



**U.S. OFFICE OF SPECIAL COUNSEL**  
1730 M Street, N.W., Suite 300  
Washington, D.C. 20036-4505

**The Special Counsel**

February 23, 2016

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

Re: OSC File No. DI-15-4357

Dear Mr. President:

Pursuant to my duties as Special Counsel, I am forwarding an unredacted Department of the Navy report based on disclosures of wrongdoing at the Fleet Readiness Center East (FRC East), Cherry Point, North Carolina. I have reviewed the report and, in accordance with 5 U.S.C. § 1213 (e), provide the following summary of the agency report, the whistleblower's comments, and my findings.<sup>1</sup> The whistleblower, Glenn Schwarz, who consented to the release of his name, alleged that employees at FRC East failed to properly test aircraft fueling equipment and fuel, and improperly and hazardingly disposed of jet fuel.

The agency substantiated Mr. Schwarz's allegations of a violation of law, rule, or regulation; a gross waste of funds; and substantial and specific danger to public safety. The report explained that FRC East did not properly test aircraft fueling equipment or jet fuel, thereby creating a serious life-safety risk. In addition, the report explained that FRC East wasted government resources when it unnecessarily discarded thousands of gallons of usable jet fuel, based on the mistaken belief that it was contaminated. In response, the agency implemented a procedure to replace equipment annually, added preventative maintenance alerts to maintenance systems, inspected and repaired all fuel trucks, began conducting routine inspections of fuel gauges and hoses, recalibrated and cleaned fuel gauges, and assigned an employee to oversee inspections. In addition, the agency

---

<sup>1</sup> 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 and safety. 5 U.S.C. § 1213(a) and (b). OSC does not have the authority to investigate a whistleblower's disclosure; rather, if the Special Counsel determines that there is a substantial likelihood that one of the aforementioned conditions exists, she is required to advise the appropriate agency head of her determination, and the agency head is required to conduct an investigation of the allegations and submit a written report. 5 U.S.C. § 1213(c). 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(c)(1).

The President  
February 23, 2016  
Page 2 of 3

purchased new equipment to properly test fuel and created new procedures to ensure correct testing. FRC East has also discontinued the improper practice of discarding unused jet fuel, achieving an approximate cost savings of \$71,200 per year. The agency did not substantiate the allegation that Marine Corp Air Station Cherry Point employees hazardously disposed of jet fuel by dumping it into a wooded area on the base. Based on my review, I have determined that the report meets all statutory requirements and the findings appear reasonable.

Mr. Schwarz's allegations were referred to Secretary Ray Mabus for investigation pursuant to 5 U.S.C. § 1213 (c) and (d). Investigation of the matter was delegated to the Office of the Naval Inspector General. On January 5, 2016, Secretary Mabus submitted the agency's report to OSC. Mr. Schwarz commented on the report on January 26, 2016.

Mr. Schwarz disclosed that between May and June 2015, employees at the neighboring Marine Corp Air Station Cherry Point hazardously disposed of jet fuel by discharging it into a wooded area on the base. The allegations were unsubstantiated. There was no direct eyewitness testimony establishing that jet fuel was dumped in the area, and photos of the alleged dumping site and an in-person inspection did not find physical evidence supporting these assertions. While eyewitness testimony indicated that some liquid was discharged from a pumper truck into the woods during this time period, the report noted that it was likely water or post-fire fuel sludge, which chemical forensics tests are not sensitive enough to detect in the soil when the site was inspected in October 2015. The report also explained that if the discharge was water or post-fire fuel sludge, it would not have caused an environmental impact.

In his comments, Mr. Schwarz acknowledged that the report was generally sound and featured appropriate recommendations, but stated that it included a number of technical inaccuracies, and did not hold managers accountable for long-standing unresolved safety concerns. Mr. Schwarz noted that both investigators and the managers they interviewed lacked specific expertise to articulate complex technical issues. He also asserted that these managers should be held accountable for failing to address life-safety risks, which were brought to their attention by employees two years prior to OSC's referral.

I have reviewed the original disclosure, the agency report, and Mr. Schwarz's comments. As noted in Mr. Schwarz's comments, it is troubling that no employees faced disciplinary action for allowing such serious safety deficiencies to persist, despite being aware of improprieties in the testing of fueling equipment and the disposal of hazardous fuels for approximately two years. Nevertheless, it appears that the agency made extensive efforts to resolve the wide variety of fuel and resource issues at FRC East. For these reasons, I have determined that the report meets all statutory requirements and the findings appear reasonable.

The Special Counsel

The President  
February 23, 2016  
Page 3 of 3

As required by 5 U.S.C §1213 (e)(3), I have sent copies of the unredacted agency report and Mr. Schwarz's comments to the Chairmen and Ranking Members of the Senate and House Committees on Armed Services. I have also filed a copy of the redacted agency report and Mr. Schwarz's comments in our public file which is available at [www.osc.gov](http://www.osc.gov). This matter is now closed.

Respectfully,

A handwritten signature in cursive script that reads "Carolyn N. Lerner".

Carolyn N. Lerner

Enclosures