



U.S. OFFICE OF SPECIAL COUNSEL

1730 M Street, N.W., Suite 218
Washington, D.C. 20036-4505
202-254-3600

**Analysis of Disclosures, Agency Investigation and Report,
Whistleblower Comments, and Comments of the Special Counsel**

OSC File No. DI-08-1002

Summary

The whistleblower, Gerry Reynolds, Safety and Occupational Health Specialist, disclosed to the Office of Special Counsel (OSC) that employees at the Department of Agriculture (USDA), Forest Service (FS), Salmon-Challis National Forest (SCNF), failed to complete their mandatory training requirements and to maintain current and accurate FS training records. He also disclosed that his supervisor improperly refused to file an incident report involving an employee driving a FS vehicle.¹

The former Secretary, USDA, asked the Office of the Inspector General (OIG), USDA, to investigate the whistleblower's allegations. The OIG found that one of the three allegations presented by Mr. Reynolds, concerning the failure to maintain current and accurate FS training records, was partially substantiated. The OIG found that the remaining two allegations were unsubstantiated.

OSC finds that the agency's report contains all of the information required by statute and that its findings appear to be reasonable.

The Whistleblower's Disclosures

Specifically, Mr. Reynolds disclosed that on August 18, 2007, he was driving his personal vehicle on a highway about 18 miles south of the FS office in Salmon, Idaho. His wife, Nancy Reynolds, was a passenger in the car. On that day, a FS employee, Randy Lambeth, was driving a government vehicle which nearly collided with Mr. Reynolds' car, because according to Mr. Reynolds, Mr. Lambeth was driving recklessly. Mr. Reynolds notified his supervisor, Lyle Powers, about the incident and requested that Mr. Powers review whether Mr. Lambeth's training requirements were current. In addition, Mr. Reynolds requested that Mr. Lambeth receive counseling and that the incident be recorded in the Safety and Health Information Portal System (SHIPS), the online system for recording and managing safety incidents. Mr. Powers assured Mr. Reynolds that Mr. Lambeth's training was up-to-date and that Mr. Lambeth was counseled. However, Mr. Powers refused to enter the incident in SHIPS. Subsequently, Mr. Reynolds, in his capacity as a safety officer, reviewed the employee training records and noticed that Mr. Lambeth's

¹ Mr. Reynolds also informed our office that he reported numerous health and safety violations at the FS to the Occupational Safety and Health Administration (OSHA). The OSHA investigation is still pending.

training records were not current. Mr. Reynolds also observed that, according to the training records, there were numerous FS employees who have failed to meet the necessary training requirements for their jobs, including safety and medical training.

The Forest Service Handbook (FSH) 6709.11 outlines the rules and procedures regarding employee safety, security, training, investigation and reporting; the SHIPS Handbook describes the procedures for recording and managing safety incidents. In addition, the USDA Forest Service Mandatory Safety & Health Training document (Training Matrix) lists the foundational skills and training requisites for all employees. This matter was referred to the Secretary of USDA because the information provided by Mr. Reynolds indicated that FS employees were not meeting these standards.

The Agency's Investigation and Report

In order to determine whether FS employees were complying with their mandatory training requirements the OIG researched the agency's training requirements, interviewed FS staff and reviewed FS training records based on a sample of 30 selected employees. OIG determined that the six mandatory training requirements were courses on Defensive Driving, Emergency Action Plan, Blood borne Pathogens, Hazard Communications, Safety Awareness, Emergency Response and Hazardous Waste Operations. The OIG also confirmed that the 30 employees have completed all of the mandatory training. As a result, the OIG did not find that there was a widespread problem at the FS where employees were failing to complete their mandatory training requirements.

During its review the OIG discovered that the training records for 27 of the 30 selected employees were not properly entered into the FS database. Although the remaining three employees had completed their mandatory training requirements it was not reflected in the database. It was determined that part of the problem was a lack of adequate communication between FS employees and the Safety Officer. As a result, the OIG found that Mr. Reynolds' allegation regarding the training records was partially substantiated. FS employees took action by updating the missing records and by issuing a memorandum to FS staff reiterating the importance of timely providing safety training records to the Safety Officer. Further, the memorandum asserted that unit supervisors would be held accountable for noncompliance. It was also suggested by OIG that the Safety Officer provide periodic status reports to management officials regarding units that have neglected to provide training records and/or update the FS database.

In regard to the incident that occurred on August 18, 2007, the OIG interviewed Mr. and Mrs. Reynolds, Mr. Lambeth, and Judy Wiley, FS employee who was a passenger in the FS vehicle. The OIG also interviewed individuals in the Lemhi County Sheriff's Office and in the Lemhi County Prosecutor's Office (LCP). The LCP declined prosecution of the matter because the testimonies of the four individuals varied greatly. As a result of the statements Mr. Lambeth gave he was counseled and verbally reprimanded by Kurt Werst, Supervisor, and William Wood, SCNF Forest Supervisor. The OIG was unable to conclude whether a near miss incident occurred between Mr. Reynolds and Mr. Lambeth because of the conflicting information. As a result, the OIG determined that there was no improper refusal to record the incident in SHIPS.

The Whistleblower's Comments

Mr. Reynolds noted that he has been the Salmon-Challis National Forest Safety Officer for approximately two years. Prior to this Mr. Reynolds was employed in law enforcement and public safety positions. He also spent 25 years with the National Park Service as a Park Ranger. In this capacity he functioned as a law enforcement officer, emergency medical technician, search and rescue technician and structural and wild land firefighter. He further explained his background in public health and safety.

Mr. Reynolds asserted that there are deficiencies in the FS safety program and that the reasons listed in the agency's report are not sufficient. He stated that regardless of the circumstances ensuring a safe environment should have been the main priority. Mr. Reynolds provided multiple examples of safety issues and violations that were not expensive to repair and that could have been resolved quickly; however he asserted that FS employees refused to cooperate. Mr. Reynolds further stated that lack of support from management officials is a significant part of the problem and emphasized his continuous efforts to work with the different FS units to resolve the safety issues. In regard to the incident that transpired on August 18, 2007, Mr. Reynolds believes that the agency counseled Mr. Lambeth because he was at fault and maintains his position that the incident should have been filed in SHIPS.

Conclusion

Based on my review of the original disclosures, the agency's report, and the whistleblower's comments, I have determined that the agency's report contains all of the information required by statute and that its findings appear to be reasonable.