

COMMITTEES:

COMMERCE, SCIENCE, AND TRANSPORTATION
SMALL BUSINESS AND ENTREPRENEURSHIP
FOREIGN RELATIONS

CHAIRMAN:

SUBCOMMITTEE ON INTERNATIONAL DEVELOPMENT AND
FOREIGN ASSISTANCE, ECONOMIC AFFAIRS,
INTERNATIONAL ENVIRONMENTAL PROTECTION, AND
PEACE CORPS

United States Senate

October 9, 2013

The Honorable Ernest Moniz
Secretary, Department of Energy
1000 Independence Ave. S.W.
Washington, DC 20585

Dear Secretary Moniz,

I write to urge you in the strongest possible terms to quickly investigate and take all necessary action to remedy the recent termination by URS Corporation¹, one of the Department of Energy subcontractors responsible for management of the Hanford site, of Dr. Walt Tamosaitis, the whistleblower who first and accurately warned of severe safety and management challenges at the Hanford Waste Treatment Plant (WTP). This act, should it go un-remedied, flies in the face of your September 20, 2013 memorandum on safety culture (Attachment 1) in which you commendably directed DOE Department heads to promote a safety-conscious environment free of fear of being retaliated against for raising concerns.

The WTP is being built to treat Hanford's high-level nuclear waste currently stored in 177 aging underground tanks, 70 of which have already leaked about 1 million gallons of waste into the groundwater, which feeds the Columbia River located about 12 miles away.² About 56 million gallons of this waste needs to be removed, treated and disposed of before further leaks occur.

I first wrote the Department to relay my concerns about safety and management blunders at the WTP in November of 2011, and included questions related to the treatment of Dr. Tamosaitis by his DOE contractor employers and the degree to which DOE were aware of said treatment. Dr. Tamosaitis had raised particular concerns about the portion of the project that involves mixing the high-level nuclear waste in tanks, including the possibility that if the safety concerns were not addressed a potential criticality or hydrogen explosion could occur. I sent a second letter to the Department in January of this year requesting additional information. The Department has yet to fully respond to either of my letters.

For his efforts to assure the safety of the WTP design and operations, Dr. Tamosaitis was first removed from his managerial position at URS and assigned to sit in a basement office doing essentially nothing. According to reports,³ emails,⁴ and court documents,⁵ this demotion was tied

¹ URS Corporation is a subcontractor to Bechtel, which is the prime contractor responsible for the site

² <http://www.hanfordwatch.org/introduction.htm>

³ See for example the July 22, 2011 article in The New York Times Greenwire entitled "Independent Probe, Manager's Firing Raise Questions About 'Safety Culture' at DOE's Nuclear Waste Site

⁴ <http://sheridanlawfirm.com/SiteData/Docs/walt-is-killing-us-email-string.pdf>

⁵ See documents prepared and filed in Dr. Tamosaitis's case against Bechtel, Case NO. CV-10-5116-RHW in the United States District Court Eastern District of Washington

to his safety complaints: "Walt is killing us," Bechtel manager Frank Russo wrote in an email on July 1, to one of Tamosaitis' bosses. "Get him in your corporate office today." The response to that email was "He will be gone tomorrow". Other emails⁶ indicate that both Ines Triay, then-Assistant Secretary for Environmental Management at DOE, and Deputy Secretary Daniel Poneman had been briefed on the matter and "understand the reasons for Walt's departure," "support" Bechtel management, but that "DOE can't be seen as involved."

Since Dr. Tamosaitis and numerous other experts raised their concerns, they have been validated by every independent body that has examined them, including the Defense Nuclear Facilities Safety Board (DNFSB), Government Accountability Office (GAO), and the Department's Inspector General and Office of Health, Safety and Security. All have agreed that the project is deeply troubled, and all have affirmed the underlying technical problems identified by Dr. Tamosaitis.

Despite this, On October 2, Dr. Tamosaitis, a respected engineer who worked for URS Corporation for 44 years, was escorted to the door and told he will only receive the severance pay he is entitled to if he promises not to sue his employer for what can only be described as years of retaliation for his efforts to issue warnings related to the WTP's dangerous flaws.

To your great credit, you issued a memorandum to all Department heads on September 20 that said, in part:

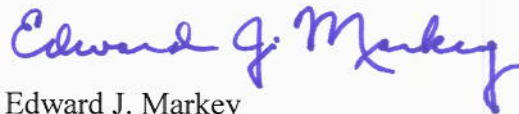
"We will foster a safety conscious work environment across all Departmental operations. Federal, laboratory, and contractor workers have the right to identify and raise issues that affect their safety and health or that of their co-workers openly, and without fear of reprisal. We must not deter, discourage, or penalize employees for the timely identification of safety, health, environmental, quality or security issues, the reporting of illnesses or injuries, or the use of Employee Concerns or Differing Professional Opinion Programs. Our workers will receive a prompt, professional, and transparent evaluation and resolution of their concerns."

Simply put, if you do not take immediate action to halt URS's retaliatory dismissal of Dr. Tamosaitis and ongoing retaliatory acts against other employees (for example, Donna Busche, who last week filed a formal complaint of retaliation against URS) who have raised safety concerns, your efforts to improve the Department's safety culture will lack all credibility. Please do what is necessary, and what is right, to protect a truly heroic individual. I also ask that you provide me with an accounting of a) the taxpayer funds requested to date by Bechtel and URS Corporation (or any other contractor or subcontractor) to reimburse its legal costs for defending themselves against Dr. Tamosaitis' legal and administrative complaints, including the number of hours charged by the contractor(s), subcontractor(s) and/or its outside counsel(s) and b) the taxpayer funds reimbursed to the contractor(s) or subcontractor(s) by the Department for such purposes.

⁶ <http://sheridanlawfirm.com/SiteData/Docs/July-28-2010-Russo-email-exchange-protect-50-million.pdf>

Thank you very much for your attention to this important matter. Please provide your response to this and my earlier correspondence no later than close of business on October 25, 2013. If you have any questions or concerns, please have your staff contact Dr. Michal Freedhoff of my staff at 202-224-2742.

Sincerely,

A handwritten signature in blue ink that reads "Edward J. Markey". The signature is written in a cursive style with a large, stylized "M" and a long, sweeping underline.

Edward J. Markey



The Secretary of Energy
Washington, DC 20585

September 20, 2013

MEMORANDUM FOR HEADS OF DEPARTMENTAL ELEMENTS

FROM:

ERNEST J. MONIZ
SECRETARY OF ENERGY

DANIEL B. PONEMAN
DEPUTY SECRETARY

Handwritten signatures of Ernest J. Moniz and Daniel B. Poneman are placed next to their respective names. Ernest J. Moniz's signature is a stylized, cursive "EJM". Daniel B. Poneman's signature is a cursive "Dan B. Poneman".

SUBJECT:

Personal Commitment to Health and Safety through Leadership,
Employee Engagement, and Organizational Learning.

We are writing to ask you to join us in reaffirming our personal and professional commitment to safely fulfilling the Department's important mission responsibilities. The Department's thousands of Federal, laboratory, and contractor employees work hard every day in pursuit of energy independence, global scientific leadership, national security, and environmental stewardship. They are the key to our success. We would like to revitalize our efforts to protect the health and safety of our employees, as well as the health and safety of those who reside in the communities in which the Department operates or are otherwise affected by our work. The Department's ultimate safety objective is to have zero accidents, work-related injuries and illnesses, regulatory violations, and reportable environmental releases. The Department's Integrated Safety Management policy is the foundation of our approach to safety and health.

The following precepts reflect our strong commitments to safety and health. We ask you to join us in advancing these leadership, employee engagement, organizational, and educational goals in your areas of responsibility.

- We will pursue a safety culture built on an environment of trust and mutual respect, worker engagement and open communication, an atmosphere that promotes a questioning attitude with effective resolution of reported problems, and continuous learning.
- We will operate our facilities and conduct work activities in a manner that protects our employees, the public, and the environment. We recognize that meeting minimum requirements merely reflects the starting point in our pursuit of excellence and is not the end objective.
- Each one of us is responsible for safety at the Department. We will strive to ensure that every employee understands his or her role, responsibility, authority, and accountability in safely planning, executing, and monitoring work performance.



- We will foster a safety conscious work environment across all Departmental operations. Federal, laboratory, and contractor workers have the right to identify and raise issues that affect their safety and health or that of their co-workers openly, and without fear of reprisal. We must not deter, discourage, or penalize employees for the timely identification of safety, health, environmental, quality or security issues, the reporting of illnesses or injuries, or the use of Employee Concerns or Differing Professional Opinion Programs. Our workers will receive a prompt, professional, and transparent evaluation and resolution of their concerns.
- We will learn from our mistakes and experiences. We will report errors and problems, establish vigorous corrective action programs, monitor performance through multiple means, learn from operational experience, and encourage a questioning attitude.

We greatly value – and depend upon – the service of the men and women working to achieve the Department's important missions that the American people have entrusted to us. We can only advance these challenging missions if we provide all of our employees a safe and healthy work environment and foster a culture in which workers at all levels are empowered to bring forth problems, participate in the development of solutions, and are considered partners in decisions that affect their work.

Thank you for your leadership in ensuring the safe execution of the Department's vital and urgent responsibilities.