U.S. DEPARTMENT OF LABOR

Occupational Safety and Health Administration
300 Fifth Avenue, Suite 1280
Seattle, Washington 98104

July 22, 2014

Sandra Kent, General Counsel
Washington River Protection Solutions
MSIN H6-18
2440 Stevens Ctr.
Richland, WA 99354

Re: Washington River Protection Solutions, Inc./Doss/0-1960-12-002

Dear Ms. Kent:

This is to advise you that we have completed our investigation of the above-referenced complaint filed by Ms. Shelly Doss (Complainant) against Washington River Protection Solutions Inc. (Respondent). Complainant claimed that on or about October 3, 2011, she was laid off or fired by Respondent in retaliation for reporting to Respondent management and to government agencies what she believed were several permit violations, recordkeeping errors, and lack of adherence to regulations. Prior to the termination of her employment, Complainant contends that her job duties were reduced, she was isolated from management contact, and she was denied training in retaliation for reporting those concerns. Complainant alleges that these adverse employment actions by Respondent violate the Energy Reorganization Act, 42 U.S.C. §5851 (ERA); the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. §1367 (FWPCA), also known as the Clean Water Act; the Clean Air Act, Amendments of 1977, 42 U.S.C. §7622 (CAA); and the Toxic Substances Control Act of 1976, 15 U.S.C. §2622 (TSCA); which are collectively referred to as the Acts.. This whistleblower complaint was filed on October 27, 2011.

On or about October 10, 2012, Complainant filed a supplemental complaint of discrimination alleging that she was blacklisted when Respondent posted an announcement for a job opening for an environmental specialist. Complainant contends that she was qualified for the job and met the requirements listed in the job posting. Complainant submitted an application for the position on May 24, 2012. On June 14, 2012, Respondent notified Complainant that she had not been selected for the position. Complainant alleges that this additional adverse action or blacklisting on June 14, 2012 violates the Acts and was in retaliation for the alleged protected activities.

Following an investigation of this matter by a duly authorized investigator, the Assistant Secretary of Labor, acting through his agent, the Acting Regional Administrator for the Occupational Safety and Health Administration (OSHA), Region 10, finds that there is reasonable cause to believe that Respondent violated the aforementioned environmental and nuclear whistleblower provisions and issues the following findings:

Secretary's Findings

All the applicable Acts, except the ERA, require Complainant to file a whistleblower complaint within 30 days from the date that she learned of each adverse action. The ERA allows for 180 days to timely file a complaint. Complainant learned that she was laid off on October 3, 2011, and she filed this complaint with OSHA on October 27, 2011, or 24 days after she learned of her layoff. The original complaint was filed timely under all of the Acts.

Subsequent to filing the original complaint, Complainant told OSHA that she learned on June 14, 2012, that she was not going to be re-hired by Respondent. She filed the amended complaint on September 10, 2012, or 88 days after she learned of the alleged blacklisting. The amended complaint was filed timely only under the ERA.

It is OSHA's policy to permit the liberal amendment of complaints, provided that the original complaint was timely, and the investigation has not yet concluded. For amendments received after the statute of limitations for the original complaint has expired, OSHA will evaluate whether the proposed amendment reasonably falls within the scope of the original complaint and the investigation remains open. In this case, Complainant's amended complaint was related to her original whistleblower complaint, and the amendment was filed while the investigation was open. Therefore, the amended complaint will be deemed properly filed for all the Acts.[1]

Respondent was provided notice and an opportunity to respond to the complaint and amended complaint.

Respondent is a covered employer under the employee protection provisions of the Acts.

Complainant is an employee under the employee protection provisions of the Acts.

Respondent reduces the environmental risk posed by the 53,000,000 gallons of radioactive and chemical waste stored in 177 underground tanks near the center of the 586 square-mile Hanford site. Respondent moves waste from the aging single-shell tanks and manages waste stored in the newer double shell tanks until the waste can be prepared for disposal. Respondent is a joint venture between URS Corporation and Energy Solutions, with AREVA as its primary subcontractor.

For over 20 years, Complainant worked for various contractors at the Hanford nuclear site. She began employment with Respondent at its Hanford facility in 2008. Complainant was an Environmental Specialist when her employment with Respondent was terminated.

Respondent has a policy of zero tolerance for retaliation that states that all employees have a right to a safe work environment free to raise issues, concerns and questions without fear of retaliation. Respondent managers are required to create an environment where raising concerns is not only expected, but encouraged.

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[1] Source: OSHA *Whistleblower Investigations Manual;* Directive CPL 02-03-003; 2011 edition

Each of the Acts prohibits discrimination or retaliation against an employee who raises concerns to her employer or files a complaint with a state agency regarding potential violations of the relevant Act.

Complainant was involved in at least six (6) separate protected activities.

First, on July 10, 2009, Complainant, while still employed with Respondent, filed a first whistleblower retaliation complaint with U.S. Department of Labor, OSHA under the ERA against Respondent. On February 26, 2010, the Hanford Concerns Counsel facilitated a settlement of that first OSHA complaint between the parties.

Second, Complainant alleges that around November 2010, she noticed that Respondent's Projects Compliance Manager Felix Miera (Miera) proposed to not include the new water basins in the Washington state wastewater discharge permits. Complainant's environmental safety concern regarding the permits is regulated by the FWPCA.

According to Complainant, she raised her concern that the new water basins should be included in the permits to Miera. After Miera refused to include the new water basins in the permits, she reported this to her supervisor and manager Jack Donnelly (Donnelly). Complainant alleged that months later she learned that despite her concerns Miera had still not included the new water basins in the permits.

Third, in January 2011, Complainant raised concerns to managers Donnelly and William Dixon (Dixon) about failure of personnel to enter events in the environmental on-call logbook. Complainant's concern about inaccurate logbooks falls under ERA, CAA, and FWPCA, because the environmental on-call logbook is required under DOE Order 232.2, occurrence reporting and processing of operations to ensure compliance with environmental statutes. Environmental on-call personnel use the on-call logbook to record any occurrences related to violations of environmental statutes such as the CAA. The Hanford Air Operating Permit (or, AOP) protects the public air resources as required by the CAA. The logbook is a legally required record.

Fourth, in January 2011, Complainant began to oversee underground injection control well compliance and discovered that 95% of the wells could not be located. Complainant informed Donnelly that the wells could not be located so the status could not be certified. Donnelly then instructed Complainant to find the wells. Complainant informed Donnelly after several months that she could not locate the wells. Donnelly expressed dissatisfaction with Complainant. Complainant then told Donnelly and Penn that the former subject matter expert had been certifying data without conducting research.

Fifth, in May or June 2011, Complainant provided documents to Respondent showing that Respondent must adhere to applicable regulations, which require posting waste manifest notices, and special handling, labeling, and disposal requirements.

Sixth, in late June 2012, Complainant discovered and reported that another manager had sent in emissions units for disposal without notifying the Washington State Department of Health as required. She allegedly reported this to Donnelly, the Department of Energy, and the Washington State Department of Health.

Respondent knew of Complainant's protected activities.

Complainant was subjected to adverse employment actions. The evidence supports that every time Complainant voiced an environmental or nuclear safety concern, Respondent took her off of that project until she hardly had any work assignments left. Complainant was slowly stripped of her job duties. She was taken off the Alaract Agreement, the PCB project, and the on-call list.

Complainant alleged that Respondent management refused to provide training as agreed upon in the settlement of her first OSHA Complaint. The evidence suggests that the training did not take place before Complainant's employment was terminated on October 3, 2011. Complainant contends that the treatment by Jack Donnelly towards her with regard to the August 8, 2011, closure letter for radioactive and non-rad emission units under Respondent's air operating permit license was part of the hostile work environment. The evidence is inconclusive as to whether Donnelly's revision of Complainant's August 8, 2011, draft closure letter was overly critical and setting Complainant up to be fired or whether Donnelly's behavior was simply a prerogative of a manager to counsel or be upset with the manner in which a subordinate expresses themselves in email communication. Complainant felt that Donnelly was setting her up to fail by assuring her that she only needed to supply the technical content and his administrative assistant would format the letter. At a minimum, the evidence shows that there was tension between Donnelly and Complainant just prior to the layoff.

Complainant's employment was terminated on October 3, 2011. The October 3, 2011, letter from Respondent to Complainant specifies that Complainant's employment was terminated and deemed a "lay off" or a loss of employment due to a reduction in force or a RIF. This RIF, at least for the environmental specialists, was based on performance. Each environmental specialist was rated based on different performance standards. Respondent claims that Complainant's layoff was for a legitimate non-discriminatory reason. However, based on the evidence from this investigation, Complainant's layoff was based on an inaccurate rating by Donnelly.

Donnelly prepared the rating and ranking of the environmental specialists. Two environmental specialists out of 25 were laid off. Complainant was ranked 24th by Donnelly so she was laid off along with another employee who was ranked 25th. Donnelly told OSHA that the environmental specialists were rated based on job performance. There was no evidence of any type of checks and balances or review of Donnelly's rating of Complainant even though she was a known whistleblower. The other managers appeared to agree with Donnelly's ranking and rating of Complainant as the second lowest performer out of all 25 environmental specialists. A top Respondent Manager Raymond Skwarek (Skwarek) did not know Complainant and did not participate in the rating process; however he approved of Donnelly's low rating of Complainant. Respondent failed to present any evidence to explain why Complainant was ranked 24th.

Complainant's rating of 110.30 was well below the average rating of around 170 by the majority of the environmental specialists.

Complainant's layoff was a pretext for termination of her employment. Complainant's performance evaluations and other evidence shows that Donnelly should have rated Complainant in the top half or more likely the top 25% of the environmental specialists. Complainant's development planner, Respondent's performance evaluation, showed that she received 12 "S" ratings or 12 strengths. The environmental specialists in 2010 ranged from 8-13 "S" ratings. Only 6 other co-workers received 12 "S" ratings along with Complainant and one received 13. Complainant, along with most other environmental specialists, received "meets" expectations on her performance evaluation. Only 4 environmental specialists received an "exceeds" expectations.

The layoff was actually a firing because Complainant's vacant position was filled. After she was fired, Respondent began to re-hire environmental specialists, but neither contacted the Complainant nor rehired her.

There is sufficient evidence to show that Complainant was blacklisted. After her termination, Respondent found a need to hire environmental specialists, yet Complainant was not invited to return to work. When Complainant applied on-line for an environmental specialist position, Respondent deemed her not qualified for the job. Complainant saw the on-line posting by Respondent for an environmental specialist position. Complainant had held this position with Respondent for 3 years; and had received "meets requirements" on performance evaluations. Complainant was not invited for an interview. Another individual was hired for that position.

A comparison of the incumbent's experience and education with that of the Complainant was conducted. The incumbent had experience working at landfills, whereas Complainant had experience working at Hanford for over 20 years. The incumbent's application indicates that he had management experience, but the environmental specialist position did not require management experience; it was a non-management position.

Respondent explained to OSHA that Complainant was not re-hired because she did not meet the minimum requirements for the position. To the contrary, Complainant did meet the minimum requirements for that position.

Since Complainant's layoff, Respondent has never contacted her to return to work even though new environmental specialists have been hired. Respondent provided no evidence to explain why Complainant has not been rehired into one of these new environmental specialist positions. Respondent's actions suggests that the layoff of Complainant was actually a permanent termination of employment.

Animus can be evidence of retaliation. Managers Donnelly and Kennedy expressed animus towards the Complainant for her protected activities during their OSHA interviews. Complainant was portrayed by Donnelly and Kennedy as an annoying and bothersome employee who would not stop bringing up issues. These "issues" were protected activities. Animus by Kennedy

towards Complainant was surprising evidence given that Kennedy is Respondent's internal Employee Concerns Manager. There was no documentation or evidence of any progressive discipline that would have supported Kennedy's or Jeffrey Voogd's portrayal of Complainant as a problem employee other than the counseling about email communication just before Complainant was fired.

Donnelly's rating of Complainant, used to lay her off, was not questioned by any Respondent manager. Complainant was treated differently, singled out, and isolated by Donnelly when he rated her the second lowest of all Respondent's environmental specialists.

Respondent's defense that Complainant was laid off for legitimate, non-discriminatory reasons is not credible. Respondent's failure to re-hire Complainant when there was a need for environmental specialists amounted to blacklisting. Evidence does not show that Respondent would have subjected Complainant to the same adverse action or layoff despite Complainant's protected activities. Complainant's rating and ranking by Donnelly was inconsistent with her most recent performance appraisal. After the layoff, Complainant's application for an environmental specialist position was rejected for retaliatory reasons.

The evidence revealed in the investigation supports the conclusion that Complainant's protected activities contributed to and were the motivating reasons for adverse actions taken against Complainant by Respondent.

Complainant suffered emotional distress as a result of being subjected to a hostile work environment, then fired under the guise of a layoff, and then blacklisted or prevented from returning to her former position when Respondent started to hire more environmental specialists. After Complainant's employment was terminated, she was depressed especially when Respondent rehired other laid off employees, but not her. Complainant cried daily and it was difficult to leave her house. Complainant had difficulty sleeping. She was prescribed medications to deal with her emotional distress. Complainant tried to find work with other Hanford contractors, but no one would hire Complainant. Complainant has 3 children, one attends an expensive special needs school. The loss of income to Complainant and her husband placed great financial and emotional strain on their family. Complainant defaulted on a $50,000 loan from her 401(k). Complainant has experienced stress, anxiety, and depression. Medical providers have corroborated that the emotional distress Complainant suffered was from losing her job.

Exemplary, or punitive, damages are warranted in this matter[2]. On February 26, 2010, Respondent settled Complainant's first whistleblower complaint with OSHA. Respondent officials had knowledge of Complainant's first complaint and knew that it settled. In the settlement, Respondent agreed not to retaliate against Complainant for filing the first OSHA whistleblower complaint. In spite of agreeing to not retaliate against Complainant, Respondent illegally terminated her employment, and then prevented her from future employment with Respondent. Respondent's reasons for the termination and failure to rehire are not credible.

[2] Exemplary damages are expressly permitted under the Toxic Substances Control Act.

It appears that Responden was not serious about settling the first whistleblower complaint and treated Complainant's protected activities with a callous disregard when her employment was terminated and when she was denied a subsequent employment opportunity.

There is reasonable cause to believe that Complainant's protected activities were a motivating and contributing factor in the adverse actions taken against her. Consequently, these Findings are accompanied by a Preliminary Order.

The following is a Preliminary Order that provides relief in accordance with the aforementioned Acts.

Preliminary Order

1. Complainant shall be immediately reinstated to her former position with the same pay and same benefits that she would currently be receiving had her employment not been terminated October 3, 2011;
2. Respondent shall pay backpay to the Complainant based on her hourly wage of $38.43 beginning approximatley October 3, 2011 and will include any annual raises. Respondent shall pay interest on the backpay in accordance with 26 U.S.C. Section 6621, compounded daily. Interest on backpay shall continue to accrue in accordance with 26 U.S.C. 6621 and shall be compounded daily.

   Respondent will file with the Social Security Administration all forms necessary to ensure that the back-pay award is allocated to the appropriate calendar periods in which Complainant would have earned the compensation. Refer to IRS Publication 957: Reporting Back Pay and Special Wage Payments to the Social Security Administration;
3. Respondent shall pay Complainant compensatory damages in the amount of $20,000 for emotional distress and $4,381.32 for out-of-pocket expenses incurred;
4. Respondent shall pay exemplary damages in an amount of $10,000 for the callous disregard of the Complainant's protected rights;
5. Respondent shall pay the Complainant's reasonable attorney fees;
6. Respondent shall expunge the Complainant's employment records of any reference to the exercise of her rights under the Acts and of any references to the termination and other adverse actions described in the Secretary's Findings;
7. Respondent will permanently display in a conspicuous place in or about its premises, including all places where posters for employees are customarily posted, including electronic posting, where the employer communicates with its employees electronically the ERA poster entitled, "Your Rights Under the Energy Reorganization Act[3]." Said poster is attached;

[3] Posting "Your Rights Under the Energy Reorganization Act" by employers is required per federal regulations in 29 CFR Part 24; *Procedures for the Handling of Retaliation Complaints Under the*

8. Respondent shall provide all Respondent employees with a copy of the attached OSHA Fact Sheet entitled *Whistleblower Protections and the Environment*;
9. Respondent shall immediately post for no less than 60 consecutive days the attached Notice to Employees. Such posting will be done in a conspicuous place in or about all Respondent's Hanford facilities where Complainant worked, including in all places where notices for employees are customarily posted, including Respondent's internal Web site for employees or e-mails, if one exists. The Notice is to be signed by a responsible official of Respondent and the date of actual posting to be shown thereon; and
10. Respondent shall not retaliate or discriminate against Complainant in any manner for instituting or causing to be instituted any proceeding under or related to the Acts.

Respondent and Complainant have 30 days from the receipt of these Findings to file objections and to request a hearing before an Administrative Law Judge (ALJ). If no objections are filed, these Findings will become final and not subject to court review. Objections must be filed in writing with:

Chief Administrative Law Judge
U. S. Department of Labor
800 K Street NW, Suite 400
Washington, D.C. 20001
PH: (202) 693-7542; Facsimile: (202) 693-7365

With a copy to:

Tom Carpenter, Executive Director
Hanford Challenge
219 1st Ave. S., Suite 220
Seattle, WA 98104

Shelly Doss
613 E. Sunset Dr.
Burbank, WA 99323

Ken Nishiyama Atha
Acting Regional Administrator
U. S. Department of Labor, OSHA
300 Fifth Avenue; Suite 1280
Seattle, WA 98104-2397

In addition, please be advised that the U.S. Department of Labor generally does not represent any party in the hearing; rather, each party presents his or her own case. The hearing is an

adversarial proceeding before an Administrative Law Judge (ALJ) in which the parties are allowed an opportunity to present their evidence *de novo* for the record. The ALJ who conducts the hearing will issue a decision based on the evidence, arguments, and testimony presented by the parties. Review of the ALJ's decision may be sought from the Administrative Review Board, to which the Secretary of Labor has delegated responsibility for issuing final agency decisions under the referenced Environmental Protection Agency (EPA) statutes. A copy of this letter has been sent to the Chief Administrative Law Judge along with a copy of your complaint. The rules and procedures for the handling this case can be found in Title 29, Code of Federal Regulations Part 24, and may be obtained at www.osha.gov.

For more information about OSHA's Whistleblower Protection Program, please visit our website at: http://www.whistleblowers.gov/index.html.

Sincerely,

Steve Gossman
Assistant Regional Administrator
Federal State Operations

Enclosures: Poster: "Your Rights Under the Energy Reorganization Act"
Notice to Employees
OSHA Fact Sheet, *Whistleblower Protections and the Environment*

cc: Shelley Doss, Complainant
Administrative Law Judge, USDOL
U.S. Environmental Protection Agency
U.S. Department of Energy

Your Rights under the Energy Reorganization Act

The Energy Reorganization Act (ERA), makes it illegal to discharge or otherwise retaliate against an employee because the employee or any person acting at an employee's request engages in protected activity.

Employers covered by the ERA are:

- The Nuclear Regulatory Commission (NRC)
- A contractor or subcontractor of the NRC
- A licensee of the NRC or an agreement state, and the licensee's contractors and subcontractors
- An applicant for a license, and the applicant's contractors and subcontractors
- The Department of Energy (DOE)
- A contractor or subcontractor of the DOE under the Atomic Energy Act (AEA)

You are engaged in protected activity when you:

- Notify your employer of an alleged violation of the ERA or the AEA
- Refuse to engage in any practice made unlawful by the ERA or the AEA
- Testify before congress or at any federal or state proceeding regarding any provision or proposed provision of the ERA or the AEA
- Commence or cause to be commenced a proceeding under the ERA, or a proceeding for the administration or enforcement of any requirement imposed under the ERA
- Testify or are about to testify in any such proceeding
- Assist or participate in such a proceeding or in any other action to carry out the purposes of the ERA or the AEA

Employers may not retaliate against you for engaging in protected activity by:

- Intimidating
- Threatening
- Restraining
- Coercing
- Blacklisting
- Firing
- or in any other manner retaliating against you

Filing a complaint: You may file a complaint ***within 180 days*** of the retaliatory action. A complaint ***may be filed orally or in writing.*** If you are not able to file the complaint in English, OSHA will accept the complaint in any language. The date of the postmark, facsimile transmittal, e-mail communication, telephone call, handdelivery, delivery to a third-party commercial carrier, or in-person filing at an OSHA office will be considered the date of filing. The complaint may be filed at or sent to the nearest local office of the Occupational Safety and Health Administration (OSHA), U.S. Department of Labor, or the Office of the Assistant Secretary, OSHA, U.S. Department of Labor, Washington, D.C. 20210.

If DOL has not issued a final decision within one year of the filing of the complaint, you have the right to file the complaint in district court for *de novo* review, so long as the delay is not due to your bad faith.

For additional information: Contact OSHA (listed in telephone directories), or see the agency's web site at: www.whistleblowers.gov.

Employers are required to display this poster where employees can readily see it.

[FR Doc. 2011–828 Filed 1–14–11; 8:45 am]
BILLING CODE 4510–26–C

NOTICE TO EMPLOYEES

PURSUANT TO A PRELIMINARY ORDER ISSUED BY THE U.S. DEPARTMENT OF LABOR, OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION:

In RE the Matter of Washington River Protection Solutions, Inc. /Doss/0-1960-12-002

THE EMPLOYER HAS BEEN ORDERED TO PROVIDE ALL RELIEF NECESSARY TO MAKE THE ABOVE REFERENCED EMPLOYEE WHOLE WHO WAS RETALIATED AGAINST FOR EXERCISING HER RIGHTS UNDER THESE ACTS:

ERA - Energy Reorganization Act [42 U.S.C. §5851] TSCA – Toxic Substance Control Act [15 USC §2622]
CAA – Clean Air Act [42 U.S.C §7622] FWPCA – Federal Water Pollution Control Act [33 USC §1367]

THE EMPLOYER AGREES THAT IT WILL NOT IN ANY MANNER DISCRIMINATE AGAINST ANY EMPLOYEE BECAUSE SUCH EMPLOYEE HAS NOTIFIED OR ATTEMPTED TO NOTIFY RESPONDENT EMPLOYER OF AN ENVIRONMENTAL COMPLIANCE CONCERN THAT FALLS UNDER ANY OF THESE ABOVE-LISTED ACTS OR REPORTS A PERSONAL WORK-RELATED INJURY OR ILLNESS.

THE EMPLOYER AGREES THAT IT WILL PERMIT EMPLOYEES TO EXERCISE THEIR RIGHTS GUARANTEED UNDER THE ACTS LISTED ABOVE, WITHOUT REPRISAL.

THE EMPLOYER AGREES THAT IT WILL NOT ADVISE EMPLOYEES AGAINST CONTACTING, SPEAKING WITH, OR COOPERATING WITH THE U.S. DEPARTMENT OF ENERGY, U.S. ENVIRONMENTAL PROTECTION AGENCY, AND/OR WITH U.S. DEPARTMENT OF LABOR, OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION (OSHA) OFFICIALS EITHER DURING THE CONDUCT OF AN INSPECTION OR DURING THE COURSE OF AN INVESTIGATION.

THE EMPLOYER AGREES THAT IT WILL PROVIDE TRAINING ABOUT THE WHISTLEBLOWER PROVISIONS OF THE ACTS LISTED ABOVE TO ITS MANAGERS, SUPERVISORS AND EMPLOYEES AT THE FACILIITES WHERE THE EMPLOYEES ARE ASSIGNED. THE TRAINING WILL TAKE PLACE WITHIN 30 DAYS OF THE SIGNING OF THIS NOTICE. THE EMPLOYER AGREES TO NOTIFY OSHA WITHIN 30 DAYS AFTER THE TRAINING HAS BEEN COMPLETED, AND WILL INCLUDE THE NAME AND JOB TITLE OF EACH EMPLOYEE WHO RECEIVES THE TRAINING.

IN ACCORDANCE WITH FEDERAL REGULATIONS, 29 CFR PART 24, *PROCEDURES FOR THE HANDLING OF RETALIATION COMPLAINTS UNDER THE EMPLOYEE PROTECTION PROVISIONS OF SIX ENVIRONMENTAL STATUTES AND SECTION 211 OF THE ENERGY REORGANIZATION ACT OF 1974, AS AMENDED*, RESPONDENT WILL PERMANENTLY DISPLAY IN A CONSPICUOUS PLACE IN OR ABOUT ALL OF ITS HANFORD AREA FACILITIES, INCLUDING ALL PLACES WHERE NOTICES FOR EMPLOYEES ARE CUSTOMARILY POSTED, THE ERA POSTER ENTITLED, "YOUR RIGHTS UNDER THE ENERGY REORGANIZATION ACT." SAID POSTER IS ATTACHED.

THE EMPLOYER FURTHER AGREES TO PERMANENTLY POST THE OSHA FACT SHEET ENTITLED, *WHISTLEBLOWER PROTECTIONS AND THE ENVIRONMENT*, IN A CONSPICUOUS PLACE IN OR ABOUT ALL ITS HANFORD AREA FACILITIES, INCLUDING ALL PLACES WHERE NOTICES FOR EMPLOYEES ARE CUSTOMARILY POSTED. THE FACT SHEET IS ATTACHED.

_____ _____

Washington River Protection Solutions, Inc. Date

THIS IS AN OFFICIAL NOTICE AND MUST NOT BE DEFACED BY ANYONE

THIS NOTICE MUST REMAIN POSTED FOR 60 CONSECUTIVE DAYS FROM THE DATE OF POSTING AND MUST NOT BE ALTERED, DEFACED, OR COVERED BY OTHER MATERIAL. ANY QUESTION CONCERNING THIS NOTICE OR COMPLIANCE WITH ITS PROVISIONS MAY BE DIRECTED TO THE APPROVING OFFICIAL.

OSHA FactSheet

Whistleblower Protections and the Environment

You may file a complaint with OSHA if your employer retaliates against you with unfavorable personnel action because you reported a potential environmental violation.

Covered Employees

- *Asbestos Hazard Emergency Response Act* (AHERA). [15 U.S.C. §2651] Provides protections for individuals who report potential violations of environmental laws relating to asbestos in elementary and secondary schools.
- *Clean Air Act* (CAA). [42 U.S.C. §7622] Provides protections for employees who report potential violations regarding air emissions from area, stationary, and mobile sources into the air.
- *Comprehensive Environmental Response, Compensation and Liability Act* (CERCLA). [42 U.S.C. §9610] Provides protections for employees who report potential violations regarding clean-up of uncontrolled or abandoned hazardous waste sites as well as accidents, spills, and other emergency releases of pollutants and contaminants into the environment.
- *Federal Water Pollution Control Act* (FWPCA). [33 U.S.C. §1367] Provides protections for employees who report potential violations regarding discharges of pollutants into the waters of the United States.
- *Safe Drinking Water Act* (SDWA). [42 U.S.C. §300j-9(i)] Provides protections for employees who report potential violations regarding all waters actually and potentially designed for drinking use, whether from above ground or underground sources.
- *Solid Waste Disposal Act* (SWDA). [42 U.S.C. §6971] Provides protections for employees who report potential violations regarding the disposal of solid and hazardous waste at active and future facilities.
- *Toxic Substances Control Act* (TSCA). [15 U.S.C. §2622] Provides protections for employees who report potential violations regarding industrial chemicals currently produced or imported into the United States.

Protected Activity

If your employer is covered under one of these statutes, it may not discharge or in any other manner retaliate against you because you reported potential violations of environmental laws and regulations to your employer or to the government. Your employer may not discharge or in any manner retaliate against you because you filed, caused to be filed, participated in or assisted in a proceeding under one of these laws or regulations.

Limited Protections for Employees Who Refuse to Work

These statutes do not expressly provide protection for an employee who refuses to work because of an alleged environmental violation by an employer. The Secretary of Labor, however, interprets this statute to protect refusals to work when an employee has a reasonable belief that his or her working conditions are unsafe or unhealthful, and he or she does not receive an adequate explanation from a responsible official that the conditions are safe.

Unfavorable Personnel Actions

Your employer may be found to have violated one of these statutes if your protected activity was a motivating factor in its decision to take an unfavorable personnel action against you. Such actions may include:

- Firing or laying off
- Blacklisting
- Demoting
- Denying overtime or promotion
- Disciplining
- Denying benefits
- Failing to hire or rehire
- Intimidation
- Reassignment affecting promotion prospects
- Reducing pay or hours

Deadline for Filing a Complaint

Depending on the statute, complaints must be filed within 30 days (CAA, CERCLA, FWPCA, SDWA, SWDA, TSCA) or 90 days (AHERA) after the alleged unfavorable personnel action occurs (that is, when you become aware of the retaliatory action).

How to File a Complaint

An employee, or representative of an employee who believes that he or she has been retaliated against in violation of the above statute(s) may file a complaint with OSHA. The complaint should be filed with the OSHA office responsible for enforcement activities in the geographical area where the employee resides or was employed, but may be filed with any OSHA officer or employee. For more information, call your closest OSHA Regional Office:

- *Boston* (617) 565-9860
- *New York* (212) 337-2378
- *Philadelphia* (215) 861-4900
- *Atlanta* (404) 562-2300
- *Chicago* (312) 353-2220
- *Dallas* (972) 850-4145
- *Kansas City* (816) 283-8745
- *Denver* (720) 264-6550
- *San Francisco* (415) 625-2547
- *Seattle* (206) 553-5930

Addresses, fax numbers and other contact information for these offices can be found on OSHA's website, www.osha.gov, and in local directories. With the exception of AHERA, complaints must be filed in writing, by mail (we recommend certified mail), fax, or hand delivery during business hours. The date postmarked, faxed or hand delivered is considered the date filed. AHERA complaints may be filed orally or in writing.

Results of the Investigation

If the evidence supports your claim of retaliation and a settlement cannot be reached, OSHA will issue an order requiring your employer to reinstate you, pay back-wages, restore benefits, and other possible relief to make you whole.

Hearings and Review

Under CAA, CERCLA, FWPCA, SDWA, SWDA and TSCA, after OSHA issues its findings and order, either party may request an evidentiary hearing before an administrative law judge of the Department of Labor. The administrative law judge's decision and order may be appealed to the Department's Administrative Review Board for review. Although there is no statutory right to appeal of AHERA determinations, if a complaint is dismissed, it may be appealed to OSHA's national office for further review.

To Get Further Information

For more information on employee whistleblower protection provisions, including copies of the statutes and regulations, go to www.osha.gov and click on the link for "Whistleblower Protection."

For information on the Office of Administrative Law Judges procedures, decisions and research materials, go to www.oalj.dol.gov and click on the link for "Whistleblower."

This is one in a series of informational fact sheets highlighting OSHA programs, policies or standards. It does not impose any new compliance requirements. For a comprehensive list of compliance requirements of OSHA standards or regulations, refer to Title 29 of the Code of Federal Regulations. This information will be made available to sensory impaired individuals upon request. The voice phone is (202) 693-1999; teletypewriter (TTY) number: (877) 889-5627.

For more information:

OSHA Occupational Safety and Health Administration

U.S. Department of Labor

www.osha.gov

(800) 321-OSHA

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