UNITED STATES DEPARTMENT OF COMMERCE
The Secretary of Commerce
Washington, D.C. 20230

February 3, 2011

Mr. William E. Reukauf
Associate Special Counsel
U.S. Office of Special Counsel
1730 M Street, NW, Suite 218
Washington, DC 20036-4505

Dear Mr. Reukauf:

Enclosed is the Department of Commerce's (Department) report in response to your request of January 8, 2010, to investigate allegations that certain Department managers failed to inform employees working in the Herbert C. Hoover Building (Building) in a timely manner of the existence of unsafe levels of asbestos in the Building's eighth floor attic, and for knowingly permitting these employees to work in contaminated areas without personal protective equipment. Upon receiving your request, I immediately tasked the Department's Inspector General to investigate these allegations and to discuss his findings and recommendations with the Department's Chief Financial Officer and Assistant Secretary for Administration. I also tasked the Chief Financial Officer and Assistant Secretary for Administration to establish a plan to implement the Inspector General's recommendations.

I have reviewed the investigative report and the memorandum responding to the report, and I concur with the findings and recommendations. Since arriving as Secretary in March 2009, one of my enduring and important goals is to ensure all employees, contractors, and the public are provided a safe building and office environment in which to transact public business. In that respect, I appreciate the efforts of Mr. Edgar Lee and your office for bringing this situation to my attention. Thank you for the opportunity to respond to this issue.

Sincerely,

Gary Locke

Enclosures

UNITED STATES DEPARTMENT OF COMMERCE
Chief Financial Officer
Assistant Secretary for Administration
Washington, D.C. 20230

MEMORANDUM FOR THE SECRETARY

FROM: Scott B. Quehl
Chief Financial Officer and
Assistant Secretary for Administration

SUBJECT: Response to OIG Report- Results of Investigation, Re: Whistleblower Disclosure of Asbestos Conditions in HCHBs 8th Floor/Attic

This memorandum describes the actions that have been taken and which are proposed, in response to the above referenced report dated January 20, 2011. The action plans are annotated within each recommendation below.

OIG Recommendation 1: Develop, institute, and maintain a robust asbestos management plan in accordance with EPA guidelines and OSHA regulations, to include:

Bullet 1: Appointing a qualified, trained Asbestos Program Manager;

Bullet 2: Posting applicable asbestos warning signage at access points to and throughout the 8th floor/attic, as well as elsewhere in HCHB as appropriate;

Bullet 3: Restricting access to, and requiring use of respirators for personnel working in, any asbestos hazard or containment area of HCHB;

Bullet 4: Ensuring frequent (e.g., semiannual) inspection of asbestos-containing material and air sample testing (at least annually, as also recommended by GSA) in the 8th floor/attic and throughout HCHB;

Bullet 5: Implementing a comprehensive asbestos management recordkeeping system to include thoroughly documenting and tracking the results of testing and resultant actions taken;

Bullet 6: Benchmarking other similarly affected federal agencies to identify best practices for managing and controlling asbestos conditions.

CFO/ASA Actions Taken - Bullet 1: (Appointing a qualified, trained Asbestos Program Manager)

1. Asbestos management duties for the Herbert C Hoover Building (HCHB) had been assigned as an ancillary responsibility to several different offices and employees within the Office of Administrative Services (OAS) since at least 1991.

2. Most recently this responsibility was covered by an Industrial Hygienist working in the OAS Environmental Office. In April 2010 OAS was notified this person intended to leave DOC, and on April 26, 2010, OAS determined that after meeting with the GSA Industrial Hygiene, Safety, Environment and Fire Protection Branch, a dedicated position should be created for a HCHB Building Safety Manager, with asbestos management responsibilities. After negotiations with the Office of Human Resource Management, a vacant position which could be utilized for a Building Safety Manager was identified.

3. A recruitment package for this position was issued on June 28, 2010, posted on August 16, and certificates issued on October 14. No successful candidates were found. A second recruitment package was initiated October 26, reformatted under the new hiring format November 11, and approved and routed to the Office of Human Resource Management for processing and posting on January 12, 2011. Because of the current continuing resolution, the recruitment package is presently with the Office of Executive Budgeting for funding approval. Once all approvals are received, it is anticipated that a person could be hired and performing the duties of the position as early as March 28, 2011.

CFO/ASA Actions Taken - Bullet 2: (Posting applicable asbestos warning signage at access points to and throughout the 8th floor/attic, as well as elsewhere in HCHB as appropriate)

1. Asbestos warning signs have been posted in the 8th floor/attic for many years. New and additional asbestos warning signs were posted at access points to and throughout the 8th floor/attic in March 2009. All warning signs are checked by GSA during their annual asbestos Operations and Maintenance inspections. DOC Building maintenance staff also inspect signage as part of their daily duties to augment the GSA inspections.

2. In January 2011 an audit of the asbestos warning signs on the 8th floor/attic was conducted. Two signs posted on regulated areas* required replacement at the entry points. There were an additional four unregulated areas that contained non-friable asbestos, which also required replacement signs. The six replacement warning signs were installed on January 14, 2011 by OAS.

   * Regulated area is the term used in OSHA regulations for areas where it is reasonably possible that airborne concentrations of asbestos exceed permissible limits.

CFO/ASA Actions Planned - Bullet 2:

1. As an additional measure, OAS has initiated a review to identify additional signage which may be appropriate for non-regulated areas that have accessible, but non-friable Asbestos Containing Materials (ACM) and Potentially Asbestos Containing Materials (PACM)

elsewhere in the HCHB. A current Reimbursable Work Agreement (RWA) with GSA will be amended to include this task. All additional signage should be installed by July 1, 2011.

CFO/ASA Actions Taken - Bullet 3: (Restricting access to, and requiring use of respirators for personnel working in, any asbestos hazard or containment area of HCHB)

1. Restricting access to, and requiring use of respirators for personnel working in asbestos hazard or containment areas (regulated areas) is current practice. All regulated areas are secured by locked doors with padlocks.

2. Six OAS staff members are Asbestos AHERA Supervisor qualified and have completed respirator training. They possess and use the necessary safety equipment and respirators which are in date and tested annually.

3. The existing requirement to wear respirators, as well as other safety equipment, in regulated areas, along with correct work procedures, is being reinforced via memo to all OAS employees trained to work with asbestos. The memo is scheduled to be issued by February 8, 2011.

4. The 8th floor/attic area is accessible only through locked doors and elevators with a key or a key card. Locks have also been added to the doors of all entry points to regulated areas. All access doors to the 8th floor/attic are checked daily by OAS staff members to ensure the integrity of the locks and condition of the signage.

CFO/ASA Actions Taken - Bullet 4: (Ensuring frequent (e.g., semiannual) inspection of asbestos-containing material and air sample testing (at least annually, as also recommended by GSA) in the 8th floor/attic and throughout HCHB)

1. All OAS Building Management staff complete asbestos awareness training annually and monitor the condition of accessible ACM throughout the course of their daily tasks.

2. The six OAS qualified asbestos AHERA Supervisors pre-inspect all areas being accessed for maintenance or refurbishment to determine if there is any ACM or PACM in the work area and if so, they ascertain the condition of the materials to ensure the area is safe to proceed. Each inspection is documented to augment and update the data sets of previous inspections.

3. GSA conducts annual Operations and Maintenance surveys of the known ACM and PACM within the HCHB to document its condition and identify any repairs required. The most recent survey was conducted by Global Consulting Inc. Their survey report was delivered to GSA and OAS in December 2010.

4. OAS Building Management staff have also initiated their own annual Operations and Maintenance surveys of the ACM and PACM (to occur six months after each GSA survey) to ensure all accessible asbestos in the HCHB is inspected on a semi-annual basis.

5. GSA conducted annual air sampling for asbestos in the HCHB occupied areas (basement to the 7th floor), from pre 1990 to 1995, when it ceased due to GSA budget constraints. GSA reinstituted air sampling for HCHB occupied areas in 1999 and conducted such sampling annually thereafter, except for 2006 and 2009 when GSA budget constraints again precluded testing. All such sampling results were below the OSHA permissible exposure limit. In 2010 the GSA air sampling was expanded to include the 8th floor/attic. The last air sampling was performed in Q1 FY11 with all results below the OSHA permissible exposure limit. OAS Building Management has initiated its own annual air sampling surveys of the HCHB, including the 8th floor/attic area, to augment the annual GSA survey and to ensure semi-annual sampling is conducted throughout the HCHB.

CFO/ASA Actions Taken - Bullet 5: (Implementing a comprehensive asbestos management recordkeeping system to include thoroughly documenting and tracking the results of testing and resultant actions taken)

1. In 1985 the authority for the maintenance of the HCHB was delegated to DOC from GSA, however GSA retained monitoring responsibilities of the asbestos within the building. Asbestos work (whether abatement, containment or encapsulation) is and has been documented for all of the HCHB over this time period. This work has been memorialized in the operation and maintenance logs of OAS. Today, with the HCHB renovation project underway, OAS is responsible for maintenance actions on the occupied side of the HCHB, and the GSA renovation contractor is documenting asbestos abatement undertaken during renovations. GSA will provide DOC with documentation outlining what hazardous materials exist in the renovated section of the building at the end of each phase.

2. On September 3, 2009, OAS entered into a RWA with GSA to update the Asbestos Management Plan & Operations & Maintenance Program tailored for the HCHB by GSA in August 2000. The deliverable under Task One was a comprehensive survey of ACM and PACM in the HCHB. The survey data was delivered to GSA and OAS by Global Consulting Inc. in December 2010 for review. Task Two is the updating of the Asbestos Management Plan, which is now in draft form and is being benchmarked against other GSA management plans by OAS. Task Three is the development of an AutoCAD coverage that will graphically depict all ACM and PACM within the HCHB and allow for a more efficient management of these conditions. The AutoCAD program is expected to be operational by 1Q FY12.

3. Existing asbestos surveys: the Asbestos Management Plan & Operations & Maintenance Program, other individual studies (MACTEC 2003), and the new December 2010 deliverable (HCHB Asbestos Inspection Report by Global Consulting Inc.), are all used to plan and execute all maintenance projects within the HCHB. These resources are being incorporated into GSA's updating of the Asbestos Management Plan for the HCHB now in draft form.

4. OAS has collected all historical documentation (testing, air sampling, surveys, training logs, policy documents etc) related to asbestos and has consolidated them into a series of binders, which are held in the Building Management Office. These records are being updated with all new information related to asbestos management (test results, surveys,

training, operation and maintenance logs, abatement records, etc) and will be transferred to the new HCHB Building Safety Manager/Asbestos Program Manager once the position is filled, per bullet 1 above. The new HCHB Building Safety Manager/Asbestos Program Manager will also maintain any electronic records, such as those delivered in paragraph 2 above. These records will be used to develop a chronological record log, which will be maintained in both paper and electronic formats.

CFO/ASA Actions Taken - Bullet 6: (Benchmarking other similarly affected federal agencies to identify best practices for managing and controlling asbestos conditions)

1. OAS Building Management benchmarked the HCHB Asbestos Management procedures against the National Institute of Science and Technology (NIST) Asbestos Management procedures during a phone interview with Ms. Sharon Ray, the Asbestos Program manager for NIST on April 27, 2010 and during a site visit on June 24, 2010. Ms Ray is a recognized expert in this field, and she confirmed, via email dated April 29, 2010, that the OAS procedures for managing the accessible asbestos within the building (until it is abated during the renovation project) were acceptable and in line with NISTs procedures.

2. The OAS Building Manager met with the US Department of Agriculture (USDA) Asbestos Program Manager on January 25, 2011 to benchmark the HCHB Asbestos Program against theirs and identify practices which could be implemented within the Department of Commerce. The findings are being collated and any relevant items will be incorporated into the DOC asbestos management policies and procedures.

3. A meeting is being scheduled with the Internal Revenue Service (IRS) Asbestos Manager prior to February 14, 2011 to review their program. USDA and IRS were selected as their buildings are similar to the HCHB, necessitating similar asbestos management program requirements.

CFO/ASA Actions Planned - Bullet 6:

1. The updated HCHB Asbestos Management Plan being prepared by GSA, under the 2009 RWA with GSA, will be independently reviewed and benchmarked by the NIST Asbestos Program Manager Ms. Sharon Ray.

2. OAS is also working with GSA to benchmark GSA Triangle Building Asbestos Management Programs by reviewing copies of written Asbestos Management Plans and meeting with other Asbestos Program Managers to ascertain best practices.

OIG Recommendation 2: Commission a review of the 2005 asbestos survey of the building by a licensed asbestos building inspector/management planner to ensure that the location and condition of all asbestos-containing materials are recorded and up-to-date.

CFO/ASA Actions Taken:

1. OAS 2009 RWA with GSA to update the HCHB Asbestos Management Plan addressed this recommendation. As discussed above, GSAs contractor Global Consulting Inc.

reviewed existing asbestos documentation and undertook a comprehensive survey of asbestos locations and condition of ACM and PACM in the HCHB. The results of this survey were delivered to GSA and OAS in December 2010 and will complement the 2005 asbestos survey. Once the Global Consulting Inc. inspection data is reviewed, Global will provide a comprehensive combined data set of asbestos information for the HCHB. This information will be incorporated into the updated Asbestos Management Plan for the HCHB.

OIG Recommendation 3: Promptly abate or remove any damaged asbestos-containing materials identified in the course of surveys, inspections, and renovation work.

CFO/ASA Actions Taken:

1. OAS has procedures in place to promptly abate or remove any damaged asbestos-containing materials identified in the course of surveys, inspections or routine maintenance tasks. These processes were reinforced per OAS memorandum dated July 22, 2010. Maintenance logs are generated from the OAS Office of Space and Building Management for environmental audits and remediation within the occupied portion of HCHB, including the 8th floor/attic. Work done in the HCHB Building Renovation Project Phase II is executed and documented by construction personnel under the GSA contract. At the end of each phase of the renovation project GSA will provide DOC with documentation outlining what hazardous materials exist in that section of the building and any precautions which must be taken.

OIG Recommendation 4: Determine the universe of individuals subjected to potential exposure to impermissible levels of airborne asbestos in the 8th floor/attic, and (a) inform those individuals of applicable procedures for addressing such potential exposure; and (b) offer any such potentially affected current and former employees, including Mr. Lee, health-related measures as may be appropriate.

CFO/ASA Actions Planned:

1. OAS is reviewing all asbestos studies, air sampling results and other pertinent information, whether developed by or for OAS and/or GSA, to determine the relevant time period during which individuals may have been subjected to potential exposure to impermissible levels of airborne asbestos in the 8th floor/attic.

2. Asbestos work logs and known usage history of the 8th floor/attic (taking into consideration the type of activities concerned and likely length of exposure) will be assessed to determine the universe of people who may have been subjected to potential exposure to impermissible levels of airborne asbestos. This may include other agency personnel, contractor employees and vendors.

3. Based upon this review and consistent with OSHA regulations for asbestos found at 29 C.F.R. § 1901.1001, OAS in consultation with a Federal Occupational Health physician and the Office of Human Resources Management will determine what additional notice

and/or medical surveillance is appropriate. This task is anticipated to be completed by March 1, 2011.

OIG Recommendation 5: Develop a communication plan in accordance with GSA guidance to inform federal and contract employees at HCHB about the risks of and safeguards against potential asbestos exposure, particularly in light of ongoing building renovation.

CFO/ASA Actions Planned:

1. A communications plan will be developed by February 28, 2011, which will include an informative item in the OAS Office of Building Renovation news letter and web site addressing asbestos at HCHB in general and will also describe how the program is abating the material through the renovation project. The newsletters are issued bimonthly and placed in brochure racks at the Secretary's entrance, Reagan Tunnel entrance, Lobby, Cafeteria, and Swing Space floors A, C and D kitchenettes, within the HCHB. Approximately 500 newsletters are distributed and taken by the occupants of the building, each issue. The newsletters are also available for downloading from the Building Renovation website.

UNITED STATES DEPARTMENT OF COMMERCE
The Inspector General
Washington, D.C. 20230

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OS EXECUTIVE SECRETARIAT

January 20, 2011

MEMORANDUM FOR: The Secretary

FROM: Todd J. Zinser

SUBJECT: Results of Investigation, Re: Whistleblower Disclosure of Asbestos Conditions in HCHB's 8th Floor/Attic

This memorandum presents the investigative findings and recommendations of the Office of Inspector General (OIG) stemming from whistleblower allegations that management officials at the Department of Commerce, Herbert C. Hoover Building (HCHB), Washington, DC, failed to inform employees in a timely manner of the existence of unsafe levels of asbestos in the HCHB 8th floor/attic. Further, the complaint asserted that management officials knowingly permitted employees to work in contaminated areas without personal protective equipment. These allegations, raised by Edgar Dion Lee, former Hazardous Waste Facility Assistant in the Department's Office of Administrative Services (OAS), were referred to you by the U.S. Office of Special Counsel (OSC) on January 8, 2010.

Pursuant to your delegation of January 22, 2010, we have conducted an investigation of Mr. Lee's disclosure and have provided our findings and recommendations to Scott Quehl, the Department's Chief Financial Officer & Assistant Secretary for Administration. The delegation designated Mr. Quehl as having responsibility for coordinating the Department's review and determination of what corrective actions should be taken in response to our findings and recommendations. In accordance with 5 U.S.C. § 1213(d), we recommend that you transmit this memorandum report to OSC, along with a statement detailing corrective actions taken or planned by the Department.

Summary of Results

Our investigation substantiated the foregoing allegations raised by Mr. Lee. In brief, we found that former OAS management failed over several years to properly address asbestos conditions in HCHB's 8th floor/attic. This led to an unknown number of Departmental and contractor employees who were in that area of the building, including Mr. Lee, being subjected to potential exposure to impermissible levels of airborne asbestos between February 2007 and April 2007—and perhaps even earlier than that period. More specifically:

- In 2003 and 2006, General Services Administration (GSA) contractors who were conducting pre-renovation surveys of the HCHB reported damaged and deteriorating asbestos-containing materials in the 8th floor/attic. OAS management effected remediation and some abatement pursuant to the 2003 findings. While a GSA official maintained that the 2006 report was also

provided to OAS per standard procedure, former OAS officials told us they did not receive the 2006 report—which recommended restricting access to personnel wearing respirators until the damaged asbestos was abated—and therefore took no action. In March 2007, an industrial hygienist contracted by the Department found the 2006 GSA report among OAS asbestos-related records she was reviewing in the basement of HCHB.

- Despite OAS's knowledge of damaged asbestos, no testing for airborne asbestos in the 8th floor/attic was carried out from 2003 to early 2007. Only after a maintenance foreman raised concerns in February 2007 did OAS management undertake air sample testing. Through testing in the 8th floor/attic on February 23, 2007, OAS's contractor found visibly damaged asbestos-containing materials and concluded that relatively high fiber-in-air levels contained airborne asbestos exceeding the Occupational Safety and Health Administration (OSHA) "Permissible Exposure Limit" (PEL—defined below). Subsequent testing by this contractor on April 25, 2007, with fiber analysis performed by an outside laboratory, confirmed that airborne asbestos in the 8th floor/attic exceeded the OSHA PEL.

- Given this serious health hazard, OAS officials had an affirmative obligation under OSHA and GSA regulations to take proper, timely measures to protect employees from asbestos exposure. Their responsibilities included implementing and following a comprehensive asbestos management plan providing for regular testing for airborne asbestos, awareness training, and remediation of damaged materials. Moreover, when airborne asbestos levels were found to exceed the legally permissible limit, OAS officials were required to restrict access to the area, notify employees, and post warning signage.

- However, OAS management at the time did not fulfill these critical responsibilities in a proper and timely manner. In particular, they did not adequately restrict access to the 8th floor/attic and post appropriate warning signage upon learning that airborne asbestos exceeded the permissible limit during the period of February to April 2007. It was not until much later—January 2008, in advance of scheduled abatement—that OAS management adequately restricted access. Further, it was not until February 2008 that OAS provided proper notification to some employees.

- This failure to act subjected an unknown number of employees to potential exposure to airborne asbestos above the permissible limit during February–April 2007. Further, based on the reported findings beginning in 2003 of damaged asbestos in the 8th floor/attic, it is reasonable to conclude that this potential exposure may have begun earlier than February 23, 2007—possibly up to years prior to that time. The responsible OAS officials are no longer with the Department.

- Recent testing, arranged by OIG and conducted throughout HCHB in June 2010, found no airborne asbestos exceeding the PEL in the 8th floor/attic or elsewhere in the building. However, asbestos-containing materials still exist throughout the building and could be damaged through ongoing renovations, as well as daily work activities, and again become airborne in concentrations exceeding the PEL. Underscoring this risk, in June 2010, an OSHA inspector collected several samples of particulate matter from damaged, exposed asbestos-containing material in an 8th floor/attic air handling room, some of which contained

asbestos fibers. OAS repaired the damaged material in response to the OSHA inspector's finding.

- Notwithstanding, OAS still lacks a comprehensive, well-managed asbestos management plan in order to ensure future compliance with all applicable standards and prevent the reoccurrence of the hazardous conditions that Mr. Lee disclosed and our investigation substantiated. We recognize that asbestos management and control is a highly complex area of regulation, and that many federal agencies face this challenge. However, as detailed in our recommendations below, instituting a comprehensive asbestos management plan—to include regular air sample testing—should be addressed promptly, and with a strong sense of urgency, by the Department.

Background & Governing Regulations and Policies

Management of asbestos in federal buildings is governed primarily by the GSA and OSHA regulations. We reviewed and analyzed the relevant regulations and assessed the Department's compliance with these requirements. As highlighted below, asbestos-containing material is present in HCHB, and the Department is required to follow the pertinent regulations.

Asbestos is the name given to a group of naturally occurring fibrous minerals used in certain products, such as building materials and vehicle brakes, based on its heat insulating and other properties. Over the span of decades, asbestos-containing products were prevalent in commercial and government facility applications. According to OSHA publications, breathing asbestos fibers, which are mostly invisible to the unaided eye, can cause a buildup of scar-like tissue in the lungs, termed asbestosis, and may result in loss of lung function that leads to disability and/or death. It can also cause lung cancer and other often fatal diseases such as mesothelioma. Because asbestos does not cause any immediate health effects, the diseases caused by asbestos exposure do not typically appear until 15 to 40 years after initial exposure. Thus, asbestos poses a significant health hazard and its use and presence is regulated by OSHA, the Environmental Protection Agency (EPA), and also, for federal facilities such as HCHB, the GSA. Below is a scanning electron micrograph of a bundle of asbestos fibers[1].

[1] 1,000 micrometers = 1 millimeter. Comparatively, an asbestos fiber with a diameter of 1 micrometer is about 1/100th the thickness of the average human hair. Image source: EPA and the Centers for Disease Control.

HCHB was constructed to house the Department of Commerce in the late 1920s, and is part of the Pennsylvania Avenue National Historic Site. HCHB contains office space for approximately 4,000 employees. In addition, the building also houses the National Aquarium, the White House Visitor's Center, a children's day care center, a fitness center, and a credit union. GSA is the lessor of HCHB and the Department is the tenant. As the tenant and operator of the HCHB, the Department is required to follow all environmental laws and regulations, including GSA's Federal Management Regulation (FMR), which addresses asbestos control, as discussed below.

As in other federal buildings, asbestos-containing materials were installed, and remain, throughout HCHB, primarily in the form of spray-on fireproofing, pipe-wrap insulation, and on the underside of floor tile. These materials are particularly prevalent in the 8th floor/attic space of the HCHB, which was readily accessible to employees, contractors, and visitors and widely used by employees at the time of the events reported herein. During the relevant period and to date, the 8th floor/attic space of the HCHB contained mechanical equipment, air handling units and other building components, as well as multiple small rooms/offices for short-term use, an extensively used break room, bathrooms, temporary records storage space for Departmental bureaus, and mechanical servicing areas. The 8th floor/attic contains numerous pipes and other asbestos-containing materials, some of which are accessible from common walkways.

Among other requirements, GSA's FMR and OSHA regulations impose duties to assess and abate asbestos-related risks:

- The FMR requires federal agencies to inspect and assess buildings for the presence and condition of all asbestos-containing materials.

- The FMR also requires federal agencies to manage asbestos-in-place that is in good condition and not likely to be disturbed, as well as to abate damaged asbestos-containing materials and those likely to be disturbed.[2]

- OSHA regulations further prescribe that employers shall ensure that employees are not occupationally exposed to airborne concentrations of asbestos in excess of the PEL (PEL–0.1 asbestos fiber per cubic centimeter of air (f/cc), as an 8-hour time-weighted average[3]).

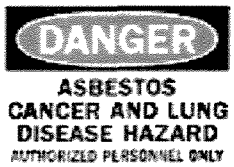
- Notwithstanding the established PEL, an OSHA risk assessment concluded that the current PEL serves to reduce, but not eliminate, "the significant risk of adverse health effects…[T]he [data] demonstrate[s] that a significant risk continues to exist even at the present PEL."[4] As

[2] See 41 CFR §102-80.15.

[3] See 29 CFR §1910.1001.

[4] OSHA Standard Interpretation entitled, *"OSHA's position on the risk associated with asbestos at the current PEL,"* dated 5/13/99, states, "When the Final Rule for the Asbestos Standard was published in the Federal Register on August 10, 1994, the OSHA risk assessment showed that reducing the PEL to the 0.1 f/cc level [from 0.2 f/cc] would reduce, but not eliminate, the significant risk of adverse health

such, OSHA requires employers to take certain actions to further reduce risk to employees posed by asbestos—e.g., providing comprehensive safety training, posting appropriate signage (see below graphic), and restricting access and requiring respirators for areas where airborne asbestos exceeds the PEL.



- Finally, OSHA regulations require prompt removal or abatement (e.g., encapsulation) of damaged asbestos or when air sample testing shows airborne asbestos exceeding the PEL.[5]

The complainant's duties at HCHB entailed activity in the 8th floor/attic areas during the relevant time period. As the sole Hazardous Waste Facility Assistant assigned to OAS's Office of Real Estate, Mr. Lee's position description included the following "Major Duties and Responsibilities":

> "Ensures hazardous materials and wastes are received, handled, stored, labeled, marked, inspected, documented and manifested/disposed of in compliance with applicable environmental regulations and safety requirements...Inspects storage areas... ."

While Mr. Lee was not directly involved in asbestos removal/abatement activities, according to a former supervisor, who at the time was the Environmental Program Manager, Mr. Lee's duties routinely included collecting waste of a hazardous nature and disposing of it in accordance with EPA standards. Mr. Lee's former supervisor stated that these duties included the removal and disposition of bagged lead-based paint and asbestos-containing materials, among other waste and debris. He further maintained that Mr. Lee regularly inspected and worked throughout the building, from the basement to the 8th floor/attic. This account is corroborated by several other individuals we interviewed, who confirmed that Mr. Lee routinely performed work in the 8th floor/attic from 2004 until 2008.

Methodology of the Investigation

Our investigation included conducting interviews with nearly 20 persons, including Mr. Lee; former OAS Director Fred Fanning; Jana Brooks, Mr. Lee's former supervisor and Safety and Health Specialist with OAS's Occupational Safety and Health Office, (who, at the time of critical

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effects. Exposures at this level were still estimated to pose a lifetime risk of death from asbestos related cancer of 3.4 per 1,000 [industry] workers and a 20 year exposure risk of 2.3 per 1,000 [industry] workers (59 FR No. 153 at pg. 40966-7). These figures demonstrate that a significant risk continues to exist even at the present PEL." (http://www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=INTERPRETATIONS&p_id=22884)

[5] See 29 CFR §1910.1001.

events, was responsible along with Mr. Fanning for asbestos management and control); and other former and current OAS managers and federal/contract employees. We also reviewed hundreds of pages of records, emails, OSHA, EPA, and GSA regulations, Departmental directives, building survey reports, and air sample testing reports. In addition, we contracted with an independent firm of industrial hygienists to sample locations throughout HCHB for air and dust-borne asbestos. We also met and spoke with, on multiple occasions, officials from OSHA, EPA, and GSA, as well as current Departmental officials.

Findings

Our investigation found that between February 2007 and April 2007—and perhaps earlier than that period—airborne asbestos levels in the 8th floor/attic exceeded the PEL established by OSHA regulation and, because then-OAS management did not take prompt and sufficient action, an unknown number of employees and contractors in that area, including Mr. Lee, were potentially exposed to impermissible levels of airborne asbestos.

We note that our investigation was impeded in several respects by poor recordkeeping within OAS, inconsistent and conflicting recollections of events, and a lack of corporate knowledge and confusion on asbestos response requirements—attributable, at least in part, to the attrition of OAS management and nearly all other OAS personnel involved at the time. A chronology of key events is provided in Appendix A.

1. 2003–2006: OAS management fails to take adequate action in response to GSA contractor reports of damaged and deteriorating asbestos.

In 2003 and 2006, GSA contractors who were conducting pre-renovation surveys of the HCHB building reported damaged and deteriorating asbestos-containing materials in the 8th floor/attic. Although the GSA contractor air sampling of the 8th floor/attic, conducted on September 30, 2002, showed that airborne asbestos levels were below the PEL, the subsequent reports beginning in 2003 noted that damaged and deteriorating asbestos-containing materials could become airborne and thereby elevate levels above the PEL. Recognizing this risk, the GSA contractor reports recommended that access to the 8th floor/attic be restricted to asbestos-trained personnel until the visibly damaged and deteriorating asbestos could be repaired or removed; moreover, the 2006 report went further, recommending that only personnel utilizing respirators be allowed access to the area.

However, OAS officials at the time did not abide by these recommendations and did not conduct testing, restrict access, provide employees with respirators, or attempt to abate the damaged and deteriorating asbestos.[6] Although OAS performed some repairs in response to the 2003 report, we found no evidence that OAS addressed all the issues raised by the contractor. In addition, between 2003 and 2007, OAS did not provide HCHB janitorial, maintenance, and other staff (including Mr. Lee), who came into contact with materials in the 8th floor/attic, with asbestos-

[6] This failure could constitute a violation of 41 CFR § 102-80.15.

related training.[7] We further found that OAS did not adequately label asbestos-containing materials in the 8th floor/attic during that time period.

Although OAS management received the 2003 report and took some actions in response, former OAS officials maintain that they did not receive the 2006 report until after GSA was informed in early May 2007 of test results from February 2007 and April 2007 indicating that asbestos levels in the 8th floor/attic exceeded OSHA's PEL. However, in March 2007, while reviewing a prior building manager's asbestos-related records in storage in the basement, the contractor and an OAS building management specialist found the 2006 GSA report addressing the presence of damaged asbestos in the 8th floor/attic. Moreover, GSA's Regional Asbestos Program Manager stated that the GSA contractor reports, including the 2006 report, would have been contemporaneously provided to OAS in the normal course of business.

2. February 2007: OAS maintenance foreman elevates growing concern about failure to conduct asbestos safety training and air sampling, resulting in testing of the 8th floor/attic for airborne asbestos.

Despite GSA contractor report(s) provided to OAS detailing asbestos damage and deterioration in the 8th floor/attic area, the air in that area was not sampled for asbestos contamination from September 30, 2002, until February 20, 2007, when a Commerce heating/air-conditioning foreman sent an email to OAS management expressing concern that asbestos air sampling and other health-related measures had not been conducted for some time. This email, captioned "asbes," stated:

> "What is the latest on our [asbestos training] refresher courses, [respirator] fit testing, lung X-rays, breathing tests, and also having the attic tested for air borne fibers. We don't want to end up like NIH.[8] It has been a good while since we have addressed theses[sic] items. We need to protect ourselves from claims."

That same day, a half-hour later, the then-Building Manager forwarded the foreman's email to a building management specialist, recaptioned "Asbestos Training and Testing," including the following:

> "We are very over due on this!!!...[G]et a vendor scheduled for the training and testing immediately..."

[7] This failure could constitute a violation of 19 CFR § 1910.1001.

[8] This appears to be in reference to media coverage of a February 2007 congressional inquiry into asbestos issues at the National Institutes of Health campus.

OAS management responded to these emails by contracting with an industrial hygienist to conduct air sample testing in the 8th floor/attic, directing use of a basic testing method[9] that could only measure fiber-in-air, generically, and not determine the presence of asbestos fibers. The testing, conducted on February 23, 2007, found relatively high levels of fiber-in-air, generically. The contractor told us that based on the fiber-in-air levels and her observation of plainly visible damaged asbestos-containing materials in proximity to her air sampling equipment, she concluded that airborne asbestos exceeded the OSHA PEL. The contractor's report to OAS on February 24, 2007, included the following:

> "On the [sic] February 23, 2007, air samples were taken in the [8th floor/] attic for the detection of asbestos contamination. All of the results of the testing were above the [OSHA] permissible exposure limit of 0.1 f/cc. Therefore, it is our finding that the area is contaminated."

The contractor identified potential sources of airborne asbestos in the 8th floor/attic as damaged and deteriorating asbestos-containing materials—the same type of damaged and deteriorating asbestos-containing materials previously identified by GSA contractors in their 2003 and 2006 reports. The contractor told us that upon concluding that the air samples in the 8th floor/attic contained airborne asbestos exceeding the OSHA PEL, she recommended to OAS management that a common follow-on testing method be utilized in order to specifically identify airborne asbestos fibers.[10] OAS management declined at that time to conduct the recommended asbestos-specific testing because they did not believe the elevated fiber-in-air levels were attributable to asbestos. In March 2007, while reviewing a prior building manager's asbestos-related records in storage in the basement, the contractor and an OAS building management specialist found the 2006 GSA report addressing the presence of damaged asbestos in the 8th floor/attic.

With this additional information, the contractor convinced OAS management to carry out further air sample testing, which the contractor conducted on April 17, 2007, and April 25, 2007. The testing on April 25, 2007, for which fiber analysis was performed by an outside laboratory, specifically confirmed the presence of airborne asbestos exceeding the OSHA PEL. Appendix B contains two of several photographs of damaged asbestos-containing materials the contractor observed during the contractor's air sample testing on April 17, 2007, and included in her report to OAS.

Based on the previous reports of damaged and deteriorating asbestos in the 8th floor/attic, as well as a lack of airborne testing, it is reasonable to conclude that employee exposure may have begun months to even years prior to the initial test on February 23, 2007. In addition to disregarding the contractor's recommendation in February 2007 to immediately employ the asbestos-specific testing method and neglecting for several years to conduct routine air sample testing

[9] Testing for fiber-in-air, generically, is commonly done via low-cost Phase Contrast Microscopy (PCM), which cannot distinguish asbestos fibers from other fibers sampled (e.g., textiles, gypsum, fiberglass, etc.)

[10] Testing to identify and definitively establish the presence of asbestos fibers is commonly done through higher-cost Transmission Electron Microscopy (TEM).

recommended by GSA and OSHA, OAS also failed to provide routine OSHA-mandated asbestos awareness and asbestos refresher training to employees with access to the 8th floor/attic. When interviewed, employees told us they had not received the training for many years; or, in some instances, had never received asbestos training. Moreover, OAS could not produce any records demonstrating that employees received this required training between 2001 and 2007. Although OAS took initial steps to provide employees with training after the foreman's February 20, 2007, email, OAS did not come into full compliance with this training requirement until May 2009. As of December 2010, OAS remained in compliance with this mandate, as confirmed by an OSHA inspector.

3. OAS management was aware of asbestos contamination risk in the 8th floor/attic and the need to take remedial measures to protect employees as early as 2003.

Even if airborne asbestos exceeding the permissible limit had only begun in 2007, OAS management had been on notice as early as 2003 of damaged/deteriorating asbestos in the 8th floor/attic posing the potential risk for becoming airborne. Further, OAS reports in 2007 demonstrate that the office recognized the seriousness of the asbestos contamination. Between April 17, 2007, and April 25, 2007, an official in OAS's Office of Occupational Safety & Health prepared a draft paper entitled, "Asbestos in the HCHB Attic (8th Floor)", which, as addressed below, incorrectly reported the following action had been taken: "[T]he attic area is off limits to anyone unless they have the proper personal protective equipment." Significantly, this OAS paper referenced the April 17, 2007, testing results, but made no mention of the earlier February 23, 2007, testing results.

This draft paper also outlined additional steps to be taken in response to the situation, to include notifying employees and arranging for abatement of damaged and deteriorating asbestos-containing materials. Also, at that time, Jana Brooks, an official in the Office of Occupational Safety & Health, sent an email to other OAS management about following through on the delinquent health examinations for maintenance employees who routinely worked in close proximity to asbestos-containing materials in the 8th floor/attic. Her April 17, 2007, email included the following in regards to the annual health examinations:

> "I'm sorry that this slipped thru the cracks in the past..."

On April 24, 2007, OAS notified GSA that 8th floor/attic airborne asbestos levels had exceeded the PEL. Shortly thereafter, on May 2, 2007, OAS emailed GSA's Regional Asbestos Program Manager with the above-referenced draft paper; we found no evidence, however, that this draft paper was ever finalized and formally issued. In response, GSA's Program Manager promptly commissioned a "Hazard Assessment" to identify, in advance of abatement, specific damaged/ deteriorating asbestos-containing materials in the 8th floor/attic. GSA's May 2007 draft hazard assessment report included the following findings:

> "[The assessment contractor] identified damaged spray-on fireproofing and pipe insulation in the attic eaves areas, and damaged pipe insulation in the corridor and penthouse levels. Penetrations were observed in the walls separating the attic eaves areas from the access

corridors. These penetrations are conduits for the migration of asbestos fibers throughout the 8th floor and the penthouse levels. Sealing these openings with air tight impermeable barriers will prevent the migration of asbestos fibers. The types of penetrations in the corridor walls include door shaped openings, valve access openings, irregular shaped openings, and ventilation openings. Other types of asbestos containing materials identified include mudded pipe fittings, and cloth vibration dampers. The Hazard Assessment concludes that the asbestos contamination encompasses the entire 8th floor and the adjoining Penthouse."

4. Nonetheless, OAS management failed to take timely and proper action in response to air sample testing showing that the 8th floor/attic was contaminated with asbestos.

Our investigation found that OAS management failed to take timely, proper action to protect employee health and safety upon learning of the February 2007 asbestos testing results, and again when informed of the subsequent April 2007 testing results. More specifically, when the February 23, 2007, testing results showed airborne asbestos exceeding the PEL in the 8th floor/attic, OAS was required under OSHA regulations to take prompt action to prevent employee exposure. Among other measures, these regulations required OAS to immediately:

(a) restrict access to the area to authorized personnel and to provide and require use of respirators by those authorized personnel;

(b) post asbestos warning signage;

(c) notify employees; and

(d) ensure prompt abatement of all damaged asbestos-containing material from which airborne asbestos fibers may have originated.[11]

As shown below, OAS failed to take these critical measures in a timely manner. Although further testing in May 2007, October 2007, and November 2007 indicated that airborne asbestos in the 8th floor/attic had, for undetermined reasons, dropped below the OSHA PEL, access to the 8th floor/attic was required under OSHA regulations to be restricted from February 23, 2007, until at least the May 2007 testing.[12]

While former OAS management informed us that access to the 8th floor/attic had been restricted beginning around October 2006 and continuing through the February 2007 testing until abatement was completed in 2009, their account is contradicted by other witnesses, including the contractor who conducted the air sample testing in both February 2007 and April 2007. This contractor told us that she advised OAS management to shut down access to the 8th floor/attic immediately following the results of her February 2007 testing, but that when she returned in April 2007, the 8th floor/attic was open, without warning signage required by OSHA regulations.

[11] 29 CFR § 1910.1001.

[12] See 19 CFR § 1910.1001.

In addition, none of the individuals she observed in the area wore respirators—including janitorial staff, whom she observed cleaning. Multiple witnesses told us access to the 8th floor/attic was not adequately restricted until January 2008, in advance of scheduled asbestos abatement that commenced in April 2008.

Further, OAS management was unable to produce a record demonstrating that access to the 8th floor/attic was restricted for the period February through April 2007. For instance, we found no OSHA-required sign-in/out logs, documentation of locks installed, or directives such as memoranda or email. In addition, we found no record of OAS issuing respirators and other personal protective equipment to anyone through April 2007.[13]

Moreover, it was not until February 25, 2008—a year after the initial test results showed that airborne asbestos had exceeded the PEL at several times —that OAS notified Mr. Lee and about 40 other current and former employees in writing that they may have performed work in the 8th floor/attic and thus had been exposed to airborne asbestos. (See attached memorandum to Mr. Lee; identical memoranda/letters were sent to the other approximately 40 current/former employees.) Significantly, this letter includes the following statements:

> "In October 2007, follow-up air sampling was conducted on the 8th floor and throughout the HCHB. None of the samples showed detectable levels of asbestos fibers in the air."

For several reasons, we found these statements to be inaccurate and possibly misleading. First, the October 2007 testing results we obtained from the Department establish that testing was conducted in the 7th floor and 8th floor/attic, but <u>not</u> throughout the entire HCHB as stated. Secondly, while the latter statement is literally correct that the testing sample results showed no "detectable levels of asbestos fibers in the air," this obscures the fact that the tests did detect levels of fibers in the air, albeit below OSHA's PEL, but the type of test conducted was not capable of distinguishing whether the fibers were asbestos or another fibrous material. Accordingly, these statements by OAS's then-management, at a minimum, could have misled recipients of the notification.

5. ***Consequently, we conclude that Mr. Lee and an unknown number of other employees were subjected to potential exposure to airborne asbestos exceeding the OSHA PEL in the 8th floor/attic between February 2007 and April 2007—and perhaps even earlier.***

Although former OAS Director Fanning and former Safety and Health Specialist Brooks told us that Mr. Lee's job duties did not entail work in the 8th floor/attic, we find it credible that Mr. Lee was present and performed work in the 8th floor/attic during the subject period in which airborne asbestos exceeded the PEL. We base this conclusion on Mr. Lee's sworn statement to us; witness accounts, including former supervisors and colleagues, placing him in the 8th floor/attic; his position description and the nature of his duties conducting environmental inspections throughout HCHB; and his performance appraisal.

[13] Employees working in areas exceeding the PEL must be equipped with personal protective equipment including respirators. 19 CFR § 1910.1001.

Moreover, we concluded that Mr. Lee, among others, had access to the 8th floor/attic until January 2008, including the period between February 23, 2007, until April 25, 2007, when testing indicated that airborne asbestos levels exceeded the PEL. OAS did not adequately restrict access to the area until January 2008 in advance of abatement activities in HCHB. Then-OAS Director Fanning himself acknowledged that Mr. Lee had access to the 8th floor/attic by issuing the February 25, 2008, memorandum to Mr. Lee. That memorandum notified Mr. Lee that he may have performed work in the 8th floor/attic in the six months prior to February 2007, and thus may have worked in the presence of asbestos.

6. Recent Conditions: Despite asbestos abatement completed in 2009 and airborne asbestos levels below OSHA's PEL, asbestos management remains a significant concern.

Abatement in the 8th floor/attic did not commence until April 2008, due at least in part to a dispute between the Department and GSA over the question of which agency had financial responsibility for the work, estimated to cost up to approximately $500,000. The abatement project was completed in late March 2009. OSHA-mandated "clearance" testing of the 8th floor/attic shortly following completion of abatement work found no airborne asbestos above the PEL. However, since 2009, no air sample testing of HCHB, to include the 8th floor/attic, had been conducted by OAS or GSA—despite subsequent (and ongoing) asbestos abatement work. Thus, in June 2010, as part of this investigation, our office contracted for air sample testing throughout the building, including the 8th floor/attic. Those tests detected no airborne asbestos above the PEL in that space, or any other sampled area of the building.

As reflected in an update requested by the Department's Office of General Counsel in September 2010, OAS outlined containment measures that are in place for continuing asbestos abatement work in the 8th floor/attic, intended to isolate areas of abatement and protect against employee exposure. Notwithstanding the prior abatement, containment measures for ongoing abatement, and the June 2010 air sample test results, substantial asbestos remains in place throughout the building, including the 8th floor/attic, and could become airborne if disturbed. In fact, as indicated in the report prepared by the contractor we hired to conduct air sample testing in June 2010, there are numerous areas of damaged suspected asbestos-containing materials throughout the entire HCHB. Moreover, underscoring this continuing risk, in June 2010, an OSHA inspector collected several samples of particulate matter from damaged, exposed asbestos-containing material in an 8th floor/attic air handling room, some of which contained asbestos fibers. OAS repaired the damaged material in response to the OSHA inspector's finding.

Significantly, the Department continues to lack a comprehensive, well-managed asbestos management plan and program to properly address and mitigate risks posed by scheduled current and future building renovations, as well as daily work operations—despite requirements by OSHA, GSA, and the Department's Environmental Management Manual.[14] To date, OAS has

[14] See 41 CFR § 102-80.15, 19 CFR § 1910.1001, and the Department of Commerce's Environmental Management Manual, (authorized by DAO 200-0), Chapter 10 Asbestos Management, issued December 2006

only a rudimentary plan using a template from GSA that is not specific to HCHB and the Department.

In addition, we found overreliance on GSA for managing the Department's asbestos conditions. While GSA shares some responsibility as the Department's building lessor, the Department has primary responsibility for ensuring worker safety, including protecting employees against significant health hazards such as asbestos.

We note that a report our office issued in March 2000, which addressed issues following a fire and PCB accident in HCHB, included the following: "Several Commerce officials and employees expressed concern that, at the Department level, there are no staff knowledgeable about environmental regulations and compliance."[15] Our office made a similar observation in our September 2002 report, *"The Office of Administrative Services Needs Stronger Internal Controls and Management Oversight"*, which discussed OAS's then-Environmental Program Manager's departure after only one year, in part because of her "grave concerns about the state of the Department's compliance with applicable environmental statutes involving hazardous waste management, lead-based paint, asbestos and underground storage tanks."[16]

With respect to the present matter, we found, in effect, a revolving door of OAS employees who have been assigned environmental and occupational health/safety duties on an ancillary or secondary basis, rather than as a primary job responsibility. For instance, OAS's Associate Director for Building Management is presently functioning in the critical capacity of Asbestos Program Manager; however, he told us that he is not well-trained on, and has minimal knowledge of, asbestos management and control. This is particularly concerning in light of the recent fire on October 7, 2010, on an HCHB floor undergoing asbestos removal/abatement as part of the scheduled building renovation.

In December 2010, an OSHA inspector met with current OAS building management, advising them that, although the current airborne asbestos level was below the PEL, OAS needs to develop and implement a comprehensive asbestos management plan. The inspector also recommended that OAS post asbestos warning signs at 8th floor/attic access points. While the OSHA inspector declined to take official action citing, in part, the June 2010 air sample testing results, the ongoing renovation of the HCHB increases the risk that asbestos will be disturbed or damaged by ongoing construction. Without a comprehensive asbestos management plan in place, the well-being of Department of Commerce employees, contractors, and visitors could again be placed in jeopardy by asbestos contamination.

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[15] OIG Report No. IPE-12453, *"There Are Lessons to Be Learned from the October 1999 Fire and PCB Accident in the Herbert C. Hoover Building,"* March 2000. (www.oig.doc.gov/oig/reports/2000/OS-IPE-12453-03-2000.pdf)

[16] OIG Report No. IPE-15131, *"The Office of Administrative Services Needs Stronger Internal Controls and Management Oversight,"* September 2002. (www.oig.doc.gov/oig/reports/2002/OS-IPE-15131-2002-09.pdf)

Recommendations

Based on the foregoing findings, we recommend that the Department promptly take the following actions:

1. Develop, institute, and maintain a robust asbestos management plan in accordance with EPA guidelines and OSHA regulations, to include:

   - Appointing a qualified, trained Asbestos Program Manager;

   - Posting applicable asbestos warning signage at access points to and throughout the 8th floor/attic, as well as elsewhere in HCHB as appropriate;

   - Restricting access to, and requiring use of respirators for personnel working in, any asbestos hazard or containment area of HCHB;

   - Ensuring frequent (e.g., semiannual) inspection of asbestos-containing material and air sample testing (at least annually, as also recommended by GSA) in the 8th floor/attic and throughout HCHB;

   - Implementing a comprehensive asbestos management recordkeeping system, to include thoroughly documenting and tracking the results of testing and resultant actions taken; and,

   - Benchmarking other similarly affected federal agencies to identify best practices for managing and controlling asbestos conditions.

2. Commission a review of the 2005 asbestos survey of the building by a licensed asbestos building inspector/management planner to ensure that the location and condition of all asbestos-containing materials are recorded and up-to-date.

3. Promptly abate or remove any damaged asbestos-containing materials identified in the course of surveys, inspections, and renovation work.

4. Determine the universe of individuals subjected to potential exposure to impermissible levels of airborne asbestos in the 8th floor/attic, and (a) inform those individuals of applicable procedures for addressing such potential exposure; and (b) offer any such potentially affected current and former employees, including Mr. Lee, health-related measures as may be appropriate.

   Based on our findings, OAS's belated notification in February 2008 to Mr. Lee and approximately 40 other individuals does not appear broad enough to cover all potentially affected employees.

5. Develop a communication plan in accordance with GSA guidance to inform federal and contract employees at HCHB about the risks of and safeguards against potential asbestos exposure, particularly in light of ongoing building renovation.

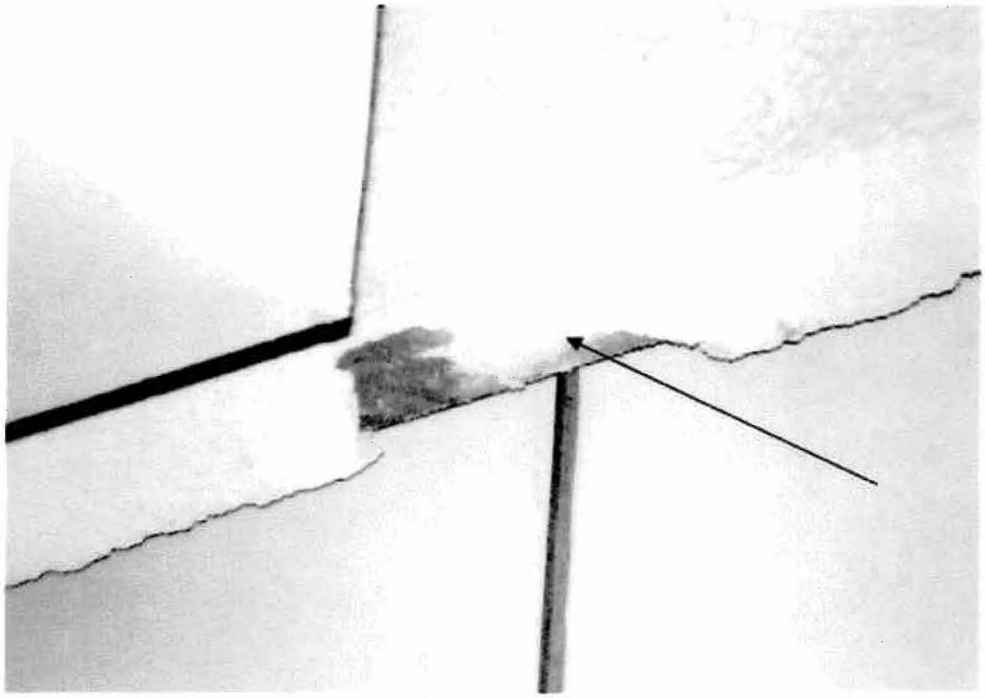
We do not have a recommendation that administrative action be considered for any responsible OAS personnel because those officials bearing responsibility for mismanaging HCHB's asbestos conditions are no longer with the Department.

Appendix A—Timeline of Key Events

2002	SEP 30	GSA-contracted air sample testing. Results below OSHA Permissible Exposure Limit (PEL). Report notes potential asbestos hazard in 8th floor/attic.
2003	APR 18	GSA contractor survey report notes multiple locations of severe damage to asbestos-containing materials, including in 8th floor/attic. Based on this report and the foregoing report from 2002, OAS effects remediation and some abatement.
2006	APR 14	GSA contractor report references asbestos-containing materials in "poor, deteriorated condition." Recommends limiting 8th floor/attic access to trained personnel with respirators. GSA maintains report was provided to OAS; former OAS management denies receiving report.
2007	FEB 20	OAS HVAC foreman sends email to OAS, expressing concern about lack of asbestos training, air sample testing, and medical screening.
	FEB 23	DOC-contracted air sample testing (PCM method only) in 8th floor/attic – Results above OSHA PEL*.
	APR 17	DOC-contracted air sample testing (PCM method only) in 8th floor/attic – Results above OSHA PEL*.
	APR 25	DOC-contracted air sample testing (TEM method) in 8th floor/attic – Results above OSHA PEL, as determined by outside laboratory fiber analysis.
	MAY 2, 7	GSA-contracted air sample testing (TEM method) in 8th floor/attic – Results below OSHA PEL.
	OCT 5	DHHS conducts air sample testing (PCM method) in 8th floor/attic – Results below OSHA PEL.
	NOV 20	DHHS conducts air sample testing (PCM method) in 8th floor/attic – Results below OSHA PEL.
	(*Contractor conclusion based on high fiber-in-air per PCM testing and visibly damaged asbestos-containing materials in proximity to testing.)	
2008	JAN	OAS sufficiently restricts access to 8th floor/attic, in advance of abatement project.
	FEB 25	Approx. 40 employees receive formal notification from OAS about possible exposure to asbestos.
	APR 25	Commencement of 8th floor/attic asbestos abatement project.
2009	MAR 31	Completion of 8th floor/attic asbestos abatement project.
2010	JAN 8	OSC refers whistleblower disclosure to Secretary for action; delegated to OIG for investigation.
	JUN 4	OSHA inspector collects several samples of particulate matter from damaged, exposed asbestos-containing material in an 8th floor/attic air handling room, some of which contained asbestos fibers. OAS subsequently repaired the damaged material.
	JUN 23	OIG-contracted air sample testing (TEM method) in 8th floor/attic and elsewhere throughout HCHB – Results below OSHA PEL.

Appendix B

Damaged Asbestos-Containing Materials in HCHB 8th Floor/Attic as Observed and Photographed by Department Contractor During 4/17/07 Air Sample Testing



(*Arrows added by contractor to indicate observed evidence of damage.)