

26

Exhibit 22



DEPARTMENT OF THE ARMY
KANSAS CITY DISTRICT, CORPS OF ENGINEERS
700 FEDERAL BUILDING
KANSAS CITY, MISSOURI 64106-2896

REPLY TO
ATTENTION OF:

26 August 2008

CENWK-ED-EF (200-1f)

FOR Chief, Preventive Medicine, Munson Army Hospital, Fort Leavenworth, Kansas

SUBJECT: 22 August 2008 – Field Observations of the Industrial Hygiene Facility Assessment Process

1. A site visit was completed 22 August 2008 by Mr. Daniel D. Mitchell, a Certified Industrial Hygienist from my office, to provide technical review of the health hazard facility assessment process. Mr. Mitchell met with 1LT Derivan who provided contact information and guidance on the intent of the site visit. An assessment of building 77 was previously scheduled.
2. Mr. Mitchell then met with Mr. Karl Gibson, Industrial Hygiene Program Manager, and explained that the purpose of the visit was to observe the facility assessment process and provide technical observations. In addition, Mr. Mitchell, as a professional colleague, is available to provide unofficial review and feedback to Mr. Gibson on technical issues and documents related to the facility hazard assessment process.
3. Mr. Gibson provided copies of worksheets used to document observations and instrument readings. Building 77. Mr. Gibson identified the rooms within the building associated with each of the operations. Each room was then visited and real-time monitoring was performed. Real-time monitoring included respirable particulate, noise, light levels, temperature, relative humidity, carbon dioxide. Calibration records for each of the instruments were reviewed; however, Mr. Mitchell was not present during the calibration of each of the instruments. Mr. Gibson provided copies of previous inspection reports for building 77.
4. Observations:
 - a. Real-time monitoring techniques appeared to comply with accepted industrial hygiene practices.
 - b. However, the quantity of real-time sampling performed, routine nature, and sole reliance on sample results may not reflect DOD's intention for the annual facility inspections (surveys) (DA PAM 40-503 4-4.b). It is our understanding that the preliminary identification of hazards should rely considerably on professional judgment of qualified individuals (DODI 6055.5 6.1.1). There are no known requirements that specify the use of real-time instruments during facility inspections. However use of such instruments, as they are readily available, should be used at the discretion of the industrial hygienist to assist in determining hazard severity.
 - c. The format of the inspection report may not concisely communicate information that has been tailored to the needs of the facility director or operation commander.

CENWK-ED-EF (200-1f)

SUBJECT: 22 August 2008 – Field Observations of the Industrial Hygiene Facility Assessment Process

d. A concern was expressed by the industrial hygienist that the reporting process may not provide adequate means for their professional opinion to be incorporated into the record.

5. Recommendations:

a. Review facility inspection process to identify means to simplify the process and place emphasis on the industrial hygienist's professional judgment. The process should incorporate qualitative aspects and observation skills and not rely solely on the use of real-time instruments.

b. Revise reporting requirements to tailor the report to the needs of the operation's commander and add a process by which technical data and the industrial hygienist's opinions can be made for the record. Therefore, two separate documents are suggested. The first, a memorandum for record or industrial hygiene report for record that is used internal to Preventive Medicine to be signed by the industrial hygienist (AR 25-50 2-7). This document will provide adequate detail to demonstrate that standard industrial hygiene practices were followed. The document along with supporting documentation, such as calibration records, should be maintained for defense from an audit. This document would include industrial hygienist's recommendations. The second document, would concisely report findings pertinent to the operation. For annual assessments as a minimum we suggest addressing two items: 1) Confirm, based on professional opinion, whether the facility complies with occupational health standards (Army and OSHA standards); and 2) A list of identified hazards that are recommended for inclusion into the operation's risk management processes (DODI 6055.1 E3.6.3).

6. If you have any questions or concerns related to this report, the point of contact for this action is Mr. Daniel Mitchell. He can be reached at (816) 389-3911 or via email at daniel.d.mitchell@usace.army.mil



JASON M. LEIBBERT, P.E.
Chief, Section ED-EF

CF:

MCXN-PM (Derivan)

MCXN-PM (Gibson)

GPRMC BAMC-OH (Bentley)

27

Exhibit 23

Jefferson, Beverly LTC MAHC



Grande, Peter Mr CIV USA TRADOC [peter.grande@us.army.mil]
Wednesday, October 10, 2007 8:13 AM
Jefferson, Beverly LTC MAHC
FW: IH Survey of USDB For 2006 (UNCLASSIFIED)

Email 4

-----Original Message-----

From: Nobach, Linda I MAJ MAHC [mailto:linda.nobach@amedd.army.mil]
Sent: Thursday, February 09, 2006 11:05 AM
To: Grande, Peter, USDB
Cc: Dowdy, William C. LTC MAHC
Subject: RE: IH Survey of USDB For 2006 (UNCLASSIFIED)

Mr. Grande,
I am working with LTC Dowdy on this issue and will contact you next week with more information.
Thank you
MAJ Nobach

From: Grande, Peter, USDB [mailto:peter.grande@us.army.mil]
Sent: Wed 2/8/2006 6:45 AM
To: Nobach, Linda I MAJ MAHC
Cc: Dowdy, William C. LTC MAHC
Subject: RE: IH Survey of USDB For 2006 (UNCLASSIFIED)

Classification: UNCLASSIFIED

Caveats: NONE

MAJ Nobach,

I am disappointed in the revised report. Again in the report, Karl is citing standards that are incorrect. For example for lighting on page 33, "BOLD is for locations that do not meet ACA standards. Even if the pod average complies, there must be 90% or greater of the cells tested meet the ACA Standards." I am an ACA auditor and just complete refresher training on 31 Jan 06 from the ACA Accreditation and Standards Division and this is a false statement. There is no 90% standard for ACA.

For the noise levels: How is it measured? An average from 2215 hours until 0500. At 0500 hours, the intercom in the common area of the pod announces "First Call" and all of the inmates door are electronically only opened "popped". How is that measured by the noise instrument.
Did it spike at this time in all of the pods and drive the average up?
If so, then the reading should only be read prior to "First Call". This would give a true reading. Once of the housing units had a night time dBA higher then the daytime dBA reading?

DIS and Karl had a meeting that I attended for a short time, but the agreement was that I would revise Tab 1 of our IH Survey in the format he provided in 2003 for our ACA. He send examples via email and I responded with my input and he did what he wanted.

I honestly believe that Karl had a vendetta against the USDB and goes out of his way to make us non-compliant in every function that he can manipulate. COL Harrison sent a memorandum in May 2005 prior to the IH survey through COL Davis to MAJ Nobach requesting

that Karl provide the data for ACA and refrain from making comments. He told me that he took this memorandum as we did not want him to use ACA standards for our ACA audit and that he would find harsher standards to measure us by. What logic is that? Would the MAHC not use JCAHO standards for their JCAHO standards.

recommending to COL Harrison that Karl be barred from the USDB until the two Colonels meet to determine the validity of Karl's reports and method of measurement.

MR. PETER J. GRANDE, USDB CHIEF EXECUTIVE DIRECTOR
(913) 758-3622 or DSN 585-3622

From: Grande, Peter, USDB
Sent: Monday, February 06, 2006 4:34 PM
To: Gibson, Karl L; Grande, Peter, USDB; Grenier, Theresa, USDB
Cc: Nobach, Linda I MAJ MAHC
Subject: RE: IH Survey of USDB For 2006 (UNCLASSIFIED)

Classification: UNCLASSIFIED

Caveats: NONE

Hello MAHC Folks,

Does anyone know where the ACA report is? It has been several weeks.
Karl can you send me an electronic copy in the interim?

Chief

From: Gibson, Karl L MAHC [mailto:Karl.Gibson@CEN.AMEDD.ARMY.MIL]
Sent: Monday, January 23, 2006 8:32 AM
To: Grande, Peter, USDB; Couch, Greg, USDB; Morris, Rodney LTC, USDB; Grenier, Theresa, USDB
Cc: Nobach, Linda I MAJ MAHC
Subject: RE: IH Survey of USDB For 2006 (UNCLASSIFIED)

Hello USDB Folks,

Here is the new:

Karl Gibson

IH

Gibson, Karl L MAHC
Sent: Friday, January 20, 2006 10:52 AM
To: 'Grande, Peter, USDB'; Couch, Greg, USDB; Morris, Rodney LTC, USDB
Cc: Nobach, Linda I MAJ MAHC
Subject: RE: IH Survey of USDB For 2006 (UNCLASSIFIED)

lo Peter Grande,

The report is rewritten and waits Major Nobach's signature. Then it goes to command group at the MEDDAC. Then out.

I will add more dates in April and May and resend schedule.

Thanks,

Karl Gibson

IH

From: Grande, Peter, USDB [mailto:peter.grande@us.army.mil]
Sent: Thursday, January 19, 2006 11:51 AM
To: Couch, Greg, USDB; Morris, Rodney LTC, USDB
Cc: Gibson, Karl L MAHC
Subject: FW: IH Survey of USDB For 2006 (UNCLASSIFIED)

Classification: UNCLASSIFIED

Caveats: NONE

Greg,

You can start Karl schedule starting 2 March 06 and beyond. The Commandant guidance is for everyone to stay focused on the ACA Audit.

Karl,

Any status on the ACA report?

MR. PETER J. GRANDE, USDB CHIEF EXECUTIVE DIRECTOR

) 758-3622 or DSN 585-3622

From: Gibson, Karl L MAHC [mailto:Karl.Gibson@CEN.AMEDD.ARMY.MIL]
Sent: Thursday, January 19, 2006 9:39 AM
To: Grande, Peter, USDB; Grenier, Theresa, USDB
Crawford, Pamela Ms CAC SAFETY; Nobach, Linda I MAJ MAHC; Skaggs,
Vicki, USDB; Crawford, Bob, USDB
Subject: IH Survey of USDB For 2006

Hello All,

I have heard nothing from the USDB. Have you done a schedule yet?
Please forward to Mr. Couch, because he is not on my global.

Dates I have open:

- 1, 2, 6, 7, 9, 13, 14, 15, 21, 22, 27, 28 February 2006
- 2, 6, 7, 9, 13, 14, 16, 20, 21, 22, 27, 28, 29 March 2006
- 3, 4, 10, 11, 13, 17, 18, 19 April 2006

Thanks,

 Gibson

Classification: UNCLASSIFIED

Caveats: NONE

Classification: UNCLASSIFIED

Caveats: NONE

Classification: UNCLASSIFIED

Caveats: NONE

28

Berckman, Glenn T Mr CIV USA MEDCOM CHPPM

From: Berckman, Glenn T Mr CIV USA MEDCOM CHPPM
Wednesday, July 08, 2009 6:46 AM
Cc: Gibson, Karl L Mr CIV USA MEDCOM MAHC
Friedman, Lorin S Mr CIV USA MEDCOM CHPPM
Subject: Whistleblower Investigation (UNCLASSIFIED)
Attachments: 09Jun09 Whistleblower.pdf

Categories: 15-6

Classification: UNCLASSIFIED

Categories: NONE

Mr. Gibson,

As per our FONECON last week in which you stated you would not be available to speak with me because the Union representative whom was to accompany you to the interview was unavailable at the time of my visit to FT. Leavenworth, I'm sending you a .pdf file of my Appointment Memo (attached). As you know, I have received all the information that you had provided to the previous investigating officer regarding the matters addressed in the Appointment Memo. However, there is a question to which I seek further information from you. Please note that the suspense date in paragraph 5 of the Appointment Memo has been revised to 17 July 2009. The question (para 2.b.8 in the Appointment Memo) to which I request you provide an answer/more information is:

"During 2008 were 1LT Derivan and LTC Jefferson arbitrary in denying 39 of Mr. Gibson's 40 requests to conduct time weighted measurements testing on buildings without an explanation?"

If you would, please, put your answer/information in the form of a sworn statement, and either put it in a .pdf file and reply to this email, or FAX it to 301-677-7132.

Please understand that I want to give you every opportunity to present any and all additional information that you wish to present for my consideration regarding any matter addressed in the Appointment Memo. If there is any additional information that you wish for me to consider, please feel free to send it along, as well. Also, please let me know your availability (and the availability of your Union representative) to discuss these matters face-to-face in more detail.

Thank you,

Glenn Berckman, CIH, CSP
Industrial Hygiene Division
US Army Center for Health Promotion
and Preventive Medicine-North

ATTN: MCHB-AN-IH

Bldg 4411, Rm 106G

Fort George G. Meade, MD 20755-5225

ann.berckman@us.army.mil

DSN 622-3426

(301) 677-3426

FAX: XXX-7132

Classification: UNCLASSIFIED

Caveats: NONE

29



DEPARTMENT OF THE ARMY
US ARMY PUBLIC HEALTH COMMAND (PROVISIONAL)
PUBLIC HEALTH REGION - NORTH
4411 LLEWELLYN AVENUE
FORT GEORGE G. MEADE, MARYLAND 20755-5225


MCHB-AN-IH

22 December 2009

MEMEORANDUM FOR RECORD

SUBJECT: Alleged Incident of Fort Leavenworth Employee Collapsing Due to Formaldehyde Exposure, 14 June 2008

I contacted the Fort Leavenworth Safety Director, Ms. Pam Bowser. She has no record of the subject event, nor any such event, neither in her OSHA 300 log, which tracks occupational injuries and illnesses, nor in her Workers' Compensation records.


GLENN T. BERCKMAN
C, Industrial Hygiene Division

30

Exhibit 26



DEPARTMENT OF THE ARMY
US ARMY PUBLIC HEALTH COMMAND (PROVISIONAL)
PUBLIC HEALTH REGION - NORTH
4411 LLEWELLYN AVENUE
FORT GEORGE G. MEADE, MARYLAND 20755-5225


MCHB-AN-IH

22 December 2009

MEMEORANDUM FOR RECORD

SUBJECT: Alleged Incident of Fort Leavenworth Employee Collapsing Due to Formaldehyde Exposure, 14 June 2008

After contacting the Fort Leavenworth Safety Director, Ms. Pam Bowser, who stated she has no record of the subject event, nor any such event, I contacted Ms. Jo Osborne, the Fort Leavenworth Civilian Personnel Advisory Center (CPAC) Director, to confirm that no Workers' Compensation claim had been filed. Ms. Osborne, who would certainly have a record of any incident in which a Fort Leavenworth worker was transported to a hospital by ambulance, similarly was not able to find any documentation of any such incident. I conclude from this information that the alleged incident, at least as described by Mr. Gibson, never occurred.


GLENN T. BERCKMAN
C, Industrial Hygiene Division