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The Special Counsel

April 30, 2018

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

VIA ELECTRONIC MAIL

Re: OSC File Nos. DI-17-1231 and DI-17-1256

Dear Mr. President:

Pursuant to 5 U.S.C. §1213(e)(3), I am forwarding a report from the Department of Veterans Affairs (VA) based on disclosures of wrongdoing at the Edith Nourse Rogers Memorial Veterans Hospital (Medical Center), Bedford, Massachusetts. Mr. Robert DiGregorio, an electrician in the Medical Center's Engineering Service, who consented to the release of his name, and a second individual who chose to remain anonymous (the whistleblowers), asserted that numerous Medical Center buildings are contaminated with asbestos, that management has been on notice of this contamination since 2014, and that Medical Center management has directed employees and veterans in vocational rehabilitation programs to work in known contaminated areas without proper protection.¹

The investigation substantiated that numerous Medical Center buildings were contaminated with asbestos, and that management has been on notice of this contamination since a 2014 Occupational Safety and Health Administration site inspection. The report ultimately concluded that employees were put at risk of possible airborne asbestos fiber exposure due to several instances of poor program management inconsistent with agency policy. The report contained the following additional findings:

- Veterans in rehabilitation programs engaged in work that may have exposed them to asbestos fibers;
- The Medical Center failed to properly survey potential asbestos containing materials before renovation work started in the basement of Building 19;

¹ The whistleblowers' allegations were referred to then-Secretary David J. Shulkin for investigation pursuant to 5 U.S.C. §1213(c) and (d). The Office of Occupational Safety, Health, and Green Environmental Management System Programs investigated the matter, and then-Chief of Staff Vivieca Wright Simpson was delegated the authority to review and sign the report. The whistleblowers did not provide comments to the report.

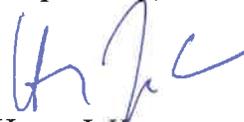
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- It was unclear if a February 2010 incident resulted in asbestos exposure because of deficiencies in contemporaneous air and soil sampling; and
- Buildings 12 through 16 have been sufficiently tested for asbestos, and areas containing accessible material have been properly identified.

The report made 12 recommendations to improve employee and veteran safety in response to these investigative findings. Notably, the Medical Center is developing a variety of policies and procedures to ensure work spaces are properly evaluated before construction or renovations commence. Employees have also received additional asbestos awareness training and medical surveillance where appropriate.

I have reviewed the original disclosures and the agency report. Based on the information it appears that the Medical Center failed to implement a robust safety inspection program to identify contaminated work spaces. However, in response to this referral, the facility is now taking this problem seriously and is carrying out more fulsome measures to ensure safety for employees and veterans. For these reasons, I have determined that the report meets the statutory requirements and the findings appear reasonable. However, I have asked the agency to provide an update within 60 days on its efforts to address the contamination. As required by 5 U.S.C. § 1213(e)(3), I have sent a copy of this letter and a copy of the agency report to the Chairmen and Ranking Members of the Senate and House Committees on Veterans' Affairs. I have also filed the letter to the President and a redacted version of the agency report in our public file which is available at www.osc.gov. This matter is now closed.

Respectfully,



Henry J. Kerner
Special Counsel

Enclosures