



SUPPLEMENTAL REPORT



DEPARTMENT OF THE AIR FORCE
WASHINGTON, DC

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Office Of The General Counsel

January 25, 2012

SAF/GCA
1740 Air Force Pentagon
Room 4C934
Washington, DC 20330-1740

Catherine McMullen
Chief, Disclosure Unit
United States Office of Special Counsel
1730 M. Street, N.W., Suite 300
Washington, DC 20036-4505

Re: OSC File Nos. DI-11-0487

Dear Ms. McMullen:

This is in response to your January 19, 2012 email request for additional information to supplement the Report of Investigation in the above referenced case submitted to OSC by the Secretary of the Air Force on December 7, 2011.

Update on Installation of Operational Vibration Switches

In your email, you asked "In its report, the Air Force asserted that it plans to install operational vibration switches in the cooling towers. The agency stated that it anticipated installation would be completed by mid-December 2011. Has the installation been completed? If not, what is the status?"

According to the Commander of the 50th Civil Engineering Squadron, installation of operational vibration switches in the cooling towers took place in mid-December 2011.

OSC's Assertion of an Apparent Inconsistency with regard to "Corrective Action"

In your email, you stated "in the report, the Air Force states its intent to implement corrective action as a result of Mr. Anderson's allegations, but does not substantiate Mr. Anderson's allegations. The report does not provide adequate explanation for this apparent inconsistency."

The Air Force, as part of this investigation, found an apparent violation of a mandatory reporting requirement regarding redundancy of mission-critical utility systems. The Air Force

reported its intent to correct this apparent violation of an Air Force rule in the section of the report entitled "Corrective Action." As stated therein, the 50 CES is now making proper outage reports as required under AFSPCI 32-1010.

With regard to Mr. Anderson's allegations regarding the lack of vibration and oil level switches, the Air Force, in its report makes clear that there was no finding of a substantial and specific danger to public safety. The evidence did not support a finding of a "substantial and specific danger to public safety." The plain language of the analysis section of the report, as well as the plain language in the conclusion section, reflected the Air Force's unequivocal position on the matter. Specifically, those sections explained that, based on what legally is considered a "substantial and specific danger to public safety" according to the Merit Systems Protection Board and other federal case law, the evidence did not support Mr. Anderson's allegations.

Rather, the report clearly stated that the evidence "demonstrate[d] that the likelihood of any danger resulting from the lack of such switches is minimal." The evidence as reported also indicated that the Air Force had plans as part of an overall redesign of the cooling towers to install the vibration switches. As a result of this investigation, the Air Force decided to accelerate its plans to install operational vibration switches. The Air Force, consistent with 5 U.S.C. § 1213(d),¹ included this planned action in its report submitted on December 7, 2011.

As a matter of convenience, the Air Force included the required information on actions planned or taken as a result of the investigation in a section entitled "Corrective Action." The title "Corrective Action" is not determinative as to whether the Air Force substantiated or unsubstantiated Mr. Anderson's allegations of a substantial and specific danger to public safety and does not contradict the clear findings of the report. The Air Force used the title "Corrective Action" to encompass all actions taken as a result of the investigation – not to infer that the planned action cited therein was taken to correct unsubstantiated allegations. Indeed, the report specifically states that the installation of the vibration switches "should eliminate the extremely minimal risk now posed to Plant employees, as well as act as a preventative measure to the potential for costly damage to the cooling towers." Any fair reading of the report shows absolutely no inconsistency and the Air Force deems it unnecessary to amend its report.

If you have any questions regarding this request, please contact Deborah Gunn at 703-695-4435 or by email at Deborah.gunn@pentagon.af.mil or you may contact Major Garrett Condon at 703-695-6552 or by email at Garrett.condon@pentagon.af.mil.

Sincerely,



CHERI L. CANNON
Deputy General Counsel
(Fiscal, Ethics and Administrative Law)

¹Specifically, Section 1213(d) requires the Air Force to include in its report, *inter alia*, "a description of any action taken or planned as a result of the investigation, such as . . . changes in agency rules, regulations, or practices." 5 U.S.C. § 1213(d). The statute does not use the term "corrective action."