

Planning For The Future Workforce Across The Complex

Hello, my name is Herman Potter. I am the President for United Steelworkers Local 689. We currently have approximately 850 United Steelworkers who work at the former DOE Uranium Enrichment Plant in Piketon, Ohio. Those members are currently performing work in D&D, site service work and operations for three primary contractors. They are Fluor Babcock Portsmouth (FBP), Wastren Energx Mission Support (WEMS) and Babcock Wilcox Conversion Services (BWCS).

The site Steelworkers are committed to pursue three primary goals. They are

1. To ensure the success for USW members by ensuring success of the contractors.
2. To ensure success of the community by continuing to influence the political delegations as to the needs of the DOE stakeholders.
3. To ensure assistance in developing a high quality and efficient workforce.

This local is embarking on a number of initiatives to achieve these goals that we believe will help everyone associated with doing work at the site and community. It is important to mention this because there are three primary issues that are hindering this approach.

One challenge is how to use and replace an aging workforce. The average age is 53 and a large number plan to retire within the next 5-10 years. The site has relied heavily on the skill and process knowledge of the workforce. Typically the management is being hired from other sites and other companies. They may have "nuclear cleanup knowledge"; however, they do not have the site "process knowledge" that is relied so heavily upon. Daily, I hear of reports where one of our members recall their years of past training and process knowledge in order to avert what could be a severe incident or violation. We need to cultivate the new workforce. The current collective bargaining agreements allow for internal bidding within classification and annual realignment, which provides a benefit of cross training. This sometimes is looked upon as a negative amongst the front line management because they have to manage the individuals training matrices with a bit more rigor. Site policies and practices need to be established in order to develop these skills and knowledge in the younger workforce. Some methods may be to include the more senior workers to enhance our current "On the Job" training programs and hourly technical trainer and planner programs.

The second issue is related to Health and Safety Enforcement. The DOE Office of Enforcement is clearly understaffed and underfunded. In June of 2010, we filed two enforcement complaints with the office against a prior contractor. One was related to a potential occupational exposure and the other was a deviation from the site health and safety plan. We have always advocated for external regulation of DOE sites for obvious reasons. However, we used these two complaints to test the enforcement process. Prior to filing, we told the DOE during our USW Atomic Energy Workers Council meetings what we intended to do. We stated in the complaints themselves what was going to happen with the complaint and how the DOE would respond.

Over a period of more than a year it appears that we were correct and had much more insight than what we actually would deserve.

I am happy to say that Glenn S. Podonsky, Chief of HSS, initiated actions that generated a report that identified and made recommendations for many of the findings. This provides us the opportunity to address the health and safety issues prior to involving enforcement, which are our intentions. The report stated a number of recommendations that identified areas of meaningful worker involvement to be integrated into the health and safety management systems. The current site contractors seem to be pursuing these recommendations.

The DOE needs to improve the confidence in the DOE and the DOE enforcement process. They need to establish policies that guarantee transparency. We have made formal requests for documents related to one of the complaints mentioned earlier. To date, we have not received those requested documents more than a year later. In fact, we were asked and we complied with filing a Freedom of Information Act (FOIA) request. We were denied that information. The fact that we have to jump through hoops in order to obtain that which should have been provided is a clear deterrent that destroys any confidence in a system that claims to encourage the identification and address concerns. This policy clearly does not support the ISMS directives of worker involvement and the partnerships between DOE, management and labor.

The DOE Office of Enforcement relies heavily on the site DOE personnel and the designated enforcement liaison. These representatives work under the Office of Environmental Management. This office clearly has a different mission than the office of enforcement. Additionally, delays in health and safety complaint responses, perceptions of being too close to contractors, refusal to provide documentation and alleged sanitizing of documents has created no confidence in enforcement amongst the workforce. This creates an extreme challenge for current contractors. Optimistically, we are in the process of improving the applicable management systems in order to avoid incidents and resolve issues prior to making the decision to initiate the enforcement process. It is unfortunate that this is somewhat of a culmination of the health and safety complaints filed more than a year ago.

The third issue is related to the DOE policies in regard to contract procurement and the impact on collective bargaining agreements. The DOE is making decisions regarding policies and interpretations contrary to the law in order to reduce their financial obligations. There appears to be no consideration regarding the current management/labor collective bargaining agreements. There appears to be arrogance and disregard for the laws established by our legislators. This will impact current and future contracts. The DOE's reinterpretation of the law has allowed the loss of expected pension benefits for hundreds of bargaining and non-bargaining unit employees at the Piketon, Ohio site. Individually, as a result of this interpretation, a worker will lose approximately \$150K to \$500K, if they live to age 75. The DOE's reinterpretation of the law has eliminated the "grandfathered" status of many of the workers, thus eliminating post-retirement health care obligations. It is obvious the purpose is to eliminate financial obligations regardless of the negative impacts. In fact, during the current transition, accrued vacation time

was literally stolen from those who previously worked for the United States Enrichment Corporation and Lata Parallax.

It is very clear that the contractors are not making financial decisions (i.e., assumptions of existing contracts, changes in benefit transition plans, hiring, etc.) without the approval of the DOE. Changes in the scope of work, rebidding contracts and changing interpretations of laws and policies negatively impact collective bargaining for long term contracts. The DOE practice of changing scope and rebidding contracts without the “assumption” direction will impact negotiations of future collective bargaining agreements. The determination to re-scope contracts without assuming the existing collective bargaining agreements removes the purpose of long term collective bargaining agreements. Long term contracts permit better financial management of future work. This process prevents labor and management to compensate in the later years for concessions agreed to in the earlier years. This may result in contracts no longer than 1 year terms. Also, by re-scoping the work and assigning to another contractor without rebidding seems to challenge the legality of the contract procurement process.

I recently read a statement that transition at the Piketon site went better than expected. I would like to let you know that it is not over. This local has been asked to participate in two pending class action lawsuits regarding pensions and continuity of benefits. The same pension and benefit rights promised to be secure to the Piketon site by the current Political Administration. The USW International has informed the DOE that if these issues are not resolved, they will file a lawsuit, on our behalf, identifying the DOE as a “third party alter ego” status. This transition has created workforce chaos. This chaos prevents labor from working on issues that would positively impact the community by pursuing redevelopment, enhanced training, and community involvement.

In closing, I would like to mention something positive. The current site contractors and labor seem to be working well together. Although there are clear differences, there is a perceived intent between all parties, even the site DOE to address the issues. This identifies that maybe the real problems are created by the policies established by the upper management of the DOE. It would have been appropriate if these individuals would have reached out to their stakeholders on developing means to address these issues.




Department of Energy

Washington, DC 20585

September 28, 2011

**MEMORANDUM FOR WILLIAM E. MURPHIE
MANAGER
PORTSMOUTH/PADUCAH
PROJECT OFFICE**

FROM: PATRICIA R. WORTHINGTON, PhD 
**DIRECTOR
OFFICE OF HEALTH AND SAFETY
OFFICE OF HEALTH, SAFETY AND SECURITY**

**SUBJECT: Office of Worker Safety and Health Assistance Visit to
Portsmouth Gaseous Diffusion Plant**

The Office of Worker Safety and Health Assistance recently performed an onsite visit to the Portsmouth Gaseous Diffusion Plant. This visit was performed in response to concerns raised by workers in the wake of a potential exposure last year during waste processing and sorting operations. The Office of Worker Safety and Health Assistance Team (Team) consisted of four personnel with extensive backgrounds in industrial hygiene, radiological protection, integrated safety management, and safety culture. During its review, the Team did not identify any unknown hazards, but they did identify a number of areas where Fluor B&W Portsmouth LLC (FBP) can make improvements in its processes, procedures, and workforce involvement.

The attached draft report contains the Team's observations and recommendations. We are requesting that your office, FBP, and the United Steel Workers Safety Representatives review the draft report and provide us with your comments regarding the factual accuracy within 10 working days. After receiving comments, we will revise the report as necessary and provide you with the final report as soon as possible.

Comments or questions should be directed to Bradley K. Davy, of my staff, at (301) 903-2473 or by e-mail at brad.davy@hq.doe.gov. Thank you for your assistance, and I look forward to working with you.

Attachment

cc w/attachment:

James Jameson, Fluor B&W Portsmouth LLC

Vincent Adams, PPPO

Herman Potter, USW

Glenn S. Podonsky, HS-1

John S. Boulden III, HS-40

Steven C. Simonson, HS-40

Kevin L. Dressman, HS-41



Trip Report
Office of Worker Safety and Health Assistance (HS-12)
Portsmouth Gaseous Diffusion Plant
August 8-12, 2011

Background

In June 2010, the Office of Health, Safety and Security (HSS) received two "Request for Investigation" of worker health and safety complaints from the United Steel Workers (USW) local at the Portsmouth Gaseous Diffusion Plant (PORTS). One of the complaints stemmed from worker concerns related to processing waste materials that had been stored in converter shells (old process equipment) and potential exposures to workers of unrecognized hazards. HSS performed a review of the circumstances surrounding the requests and did not identify any noncompliance with Title 10, Code of Federal Regulations, Part 851 (10 C.F.R. 851), that warranted further enforcement investigation.

In January 2011, the USW Local President responded with a written letter disagreeing with that position. Los Alamos Technical Associates/Parallax LLC (LPP), the contractor performing cleanup work at PORTS, was replaced in March 2011 by Fluor B&W Portsmouth LLC (FBP). In the ensuing months, USW has had verbal communications with HSS that indicate the underlying issues leading to USW safety concerns may not have been adequately addressed during the contract transition period. The Chief HSS Officer met with site staff and Unions on July 22, 2011, during a visit to Portsmouth. As a result of these discussions, HSS assembled a team (Team) and conducted a short assist visit to gain a better understanding of the workers' concerns and help identify workable solutions to address those concerns.

The Team reviewed past practices, site history, the HSS review of the Request for Investigation, and focused on the effectiveness of the current hazard identification and analysis processes, adequacy of identified controls and communication of those controls to workers, and a limited assessment of the overall safety culture of the workforce.

Observations

The Team reviewed material provided by the HSS Office of Enforcement and Oversight (HS-40) related to the converter shell processing event. HS-40 identified six specific recommendations in the wake of its initial review. Since the contract transition had already begun, those observations were not transmitted to Portsmouth Paducah Project Office, LPP, or FBP. The six recommendations were as follows:

- LPP should increase the effectiveness of initial assessments prior to the start of work.
- LPP should perform personal monitoring (i.e., worker breathing zone) on a regular basis for airborne contaminants released during operations.
- LPP should require the use of personal protective equipment (PPE), including respirators in the event of unknown materials or concentrations.
- LPP should require consistent use of PPE for all personnel in the work area and exercise better work area control.

- LPP should maintain better inventory documentation of materials removed from the converter shells.
- LPP should ensure managers at all levels comply with Department of Energy (DOE) safety and health program requirements and assessment findings.

In light of the concerns raised by USW, the Team reviewed additional data and information from the initial investigations associated with a worker that complained of lesions in his mouth and a skin rash following the event. LPP provided sampling data of the dusts from a second converter shell that was processed. Those samples were analyzed for bulk metals and provided to an occupational medical provider that determined none of those metals would have caused the symptoms experienced by the worker. Unfortunately, LPP did not inventory or catalog items in the first converter shell. Workers interviewed by this Team indicated that the waste in the converter shell may have included other unidentified substances that were not included in the initial hazard assessments or any of the following samples. All the samples focused only on dust, because the workers all identified a dust cloud. At no point was an evaluation documented of other chemical vapors that might have been released along with the dust cloud during the event. The absence of a documented initial assessment for the potential chemicals present, the lack of respiratory protection, and the onset of symptoms within 24 hours after the exposure indicates a reasonable possibility that the worker's condition could have been caused by an exposure from the contents of the converter shell. Further, the actual cause of the worker's symptoms has never been identified.

During the transition process from LPP and USEC Inc. (USEC), FBP has attempted to minimize worker confusion and stress by continuing to work under the existing procedures in place at both companies. These procedures were reviewed and "blue sheeted" to approve them for continued use by the same personnel transferred from the previous contractor. This has essentially led to continuation of the existing weaknesses under LPP. Observations during this assessment indicate that those weaknesses remain and should be addressed by the current contractor as expeditiously as possible. Many of the following observations relate to these existing weaknesses.

The Team reviewed the hazard analysis process used by FBP to determine if it includes workers at the beginning of the planning process, incorporates their experience and knowledge, and accounts for historical knowledge of other hazardous materials that were used at the site. In general, Activity Hazard Analyses (AHA) reviewed by the Team appropriately focused on the specific tasks being performed by workers, and included by reference the general site AHAs. This approach is an efficient way to ensure that all hazards are addressed, but ensure the work planning process focuses on those aspects of the work at hand. The USEC procedure references the Occupational Safety and Health Administration (OSHA) 3071, "Job Hazards Analysis" (JHA), which is a detailed approach recommended by OSHA for performing task-level hazards analysis.

Generally, workers are asked to review the AHA, JHA, and work package, but these reviews occur well after the planning process is essentially complete. In some cases workers were involved at the outset. Other experienced workers report that they have offered their assistance in the past but have not been used. During the recent transition, very few new hazard analyses

were initiated. Many AHAs currently in use are legacy analyses inherited from the former contractor. The FBP procedure for AHAs recommends including work crew members in AHA development when possible, but does not require their participation. The USEC JHA procedure requires managers to "consult" with workers that may be performing the task. The USEC procedure does identify worker responsibilities, but does not clearly require their involvement early in the process.

Radiological hazards are not analyzed using the AHA/JHA processes, but are addressed during Radiological Work Permit (RWP) development. The former LPP RWP, now FBP process and associated radiological hazard analyses (As Low As Reasonably Achievable reviews, etc.) do not require worker involvement. The USEC RWP procedure provides few requirements for the content of RWPs, and RWPs reviewed by the Team provided little or no information to the workers regarding radiological hazards and controls (levels, limits, exposure data, specific controls, etc.). The FBP procedure for RWP development provides much more detail and, in general, has resulted in better quality and completeness of RWPs.

USEC work also uses a Safety and Health Permit to identify hazards and controls. This process does not document any analysis of hazards and, in some cases, identified controls that conflicted with controls specified in other work control documents (i.e., RWP, JHA), or that were not identified in these documents or applicable to the work at hand (hard hats, etc.).

For both JHAs (USEC process) and AHAs (LPP process), there was insufficient analysis captured in the final document to clearly understand the selection of controls. For example, one job observed by the Team entailed the removal of the Building 344 concrete pad. The building had been a beryllium (Be) area, and beryllium had been identified on the concrete. FBP had applied a fixative to the beryllium-contaminated portions and was using water to minimize dust during breakup and removal. Sampling after application of the fixative showed removable beryllium was below the DOE housekeeping standard, but the AHA did not address the effectiveness of the mitigation once workers began breaking up the concrete. The supervisor and safety personnel believed the manufacturer identified that the fixative was effective even when the concrete was being broken up. Assumptions made by safety personnel regarding work methods to minimize risk were not captured in the work package. Validation sampling (monitoring of potential airborne contaminants) for beryllium was not conducted during the work to break up the actual areas of concrete identified as being beryllium-contaminated. Analyses provided to the Team after the assessment demonstrated that the controls and mitigation should be effective, but the potential for some airborne beryllium could not be ruled out or relied upon to replace validation sampling. The initial prejob briefing observed by the Team did not discuss potential beryllium hazard or inform workers in the event that beryllium-affected individuals had been assigned to the work crew. When the Team raised the question about beryllium to the work supervisor, a change was made to the prejob briefing to include a discussion of the potential for beryllium at the site.

The Team attempted to determine if workers are potentially exposed to other hazards that have not been adequately identified and analyzed using approved processes in the Worker Safety and Health Plan and existing work control procedures. Although analyses could be improved in

some areas (Be, radiological, etc.), the Team did not identify any new hazards that workers might be exposed to that were not already known.

FBP has not determined the extent or quality of data available related to potential worker exposure needed to demonstrate an effective baseline exposure assessment that meets the requirements of 10 C.F.R. 851. The approved worker safety and health plans only refer to processes to assess hazards rather than a consolidated, integrated baseline exposure assessment. USEC prepared a Worker Safety and Health program that only stated a process exists. Similarly, the LPP worker safety and health plan only stated a process exists. No consolidated or integrated exposure data that would constitute a baseline for activities being performed is referenced in the worker safety and health plan. FBP did not perform a gap analysis during transition to identify hazards included or missing from existing industrial hygiene data, which could be used to constitute the baseline.

FBP inherited a significant base of radiological technical bases for monitoring and sampling criteria. Those technical basis documents were developed over many years of operating history and experience at the gaseous diffusion plants. That experience has shown that the chemical toxicity of uranium has normally been far more restrictive than the radiological considerations primarily due to the solubility of the uranium compounds encountered by workers. As FBP moves into more active demolition and disposal, the uranium compounds encountered are likely to be significantly different, and the radiological consequences of exposure will change. The technical basis documents have not been reviewed or revised to determine whether fundamental assumptions regarding uranium toxicity and solubility need to be changed.

Accident and incident investigations can be an effective means of identifying unknown hazards or gaps in the accident analysis process. Meaningful involvement and participation by trained workers on investigation teams often provides the investigators with additional insight. LPP did not include significant worker participation in these investigations, and that practice has continued under FBP. Workers have expressed a strong desire to be trained, and then participate in investigations and critiques. Identifying and training select workers, and then including them on investigations will help FBP gain credibility with the workers.

The Team interviewed workers and observed work to determine if workers are able, willing, and encouraged to raise safety concerns without fear of reprisal. Workers have access to the FBP employee concerns program (I Care/We Care). A potential stumbling block to workers to use that system is that former USEC workers lose computer access when they transfer to FBP. These workers were initially briefed on I Care/We Care, but might need refresher training or more active communication regarding how to use that system without computer access.

Workers are frequently asked during prejob briefs if "they have any issues," but FBP supervisors and managers do not always actively seek worker feedback on work plans, hazard analyses, or site knowledge and safety issues. Some workers expressed a fear of reprisal if they raise safety issues primarily due to past history with the previous contractor. Workers are very suspicious of some personnel retained from the previous contractor. Workers reported they heard the Project Director, during their initial briefing, say "we want you to use stop work. Fluor supports that. But don't abuse it. We have ways to deal with those people." When it was brought to his

attention that the last statement was being misinterpreted by workers as a threat of retaliation for raising safety concerns, the Project Director subsequently sent an e-mail to all personnel that was read aloud at all daily prejob briefings reiterating his commitment to safety and his expectation that workers should not be ridiculed or “looked down upon” for stopping action, and he would not tolerate any person taking retribution against any individual exercising a work pause or stop work for legitimate safety concerns.

The Team also evaluated if workers are appropriately trained to recognize and respond to hazards they might encounter. The effectiveness of training is often best observed by how it is implemented at the worksite. Workers were observed implementing controls during the course of work, but in some cases the controls they used were contrary to, or conflicted with, their training. For example, workers were observed kneeling in contamination areas without traditional anti-contamination clothing contrary to instructions provided during radiation worker training. Instead, they used empty paper bags placed on the ground. In other cases, AHAs identified the use of air purifying respirators when workers could be exposed to unknown or unanalyzed hazards. Hazardous Waste Operations and Emergency Response training identifies the use of supplied-air respirators when the hazard is uncharacterized. Some poor hazard control practices by workers were observed during conduct of work, such as using anti-contamination clothing to wipe sweat off their faces or touching exposed skin with potentially contaminated gloves and improperly worn respirators. These practices were not identified or corrected by coworkers or supervisors until prompted by the Team.

Beryllium hazards exist in several locations. USEC prepared an initial characterization of beryllium containing articles that determined compressor blades, a beryllium aluminum alloy, did not contain sufficient beryllium to be considered a beryllium containing item. Workers and supervisors are aware that these items may be found at locations around the Plant. In those cases, beryllium is often identified on the AHA as a potential hazard but does not link to that original determination.

Heat Stress monitoring implemented under the USEC procedure may not provide effective controls in that the check/recheck process expects workers to observe a coworkers’ condition, rather than implementing work/rest cycles or physiological monitoring. When workers are wearing full anti-contamination clothing and a full-face respirator, they may not be able to accurately assess their coworker’s condition.

Confined Space Entry under the USEC process requires the site fire department be notified of permit required confined space entry. In the one case observed by the Team, the site fire department had no record of such notification. Furthermore, the confined space permit included no check box or hold point to document the work supervisor’s call to the fire department confirming its availability to support rescue.

DOE gained significant knowledge and experience from a similar gaseous diffusion plant decontamination and demolition (D&D) project at Oak Ridge, Tennessee. The Three Building D&D project at the K-27, 29, 31 buildings at the East Tennessee Technology Park (ETTP) involved similar equipment and hazards. Work methods employed at that project in some cases reflected new approaches that worked very well, and in other cases methods that did not. FBP

may be able to obtain information related to that project that would assist them in identifying and implementing safe and effective work methods

Safety Culture

Observations by this assessment Team indicate significant challenges exist to improving the corporate safety culture at FBP. The new senior management team brings a wealth of experience from other projects around the world dealing with nuclear and industrial facility cleanup and demolition. That team was not expecting the significant differences between conditions described in the initial Request for Proposal and conditions as found when they arrived onsite. The team was structured to come in and begin D&D. When they arrived, significant portions of the previous contractor work scope remained to be completed, USEC was still operating portions of the plant, and the Nuclear Regulatory Commission (NRC) certificate had not yet been terminated. FBP has spent significant effort restructuring its management team to bring in the necessary expertise, complete the LPP work scope, and negotiate with USEC for transfer of personnel and equipment necessary to even begin working.

A significant complaint by workers was that when they were transferred from USEC to FBP, they immediately lost access to computer systems, including e-mail, access to Corporate homepages, procedures, Material Safety Data Sheets, employee concerns systems, timecards, newsletters, or other communications. These restrictions are also based on USEC claims related to proprietary information. The loss of access and limited communications through a protracted transition process has resulted in some workers concluding that they are being ignored.

In order to minimize confusion and stress on the workforce during the interim (completion of decertification), FBP has chosen to continue working to both LPP and USEC procedures, depending on the workers performing the work and the location of the work. Workers are well aware of weaknesses in those processes or procedures, and the slow start of changes may be contributing to some workers questioning FBP's commitment to change and improvement. Many workers are actually looking forward to changes in the processes and procedures that will give them an opportunity to be involved in making their workplaces safer.

Workers are using the I Care/We Care process to express concerns and identify issues. A review of the concerns and resolutions from 2010 to date indicate many concerns were only looked at from a narrow perspective and did not consider more systemic issues. For example, a concern was raised in January 2011 related to technetium-99 (⁹⁹Tc). This isotope has been identified at Portsmouth for many years and is a common contaminant in cascade components. It is a low-energy beta emitter and its hazard is a factor of 1,000 less than uranium. The concern was closed by having radiological control personnel provide briefings to work crews on the hazards of ⁹⁹Tc. Discussions with the USW safety representative indicated that the concerns were being raised primarily by new workers. The resolution did not consider that initial training for workers was not sufficient related to ⁹⁹Tc, and no corrective actions to include this information in initial or recurring general employee training were considered.

Interviews and walkdowns with FBP senior managers indicate that they are committed to improving safety and ensuring that workers can complete the mission safely and compliantly.

They have not yet effectively shared their vision with the workers or effectively encouraged workers to participate in planning and implementing changes. In many cases, workers are eager to be involved in redefining work control processes, hazard analysis processes, and helping fix longstanding issues.

Recommendations

FBP in conjunction with the Union safety representatives should review the entire I Care/We Care database for potential improvement initiatives. This should especially focus on systemic fixes where only one time fixes were applied.

FBP should work in cooperation with the Unions to develop and implement training for workers on effective job or activity hazard analysis. This training should include capturing the analysis performed that leads to the controls selection.

Workers should be encouraged to periodically review applicable hazard analyses to ensure their experience and knowledge of hazards and work methods is incorporated.

FBP should conduct review sessions with workers on how to access the I Care/We Care system and find effective means to include the initial worker in accepting the resolution of the concern.

FBP should assess the extent and quality of hazard analysis data to determine if complete baseline exposure assessment data is available.

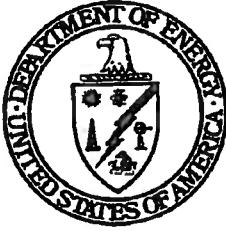
FBP should form teams of workers, supervisors, and managers to begin working on integrating the LPP and USEC procedures and capitalize on workers desire for positive change.

FBP should work with the Unions and provide accident investigator training to selected workers. Those workers should be broadly used to assist in evaluating accidents, incidents, near-misses, or even random job reviews to identify potential improvements.

FBP managers and supervisors should actively engage workers during work planning, prejob briefs, and postjob briefs to identify errors, inconsistencies, and improvements in work packages. These efforts should go beyond simply asking workers if they have any issues, but should select specific parts of the work package and ask specific questions regarding the work methods, controls, and assumptions.

FBP should thoroughly review bioassay protocols currently still in use for former USEC workers and work areas to ensure fundamental assumptions about solubility of compounds remain valid, particularly when dealing with cascade components and deposit removal. Existing protocols are based on renal chemical toxicity rather than radiation dose as a limiting factor, which may be nonconservative for the types of work being performed and planned.

FBP should research and incorporate lessons learned from the three building D&D project at the Oak Ridge site. Lessons might include work methods (remote plasma-arc cutting), PPE



Department of Energy

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(513) 246-0500**

September 13, 2011

Dora Jean Webster
United Steel Workers Local 689
2288 Wakefield Mount Rd.
Piketon, OH 45661

Dear Ms. Webster:

This is in response to the request for information (copy) attached that you submitted to the Department of Energy (DOE), National Nuclear Security Administration (NNSA), Nevada Site Office webpage on August 17, 2011. You are requesting all records pertaining to the worker exposure incident related to the X-747K Converter Shell Processing Work (May 2010) at LATA Parallax Portsmouth (LLP), located at Piketon, OH 45116.

After the NNSA reviewed the documents being requested, the determination was made that the documents were not under the jurisdiction of that office. Therefore, your request was forwarded to this office, the Environmental Management Consolidated Business Center (EMCBC), for review and processing.

Your request was received in this office on September 5, 2011; however, it has not been controlled as a FOIA request and assigned to a program office to process because it does not address the requirements of a proper FOIA request as stated at Title 10, Code of Federal Regulations (CFR), Section 1004.4.

The DOE regulation that implements the FOIA provides, at 10 CFR 100.4(e), that "a request shall include (1) an assurance to pay whatever fees will be assessed in accordance with 10 CFR 1004.9, (2) an assurance to pay those fees not exceeding some specified dollar amount, or (3) a request for a waiver or reduction of fees." The regulation further states that no request will be deemed to have been received until (1) some valid assurance of willingness to bear fees anticipated to be associated with the processing of the request, or (2) a specific request for a waiver or reduction of fees has been stated.

With respect to your request for a waiver of fees, the FOIA provides, at 10 CFR 1004.9(a) (8), that "the DOE will furnish documents without charge or at reduced charges if disclosure of the information is in the public interest because (1) it is likely to contribute significantly to public understanding of the operations or activities of the government, and (2) disclosure is not primarily in the commercial interest of the requester."

The DOE has implemented this statutory standard for fee waivers or reduced fees in its FOIA regulation at 10 CFR 1004.9(a) (8). Although, you have requested a waiver of fees, you have not addressed the

criteria established in that section. The regulation sets forth the following pertinent factors that are considered by the agency in applying the criteria:

- (1) The subject of the request: Whether the subject of the requested records concerns "the operations or activities of the government;"
- (2) The informative value of the information to be disclosed: Whether the disclosure is "likely to contribute" to an understanding of government operations or activities;
- (3) The contribution to an understanding by the general public of the subject likely to result from disclosure, taking into account your ability and intent to disseminate the information to the public in a form that can further the understanding of the subject matter;
- (4) The significance of the contribution to public understanding: Whether the disclosure is likely to contribute "significantly" to public understanding of government operations or activities;
- (5) The existence and magnitude of a commercial interest: Whether the requester has a commercial interest that would be furthered by the requested disclosure; and, if so
- (6) The primary interest in disclosure: Whether the magnitude of the identified commercial interest of the requester is sufficiently large, in comparison with the public interest in disclosure, that disclosure is "primarily in the commercial interest of the requester."

If you would like your request for a waiver to be considered, please provide additional information that addresses the factors above to: Department of Energy, EMCBC, ATTN: FOIA Requester Service Center, 250 East Fifth Street, Suite 500, Cincinnati, OH 45202. You need to provide the information by September 29, 2011. However, if you would like the Department to begin processing your request while a determination regarding the granting of your fee waiver and/or reduction of fees is being made, please provide an assurance to pay all fees associated with the processing of your request, or fees up to a specific amount. If we do not hear from you by September 29, 2011, we will close out your request and no action will be taken to process it.

If you have any questions concerning this matter, please contact the EMCBC FOIA Requester Center at (513) 246-0489, postal mail as listed above, or via electronic mail at: foiaoffice@emcbc.doe.gov.

Sincerely,


Marian Wilcox
FOIA Officer