



U.S. Department of Energy
Office of River Protection

P.O. Box 450, MSIN H6-60
Richland, Washington 99352

JAN 18 2005

05-WTP-006

Mr. J. P. Henschel, Project Director
Bechtel National, Inc.
2435 Stevens Center
Richland, Washington 99352

**RPP-WTP
RECEIVED**

JAN 18 2005

BY PDC

Dear Mr. Henschel:

CONTRACT NO. DE-AC27-01RV14136 – EMPLOYEE CONCERNS INQUIRY AND ANALYSIS REPORT

This letter forwards the results of the U.S. Department of Energy (DOE), Office of River Protection (ORP) analysis of the inquiry into alleged safety, equal employment opportunity (EEO), and industrial/labor relations concerns at the Waste Treatment and Immobilization Plant (WTP) under construction by Bechtel National, Inc. (BNI). A DOE team conducted the inquiry between November 8 and November 19, 2004, and interviewed 117 current and former BNI employees from the construction site.

The ORP examined the interview results and grouped the employee concerns into three primary issues. First, workers described a chilling effect with regard to fear of retaliation for reporting safety, medical, and labor relations issues. Second, workers alleged that a few supervisors contributed to a hostile work environment through racial discrimination or sexual harassment. Third, workers expressed dissatisfaction with the BNI Labor Relations and Employee Concerns processes. The attached analysis report provides these issues, the original twelve allegations, and the necessary actions to aid BNI's efforts to maintain a safe and productive work force, free of harassment, intimidation, retaliation, and discrimination.

BNI shall submit a corrective action plan to the ORP within 30 days of receipt of this letter. The recommendations and actions provided in the analysis report serve as a minimum list of expectations for the corrective action plan.

Discussions between ORP and BNI management on these issues have demonstrated BNI's willingness to work to address these employee concerns. In addition, the ORP recognizes the efforts BNI has made and continues to make to address the perception of a chilling effect in the workplace. Following an ORP surveillance report and a BNI management assessment, BNI submitted a corrective action plan on October 19, 2004. The ORP encourages BNI to complete these actions.

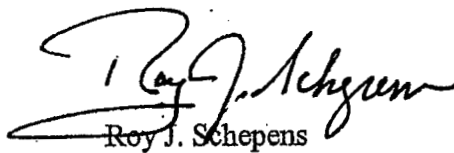
Mr. J. P. Henschel
05-WTP-006

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JAN 18 2005

If you have any questions, please contact me, or your staff may call John R. Eschenberg,
(509) 376-3681.

Sincerely,

A handwritten signature in black ink, appearing to read "Roy J. Schepens". The signature is fluid and cursive, with a large initial "R" and "S".

Roy J. Schepens
Manager

WTP:SHP

Attachment

Attachment

Letter 05-WTP-006

**Employee Concerns Inquiry and Analysis
Report**

**Department of Energy
Office of River Protection
Employee Concerns Inquiry and Analysis Report**

Author: Stephen H. Pfaff

Date Completed: January 10, 2005

Contractor: Bechtel National, Inc. (BNI)

Facility: Waste Treatment and Immobilization Plant (WTP)

Title: Inquiry into Alleged Safety, Equal Employment Opportunity (EEO), and Industrial/Labor Relations (I/LR) Concerns

Scope:

The purpose of the inquiry was to determine if further investigation into employee allegations was warranted and to evaluate the effectiveness of previous actions the WTP contractor had taken to address a chilling effect. The inquiry involved interviewing employees regarding allegations provided to the DOE Richland Operations Office (RL) -- Special Concerns Office (SCO) on Safety, Equal Employment Opportunity and Industrial/Labor Relations issues at the WTP construction site. An Office of River Protection (ORP) facility representative, who served on the inquiry team, analyzed results from the interviews to determine the major concerns and necessary follow-on actions.

Background:

On October 21, 2004, five current and three former BNI craft employees (hereafter referred to as Concerned Individuals [CIs]) who are or were employed at the WTP construction site raised 12 allegations related to Safety, EEO, and I/LR issues with the RL SCO. The RL SCO in consultation with the ORP management agreed to conduct an inquiry using a team comprised of representatives from the DOE RL SCO, DOE RL EEO, DOE RL I/LR, a DOE ORP Facility Representative and three independent consultants from a private company.

The interview process began on November 8, 2004, and concluded November 19, 2004. The inquiry methodology placed emphasis on achieving an open environment and outreach to current and former BNI employees. The interviewees were not selected at random and, with few exceptions, were not selected specifically to further investigate the allegations. Approximately 2,000 BNI employees at the site were invited to meet with the team either during working hours

or after work to discuss any concerns they had. One hundred and seventeen (117) persons currently or formerly employed by BNI came forth and were interviewed by the team. This number approached 10% of the entire BNI craft workforce on the site. Former employees and non-manual employees made up less than 10% of the interviewees.

Issues and Recommendations:

An Office of River Protection (ORP) facility representative, who served on the inquiry team, analyzed results from the interviews and concluded that most of the worker concerns could be grouped into the three main issues described below. Following each issue are recommendations designed to aid BNI's efforts to maintain a safe and productive work force, free of harassment, intimidation, retaliation and discrimination.

Interview results were compiled and organized by a team of independent private consultants, who provided applicable interview comments for each of the 12 original allegations. The summary interview results do not contain all the remarks from every employee interviewed. Where percentages of employees (e.g., Roughly 20% described ...) are expressed in the report, this represents the number of employees whose comments were listed in the summary interview results for a given topic. As such, the percentages are minimums – actual numbers of affected employees could be higher.

Issue #1: Workers described a chilling effect with regard to fear of retaliation for reporting safety, medical, and labor relations issues.

Greater than 50% of the workers interviewed believed their job would be in jeopardy due to their participation in this inquiry. Many of the interviewees mentioned other workers had issues but felt they could not risk their employment by coming forward. Roughly 20% described harassment, intimidation, and fear of termination when using the first aid facility on the site or after using a private physician, who may then prescribe prescription medications or work restrictions. Roughly 20% voiced the belief that when individuals raise safety concerns, those individuals are targeted for future lay-off lists. Roughly 15% of the interviewees claimed there was fear of lay-offs for workers who reported issues to Labor Relations or used the Employee Concerns process.

Recommendation: BNI should complete the actions in their Employee Concerns Program Corrective Action Plan (CCN 101128, dated October 19, 2004) and evaluate the effectiveness of these actions by July 1, 2005. BNI developed this corrective action plan following a management assessment in November 2003 that indicated a chilling effect existed on the construction site.

In addition to the corrective action plan in progress, BNI should increase management and support organization oversight of worker interactions with the first aid facility and Labor Relations. To counter perceptions of retaliation for raising issues, BNI should increase management solicitation of worker ideas for improving workplace safety and follow through with corrective actions. BNI should also work closely with union and trade representatives to open additional communication paths between construction management and craft personnel and foster improved worker willingness to voice concerns.

Issue #2: Workers alleged that a few supervisors contributed to a hostile work environment through racial discrimination or sexual harassment.

Roughly 10% of the interviewees claimed to experience direct racial hostility from supervisors, co-workers or work site graffiti (principally located in the rest rooms.). More than 30% of the workers interviewed described situations they knew about involving racial discrimination. Five women (6% of the female craft workers on site) described how they were subjected to sexual discrimination or harassment – predominantly by a general foreman in the High Level Waste Facility – and thirteen other workers (11%) supported their statements. Overall, the inquiry found that supervisory involvement associated with discrimination or harassment appeared limited to five out of 120 foremen/general foremen working in either the Pretreatment, High Level Waste, Low Activity Waste, or Balance of Facility areas.

Recommendation: BNI should employ an independent organization to evaluate the extent of discrimination and harassment on the construction site and prepare appropriate corrective actions. These actions should include holding supervisors and workers accountable for their misconduct, and making more aggressive efforts to curb the defacing of site property with graffiti.

Issue #3: Workers expressed dissatisfaction with the BNI Labor Relations and Employee Concerns processes.

Approximately 35% of the workers interviewed considered BNI Labor Relations personnel unresponsive to worker concerns and, on some occasions, verbally abusive. A few workers also considered the Employee Concerns program to be of little benefit. All comments regarding these programs were negative, and workers felt they had no efficient and effective method to resolve workplace issues.

In contrast, the Labor Relations Manager claimed to have a significant daily caseload, indicating that some workers must have considered the Labor Relations process effective enough to warrant their time. The inquiry team did not attempt to validate either the worker or Labor Relations manager claims. Documentation was limited to records of disciplinary actions, terminations, and union grievance cases. Day-to-day employee complaints and resolutions were not documented. IL/R concerns raised by craft workers to the BNI Employee Concerns Program were referred to Labor Relations and subsequently closed with no records describing the disposition. The Employee Concerns Office generally did not follow up to verify the IL/R concerns had been resolved.

Recommendation: BNI should evaluate the program and staffing requirements for the Labor Relations and Employee Concerns offices. This evaluation should assess the program to ensure a satisfactory level of documentation is performed to support the resolution of worker issues and should assess the staffing to verify the adequacy in numbers of qualified professionals and support staff.

Allegations and Follow-On Actions:

The following lists the original twelve allegations with summary descriptions that indicate the extent and significance of the allegations. Due to the limited scope of this inquiry, these preliminary results shall serve as a starting point for further investigation by BNI, as indicated below.

1. The CIs stated that African Americans are frequently targeted for layoffs at the WTP.

Although some of the eight concerned individuals who brought the allegations to the RL SCO felt targeted for layoffs, the inquiry did not identify evidence of a widespread problem. Sixteen interviewees (14%) commented on the adverse treatment of African Americans who worked on site. The CIs indicated that five supervisors were stated to have participated in racial discrimination practices. (There are about 120 supervisors at the construction site.) The inquiry found that in this large construction project, worker hiring and layoffs occur frequently to adjust the size and skills mix of the labor force to match the work being performed. Worker performance is also a factor in determining who will be laid off. The inquiry found that BNI had no documented process for determining which workers would be laid off. Without a process or documented criteria, lay-off decisions can appear and, in fact, could be arbitrary or even retaliatory.

Action: BNI should investigate further to determine if African Americans are targeted for layoffs. BNI also should provide their documented process for selecting workers to be laid off in workforce reductions. If no written process exists, BNI should implement a written process.

2. The CIs stated that African Americans are not considered for promotions at the supervisory level at the WTP.

Eight (7%) of the interviewees stated they personally felt discriminated against regarding promotional opportunities or they felt others had been. The inquiry found BNI did not have a well defined process for selecting craft workers to the positions of foreman or general foreman. Superintendents and general foremen have great latitude in choosing general foremen and foremen from the workforce. The absence of documented criteria for selecting general foremen and foremen contributes to the perception of favoritism found in this inquiry. The inquiry also found that at the Pretreatment Facility a group of 6 to 8 relatives had been assigned to supervisory positions, also supporting the perception of favoritism. In the inquiry, at least two interviewees claimed this group used family strength as a means of intimidation.

Action: BNI should provide their documented process for selecting and promoting craft workers to the positions of foreman and general foreman. If no written process exists, BNI should implement a written process. BNI also should investigate the concern regarding favoritism.

3. The CIs indicated that African Americans are terminated for medical reasons.

Seven (6%) interviewees claimed -- based on their health problems -- they had been discriminated against or they knew of workers who had been discriminated against by supervisors. A common concern expressed was the inequitable assignment of light duty. Some felt other workers were assigned light duty while using a cane or crutches, while African Americans were told they had to be 100% capable of performing their normal duties to return to work. The inquiry found that BNI had not established a documented light duty policy. Interviewees reported BNI had accommodated some workers during their recovery from worksite injuries, including assigning light duty to one of the African American complainants. The lack of a policy contributes to the seemingly arbitrary nature of these accommodations and has the potential to result in discriminatory practices.

Action: BNI should provide their documented process for assigning light duty to workers recovering from worksite injuries. If no written process exists, BNI should implement a written process.

4. The CIs indicated that BNI is not complying with EEO laws and regulations.

One worker alleged BNI is not complying with EEO laws and regulations. The inquiry found that BNI does maintain an EEO policy and an *Equal Employment Opportunity/Affirmative Action Program for Manual Employees* (EEO/AA Plan). While the inquiry identified no violations of laws or regulations, the team found three items that were not implemented from their EEO/AA Plan:

- BNI had not periodically sent a letter to each local union hall requesting union efforts and support in referring qualified minority and women workers.
- BNI had not made sufficient effort to prevent or clean up the graffiti in the men's on site comfort stations or restrooms. Though the team found little race-related graffiti in the comfort stations during the inquiry, the men's stalls were heavily defaced with obscene and derogatory drawings and statements. Four interviewees described finding race-related graffiti in other locations.
- Federal EEO posters were not posted throughout the workplace. The main BNI buildings on site had the required posters, but the team found examples of trailers used as offices and a lunchroom that did not have the federal EEO posters.

Action: BNI shall comply with all elements of its EEO/AA Plan.

5. The CIs indicated that African Americans are targeted to work night shifts and are threatened to be laid off if they do not work the shift.

One worker made this allegation following his layoff from day shift, and two other workers corroborated in interviews that the circumstances surrounding this one worker's layoff had the appearance of being arbitrary. This individual has returned to the site and is working day shift. There was no information to indicate that this layoff was racially motivated or that the layoff decision was improper. This allegation is not substantiated and no further action is required.

6. The CIs stated that African American workers are not respected by whites on site.

This allegation is closely related to the next allegation regarding a hostile work environment. Interviewee comments describing racially derogatory speech will be discussed in the next allegation. Seven (6%) of the interviewees described situations that could be seen as unequal treatment or disrespect. The situations ranged from poor work assignments to exclusion from necessary work discussions and exclusion from site transportation used by other workers. The inquiry found that the adverse work conditions did not appear to be widespread, but these workers felt excluded from the team – barely tolerated but not welcomed as a contributing member.

Action: BNI will investigate this allegation as part of follow up to the recommendations for Issue #2.

7. The CIs stated that African Americans are subjected to a hostile work environment with respect to race at the WTP.

During the inquiry, the team found examples of workers of all races and both genders subjected to discrimination and harassment. This discussion, therefore, extends beyond the original allegation regarding the environment for African American workers.

Thirty-seven (32%) of the workers interviewed described situations involving racial discrimination. Roughly 10% of the interviewees felt direct racial hostility from supervisors, co-workers, or graffiti. Five women (6% of the female craft workers) described how they were subjected to sexual discrimination or harassment – predominantly by a general foreman in the High Level Waste Facility – and thirteen other workers (11%) supported their statements. Overall, supervisory involvement appeared to be limited to five foremen/general foremen out of the more than 120.

Action: BNI shall investigate this allegation as part of follow up to the recommendations for Issue #2.

8. The CIs stated that African Americans are required to train other employees (whites in particular) and those individuals are put in supervisory positions over them.

One worker made this allegation. The inquiry found that this African American worker trained a Caucasian employee who, shortly after, was made a foreman. As discussed earlier, there are no established criteria for promotion of craft workers to the positions of foreman or general foreman.

Action: BNI shall investigate this allegation as part of follow up to the recommendations for Issue #2.

9. The CIs stated that African Americans and others are retaliated against for reporting work-related injuries.

Seven (6%) of the interviewees claimed to have experienced either harassment, intimidation, or fear of termination when using the first aid facility on site or after using a private physician who prescribed prescription medications or work restrictions. Another 19 (16%) either observed it, knew of other workers who had experienced it, or were told by coworkers that it would occur if they reported injuries. Five workers reported difficulties in obtaining satisfactory resolution of their workmen's compensation claims following injuries on site.

Action: BNI shall investigate this allegation as part of follow up to the recommendations for Issue #1.

10. The CIs indicated that BNI discriminates against persons with disabilities.

This allegation is similar to Allegation #3 with regard to termination of African American workers with medical conditions. Four of the interviewees who had been terminated had medical conditions (back trouble, high blood pressure, diabetes, epilepsy) that may have impacted their work performance.

Action: BNI shall investigate this allegation as part of follow up to the recommendations for Issue #3.

11. The CIs stated that BNI has created a chilling effect at the WTP.

Greater than 50% of the interviewees remarked that their job would be in jeopardy due to their participation in this inquiry. Many mentioned there were other workers who had issues but felt they could not risk their employment by coming forward. Roughly 20% of the interviewees described harassment, intimidation, and fear of termination when using the first aid facility on the site or after using a private physician who prescribed prescription medications or work restrictions. Twenty percent of the interviewees voiced the belief that when individuals raise safety concerns, those individuals are targeted for future lay-off lists. Fifteen percent of the interviewees claimed there was fear of layoffs for workers who reported issues to Labor Relations or used the Employee Concerns process.

For this inquiry, BNI Labor Relations had employees who desired to be interviewed sign up to meet with the inquiry team during work hours. The process was established with legitimate intentions (time accounting requirements and to prevent retaliation). Regardless of intentions, the inquiry team found the process resulted in a chilling effect on some employees' willingness to come forward with concerns. The team interviewed 117 people, however, and concluded that this inquiry provided a reasonable assessment of employee attitudes and work conditions.

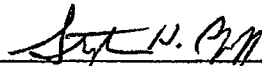
Action: BNI will investigate this allegation as part of follow up to the recommendations for Issue #1.

12. The CI's indicated that a person was nearly hit by a "headache ball" during crane operations at the WTP and the foreman/supervisor coerced the CI into not reporting.

One worker described this event. In the past year BNI has reported near miss events that could have injured workers in the DOE occurrence reporting system. The inquiry team did not attempt to determine if every adverse event was reported, but the number of actual reports and the corrective actions in progress indicated BNI is taking appropriate action to identify and correct workplace accidents and near miss events.

Action: BNI should investigate this event further and develop any necessary corrective actions.

Submitted:



Stephen H. Pfaff
ORP Facility Representative

Date:

1/10/2005