



Comment on Energy Secretary Steven Chu's Letter to the Defense Nuclear Facilities Safety Board on Safety Culture

July 5, 2011

Background

On June 9, 2011, a nuclear oversight agency called the Defense Nuclear Facilities Safety Board (DNFSB) released a [scathing letter](#) with a recommendation to Energy Secretary Chu concluding that “the Hanford Waste Treatment Plant (WTP) project is not maintaining a safety conscious work environment where personnel feel free to raise safety concerns without fear of retaliation, intimidation, harassment, or discrimination.”

The Board's letter slammed DOE and Hanford's treatment of a terminated senior engineer who had raised safety issues, detailed alleged witness tampering, and raised the specter of a federal criminal probe. The Board recommended that the DOE “assert federal control at the highest level” and correct the deficiencies. Finally the Board recommended that the DOE conduct an “independent and non-adversarial review” of the treatment of a senior manager who had been removed from the WTP project after he raised numerous safety concerns.

Secretary Chu's Response

On June 30, 2011 Energy Secretary Steven Chu [answered the Board's letter](#) and recommendations which it has widely circulated. In that letter, Secretary Chu stated that he “accepts the Board's recommendations to assert federal control to direct, track and validate corrective actions to strengthen the safety culture at WTP.” Chu listed a series of actions that the DOE plans to undertake, including:

- Holding a series of town hall meetings will be led by senior DOE officials to highlight for workers the importance of maintaining a strong safety culture.
- Conduct an independent review of safety culture across the entire DOE complex.
- Combine the employee concerns programs at Hanford for the Office of River Protection and Richland Operations Office to strengthen the programs and increase their visibility.
- Have ombudsmen from DOE headquarters act as advocates for employees and their concerns. Employees have access to a hotline and an email inbox to ask questions or raise concerns directly or anonymously.

Chu stated the DOE “cannot accept the allegations” made by the DNFSB without first reviewing the Board's investigative file – a review that the Board declined to allow. Chu also declined to accept the Board's recommendation to conduct “a non-adversarial review of Dr. Tamosaitis' removal and his current treatment by both DOE and contractor management and how that is affecting the safety culture at WTP.” Chu instead stated that DOE would “support” the ongoing Department of Labor review of Dr. Tamosaitis' allegations.

Chu also defended the DOE's Health, Safety and Security's review of the safety culture at the WTP, which the Board had specifically attacked and characterized as an example of the failed safety culture. Chu also stated that Bechtel had commissioned its own internal surveys and training at the WTP.

Finally, Chu took issue with the Board's assertions that senior DOE and contractor management had engaged in suppressing technical dissent on the project, stating that the complained of actions "may have been misunderstood by the Board."

Hanford Challenge Commentary

Hanford Challenge is a non-profit organization advocating for a safe and effective cleanup of the Hanford nuclear site for the short and long-term. Hanford Challenge has been assisting Dr. Walt Tamosaitis and conducting its own investigation and reporting on the safety culture at Hanford and the WTP. As such, Hanford Challenge has been closely tracking developments in the case of Dr. Tamosaitis, the technical issues at the WTP, and the unfolding events related to the DNFSB's oversight and activity and DOE's response.

1. The DNFSB has performed an important public service by exercising its oversight responsibilities and alerting the Secretary of Energy to a fact that has been obvious to many Hanford observers for some time – the safety culture at Hanford is designed to suppress the honest reporting of safety and technical concerns that might threaten the cost or schedule of the work. The case of Dr. Walter Tamosaitis is but one of many other lesser known examples of reprisal.
2. Bechtel has a documented history of suppressing employees with safety concerns. In 2005, the Department of Energy itself confirmed the existence of a hostile working environment at the Waste Treatment Plant in a [report](#)¹. The DOE investigation team interviewed 117 employees, and found,

"Greater than 50% of the workers interviewed believed their job would be in jeopardy due to their participation in this inquiry. Most of the interviewees mentioned other workers had issues but felt they could not risk their employment by coming forward. .. 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 with the Employee Concerns process."

3. In 2008, the DOE imposed a [civil penalty](#) for nuclear safety violations against Bechtel National, Inc. based upon the findings of a DOE hearing officer that a Bechtel engineer had been terminated after having raised nuclear safety concerns.²

¹ Letter, R. Schepens, DOE ORP to J.P. Henschel, BNI, "Contract No. DE-AC27-01RV14136 – Employee Concerns Inquiry and Analysis Report," January 18, 2005, Att. p. 2.

² Letter, M. Thompson, DOE-HSSA, to W. Elkins, BNI, Preliminary Notice of Violation, September 15, 2008.

4. Despite these findings, little was done to address the safety culture sickness that plagues the WTP. Rather than see the consistency between these past findings from a few years back and today, the DOE has ignored the documented history.
5. The Department of Energy is caught in a conflict of interest from which it cannot easily extricate itself. As a signatory to the Tri-Party Agreement, a legally-binding contract between the State of Washington and the US EPA, the DOE is legally bound to meet the deadlines it has itself negotiated. The ink on the latest iteration of agreements was hardly dry when Dr. Tamosaitis, among others, raised concerns about the closure of the design for the pretreatment plant. The prospect of missing the first significant milestone was apparently too much for DOE to tolerate.
6. There is [strong evidence](#) in publicly available email communications showing a DOE official instigating the removal of Dr. Tamosaitis. With such clear evidence of DOE participating in this high profile termination, the assertion by Secretary Chu that: “Over the past year, the Department has undertaken a broad range of steps to assure a strong and questioning safety culture at WTP” strains DOE’s credibility.
7. Further, there are credible allegations that senior DOE officials attempted to improperly influence the testimony of at least one senior technical expert, who was allegedly upbraided in a semi-public fashion. These kinds of interactions form the basis of the Defense Board’s investigation around alleged [witness tampering](#).
8. The DOE’s Health, Safety and Security office’s investigation into the safety culture that Secretary Chu alludes to was a travesty. Several employees who were interviewed told Hanford Challenge that their allegations were not reflected by any measure in the report, which itself was a contradictory jumble of findings. Employees were, in some cases, escorted to the HSS interviews by contractor and/or DOE managers, and in some cases there were attorneys for the contractors in the interview room with the HSS investigators. This approach was calculated to suppress the honest and free flow of testimony, and it worked all too well. The DNFSB called it correctly when it stated that the HSS investigation was an example of the broken safety culture.
9. Mere words will not address a broken safety culture. It is the actions of the DOE that matter most. The DOE’s actions fall far short of those necessary to bring about a healthy safety culture:
 - DOE has partnered with the contractor to reward the premature closing of a dangerous design (\$5 million), over the objections of a senior engineer whose job it was to raise such objections. That engineer was subsequently terminated from his position at the WTP – an action that was initiated by the DOE itself.
 - The DOE official who initiated the removal of Dr. Tamosaitis stated in a [sworn statement](#) that he provided to a federal agency that he did not direct any contractor to take any specific actions regarding Dr. Tamosaitis, in spite of [evidence to the contrary](#).

- The DOE has yet to conduct any sort of investigation into the removal of Dr. Tamosaitis, whose termination is a continuous reminder to all employees of the fate that lies in store for those who raise inconvenient truths. DOE's assertion that they will be cooperating with the Department of Labor's alleged investigation into the circumstances of Dr. Tamosaitis' removal indicates an avoidance of responsibility. DOE should look seriously into the safety culture implications of his removal.
 - DOE has not conducted any kind of investigation into the actions of the Federal Project Manager for DOE against Dr. Tamosaitis, despite Hanford Challenge making such evidence public in March 2011.
 - DOE officials have attempted to improperly influence the testimony of a technical expert, and have engaged in harassment and intimidation against that expert. The DOE asserts that this was all just "a misunderstanding," yet it admits it does not have access to the sworn statements and evidence relied upon by the Board, which has conducted an investigation.
 - The DOE has gutted the employee concerns function under Secretary Chu across the DOE complex. It even presented the fact that it was merging the employee concerns functions at the Hanford Site as some kind of evidence of progress, when in fact both programs are ineffective, understaffed, politicized, and a joke among workers who have attempted to use this program to address their concerns.
 - The DOE has been dismissive towards the Defense Board, as evidenced by internal emails and memoranda (which have been provided to the Board and to Congress) and in public correspondence with the Board. For instance, in February 2011 the General Counsel of the DOE challenged the Board's jurisdiction and competence to conduct an investigation into allegations of witness tampering at a Board hearing.
 - The DOE's demand to have access to the Board's investigative confidential files is another example of DOE's inability to see evidence of a broken safety culture. The testimony in the Board's files is confidential to protect those who spoke to the Board. Workers spoke to the Board in confidence BECAUSE they were afraid of the impacts to their careers if DOE or Bechtel management knew that they had spoken up.
10. In light of this history, it rings hollow that DOE will conduct Town Hall meetings to assure workers that it is now safe to raise safety and technical concerns. Does the DOE really think that employees will attend and start raising important safety, health and technical concerns about the project at such meetings? Or that they will utilize the "internal processes" that somehow always fail to result in the protection of employees who raise concerns?

11. While the sentiments expressed by Secretary Chu are admirable, the hour of the day is too late for promises and words. The broken safety culture at the WTP is beyond internal repair. DOE ought to seek outside intervention if it wants any chance of building up a robust safety culture. This is not going to be easy. The history of suppression, the internal fear of reprisal for raising concerns and the lack of trust in both contractor and DOE management will be difficult to overcome. It is time for a thorough and independent investigation and airing of the evidence before an impartial and empowered body that can take appropriate action to remedy the injustices and get the Waste Treatment Plant back on track.