

United States Government

Department of Energy

# memorandum

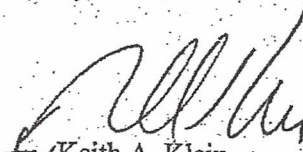
Richland Operations Office

DATE: JAN 14 2005  
REPLY TO  
ATTN OF: ECP:SOB/05-PMD-0035  
SUBJECT: FINAL RICHLAND OPERATIONS OFFICE (RL) INQUIRY SUMMARY

TO: R. J. Schepens, Manager  
Office of River Protection

Enclosed for your information is the RL Inquiry Summary. The inquiry identified significant areas of concern in specific areas or facilities at WTP project. These areas are in High Level Waste (HLW), Pre-treatment (PT) and Balance of Facilities (BOF).

In addition to the final summary, RL will formally transfer all open concerns related to this inquiry to ORP by close of business on January 18, 2005, for final disposition concluding RL action in this matter. Should you have any questions, please contact Jeanie Schwier, Assistant Manager for Administration on (509) 376-6880.

  
for Keith A. Klein  
Manager

Enclosure

cc w/encl: R. C. Barr, ORP  
P. P. Carier, ORP  
J. R. Eschenberg, ORP  
S. H. Pfaff, ORP

10-00000-1-00000

**Department of Energy  
Richland Operations Office  
Inquiry Summary**

---

**Division: Special Concerns Office (SCO)**

**Interviewers: J. W. Yamauchi, B. A. Fain, S. H. Pfaff, S. O. Branch  
(Corporate Security Services - A. Hamilton, A. D. Rider, J. J. Posey)**

**Date Completed: January 14, 2005**

---

**Contractor: Bechtel National Inc. (BNI)**

**Facility: Waste Treatment Plant (WTP)**

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

**Guide: DOE CRD 442.1A, Rev 1**

---

**Scope:**

The scope of the inquiry was to conduct interviews into allegations regarding Safety, Equal Employment Opportunity and Industrial/Labor Relations issues at the WTP site.

---

**Background:**

On October 21, 2004, eight current and former employees (hereafter referred to as Concerned Individuals (CI's)) from BNI WTP raised 12 allegations related to EEO, Safety and Industrial/Labor Relations issues with the RL SCO. The RL SCO office in consultation with Office of River Protection (ORP) management agreed to conduct an inquiry using a team comprised of representatives from DOE RL SCO, DOE EEO, DOE Industrial/Labor Relations, a DOE ORP Facility Representative and three representatives from Corporate Security Services Inc.

The team conducted interviews with approximately one hundred and seventeen (117) persons currently or formerly employed at the BNI WTP worksite. The interview process began on November 8, 2004 and concluded November 19, 2004.

## Methodology and Limitations

The methodology placed emphasis on achieving an open environment and outreach to current and former BNI WTP employees to provide relevant information to assist in the inquiry. BNI WTP set up a process for employees to leave their work station and meet with the team by requiring employees to "sign up" with WTP Industrial/Labor Relations representatives in order to be scheduled for an interview. This process was established with legitimate intentions (time accounting requirements and providing Industrial/Labor Relations with the identity of interviewees to enable monitoring of persons interviewed against future lay off lists). Regardless of intentions, the team found the process resulted in a chilling effect on some employees' willingness to come forward with concerns.

Despite the chilling effect in the workplace, employee response to the team's inquiry was greater than expected. The initial interviews of 117 employees required two full weeks and did not allow enough time for the team to conduct the required follow-on investigation. The number of voluntary interviewees and the similarity of issues discussed indicated the concerns warrant further investigation.

## **Summary:**

The team concluded there are significant areas of concern in specific areas or facilities of the WTP project. These areas are in High Level Waste (HLW), Pre-treatment (PT) and Balance of Facilities (BOF). The team had significant concerns regarding sexual harassment, racial discrimination and retaliation by foremen, general foremen and superintendents. The team found indications of racial discrimination, retaliation for going to first aid to report injuries or treatment, retaliation for reporting safety issues, sexual harassment and a chilling effect in the workplace. It is important to note that not all areas at the WTP have significant issues as stated above. Based on the nearly unanimous feedback from the construction craft workers, only one allegation, the chilling effect in the workplace was substantiated throughout the WTP.

This inquiry was not focused on substantiating or not substantiating each allegation, but rather, evaluating the general atmosphere of the WTP site to determine if additional, more comprehensive actions were required by the WTP contractor and ORP.

## **The 12 initial allegations were as follows:**

1. The CI's stated that African Americans are frequently targeted for layoffs at the WTP. **Needs further review, see EEO discussion.**
2. The CI's stated that African Americans are not considered for promotions at the supervisory level at the WTP. **Needs further review, see EEO discussion.**
3. The CI's indicated that African Americans are terminated for medical reasons. **Needs further review, see EEO discussion.**
4. The CI's indicated that BNI is not complying with EEO laws and regulations. **See EEO discussion.**

5. The CI's indicated that African Americans are targeted to work night shifts and are threatened to be laid off if they do not work the shift (WTP). Needs further review, see EEO discussion.
6. The CI's stated that African American workers are not respected by whites on site (WTP). Needs further review, see EEO discussion.
7. The CI's stated that African Americans are subjected to a hostile work environment with respect to race at the WTP. See EEO discussion.
8. The CI's stated that African Americans are required to train other employee's (whites in particular) and those individuals are put in supervisory positions over them (WTP). See EEO discussion.
9. The CI's stated that African Americans and others are retaliated against for reporting work related injuries (WTP). See I/LR discussion.
10. The CI's indicated that BNI discriminates against persons with disabilities. Needs further review, see I/LR discussion.
11. The CI's stated that BNI has created a chilling effect at the WTP. See Safety discussion.
12. The CI's indicated that a person was nearly hit by a "headache ball" during crane operations at the WTP and the foreman/supervisor coerced the CI into not reporting. See Safety discussion.

**Five (5) additional allegations raised during the inquiry were as follows:**

- Employee's have been retaliated against for reporting safety issues or concerns. See I/LR discussion.
- Certain supervisors engage in discrimination or favoritism in rendering work assignments, promotions and awards. See I/LR discussion.
- Female workers have been subjected to sexual harassment or hostile work environment. See EEO discussion.
- Workers are intimidated and do not report issues to Industrial/Labor Relations, and worker's s do not receive appropriate treatment by the BNI WTP Industrial/Labor Relations or Employee Concerns departments. See I/LR discussion.
- Hispanic and other workers are subjected to a hostile work environment with respect to race. See EEO discussion.

## Safety Discussion:

Many craft workers asserted that although BNI management promotes a "safety first" message, workers remain worried that reporting safety issues could lead to the concerned individuals being targeted for a future layoff. The team could not determine if this worry resulted from past experiences on other job sites or from experiences on this WTP construction site. The team found no factual examples of terminations of personnel following that person's identification of safety issues, but one foreman, who had raised several safety issues, was terminated when the foreman's crew was disbanded. Workers stated it was unusual to terminate a foreman – more often, a foreman would return to craft worker status if the foreman position was no longer required.

The team noted that there were several mechanisms for reporting safety issues. The Safety Task Analysis and Risk Reduction Talk (STARRT) card – used by all craft to identify hazards and controls prior to beginning work each day – provides space for workers to record safety issues. The Safety Thoughts on Paper (STOP) program allows workers to submit safety issues and obtain direct feedback if they identify themselves. Many safety issues are identified by workers, supervisors, and safety representatives and quickly corrected with no documentation. Because of the informality of much of the safety issue identification and resolution, the team could not determine from available documentation whether terminated employees had raised safety concerns.

Some workers expressed the opinion that safety was a top priority unless it impacted the productivity factor for the facility. Some individuals remarked that especially among the ironworkers and carpenters, the expected high pace of work contributed to the higher rate of reported injuries and near miss events. Not all interviewees expressed negative opinions of BNI's safety emphasis. Some workers felt this was the safest construction project they had worked on.

With regard to specific allegations of safety violations or insufficient responses to safety issues, the team reached the following conclusions:

- One worker reported that a person was nearly hit by the "headache ball" when it was unexpectedly lowered into a work area. According to the worker, a (معلق) paid this employee to not report the event. While the description of the event is plausible, the team found no additional evidence to substantiate the claims. In the more recent past, BNI has reported several near miss events in the DOE occurrence reporting system when objects have fallen from significant elevations and could have injured personnel. While the team could not determine if every adverse event is reported, the number of actual reports and the corrective actions in progress indicate BNI is making a substantial effort to identify and correct workplace accidents.
- Individuals were pulling energized 480 volt cables across rebar or steel beams, and that there was a risk of damaging the cable insulation and creating an electrical mishap. The team immediately reported this safety concern to the Site Safety Assurance Manager who passed the issue to the area safety representatives to ensure this was not an allowed practice. The concern is plausible, but was not substantiated during this review. Another electrician expressed a similar concern with non-electrical workers connecting electrical equipment to the construction site temporary distribution panels. The Site Safety Assurance Manager had evaluated this concern and determined that non-

electrical workers can safely connect power cords to power sources from the temporary distribution panels:

- A few electricians expressed concern with a recent activity where electrical cables were pulled into an underground electrical vault that already contained energized 13.8 kV cables. Workers had to enter the vault during this work and had to manipulate the energized cables to facilitate the work. The BNI supervisors for this task did allow the workers to choose to not enter the vault if they were uncomfortable with the hazards and controls. Since this event, BNI conducted an electrical safety course with off-site instructors specifically to improve field engineering and supervisory understanding of the National Fire Prevention Association (NFPA) Standard 70E guidance. This course was conducted partly to address recent concerns with other 13.8kV work. BNI appears to be making an effort to better identify electrical hazards and controls.
- Several craft expressed concerns regarding rigging of loads over their work areas without sufficient warning to allow the workers to reposition themselves to a safer location. The team did not observe actual rigging operations to substantiate this issue.

### **Equal Employment Opportunity (EEO) Discussion:**

Under Title VII of the Civil Rights Act of 1964 (Title VII), as amended, employers cannot discriminate against their employees or job applicants on the basis of race, color, religion, sex, or national origin. The Equal Employment Opportunity Commission (EEOC) has primary responsibility for enforcing compliance with the Act for the U.S. workforce. Executive Order 11246, as amended, which applies to federal contractors, such as those that manage and operate many of the Department of Energy's facilities, prohibits the same type of discrimination as prohibited by Title VII, and also requires that employers take affirmative action to ensure that employees and job applicants are treated fairly without regard to race, color, religion, sex, or national origin.

In relation to BNI EEO program plans, policies, and procedures for manual employees, the team found that BNI does maintain EEO Affirmative Action Program (AA) plans as required by the Office of Federal Contract Compliance Program (OFCCP) and the Site Stabilization Agreement for All Construction Work; i.e., Equal Employment Opportunity/Affirmative Action Program for Manual Employees, and BNI EEO Policy.

At the WTP, the I/LR Manager is also the EEO Officer for manual employees. After reviewing the EEO/AA Plan and discussions with the I/LR/EEO Officer, the team found that some sections of the plan are not being adhered to, as required by the BNI Project I/LR action plan. Specifically, the project I/LR action plan requires BNI to post throughout the work place various Federal EEO posters and if applicable, State posters in addition to the internal BNI Posters. The team found Federal EEO posters in the BNI office buildings however; there were no Federal EEO posters in the trailers that are frequented by BNI construction site employees.

In addition, BNI is required to conduct a periodic review (i.e., quarterly) and send a letter to each local union servicing the project reminding them of Bechtel's EEO/AA policy and requesting their support in referring qualified minorities and women. Per discussion with I/LR, the team determined that periodic review letters were not being sent to each local union as stated in the EEO/AA program plan.

BNI Project I/LR action plan states that change shacks, toilets and other common facilities should be inspected for graffiti. When necessary, walls must be cleaned or repainted. Individuals responsible for posting the graffiti should be advised that their action is against company policy, and disciplinary action, up to and including termination may be taken. The team concluded that male bathrooms were defaced with racial, sexual, and religious epithets and drawings. From the teams' observation, it didn't appear that the restrooms stalls had been cleaned or repainted as required. During the course of the inquiry, a number of interviewees (male and female) indicated that they found the graffiti in the male bathrooms offensive. No female comfort restrooms were defaced with graffiti.

With regard to specific allegations of racial and sexual discrimination, the team reached the following conclusions:

- There is a reasonable and credible concern that African American and female employees may be excluded from consideration for promotional opportunity. There were insufficient facts or other information to determine if discrimination in promotion opportunities had in fact occurred. There does not appear to be current initiatives, processes or goals to monitor promotional opportunities for African American and female workers. BNI WTP does not have well defined processes for selecting craft workers to the positions of foreman or general foreman. General foremen appeared to have great latitude in designating workers to be foreman. The absence of criteria for selection creates a perception of favoritism. These factors also apply to superintendents' selection of general foremen.
- There is a sincere perception and reasonable basis of concern to indicate that African American employees and other employees may have been subjected to discriminatory treatment in regard to medical issues. To reach a finding on a factual basis about discriminatory treatment in regard to medical issues would require additional inquiry and auditing, which was not in the scope of this investigation.
- Some African American workers have been subjected to a hostile workplace at the WTP.
- There is a reasonable basis of concern to indicate that certain employees with injuries or disabilities may have been discriminated against.
- There is a reasonable basis of concern that certain Hispanic and other employees may have been subjected to a hostile work environment with respect to race.
- There is a reasonable basis of concern that certain female employees may have been subjected to sexual harassment or a hostile work environment.

#### **Industrial/Labor Relations (including First Aid) Discussion:**

The inquiry concluded that BNI I/LR did not adequately address EEO, safety and Union concerns at the WTP. Additionally, there was sufficient information obtained in the interviews to indicate that there is a sincere perception and reasonable basis of concern that employees have been subjected to discriminatory practices, and retaliatory lay off actions.

Workers interviewed indicated when concerns were taken to Labor Relations (LR), the response was less than professional. Examples provided by employees were: "LR has a smart ass attitude, LR yells profanities, LR demands employees leave the office, and/or LR is not available. Workers indicated, "LR is anti-worker and pro-company." Employees have been told by their Stewards, Foremen, General Foremen and Superintendents that if they bring issues to LR, they may be fired. Workers indicated that LR does not provide a response to complaints, including safety concerns. Workers feel they are blown off or concerns are justified as a difference between crafts. The inquiry found that LR has not established a database that would provide objective evidence that concerns are tracked to closure.

With regard to specific allegations about Industrial/Labor Relations and first aid, the team reached the following conclusions:

- LR does not consistently apply discipline regarding violations of the WTP Job Site Rules. Interviewees stated that Foremen, General Foremen and Superintendents are verbally counseled on the first offence and a written verbal on the second offence; however, employees claim that they are held to a higher standard (i.e., termination). Based upon a limited review of the LR files, there appears to be inconsistencies in the consequences associated with violations of the WTP job site safety rule.
- Hiring practice at WTP allows General Foremen and Foremen to have input in the selection of their crew. The team concluded from the interviews that some selection decisions are made based on friends, family or relationship to workers. Further, it was concluded that regardless of experience, a worker with less years of experience may be put in a supervisory position over someone with greater years of experience. Additionally, there is a group of family members in the same facility that use family strength as intimidation.
- At least one General Foreman (b6) This General Foreman excludes portions of the crew by (b6) to provide work direction and uses derogatory, intimidating, and threatening statements. Interviewees accused this General Foreman of giving special treatment to women on the crew, such as overtime, premium time, and unfair work assignments. This General Foreman displays inappropriate behavior with the women on the crew.
- There is a sincere perception and reasonable basis of concern to indicate that workers may have been intimidated or retaliated against in use of first aid services. The team concluded that the (b6) at the WTP is not informing workers of their rights to file L&I claims if injured on the job. Some employees believe (b6) uses intimidation tactics to enforce the utilization of company doctors versus personal physicians. If the employee should choose to use their personal physician, then the employee is scrutinized.
- The application of light duty assignments is not understood. Many believe there is no light duty at WTP; however, several interviewees were accommodated and given light duty assignments. Employees stated inconsistency in the implementation of the policy and selection of light duty assignments. Some workers are experiencing mixed messages regarding the use of first aid. All employees are told that they must report to first aid for any and all injuries. However, many employees have been told that there are consequences, such as lay-off, associated with reporting injuries. Additionally, some



employees indicated that when injured on the job, (b)(6) instructed them to file with their personal insurance versus filing a worker's compensation claim.

## **Recommendations:**

### **Safety**

1. BNI should further evaluate and take appropriate action to eliminate a chilling effect with respect to worker concerns regarding retaliation for identification of safety issues.
2. BNI should investigate safety issues expressed by several employees, such as rigging loads over other workers without sufficient warning and movement of energized 480 volt conductors over rebar and steel.
3. BNI should conduct training on workplace hazards from other nearby Hanford facilities such as the Tank Farms, and perform sufficient drills on all shifts to ensure workers execute appropriate emergency response actions.
4. ORP should conduct surveillances to evaluate the effectiveness of BNI corrective actions to eliminate a chilling effect and conduct safe rigging, electrical, and emergency preparedness operations.

### **Equal Employment Opportunity**

5. BNI should conduct an investigation into the allegations regarding racial discrimination, sexual harassment, and a hostile work environment and develop corrective actions.
6. BNI should take immediate action to eliminate defacing of site property, especially graffiti in the men's restrooms and portable toilets.
7. ORP should evaluate the effectiveness of BNI corrective actions to eliminate discrimination, harassment, and defacement of site property.

### **Labor Relations (including First Aid)**

8. BNI should perform a thorough review of I/LR procedures, practices, staffing, and documentation to ensure worker issues receive timely investigation in a professional, and traceable manner. The evaluation must include traceability and closure of concerns raised to the BNI Employee Concerns Office and transferred to the I/LR Manager.
9. ORP should evaluate the effectiveness of BNI corrective actions resulting from this inquiry regarding BNI I/LR and Employee Concerns organizations.
10. BNI should perform a comprehensive evaluation of the conduct of the medical clinic staff and craft supervision when workers are undergoing first aid and follow-on treatment.

11. BNI should evaluate employees understanding of Washington Department of Labor and Industries regulations and ensure information on Workers Compensation rights and responsibilities regarding inquiry claims, submittals and compensation is available to all employees.
12. ORP should evaluate the effectiveness of BNI corrective actions regarding first aid practices and worker understanding of injury claim submittals and compensation.