23.

These results only pertain to this job and should not be used in the interpretation of any other job. This report is only complete in its entirety. Refer to the listing below of the pages included in a complete final report.

Sincerely,

Sandra Sobrino

Sandra Sobrino
Asbestos & Materials Laboratory Manager
SanAir Technologies Laboratory

Final Report Includes:
- Cover Letter
- Analysis Pages
- Disclaimers and Additional Information

sample conditions:
23 sample(s) in Good condition

SanAir Technologies Laboratory, Inc.
1551 Oakbridge Drive, Suite B, Powhatan, VA 23139
804.897.1177 Toll Free: 888.895.1177 Fax: 804.897.0070
Web: http://www.sanair.com E-mail: iaq@sanair.com

SanAir ID Number
10008113
FINAL REPORT

Name: Geller Environmental Laboratory
Address: 10905 Fox Sparrow Court
Fairfax, VA 22032

Project Number: 311
P.O. Number:
Project Name: OIG

Collected Date: 6/24/2010
Received Date: 6/25/2010 10:00:00 AM
Report Date: 6/30/2010 11:35:22 AM
Analyst: Sobrino, Sandra

Asbestos Air TEM AHERA, 40 CFR Part 763 Subpart E

Sample	Volume (Liters)	Area Analyzed	Non Asb	Asbestos Type(s)	# Structures ≥0.5µ ≤5	# Structures ≥5µ	Analytical Sensitivity (S/cc)	Asbestos Concentration (S/mm²)	Asbestos Concentration (S/cc)
10008113-001 1401-01 7886-Office	1200	0.0720mm²	0	None Detected			0.0045	<14.00	<0.0045
10008113-002 1401-02 7882-Office	1200	0.0720mm²	0	None Detected			0.0045	<14.00	<0.0045
10008113-003 1401-03 7898C-Hallway	1200	0.0720mm²	0	None Detected			0.0045	<14.00	<0.0045
10008113-004 1401-04 7810-Office	1200	0.0720mm²	0	None Detected			0.0045	<14.00	<0.0045
10008113-005 1401-05 7520-Office	1200	0.0720mm²	0	None Detected			0.0045	<14.00	<0.0045
10008113-006 1401-06 7517-Office	1200	0.0720mm²	0	None Detected			0.0045	<14.00	<0.0045
10008113-007 1401-07 7616-Hallway	1200	0.0720mm²	0	None Detected			0.0045	<14.00	<0.0045

Certification

Signature: Sandra Sobrino
Date: 6/30/2010

Reviewed: Sandra Sobrino
Date: 6/30/2010

SanAir Technologies Laboratory, Inc.
1551 Oakbridge Drive, Suite B, Powhatan, VA 23139
804.897.1177 Toll Free: 888.895.1177 Fax: 804.897.0070
Web: http://www.sanair.com E-mail: iaq@sanair.com

SanAir ID Number
10008113
FINAL REPORT

Name: Geller Environmental Laboratory
Address: 10905 Fox Sparrow Court
Fairfax, VA 22032

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Asbestos Air TEM AHERA, 40 CFR Part 763 Subpart E

Sample	Volume (Liters)	Area Analyzed	Non Asb	Asbestos Type(s)	# Structures ≥0.5µ ≤5	# Structures ≥5µ	Analytical Sensitivity (S/cc)	Asbestos Concentration (S/mm²)	Asbestos Concentration (S/cc)
10008113-008 1401-08 7810-Hallway	1200	0.0720mm²	0	None Detected			0.0045	<14.00	<0.0045
10008113-009 1401-09 7622-Office	1200	0.0720mm²	0	None Detected			0.0045	<14.00	<0.0045
10008113-010 1401-10 7705-Hallway	1200	0.0720mm²	0	None Detected			0.0045	<14.00	<0.0045
10008113-011 1401-11 7409-Hallway	1200	0.0720mm²	0	None Detected			0.0045	<14.00	<0.0045
10008113-012 1401-12 7009-Office	1200	0.0720mm²	0	None Detected			0.0045	<14.00	<0.0045
10008113-013 1401-13 7009-Hallway	1200	0.0720mm²	0	None Detected			0.0045	<14.00	<0.0045
10008113-014 1401-14 7211-Inside Mechanical Rm	1200	0.0720mm²	0	None Detected			0.0045	<14.00	<0.0045

Certification

Signature: Sandra Sobrino
Date: 6/30/2010

Reviewed: Sandra Sobrino
Date: 6/30/2010

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804.897.1177 Toll Free: 888.895.1177 Fax: 804.897.0070
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Report Date: 6/30/2010 11:35:22 AM
Analyst: Sobrino, Sandra

Asbestos Air TEM AHERA, 40 CFR Part 763 Subpart E

Sample	Volume (Liters)	Area Analyzed	Non Asb	Asbestos Type(s)	# Structures ≥0.5µ ≤5	# Structures ≥5µ	Analytical Sensitivity (S/cc)	Asbestos Concentration (S/mm²)	(S/cc)
10008113-015 1401-15 @ Elevator #7	1200	0.0720mm²	0	None Detected			0.0045	<14.00	<0.0045
10008113-016 1401-16 7029C	1200	0.0720mm²	0	None Detected			0.0045	<14.00	<0.0045
10008113-017 1401-17 7308-Hallway	1200	0.0720mm²	0	None Detected			0.0045	<14.00	<0.0045
10008113-018 1401-18 7324-Office	1200	0.0720mm²	0	None Detected			0.0045	<14.00	<0.0045
10008113-019 1401-19 7327 Hallway	1200	0.0720mm²	0	None Detected			0.0045	<14.00	<0.0045
10008113-020 1401-20 7043	1200	0.0720mm²	0	None Detected			0.0045	<14.00	<0.0045
10008113-021 1401-21 7th Fl Library Cage	1200	0.0720mm²	0	None Detected			0.0045	<14.00	<0.0045

Certification

Signature: Sandra Sobrino
Date: 6/30/2010

Reviewed: Sandra Sobrino
Date: 6/30/2010

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Report Date: 6/30/2010 11:35:22 AM
Analyst: Sobrino, Sandra

Asbestos Air TEM AHERA, 40 CFR Part 763 Subpart E

Sample	Volume (Liters)	Area Analyzed	Non Asb	Asbestos Type(s)	Structures ≥0.5µ ≤5	Structures ≥5µ	Analytical Sensitivity (S/cc)	Asbestos Concentration (S/mm²)	(S/cc)
10008113-022 1401-22 7089-Office	1200	0.0720mm²	0	None Detected			0.0045	<14.00	<0.0045

Certification

Signature: Sandra Sobrino
Date: 6/30/2010

Reviewed: Sandra Sobrino
Date: 6/30/2010

Disclaimer

The final report cannot be reproduced, except in full, without written authorization from SanAir. The accuracy of the results is dependent upon the client's sampling procedure and information provided to the laboratory by the client. SanAir assumes no responsibility for the sampling procedure and will provide evaluation reports based solely on the sample and information provided by the client. This report may not be used by the client to claim product endorsement by NVLAP or any other agency of the U.S. government.

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Asbestos Chain of Custody

SanAir ID Number: 10068113

Company: Geller Environmental Labs, Inc	Project #: 11	Phone #: 703-978-4683
Address: 10905 Fox Sparrow Ct.	Project Name: OIG	Phone #: 703-314-9798
City, St., Zip: Fairfax, VA 33032	Date Collected: 6/23/10	Fax #: 703-250-4960
Samples Collected By: GEL, Inc.	P.O. Number:	Email:

Asbestos Analysis Types

Bulk			Air			Soil/Vermiculite		
ABB	PLM EPA 600/R-93/116	☐	ABA	PCM NIOSH 7400	☐	ABSE	PLM EPA 600/R-93/116 (Qual.)	☐
	Positive Stop	☐	ABA-2	OSHA w/ TWA*	☐	ABSP	PLM CARB 435 (LOD <1%)	☐
ABEPA	PLM EPA 400 Point Count	☐	ABTEM	TEM AHERA	☒	ABSP1	PLM CARB 435 (LOD 0.25%)	☐
ABB1K	PLM EPA 1000 Point Count	☐	ABATN	TEM NIOSH 7402	☐	ABSP2	PLM CARB 435 (LOD 0.1%)	☐
ABBEN	PLM EPA NOB	☐	ABT2	TEM Level II	☐			
ABBCH	TEM Chatfield	☐						
ABBTM	TEM EPA NOB	☐						
ABBNY	TEM NY ELAP 198.4	☐						
OTHER/ Matrix:		☐						

Water			Dust		
ABHE	EPA 100.2	☐	ABWA	TEM Wipe ASTM D-6480	☐
			ABDMV	TEM Microvac ASTM D-5755	☐

Turn Around Times				
	☐ 3 HR (4 HR TEM)	☐ 6 HR (8HR TEM)	☐ 12 HR	☐ 24 HR
	2 Days ☐	3 Days ☒	4 Days ☐	5 Days ☐

Sample #	Sample Identification/Location	Volume or Area	Sample Type	Flow Rate*	Time* Start	Stop
1401 - 01	7886 - OFFICE	1200	ABTEM			
02	7882 - OFFICE					
03	7898 - HALLWAY					
04	7810 - OFFICE					
05	7520 - OFFICE					
06	7516 - OFFICE					
07	7616 - HALLWAY					
08	7810 - HALLWAY					
09	7622 - OFFICE					
10	7705 - HALLWAY					
1401 - 11	7409 - HALLWAY	1200	ABTEM			

Special Instructions:

Relinquished by	Date	Time	Received by	Date	Time
[illegible]	6/23/10		NV	JUN 25 2010	1015

Unless scheduled, the turn around time for all samples received after 5 pm Friday will begin at 8 am Monday morning.
Weekend or Holiday work must be scheduled ahead of time and is charged for rush turn around time.
Work with standard turn around time sent Priority Overnight and Billed To Recipient will be charged a $10 shipping fee.

SanAir Technologies Laboratory, Inc.
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804.897.1177 / 888.895.1177 / Fax 804.897.0070
www.sanair.com

Asbestos Chain of Custody

SanAir ID Number: 1008113

Company: Geller Environmental Labs, Inc	Project #: 311	Phone #: 703-978-4683
Address: 10905 Fox Sparrow Ct.	Project Name: OIG	Phone #: 703-314-9798
City, St., Zip: Fairfax, VA 33032	Date Collected: 6 / 23 / 10	Fax #: 703-250-4960
Samples Collected By: GEL, Inc.	P.O. Number:	Email:

Asbestos Analysis Types

Bulk			Air			Soil/Vermiculite		
ABB	PLM EPA 600/R-93/116	☐	ABA	PCM NIOSH 7400	☐	ABSE	PLM EPA 600/R-93/116 (Qual.)	☐
	Positive Stop	☐	ABA-2	OSHA w/ TWA*	☐	ABSP	PLM CARB 435 (LOD <1%)	☐
ABEPA	PLM EPA 400 Point Count	☐	ABTEM	TEM AHERA	☒	ABSP1	PLM CARB 435 (LOD 0.25%)	☐
ABB1K	PLM EPA 1000 Point Count	☐	ABATN	TEM NIOSH 7402	☐	ABSP2	PLM CARB 435 (LOD 0.1%)	☐
ABBEN	PLM EPA NOB	☐	ABT2	TEM Level II	☐			
ABBCH	TEM Chatfield	☐						
ABBTM	TEM EPA NOB	☐		Water			Dust	
ABBNY	TEM NY ELAP 198.4	☐	ABHE	EPA 100.2	☐	ABWA	TEM Wipe ASTM D-6480	☐
OTHER/ Matrix:		☐				ABDMV	TEM Microvac ASTM D-5755	☐

Turn Around Times				
	☐ 3 HR (4 HR TEM)	☐ 6 HR (8HR TEM)	☐ 12 HR	☐ 24 HR
	2 Days ☐	3 Days ☒	4 Days ☐	5 Days ☐

Sample #	Sample Identification/Location	Volume or Area	Sample Type	Flow Rate*	Time* Start - Stop	
1401 - 12	7009 - OFFICE	1200	ABTEM			
13	7009 - HALLWAY					
14	7211 - OUTSIDE MECHANICAL Rm					
15	@ ELEVATOR #7					
16	7029 - [illegible]					
17	7308 - HALLWAY					
18	7324 - OFFICE					
19	7327 - HALLWAY					
20	7043					
21	7TH FL LIBRARY CAGE					
1401 - 22	7089 - OFFICE	1200	ABTEM			
- 23	BLANK	—	"			

Special Instructions:

Relinquished by	Date	Time	Received by	Date	Time
[illegible]	6/23/10		NB	JUN 25 2010	10A

Unless scheduled, the turn around time for all samples received after 5 pm Friday will begin at 8 am Monday morning.
Weekend or Holiday work must be scheduled ahead of time and is charged for rush turn around time.
Work with standard turn around time sent Priority Overnight and Billed To Recipient will be charged a $10 shipping fee.

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804.897.1177 / 888.895.1177 / Fax 804.897.0070
www.sanair.com

Asbestos Chain of Custody

SanAir ID Number: 1008113

Company: Geller Environmental Labs, Inc	Project #: 311	Phone #: 703-978-4683
Address: 10905 Fox Sparrow Ct.	Project Name: OIG	Phone #: 703-314-9798
City, St., Zip: Fairfax, VA 33032	Date Collected: 6/23/10	Fax #: 703-250-4960
Samples Collected By: GEL, Inc.	P.O. Number:	Email:

Asbestos Analysis Types

Bulk			Air			Soil/Vermiculite		
ABB	PLM EPA 600/R-93/116	☐	ABA	PCM NIOSH 7400	☐	ABSE	PLM EPA 600/R-93/116 (Qual.)	☐
	Positive Stop	☐	ABA-2	OSHA w/ TWA*	☐	ABSP	PLM CARB 435 (LOD <1%)	☐
ABEPA	PLM EPA 400 Point Count	☐	ABTEM	TEM ABERA	☒	ABSP1	PLM CARB 435 (LOD 0.25%)	☐
ABB1K	PLM EPA 1000 Point Count	☐	ABATN	TEM NIOSH 7402	☐	ABSP2	PLM CARB 435 (LOD 0.1%)	☐
ABBEN	PLM EPA NOB	☐	ABT2	TEM Level II	☐			
ABBCH	TEM Chatfield	☐						
ABBTM	TEM EPA NOB	☐		Water			Dust	
ABBNY	TEM NY ELAP 198.4	☐	ABHE	EPA 100.2	☐	ABWA	TEM Wipe ASTM D-6480	☐
OTHER/ Matrix:		☐				ABDMV	TEM Microvac ASTM D-5755	☐

Turn Around Times	3 HR (4 HR TEM) ☐	6 HR (8HR TEM) ☐	12 HR ☐	24 HR ☐
	2 Days ☐	3 Days ☒	4 Days ☐	5 Days ☐

Sample #	Sample Identification/Location	Volume or Area	Sample Type	Flow Rate*	Time* Start – Stop	
14101-24	BLANK	—	ABTEM			

Special Instructions:

Relinquished by	Date	Time	Received by	Date	Time
			AB	JUN 25 2010	10A

Unless scheduled, the turn around time for all samples received after 5 pm Friday will begin at 8 am Monday morning.
Weekend or Holiday work must be scheduled ahead of time and is charged for rush turn around time.
Work with standard turn around time sent Priority Overnight and Billed To Recipient will be charged a $10 shipping fee.

SanAir Technologies Laboratory

Analysis Report

prepared for

Geller Environmental Laboratory

Report Date: 6/30/2010
Project Name: OIG
Project #: 311
SanAir ID#: 10008164

NVLAP LAB CODE 200870-0

AIHA LAP, LLC ACCREDITED LABORATORY ENVIRONMENTAL MICROBIOLOGY

Virginia SBE
Certification # 652931

Texas Licensed Mold Analysis Laboratory
License # LAB0166

Technologies SanAir Laboratory

804.897.1177 www.sanair.com

SanAir Technologies Laboratory, Inc.
1551 Oakbridge Drive, Suite B, Powhatan, VA 23139
804.897.1177 Toll Free: 888.895.1177 Fax: 804.897.0070
Web: http://www.sanair.com E-mail: iaq@sanair.com

Geller Environmental Laboratory
10905 Fox Sparrow Court
Fairfax, VA 22032

June 30, 2010

SanAir ID # 10008164
Project Name: OIG
Project Number: 311

Dear Jack Geller,

We at SanAir would like to thank you for the work you recently submitted. The 33 sample(s) were received on Monday, June 28, 2010 via FedEx. The final report(s) is enclosed for the following sample(s): 1401-25, 1401-26, 1401-27, 1401-28, 1401-29, 1401-30, 1401-31, 1401-32, 1401-33, 1401-34, 1401-35, 1401-36, 1401-37, 1401-38, 1401-39, 1401-40, 1401-41, 1401-42, 1401-43, 1401-44, 1401-45, 1401-46, 1401-47, 1401-48, 1401-49, 1401-50, 1401-51, 1401-52, 1401-53, 1401-54, 1401-55, 1401-56, 1401-57.

These results only pertain to this job and should not be used in the interpretation of any other job. This report is only complete in its entirety. Refer to the listing below of the pages included in a complete final report.

Sincerely,

Sandra Sobrino

Sandra Sobrino
Asbestos & Materials Laboratory Manager
SanAir Technologies Laboratory

Final Report Includes:
- Cover Letter
- Analysis Pages
- Disclaimers and Additional Information

sample conditions:
33 sample(s) in Good condition

SanAir Technologies Laboratory, Inc.
1551 Oakbridge Drive, Suite B, Powhatan, VA 23139
804.897.1177 Toll Free: 888.895.1177 Fax: 804.897.0070
Web: http://www.sanair.com E-mail: iaq@sanair.com

SanAir ID Number
10008164
FINAL REPORT

Name: Geller Environmental Laboratory
Address: 10905 Fox Sparrow Court
Fairfax, VA 22032

Project Number: 311
P.O. Number:
Project Name: OIG

Collected Date: 6/24/2010
Received Date: 6/28/2010 9:15:00 AM
Report Date: 6/30/2010 6:52:16 PM
Analyst: Sobrino, Sandra

Asbestos Air TEM AHERA, 40 CFR Part 763 Subpart E

Sample	Volume (Liters)	Area Analyzed	Non Asb	Asbestos Type(s)	# Structures ≥0.5µ ≤5	# Structures ≥5µ	Analytical Sensitivity (S/cc)	Asbestos Concentration (S/mm²)	Asbestos Concentration (S/cc)
10008164-001 1401-25 8039 - Storage Area	1254	0.0720mm²	0	None Detected			0.0043	<14.00	<0.0043
10008164-002 1401-26 8206 - Corridor	1251	0.0720mm²	0	None Detected			0.0043	<14.00	<0.0043
10008164-003 1401-27 8800 / 8600 Intersection	1251	0.0720mm²	0	None Detected			0.0043	<14.00	<0.0043
10008164-004 1401-28 Rm8730 Cage M 3-21	1251	0.0720mm²	0	None Detected			0.0043	<14.00	<0.0043
10008164-005 1401-29 8702 - Access Ladder	1251	0.0720mm²	0	None Detected			0.0043	<14.00	<0.0043
10008164-006 1401-30 Elevator Rm 16	1200	0.0720mm²	0	None Detected			0.0045	<14.00	<0.0045
10008164-007 1401-31 M3-14 Clean Room	1200	0.0720mm²	0	None Detected			0.0045	<14.00	<0.0045

Certification

Signature: Sandra Sobrino
Date: 6/30/2010

Reviewed: Sandra Sobrino
Date: 6/30/2010

SanAir Technologies Laboratory, Inc.
1551 Oakbridge Drive, Suite B, Powhatan, VA 23139
804.897.1177 Toll Free: 888.895.1177 Fax: 804.897.0070
Web: http://www.sanair.com E-mail: iaq@sanair.com

SanAir ID Number
10008164
FINAL REPORT

Name: Geller Environmental Laboratory
Address: 10905 Fox Sparrow Court
Fairfax, VA 22032

Project Number: 311
P.O. Number:
Project Name: OIG

Collected Date: 6/24/2010
Received Date: 6/28/2010 9:15:00 AM
Report Date: 6/30/2010 6:52:16 PM
Analyst: Sobrino, Sandra

Asbestos Air TEM AHERA, 40 CFR Part 763 Subpart E

Sample	Volume (Liters)	Area Analyzed	Non Asb	Asbestos Type(s)	# Structures ≥0.5μ ≤5	# Structures ≥5μ	Analytical Sensitivity (S/cc)	Asbestos Concentration (S/mm²)	Asbestos Concentration (S/cc)
10008164-008 1401-32 7606 - Mechanical Room	1200	0.0720mm²	0	None Detected			0.0045	<14.00	<0.0045
10008164-009 1401-33 6606 - Hallway	1200	0.0720mm²	0	None Detected			0.0045	<14.00	<0.0045
10008164-010 1401-34 Mechanical Rm Adj. To 6608	1200	0.0720mm²	0	None Detected			0.0045	<14.00	<0.0045
10008164-011 1401-35 6315 - Mechanical Room	1200	0.0720mm²	0	None Detected			0.0045	<14.00	<0.0045
10008164-012 1401-36 6210 - Mechanical Room	1200	0.0720mm²	0	None Detected			0.0045	<14.00	<0.0045
10008164-013 1401-37 6808 - Office	1200	0.0720mm²	0	None Detected			0.0045	<14.00	<0.0045
10008164-014 1401-38 5526 - Mechanical Room	1200	0.0720mm²	0	None Detected			0.0045	<14.00	<0.0045

Certifications

Signature: Sandra Sobrino
Date: 6/30/2010

Reviewed: Sandra Sobrino
Date: 6/30/2010

SanAir Technologies Laboratory, Inc.
1551 Oakbridge Drive, Suite B, Powhatan, VA 23139
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SanAir ID Number
10008164
FINAL REPORT

Name: Geller Environmental Laboratory
Address: 10905 Fox Sparrow Court
Fairfax, VA 22032

Project Number: 311
P.O. Number:
Project Name: OIG

Collected Date: 6/24/2010
Received Date: 6/28/2010 9:15:00 AM
Report Date: 6/30/2010 6:52:16 PM
Analyst: Sobrino, Sandra

Asbestos Air TEM AHERA, 40 CFR Part 763 Subpart E

Sample	Volume (Liters)	Area Analyzed	Non Asb	Asbestos Type(s)	# Structures ≥0.5μ<5	# Structures ≥5μ	Analytical Sensitivity (S/cc)	Asbestos Concentration (S/mm²)	Asbestos Concentration (S/cc)
10008164-015 1401-39 5893 - Office	1200	0.0720mm²	0	None Detected			0.0045	<14.00	<0.0045
10008164-016 1401-40 5724 - Mechanical Room	1200	0.0720mm²	0	None Detected			0.0045	<14.00	<0.0045
10008164-017 1401-41 5410 - Conferece Room	1200	0.0720mm²	0	None Detected			0.0045	<14.00	<0.0045
10008164-018 1401-42 4519 - Hallway	1200	0.0720mm²	0	None Detected			0.0045	<14.00	<0.0045
10008164-019 1401-43 4607 - Mechanical Rm	1200	0.0720mm²	1	None Detected			0.0045	<14.00	<0.0045
10008164-020 1401-44 4610 - Office	1200	0.0720mm²	0	None Detected			0.0045	<14.00	<0.0045
10008164-021 1401-45 3807 - Office	1200	0.0720mm²	0	None Detected			0.0045	<14.00	<0.0045

Certification

Signature: Sandra Sobrino
Date: 6/30/2010

Reviewed: Sandra Sobrino
Date: 6/30/2010

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SanAir ID Number
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FINAL REPORT

Name: Geller Environmental Laboratory
Address: 10905 Fox Sparrow Court
Fairfax, VA 22032

Project Number: 311
P.O. Number:
Project Name: OIG

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Received Date: 6/28/2010 9:15:00 AM
Report Date: 6/30/2010 6:52:16 PM
Analyst: Sobrino, Sandra

Asbestos Air TEM AHERA, 40 CFR Part 763 Subpart E

Sample	Volume (Liters)	Area Analyzed	Non Asb.	Asbestos Type(s)	# Structures ≥0.5µ ≤5	# Structures ≥5µ	Analytical Sensitivity (S/cc)	Asbestos Concentration (S/mm²)	Asbestos Concentration (S/cc)
10008164-022 1401-46 3321 - Office	1200	0.0720mm²	0	None Detected			0.0045	<14.00	<0.0045
10008164-023 1401-47 3311 - Mechanical Room	1200	0.0720mm²	0	None Detected			0.0045	<14.00	<0.0045
10008164-024 1401-48 2852 - Office	1200	0.0720mm²	0	None Detected			0.0045	<14.00	<0.0045
10008164-025 1401-49 2810 - Office	1200	0.0720mm²	0	None Detected			0.0045	<14.00	<0.0045
10008164-026 1401-50 2006 - Office	1200	0.0720mm²	0	None Detected			0.0045	<14.00	<0.0045
10008164-027 1401-51 Aquarium Entrance	1200	0.0720mm²	0	None Detected			0.0045	<14.00	<0.0045
10008164-028 1401-52 Suite A - 300	1200	0.0720mm²	0	None Detected			0.0045	<14.00	<0.0045

Certification

Signature: Sandra Sobrino
Date: 6/30/2010

Reviewed: Sandra Sobrino
Date: 6/30/2010

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SanAir ID Number
10008164
FINAL REPORT

Name: Geller Environmental Laboratory
Address: 10905 Fox Sparrow Court
Fairfax, VA 22032

Project Number: 311
P.O. Number:
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Received Date: 6/28/2010 9:15:00 AM
Report Date: 6/30/2010 6:52:16 PM
Analyst: Sobrino, Sandra

Asbestos Air TEM AHERA, 40 CFR Part 763 Subpart E

Sample	Volume (Liters)	Area Analyzed	Non Asb	Asbestos Type(s)	# Structures ≥0.5µ/≤5	# Structures ≥5µ	Analytical Sensitivity (S/cc)	Asbestos Concentration (S/mm²)	Asbestos Concentration (S/cc)
10008164-029 1401-53 Adjacent To Elevator 30	1200	0.0720mm²	0	None Detected			0.0045	<14.00	<0.0045
10008164-030 1401-54 Entrance To Daycare	1200	0.0720mm²	0	None Detected			0.0045	<14.00	<0.0045
10008164-031 1401-55 Floor 1 - Magazine Room	1200	0.0720mm²	0	None Detected			0.0045	<14.00	<0.0045
10008164-032 1401-56 B626	1200	0.0720mm²	0	None Detected			0.0045	<14.00	<0.0045
10008164-033 1401-57 B606	1200	0.0720mm²	0	None Detected			0.0045	<14.00	<0.0045

Certification

Signature: Sandra Sobrino
Date: 6/30/2010

Reviewed: Sandra Sobrino
Date: 6/30/2010

Disclaimer

The final report cannot be reproduced, except in full, without written authorization from SanAir. The accuracy of the results is dependent upon the client's sampling procedure and information provided to the laboratory by the client. SanAir assumes no responsibility for the sampling procedure and will provide evaluation reports based solely on the sample and information provided by the client. This report may not be used by the client to claim product endorsement by NVLAP or any other agency of the U.S. government.

SanAir Technologies Laboratory, Inc.
1551 Oakbridge Drive, Suite B - Powhatan, VA 23139
804.897.1177 / 888.895.1177 / Fax 804.897.0070
www.sanair.com

Asbestos Chain of Custody

SanAir ID Number: 10008164

Company:	Geller Environmental Labs, Inc	Project #:	311	Phone #:	703-978-4683
Address:	10905 Fox Sparrow Ct.	Project Name:	OIG	Phone #:	703-314-9798
City, St., Zip:	Fairfax, VA 33032	Date Collected:		Fax #:	703-250-4960
Samples Collected By:	GEL, Inc.	P.O. Number:		Email:	

Asbestos Analysis Types

Bulk			Air			Soil/Vermiculite		
ABB	PLM EPA 600/R-93/116	☐	ABA	PCM NIOSH 7400	☐	ABSE	PLM EPA 600/R-93/116 (Qual.)	☐
	Positive Stop ☐		ABA-2	OSHA w/ TWA*	☐	ABSP	PLM CARB 435 (LOD <1%)	☐
ABEPA	PLM EPA 400 Point Count	☐	ABTEM	TEM AHERA	☒	ABSP1	PLM CARB 435 (LOD 0.25%)	☐
ABB1K	PLM EPA 1000 Point Count	☐	ABATN	TEM NIOSH 7402	☐	ABSP2	PLM CARB 435 (LOD 0.1%)	☐
ABBEN	PLM EPA NOB	☐	ABT2	TEM Level II	☐			
ABBCH	TEM Chatfield	☐						
ABBTM	TEM EPA NOB	☐		Water			Dust	
ABBNY	TEM NY ELAP 198.4	☐	ABHE	EPA 100.2	☐	ABWA	TEM Wipe ASTM D-6480	☐
OTHER/ Matrix:		☐				ABDMV	TEM Microvac ASTM D-5755	☐

Turn Around Times	☐ 3 HR (4 HR TEM)	☐ 6 HR (8HR TEM)	☐ 12 HR	☐ 24 HR
	2 Days ☒	3 Days ☒ ND	4 Days ☐	5 Days ☐

Sample #	Sample Identification/Location	Volume or Area	Sample Type	Flow Rate*	Time* Start	Stop
1401 - 25	8039 - STORAGE AREA	1254	ABTEM			
26	8206 - CORRIDOR	1251				
27	8800 / 8600 - INTERSECTION	1251				
28	Rm 8730 CAGE M3-21	1251				
29	8702 - ACCESS LADDER	1251				
30	ELEVATOR Rm 116	1200				
31	M3-14 CLEAN ROOM	1200				
32	7606 - MECHANICAL ROOM	1200				
33	6606 - HALLWAY	1200				
34	~~6608~~ MECHANICAL Rm ADJ. TO 6606	1200				
35	6315 - MECHANICAL ROOM	1200				
1401 - 36	6210 - MECHANICAL ROOM	1200	ABTEM			

Special Instructions:

Relinquished by	Date	Time	Received by	Date	Time
[illegible]	6/24/10		NB	JUN 28 2010	915A

Unless scheduled, the turn around time for all samples received after 5 pm Friday will begin at 8 am Monday morning.
Weekend or Holiday work must be scheduled ahead of time and is charged for rush turn around time.
Work with standard turn around time sent Priority Overnight and Billed To Recipient will be charged a $10 shipping fee.

2 DAY TAT Please

SanAir Technologies Laboratory, Inc.
1551 Oakbridge Drive, Suite B - Powhatan, VA 23139
804.897.1177 / 888.895.1177 / Fax 804.897.0070
www.sanair.com

Asbestos Chain of Custody

SanAir ID Number: 10068164

Company:	Geller Environmental Labs, Inc	Project #:	311	Phone #:	703-978-4683
Address:	10905 Fox Sparrow Ct.	Project Name:	OIG	Phone #:	703-314-9798
City, St., Zip:	Fairfax, VA 33032	Date Collected:		Fax #:	703-250-4960
Samples Collected By:	GEL, Inc.	P.O. Number:		Email:	

Asbestos Analysis Types

Bulk			Air			Soil/Vermiculite		
ABB	PLM EPA 600/R-93/116	☐	ABA	PCM NIOSH 7400	☐	ABSE	PLM EPA 600/R-93/116 (Qual.)	☐
	Positive Stop ☐		ABA-2	OSHA w/ TWA*	☐	ABSP	PLM CARB 435 (LOD <1%)	☐
ABEPA	PLM EPA 400 Point Count	☐	ABTEM	TEM AHERA	☒	ABSP1	PLM CARB 435 (LOD 0.25%)	☐
ABB1K	PLM EPA 1000 Point Count	☐	ABATN	TEM NIOSH 7402	☐	ABSP2	PLM CARB 435 (LOD 0.1%)	☐
ABBEN	PLM EPA NOB	☐	ABT2	TEM Level II	☐			
ABBCH	TEM Chatfield	☐						
ABBTM	TEM EPA NOB	☐		Water			Dust	
ABBNY	TEM NY ELAP 198.4	☐	ABHE	EPA 100.2	☐	ABWA	TEM Wipe ASTM D-6480	☐
OTHER/ Matrix :		☐				ABDMV	TEM Microvac ASTM D-5755	☐

Turn Around Times	☐ 3 HR (4 HR TEM)	☐ 6 HR (8HR TEM)	☐ 12 HR	☐ 24 HR
	2 Days ☐	3 Days ☐ ND	4 Days ☐	5 Days ☐

Sample #	Sample Identification/Location	Volume or Area	Sample Type	Flow Rate*	Time* Start – Stop
1401 - 37	6808 - OFFICE	1200	ABTEM		
38	5526 - MECHANICAL ROOM				
39	5893 - OFFICE				
40	5724 - MECHANICAL ROOM				
41	5410 - CONFERENCE ROOM				
42	4519 - HALLWAY				
43	4607 - MECHANICAL RM				
44	4610 - OFFICE				
45	3807 - OFFICE				
46	3321 - OFFICE				
47	3311 - MECHANICAL ROOM				
1401 48	2857 - OFFICE	1200	ABTEM		

Special Instructions

Relinquished by	Date	Time	Received by	Date	Time
[illegible]	6/24/10		NB	JUN 28 2010	915 AM

Unless scheduled, the turn around time for all samples received after 5 pm Friday will begin at 8 am Monday morning.
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2 DAY TAT Please

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804.897.1177 / 888.895.1177 / Fax 804.897.0070
www.sanair.com

Asbestos Chain of Custody

SanAir ID Number: 10008164

Company: Geller Environmental Labs, Inc	Project #: 311	Phone #: 703-978-4683
Address: 10905 Fox Sparrow Ct.	Project Name: OIG	Phone #: 703-314-9798
City, St, Zip: Fairfax, VA 33032	Date Collected:	Fax #: 703-250-4960
Samples Collected By: GEL, Inc.	P.O. Number:	Email:

Asbestos Analysis Types

Bulk			Air			Soil/Vermiculite		
ABB	PLM EPA 600/R-93/116	☐	ABA	PCM NIOSH 7400	☐	ABSE	PLM EPA 600/R-93/116 (Qual.)	☐
	Positive Stop	☐	ABA-2	OSHA w/ TWA*	☐	ABSP	PLM CARB 435 (LOD <1%)	☐
ABEPA	PLM EPA 400 Point Count	☐	ABTEM	TEM AHERA	☒	ABSP1	PLM CARB 435 (LOD 0.25%)	☐
ABB1K	PLM EPA 1000 Point Count	☐	ABATN	TEM NIOSH 7402	☐	ABSP2	PLM CARB 435 (LOD 0.1%)	☐
ABBEN	PLM EPA NOB	☐	ABT2	TEM Level II	☐			
ABBCH	TEM Chatfield	☐						
ABBTM	TEM EPA NOB	☐		Water			Dust	
ABBNY	TEM NY ELAP 198.4	☐	ABHE	EPA 100.2	☐	ABWA	TEM Wipe ASTM D-6480	☐
OTHER/ Matrix :		☐				ABDMV	TEM Microvac ASTM D-5755	☐

Turn Around Times	☐ 3 HR (4 HR TEM)	☐ 6 HR (8HR TEM)	☐ 12 HR	☐ 24 HR
	2 Days ☒	3 Days ☒	4 Days ☐	5 Days ☐

Sample #	Sample Identification/Location	Volume or Area	Sample Type	Flow Rate*	Time* Start – Stop
1401 - 49	2810 - OFFICE	1200	ABTEM		
50	2006 - OFFICE				
51	AQUARIUM - ENTRANCE				
52	SUITE A-300				
53	ADJACENT TO ELEVATOR 30				
54	ENTRANCE TO DAYCARE				
55	FLOOR 1 - MAGAZINE ROOM				
56	B6226				
1401 - 57	B6016	1200	ABTEM		

Special Instructions

Relinquished by	Date	Time	Received by	Date	Time
[illegible]	6/24/10		NB	JUN 28 2010	9:54

Unless scheduled, the turn around time for all samples received after 5 pm Friday will begin at 8 am Monday morning.
Weekend or Holiday work must be scheduled ahead of time and is charged for rush turn around time.
Work with standard turn around time sent Priority Overnight and Billed To Recipient will be charged a $10 shipping fee.

* 2 DAY TAT Please

SanAir Technologies Laboratory

Analysis Report

prepared for

Geller Environmental Laboratory

Report Date: 7/1/2010
Project Name: OIG
Project #: 311
SanAir ID#: 10008112

NVLAP LAB CODE 200870-0

AIHA LAP, LLC ACCREDITED LABORATORY ENVIRONMENTAL MICROBIOLOGY

Virginia SBE
Certification # 652931

Texas Licensed Mold Analysis Laboratory
License # LAB0166

Technologies SanAir Laboratory

804.897.1177 www.sanair.com

SanAir Technologies Laboratory, Inc.
1551 Oakbridge Drive, Suite B, Powhatan, VA 23139
804.897.1177 Toll Free: 888.895.1177 Fax: 804.897.0070
Web: http://www.sanair.com E-mail: iaq@sanair.com

Geller Environmental Laboratory
10905 Fox Sparrow Court
Fairfax, VA 22032

July 1, 2010

SanAir ID # 10008112
Project Name: OIG
Project Number: 311

Dear Jack Geller,

We at SanAir would like to thank you for the work you recently submitted. The 49 sample(s) were received on Friday, June 25, 2010 via FedEx. The final report(s) is enclosed for the following sample(s): D-01, D-02, D-03, D-04, D-05, D-06, D-07, D-08, D-09, D-10, D-11, D-12, D-13, D-14, D-15, D-16, D-17, D-18, D-19, D-20, D-21, D-22, D-23, D-24, D-25, D-26, D-27, D-28, D-29, D-30, D-31, D-32, D-33, D-34, D-35, D-36, D-37, D-38, D-39, D-40, D-41, D-42, D-43, D-44, D-45, D-46, D-47, D-48, D-49.

These results only pertain to this job and should not be used in the interpretation of any other job. This report is only complete in its entirety. Refer to the listing below of the pages included in a complete final report.

Sincerely,

Sandra Sobrino

Sandra Sobrino
Asbestos & Materials Laboratory Manager
SanAir Technologies Laboratory

Final Report Includes:
- Cover Letter
- Analysis Pages
- Disclaimers and Additional Information

sample conditions:
49 sample(s) in Good condition

SanAir Technologies Laboratory, Inc.
1551 Oakbridge Drive, Suite B - Powhatan, VA 23139
804.897.1177 / 888.895.1177 / Fax 804.897.0070
www.sanair.com

Asbestos Chain of Custody

SanAir ID Number: 1008112

Company: Geller Environmental Labs, Inc	Project #: 311	Phone #: 703-978-4683
Address: 10905 Fox Sparrow Ct.	Project Name: OIG	Phone #: 703-314-9798
City, St, Zip: Fairfax, VA 33032	Date Collected: 6/23/10	Fax #: 703-250-4960
Samples Collected By: GEL, Inc.	P.O. Number:	Email:

Asbestos Analysis Types

Bulk			Air			Soil/Vermiculite		
ABB	PLM EPA 600/R-93/116	☐	ABA	PCM NIOSH 7400	☐	ABSE	PLM EPA 600/R-93/116 (Qual.)	☐
	Positive Stop ☐		ABA-2	OSHA w/ TWA*	☐	ABSP	PLM CARB 435 (LOD <1%)	☐
ABEPA	PLM EPA 400 Point Count	☐	ABTEM	TEM AHERA	☐	ABSP1	PLM CARB 435 (LOD 0.25%)	☐
ABB1K	PLM EPA 1000 Point Count	☐	ABATN	TEM NIOSH 7402	☐	ABSP2	PLM CARB 435 (LOD 0.1%)	☐
ABBEN	PLM EPA NOB	☐	ABT2	TEM Level II	☐			
ABBCH	TEM Chatfield	☐						
ABBTM	TEM EPA NOB	☐	**Water**			**Dust**		
ABBNY	TEM NY ELAP 198.4	☐	ABHE	EPA 100.2	☐	ABWA	TEM Wipe ASTM D-6480	☐
OTHER/ Matrix :		☐				ABDMV	TEM Microvac ASTM D-5755	☒

Turn Around Times				
	☐ 3 HR (4 HR TEM)	☐ 6 HR (8HR TEM)	☐ 12 HR	☐ 24 HR
	2 Days ☐	3 Days ☒	4 Days ☐	5 Days ☐

Sample #	Sample Identification/Location	Volume or Area	Sample Type	Flow Rate*	Time* Start – Stop	
D-01	7886 TRANSOM	100 cm²	ABDMV			
02	7882 HALL FLOOR	↓	↓			
03	7520 SHELF					
04	7517 THRESHOLD					
05	7TH FLOOR VENDING					
06	CONSTRUCTION DOOR ACROSS FROM 7009					
07	7013 THRESHOLD					
08	WATER FOUNTAIN 7205					
09	CONSTRUCTION AREA / 7808		✓			
D-10	7812 TRANSOM		ABDMV			
-11	WATER FOUNTAIN 7233		"			
-12	7810 OFFICE FLR	✓	"			

Special Instructions

Relinquished by	Date	Time	Received by	Date	Time
[illegible]	6/24/10	1600 hrs	NB	JUN 25 2010	10A

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1551 Oakbridge Drive, Suite B - Powhatan, VA 23139
804.897.1177 / 888.895.1177 / Fax 804.897.0070
www.sanair.com

Asbestos Chain of Custody

SanAir ID Number: 10008112

Company: Geller Environmental Labs, Inc	Project #: 311	Phone #: 703-978-4683
Address: 10905 Fox Sparrow Ct.	Project Name: OIG	Phone #: 703-314-9798
City, St., Zip: Fairfax, VA 33032	Date Collected: 6/23/10	Fax #: 703-250-4960
Samples Collected By: GEL, Inc.	P.O. Number:	Email:

Asbestos Analysis Types

Bulk			Air			Soil/Vermiculite		
ABB	PLM EPA 600/R-93/116	☐	ABA	PCM NIOSH 7400	☐	ABSE	PLM EPA 600/R-93/116 (Qual.)	☐
	Positive Stop ☐		ABA-2	OSHA w/ TWA*	☐	ABSP	PLM CARB 435 (LOD <1%)	☐
ABEPA	PLM EPA 400 Point Count	☐	ABTEM	TEM AHERA	☐	ABSP1	PLM CARB 435 (LOD 0.25%)	☐
ABB1K	PLM EPA 1000 Point Count	☐	ABATN	TEM NIOSH 7402	☐	ABSP2	PLM CARB 435 (LOD 0.1%)	☐
ABBEN	PLM EPA NOB	☐	ABT2	TEM Level II	☐			
ABBCH	TEM Chatfield	☐						
ABBTM	TEM EPA NOB	☐		Water			Dust	
ABBNY	TEM NY ELAP 198.4	☐	ABHE	EPA 100.2	☐	ABWA	TEM Wipe ASTM D-6480	☐
OTHER/ Matrix :		☐				ABDMV	TEM Microvac ASTM D-5755	☒

Turn Around Times				
	☐ 3 HR (4 HR TEM)	☐ 6 HR (8HR TEM)	☐ 12 HR	☐ 24 HR
	2 Days ☐	3 Days ☒	4 Days ☐	5 Days ☐

Sample #	Sample Identification/Location	Volume or Area	Sample Type	Flow Rate*	Time* Start – Stop	
D-13	STAIRWAY 13 LANDING	100 cm²	ABDMV			
-14	ELE 33 TRANSITION					
-15	LADDER 7704					
-16	WATER FOUNTAIN 7703					
-17	ELEC CABINET 7689					
-18	TOP OF WALL 7696					
-19	WIN BLIND 7693					
-20	LIBRARY STACK 31					
-21	DOOR 7324					
-22	TRANSOM 7327					
-23	TRANSOM 6808					
-24	FLOOR 6315					

Special Instructions:

Relinquished by	Date	Time	Received by	Date	Time
[illegible]	6/24/10	1600 hrs	NB	JUN 25 2010	10A

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Asbestos Chain of Custody

SanAir ID Number: 10008112

Company: Geller Environmental Labs, Inc	Project #: 311	Phone #: 703-978-4683
Address: 10905 Fox Sparrow Ct.	Project Name: OIG	Phone #: 703-314-9798
City, St, Zip: Fairfax, VA 33032	Date Collected: 6/23/10	Fax #: 703-250-4960
Samples Collected By: GEL, Inc.	P.O. Number:	Email:

Asbestos Analysis Types

Bulk			Air			Soil/Vermiculite		
ABB	PLM EPA 600/R-93/116	☐	ABA	PCM NIOSH 7400	☐	ABSE	PLM EPA 600/R-93/116 (Qual.)	☐
	Positive Stop	☐	ABA-2	OSHA w/ TWA*	☐	ABSP	PLM CARB 435 (LOD <1%)	☐
ABEPA	PLM EPA 400 Point Count	☐	ABTEM	TEM AHERA	☐	ABSP1	PLM CARB 435 (LOD 0.25%)	☐
ABB1K	PLM EPA 1000 Point Count	☐	ABATN	TEM NIOSH 7402	☐	ABSP2	PLM CARB 435 (LOD 0.1%)	☐
ABBEN	PLM EPA NOB	☐	ABT2	TEM Level II	☐			
ABBCH	TEM Chatfield	☐						
ABBTM	TEM EPA NOB	☐	Water			Dust		
ABBNY	TEM NY ELAP 198.4	☐	ABHE	EPA 100.2	☐	ABWA	TEM Wipe ASTM D-6480	☐
OTHER/ Matrix :		☐				ABDMV	TEM Microvac ASTM D-5755	☒

Turn Around Times				
	☐ 3 HR (4 HR TEM)	☐ 6 HR (8HR TEM)	☐ 12 HR	☐ 24 HR
	2 Days ☐	3 Days ☒	4 Days ☐	5 Days ☐

Sample #	Sample Identification/Location	Volume or Area	Sample Type	Flow Rate*	Time* Start	Stop
D-25	FLOOR 6315 EXIT	100CM²	ABDMV			
-26	HALLWAY 6315					
-27	TRANSOM 6542					
-28	FLOOR MECH RM AT 6606					
-29	FLOOR MECH RM EXIT					
-30	HALLWAY AT 6606					
-31	FLOOR 5607					
-32	FLOOR 5607 EXIT					
-33	SHELF 5893					
-34	HALL ~~FLOOR~~ 5526 ENT					
-35	THRESHOLD 5410					
-36	TRANSOM 4519					

Special Instructions

Relinquished by	Date	Time	Received by	Date	Time
[illegible]	6/23/10	1600HRS	NYS	JUN 25 2010	10A

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Asbestos Chain of Custody

SanAir ID Number: 10008112

Company:	Geller Environmental Labs, Inc	Project #:	311	Phone #:	703-978-4683
Address:	10905 Fox Sparrow Ct.	Project Name:	OIG	Phone #:	703-314-9798
City, St., Zip:	Fairfax, VA 33032	Date Collected:	6/23/10	Fax #:	703-250-4960
Samples Collected By:	GEL, Inc.	P.O. Number:		Email:	

Asbestos Analysis Types

Bulk			Air			Soil/Vermiculite		
ABB	PLM EPA 600/R-93/116	☐	ABA	PCM NIOSH 7400	☐	ABSE	PLM EPA 600/R-93/116 (Qual.)	☐
	Positive Stop ☐		ABA-2	OSHA w/ TWA*	☐	ABSP	PLM CARB 435 (LOD <1%)	☐
ABEPA	PLM EPA 400 Point Count	☐	ABTEM	TEM AHERA	☐	ABSP1	PLM CARB 435 (LOD 0.25%)	☐
ABB1K	PLM EPA 1000 Point Count	☐	ABATN	TEM NIOSH 7402	☐	ABSP2	PLM CARB 435 (LOD 0.1%)	☐
ABBEN	PLM EPA NOB	☐	ABT2	TEM Level II	☐			
ABBCH	TEM Chatfield	☐						
ABBTM	TEM EPA NOB	☐		**Water**			**Dust**	
ABBNY	TEM NY ELAP 198.4	☐	ABHE	EPA 100.2	☐	ABWA	TEM Wipe ASTM D-6480	☐
OTHER/ Matrix :		☐				ABDMV	TEM Microvac ASTM D-5755	☒

Turn Around Times				
	☐ 3 HR (4 HR TEM)	☐ 6 HR (8HR TEM)	☐ 12 HR	☐ 24 HR
	2 Days ☐	3 Days ☒	4 Days ☐	5 Days ☐

Sample #	Sample Identification/Location	Volume or Area	Sample Type	Flow Rate*	Time* Start	Stop
D-37	RADIATOR 4610	100 cm²	ABDMV			
-38	FLOOR 3321					
-39	FLOOR 3847					
-40	HALL WALL TOP 2806					
-41	WALL TOP 2810					
-42	1ST FLOR MAGAZINE SHELF					
-43	DISPLAY CASE 1614					
-44	ATTIC FLOOR 6918					
-45	FLOOR 8930					
-46	FLOOR 8702					
-47	BEAM 8039					
-48	ATTIC FLOOR EL216					

Special Instructions:

Relinquished by	Date	Time	Received by	Date	Time
[illegible]	6/24/10	[illegible]	NB	JUN 25 2010	10A

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Asbestos Chain of Custody

SanAir ID Number: 1000811 2

Company:	Geller Environmental Labs, Inc	Project #:	311	Phone #:	703-978-4683
Address:	10905 Fox Sparrow Ct.	Project Name:	OIG	Phone #:	703-314-9798
City, St., Zip:	Fairfax, VA 33032	Date Collected:	6/23/10	Fax #:	703-250-4960
Samples Collected By:	GEL, Inc.	P.O. Number:		Email:	

Asbestos Analysis Types

Bulk			Air			Soil/Vermiculite		
ABB	PLM EPA 600/R-93/116	☐	ABA	PCM NIOSH 7400	☐	ABSE	PLM EPA 600/R-93/116 (Qual.)	☐
	Positive Stop	☐	ABA-2	OSHA w/ TWA*	☐	ABSP	PLM CARB 435 (LOD <1%)	☐
ABEPA	PLM EPA 400 Point Count	☐	ABTEM	TEM AHERA	☐	ABSP1	PLM CARB 435 (LOD 0.25%)	☐
ABB1K	PLM EPA 1000 Point Count	☐	ABATN	TEM NIOSH 7402	☐	ABSP2	PLM CARB 435 (LOD 0.1%)	☐
ABBEN	PLM EPA NOB	☐	ABT2	TEM Level II	☐			
ABBCH	TEM Chatfield	☐						
ABBTM	TEM EPA NOB	☐		Water			Dust	
ABBNY	TEM NY ELAP 198.4	☐	ABHE	EPA 100.2	☐	ABWA	TEM Wipe ASTM D-6480	☐
OTHER/ Matrix:		☐				ABDMV	TEM Microvac ASTM D-5755	☒

Turn Around Times				
	☐ 3 HR (4 HR TEM)	☐ 6 HR (8HR TEM)	☐ 12 HR	☐ 24 HR
	2 Days ☐	3 Days ☒	4 Days ☐	5 Days ☐

Sample #	Sample Identification/Location	Volume or Area	Sample Type	Flow Rate*	Time* Start	Stop
D-49	FLOOR 8206	100 cm²	ABDMV			
D-50	BLANK	—	"			

Special Instructions:

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[signature]	6/24/10	1600	NB	JUN 25 2010	10A

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SanAir ID Number
10008112
FINAL REPORT

Name: Geller Environmental Labs, Inc
Address: 10905 Fox Sparrow Ct
Fairfax, VA 33032

Project Number: 311
P.O. Number: OIG
Project Name:

Collected Date: 6/23/2010
Received Date: 6/25/2010 10:00:00 AM
Report Date: 7/1/2010
Analyst: S. Sobrino

TEM Microvac ASTM D-5755-03 Analysis

Sample	Location	Area (cm^2)	Asbestos Fiber	Asbestos Structures	Analytical Sensitivity	Asbestos Concentration (s/cm^2)
D-01 10008112-001	7886 Transom	100	None Detected	<2.99	977	<2930
D-02 10008112-002	7882 Hall Floor	100	None Detected	<2.99	977	<2930
D-03 10008112-003	7520 Shelf	100	None Detected	<2.99	977	<2930
D-04 10008112-004	7517 Threshold	100	None Detected	<2.99	977	<2930
D-05 10008112-005	7th Floor Vending	100	None Detected	<2.99	977	<2930
D-06 10008112-006	Construction Door Across From 7009	100	None Detected	<2.99	977	<2930
D-07 10008112-007	7013 Threshold	100	None Detected	<2.99	977	<2930
D-08 10008112-008	Water Fountain 7205	100	None Detected	<2.99	977	<2930
D-9 10008112-009	Construction Area/ 7808	100	None Detected	<2.99	977	<2930
D-10 10008112-010	7812 Transom	100	None Detected	<2.99	977	<2930

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Report Date: 7/1/2010
Analyst: S. Sobrino

TEM Microvac ASTM D-5755-03 Analysis

Sample	Location	Area (cm^2)	Asbestos Fiber	Asbestos Structures	Analytical Sensitivity	Asbestos Concentration (s/cm^2)
D-11 10008112-011	Water Fountain 7233	100	None Detected	<2.99	977	<2930
D-12 10008112-012	7810 Office Floor	100	None Detected	<2.99	977	<2930
D-13 10008112-013	Stairway 13 landing	100	None Detected	<2.99	977	<2930
D-14 10008112-014	Ele 33 Transition	100	None Detected	<2.99	977	<2930
D-15 10008112-015	Ladder At 7704	100	None Detected	<2.99	391	<1172
D-16 10008112-016	Water Fountain 7703	100	None Detected	<2.99	391	<1172
D-17 10008112-017	Flue Cabinet 7089	100	None Detected	<2.99	977	<2930
D-18 10008112-018	Top of Wall 7046	100	None Detected	<2.99	977	<2930
D-19 10008112-019	Win Blind 7043	100	None Detected	<2.99	391	<1172
D-20 10008112-020	Library Stack 31	100	None Detected	<2.99	977	<2930

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Collected Date: 6/23/2010
Received Date: 6/25/2010 10:00:00 AM
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Analyst: S. Sobrino

TEM Microvac ASTM D-5755-03 Analysis

Sample	Location	Area (cm²)	Asbestos Fiber	Asbestos Structures	Analytical Sensitivity	Asbestos Concentration (s/cm²)
D-21 10008112-021	Door 7324	100	None Detected	<2.99	391	<1172
D-22 10008112-022	Transom 7327	100	None Detected	<2.99	391	<1172
D-23 10008112-023	Transom 6808	100	None Detected	<2.99	977	<2930
D-24 10008112-024	Floor 6315	100	None Detected	<2.99	391	<1172
D-25 10008112-025	Floor 6315 Exit	100	None Detected	<2.99	977	<2930
D-26 10008112-026	Hallway 6315	100	None Detected	<2.99	391	<1172
D-27 10008112-027	Transom 6512	100	None Detected	<2.99	391	<1172
D-28 10008112-028	Floor Mech at 6606	100	None Detected	<2.99	977	<2930
D-29 10008112-029	Floor Mech Rm Exit	100	None Detected	<2.99	977	<2930
D-30 10008112-030	Hallway At 6606	100	None Detected	<2.99	391	<1172

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Project Number: 311
P.O. Number: OIG
Project Name:

Collected Date: 6/23/2010
Received Date: 6/25/2010 10:00:00 AM
Report Date: 7/1/2010
Analyst: S. Sobrino

TEM Microvac ASTM D-5755-03 Analysis

Sample	Location	Area (cm^2)	Asbestos Fiber	Asbestos Structures	Analytical Sensitivity	Asbestos Concentration (s/cm^2)
D-31 10008112-031	Floor 5607	100	None Detected	<2.99	977	<2930
D-32 10008112-032	Floor 5607 Exit	100	None Detected	<2.99	977	<2930
D-33 10008112-033	Shelf 5893	100	None Detected	<2.99	977	<2930
D-34 10008112-034	Hall 5526 Ent	100	None Detected	<2.99	391	<1172
D-35 10008112-035	Threshold 5410	100	None Detected	<2.99	977	<2930
D-36 10008112-036	Transom 4519	100	None Detected	<2.99	391	<1172
D-37 10008112-037	Radiator 4610	100	None Detected	<2.99	391	<1172
D-38 10008112-038	Floor 3321	100	None Detected	<2.99	977	<2930
D-39 10008112-039	Floor 3807	100	None Detected	<2.99	391	<1172
D-40 10008112-040	Hall 2006	100	None Detected	<2.99	977	<2930

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Collected Date: 6/23/2010
Received Date: 6/25/2010 10:00:00 AM
Report Date: 7/1/2010
Analyst: S. Sobrino

TEM Microvac ASTM D-5755-03 Analysis

Sample	Location	Area (cm²)	Asbestos Fiber	Asbestos Structures	Analytical Sensitivity	Asbestos Concentration (s/cm²)
D-41 10008112-041	Wall Top 2810	100	None Detected	<2.99	391	<1172
D-42 10008112-042	1st Floor Magazine Shelf	100	None Detected	<2.99	391	<1172
D-43 10008112-043	Display/ Case 1614	100	None Detected	<2.99	391	<1172
D-44 10008112-044	Attic Floor 6 & 8	100	None Detected	<2.99	977	<2930
D-45 10008112-045	Floor 8730	100	None Detected	<2.99	977	<2930
D-46 10008112-046	Floor 8702	100	None Detected	<2.99	977	<2930
D-47 10008112-047	Beam 8039	100	None Detected	<2.99	977	<2930
D-48 10008112-048	Attic Floor Ele 16	100	None Detected	<2.99	977	<2930
D-49 10008112-049	Floor 8206	100	None Detected	<2.99	977	<2930

Signature: Sandra Sobrino Date: 7/1/2010

Reviewed: Sandra Sobrino Date: 7/1/2010

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[redacted]HCHB/Osnet
04/18/2007 08:40 AM

To [redacted]HCHB/Osnet@osnet, Steven Savoy/HCHB/Osnet@osnet
cc
bcc
Subject Fw: Quote for Additional Services

I forgot to say that we will set these up for annual exams and then for an exit exam when an employee leaves. I am working with the HR folks to be sure that the pre-employment physicals meet the same standards.

[redacted]

[redacted]

[redacted]/HCHB/Osnet
04/17/2007 03:27 PM

To [redacted]steven savoy
cc
Subject Fw: Quote for Additional Services

[redacted]and Steve,

We should be able to conduct the respirator clearance exams here soon (within the next two weeks). I have spoken with the Health Unit and what we will do is ask you all for a list of folks that need the annual exams. I believe that this will be the same list as the hearing test but will defer to you. Jane will then contact the supervisors to schedule the annual exams/respirator clearances/X-rays. The prices are below but we don't need everything that she has listed. I can give you the exact price later but it is competitive.

The Health Unit will maintain the medical files and next year we will conduct the hearing test and the respirator clearance exams and annual physicals all at the same time. The Health Unit will send out reminders and schedule the appointments annually from now on. I'm sorry that this slipped thru the cracks in the past but I think we are getting on the right track now.

Please let me know if you have any questions about this.

[redacted]

[redacted]/17/2007 03:21 PM -----

[redacted]HCHB/Osnet
04/17/2007 03:20 PM

To "Thompson, Sharon (FOH)" <SDThompson@psc.gov>
cc Jane Ovedovitz/HCHB/Osnet@osnet
Subject Re: Quote for Additional Services

Sharon,

I would like to move ahead with the respirator clearance exam that we have discussed. From my notes of our discussion, I need to ask you to add the B reading, the ZPP, and blood-lead level readings (please excuse my technical terms!) to our agreement. I understand that all of the other exams and tests from the respirator clearance exam are already included in our agreement.

I would like to get our shop folks scheduled for physicals as soon as possible.

thanks!

[redacted]

"Thompson, Sharon (FOH)" <SDThompson@psc.gov>

"Thompson, Sharon (FOH)"
<SDThompson@psc.gov>
03/30/2007 11:47 AM

To [redacted]
cc
Subject Quote for Additional Services

Hi [redacted]

Please find below the charges for additional services that are not currently included in your agreement and the estimated total costs for these services.

Respirator Medical Clearance - Asbestos
Chest X-ray (PA & lateral): $103.50 per exam x 30 people = $3,105.00
Chest X-ray, B reading (for exposure to asbestos) = $103.00 x 30 people = $3,090.00
estimated cost per exam = $276.50
estimated total cost = $8,295.00

Respirator Fit Testing & Training
Fit testing & training: $125.00 per person x 30 people = $3,750.00
Project Management: $990.00
estimated total cost = $ 4,740.00

Blood testing/labwork

Total Cholesterol = $4.50 per service
Lipid profile plus glucose = $18.00 per service

RN hours are currently included in your agreement, and are billed at $58.50 per hour

Attached is a sample/template of the medical exam and the recommended forms. If you'd like, I can be available to participate in the discussion on this topic this afternoon. Please let me know if you need any additional information.

Thanks,

Sharon Thompson, Account Mgr.
Federal Occupational Health
phone: (301) 594-4427
fax: (301) 594-4991
e-mail: sdthompson@psc.gov

In an effort to evaluate customer satisfaction, the staff of the PSC would appreciate your taking a few moments to complete our Customer Comment Card by clicking on the link below. Your time and effort in providing this valuable feedback pertaining to the products or services you received is greatly appreciated.
http://www.psc.gov/survey/Customer1/customer_1.htm

W126847 - Respirator Clearance Exam.pdf FOH22 Resp Clear.pdf FOH8, Asbestos Questionnaire 2.pdf

Q

July 3, 2012

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

Re: OSC File No DI-10-0454

Dear Mr. President:

As a concerned citizen, current Federal employee, and a military spouse of 23 years who has supported this country through numerous deployments and wars, I am writing to request your assistance regarding a whistle blower investigation that was conducted by the Office of Special Counsel and the Department of Commerce (DOC) Inspector General (IG). I am asking for a full investigation of DOC's handling of the Edgar D. Lee Whistler Blower Complaint, OSC File No. DI-10-0454, and a reinvestigation by an independent party into Mr. Lee's allegations. I am unequivocally refuting the findings of the DOC IG because the report is inaccurate, false, misleading, and incomplete and I assert that the DOC IG has violated my rights under the Privacy Act by not maintaining factual records. Therefore, I am asking that this be corrected by a reinvestigation. I am also requesting that this letter be included with the official OSC File and that it be included in the public file on Special Counsel Website with the OSC File No. DI-10-0454.

I am also formally filing a complaint regarding the integrity and competence of the DOC IG Office and the investigators themselves, [redacted] What is most disappointing is that an office, such as the DOC IG, that is entrusted to be the watchdog for government operations failed to conduct a fair and impartial investigation. Instead, they made assumptions based on sloppy investigative work, omissions, and fabrications, rather than the facts or the truth. Unfortunately, these DOC IG reports may continue to cost the American tax payer as Mr. Lee has filed a civil lawsuit against the DOC (See Lee v Lock Civil Action No. 11-0358) for the "vile actions" against him. I sincerely hope that the truth actually still matters in this country.

I have been falsely accused by Mr. Lee of knowingly exposing Mr. Lee to asbestos in the workplace at the Department of Commerce. He alleged, that as his first-line supervisor, I knowingly allowed him to be exposed to asbestos. The DOC IG investigated his claims and in a report dated January 20, 2011, and a supplemental report dated April 25, 2011, erroneously substantiated his allegations and identified [redacted] DOC employees of being primarily responsible for mismanaging asbestos at the DOC Headquarters Building, the Herbert C. Hoover Building (HCHB). I have reviewed the two DOC IG reports, the report provided to you by the Office of Special Counsel, and all subsequent correspondence between the Office of

Special Counsel, the whistleblower, and the DOC and was astonished and extremely concerned by the findings of the report. The report appears to be based on speculation and statements from Mr. Lee and a contractor, Ms. Monica Barnett, without regard for the actual facts.

BACKGROUND: I began working at the DOC in July 2006 as a Safety and Occupational Health Specialist in the Office of Occupational Safety and Health (OOSH), a sub-office of the Office of Human Resource Management (OHRM). I worked under the direction of the DOC Safety Director within OOSH. I was not a supervisor or in any position of authority during the time I worked in OOSH. In September 2007, I applied for and was hired for [redacted] a division in the Office of Real Estate Management (ORE), Office of Administrative Services (OAS), and subsequently left my position with OOSH/OHRM. In October 2007, shortly after I moved to [redacted], Mr. Lee requested and was reassigned to work under me in the [redacted] This is the first time that I supervised Mr. Lee. As a point of reference, OHRM and OAS are equivalent-level offices directly under the Chief Financial Officer and Assistant Secretary for Administration.

I am refuting the facts of the DOC IG investigation and am providing a summary of the most significant errors in the report below. There are so many errors in the report that it is impossible to address each of them in this summary letter to you. Therefore, I am providing the major errors in the hopes that you will conduct a reinvestigation of the entire report. After reviewing the facts that I have provided below, I hope that you will understand why I am so concerned with the numerous errors and quality of the investigation conducted by the DOC IG.

GENERAL CONTRADICTIONS IN THE DOC IG INVESTIGATION:

The following points are provided to refute the general failures of the DOC IG investigation:

- The DOC IG, in the April 25, 2011 DOC IG supplemental report, as well as other correspondence, claims that [redacted] responsible for mismanaging asbestos in the HCHB and, as Mr. Lee's first-line supervisor, exposing Mr. Lee to asbestos. This is an impossible finding since, during the alleged exposure, I was not a manager or official within the DOC and I reported directly to the DOC Safety Director. I did not become Mr. Lee's supervisor until seven months after the alleged exposure occurred and the elevated asbestos readings were detected in the 8th floor/attic of the HCHB. In addition, I was not even aware of the elevated asbestos reading until approximately April 2007. Curiously, the HCHB Asbestos Coordinator, Mr. Peter Wixted, was glossed over in the DOC OIG report and was not identified as having any responsibility for managing or "mismanaging" asbestos in the HCHB.
- Mr. Peter Wixted, Environmental Protection Specialist for DOC, was officially appointed in a letter dated October 23, 2006, as the HCHB Asbestos Coordinator. The DOC IG failed to even identify that he was officially the HCHB Asbestos Coordinator and was coincidently Mr. Lee supervisor. If the DOC IG had conducted a proper investigation, they would have identified Mr. Wixted's appointment letter and the numerous documents that show Mr. Wixted was responsible for asbestos management in the HCHB. There are

also several documents that show Mr. Wixted attended all of internal and external meetings where asbestos was discussed during the alleged mismanagement. Mr. Wixted was provided asbestos training by the DOC and completed the EPA AHEAR Asbestos Contractor/Supervisor Initial Course from April 2-6, 2007. There are numerous historic documents to show that Mr. Wixted was responsible for the HCHB asbestos program had the DOC IG bothered to look for them.

- The DOC IG alleges that I was detailed to the Office of Administrative Services and worked directly for [redacted] That is false. I worked continuously for the DOC Safety Director and the OOSH under OHRM until I was hired by OAS in September 2007. This is the same safety office and the same DOC Safety Director that the DOC IG found to have no responsibility for asbestos in their April 25, 2011 supplemental report where the DOC IG states that asbestos responsibilities were outside the scope of the separate OHRM. I was never detailed to OAS as the January report states. I worked directly for the OOSH Safety Director and the Director of OHRM. I was hired as the [redacted] through a competitive announcement in September 2007 and worked for Mr. Braulio Ramon.
- The DOC IG alleges that [redacted] were the primary individuals responsible for mismanaging asbestos in the facility and the mismanagement occurred over many years. However, I did not even become a DOC employee until July 31, 2006. The whistleblower himself even admitted this, and in a letter to the Office of Special Counsel dated May 16, 2011, Mr. Lee even states that the sole responsibility could not have been with [redacted] because they were not even employed with the agency at the time.
- The DOC IG alleges that Mr. Lee was exposed to asbestos from February 2007 until April 2007 and perhaps months earlier. This is not plausible since Mr. Lee was on a detail to the Office of Acquisition Management from approximately November 2006 until approximately August 2007. Mr. Lee did not even work for the Office of Administrative Services at this time but was assigned to a desk job working on contracts. The report fails to identify this fatal flaw in Mr. Lee's allegations. Further, sampling results did not positively identify asbestos levels in the attic until April 25, 2007.
- The DOC IG alleges that [redacted] failed to adequately close the attic in the HCHB in April 2007 and it was not adequately closed until January 2008. However, following a visit to the HCHB, Mr. Tim Sleeth, the GSA Regional Asbestos Program Manager, documents in the GSA Mitigation Response dated May 31, 2007, that the access to the 8th floor has been restricted to authorized personnel wearing personal protective equipment (PPE) for asbestos exposure. Also note that I was not a management official or supervisor during this time and had absolutely no authority to close the attic.
- As soon as he became aware of the elevated readings, [redacted] notified all DOC Offices that required access to the 8th floor attic including the Office of Security Programs, the OIG, and the Office of the Chief Information Officer (OCIO). [redacted] notified the DOC OIG, the very office that reported "mismanagement", of the readings in the attic shortly after being told of the elevated readings and yet the OIG report claims that there was no action taken. [redacted] provided a summary of the

asbestos sampling in the HCHB to [redacted], Assistant Inspector General for Administration, in a memorandum dated September 18, 2007. [redacted] even provided a formal briefing to the DOC IG office on October 30, 2007. The DOC IG was fully aware of the presence of asbestos in the HCHB and the elevated readings in the 8th floor attic area but failed to mention any of these facts in their reports.

- Mr. Lee [redacted] and made the same false allegations as in his whistleblower complaint. However, [redacted]
- Monica Barnett, Peak System, conducted asbestos sampling in February and April 2007 that indicated "high" levels of asbestos. When an independent company hired by the General Services Administration (GSA) conducted sampling just days after Ms. Barnett's sampling, they were unable to replicate the results or even come near the levels that Ms. Barnett detected. Further, the GSA-contracted company conducted duplicate side-by-side sampling with Ms. Barnett and her results were miraculously no longer "high". In addition, [redacted] in his complaint against the DOC. Coincidently, she is also the contractor that found a 2006 hidden report that no one from the DOC had seen. In addition, on July 6, 2006, just after she identified the "high-level" readings in the HCHB, Ms. Barnett and Peak Safety Systems were stripped of their accreditations and certifications by the Maryland Department of Environment (Case Number 2006-16-8499) for operating without the proper certifications. Finally, the GSA Regional Asbestos Program Manager expressed concerns regarding the sampling procedures and protocols that Ms. Barnett used during the HCHB sampling and questioned the results she provided.
- In their reports, the DOC IG indicated that Mr. Lee was questioned and provided a sworn statement. However, I was never asked to provide a sworn statement nor were the other former DOC employees named by the DOC IG. I find this curious and believe the DOC IG issued the report prematurely and without conducting an adequate or proper investigation. Yet the DOC IG concluded that the three of us were responsible without having provided sworn affidavits of our accounts of the events. Therefore, I must conclude that the DOC IG did not conduct the investigation with the intent of discovering the truth.
- I was not involved in nor made aware of any asbestos sampling results until approximately mid-April 2007, just a few days before the second round of sampling was conducted.
- Finally, the DOC has subsequently contracted for two independent reviews of the DOC IG reports including the sampling data by two expert Certified Industrial Hygienists (CIH). Both reports, dated March 21, 2011 and March 22, 2012, state that the sampling conducted by Peak Safety did not follow proper sampling protocol and both reports conclude that the Peak Safety results are not legitimate. In addition, both reports state that the DOC IG reaches false conclusions about the "elevated" asbestos readings and employee exposures.

DOC IG REPORT DATED JANUARY 20, 2011

The following points are provided to refute January 20, 2011 report:

- Page 1, paragraph 3 states that an unknown number of Departmental and contractor employee(s)… including Mr. Lee, were subject to potential asbestos exposure between February 2007 and April 2007. FACT: Mr. Lee was detailed from OAS during the alleged exposure timeframe and was NOT conducting any work that would have exposed him to asbestos whatsoever. He was detailed in approximately November 2006 to the Office of Acquisition Management (OAM) and worked in an administrative capacity on contracts until approximately August 2007. During this time period, Mr. Lee did not have ANY responsibilities with OAS and did not have any reason to be in the 8th floor attic.
- Page 2, paragraph 2 states that in March 2007, an industrial hygienist found the 2006 GSA report among OAS records she was reviewing in the basement of the HCHB. FACT: The hygienist, Ms. Monica Barnett, did not provide the documents at that time or any other time to OAS management. In fact, it is questionable and concerning that she is the person that "found" these lost/hidden documents, the same person that identified the high readings AND [redacted] In addition, the report fails to mention that Ms. Barnett was also contracted by OAS, as soon as the asbestos readings were identified, to provide Asbestos Awareness and Respirator Training in May 2007 as well as conduct respirator fit testing for those OAS employees whose duties required them to access the 8th floor. Yet Ms. Barnett claims in the report that OAS management failed to listen to her recommendations or take any action.
- Page 2, paragraph 2 states that analysis performed by an outside laboratory confirmed that airborne asbestos exceeded the OSHA PEL. FACT: The statement is misleading and implies that outside sampling confirmed the results. However, this is not true. Some of the samples collected by Ms. Barnett were sent to an outside laboratory for specific asbestos ANALYSIS. However, only the samples COLLECTED by Ms. Barnett were identified as having high levels of asbestos by both Ms. Barnett and the outside laboratory. Further, as discussed in both subsequent independent CIH reports, a PEL was never exceeded.
- Page 2, paragraph 3 states that OAS officials were required to restrict access to the area, notify employees, and post warning signage. FACT: These actions were in fact taken. The attic was immediately restricted as documented by Mr. Tim Sleeth, Industrial Hygienist/GSA Regional Asbestos Program Manager in the GSA Mitigation Response dated May 31, 2007. In addition, OAS management held meetings with the OAS employees that were accessing the attic in April and May 2007 and notified them of the sample results and instructed that the access to the attic was restricted to those personnel wearing proper PPE. At that time, Ms. Monica Barnett was contracted to provide asbestos and respiratory protection training and fit testing to those OAS employees in approximately May 2007. Evidence of this is even provided by Mr. Lee in his May 16, 2011 letter where he claims that "Mr. Elznic even got fit tested." Mr. Lee, however, was not included in the meeting, training or

fit testing at that time is because he did not work in OAS at the time but was detailed to OAM. Mr. Lee was provided numerous training courses over the course of his tenure with OAS. OAS did notify other offices, such as the OCIO, that access to the 8th floor was restricted. Their employees and contractors were required to follow the access requirements, [redacted] and wear a respirator and protective equipment. In fact, Ms. Erin Fitzgerald from the OCIO could have confirmed these facts if the DOC IG had interviewed her.

- Page 2, paragraph 4 states that the attic was not adequately restricted until January 2008. FACT: GSA was notified about the readings in April 2007. At that time, GSA was responsible for the management of asbestos in the HCHB. Also, the attic was immediately restricted as documented by Mr. Tim Sleeth, Industrial Hygienist/GSA Regional Asbestos Program Manager in the GSA Mitigation Response dated May 31, 2007. All personnel requiring access to the attic were required to provide proof of training and had to wear respiratory protection as well as other personal protective equipment. [redacted] kept a log of all personnel entering the attic after access was restricted. Further evidence of this includes the fact that the Verizon and Sprint personnel who required access to the 8th floor were also required to provide proof of training and were required to wear respiratory protection. In addition, additional asbestos signs were posted on the 8th floor attic doors. NOTE: Asbestos signs were posted in the 8th floor attic prior to February 2007. Evidence of this is provided in the May 2007 video of the attic area that was filmed by Global Environmental, the GSA contractor hired to conduct additional sampling in May 2007.
- Page 2, paragraph 5 states that the responsible OAS officials are no longer at the Department. In a supplemental report dated April 25, 2011, the DOC IG [redacted] one of the OAS officials. FACT: I was not an OAS management official. I was not employed by the Department until July 31, 2006 and did not even become a supervisor until September 2007.
- Page 5, paragraph 3 states that the complainant's duties at the HCHB entailed activity in the 8th floor attic areas during the relevant time period. FACT: This statement is absolutely false. Mr. Lee was on detail to the Office of Acquisition Management during the relevant time period. Mr. Lee was detailed to a desk job supporting the contracting office and had no duties in the 8th floor attic from approximately November 2006 until approximately August 2007. Further, his regular duties were administrative in nature and he spent the majority of his time at his desk. He never had duties on the 8th floor.
- Page 5, paragraphs 3 and 4 state that Mr. Lee was required to inspect hazardous materials and wastes in the HCHB. FACT: The hazardous materials and wastes in the HCHB are located in the basement of the HCHB and NOT the 8th floor attic. There were no hazardous materials or waste generated or stored in the 8th floor attic.
- Page 5, paragraph 5 states that Mr. Lee's former supervisor, who at the time was the Environmental Program Manager for DOC, stated that Mr. Lee regularly worked with asbestos containing material and worked throughout the building including the 8th floor. Also, it states that Mr. Lee routinely performed work in the 8th floor attic from

2004 until 2008. FACT: This former supervisor, presumably Mr. Pete Wixted, has claimed that he knew Mr. Lee was working with asbestos containing material and was inspecting the 8th floor attic. However, it is concerning and questionable that the DOC IG did not identify this former supervisor as having any responsibility for Mr. Lee's claims of asbestos exposure. This same supervisor would have been responsible for Mr. Lee from at least 2004 until his detail in 2006. Mr. Wixted was officially assigned as the HCHB Asbestos Coordinator on October 23, 2006 which is prior to the sampling in the 8th floor attic. Lastly, there were asbestos signs throughout the 8th floor attic prior to February 2007.

- Page 5, paragraph 5 states that Mr. Lee routinely performed work in the 8th floor attic until from 2004 until 2008. FACT: I was only Mr. Lee's supervisor beginning in October 2007 and during 2008. In addition to the fact that the 8th floor was off limits and restricted following the sampling excursions, Mr. Lee's duties did not include any work in the 8th floor attic. Mr. Lee was never instructed or required to go to the 8th floor while I was his supervisor. In fact, the weekly reports submitted by Mr. Lee show exactly what he worked on while I was his supervisor and this does not include one single instance work in the 8th floor or with asbestos. Further, the hazardous waste logs during the time in question do not show that Mr. Lee was required to handle asbestos containing material.
- Page 5, paragraph 6 states that [redacted] Mr. Lee's former supervisor and Safety and Health Specialist with OAS's Occupational Safety and Health Office, (who at the time of the critical events, was responsible along with [redacted] for asbestos management and control) FACT: This statement is blatantly wrong. There is no OAS Occupational Safety and Health Office. It does not even exist. I was a Safety Specialist with OOSH under the OHRM. At the time of these "critical events" as the DOC IG refers to them, I worked for Camille Fields, an Industrial Hygienist and the Acting Director of OOSH, and then Janice Guinyard, Acting Director of OOSH, who both reported to Bill Fleming, Associate Director of OHRM, and Deborah Jefferson, Director of OHRM. I was not in a position to be responsible for asbestos management and control. I was not even aware of the February testing until just prior to the second time Ms. Barnett conducted sampling in April 2007. Further, I did not work for [redacted] at this time. Mr. Peter Wixted was officially designated as the HCHB Asbestos Coordinator during this time.
- Page 6, paragraph 4 states that between February 2007 and April 2007, OAS management did not take prompt action and that numerous employees including Mr. Lee were potentially exposed to asbestos. FACT: Upon receiving elevated asbestos readings from Ms. Barnett, the attic was immediately closed. GSA was notified no later than April 24, 2007, and their assistance requested for confirmatory sampling and management. OAS management and representatives from OHRM met with GSA numerous times to address the 8th floor attic. Further, the report neglects to mention that the results and sampling provided by Ms. Barnett was suspect and her sampling methodologies were even questioned by the GSA Regional Asbestos Program Manager. This was confirmed by the independent CIH reviews. Lastly, as previously

stated, it is impossible for Mr. Lee to have been exposed during this "critical" time because he was detailed outside of OAS to a desk job assisting with contracts.

- Page 6, paragraph 4 and 5 state that OAS officials did not properly manage asbestos from 2003 until 2007. FACT: I was named by the DOC IG in the April 25, 2011 supplemental report as being the person primarily responsible for mismanagement of asbestos. I did not begin work at DOC until July 31, 2006, and did not become an OAS employee until September 2007. It is not plausible that I mismanaged asbestos in the HCHB beginning in 2003.
- Page 6 references a violation of 41 CFR Section 102-80.15. FACT: According to the Delegation of Authority, GSA was responsible for the asbestos in the HCHB and DOC was responsible for maintenance of asbestos that was damaged in the course of maintaining the HCHB. For example, DOC was responsible for asbestos contained in thermal systems pipe insulation (which often contains asbestos) encountering during routine leak and pipe repairs. However, the DOC IG fails to mention any culpability or responsibility that GSA bore for not inspecting and maintaining the asbestos fire-proofing found in the 8th floor attic which was outside of the DOC responsibility.
- Page 7 references a violation of 19 CFR Section 1910.101. FACT: This is false statement as 19 CFR is titled Customs Duties. In fact, 29 CFR is the regulating Occupational Safety and Health. This is an example of the sheer neglect, sloppy work, and lack of professionalism exhibited by the DOC IG investigators.
- Page 7, paragraph 2 states that GSA was informed in early May 2007 of the test results. FACT: This statement is false. As documented in the GSA Mitigation Response Report dated May 31, 2007, GSA was provided the air sampling results no later than April 24, 2007 and GSA representatives even met with DOC personnel on April 27, 2007.
- Page 8, paragraph 1, 2, 3, and 4 describe statements made by the Ms. Monica Barnett concerning her interactions with OAS management. FACT: The DOC IG report neglects to mention as does Ms. Barnett, that Ms. Barnett, herself, offered an explanation that the initial results could have been dust or other fibers in the air and not asbestos since the analytical method only counts fibers and could not confirm asbestos was present. The attic was extremely dusty and this could have been a plausible explanation. Ms. Barnett herself had conducted the fiber count. Secondly, as previously stated, I was named as being primarily responsible for the mismanagement of asbestos in the HCHB by the DOC IG and I restate that I was not an OAS management official. I was unaware of the February sampling until just prior to the April 17, 2007 sampling. I was not responsible for hiring Ms. Barnett nor did I contract her services. Lastly, any statements made by Ms. Barnett should be questioned and scrutinized because during this time she had been issued an Administrative Complaint by the Maryland Department of Environment of operating without accreditations, and she later represented Mr. Lee in his MSPB case. The credibility of her work must also be questioned since the two independent CIH reports conclude she failed to follow sampling protocols and the results are suspect.
- Page 9, paragraph 5 states that an official in the OAS's Office of Occupational Safety and Health prepared a paper and incorrectly stated that the attic area is off limits to

anyone unless they have the proper personal protective equipment. FACT: This is a false statement with two significant errors. First, there is no OAS Office of Occupational Safety and Health. The OOSH falls under OHRM and not OAS. Second, this was not an incorrect statement but was indeed the truth. The attic was off limits to all personnel unless they wore the proper personal protective equipment. This is also documented by the GSA Regional Asbestos Manager after his visit to the HCHB in the GSA Asbestos Mitigation Response dated May 31, 2007. Other offices, such as the OCIO office can confirm that the attic was immediately closed and procedures put into place for accessing the area.

- Page 9, paragraph 3 states that [redacted] an official with the Office of Occupational Safety and Health, sent an email to other OAS management.... FACT: [redacted] and was never an official with the Office of Safety and Health.
- Page 9, paragraph 4, states that in an April 17 email [redacted] "I'm sorry this slipped through the cracks in the past..." FACT: This email was sent after I had been on the job for only 10 months. If this statement was read in the context of the entire email, the email was a "soft" attempt, because [redacted] new to the DOC, to tell the OAS Building Manager that the health examinations were due. [redacted] simply trying to be polite. Further, the health clinic was part of the OOSH office where [redacted] and therefore [redacted] "gently" reminding the Building Manager about the health examinations.
- Page 9, paragraph 4 states that a draft paper entitled "Asbestos in the HCHB Attic (8th Floor) was prepared but was never finalized of formally issued. FACT: I prepared the draft paper in attempt to decipher the sampling results and timeline of events concerning the attic since I had only arrived at DOC on July 31, 2006. It was never intended to be a formal report but my attempt to gather the facts.
- Page 10, paragraph 2, states that OAS management failed to take action. FACT: As previously stated through this letter, this was not the case. GSA was provided sampling results on April 24, 2007 and their assistance was requested in managing the asbestos. The attic was immediately restricted and meetings were held with the DOC OAS employees that accessed the 8th floor. Further, on approximately April 21, 2007, Mr. Otto Wolff, CFO/ASA, was notified. [redacted] also notified numerous offices within the DOC including the OCIO, the Office of Security Programs, and the DOC IG office itself.
- Page 10, paragraph 3 states that for undetermined reasons, the concentrations of asbestos dropped in May 2007. FACT: The results showing elevated readings were from Ms. Monica Barnett, Peak Safety. The GSA contractor, Global Consultants, conducted testing in May 2007, and could not replicate or explain Ms. Barnett's results. In fact, in April 2007, the GSA Regional Asbestos Program Manager expressed concerns regarding Ms. Barnett's sampling procedures and protocol. Coincidently, when Global Consultants conducted replicate sampling along-side Ms. Barnett's sampling, the results could not be replicated and NO elevated asbestos readings were identified. Therefore, the integrity and motivation of Ms. Barnett should be questioned. She is not credible. This fact in confirmed by two independent reports by expert CIHs.

- Page 10, paragraph 4 states that OAS management informed us that the 8th floor had been restricted beginning in October 2006. FACT: The 8th floor was not restricted until April 2007. I do not know which OAS management official made this statement, but the DOC IG uses this as a broad brush statement in the report to contradict OAS management and appears to use the statement to discredit and discount OAS management. The statement is not true.
- Page 11, paragraph 2 states that there were no documents to show that OAS had taken action to restrict the 8th floor. FACT: [redacted] maintained these documents in his office. In fact, there was an initial protocol developed for those employees entering the space and a sign in sheet for all employees accessing the attic. Coincidently, there have been multiple thefts from OAS offices since this incident and the lack of documentation should be questioned. In fact, documents related to Mr. Lee, himself, were stolen from my previous office. In addition to OAS employees, OAS did notify other offices, such as the OCIO and provided them with the procedures and requirements for accessing the 8th floor. Their employees and contractors were required to follow the access requirements, [redacted] and wear a respirator and protective equipment. In fact, Ms. Erin Fitzgerald from the OCIO could have confirmed these facts if the DOC IG had interviewed her.
- Page 11, paragraph 3 states that Mr. Lee was not notified until February 25, 2008. FACT: Mr. Lee was not an OAS employee working in the attic at the time of the alleged exposure and was therefore not included in notification meetings to OAS employees. However, Mr. Lee was identified as someone who could have been in the attic in the six months prior to February 2007 when the high levels were detected. In fact, when I first arrived at DOC in approximately August 2006, Mr. Lee took me on a tour of the entire HCHB which included the 8th floor attic and that is why he was included on the notification letter of February 25, 2008. Also note that I was also provided the same notification letter. It took the DOC management, not the OAS management, a full year to review and approve the letter for release. This included review by the Office of General Counsel as well as OHRM. Also, Mr. Lee knew of the presence of asbestos in the materials in the 8th floor prior to the February 2007 sampling event and prior to receiving the February 2008 letter because there were signs posted throughout the attic that he and I both saw when we toured the HCHB in August 2006. There is direct evidence of the signage in the video filmed by Global Consultants in May 2007.
- Page 11, paragraph 5 states that Mr. Lee was exposed to asbestos from February 2007 and April 2007 and that the DOC IG investigators find Mr. Lee to be credible because of Mr. Lee's sworn testimony stating that he worked in the 8th floor attic during this time. FACT: Mr. Lee failed to tell the investigators during his sworn testimony that he was detailed to the Office of Acquisition Management during this time and had no responsibilities to perform in the attic. When Mr. Lee made these [redacted] Mr. Lee is NOT credible and his testimony should have been researched fully – this did NOT happen.

- Page 11 references a violation of 19 CFR Section 1910.101. FACT: This is false statement as 19 CFR is titled Customs Duties. In fact, 29 CFR is the regulating Occupational Safety and Health. This is an example of the sheer neglect, sloppy work, and lack of professionalism exhibited by the DOC IG investigators.
- Page 12, paragraph 1, states that Mr. Fanning issued Mr. Lee a notification letter thus acknowledging Mr. Lee had accessed the attic. FACT: As noted above, Mr. Lee was identified as someone who could have been in the attic in the six months prior to February 2007 when the high levels were detected. In fact, when I first arrived at DOC in approximately August 2006, Mr. Lee took me on a tour of the entire HCHB which included the 8th floor attic and that is why he was included on the notification letter of February 25, 2008. Also note that I was also provided the same notification letter.
- Page 12 references a violation of 19 CFR Section 1910.101. FACT: This is false statement as 19 CFR is titled Customs Duties. In fact, 29 CFR is the regulating Occupational Safety and Health. This is an example of the sheer neglect, sloppy work, and lack of professionalism exhibited by the DOC IG investigators.
- Page 17 states that the arrows were added by the contractor to indicate observed evidence of damage. FACT: This must be assumed to be Ms. Monica Barnett as no other contractor has been quoted in the report. This seems to indicate that Ms. Barnett was influential in the outcome of the DOC IG report and potentially leading in the findings. It is concerning and questionable that Ms. Barnett altered photographs included in the report and seems to indicate that she may have even reviewed the DOC IG report prior to it being finalized. This is unbelievable.

DOC IG SUPPLMENTAL REPORT DATED APRIL 25, 2011

The following points are provided to refute the April 25, 2011 supplemental report:

- Page 1, paragraph 4 states that [redacted] and to a lesser extent, [redacted] are responsible for mismanaging the asbestos in the HCHB. FACT: There are numerous individuals that were involved and responsible for managing and maintaining the asbestos in the HCHB. As described in my rebuttal above, there are numerous false statements in the report and this conclusion is not accurate or based on the facts. [redacted] and the report states that he was responsible "to a lesser extent" for managing asbestos inside the building. It is unfathomable that DOC IG [redacted] yet find the person who had overall responsible of the operations and maintenance of the HCHB "to a lesser extent" responsible. In fact, [redacted] Mr. Doug Elznic, Mr. Bill Fleming, Mr. Otto Wolf, Mr. Steve Savoy, [redacted] Mr. Jay Loveless, Mr. Rufus Cook, Ms. Deborah Jefferson, Ms. Janice Guinyard, Ms. Camille Fields, Mr. Pete Wixted, Mr. Braulio Ramon, Ms. Nancy McWilliams, and others were all aware, involved in, or notified of the asbestos readings in the attic.
- Page 1, paragraph 5 states that [redacted] failed to take timely, proper action to protect employee health and safety upon learning..... in February and April

2001...." FACT: [redacted] not have taken action becaus[redacted] not aware of the potentially elevated readings until approximately mid-April 2007. Upon learning of the elevated readings from Mr. Steve Savoy, I did everything I could do in my position to provide assistance to the Building Manager. This included notification to the GSA, who was primarily responsible for asbestos in the HCHB, in April 2007. The June 10, 2011 OSC letter to the President documents that even the whistleblower, Mr. Lee, believes that I became aware in April 2007 and not February 2007.

- On page 2 paragraph 6 the DOC IG investigators state that Mr. Fleming, the current Director and previous Deputy Director of OHRM, never had any responsibility for maintaining or controlling asbestos in the HCHB and that task was separate of OHRM. FACT: Mr. Fleming was my second-line supervisor from July 31, 2006 until September 2007. This should call into question how I can be responsible for asbestos management when the DOC IG clearly states the office that I worked for (OHRM) and my second-line supervisor never had any of these responsibilities and these duties were outside the scope of OHRM.
- Page 3, paragraph 2 states that the email from [redacted] appears to be for purely administrative reasons. It also states that [redacted] was on detail to OAS from OHRM. FACT: Mr. Fleming was my second-line supervisor during this entire time. He was included [redacted] because he was in my chain of command. There was also an Acting Director of OOSH (Janice Guinyard) at that time. I was never detailed from OHRM to OAS. This is a completely false statement.
- Page 3, paragraph 2 also states that Mr. Pete Wixted, a former OAS employee indicated that [redacted] likely included Mr. Fleming as a record of [redacted] work. FACT: The DOC IG neglects to mention that Mr. Wixted is the former DOC Environmental Manager who was the designated HCHB Asbestos Coordinator and who had also supervised Mr. Lee. Mr. Wixted is referenced in the January 20, 2011, as stating that he was aware of Mr. Lee's work yet he was not listed in the DOC IG report as having any responsibility. Mr. Wixted, in fact, was involved early on and included in a meeting conducted on April 15, 2006, and other additional meetings, concerning the asbestos results provided from Ms. Barnett. However, his involvement has been glossed over by the DOC IG.
- Page 3, paragraph 2 also states that [redacted] was permanently reassigned to OAS from OHRM in mid-2007. FACT: I competed for and was hired as the Energy, Environment, and Safety Division Chief with ORE/OAS in September 2007. I was hired for the position through a competitive announcement and was not simply reassigned. This is a false statement.
- Page 3, paragraph 4 states that "OSH" is responsible for preventing workplace injuries and illnesses but it does primarily through reviewing worker's compensation claims and that Ms. McWilliams had limited responsibilities for asbestos. FACT: Ms. McWilliams was my direct supervisor in OOSH from the time she was hired on June 24, 2007 until I moved to ORE in September 2007. I had no more or less responsibilities than she had.
- Page 3, paragraph 5 states that, given its limited role, OHRM was not called upon until after it was notified that OAS had allowed airborne asbestos in the 8th floor attic

to exceed the PEL. FACT: As previously stated, I was an employee under Ms. McWilliams in the OOSH/OHRM. Since the DOC IG determined that OHRM was not responsible, then I question how they determined [redacted]

- Page 4, paragraph 1 states that Ms. McWilliams had declined the position of HCHB Building Safety Manager and the duties were the responsibility [redacted] FACT: This is a false statement. There was no HCHB Building Safety Manager position. It did not exist. Ms. McWilliams was the Director of OOSH which oversaw all of the DOC safety programs. Secondly, Ms. McWilliams was my direct supervisor and I reported directly to her.
- Page 4, paragraph 4 states that there was no evidence that Mr. Elznic was assigned duties for asbestos management as the Associate Director of OSBM. It also states that in early 2007 and prior years, the evidence suggests that [redacted] assumed all responsibility for the 8th floor. FACT: This is completely false. [redacted] worked directly for Mr. Doug Elznic and reported all asbestos issues to Mr. Elznic. Mr. Elznic was responsible for the operations and maintenance of the entire HCHB as the Associate Director and participated in all of the meetings concerning asbestos in the 8th floor attic. Secondly [redacted] not have assumed all responsibility for asbestos in "prior years" as [redacted] not even work for DOC until July 31, 2006.
- Page 4, paragraph 4 also states that Mr. Elznic appears to be included on the May 2007 email from [redacted] but it was addressed to multiple people. FACT: Mr. Elznic was included in the email because he was [redacted] supervisor, had participated in the 8th floor/attic meetings, and was responsible for the operations and maintenance of the HCHB.
- Page 4, paragraph 4 also states that Mr. Elznic was relegated to recycling, energy conservation, and electronic stewardship duties during that time. FACT: This is completely false. Mr. Elznic was never responsible for these programs. These programs were assigned to Mr. Peter Wixted, Environmental Program Manager, in ORE. The duties never fell to Mr. Elznic or the OSBM. During the time frame covered by the DOC IG investigation, Mr. Elznic was the Associate Director of the Office of Space and Building Management and was responsible all operations and maintenance in the HCHB.
- Page 5, paragraph 1 states that the 8th floor/attic asbestos abatement issue was handled through OSBM (formerly headed by Mario Aquino). FACT: This is a false statement. Mr. Doug Elznic headed the OSBM during this time. Mr. Aquino stepped in as Acting Associate Director when Mr. Elznic was moved into the Acting Associate Director position for OAS.
- Page 5, paragraph 3 states that… In fact, both Mr. Wynn and Mr. Wixted, whose duties Mr. Wynn partially assumed, indicated that [redacted] had refused their offers to assist on HCHB asbestos remediation because it was outside the scope of OREPMP responsibilities. FACT: Mr. Wynn was hired in December 2007 and he filled the safety specialist position in OOSH/OHRM that I vacated in September 2007. He did not replace Mr. Wixted. This is a false statement. Additionally, Mr. Wynn was only detailed to OREPMP in approximately January 2010.

- Page 5, paragraph 6 states that Mr. Wolff was only generally aware of the asbestos in the HCHB but that the investigators did not uncover any evidence that Mr. Wolff was specifically aware that the 8th floor/attic had fallen into noncompliance. FACT: This is absolutely false. Mr. Wolff was briefed by both [redacted] and Mr. Fleming with Mr. Doug Elznic[redacted] in attendance on approximately April 21, 2006. Mr. Wolff was made aware of the all the sampling results as they were received.

Mr. President, as you can see, the numerous discrepancies in the report must raise questions about the integrity of the report, and of the competence of the entire DOC IG office. I am bewildered by the quality of the investigation conducted, the sloppy investigative work, and the fact that the truth in this investigation was completely ignored. The DOC IG failed to conduct an impartial or complete investigation into Mr. Lee's complaint. Instead, they were quick to condemn three former DOC employees who could not defend themselves and then simply closed the case. The cover-up by the DOC IG's office is inexplicable and only leads me to question the honesty and integrity of the DOC IG's office. Please note that this is the same IG's office that the Inspector General himself, Mr. Johnny Frazier, was forced to retire due to mismanagement and corruptness.

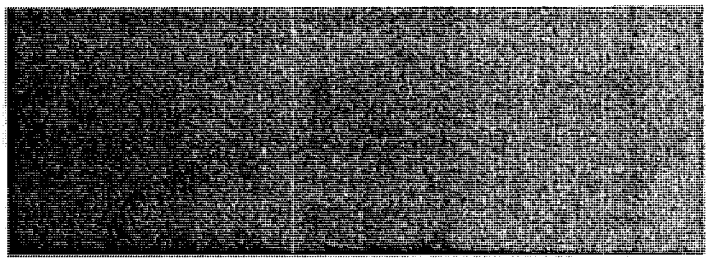
Unfortunately, the IG's investigation and report is so riddled with errors and false statements that I can only conclude that the IG had no intention of completing a fair and impartial investigation. In fact, the whistle blower himself in a May 16, 2011 letter even stated that the three accused employees could not possibly be solely responsible since [redacted] not even work at the DOC until 2006 (NOTE: Mr. Lee is slightly incorrect in this statement as [redacted] actually started in 2005). Despite this, the OSC and the DOC IG closed the investigation. The sheer number of false statements and misrepresentation of the facts alone should be a red flag regarding the true intent of the investigators. The investigation also fails to even acknowledge the steps that were indeed taken to protect the DOC employees in the HCHB.

On November 19, 2010, the DOC IG inspectors spent a mere 30 minutes interviewing me and told me at the onset of the interview that "they did not believe there was any merit to the complaint and that they did not believe any of Mr. Lee's accusations." I was NEVER told that they were questioning me because of a Whistle Blower complaint, but the investigators led me to believe they were questioning me because of Mr. Lee's [redacted]. They never contacted me again after my short meeting with them nor did they request the documents and records that I have in my possession that were vital to the outcome of the investigation. I was never asked to provide a sworn statement of the facts and I was never even told the outcome of the investigation. I stumbled upon it after I received a harassing email from Mrs. Barbara Sonnier, a former DOC employee and cohort of Mr Lee.

I have patiently waited since discovering the DOC IG report on the Office of Special Counsel website in the hopes that the truth would eventually come out. However, this has not occurred. Instead, my character has been assassinated and my good name and reputation slandered by Mr. Lee and his cohorts. I have been stalked and suffered undue harassment by Mr.

Lee, Ms. Barbara Sonnier, the Coalition for Change Group, and others because of the flawed investigation and erroneous report. In fact, the Coalition for Change Group has shamelessly used these erroneous reports as propaganda on their website (http://coaltion4change.org/RMO.htm). I never dreamed that in this great country, the truth would not matter.

The inaccuracies, fabrications, and omissions in the DOC IG report are too numerous to fully detail here. I hope that I have at least raised serious questions concerning the validity of this investigation. Therefore, I am requesting that the OSC File No DI-10-0454 be reinvestigated by an independent party, that an investigation be conducted into the activities of the DOC IG office, and that this letter be included with the official OSC files as well as the with the public file on the OSC website. I would welcome the opportunity to personally discuss this with you, the leadership within the Office of Special Counsel, or the Secretary of Commerce.



Enclosures

CC:
Senator Jay Rockefeller, West Virginia, Chairman of the Senate Committee on Commerce, Science and Transportation
Senator Kay Bailey Hutchison, Texas, Ranking Member of the Senate Committee on Commerce, Science and Transportation
Representative Fred Upton, Michigan, Chairman of the House Committee on Energy and Commerce
Representative Henry Waxman, California, Ranking Member of the House Committee on Energy and Commerce
Carolyn N. Lerner, Special Counsel, U.S. Office of Special Counsel
Kevin Perkins, Committee Chair, Council of the Inspectors General on Integrity and Efficiency, Integrity Committee
Senator John Cornyn, Texas
John Bryson, Secretary, U.S. Department of Commerce
Todd Zinser, Inspector General, U.S. Department of Commerce
Scott B. Quehl, CFO and ASA, U.S. Department of Commerce
Mary Plefner, Director, OAS, U.S. Department of Commerce
Barbara Fredericks, Office of Chief Counsel, U.S. Department of Commerce
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UNITED STATES PATENT AND TRADEMARK OFFICE

Office of General Counsel

June 5, 2014

Catherine McMullen
Chief, Disclosure Unit
U.S. Office of Special Counsel
1730 M Street, N.W., Suite 218
Washington, D.C. 20036-4505

Subject: OSC File Nos. DI-10-0454, DI-13-0405, and DI-13-2292

Dear Ms. McMullen:

Consistent with our discussion with your office on June 4, 2014, the US Patent and Trademark Office (USPTO) requests an extension of 60 days for it to complete its investigation for the US Department of Commerce (DOC) for this matter. USPTO has continued to work diligently on the investigation during the past two months.

As mentioned in our discussion, we also write to provide information regarding the scope of our investigation. Your letter of July 19, 2013 ("July 19 Letter") raised four issues by three individuals: [redacted] and Edgar Lee (collectively the "Witnesses"). We wanted to update you on the scope of the review that DOC has asked us to conduct.

Specifically, we are reviewing the following three issues:

1. Whether there is sufficient evidence to conclude that Mr. Lee was potentially exposed to impermissible levels of airborne asbestos in the building's 8th floor attic;

2. Whether the air sampling reports referenced in the July 19 Letter reasonably support a conclusion that the Department's asbestos program in the Herbert C. Hoover building was mismanaged during that time frame; and

3. Whether there is sufficient evidence to conclude that [redacted] were responsible for mismanagement of the asbestos program, if any.

Our review of these three issues will be based on sworn statements provided to us by the Witnesses, documentation provided by the Witnesses and the Office of Inspector General (OIG) at DOC, and further information anticipated to be obtained from the DOC OIG. We have

previously provided USPTO's Draft Interview Plan of March 25, 2014, and discussed it with your office.

The July 19 Letter also mentions the following allegations:

> "The agency reports in response to the January 2010 referral relied upon fabricated evidence, inaccuracies, and omissions, most notably [redacted] interview summary, which contains questions she was never asked and answers [redacted] never provided" and "the prior agency reports … [did not provide [redacted] a reasonable opportunity to explain the full extent of their involvement or lack thereof."

Because these allegations relate to the actions of the Office of Inspector General, and after conferring with DOC, we can indicate that DOC refers these back to OSC for review and investigation as appropriate and we are not including these within our review.

If you have any questions, you may reach Ms. Chieko Clarke at 571-272-8201, Ms. Kimere Kimball at 571-272-5096, Ms. Maria Campo at 571-272-6305, or me.

Sincerely,

Jim Payne

Jim Payne
Deputy General Counsel for General Law
571-272-3255

cc: Justin Antonipillai, Deputy General Counsel, US DOC
Maria Campo, Senior Counsel for Employment Litigation, USPTO
Chieko Clarke, Associate Counsel, USPTO
Kimere Kimball, Associate Counsel, USPTO