



United States Department of the Interior

FISH AND WILDLIFE SERVICE

Washington, D.C. 20240

JUL 12 2017

In Reply Refer To:
FWS/D/SEN0006355



Ms. Catherine A. McMullen
Chief, Disclosure Unit
U.S. Office of the Special Counsel
1730 M Street, NW Suite 300
Washington, D.C. 20036

RE: OSC File No. DI-16-4054

Dear Ms. McMullen:

The U.S. Department of the Interior (Department) is providing its response to the U.S. Office of the Special Counsel (OSC) OSC File No. DI-16-4054 in which an unnamed employee of the U.S. Fish and Wildlife Service (Service) made allegations regarding improper use of Virkon aquatic disinfectant and Turf King herbicide, and improper disposal of asbestos-containing pipes, at the Inks Dam National Fish Hatchery (Inks Dam) near Austin, Texas.

This letter is intended to discharge the Secretary of the Interior's (Secretary) obligation under 5 U.S.C. 1213(d).

The Secretary has delegated authority to sign this response to the Acting Director of the Service.

Background.

The Secretary received the OSC referral on March 15, 2017 (Attachment 1). The Department Office of the Inspector General (OIG) agreed to investigate the allegations on March 21, 2017 and completed its Report of Investigation (ROI) on May 15, 2017. The Secretary requested and was granted an extension of time to respond to the OSC until June 15, 2017 (Attachment 2).

Summary of information with respect to which the investigation was initiated.

In its referral, the OSC detailed allegations by an unnamed Service employee that a Service supervisor at the Inks Dam facility:

- required employees to apply Virkon aquatic disinfectant on their bare skin daily, contrary to the manufacturer's guidelines;
- required employees to cut and dispose of asbestos pipes without proper protective equipment and without using proper disposal methods, and;
- used Turf King herbicide without obtaining the required state permit.

The OIG concluded that an Service supervisor: 1) did not follow the manufacturer's guidelines on the use of Virkon aquatic disinfectant; 2) violated the Service asbestos management policy in that he directed employees to handle asbestos-containing pipes without the required training or equipment, and to dispose of such material on Service property; and 3) directed the use of Turf King herbicide on two occasions without first obtaining the required Service approval, but that the employee applying the product possessed a state permit to do so.

Description of the conduct of the investigation.

The OIG interviewed 17 Service employees, including all eight Inks Dam employees (two supervisors, two fish biologists, three maintenance workers, and one administrative assistant), supervisors at two other Service hatcheries, a Service national coordinator, and six Service Regional Managers. The OIG reviewed annual safety assessments conducted at the Inks Dam facility, and analyzed Service's response to a June 29, 2016 contracted investigation that reviewed safety concerns at Inks Dam. The OIG also interviewed representatives of the manufacturer of Virkon and Turf King Herbicide, and reviewed relevant Material Safety Data Sheets (MSDS) for both products.

Summary of evidence obtained from the investigation, and violations of law, rule or regulation.

Use of Virkon Aquatic Disinfectant.

The OIG found that a supervisor at Inks Dam required employees to sanitize their hands using Virkon aquatic disinfectant even though the manufacturer's label states that the product is intended to disinfect inanimate environmental surfaces associated with aquaculture such as vehicles, boots, nets, waders, dive suits, etc. A technical representative from the Lanxess Company, which manufactures Virkon, told the OIG that the product is corrosive in its powder form, but not when diluted. The MSDS for Virkon states that the diluted solution is not an irritant to skin or eyes. The Service supervisor told the OIG that he required employees to wear gloves and goggles when mixing the Virkon powder with water, but not when disinfecting their hands in the diluted Virkon solution before handling fish.

Disposal of Asbestos Pipes.

The OIG found that a Service supervisor at Inks Dam violated the Service asbestos management policy, which states that Service employees should not participate in asbestos abatement activities unless they fully comply with state certification and licensing standards and follow Federal regulations and policies. Service personnel interviewed by the OIG stated that Inks Dam employees were not trained, certified or authorized to work with asbestos, but were directed to cut, transport and bury sections of damaged asbestos-containing pipe on the Inks Dam property.

Use of Turf King Herbicide.

The OIG concluded that the Inks Dam employee who applied Turf King herbicide had a state permit as required by Service policy, but that a supervisor at Inks Dam violated the Service

Integrated Pest Management Plan by directing the use of the product without obtaining the required Service approval. The OIG further found that the supervisor's request to use Turf King at Inks Dam in 2014 was denied because: 1) he proposed using the product on a site not authorized by the manufacturer's label; and 2) the product is toxic to fish, birds and other wildlife.

The OIG found that in June, 2016, Service received the results of a contracted investigation that reviewed several safety concerns at Inks Dam. The contracted investigation revealed that a supervisor at Inks Dam had violated safety standards (generally congruent with those referred by the OSC), required employees to perform unpaid work, and used demeaning and inappropriate language in the workplace. In response to this report, the Service Regional Fisheries Supervisor sent the Inks Dam supervisor responsible for the violations a Notice of Proposed Removal from Federal Service. After receiving the Notice, the Inks Dam Supervisor chose to retire from Federal service on September 30, 2016. Further, the OIG found that Service Regional management did not fully address the deficiencies reported in the June, 2016 contracted investigation.

Actions taken or planned as a result of the investigation.

The Service has taken two corrective actions in response to the OSC referral and the OIG investigation.

First, to address the use of chemicals and pesticides, the Service Acting Assistant Director – Business Management and Operations sent on June 5, 2017 a Memorandum to all Service employees entitled “Safety When Using Hazardous Chemicals and Pesticides” (Attachment 3). The Memorandum reminds Service employees and managers of the importance of safety, training, and proper equipment necessary for the workforce to safely complete its mission when using chemicals and pesticides. The Service Hazard Communications Plan and its Integrated Pest Management Programs are explained and employees are reminded of points of contact within the Service to whom questions can be directed.

Second, the Services Deputy Director Mr. Stephen Guertin directed the Regional Director Mr. Benjamin Tuggle, under whose supervision the Inks Dam facility falls, to: 1) complete a full investigation into the circumstances under which removal of asbestos-containing pipe occurred; 2) remediate asbestos-containing material; and 3) medically surveil employees involved in the cutting of asbestos-containing pipes (Attachment 4).

If you have questions regarding this report, please feel free to contact Ms. Charisa Morris, Chief of Staff, U.S. Fish and Wildlife Service, at (202) 208-3843.

Sincerely,


Acting DIRECTOR



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

The Special Counsel

March 15, 2017

The Honorable Ryan Zinke
Secretary
Department of Interior
1849 C Street, N.W.
Washington, D.C. 20240

Re: OSC File No. DI-16-4054

Dear Mr. Secretary:

Pursuant to my responsibilities as Special Counsel, I am sending you a whistleblower disclosure that employees at the Department of Interior, U.S. Fish and Wildlife Service (FWS), Inks Dam National Fish Hatchery (Hatchery), Burnet, Texas, may have engaged in conduct that constitutes a violation of law, rule, or regulation and a substantial and specific danger to public health. Your response is due to the Office of Special Counsel on May 15, 2017.

The whistleblower, whose identity shall remain confidential, disclosed that FWS employees violated state and federal laws and endangered the health of employees. The allegations to be investigated are as follows:

- Former Project Leader Paul Dorman required employees to apply Virkon Aquatic disinfectant on their bare skin daily, contrary to the manufacturer's guidelines;
- Mr. Dorman and Assistant Project Leader Scott Walker required employees to cut and dispose of asbestos pipes without proper protective equipment and without proper disposal methods; and
- Mr. Dorman bought and used Turf King herbicide without obtaining a required state permit.

The Hatchery, located approximately sixty miles outside of Austin, Texas, along the Colorado River, first began operating in the 1940s to provide fish for newly created lakes in the region. Since the 1980s, the Hatchery has focused its efforts on breeding channel catfish to stock waters primarily on Native American land. Employees at the Hatchery work to breed and maintain the health of the fish; they also maintain the facilities.

The Honorable Ryan Zinke
March 15, 2017
Page 2 of 4

Paul Dorman was the project leader who oversaw the Hatchery's day-to-day activities until he left FWS in late 2016. The whistleblower explained that Mr. Dorman required employees to dip their bare hands in Virkon Aquatic throughout the workday, due to their continual contact with aquatic life and equipment. Virkon Aquatic is a disinfectant, and its labeling indicates that it "is intended to disinfect inanimate environmental surfaces associated with aquaculture including vehicles, nets, boots, waders, dive suits, hoses, brushes and other similar equipment."¹ The whistleblower stated that Virkon should never be applied directly to the skin because repeated and prolonged exposure can break down the skin's healing properties. The Material Safety Data Sheet (MSDS) for Virkon Aquatic describes the product in its powder form, noting that it can be hazardous to the skin, eyes, and lungs.² The label for the product in solution form stipulates that it be used for disinfecting objects, not for routine hand sanitization. The whistleblower asserted that employees could have used a milder antiseptic instead of a strong disinfectant such as Virkon. According to the whistleblower, employees discussed these concerns with Mr. Dorman and offered safer alternatives to Virkon. However, without providing a justification, Mr. Dorman refused; he then posted a sign above the Virkon container, directing employees that they were not to use gloves.

The whistleblower also alleged that employees are periodically required to remove sections of transite pipe, which contains asbestos mixed with concrete, from around the Hatchery tanks in order to allow for replacement with PVC pipe. Although Mr. Walker acknowledged to employees that the pipe contained asbestos, he and Mr. Dorman failed to provide employees with proper equipment or training regarding the removal and disposal of the pipe. Rather, employees were given a hand saw and dust mask to use when conducting the removal. According to the whistleblower, each pipe is sawed into pieces without using required "wet" methods; employees are not given respirators; and then the pipe is removed to a grassy part of the property, where it is exposed to the elements. The whistleblower indicated that several years' worth of pipe was in that location, as of late 2016. The whistleblower alleged that the failure to provide adequate tools and personal protective equipment, as well as the methods of removal and disposal directed by Mr. Dorman and Mr. Walker, may violate Occupational Safety and Health Administration regulations at 29 C.F.R. §§ 1910.1001 and 1926.1101 and Environmental Protection Agency regulations at 40 C.F.R. §§ 61.145 and 61.150.

Finally, the whistleblower disclosed that, at some point in the past, Mr. Dorman inadvertently purchased a large quantity of one-gallon containers of the herbicide Turf

¹ See Virkon Aquatic Label, <http://www.kellysolutions.com/renewals/documentsubmit/KellyData%5CWT%5Cpesticide%5CProduct%20Labels%5C71654%5C71654-6%5C71654->

[6_Virkon_Aquatic_Disinfectant_And_Virucide_8_19_2013_8_58_00_AM.pdf](#)

² See MSDS, Virkon Aquatic, Version 3.1 (Sept. 2, 2015), <http://aquarium.org/wp-content/uploads/2016/11/VIRKON-SDS-11-18-2016.pdf>

The Honorable Ryan Zinke
March 15, 2017
Page 3 of 4

King, not realizing that Texas requires parties to obtain a permit before using it. *See* TEXAS COMMISSION ON ENVIRONMENTAL QUALITY, GENERAL PERMIT NO. TXG870000 (2011) (outlining which chemicals are restricted or limited and the requirements for certification and licensing depending on use). The whistleblower alleged that Mr. Dorman did not obtain the required permit. Initially, Mr. Dorman kept the containers in storage, but the whistleblower alleged that in November 2015, Mr. Dorman stated that he intended to use the herbicide because he was “tired of storing it.” Mr. Dorman used a portion of the Turf King, but, according to the whistleblower, there are still approximately 69 one-gallon containers of Turf King on-site.

* * * * *

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 and safety. 5 U.S.C. § 1213(a) and (b). Pursuant to 5 U.S.C. § 213(g)(2), as Special Counsel, I may transmit information to the head of an agency in order to solicit a written report, to be delivered to me within a reasonable time, which reflects what action the agency has taken, or is being taken, and when such action will be completed. OSC makes no judgment as to the legal sufficiency of the allegations in this referral.

The information provided to OSC, if accurate, discloses that FWS employees may have engaged in actions that constitute a violation of law, rule, or regulation and a substantial and specific danger to public health. Therefore, pursuant to my statutory authority under 5 U.S.C. § 1213(g)(2), I am requesting information from you regarding this matter. By law, this written response should be reviewed and signed by you personally. Nevertheless, should you delegate your authority to review and sign the response to the Inspector General, or other agency official, the delegation must be specifically stated and must include the authority to take the actions necessary under 5 U.S.C. § 1213(g)(2).

Upon receipt, I review the agency report to determine whether it contains all the information required by statute. I am required to inform the whistleblower of the report, pursuant to 5 U.S.C. § 1213(g)(2). I may provide a copy of the report to the whistleblower and afford the whistleblower the opportunity to comment on the report. I may thereafter transmit the report, the whistleblower’s comments, and my comments or recommendations to the President and the appropriate oversight committees in the Senate and House of Representatives.

Unless the response 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, I may place a copy of the response in a public

The Honorable Ryan Zinke
March 15, 2017
Page 4 of 4

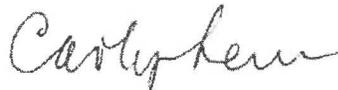
file, maintained online at www.osc.gov. To prevent public disclosure of Personally Identifiable Information (PII), OSC requests that you ensure that the response does not contain any sensitive PII, such as Social Security numbers, home addresses and phone numbers, personal e-mail addresses, dates and 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 responses provided to OSC for the public file.

In some cases, whistleblowers whose disclosures to OSC are referred 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 and any witnesses interviewed in the course of the investigation are protected from such retaliation and from other prohibited personnel practices. This includes informing those charged with investigating these allegations that retaliation is unlawful and will not be tolerated.

At the outset, or during the course of your review, your team may have questions regarding the statutorily mandated response you will deliver to OSC under 5 U.S.C. § 1213. OSC attorney are available in person or by telephone to discuss OSC's statutory process, expectations for the response, and for general assistance. Please contact Catherine McMullen, chief, Disclosure Unit, at (202) 254-3604 to initiate this process.

In the event that it is not possible to provide me with your response within 60 days, please notify my office. Please refer to our file number in any correspondence on this matter. If you need further information, please contact Ms. McMullen. I am also available for any questions you may have.

Sincerely,



Carolyn N. Lerner

cc: Deputy Inspector General Mary L. Kendall

Requirements of 5 U.S.C. § 1213(d)

Any report required under subsection (c) shall be reviewed and signed by the head of the agency¹ 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.

**GUIDANCE FOR SUBMISSION OF AGENCY REPORT
TO OFFICE OF SPECIAL COUNSEL (OSC) PURSUANT TO 5 USC § 1213(c)**

The Special Counsel has determined that there is a substantial likelihood that information received by OSC discloses a violation of law, rule, or regulation; gross mismanagement; a gross waste of funds; an abuse of authority; and/or a substantial and specific danger to public health or safety, and has referred the matter to the agency head. 5 USC § 1213(c). The agency head is required to *conduct an investigation with respect to the information and any related matters* transmitted by the Special Counsel, and *submit a written report* setting forth the findings of the agency head. 5 USC § 1213(c)(1)(A) and (B). By law, the report shall be reviewed and signed by the agency head (or their delegate) and shall include the information set out in 5 USC § 1213(d). The checklist below is intended to assist the agency in completing the report and to ensure against statutory deficiencies.

1. Did the agency submit the report within 60 days? 5 USC § 1213(c)(1)(B)
 - a) If not, did the agency receive a written extension of time? (Extensions of time, no longer than 60 days per request, will be considered where an agency concretely evidences that it is conducting a good faith investigation that will require more time to successfully complete. Specific reasons for the extension of time must be included.)
2. Did the agency head (or their delegate) review and sign the report? 5 USC § 1213(d)
3. Did the agency report include a summary of the information with respect to which the investigation was initiated? 5 USC § 1213(d)(1)
 - a) Did the report set forth *allegations* submitted by the Special Counsel for investigation?
 - b) Did the report summarize the *material evidence* relating to each of the allegations?
 - c) Did the report set forth any *related matters* transmitted by the Special Counsel?
 - d) Did the report summarize the *material evidence* relating to the related matters?
4. Did the agency report include a description of the conduct of the investigation? 5 USC § 1213 (d)(2)
 - a) Was the whistleblower interviewed at the outset of the investigation?

- b) Did the report identify the personnel who investigated the whistleblower's charges?
 - c) Did the report disclose whether or not witnesses were offered confidentiality for their responses?
 - d) Did the report list witnesses interviewed, including the subjects of the investigation and witnesses suggested by the whistleblower?
 - e) Did the report reference those witnesses who requested and were granted anonymity?
 - f) Did the report disclose the methodology and scope of the investigation?
 - g) Did the report state whether notice was provided for on-site investigations?
 - h) Did the report reveal the areas of inquiry covered with each witness?
 - i) Did the agency rely on any other investigative report as a substitute for investigation in direct response to the referral under 5 USC § 1213(c)? If so, did the agency answer Question 4, (a) through (h) above in that report?
5. Did the report include a summary of any evidence obtained from the investigation? 5 USC § 1213(d)(3)
- a) Did the report summarize all relevant and material evidence that the agency considered in making its conclusions on each of the allegations?
6. Did the agency report include a listing of any violation or apparent violation of any law, rule, or regulation? 5 USC § 1213(d)(4)
- a) Did the report cite any law, rule, or regulation relevant to the whistleblower's allegations, whether or not the report concludes that the disclosure and evidence substantiates a violation?
 - b) Did the report state whether or not the investigation revealed a violation of law, rule, or regulation?
 - c) When conflicting evidence could lead to differing conclusions about a possible violation, did the report disclose which evidence was more credible and explain why?
 - d) Did the report offer the full factual and legal basis for the conclusions on each element of each allegation?
7. Did the agency report include 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 a criminal violation? 5 USC §1213(d)(5)(A) – (D)

Please note that upon receipt of the report, the Special Counsel shall review the report and determine whether the findings of the head of the agency appear reasonable, and whether the report of the agency contains the information required under 5 USC § 1213(d) as set forth above.

- 8. Where applicable, did the report include any dollar savings, or projected savings, and any management initiatives that may result from this review?
- 9. Does the agency report include any personally identifiable information (PII), such as social security numbers, home addresses and telephone numbers, personal e-mail addresses, dates and places of birth, personal financial information, and patient names? (In order to prevent public disclosure of PII, OSC requests that you ensure that the report does not include this type of information.)



United States Department of the Interior

OFFICE OF THE SOLICITOR
Washington, D.C. 20240

IN REPLY REFER TO

May 17, 2017

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

Re: OSC File No. DI-16-4054

Dear Ms. McMullen:

With this letter the Department of the Interior formally requests 30 days additional time to complete its actions regarding OSC File No. DI-16-4054 regarding a whistle blower allegation of unsafe conditions at the Inks Dam National Fish Hatchery (Inks Dam), a unit of the U.S. Fish and Wildlife Service (FWS).

This matter was referred to the Department of the Interior Office of the Inspector General (OIG) for investigation. The OIG delivered its final Report of Investigation to Secretary Zinke and to the FWS on May 15, 2017.

It is my goal to assist the FWS in staffing its response and delivering it to the OSC within the next 30 days.

Sincerely,

Richard G. Myers
Senior Counsel
Office of the Solicitor
U.S. Department of the Interior



United States Department of the Interior

FISH AND WILDLIFE SERVICE
Washington, D. C. 20240



JUN 15 2017

In Reply Refer To:
FWS/BMO/065815

Memorandum

To: All FWS Employees

From: Acting Assistant Director – Business Management and Operations 

Subject: Safety When Using Hazardous Chemicals and Pesticides

The Service has an exceptionally dedicated workforce that is focused on conserving fish, wildlife and their habitats. Our mission focus can sometimes generate unnecessary safety risk to employees, volunteers and visitors. Their well-being depends on the effectiveness of our safety infrastructure including senior leadership, regional safety managers (RSMs), project leaders, and collateral duty safety officers (CDSOs). Employee awareness and familiarity with the Service's safety policies and protocols, as defined in Service Manual Parts 240-244, is another key component to a safe and healthy workplace.

It is critical that Service leaders, at both the headquarters and regional level, emphasize a safety culture within their organization where (1) safety is regularly discussed and employees are encouraged to voice their concerns and ask questions about safety and (2) adequate training and equipment is available for employees and volunteers to safely perform their job tasks. This includes following manufacturers' guidelines when using of hazardous chemicals and pesticides.

The Service's Hazard Communication (HAZCOM) standard was designed to ensure the safety of personnel who are or may be exposed to hazardous chemicals in the workplace. 242 FW 2 establishes specific requirements to ensure the hazard of each material is communicated to all employees under the auspices of the Occupational Safety and Health Administration's Hazard Communication Standard. Employees have the right to know and understand the hazards associated with each chemical they are working with. The availability of Safety Data Sheets (SDSs) for each chemical being used in Service operations is important and required by policy. Each SDS provides invaluable information about health risks, safety precautions, personal protective measures, and first aid procedures.

For pesticides, the Service developed 569 FW 1, Integrated Pest Management, and 242 FW 7, Pesticide Users Safety, to provide guidance to protect employees and the environment. Employees who use pesticides as part of field operations should familiarize themselves with these policies. An important reminder for all employees is that a Pesticide Use Proposal (PUP) must be submitted for approval through the online PUP database (<https://systems.fws.gov/pups/>) prior to applying any pesticide. The National Integrated Pest Management (IPM) Coordinator is responsible for working with a team of Regional IPMs and Invasive Species Coordinators to determine the level of review and approval each pesticide receives. Approvals and disapprovals received through this process only apply

to the specific application regime, time, location, pesticide, and target pest. Detailed information on each pesticide can be found in the respective SDS provided by the pesticide manufacturer.

Employees are our most important resource and vital to the Service's conservation mission. If additional information is needed on safety policies and procedures, please contact your CDSO, Regional Safety Office, or the HQ Division of Safety and Health.



Myers, Richard <richard.myers@sol.doi.gov>

Fwd: health, safety, and environmental stewardship follow up actions

1 message

Morris, Charisa <charisa_morris@fws.gov>
To: Richard Myers <Richard.Myers@sol.doi.gov>

Fri, Jun 2, 2017 at 2:10 PM

----- Forwarded message -----

From: **Guertin, Stephen** <stephen_guertin@fws.gov>
Date: Fri, Jun 2, 2017 at 1:37 PM
Subject: health, safety, and environmental stewardship follow up actions
To: Tuggle Benjamin <Benjamin_Tuggle@fws.gov>
Cc: Jim Kurth <Jim_Kurth@fws.gov>, Charisa Morris <charisa_morris@fws.gov>

Benjamin,

In the interest of health, safety, and environmental stewardship, we need to complete follow-up actions on the incident documented in the Public Health at Inks Dam incident, as investigated by Department's Office of the Inspector General (Case Number OI-PI-17-454-1).

The Southwest Region should complete a full investigation into the circumstances under which this incident occurred. This includes identifying practices, policies, certifications, approvals, manufacturer instructions, and safeguards that were not observed. A full accounting of corrective actions and preventive measures should be implemented and documented.

In addition, specific actions are required to meet Federal and State law, and more importantly, to care for potentially affected persons. These actions are as follows:

1. Remediate asbestos-containing material. Testing results confirm the transite pipe cut at Inks Dam is an asbestos-containing material, which is managed as a special waste under Texas law. Further, RCRA requires that asbestos-containing material must be disposed at a landfill that accepts this waste. To accomplish this, the Region needs to hire an AHERA-certified contractor to remove buried asbestos and complete confirmation sampling to ensure no traces of asbestos remain. Likewise, the pipe that is being used should be inspected to ensure no damage has occurred that might result in a release to the environment.
2. Medically surveil potentially affected persons. Every person involved in the process of cutting the transite pipe should be enrolled in the medical surveillance program. The level of exposure from this incident is unknown; surveillance is the only tool at our disposal to identify any immediate or latent effects from exposure. To be clear, surveillance is in order for staff, volunteers, or contractors who may have assisted with the pipe cutting.

The well-being of all persons on Service lands is of paramount importance. We confident that you will give your utmost attention to these actions, and any others necessary to preclude similar incidents in the future. Please keep us apprised of your progress.

--
Charisa_Morris@fws.gov | Chief of Staff, Office of the Director | U.S. Fish & Wildlife Service | 1849 C Street NW,
Room 3348 | Washington, DC 20240 | (202) 208-3843 | For urgent matters, please dial cell: 301-875-8937