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8 IN THE UNITED STATES DISTRICT COURT FOR THE
9 EASTERN DISTRICT OF WASHINGTON

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11 WALTER L. TAMOSAITIS, PHD, an
individual, and SANDRA B. TAMOSAITIS,
12 representing the marital community,

13 Plaintiff,

14 vs.

15 URS, INC., a Delaware Corporation, URS
16 ENERGY & CONSTRUCTION INC., an
Ohio Corporation, and THE DEPARTMENT
17 OF ENERGY,

18 Defendants.
19

Case No.:

COMPLAINT FOR DAMAGES AND
DEMAND FOR JURY TRIAL

20 **I. PARTIES AND JURISDICTION**

21 1.1 Plaintiff Walter L. Tamosaitis, Ph.D. (“Dr. Tamosaitis”), is a citizen of
22 the United States residing in Richland, Washington.

23 1.2 Plaintiff Sandra B. Tamosaitis is a citizen of Washington residing in
24 Richland, Washington. She is lawfully married to Dr. Tamosaitis and represents the
25

1 marital community.

2 1.3 Defendant URS, Inc. (“URS”), is a corporation organized and existing
3 under the laws of the State of Delaware, with its principal place of business at the
4 Department of Energy (“DOE”) Hanford site in Richland, Washington.

5 1.4 Defendant URS Energy & Construction Inc. (the URS defendants will
6 be referred to jointly as “URS”), is a corporation organized and existing under the
7 laws of the State of Ohio, has been identified by URS counsel as employing Dr.
8 Tamosaitis.
9

10 1.5 Defendant the Department of Energy (“DOE”) is an agency of the
11 United States government, and is responsible for the Hanford site.

12 1.6 On July 30, 2010, Dr. Tamosaitis filed a whistleblower complaint
13 under Section 211 of the Energy Act of 1974, as amended, 42 U.S.C. 5851 (“ERA”)
14 with the Department of Labor (“DOL”). Over one year has passed since this
15 complaint was filed. The DOL has not issued a final decision within one year of the
16 filing of the complaint, and the delay is not due to the bad faith of Dr. Tamosaitis.
17 Thus, under the ERA, the Federal District Court now has jurisdiction over this matter.
18

19 1.7 Dr. Tamosaitis is an employee of URS, and for the purposes of this
20 claim, he is also an employee of the DOE under *Stephenson v. National Aeronautics*
21 *and Space Admin.*, ALJ No. 94-TSC-5, ARB No. 98-025 (ARB July 18, 2000).
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II. FACTS

HANFORD HISTORY AND THE WASTE TREATMENT PLANT

2.1 The Hanford Nuclear Site (“Hanford”), is located in Southeastern Washington State, and is a former nuclear weapons production facility. Since 1990, the DOE has been dedicated to a clean-up mission to deal with the cold-war legacy of high-level pollution on site. Hanford sits adjacent to the Columbia River and is home to 53 million gallons of hazardous high-level nuclear waste.

2.2 For more than forty years, reactors located at Hanford produced plutonium for America’s defense program. The process of making plutonium is extremely “inefficient” in that a massive amount of liquid and solid waste is generated while only a small amount of plutonium is produced. The DOE’s mission is to ensure that all of the facilities and structures that were associated with Hanford’s defense mission are deactivated, decommissioned, decontaminated, and demolished. Over 10,000 employees are currently employed at Hanford for that purpose.

2.3 High-level nuclear waste, which is composed of chemical and radioactive waste (“high-level nuclear tank waste”), is currently stored in 177 large underground tanks, all of which have exceeded their projected stable lifetime by at least twenty years and a third of which are confirmed to have leaked into the ground beneath the tanks. DOE estimates that approximately 1 million gallons of high-level nuclear tank waste have leaked into the ground at Hanford. The groundwater under more than 85 square miles of the Hanford site is contaminated above current standards.

1 2.4 The cornerstone of the high-level nuclear tank waste cleanup project at
2 Hanford is the Hanford Tank Waste Treatment Plant (“WTP”). The WTP will be an
3 industrial complex of facilities for separating and vitrifying (immobilizing in glass)
4 millions of gallons of high-level nuclear tank waste. Vitrification technology involves
5 blending the high-level nuclear tank waste with glass-forming materials and heating it
6 to over 2,000 degrees Fahrenheit. The mixture is then poured into stainless steel
7 canisters to cool and solidify. In this glass form, the high-level nuclear tank waste is
8 currently considered stable and impervious to the environment, and its radioactivity
9 will dissipate over hundreds or thousands of years.

11 2.5 The five major components of the WTP will be: the Pretreatment
12 Facility for separating the high-level nuclear tank waste into the high level radioactive
13 waste stream and the low level stream, the High-Level Waste and Low-Activity Waste
14 facilities where the high-level nuclear tank waste will be immobilized into glass, the
15 Analytical Laboratory for providing chemical analysis for plant operations and testing
16 the quality of the glass, and the Balance of Facilities, which will comprise several
17 support facilities such as compressed air and treated water. A3.¹

21 ¹ “A__” refers to pages in the appendix, which accompanies the complaint. A related case was filed in
22 Benton County Superior Court, No. 10-2-02357-4, on September 13, 2010, and was later removed to
23 federal court by the defendants claiming fraudulent joinder. *Tamosaitis v. BNI and URS, et. al.*, CV-10-
24 5116-RHW. While plaintiff’s motion for remand was pending, defendants filed motions to dismiss,
25 claiming, in part, that plaintiff’s complaint contained inadequate factual allegations under *Ashcroft v.*
Iqbal, 556 U.S. 662, 129 S.Ct. 1937, 1949 (2009) (quoting *Bell Atlantic Corp. v. Twombly*, 550 U.S.
544, 555 (2007)) (Ct. Rec. 14, 22). The Court rejected the defendants’ motions and granted remand on
January 3, 2011 (Ct. rec. 80). A2. Significant discovery was conducted in the state case, and to avoid
another *Twombly* filing by the defendant, selected evidence from that case is attached as an appendix
here.

1 2.6 The WTP is currently one of the largest, if not the largest, project in the
2 United States and once complete, the WTP will be the largest facility of its kind in the
3 world.

4 2.7 The original Bechtel cost estimate for the WTP was about \$5 billion
5 and with a time estimate of seven years to complete it. The current Bechtel cost
6 estimate for constructing the WTP is over \$12 billion and the time estimate to
7 complete it is nearly twenty years. Both cost and schedule for the WTP have grown
8 by over 240 percent.
9

10 2.8 Construction of the WTP is projected to be complete in about 2016,
11 and, following commissioning, the plant is planned to be fully operational by 2020.

12 2.9 The WTP is being built with a design life of forty years. There are parts
13 of the WTP that must operate for forty years with no maintenance including, for
14 example, tanks, pipelines, mixers in tanks, level control instrumentation, steam
15 spargers, and air system control devices.
16

17 2.10 The high-level nuclear tank waste in the Hanford waste tanks includes
18 plutonium and enriched uranium. A criticality accident occurs when a nuclear chain
19 reaction is accidentally allowed to occur in fissile material such as plutonium and
20 enriched uranium. This chain reaction releases radiation, which is highly dangerous to
21 personnel and could result in contamination of the surrounding facilities and
22 structures. When such incidents occur outside reactor cores and test facilities where
23 fission is intended to occur, they pose a high risk both of injury or death to workers.
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1 2.16 To ensure the safety of the overall project, the DOE implements an
2 Integrated Safety Management approach for benchmarking and maintaining its safety
3 culture.

4 2.17 DOE's efforts to ensure a positive safety culture at Hanford have been
5 recently called into question by the Defense Nuclear Facilities Safety Board
6 ("DNFSB").

7 2.18 As a part of its oversight responsibility, DOE is responsible for ensuring
8 that Hanford contractor whistleblowers are protected from retaliation for their
9 whistleblower activities.

10 2.19 DOE is prohibited from retaliating against Hanford contractor
11 whistleblowers.

12 2.20 Every Hanford contractor and subcontractor, including URS and
13 Bechtel, is bound by the following contract term, which is contained in every DOE
14 contract, and which provides:
15

16 The Contractor shall comply with the requirements of DOE
17 Contractor Employee Protection Program at 10 CFR part 708 for
18 work performed on behalf of DOE directly related to activities at
19 DOE-owned or -leased sites, with respect to work performed on-site
20 at a DOE-owned or -leased facility, as provided for at Part 708.

21 The contract term imposes an affirmative duty on the contractor not to retaliate. 10
22 C.F.R. § 708.43. Under the framework, "retaliation means an action (including
23 intimidation, threats, restraint, coercion or similar action) taken by a contractor against
24 an employee with respect to employment (e.g., discharge, demotion, or other negative
25 action with respect to the employee's compensation, terms, conditions or privileges of

1 employment)” 10 C.F.R. § 708.2.

2 **DOE EMPLOYEES DISCUSSED IN THE COMPLAINT**

3 2.21 During all times relevant to the complaint, Inez Triay has been the DOE
4 Assistant Secretary for Environmental Management. She is sometimes referred to as
5 EM1.

6 2.22 During all times relevant to the complaint, Shirley Olinger was DOE
7 Site Manager at the Office of River Protection in Hanford, Washington.

8 2.23 Dale Knudson has been the Federal Project Director for the WTP project
9 since June 2010. Knudson is an employee of Pacific Northwest National Laboratory
10 (“PNNL”) in Richland on loan to the DOE pursuant to the Intergovernmental
11 Personnel Act (“IPA”), which permits the DOE to hire outside employees to fill DOE
12 positions. Since June 2010, Knudson has assumed the role and responsibilities of a
13 DOE employee under the IPA, and is a DOE employee in fact.
14

15 2.24 The DOE is liable for the actions of its employees under the doctrine of
16 respondeat superior.
17

18 **BECHTEL AT HANFORD**

19 2.25 Bechtel is a prime contractor for the DOE-ORP at Hanford. Bechtel was
20 awarded the project in December 2000 and is directly responsible for the overall
21 project management including design, construction, and startup/commissioning as
22 well as other support functions such as project controls.

23 2.26 Bechtel has contracts with DOE and is bound by the following contract
24 term, which is contained in its contracts, and which provides:
25

1 The Contractor shall comply with the requirements of DOE
2 Contractor Employee Protection Program at 10 CFR part 708 for
3 work performed on behalf of DOE directly related to activities at
DOE-owned or -leased sites, with respect to work performed on-site
at a DOE-owned or -leased facility, as provided for at Part 708.

4 The contract term imposes an affirmative duty on Bechtel not to retaliate. 10 C.F.R. §
5 708.43. Under the framework, “retaliation means an action (including intimidation,
6 threats, restraint, coercion or similar action) taken by a contractor against an employee
7 with respect to employment (*e.g.*, discharge, demotion, or other negative action with
8 respect to the employee’s compensation, terms, conditions or privileges of
9 employment)” 10 C.F.R. § 708.2.

11 **BECHTEL EMPLOYEES DISCUSSED IN THE COMPLAINT**

12 2.27 During all times relevant to the complaint, David Walker was Vice
13 President of Bechtel National, Inc, which is a global business unit of Bechtel Systems
14 and Infrastructure, Inc.

15 2.28 During all times relevant to the complaint, Scott Ogilvie, a/k/a J.
16 Ogilvie, was President of Bechtel Systems and Infrastructure, Inc.

17 2.29 In or about November 2009, Bechtel Manager Frank Russo became the
18 WTP Project Manager. Russo was the fifth WTP Bechtel Project manager in eight
19 years.
20

21 2.30 During all times relevant to the complaint, Greg Ashley was employed
22 by Bechtel and was the Technical Director of the WTP Project reporting to Russo.

23 2.31 Beginning in January 2010, Russo appointed Bechtel Manager Mike
24 Robinson as Project Manager responsible for closure of M3.
25

1 threats, restraint, coercion or similar action) taken by a contractor against an employee
2 with respect to employment (*e.g.*, discharge, demotion, or other negative action with
3 respect to the employee's compensation, terms, conditions or privileges of
4 employment)" 10 C.F.R. § 708.2.

5 2.38 Bechtel has no contract authority to direct URS to remove URS
6 employees from Hanford in retaliation for whistleblowing activities.

7 **URS EMPLOYEES DISCUSSED IN THE COMPLAINT**

8
9 2.39 During all times relevant to the complaint, David Pethick was General
10 Manager of URS Global Management and Operation Services.

11 2.40 During all times relevant to the complaint, Leo Sain was Senior Vice
12 President of Performance Assurance with URS Global Management and Operation
13 Services reporting to David Pethick.

14 2.41 During all times relevant to the complaint, Bill Gay was URS Assistant
15 Project Manager for Safety Operations and Quality at the WTP. Gay reported to Russo
16 at the WTP and to Sain at URS.

17 2.42 During all times relevant to the complaint, Dennis Hayes was the WTP
18 Plant Operations Manager, and he reported to Gay.

19 2.43 During all times relevant to the complaint, Richard Edwards was
20 manager of the process engineering and technology department and was also the chief
21 process engineer for the WTP project. Edwards reported to Gay in the URS chain of
22 command and to Ashley from a project management perspective. Edwards left the
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1 WTP in July 2010, but was brought back briefly later in the year for a limited scope of
2 duties.

3 2.44 During all times relevant to the complaint, Cami Krumm was the URS
4 Human Resources Manager for the WTP, and she reported to Gay.

5 2.45 URS is liable for the actions of its employees under the doctrine of
6 respondeat superior.

7
8 **WALTER TAMOSAİTIS**

9 2.46 During all times relevant to the complaint, Walter Tamosaitis, Ph.D.,
10 has been an employee of URS. Beginning in January 2010, he reported to Edwards.

11 2.47 Dr. Tamosaitis has a Ph.D. in Systems Engineering and Engineering
12 Management, over forty years industrial experience in chemical and nuclear plants,
13 and is a registered professional engineer.

14 2.48 Dr. Tamosaitis lived in Augusta, Georgia and Lexington, South
15 Carolina, and worked at Savannah River National Laboratory with URS for about 17
16 years before coming to the WTP.

17 2.49 In 2003, while employed by Washington Group International, Dr.
18 Tamosaitis was assigned, and agreed, to work at the WTP as Research and
19 Technology Manager on a two-year temporary assignment. His family stayed in
20 Lexington.
21

22 2.50 In about 2005, URS acquired Washington Group International and Dr.
23 Tamosaitis became an employee of URS maintaining the same job functions as he had
24 performed under Washington Group International.
25

1 2.51 In 2006, Dr. Tamosaitis agreed to stay at the WTP and move his family
2 to Richland after being promised by URS management that he could stay at the WTP
3 until he “retired or died.”

4 2.52 In the second half of 2006, Dr. Tamosaitis was assigned the additional
5 duties of Assistant Chief Process Engineer at the WTP. In this capacity he executed
6 the duties of the Chief Engineer as required and called upon.

7
8 2.53 As the Research and Technology Manager and Assistant Chief Process
9 Engineer, Dr. Tamosaitis was responsible for the Research and Technology Program
10 supporting the \$12+ billion WTP Project, which included: project management of
11 about \$500 million of chemical process and flowsheet development and design
12 involving worldwide support; program management of first-of-a-kind development
13 programs involving chemical engineering, chemistry, as well as flowsheet
14 development; leading the \$100 million Pretreatment Pilot Plant Facility Program from
15 conception to closure; maintaining working knowledge of DOE 413.3A Project
16 Management and Technology Readiness Reviews; acting in the capacity of, and
17 representing, the Chief Engineer in on-site and off-site meetings and presentations;
18 overall guidance of the process flowsheet; leading the External Flow Sheet Review
19 Team of the WTP flowsheet; interacting with all major review and customer groups
20 including the DNFSB, State of Washington, DOE, and the Government
21 Accountability Office; program coordination with major universities, national
22 laboratories, and consultants worldwide; research and development business
23 development for URS involving direct and joint teaming proposals to DOE and
24
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1 program coordination with DOE grant recipients; and, development and mentoring of
2 personnel in URS and Bechtel including summer students and interns.

3 2.54 Dr. Tamosaitis' job responsibilities for the WTP Project also included
4 identifying and solving technology problems and raising concerns to management
5 about engineering and process issues that could potentially affect the safe, efficient,
6 and effective operation of the WTP including, but not limited to, waste mixing issues,
7 vessel design, tank sampling, process limits, mixer operation, material pump out, heel
8 removal, chemical reactions, viscosity control, pipeline transfer, glass formulations,
9 melter operation, melter sampler systems, as well as the continuity of knowledge for
10 future operations.
11

12 2.55 Dr. Tamosaitis headed a project that successfully closed M12 on time
13 and on budget. Dr. Tamosaitis documented M12 issues that remained unresolved after
14 closure and raised them to his management in 2009 and 2010.
15

16 **DOE's PATTERN OF SUPPORTING WHISTLEBLOWER
17 RETALIATION**

18 2.56 When a DOE contractor employee files a complaint alleging
19 whistleblower retaliation, it is the practice of the DOE to align itself with the
20 contractor and to assert attorney client privilege. For example, in an eleven-plaintiff
21 whistleblower retaliation case litigated against Fluor Federal Services, Inc., DOE
22 attorney Robert Carosino refused to disclose evidence relating to meetings between
23 DOE and the offending contractors claiming attorney client privilege because DOE
24 and the contractor share a common interest in the litigation. A13-18. This practice
25

1 prevents the DOE from effective oversight of contractor retaliation and creates a
2 culture of fear among the Hanford workforce.

3 2.57 Upon Dr. Tamosaitis filing a whistleblower complaint with the DOL in
4 2010, the DOE, Bechtel and URS asserted attorney client privilege as to their
5 discussions concerning Dr. Tamosaitis' claim owing to their common interest. This
6 fact has been verified by the sworn testimony of Jean Dunkirk in her deposition, which
7 was taken in connection with the state claim (transcript pending).
8

9 2.58 There is a practice of DOE managers supporting retaliation against
10 contractor employees who oppose unsafe practices. For example, in 2008, then URS
11 Chief Nuclear Engineer and Manager of Nuclear Safety Donna Busche, was
12 terminated from her position at the Waste Isolation Pilot Plant in Carlsbad, New
13 Mexico, with the approval of DOE officials, after she refused to rescind a Technical
14 Safety Violation report that she had filed regarding the improper handling of a drum
15 from Hanford that contained transuranic waste. A155-6, 176-181.
16

17 2.59 In 2009, Ms. Busche was reassigned to the WTP as Manager of
18 Environmental and Nuclear Safety. A155-6. In October 2010, she was berated by
19 Ines Triay, the DOE EM1, after giving truthful testimony at a hearing conducted by
20 the DNFSB. A198-199. At a post-hearing meeting with Ms. Triay and numerous
21 URS managers, Triay said, "If your intent was to piss people off, you did a very good
22 job. You pissed people off." A199. Ms. Busche has suffered retaliation since then,
23 which has been compounded by her having been a witness in this case.
24
25

1 2.60 In 2010, DOE WTP Federal Project Director Dale Knudson submitted a
2 sworn statement to the DOL indicating that he “did not direct BNI or URS to take any
3 specific actions with regards to Dr. Tamosaitis.” A14. In fact, Knudson was directly
4 involved in the decision to terminate Dr. Tamosaitis from the WTP. A114. He also
5 participated in the decision that Dr. Tamosaitis not be returned to the WTP after
6 hearing that Dr. Tamosaitis was a whistleblower. A213-214.

7
8 2.61 Throughout the Tamosaitis retaliation, DOE managers supported
9 Bechtel and URS efforts to stop necessary design changes to the WTP so that artificial
10 deadlines could be met, and did nothing to protect, or supported, retaliation by
11 contractors against employees who opposed those improper decisions.

12 **PLACING A CONTRACTOR EMPLOYEE INTO AN OVERSIGHT POSTION**
13 **CREATED AN INHERENT CONFLICT OF INTEREST**

14 2.62 In 2010, DOE placed PNNL manger Dale Knudson into the position of
15 DOE Federal Project Director of the WTP. A52-3. This created an inherent conflict
16 of interest in that a contractor employee who, on information and belief, is not
17 motivated by government service and placing the public interest before profit, is
18 placed in a temporary position, overseeing the work of other contractors.

19
20 2.63 On information and belief, after about two years, Knudson will return to
21 his position at PNNL or to another position in the private sector.

22 **BETCHEL’S PROBLEMS AT THE WTP USING DESIGN-BUILD**

23 2.64 Hearings were held in 2005, which resulted in a 2006 Government
24 Accountability Office report. That report found that since the WTP construction
25 contract was awarded in 2000, the WTP’s estimated cost increased more than 150

1 percent to about \$11 billion, and the completion date has been extended from 2011 to
2 2017 or later. The GAO found three main causes for the increases in the project's cost
3 and completion date: (1) the contractor's performance shortcomings in developing
4 project estimates and implementing nuclear safety requirements, (2) DOE
5 management problems, including inadequate oversight of the contractor's
6 performance, and (3) technical challenges that have been more difficult than expected
7 to address. A11-12.

8 2.65 The design-build approach used that the WTP permits the contractor
9 to begin building the project before the design is completed. The GOA linked the
10 ongoing problems at the WTP to (1) the continued use of a fast-track, design-build
11 approach for the remaining work on the construction project, (2) the historical
12 unreliability of cost and schedule estimates, and (3) inadequate incentives and
13 management controls for ensuring effective project. A12.

14 2.66 In response to GAO criticism of the WTP during congressional hearings
15 held in April 2005, in October 2005, Dr. Tamosaitis was appointed as the lead of the
16 first DOE External Flowsheet Review Team ("EFRT") study, also known as the "Best
17 and Brightest" review. Over fifty consultants were hired to review the technical
18 viability of the WTP Project over a four-month period.

19 2.67 The EFRT study identified twenty-eight issues, and its report ("EFRT
20 Report") was the subject of media coverage and much external review and inquiries to
21 Bechtel.
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1 **THE 2009 EFRT M3 MIXING ISSUE: MILESTONE DELAYED**

2 2.68 On May 15, 1989, the DOE, the U.S. Environmental Protection Agency,
3 and the State of Washington Department of Ecology signed a comprehensive cleanup
4 and compliance agreement known as the Tri-Party Agreement, which is an agreement
5 for achieving compliance at Hanford with the Comprehensive Environmental
6 Response Compensation and Liability Act (CERCLA) remedial action provisions and
7 with the Resource Conservation and Recovery Act (RCRA) treatment, storage, and
8 disposal unit regulations and corrective action provisions. The Tri-Party Agreement:
9

- 10 1) defines and ranks CERCLA and RCRA cleanup commitments at Hanford;
11 2) establishes responsibilities;
12 3) provides a basis for budgeting; and
13 4) reflects a concerted goal of achieving full regulatory compliance and
14 remediation, with enforceable milestones in an aggressive manner.
15

16 2.69 The Tri-Party agreement was revised in late 2008 or early 2009. One
17 milestone of the Tri-Party agreement was the closure of all technical issues by
18 December 31, 2009. The M3 issue was the last open EFRT issue of the twenty-eight
19 that required closure (“ERFT M3 mixing issue”). Twenty-seven of the twenty-eight
20 EFRT issues were closed by October 2009.

21 2.70 The EFRT M3 mixing issue required that design problems be resolved
22 concerning the mixing of the high-level nuclear tank waste in thirty-eight tanks in the
23 pretreatment area of the WTP. Of the thirty-eight tanks, fourteen tanks presented
24 special design and mixing challenges. The design provides that the more than 50
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1 million gallons of high-level nuclear tank waste be transported via pipelines to and
2 between these pre-treatment tanks in preparation for vitrification. If the high-level
3 nuclear tank waste is not sufficiently mixed in the pre-treatment tanks, plutonium may
4 settle out and may cause a criticality accident. If the high-level nuclear tank waste is
5 not sufficiently mixed in the pre-treatment tanks, hydrogen gas bubbles will
6 accumulate and may be trapped in the waste, which could lead to a sudden gas release
7 and an explosion or fire. Even if neither of those scenarios develops, poorly mixed
8 high-level nuclear tank waste may cause the WTP to operate inefficiently, and under
9 some circumstances to shut down. Inefficient and ineffective design can lead to the
10 design life of the plant being exceeded before all the Hanford nuclear waste is
11 processed.

12
13 2.71 The EFRT M3 mixing issue had not been resolved as scheduled, and in
14 September 2009, at the direct request of DOE-ORP manager Shirley Olinger, Dr.
15 Tamosaitis was appointed to lead the EFRT M3 mixing issue resolution effort. Dr.
16 Tamosaitis' approach was to review all projects and seek a robust system, even if it
17 meant having to redesign support systems. A19-47.

18
19 2.72 In a multi-day weekend meeting, between October 2-4, 2009, Dr.
20 Tamosaitis proposed a September 30, 2010 (a nine month delay), date for closure of
21 the EFRT M3 mixing issue. During the meeting, Bechtel management changed the
22 date to complete testing by April 30, 2010 and close the EFRT M3 mixing issue by
23 June 30, 2010. Bechtel Manager Ted Feigenbaum and Assistant Project Manger Bill
24 Gay, URS, told Dr. Tamosaitis to "throw the kitchen sink at it." Bechtel management
25

1 indicated that Bechtel wanted to solve the mixing problem and, rather than worry
2 about the mixing design within the tanks, other external systems would be changed to
3 support the design including, the air supply system, air removal system, mixing
4 systems within the tanks, and structural components.

5 2.73 On information and belief, in late 2009, a revision to the Tri-Party
6 Agreement was approved setting June 30, 2010, as the new deadline for closure of
7 EFRT M3 mixing issue.

8
9 **BILL GAY BECOMES WTP ASSISTANT PROJECT MANAGER**

10 2.74 In 2009, URS appointed Bill Gay as the WTP Assistant Project
11 Manager.

12 2.75 In early 2009, Dr. Tamosaitis sent a letter to a URS Vice President Dave
13 Pethick identifying engineering issues and safety culture issues at Hanford. Bill Gay
14 reviewed the letter written by Dr. Tamosaitis no later than March 2009.

15
16 **BECHTEL MANAGER RUSSO BECOMES**
17 **WTP PROJECT MANAGER AND SEEKS CLOSURE OF**
18 **THE EFRT M3 MIXING ISSUE TO INCREASE PROFITS AND TO**
19 **DEMONSTRATE THAT HE WOULD MEET THE DEADLINE**

20 2.76 Frank Russo's educational background is an undergraduate degree in
21 political science; Russo is not qualified to give an engineering opinion. A236. Yet
22 Russo was chosen by Ines Triay to take over the management of the WTP in January
23 2010. A237. Russo immediately sought to end all design changes and to meet
24 deadlines that would increase Bechtel and URS profits. A48. In response to an email
25 string in which Dr. Tamosaitis raised engineering questions, Russo told Triay, "I will

1 send anyone on my team home if they demonstrate an unwillingness or inability to
2 fulfill my direction.” A48.

3 2.77 Instead of supporting Dr. Tamosaitis’ efforts for a robust solution to the
4 M3 mixing issue, even if it meant the need for design changes, in January 2010, Russo
5 replaced Dr. Tamosaitis as the manager leading the EFRT M3 mixing issue resolution
6 effort with retiring Bechtel manager Mike Robinson. On information and belief,
7 Russo’s purpose was to put a Bechtel person in place so he could have more control.
8 Dr. Tamosaitis reported to Robinson and stayed involved and provided several key
9 contributions, which enabled closure efforts to proceed, including scaling reports,
10 changes in the particle size distributions, improvements to the stimulant compositions
11 as well as leadership to his direct reports involved in the EFRT M3 mixing issue
12 resolution.
13

14 2.78 Russo made it clear that the M3 program must be closed by June 30,
15 2010. This was important to meet the Tri-Party Agreement milestone and to ensure
16 that Bechtel was paid \$6 million in fees for meeting the milestone. A56-58. To
17 achieve closure of the EFRT M3 mixing issue, Russo implemented a plan to do the
18 least possible work at the lowest expense to meet the June 30 deadline despite valid
19 safety and throughput concerns (“Bechtel’s M3 management approach under Russo”).
20 A59. Critical to his plan was to “need to freeze design, need to stop change.” A50.
21 Bill Gay sought to obtain Dr. Tamosaitis’ support for the Bechtel’s M3 management
22 approach under Russo, reminding him that, “80% of the fee is now attached to M3
23 closure on time.” A54-55.
24
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1 2.79 Russo claimed to have a contact in the DOE headquarter who would
2 help ensure that the EFRT M3 mixing issue was closed by the June 30, 2010 deadline.
3 Russo claimed to have a “silver bullet” he could use with a contact at DOE to achieve
4 this objective. In May 2010, Russo told Triay that, “We can get out of M3 if we are
5 willing to take some risk.” A59.

6 2.80 Despite being almost ten years into the project, from January to March
7 2010, Bechtel engineering identified many key and pertinent design facts that severely
8 impacted the EFRT M3 mixing issue designs. These included limitations on the
9 maximum mixer velocities, limitations in the pressure supply, unavailability of
10 equipment, and inadequate modeling methods. Despite the design issues that were
11 being identified, Bechtel and URS management would not entertain or consider a
12 change in the completion date despite having only a few months left to complete
13 testing.
14

15 2.81 Due to the inadequate mixing results, in about February 2010, Bechtel
16 engineering proposed using an alternate scaling approach so that the velocity of the
17 mixers met what was allowed by the current design (“Bechtel’s alternative scaling
18 approach”). This signaled to Dr. Tamosaitis that the strategy of “throwing the kitchen
19 sink at it” had now changed. Dr. Tamosaitis directly raised concerns to Bechtel
20 Engineering, specifically to Russell Daniel, about the inadequacy of using different
21 scaling parameters at different tank operating levels. Dr. Tamosaitis expressed his
22 concern that this method increased safety risks and was a questionable design
23
24
25

1 approach. In May 2010, an external consultant on the EFRT M3 mixing issue,
2 referred to Bechtel's alternative scaling approach as criminally negligent.

3 2.82 In March 2010, due to continued unacceptable mixing test results
4 regarding the EFRT M3 mixing issue, Bechtel engineering again changed the design
5 approach to mixing in a manner that further increased safety risks. This change
6 involved only partial clearing of the bottom of the tank with each mixer pulse. Dr.
7 Tamosaitis again lodged concerns with Bechtel engineering management and was told
8 that improved and more efficient designs will be investigated in an optimization
9 period following M3 closure.
10

11 2.83 In the February-March 2010 timeframe, the Pacific Northwest National
12 Laboratory ("PNNL") raised questions concerning the simulant being used in the
13 EFRT M3 mixing issue testing and whether it was really representative of the actual
14 hazardous waste. If the simulant being used was not representative of the actual waste,
15 the test results could provide a result that indicated success when failure actually
16 occurred.
17

18 2.84 In April 2010, DOE issued a Performance Evaluation to Bechtel stating
19 that in order to obtain the \$6 million award fee set for June 30, 2010, all, not just a
20 portion, of the M3 issue had to be closed, or words to that effect. A57. During this
21 period, Russo and Gay both supported the changes that reduced mixing effectiveness,
22 despite the comments of several people, including those from PNNL. Russo and Gay
23 continued to push the June 30, 2010 closure date.
24
25

1 2.85 In addition to supporting the changes that reduced mixing effectiveness,
2 Russo and Gay also supported changes that reduced the amounts (the amount of solids
3 in the waste) of what the plant processed as well as suggesting reducing operating
4 levels in vessels.

5 2.86 In late March 2010, in a meeting comprised of technical and
6 management persons from Bechtel, URS, and PNNL, called to discuss the EFRT M3
7 mixing issue, a DOE Ph.D. scientist, Don Alexander, raised a concern about the
8 mixing of thin, water-like solutions in tanks designed to mix thicker solutions (“DOE
9 mixing concern”). This concern was specific to five of the pretreatment tanks, which
10 were a part of the EFRT M3 mixing issue.

11 2.87 On information and belief, Russo and Bechtel engineering managers
12 discussed the schedule and concluded that if they had to do testing to address the DOE
13 mixing concern, the June 30, 2010 closure date would not be met and therefore
14 Bechtel would lose the \$6 million award fee. Bechtel then advocated that the DOE
15 mixing concern could be resolved without testing. In about late April 2010, Bechtel
16 launched an effort to show that no testing was needed for these five tanks.

17 2.88 Dr. Tamosaitis suggested that testing was needed to resolve the DOE
18 mixing concern to ensure the safety of the WTP. A73-91, 94-110. Dr. Tamosaitis
19 enlisted the assistance of PNNL to make a recommendation, but Dr. Tamosaitis’
20 manager, Richard Edwards, argued against the need for the report “without the need
21 for more testing,” and he suggested that the PNNL report, which supported testing,
22 was not needed. A77. Dr. Tamosaitis opposed this position and sought to have the
23
24
25

1 report issued, but in fear of losing his job, he asked PNNL to soften the language.
2 A73-91, 94-110.

3 2.89 As a response to the DOE mixing concern, Bechtel proposed putting in
4 systems to pump residual materials out of approximately fourteen tanks to prevent
5 buildups on the bottom of the tank rather than directly addressing the main mixing
6 issue.

7
8 2.90 Bechtel became convinced that it could have a report issued that would
9 support M3 closure without further testing, and became frustrated when PNNL would
10 not sign on. A65-71. Russo commented to DOE Manager Chung (a report to Triay),
11 that “after over \$200 million [paid to] PNNL and Battelle they damn well better be on
12 board. Before that card is played, I will talk with Dale [Knudson].” A71.

13 2.91 On information and belief, Bechtel did not want to address the mixing
14 issue directly because of the design changes that would be needed as well as the
15 reconstruction of vessels. This would result in major cost increases and schedule
16 impacts and require more testing thereby jeopardizing the \$6 million milestone award
17 for meeting the June 30, 2010 deadline.

18
19 2.92 In May 2010, Gay held a meeting of URS employees assigned to resolve
20 the EFRT M3 mixing issue, and chartered a clandestine effort to prepare for another
21 test to resolve the DOE mixing concern (the “Gay test plan”). Dr. Tamosaitis
22 questioned Gay about the Gay test plan and noted that it was in direct violation of the
23 Earned Value Management System (“EVMS”) principles by which the WTP Project is
24 sworn to operate. Dr. Tamosaitis also pointed out to Gay that Bechtel and DOE would
25

1 have to approve all aspects of any test so a clandestine effort made little sense. Gay
2 responded, "I am the boss and just do it," or words to that effect.

3 2.93 In early June 2010, Bechtel management notified Dr. Tamosaitis and
4 others that there would be no optimization testing. This was another departure from
5 the "throw the kitchen sink at it" approach taken by Bechtel before Russo assumed
6 management responsibilities.

7
8 2.94 On information and belief, the Gay test plan resulted in costs of over
9 \$150,000.

10 2.95 Between February and June 2010, URS Deputy Project Manager Gay
11 repeatedly discussed the importance of closing the EFRT M3 mixing issue and the
12 negative impact that failing to close would have on careers and compensation. On one
13 or more occasions, Gay stated, "If M3 doesn't close I'll be selling Amway in Tijuana."

14
15 2.96 On June 30 and July 1, 2010, Russo expressed his concern to Bechtel
16 Vice President David Walker and/or President Scott Ogilvie that failure to approve
17 M3 closure would "kill momentum within the [WTP] and with Congress re funding,"
18 and that "Congress is just looking for a reason to put Hanford money in other states.
19 Our \$50 million is still in play. Declare failure [of M3] and our \$50 mil goes away."
20 A111, A118. In this atmosphere, Dr. Tamosaitis continued to raise concerns about
21 M3.

22
23 2.97 On June 29, 2010, URS Manager Bob French, directed that words like
24 "M3 testing" not be used in any future correspondence.

1 2.98 On June 30, 2010, Bechtel announced that the EFRT M3 mixing issue
2 was closed, which was the agreed date for closure despite the existence of many
3 unresolved safety and technical issues. As of June 30, 2010, items related to tank
4 mixing performance, which had not been designed and/or tested included: level
5 control, mixer operation, sampling, heel pump out, and pumpout of the actual
6 materials over a range of operating conditions.

7
8 **WITH M3 CLOSURE DR. TAMOSAITIS IS BEING
9 MOVED TO NEW JOB AT THE WTP**

10 2.99 As of June 29, 2010, Bechtel estimated that approximately \$14.6 million
11 was available for Dr. Tamosaitis' Research and Technology group over the next eight
12 years, and about \$4.8 million was available to support his Research and Technology
13 group in 2011.

14 2.100 On June 29, 2010, Bechtel and URS management approved an
15 announcement, which announced in part, that Dr. Tamosaitis was being reassigned to
16 head a new Operations and Technical Group within the WTP. A112-113. This was
17 the URS and Bechtel management plan for Dr. Tamosaitis' new position. A266-278.

18 2.101 On June 30 2010, Dennis Hayes agreed to meet with Dr. Tamosaitis that
19 Friday morning to discuss the final details of Dr. Tamosaitis' and his Research and
20 Technology group's move to WTP operations.

21
22 2.102 On June 30, 2010, Richard Edwards issued an email stating that it was
23 his last day at the WTP. On information and belief, Edwards transferred and did not
24 report to work after that day at Hanford and was not involved in WTP activities after
25 that.

1 2.103 On the evening of June 29, 2010, Gay announced that the closure of M3
2 was imminent.

3 2.104 Dr. Tamosaitis was not scheduled to leave the WTP for another
4 assignment in England, nor was a cause of his leaving complaints about Dr.
5 Tamosaitis from PNNL. See A233-249 and compare with A250-265.

6 **DR. TAMOSAITIS' EFFORTS TO OPPOSE THE HEALTH AND SAFETY**
7 **ISSUES RAISED BY TECHNICAL CHANGES MADE TO ENSURE M3**
8 **CLOSURE**

9 2.105 In June 2010, Dr. Tamosaitis was afraid that he would be fired if he
10 directly criticized the efforts to close M3 without addressing significant design issues.
11 In addition speaking out against specific decisions, he chose to oppose these improper
12 efforts in two major ways. First, when invited to create and bring a list of unfinished
13 items to a meeting held by Bechtel, he brought a fifty-item list, which contained
14 unresolved environmental and nuclear safety concerns. A153-193. Prior to the
15 meeting, he forwarded the list to Bill Gay. A90. Second, after seeing that CRESP, a
16 DOE consultant, was not going to oppose closure (A92-93), Dr. Tamosaitis sent an
17 email to WTP consultants in the hope that they might publicly raise objections to M3
18 closure so that if he stood up against the closure, he would not be alone. Those two
19 acts were sufficient to get him terminated from the WTP.
20

21 2.106 On June 30, 2010, Dr. Tamosaitis participated in a meeting called by
22 Bechtel Technical Director Greg Ashley to discuss open issues (“June 30, 2010 open
23 issue meeting”) related to the WTP. Ashley did not attend, but delegated the running
24 of the meeting to Bechtel Chief Engineer Barbara Rusinko. At this June 30, 2010 open
25

1 issue meeting, Dr. Tamosaitis provided a list of about fifty open issues (“2010
2 Tamosaitis Safety Issue List”) along with a copy of the 2009 Tamosaitis Safety Issue
3 List (referred to jointly as the “two safety issue lists”), most of which were still open.

4 2.107 Rusinko brought cherries to the June 30, 2010 open issue meeting, and
5 after Dr. Tamosaitis asked if he could have some, Rusinko stated to Dr. Tamosaitis:
6 “Maybe you will choke on the cherries,” or words to that effect.

7
8 2.108 Others attending the June 30, 2010 open issue meeting provided issue
9 lists, but none were as extensive as Dr. Tamosaitis’ two safety issue lists. Also, very
10 few of the issues suggested by others dealt directly with process issues as did Dr.
11 Tamosaitis’ two safety issue lists.

12 2.109 Rusinko attempted to dismiss Dr. Tamosaitis’ concerns at the June 30,
13 2010 open issue meeting by stating that she thought most of the issues listed on the
14 two safety issue lists were already closed.

15
16 2.110 One or more persons at the June 30, 2010 open issue meeting expressed
17 disagreement with Rusinko’s characterization of Dr. Tamosaitis’ two safety issue lists
18 as being “mostly closed.”

19 2.111 At the June 30, 2010 open issue meeting Dr. Tamosaitis also raised the
20 same concern he had raised the year before, which was that Bechtel should maintain
21 one list of open issues for issue tracking; otherwise, the tracking of unresolved issues
22 is nearly impossible without one list being created and maintained.

23
24 2.112 The 2010 Tamosaitis Safety Issue List contained several items that were
25 needed to ensure the tanks mixed safely, efficiently, and effectively. These included

1 level control, mixer operation, sampling, heel pump out, and pumpout of the actual
2 materials over the range of operating conditions. Dr. Tamosaitis suggested that these
3 items could be tested as part of a large-scale demonstration test (“large-scale
4 demonstration test”). The large-scale demonstration test had been previously
5 discussed by Bechtel, URS, and DOE; however, the estimated cost for the test was
6 about \$150 million and was a major concern to Bechtel. Also on the list were
7 unresolved items from M12 and M6.
8

9 2.113 While the U.S. Government pays for everything in the projects at
10 Hanford, if a task can be shown to be within the technical scope of the contractor, the
11 cost goes against the contractor’s performance and their fees and earnings are then
12 penalized for poor cost performance. On information and belief, Bechtel did not want
13 to identify technical issues since the issues could be tied to Bechtel and Bechtel then
14 would be financially penalized.
15

16 2.114 At the June 30, 2010 open issue meeting Rusinko suggested that the two
17 safety issue lists should be “combined and regrouped.” Several persons present at the
18 meeting expressed disagreement with Rusinko’s approach to combining and
19 regrouping the two safety issue lists because as issues are combined, the details and
20 reasoning is lost and forgotten.
21

22 2.115 At the June 30, 2010 open issue meeting, a recommendation was made
23 by URS Manager Donna Busche, that a process hazards operations review should be
24 conducted to identify what issues remained open regarding the WTP. Rusinko stated
25 that the review could be done “if it is quick and short.” Busche stated that it would be

1 long and tedious, as it should be to be effective. Rusinko again stated, “make it quick
2 and short.”

3 2.116 Soon after Dr. Tamosaitis was removed from the WTP, Greg Ashley
4 told Donna Busche that she no longer had to review Dr. Tamosaitis’ list because he
5 was reassigned. A174-175. Ms. Busche stated she needed to do the review anyway.
6 A175.

7 2.117 After the June 30, 2010 open issue meeting ended, Dr. Tamosaitis sent
8 an email to Busche offering his support of the process hazards review (“July 1, 2010
9 Tamosaitis process hazards review email”). Dr. Tamosaitis also requested information
10 on how Dr. Tamosaitis and his Research and Technology group could support it. Dr.
11 Tamosaitis copied Ashley and Gay on the email.
12

13 2.118 Dr. Tamosaitis left the work site early in the afternoon of July 1, 2010.

14 2.119 On July 1, 2010, Dr. Tamosaitis sent emails to consultants working on
15 the M3 mixing issue hoping they would state their opinions on aspects of Bechtel’s
16 M3 management approach under Russo (“June 2010 Tamosaitis consultant emails”).
17 A114. On or about July 1, 2010, Russo and Gay became aware of the June 2010
18 Tamosaitis consultant emails.
19

20
21 **ON JULY 1, 2010 DOE, BECHTEL AND URS CONSPIRE TO REMOVE DR.
22 TAMOSAITIS FROM HANFORD**

23 2.120 On July 2, 2010, Dr. Tamosaitis was scheduled to return to work for a
24 7:00 a.m. meeting, which was a planned vacation day for Dr. Tamosaitis. The purpose
25

1 of the July 2, 2010 meeting was to discuss the final details of the movement of Dr.
2 Tamosaitis' Research and Technology group to the operations department at the WTP.

3 2.121 On July 2, 2010, Dr. Tamosaitis arrived at work for the 7:00 a.m.
4 meeting ("July 2, 2010 termination meeting"). One of his managers accompanied him.
5 Before the meeting started, URS Operations Manager Dennis Hayes, told his manager
6 to leave and that he was not needed. When asked why, Hayes said that the topic of the
7 meeting had changed or words to that effect.
8

9 2.122 Hayes then told Dr. Tamosaitis to go into his office. Present in the
10 office was Patrick Ellis, acting for the URS Human Relations manager (Krumm).
11 Hayes immediately told Dr. Tamosaitis that he was fired from the WTP Project as of
12 that moment or words to that effect.

13 2.123 At the July 2, 2010 termination meeting, Hayes directed Dr. Tamosaitis
14 to return his badge, cell phone, and Blackberry, and to leave the site immediately, or
15 words to that effect.
16

17 2.124 At the July 2, 2010 termination meeting, Hayes stated to Dr. Tamosaitis
18 that the decision to remove Dr. Tamosaitis from the project was made the night before,
19 on July 1, 2010, or words to that effect.

20 2.125 At the July 2, 2010 termination meeting, Hayes stated to Dr. Tamosaitis
21 that, "Bechtel Manager Frank Russo wants you off the project immediately" or words
22 to that effect.
23

24 2.126 At the July 2, 2010 termination meeting, Hayes again told Dr.
25 Tamosaitis to return his badge, phone, and Blackberry and to leave the site or words to

1 that effect, and in response Dr. Tamosaitis returned both his badge and phone as he did
2 not have his Blackberry with him

3 2.127 At the July 2, 2010 termination meeting, Hayes told Dr. Tamosaitis that
4 Dr. Tamosaitis could not go to his office to retrieve any personal belongings or words
5 to that effect. Hayes told Dr. Tamosaitis that Dr. Tamosaitis must leave [Hanford]
6 immediately and talk to no one or words to that effect.

7
8 2.128 At the July 2, 2010 termination meeting, several times Dr. Tamosaitis
9 asked Hayes and Ellis for an explanation for his removal from the project. Hayes said
10 he had no explanation and was only doing what he had been directed to do or words to
11 that effect. Ellis made the similar statements. No reason was provided to Dr.
12 Tamosaitis for why this action was being taken.

13 2.129 At the July 2, 2010 termination meeting, Dr. Tamosaitis asked if he
14 could go by the desk of a person on the same floor and pay the dog-sitting fee to a
15 secretary for her daughter's effort to watch his dog over the July 4th weekend. Hayes
16 told Dr. Tamosaitis that he could not do that and must leave the building immediately
17 under the escort of Ellis or words to that effect. Ellis was in URS Human Resources
18 and was acting as the URS Human Resources Manager. He was present for the
19 complete July 2, 2010 termination meeting.

20
21 2.130 Ellis escorted Dr. Tamosaitis out of the building. When he reached the
22 main door of the building, Dr. Tamosaitis again asked Ellis what was going on and
23 why was this happening? Ellis again told Dr. Tamosaitis that he did not have any
24 information and knew nothing or words to that effect.
25

1 2.131 After being escorted out of the building by Ellis, Dr. Tamosaitis left
2 Hanford and returned to his home.

3 2.132 Neither Hayes nor Ellis took action to oppose Dr. Tamosaitis' removal
4 from Hanford.

5 2.133 Knudson, Russo, Gay, and Sain initiated or approved Dr. Tamosaitis'
6 removal because they believed that his issuance of the 2010 Tamosaitis Safety Issue
7 List and the June 2010 Tamosaitis consultant emails could jeopardize M3 closure.
8
9 A115-127.

10 2.134 Despite the efforts of Knudson, Russo, Gay, and Sain, in July 2010,
11 PNNL issued a vulnerabilities email that raised many of the concerns held by Dr.
12 Tamosaits. A128-139.

13 2.135 From that point on, DOE, Bechtel and URS consulted and sought to
14 speak with one voice in opposing Dr. Tamosaitis' efforts for reinstatement into his
15 WTP position. A140-152.

16 2.136 Having recognized that removal of Dr. Tamosaitis was wrong, an
17 agreement was reached for his return to the WTP, but was quashed by Knudson and
18 Russo after learning that Dr. Tamosaitis was "a whistleblower." A205-232.

19
20 **URS MANAGERS GAY AND SAIN TAKE NO ACTION**
21 **TO PROTECT DR. TAMOSAITS FROM RETALIATION FOR HIS**
22 **WHISTLEBLOWER ACTIVITY**

23 2.137 On July 2, 2010, from his home, Dr. Tamosaitis spoke with Leo Sain,
24 the URS Senior Vice President in Aiken, South Carolina, by telephone ("July 2, 2010
25 Tamosaitis/Sain telephone call"). Sain stated that he could not elaborate on why Dr.

1 Tamosaitis was removed from the WTP Project or words to that effect. Prior to the
2 July 2, 2010 Tamosaitis/Sain telephone call, Sain had been briefed about Tamosaitis'
3 removal from Hanford.

4 2.138 Sain asked Dr. Tamosaitis whether he had recommended that a larger
5 scale mixing test was needed [large-scale demonstration test] or words to that effect.
6 Dr. Tamosaitis stated that he did not state that large-scale demonstration test was
7 needed for mixing, however, similar to what was said by Bechtel engineering at the
8 meeting, it could be used to test other systems. The large-scale demonstration test was
9 referred to on the 2010 Tamosaitis Safety Issue List, which Dr. Tamosaitis had
10 referred to on the 2010 Tamosaitis Safety Issue List, which Dr. Tamosaitis had
11 disseminated at the July 1, 2010 open issue meeting.

12 2.139 In the July 2, 2010 Tamosaitis/Sain telephone call, Sain directed Dr.
13 Tamosaitis to come to Aiken South Carolina on July 7, 2010 to discuss his termination
14 from Hanford and an "opportunity" or words to that effect.

15 2.140 After several attempts, Dr. Tamosaitis was able to reach Gay by
16 telephone on July 2, 2010 ("July 2, 2010 Tamosaitis/Gay telephone call"). Gay stated
17 that he was on vacation, but would be back late Monday, July 5, 2010 and contact Dr.
18 Tamosaitis then or word to that effect.

19 2.141 In the July 2, 2010 Tamosaitis/Gay telephone call, Gay stated that he
20 had very little information and could only offer that DOE had become very upset with
21 an email that he had sent out [the June 2010 Tamosaitis consultant emails] or words to
22 that effect. Gay stated that someone on the outside had contacted someone in DOE
23 and expressed concern over the email or words to that effect. This indicated to Dr.
24
25

1 Tamosaitis, that similar to Sain, Gay had been actively involved in the termination
2 decision.

3 2.142 In the July 2, 2010 Tamosaitis/Gay phone call, Gay stated that he did
4 not have enough information to discuss the termination action.

5 2.143 In the July 2, 2010 Tamosaitis/Gay telephone call, Gay told Dr.
6 Tamosaitis that he would contact him late on Monday when he returned to Richland
7 and that he should have a good weekend, or words to that effect.

8 2.144 On July 2, 2010, Greg Ashley directed the creation and dissemination of
9 a second organizational announcement (“second Research and Technology
10 organizational announcement”). The second Research and Technology organizational
11 announcement issued by Greg Ashley was the same as Edwards’ first Research and
12 Technology organizational announcement, but had removed Dr. Tamosaitis’ name and
13 only stated that the Research and Technology group was moving to Operations.
14

15 2.145 Neither Gay nor Sain took action to oppose Dr. Tamosaitis’ removal
16 from Hanford.
17

18 **URS HR MANAGER KRUMM TAKES NO ACTION**
19 **TO PROTECT DR. TAMOSAISIS FROM RETALIATION FOR HIS**
20 **WHISTLEBLOWER ACTIVITY**

21 2.146 On July 5, 2010, at about 2:00 p.m., URS HR Manager Krumm
22 contacted Dr. Tamosaitis to schedule a meeting later that day with Gay. In the
23 conversation, Dr. Tamosaitis asked Krumm for a written explanation as to why he was
24 terminated from Hanford. Krumm said she had no information that she could provide
25

1 or words to that effect. Krumm further stated that things had not been handled
2 properly.

3 2.147 Krumm took no action to oppose Dr. Tamosaitis' removal from
4 Hanford.

5 **URS MANAGERS SAIN AND HOLLAN AGAIN TAKE NO ACTION**
6 **TO PROTECT DR. TAMOSAITIS FROM RETALIATION FOR HIS**
7 **WHISTLEBLOWER ACTIVITY**

8 2.148 On July 7, 2010, Dr. Tamosaitis met with Sain in Aiken, South Carolina
9 ("Aiken meeting"). Also in attendance was URS Human Resources Manager Dave
10 Hollan. The Aiken meeting involved meetings in the morning and the afternoon with
11 Tamosaitis, Sain and Hollan as well as short separate meetings between Tamosaitis
12 and Sain, and Tamosaitis and Hollan.

13 2.149 At the Aiken meeting, Dr. Tamosaitis asked why he was there and why
14 he had been terminated [from Hanford]. Both Sain and Hollan stated that they had
15 looked at the [June 2010 Tamosaitis consultant] emails and did not see anything
16 wrong.
17

18 2.150 Dr. Tamosaitis asked if he could read the DOE response to the June
19 2010 Tamosaitis consultant emails and was told "no" by Sain. Sain would only read
20 him one or two sentences out of it or words to that effect.

21 2.151 At the Aiken meeting, Sain told Dr. Tamosaitis that if he really tried he
22 could read something into the [June 2010 Tamosaitis consultant] emails that could be
23 construed negatively or words to that effect.
24
25

1 2.152 At the Aiken meeting, Dr. Tamosaitis gave Sain and Hollan the
2 background of the consultant-authored emails leading to the June 2010 Tamosaitis
3 consultant emails. Again, both Sain and Hollan stated that they did not see anything
4 wrong with the [June 2010 Tamosaitis consultant] emails but “URS did whatever
5 Bechtel said” since URS was a subcontractor or words to that effect. At the Aiken
6 meeting, Dr. Tamosaitis questioned the term “subcontractor” because of the contract
7 fee agreement in which URS obtains 50% of all Project earnings.
8

9 2.153 At the Aiken meeting Sain and/or Hollan told Dr. Tamosaitis that “they
10 (URS) would have handled it differently but they do what Bechtel says” or words to
11 that effect.

12 2.154 At the Aiken meeting, Sain told Dr. Tamosaitis that he had to “forget the
13 issues” or words to that effect. Dr. Tamosaitis understood “forget the issues” to mean
14 the issues he had raised as part of the Tamosaitis whistleblower activities. Dr.
15 Tamosaitis pointed out to Sain that identifying issues was part of Dr. Tamosaitis’ job
16 scope. Dr. Tamosaitis asked Sain if he was not to do his job. Sain told Dr. Tamosaitis
17 to bring the issues to him or words to that effect.
18

19 2.155 On July 20, 2010, Sain contacted Dr. Tamosaitis by telephone. In that
20 call, Sain said that, “Russo made a mistake” or words to that effect, and said that any
21 “issues” should be brought to him or words to that effect. He also said, “Hell Walt,
22 haven’t you ever made a mistake?”
23
24
25

1 **GAY BLAMES RUSSO AND DOE FOR DR. TAMOSAITIS' REMOVAL**
2 **FROM HANFORD**

3 2.156 At a meeting held on July 12, 2010 ("July 12, 2010 URS meeting"), in
4 the presence of Dr. Tamosaitis, Hayes, and Krumm, Gay stated that Dr. Tamosaitis
5 was removed from the WTP Project at the direction of Bechtel WTP Project Manager
6 Frank Russo and DOE WTP Federal Project Director Dale Knudson or words to that
7 effect.

8 2.157 At the July 12, 2010 URS meeting, Gay stated that he had not been
9 involved and that Hayes had been the leading URS person to participate in the action
10 or words to that effect. Dr. Tamosaitis then questioned Hayes as to the basis for his
11 termination. Hayes stated that he did not have to answer Dr. Tamosaitis' questions as
12 he (Hayes) was only there to observe and that Dr. Tamosaitis "was not in charge of the
13 meeting."

14 2.158 At the July 12, 2010 URS meeting, Gay said Bechtel had the right to
15 terminate Dr. Tamosaitis as stated in the contract or words to that effect. Dr.
16 Tamosaitis said he had read the contract, had not seen this provision, and questioned
17 Gay as to where it was. Gay said he was not sure, or words to that effect.

18 2.159 Dr. Tamosaitis then asked for a copy of the contract that allegedly gave
19 Bechtel this right to terminate Dr. Tamosaitis from the WTP project ("Gay's alleged
20 contract"). Krumm said she would take it under advisement or words to that effect.
21 Gay's alleged contract statement has not been provided to Dr. Tamosaitis.

22 2.160 Dr. Tamosaitis also asked for a written and signed reason for his
23 termination [from Hanford]. Krumm said she would take that under advisement or
24
25

1 words to that effect. No written and signed reason for his termination has been
2 provided to Dr. Tamosaitis.

3 2.161 At the July 12, 2010 URS meeting, Gay read from a prepared script
4 except for briefly answering Dr. Tamosaitis' questions. Dr. Tamosaitis asked Gay as
5 to why his termination had occurred. Gay first stated it was a result of poor customer
6 attitude or words to that effect. Dr. Tamosaitis objected and asked Gay if his attitude
7 was any worse than others including Gay. Gay appeared to acknowledge that it was
8 not.
9

10 2.162 At the July 12, 2010 URS meeting, Gay then said the reason was poor
11 performance or words to that effect. Dr. Tamosaitis objected to this and asked where
12 it was documented as this was the first time he had heard this. Gay did not reply to
13 this direct question.

14 2.163 At the July 12, 2010 URS meeting, Dr. Tamosaitis then asked Gay why
15 Ashley was telling people that he (Dr. Tamosaitis) was going to be transferred to
16 England. Gay said he had been pursuing this or words to that effect. Gay admitted
17 that he had not discussed a transfer to England with Dr. Tamosaitis but had looked
18 into it anyway or words to that effect.
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20 2.164 After the July 12, 2010 URS meeting, Krumm told Dr. Tamosaitis that it
21 was a "bad situation and that things had not been handled properly but her hands were
22 tied" or words to that effect.
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DR. TAMOSAITIS CONTACTS THE DNFSB

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2 2.165 On or about July 16, 2010, Dr. Tamosaitis sent a letter to the DNFSB
3 outlining his concerns regarding WTP engineering issues and the manner in which the
4 safety of the nuclear and chemical processes are being handled. Dr. Tamosaitis also
5 included concerns in the DNFSB letter about his punitive and retaliatory termination
6 in his letter.

7
8 2.166 The DNFSB placed a litigation hold on all relevant documents directing
9 the defendants not to destroy or otherwise dispose of such documents.

10 **DR. TAMOSAITIS' NEW MANAGER THREATENS HIM WITH MORE**
11 **RETALIATION**

12 2.167 On July 19, 2010, over lunch Dr. Tamosaitis' new supervisor, Duane
13 Schmoker, told Dr. Tamosaitis that Dr. Tamosaitis would be better off dropping the
14 issue of his termination from Hanford, or words to that effect, and stated: "If you go to
15 court, Bechtel is going to win," or words to that effect. Schmoker further stated: "If
16 you pursue this, your longevity is in danger." Dr. Tamosaitis asked if this meant his
17 life, health, or job. Schmoker made no reply.

18 **DR. TAMOSAITS REMAINS EMPLOYED WITHOUT A**
19 **MEANINGUL ASSIGNMENT**

20 2.168 Dr. Tamosaitis has been reassigned to a URS facility off Hanford, in
21 downtown Richland, in a non-supervisory role.

22 2.169 Dr. Tamosaitis has been given an office in the basement, which he
23 shares with the main copying machine.
24
25

- 1 4.5 Injunctive relief;
- 2 4.6 Compensation for the tax penalty associated with any recovery to be
3 paid by URS;
- 4 4.7 Reinstatement to a leadership position at the WTP;
- 5 4.8 An order enjoining the DOE from placing contractor employees into
6 DOE positions with administrative oversight responsibilities as was done with
7 Knudson;
- 8 4.9 An order directing DOE to develop a plan within six months from the
9 date of any judgment, verdict, or order, to ensure that DOE managers conducting
10 oversight at nuclear facilities properly balance the need to meet deadlines with the
11 need to ensure that decisions are made based on sound science and engineering
12 principles. The Court will review the adequacy of such a plan and accept comments
13 from the plaintiff in that regard;
- 14 4.10 An order requiring DOE to publish within six months from the date of
15 any judgment, verdict, or order, procedures to be incorporated into all DOE third party
16 contracts, prohibiting contractors from pressuring or otherwise coercing employees or
17 other contractors to take positions not based on scientific or engineer principles.
18 Scientists and engineers must be free to state their professional positions without fear
19 of retaliation, and without pressure to speak in one voice;
- 20 4.11 An order enjoining DOE from pressuring or otherwise coercing
21 employees or other contractors to take positions not based on scientific or engineer
22 principles. Scientists and engineers must be free to state their professional positions
23 without fear of retaliation, and without pressure to speak in one voice; and
- 24 4.12 Whatever further and additional relief the court shall deem just and
25 equitable.

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V. DEMAND FOR JURY

5.1 Plaintiff hereby demands that this case be tried before a jury of twelve.

DATED this 9th day of November, 2011.

THE SHERIDAN LAW FIRM, P.S.

By: _____
John P. Sheridan, WSBA # 21473