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COURT OF APPEALS
DIVISION III
STATE OF WASHINGTON
By _____

No. 31451-1-III)
(consolidated with No. 31789-7-III
DIVISION III, COURT OF APPEALS
OF THE STATE OF WASHINGTON

WALTER L. TAMOSAITIS and SANDRA B. TAMOSAITIS, a marital
community,

Plaintiffs/Appellants

v.

BECHTEL NATIONAL, INC., FRANK RUSSO, and
GREGORY ASHLEY,

Defendants/Respondents,

ON APPEAL FROM BENTON COUNTY SUPERIOR COURT
(Hon. Craig J. Matheson)
(Hon. Salvador Mendoza, Jr.)

Case No. 10-2-02357-4

REPLY BRIEF OF APPELLANTS

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I. INTRODUCTION

This case presents the type of extraordinary circumstances that justified relief from the trial court's order under CR 60(b)(11). It was an abuse of discretion for the trial court to deny Dr. Tamosaitis' motion given BNI's manipulation of Dr. Tamosaitis' employment status and the fact that his 2013 bonus denial, and subsequent termination, were proximately caused by BNI's improper interference. BNI acts as if the 2013 events are so remote in time that it is simply an issue Dr. Tamosaitis should take up with his former employer, URS. Yet BNI argued repeatedly at summary judgment and now on appeal that Dr. Tamosaitis could not show a single dollar of pecuniary loss because he was still employed by URS and receiving his annual incentive pay. BNI benefited from the fact that URS kept Dr. Tamosaitis on the payroll, though URS refused to allow him to return to the WTP and refused to provide him with meaningful work. BNI argued at summary judgment that it could not be a third party intermeddler because it has "sweeping management authority" over all URS employees at the WTP, but it now denies it has any role in Dr. Tamosaitis' employment relationship with URS. BNI did not have contract authority or a legal right to remove Dr. Tamosaitis from the WTP; it needed URS to remove Dr. Tamosaitis. This Court should not allow BNI to continue to

orchestrate the facts of this case to avoid liability for its tortious interference with Dr. Tamosaitis' employment relationship with URS.

For several years after his removal from the WTP, Dr. Tamosaitis billed on overhead and continued to receive his annual bonus. Other URS managers did the same. In 2012, before the lapse of the one-year deadline under CR 60(b)(3), but after the case was dismissed on summary judgment, Dr. Tamosaitis initially did not receive his incentive pay. When he inquired about it, URS told Dr. Tamosaitis it was an oversight and paid his bonus. In 2013, after the one year deadline lapsed, URS told Dr. Tamosaitis that he would not receive his annual bonus because he was billing on overhead, though other URS managers continued to bill on overhead and receive a bonus. After Dr. Tamosaitis' CR 60(b)(11) motion was denied, URS terminated Dr. Tamosaitis after 44 years of service. BNI argued at summary judgment and on appeal that URS is an at-will subcontractor that it can terminate at any time from the multi-billion dollar WTP project. URS has a strong incentive to comply with BNI's directives, even when those directives violate the law.

The fact of Dr. Tamosaitis' termination, as well as additional facts surrounding the extraordinary circumstances of this case, are proper for the Court to consider under both RAP 9.11 and ER 201.

II. ARGUMENT

A. Extraordinary Circumstances Exist to Warrant Relief under CR 60(b)(11)

BNI argues that Dr. Tamosaitis' "alleged dissatisfaction" with the denial of his 2013 incentive pay, and presumably also his "alleged dissatisfaction" with being terminated after 44 years of service, is an issue he should take up with URS because it has nothing to do with BNI's tortious interference with Dr. Tamosaitis' employment relationship with URS. The bonus denial and Dr. Tamosaitis' termination are undisputed facts. Even taking aside BNI's manipulation of the timing of these events to serve its litigation strategy, Dr. Tamosaitis would be able to show at summary judgment that the financial losses he experienced as a result of these events were proximately caused by BNI's tortious interference. "The issue of proximate cause is broader than cause in fact and involves 'mixed considerations of logic, common sense, justice, policy, and precedent.'" *Pleas v. City of Seattle*, 112 Wn.2d 794, 807, 774 P.2d 1158 (1989) (citing *King v. Seattle*, 84 Wn.2d 239, 525 P.2d 228 (1974)). At summary judgment, Dr. Tamosaitis need only show resulting damage proximately caused by BNI's tortious interference. He was able to show this previously through damage to his reputation, lost career prospects, his emotional harm damages, and his loss of personal property. *Tamosaitis v.*

Bechtel National, Inc., et al., Brief of Appellants at 42-47, Case No.

31451-1-III. But now, should there be any doubt that Dr. Tamosaitis experienced “pecuniary” loss, the denial of his bonus and his termination meet this standard.

Part of the extraordinary circumstances that warranted relief under CR 60(b)(11) have to do with the timing of Dr. Tamosaitis’ “pecuniary” losses. BNI successfully argued at summary judgment that Dr. Tamosaitis could not meet the resulting damage element of the tortious interference claim because he remained employed by URS and continued to receive his annual incentive pay. Then, just after the CR 60(b)(3) one-year deadline lapsed, URS denied Dr. Tamosaitis his incentive pay for the first time in 33 years. The reasons URS articulated for the bonus denial were false because Dr. Tamosaitis had been billing on overhead for years and continued to receive his annual bonus, as did other senior URS managers. After BNI improperly directed URS to remove Dr. Tamosaitis from the WTP in retaliation for raising nuclear safety concerns, Dr. Tamosaitis was thereafter banished from any project involving BNI. He repeatedly attempted to gain project work that would allow him to bill to a client code, but BNI’s banishment from the WTP, when it had no contract authority or legal right to do so, severely impacted Dr. Tamosaitis’ ability to gain meaningful work.

The facts related Dr. Tamosaitis' bonus denial and termination are the type of extraordinary circumstances that justified relief under CR 60(b)(11) in other cases. For example, in *In re Marriage of Thurston*, 92 Wn. App. 494, 500, 963 P.2d 947 (1998), the court specifically noted that "what constitutes a reasonable time depends on the facts of the case" and that "the mere passage of time between the entry of the judgment and the motion to set it aside is not controlling." The court went on to distinguish the case at hand from another case where the judgment debtors knew all along of the facts giving rise to the CR 60 motion. In *Thurston*, the court noted that "Mandel did not learn of Thurston's new statement of position regarding the transfer of the units until shortly before she brought her CR 60(b)(11) motion." *Id.* at 501. The court cited additional authority where CR 60(b) motions were found to be timely when brought shortly after the moving party learned of the grounds for the motion. *Id.* at 502, n.20. Similarly, in the instant case, Dr. Tamosaitis brought his CR 60(b)(11) motion within a few months of learning that he would not receive his incentive pay in 2013 for work performed in 2012.

B. Dr. Tamosaitis' Termination from URS, and Additional Facts Surrounding this Case, are the Proper Subject of Judicial Notice

BNI argues that the passage of time between Dr. Tamosaitis' 2013 bonus denial and termination from URS cannot relate back to BNI's 2010

improper interference. Yet litigation on this issue has been ongoing since that time in the instant case and in federal court against URS. The case has repeatedly appeared in the press and Dr. Tamosaitis testified before Congress in late 2011.¹ The technical and safety concerns Dr. Tamosaitis raised have been vetted by experts in the field and resulted in a DOE-mandated work stoppage of BNI's design-build approach at the WTP. BNI's ability to safely build the WTP has been called into question by numerous sources. As discussed above, in November 2013, this issue was a cover story for Newsweek magazine where Tamosaitis and Respondent Frank Russo were interviewed.² These factors contribute to the extraordinary circumstances of this case. Despite BNI's attempt to distance itself from Dr. Tamosaitis' 2013 bonus denial and termination, the fact remains that BNI has a significant incentive to continue to retaliate against and silence Dr. Tamosaitis.

¹ Dr. Tamosaitis asks the Court to take judicial notice of the fact that he testified before Congress on December 6, 2011 on the issue of whistleblower protections for government contractors. See <http://www.hsgac.senate.gov/subcommittees/contracting-oversight/hearings/whistleblower-protections-for-government-contractors> (last visited January 3, 2014); Appendix 2 (partial transcripts of the hearing). Also, judicial notice should be taken of the fact that Dr. Tamosaitis appeared in the November 20, 2013 issue of Newsweek in an article entitled, "America's Fukushima?" Russo was interviewed for the article—thus, the whistleblower issues raised by Dr. Tamosaitis are still of interest to the parties and to the public and Congress.

² Numerous news articles are attached as Appendix 2.

The news articles in Appendices 1 (submitted with the opening brief) and 2 are the proper subject of judicial notice. Dr. Tamosaitis asks the Court to take notice of the fact that the news articles were published on a particular date and involved generally the subject matter of this litigation. ER 201 provides that: “a judicially noticed fact must be one not subject to reasonable dispute in that it is either (1) generally known within the territorial jurisdiction of the trial court or (2) capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned.” “A court shall take judicial notice if requested by a party and supplied with the necessary information.” ER 201(d). BNI cites to *Washington Water Jet Workers Ass'n v. Yarbrough*, 151 Wn.2d 470, 476, 90 P.3d 42 (2004) to claim that judicial notice cannot be taken of newspaper articles, but a review of the footnote cited in that case reveals that the Court denied the request for judicial review after finding that the “article is not relevant to the disposition of the question before us” and the contents of that article were not the proper subject of judicial notice. Here, the articles submitted are relevant to explain BNI’s continued involvement in Dr. Tamosaitis’ employment relationship with URS, the extraordinary circumstances of this case, and the fact of Dr. Tamosaitis’ recent termination. In *Miller v. Yates*, 67 Wn. App. 120, 123, 834 P.2d 36, 38 (1992), this Court took judicial notice of real estate values

listed in unidentified newspaper articles and federal publications. Here, Dr. Tamosaitis is not asking the Court to rely on the underlying content of the news articles, but the fact of their publication. With regard to Dr. Tamosaitis' congressional testimony, this fact is capable of accurate and ready determination by resort to a source whose accuracy cannot reasonably be questioned.

Additional evidence may be taken pursuant to RAP 9.11(a) if:

(1) additional proof of facts is needed to fairly resolve the issues on review, (2) the additional evidence would probably change the decision being reviewed, (3) it is equitable to excuse a party's failure to present the evidence to the trial court, (4) the remedy available to a party through post-judgment motions in the trial court is inadequate or unnecessarily expensive, (5) the appellate court remedy of granting a new trial is inadequate or unnecessarily expensive, and (6) it would be inequitable to decide the case solely on the evidence already taken in the trial court.

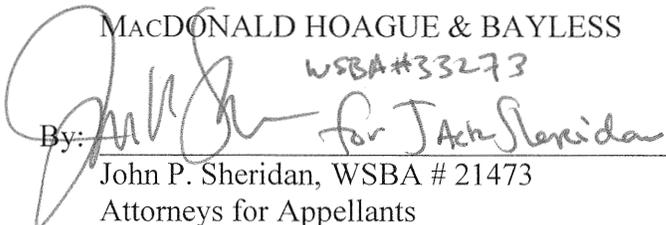
Washington Fed'n of State Employees, Council 28, AFL-CIO v. State, 99 Wn.2d 878, 884-85, 665 P.2d 1337 (1983), RAP 9.11(a). The fact of Dr. Tamosaitis' termination from URS is necessary to fairly resolve the issues on appeal because BNI argued that Dr. Tamosaitis could not show "pecuniary" losses since he remained employed by URS. This fact would likely change the decision being reviewed because it shows concrete financial losses. The event occurred in October 2013, thus Dr. Tamosaitis could not have brought it to the lower court's attention because the fact

had not occurred at that time, and requiring Dr. Tamosaitis to file another CR 60(b)(11) motion and likely, another appeal, would be unnecessarily expensive and an inadequate way to remedy the issue. To the extent the Court will not take judicial notice of the news article submitted as Appendix 1 in the opening brief, or consider the news article as additional evidence under RAP 9.11(a), Dr. Tamosaitis submits his termination letter from URS as Appendix 3 and asks the Court to consider it under RAP 9.11(a). Moreover, the respondents cannot and will not deny the fact of the termination.

III. CONCLUSION

Dr. Tamosaitis respectfully requests that this Court find that the trial court abused its discretion in denying his motion for relief under CR 60(b)(11).

Respectfully submitted this 8th day of January, 2014.

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DECLARATION OF SERVICE

Windy Walker states and declares as follows:

1. I am over the age of 18, I am competent to testify in this matter, I am a legal assistant employed by MacDonald Hoague & Bayless, and I make this declaration based on my personal knowledge and belief.

2. On January 3, 2014, I caused to be delivered via email addressed to:

Kevin C. Baumgardner
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a copy of REPLY BRIEF OF APPELLANTS.

3. On January 8, 2014, I caused to be delivered via email addressed to:

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a copy of APPELLANTS' CORRECTED REPLY BRIEF.

4. I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

DATED this 8th day of January, 2014 at Seattle, King County, Washington.



Windy Walker
Legal Assistant

APPENDIX 2

1 WHISTLEBLOWER PROTECTIONS FOR GOVERNMENT CONTRACTORS

2

- - -

3

TUESDAY, DECEMBER 6, 2011

4

United States Senate,

5

Ad Hoc Subcommittee on Contracting Oversight,

6

Committee on Homeland Security and Governmental Affairs,

7

Washington, D.C.

8

The Subcommittee met, pursuant to notice, at 10:05

9

a.m., in Room SD-342, Dirksen Senate Office Building, Hon.

10

Claire McCaskill, Chairman of the Subcommittee, presiding.

11

Present: Senators McCaskill, Tester, and Portman.

12

OPENING STATEMENT OF SENATOR McCASKILL

13

Senator McCaskill. Good morning. Thank you all for

14

being here today.

15

We are going to hold a hearing today on whistleblower

16

protections, and just briefly I wanted to talk overall about

17

this subject matter because I think it is incredibly

18

important. This is probably not the best attended hearing

19

that will be held on the Hill today, but those of you that

20

are here understand the importance of whistleblowers in

21

terms of Government oversight.

22

I really do not think there is anything that is more

23

important than whistleblowers because if you look around, it

24

is very clear that whistleblowers have made a difference

25

time and time again in terms of ferreting out serious and

1 TESTIMONY OF WALTER L. TAMOSAITIS, PH.D., URS
2 CORPORATION, AND FORMER RESEARCH AND TECHNOLOGY
3 MANAGER, WASTE TREATMENT PROJECT, HANFORD NUCLEAR
4 SITE

5 Mr. Tamosaitis. Good morning. My name is Walter Tamosaitis and
6 I live in Richland, Washington. I am here speaking and
7 representing myself today. Thank you for giving me this
8 opportunity to provide this testimony. I also think it is a
9 very important topic. As a contractor employee, I am living
10 the experience today.

11 I have a B.S., M.S., and Ph.D. in engineering, a
12 certificate in business, and a professional engineering
13 license, over 42 years industrial experience with DuPont and
14 chemical plant operations with URS in DOE nuclear work.

15 My last position was that of the Research & Technology
16 Manager in the \$13 billion Waste Treatment Plant project in
17 Hanford, Washington. It is known as the WTP or the VIT
18 plant.

19 The objective of the WTP is to put 56 million gallons
20 of hazardous nuclear waste into a stable waste form to
21 eliminate an environmental and safety threat. This material
22 is in 177 aging waste tanks that long ago have exceeded
23 their design life. One-third of those tanks have already
24 leaked. Any delay in startup or throughput of the WTP
25 increases the chance of additional radioactive leaks to the

1 environment.

2 I am an advocate for the WTP, but it must be built to
3 run safely and efficiently. While an advocate, I am opposed
4 to corner cutting to earn fees and meet artificial
5 schedules. This especially applies when the taxpayer cost
6 is now over \$13 billion and predicted to go to around \$20
7 billion. The original cost for this plant was \$4.6 billion.

8 The safety threats in the WTP are very serious. They
9 include the trapping of explosive hydrogen gas in the waste
10 which can lead to fires or an explosion; solids build up,
11 which can lead to a criticality; erosion and vessel and pipe
12 pluggages that can render the plant totally inoperable.
13 Several of these relate to mixing in the vessels. Because
14 of the design of the plant, making changes later is not
15 really an option and would be extremely costly, if it was
16 even possible.

17 Bechtel is the prime contractor in the WTP. The DOE
18 contract gives them the design authority and the design
19 agency responsibility for the project. This means Bechtel
20 decides what needs to be done and how it will be done. They
21 then get rewarded for cost and schedule performance, but
22 will have no operating responsibility. Their focus is
23 profits, not performance.

24 At 7:00 a.m. on July 2, 2010, I was suddenly terminated
25 from the WTP job and escorted off the premises after I

1 continued to raise valid safety and technical concerns
2 during a time when Bechtel was attempting to meet a June
3 30th deadline for closing the mixing issue.

4 Meeting the June 30th deadline was very important
5 because there was a \$5 million award fee on the line for
6 them, and there was also an additional \$50 million in
7 Congress that they were trying to get. And we have e-mails
8 which indicate that they were fearful if they did not close
9 M3, they would lost all that money.

10 Two days earlier, I submitted a list of nearly 50
11 technical issues, many of which included mixing concerns.
12 On July 2nd, I went into work to finalize the details of my
13 team's next assignment in WTP. I found my e-mail account
14 had been turned off the night before. I was directed to go
15 into an office and told, "Hand over your badge, your
16 BlackBerry, and your phone." I was then unceremoniously
17 escorted off the WTP site. I was not allowed to talk to
18 anyone and could not go to my office to get any of my
19 personal belongings.

20 My termination sent a chill through the WTP and the
21 community. After termination from my WTP job, my employer,
22 URS, assigned me to a basement office that housed two
23 working copying machines. I have been sitting in a basement
24 office now for nearly 16 months. I have little meaningful
25 work and no contact from URS management. I have not been

1 invited to any safety or staff meetings, which are the
2 staple of normal operations.

3 I went to the Department of Energy Employee Concerns
4 Program immediately after this happened. I was told that
5 they had not seen such a flagrant case of retaliation and
6 that I should seek help outside, which they then gave me the
7 name of a person and I did.

8 I found no help for whistleblowers in the State of
9 Washington, no help from the IG, and very little help from
10 the DOL. The DOE Inspector General was supposed to look
11 into my termination but stopped as soon as they learned I
12 had filed a claim with the DOL. After a year, the DOL time
13 expired, and with no outcome I asked for my case to be moved
14 to Federal court. Any information we received from the IG
15 in DOL was so heavily redacted, it was virtually useless.
16 It will be nearly 2 years before a trial first occurs.

17 Meanwhile, Bechtel gets reimbursed for their efforts.
18 For example, in their most recent survey, which they
19 released last week, "Addressing the Culture," it is
20 estimated to have cost taxpayers nearly \$2 million.

21 I wrote a letter to the Defense Nuclear Facilities
22 Safety Board which prompted several investigations and a
23 public hearing last October. The Defense Board has
24 substantiated my technical and cultural concerns. The
25 cultural issues in the WTP with Bechtel surround anyone who

1 challenges Bechtel engineering, especially when cost and
2 schedule is on the line and they can earn fee against it.
3 Even their own survey released last week identified the
4 problems of delay and working difficulties within the WTP.

5 The contractors need regulation. Contractor
6 whistleblowers and concerned employees need protection.
7 With no whistleblower protection, the contractors do what
8 they want. They actually make more money in DOE by not
9 doing it right the first time. They get paid to build it,
10 and then they get paid more to fix it, if it will run at
11 all. And this cost the taxpayers billions at a time when
12 our country's budget cannot afford it. The original WTP
13 cost was about \$4.6 billion, and now it is at over \$13
14 billion in 10 years.

15 I encourage you to pass laws to strengthen protection
16 for whistleblowers. I encourage you to see that DOE
17 contracts are reviewed with more rigor and end the DOE
18 practice of appointing one company as the design authority
19 and the design agency. I encourage you to eliminate
20 taxpayer reimbursement to companies for defending improper
21 practices. I also encourage you to increase the Defense
22 Board's scope and to give them enforcement responsibility
23 because without teeth they can be ignored.

24 Despite my career being ended, I would do it again
25 because it was the right thing to do. Given the tools, more

1 people like me will stand up against waste, fraud, abuse,
2 bad practices, and poor quality in Government contracts.

3 Thank you, and I will be glad to entertain any
4 questions you may have.

5 [The prepared statement of Mr. Tamosaitis follows:]

- 1 Senator McCaskill. Thank you, Dr. Tamosaitis.
- 2 Ms. Canterbury?

1 TESTIMONY OF ANGELA CANTERBURY, DIRECTOR OF PUBLIC
2 POLICY, PROJECT ON GOVERNMENT OVERSIGHT

3 Ms. Garrison. Thank you and good morning. I am the
4 director of public policy at the Project On Government
5 Oversight, or POGO, a 30-year-old nonpartisan, independent
6 watchdog that champions good government reforms.

7 Whistleblowers are the guardians of the public trust
8 and safety and among the best partners in crime fighting.
9 It is well known that whistleblowers have saved countless
10 lives and billions of taxpayer dollars. Studies have also
11 shown that whistleblowers play a bigger role in exposing
12 corporate fraud than auditors, Government regulators, or the
13 media.

14 But perhaps the best illustration of how whistleblowers
15 save taxpayer dollars is the more than \$27 billion recovered
16 since 1987 through the hugely successful False Claims Act,
17 or FCA. As you well know, the law not only acts as a
18 deterrent to fraud, but also incentivizes whistleblowing
19 through the financial awards and strong protections against
20 retaliation.

21 However, the FCA does not cover a host of other
22 wrongdoing, in spite of the Government's huge exposure to
23 these risks given the amount of Federal dollars distributed
24 to non-Federal entities. According to USAspending.gov, out
25 of nearly \$3.8 trillion in the Federal budget, roughly half

1 was spent on prime awards to contractors, grantees, States,
2 and localities.

3 A recent POGO report on the costs of contractors notes
4 that this workforce now dwarfs the Federal employee
5 workforce by approximately four-fold, and yet most of those
6 on the front lines do not have protections to come forward
7 when they witness waste, fraud, and abuse. The
8 accountability loopholes are many in the patchwork of laws
9 that protect only some Federal fund recipients and only
10 under very limited circumstances.

11 In addition to the FCA, there are also some extremely
12 narrow protections under 42 U.S.C., Section 4705, but this
13 is fairly flimsy policy, and few contractor employees can or
14 should rely on those protections. However, in 2005, nuclear
15 contractor employee rights were slightly upgraded. Also,
16 progress has been made in closing other loopholes for the
17 Department of Defense contractor whistleblowers.

18 In 2009, the protected types of disclosures and
19 recipients were expanded. However, these still lack some
20 basic best practices found in other modern private sector
21 whistleblower laws and, thus, have not yielded the kind of
22 accountability that is needed. This is apparent in Iraq and
23 Afghanistan where the Commission on Wartime Contracting
24 recently estimated \$31 to \$60 billion has been lost to waste
25 and fraud.

1 However, there is a model whistleblower protection for
2 Federal fund recipients. It simply needs to be expanded
3 beyond its original scope. The American Recovery and
4 Reinvestment Act of 2009 included excellent whistleblower
5 protections for employees of entities funded by the Recovery
6 Act. Notably, the stimulus spending so far has experienced
7 extremely low incidence of fraud, as acknowledged here today
8 and also by the GAO and others.

9 The Non-Federal Employee Whistleblower Protection Act
10 of 2001, S. 241, builds on the success of the Recovery Act
11 and mirrors many of its provisions. Introduced earlier this
12 year by Madam Chair McCaskill, along with Senator Webb, S.
13 241 would bridge the wide gaps in current coverage and
14 comprehensively apply best practice protections to employees
15 of all entities that receive Federal funds. Like the
16 Recovery Act, it would do the following:

17 It would protect the most common disclosures made by
18 employees, those made internally.

19 It would cover disclosures of gross mismanagement,
20 gross waste, substantial and specific to public health and
21 safety, abuse of authority, or a violation of a law, rule,
22 or regulation.

23 It would require an Inspector General to review and
24 report all claims of retaliation and investigate non-
25 frivolous claims within a reasonable time frame.

1 It would provide effective remedies, including
2 compensatory damages and enforcement when reprisal is
3 confirmed.

4 It would grant normal access to a jury trial and ensure
5 whistleblowers do not get stuck in administrative limbo for
6 longer than a year.

7 In sum, S. 241 would substantially reduce the risks for
8 whistleblowers and encourage more to come forward and create
9 far more accountability to taxpayers. However, we do have a
10 few suggested improvements.

11 First, every Federal fund recipient should be required
12 to post notices of their rights and remedies under this
13 section at work sites.

14 Second, we should require IGs to separately investigate
15 the wrongdoing that the whistleblower exposed in the first
16 place.

17 Lastly, though it may be beyond the scope of this
18 particular piece of legislation, we would like to see
19 incentives for whistleblowing expanded to emulate the
20 successful FCA award program.

21 In these tough economic times, with a ballooning
22 Federal deficit, it is just plain common sense to have more
23 "deputies" to safeguard taxpayer dollars and the public
24 trust. This is why POGO and partners of ours in the Make It
25 Safe Coalition strongly support better whistleblower

1 protections for Federal contractors.

2 We urge you to support enactment of S. 241, and I thank
3 you for the opportunity to testify today.

4 [The prepared statement of Ms. Canterbury follows:]

1 Senator McCaskill. Thank you very much, Ms.
2 Canterbury.

3 Let me start. I think it is important to focus in on
4 the independent investigation of the Defense Nuclear
5 Facilities Safety Board as it relates to your case, Dr.
6 Tamosaitis. They reviewed 30,000 pages of documents and did
7 45 different witness interviews and then released a report
8 that--and I believe that report was released in June of this
9 year--that was highly critical of Bechtel and the management
10 of safety at Hanford.

11 According to this report, done by this independent
12 review board, safety board, Bechtel had created a chilled
13 atmosphere adverse to safety, and it specifically
14 recommended that DOE investigate. They found the Energy
15 Department and contractor management suppressed technical
16 dissent, and I am quoting from their report.

17 So I know that DOE kind of said, "Well, since you
18 talked to Labor, we are going to let Labor handle it." Have
19 you circled back around with DOE since this report was
20 issued to--have you gotten any response from them about in
21 light of what this independent review board found, did they
22 feel any need to pick the mantle back up and look carefully
23 at what happened surrounding the concerns you had raised and
24 what happened to your employment as a result of that?

25 Mr. Tamosaitis. Regarding me, no. They have announced

1 that they are going to do another HSS, Health Safety
2 Security survey, but that is as much as I know of.

3 Senator McCaskill. And I assume Bechtel is still in
4 charge?

5 Mr. Tamosaitis. Bechtel is still in charge of the
6 project, yes, Senator.

7 Senator McCaskill. And everyone sees you go to work in
8 the basement with no windows?

9 Mr. Tamosaitis. Yes, ma'am.

10 Senator McCaskill. And knows that you are not allowed
11 to work even though you are there on site and getting paid?

12 Mr. Tamosaitis. Correct.

13 Senator McCaskill. So every day you are an example to
14 all the workers there, whether they are Federal employees or
15 Bechtel employees, "Do not say anything, or you, too, will
16 be banished to the basement"?

17 Mr. Tamosaitis. Yes, Senator. Very directly. It is a
18 very visible example of what happens if you speak up.

19 Senator McCaskill. It is just unbelievable to me that
20 we have allowed this to occur. And I know that you have a
21 case in court, but it is--

22 Mr. Tamosaitis. Yes, I want--

23 Senator McCaskill. You know, it would be one thing if
24 this was an initial stage and you did not have this
25 independent review. It would be another thing if this was,

1 frankly, you know--I mean, I am all about trying to save
2 money, but this is about safety. And that is what is really
3 of concern.

4 Mr. Tamosaitis. It is safety and it is billions of
5 dollars, and the reimbursement for Bechtel to be--while they
6 pursue their defense, for example--I am re quoting my verbal
7 testimony, but the survey they released last week cost
8 taxpayers nearly \$2 million.

9 Senator McCaskill. I am speechless about the reality
10 of you still going there every day as a walking billboard to
11 everyone to keep their mouth shut, because that is
12 essentially what you are.

13 Mr. Tamosaitis. Yes, Senator, and that is why I took
14 action because I did not want the people, especially the
15 young engineers, to think that what happened to me was right
16 or that they should manage that way.

17 Senator McCaskill. Were you working--I assume you
18 worked side by side with Federal employees at Hanford, at
19 the waste treatment--

20 Mr. Tamosaitis. Yes, ma'am.

21 Senator McCaskill. Now, if a DOE employee reports
22 waste of Government funds, they are fully protected from
23 retaliation; whereas, it is not clear that you as a
24 contractor employee have that same protection.

25 Mr. Tamosaitis. I am not sure what the DOE employees--

1 what coverage they have. In the State of Washington, there
2 is essentially no whistleblower remedies. The Hanford site,
3 a Supreme Court decision in the State of Washington said
4 that any Hanford whistleblower cases had to take the Federal
5 route and go to the DOL.

6 Senator McCaskill. Right.

7 Mr. Tamosaitis. And then their year timed out, and now
8 we have made a motion to move to Federal court. In Federal
9 court, we have named DOE as a defendant because we have
10 sufficient information that indicates that the Federal
11 project manager played a role in my termination.

12 Senator McCaskill. So is the Government reimbursing
13 Bechtel for the costs of the legal suit against you, do you
14 know?

15 Mr. Tamosaitis. Yes. It is my clear understanding
16 that they are being reimbursed, and it is my understanding
17 that if they are found guilty, they could have to repay.
18 But if they are not found guilty, which means if they settle
19 at the end of whatever period of time and admit no guilt,
20 they are fully reimbursed. The survey, again--

21 Senator McCaskill. For the settlement amount, too, or
22 just for the costs of the defense; do you know?

23 Mr. Tamosaitis. I do not know that.

24 Senator McCaskill. Ms. Canterbury, do you know what
25 the situation is? And is this common that the Government is

1 funding the defense for these cases across the board for
2 contractors?

3 Ms. Canterbury. It was my understanding that the
4 change that was made in 2005 disallowed DOE to pay for the
5 defense of contractors. So if that is ongoing, that is a
6 problem.

7 Senator McCaskill. So we need to look into that. We
8 need to ask some significant questions of DOE about who is
9 paying for the defense of this case and whether or not
10 taxpayers are--

11 Mr. Tamosaitis. It is my--we can look into it also,
12 Senator. It is my clear understanding they are being
13 reimbursed for it.

14 Senator McCaskill. I think this is an area that we
15 need to get more information on, and I will task the staff
16 to look at the funding of the defense of these lawsuits and
17 the funding of any settlement. If the case is settled
18 without an admission of guilt, which is the rule not the
19 exception in most lawsuits, do the settlement monies come
20 out of Bechtel's profits, or do they come out of the
21 treasury? And I think it is important that we get to the
22 bottom of that.

23 Have you been able to look at the investigative files
24 of the Department of Labor?

25 Mr. Tamosaitis. They were heavily redacted. Very

1 difficult to understand for the information that we
2 received. My understanding is Bechtel and URS did not
3 provide full information, and I do not have a summary of the
4 totality of what they provided.

5 Senator McCaskill. Do you know if the information that
6 the Safety Defense Board looked at, do you know if it was as
7 heavily redacted as what you have been able to see?

8 Mr. Tamosaitis. No, Senator, I do not know what they
9 looked at. I will say that the Defense Board was the only
10 group that looked at the issue in a timely manner and
11 identified the issue correctly.

12 Senator McCaskill. So the administrative remedies that
13 we have in the law for whistleblowers completely failed you?

14 Mr. Tamosaitis. Yes, ma'am.

15 Senator McCaskill. So you had the Safety Board that
16 did the job they were supposed to do, and then you have had
17 to turn to the courts because the administrative--which, of
18 course, we have designed the administrative process in order
19 to try to avoid the courts, and, clearly, that is not
20 working out.

21 Mr. Tamosaitis. Again, the administrative process
22 internally, Bill Taylor of the ECP, Employee Concerns
23 Program, told me to seek help outside, which I did.

24 Senator McCaskill. So, in fact, the people who are
25 tasked with the administrative process are the ones who

1 advised you, you know, Get out of Dodge, so to speak, and
2 get into the civil court system because the administrative
3 system is not going to be adequate in terms of addressing
4 your problem?

5 Mr. Tamosaitis. Correct. One hundred percent correct.

6 Senator McCaskill. Okay. Thank you very much.

7 Senator Portman?

8 Senator Portman. Thank you, Madam Chair, and I
9 appreciate the testimony.

10 I wanted to follow up, Ms. Canterbury, if I could, on
11 some of your comments on the policy side, and I appreciate
12 what you said about providing additional notification to
13 private sector employees in response to my earlier question
14 to the last panel and fleshing that out a little further.

15 Let me hear from both of you, if you have answers to
16 this. I am just trying to get at what works and what does
17 not work with regard to existing protections for private
18 sector--for Federal contractors, non-Federal employees.

19 You have got the False Claims Act, which you mentioned,
20 and that gives whistleblowers the right to file the suits
21 against contractors. "Qui tam" I think is the Latin for it,
22 the qui tam suits, and then others for defrauding the
23 Government. So it can be a suit against contractors or
24 anyone, right, for defrauding the Government? And then
25 there is the DOD statute we talked about earlier, Section

1 2409, and for the civilian agencies, FAR 3.9, which
2 prohibits any contractor from "discharging, demoting, or
3 otherwise discriminating against" an employee for reprisals
4 for reporting substantial violations of law related to a
5 contract, and complaints under those provisions are brought
6 to the IG, as we heard about earlier, of the relevant
7 agency, so the Inspector General in this case of DOE.

8 Just if you could tell us on the record, what do you
9 see as the major gaps in these existing protections that
10 have either prevented whistleblowers from coming forward or
11 resulted in unprotected reprisals? And then, Ms.
12 Canterbury, if you could, just give me any specific
13 investigations of contractors that you believe would have
14 been more effective with stronger whistleblower protections.

15 Ms. Canterbury. Thank you, Senator, for that question.
16 As I mentioned in my testimony, that particular statute,
17 which is under the FAR Rule 3.9, is rather flimsy.
18 Substantial violations of law are the only disclosures which
19 are protected, and I think there is a lot of concern about
20 what "substantial" might be and in what context that might
21 be substantiated.

22 Beyond that, there are no time limitations on
23 investigations that might be conducted by an IG, no time
24 limitation on agency actions, so it is conceivable that
25 there could be interminable limbo for a whistleblower who

1 might try to rely on those protections. And as I said, I
2 would not advise any contractor to do so.

3 In terms of cases in which with better protections we
4 might have had more accountability or the whistleblower
5 might have found justice, it is very hard to say. In fact,
6 most of the cases of which we are aware have come under the
7 False Claims Act. Because of its underlying very strong
8 public policy, that is the avenue through which most
9 contractors have sought to bring to light instances of fraud
10 or to seek protections from retaliation. And so those are
11 the cases we are most familiar with, and I think that there
12 are certainly many, many more who have not come forward at
13 all, and billions in taxpayer dollars that have been wasted.
14 I believe the public has been put in jeopardy in terms of
15 health and safety because there has not been a strong public
16 policy for whistleblowers.

17 Senator Portman. Do you think as a general matter that
18 Federal employees are more likely to step forward with
19 reports of waste or abuse than non-Federal employees?

20 Ms. Canterbury. I think that is true. We have had the
21 Whistleblower Protection Enhancement Act in place for many
22 years, but as you noted in your opening remarks, that law
23 also is in desperate need of enhancement, and this Committee
24 has moved a bill that will do that, that will strengthen the
25 Whistleblower Protection Act.

1 So, yes, they do have more rights under the law
2 currently as Federal employees than a non-Federal employee
3 who may be sitting alongside doing the same type of work.

4 Senator Portman. And one issue that you talked about
5 and that we talked about earlier was just notifying non-
6 Federal employees of their rights and being sure it is
7 understood is the administrative procedure. I talked about
8 the importance of having an internal process that works,
9 which sometimes works and sometimes does not. And then we
10 talked about just some of the statutory provisions that
11 might be less than clear and that there is sort of a
12 patchwork on the non-Federal side and that legislation that
13 we did pass--I think it was unanimous out of this Committee,
14 in fact, on the Federal side--

15 Ms. Canterbury. Yes.

16 Senator Portman. --helped to clean up the Federal
17 side. But we have not done that on the non-Federal side.

18 Dr. Tamosaitis, your contracting comments I found
19 interesting, and I do not know as much about Hanford and how
20 that cleanup is going. I have been involved in some other
21 cleanups and found that if it is a cost-plus contract,
22 sometimes it results in some of the concerns you raised, not
23 specifically about safety but about the taxpayer dollars
24 being wasted. Is that a cost-plus contract, do you know?

25 Mr. Tamosaitis. The project, no. The project has

1 award fees in it. It is not a cost-plus. It is a capital
2 project. They have intermediate milestones and I will say
3 incentives for meeting various targets.

4 Senator Portman. Is it a fixed-cost contract then with
5 awards? Would that be the right way to describe it?

6 Mr. Tamosaitis. Well, no, I would say not fixed cost.
7 It is going up by billions.

8 Senator Portman. Yes, that is what it sounded like
9 from what you said earlier.

10 Mr. Tamosaitis. It is a capital project, and they
11 continue to reforecast what the total price will be.
12 Congress allots \$690 million a year in funding, "capital
13 funding," and they are getting an additional \$50 million,
14 which Bechtel was after. If they had not closed the M3, the
15 mixing issue, in June, the \$50 million was in jeopardy. So
16 this coming year they would have \$740 million. They wanted
17 to go for more money. But I do not know the status of that
18 additional money.

19 Senator Portman. Yes, well, I appreciate that, and I
20 am not expecting you to be the lawyer on this, but I do
21 think some of the waste that we hear about in this
22 Committee, talking about contracting generally and some of
23 the things that you raised, are related to the incentives.
24 As you said earlier, companies who are paid to build
25 something and then when it does not work are paid to fix it

1 would be another example of that, where the structure of the
2 contract itself leads to some of these excessive taxpayer
3 payments that you typically would not see in the private
4 sector on a fixed-cost basis.

5 Mr. Tamosaitis. In this contract, they will be gone
6 when they push the button, basically right when they push
7 the button to start it up. So they will have limited to no
8 operating responsibility. There is a very limited
9 performance requirement, but I will say in my view that
10 continues to decrease as time goes on as to what the plan
11 has to do over what period of time when they start it up. A
12 major issue in my mind is the design authority/design agency
13 confounding, deciding what needs to be done and how it needs
14 to be done. I have used the term that that is like putting
15 the fox in the henhouse to guard it. They then have
16 schedule and cost milestones they have to meet, and if you
17 are deciding what needs to be done and how it needs to be
18 done and it has to be done here, you are pretty well going
19 to meet it. And then you are not going to be there to
20 operate it.

21 In answer to an earlier question on the adequacy of the
22 whistleblower laws, I think the laws clearly have to be
23 improved, stepped up. There is also for the management of
24 the company, attention needs to be given on that side
25 because what really provides a memory is publicity and

1 money. So if they--I will say not so much the law may be
2 written, sitting on a shelf. So the companies need to see
3 that there is a sting to them and money will be memory as
4 well as the bad publicity. And until the management of the
5 companies see that, it is a continual uphill battle.

6 Senator Portman. Well, thank you both for your
7 testimony. I appreciate it.

8 Senator McCaskill. You know, it is interesting, the
9 award fee stuff we saw over and over again in Iraq and
10 Afghanistan where there had been terrible execution of the
11 contracts and they got the performance fees. We did a whole
12 hearing on it in the Armed Services Committee, and it was
13 shocking to me. And basically the culture was, "Well, we
14 just give them those fees. You know, no matter how good a
15 job they did, just everybody knows they get them." I am,
16 like, "Well, why is it considered some reward then if you
17 are giving them to folks who are not doing a good job?"

18 Let me just finally say this: This has been a very
19 helpful hearing. I think both Senator Portman and I have
20 asked for additional information from the Inspectors General
21 community and others in this hearing that we want to follow
22 up with because we want--I hope that Senator Portman takes a
23 hard look at Senate bill 241. I would love to have his help
24 with it in making it the best we can possibly make it.

25 The one thing I would say to you, Ms. Canterbury, you

1 know, we have this chart that we prepared for this hearing,
2 and this is the various different provisions for
3 whistleblowers in different parts of the law--who is
4 protected, what disclosures are protected, who to disclose
5 to, additional protections and remedies. And they are
6 different. And one of the things I would really like to see
7 us get done in S. 241 is to clean up this patchwork, because
8 how in the world can we expect people to know what their
9 rights are if it depends on which contract you are working
10 under, where you are working, whether you are in stimulus
11 dollars, or whether you are DOD? Our attempt to try to
12 clean this up, all of this was done with good intentions.
13 It is like our job training programs. We have got 47, 48 of
14 them, and every one of them was created by a Member of
15 Congress that had good intentions in terms of job training.
16 But we have created this labyrinth of job training that
17 ultimately falls in terms of its effectiveness because of
18 the weight and complexity of the myriad programs.

19 So any help that your organization can give us in terms
20 of making sure that what we have done with S. 241 is to try
21 to clean this up--and it is complicated by the fact that
22 Issa's bill has a pilot program for contractors, which I
23 think we know we do not need a pilot program. And Senator
24 Akaka's bill does not include contractors at all. So we
25 have right now in Congress three different pieces of

1 legislation that are going to make this worse, not better.
2 So hopefully we can all get together and try to clean this
3 up because I think that is how we are going to get to more
4 effective protection of whistleblowers and ultimately then
5 more effective expenditure of Federal dollars.

6 Thank you very much for being here. Thank you for
7 attending the hearing. Thank you, Senator Portman.

8 Ms. Canterbury. Thank you.

9 Mr. Tamosaitis. Thank you.

10 [Whereupon, at 11:30 a.m., the Subcommittee was
11 adjourned.]



U.S. DEPARTMENT OF
ENERGY

Hanford Tank Waste Retrieval, Treatment, and Disposition Framework

September 24, 2013

**U.S. Department of Energy
Washington, D.C. 20585**

Hanford Tank Waste Retrieval, Treatment, and Disposition Framework

1. Introduction

Immobilizing Radioactive Tank Waste at the Office of River Protection

Forty years of plutonium production at the Hanford Site has yielded a challenging nuclear waste legacy—approximately 56 million gallons of radioactive and chemical wastes stored in 177 underground tanks (tank farms) located on Hanford's Central Plateau. The mission of the U.S. Department of Energy (DOE) Office of River Protection (ORP) is to address the risks posed by this tank waste through immobilization of the waste, and the ultimate closure of the tanks and decommissioning of the treatment facilities. While there are no immediate risks to the Hanford workforce, the public, or the accessible environment from leaking tanks, DOE remains steadfastly focused on treating Hanford's tank waste as safely and expeditiously as possible.

The tank waste is currently stored in aging single-shell (SST) and double-shell tanks (DST). The liquid portion of the waste is the portion most likely to leak from the tanks. DOE took steps beginning in the 1980s to mitigate this risk by transferring all pumpable liquids from the older single-shell tanks to newer double-shell tanks. The next step is to immobilize this waste.

Immobilization will occur in the Waste Treatment and Immobilization Plant (WTP). The WTP is a highly complex nuclear and chemical processing facility with many first-of-a-kind technology applications. The tank waste at Hanford is also the most complex and heterogeneous radioactive tank waste in the United States. The complexity of both the waste itself as well as the WTP facilities has led to difficult, and to date, unresolved technical issues for the portions of the facility (primarily the Pretreatment [PT] Facility and to a lesser extent the High-Level Waste [HLW] Facility) that will process the solid portions of the waste. Because the current design of WTP anticipates that all waste will be processed through the PT Facility, immobilization of any waste could not occur per the current plan until the technical issues involving the PT Facility are resolved. Therefore, an alternative approach for immobilizing waste as soon as practicable, while simultaneously resolving the remaining technical challenges, has been identified.

The technical issues will take time to resolve, but DOE has assembled dedicated teams of DOE, contractor, national laboratory, and industry experts and is devoting significant resources to resolve these issues. At the same time, by adopting a DFLAW option in which the waste bypasses the PT Facility, waste immobilization can begin years earlier than if we wait until all technical issues are resolved and the Pretreatment Facility is completed.

This document describes a strategic framework for addressing the risks and challenges to completing the ORP mission as soon as practicable by implementing a multipronged, phased approach that is designed to accomplish the following objectives:

- Begin immobilization of the tank waste as soon as practicable through DFLAW.
- Process transuranic (TRU) tank wastes for disposal at the Waste Isolation Pilot Plant (WIPP), should those wastes be properly classified as TRU and be permitted for disposal at WIPP.

- Resolve technical issues for the PT and HLW Facilities, including determining how to adequately mix and sample the waste prior to processing, to enable design completion, and the safe completion of construction, startup and operations of these facilities.

This document is not a proposal, but rather a framework for discussion as DOE and the State of Washington seek to resolve concerns regarding completion of the waste treatment mission. Viewed as a whole, this Framework describes an approach that would allow for immobilization of tank waste to begin as early as practicable without waiting for completion of work to resolve the technical issues associated with the PT and HLW Facilities. For each of the waste streams described in more detail in the following sections, this Framework identifies potential waste treatment options, based on a combination of previous alternatives analyses, external reviews, testing, and ongoing analyses. Where possible, the document identifies a preferred alternative.

Current System Design

The WTP consists of five facilities/complexes: (1) the Analytical Laboratory (LAB), (2) Balance of Facilities (BOF), (3) LAW Facility, (4) HLW Facility, and (5) PT Facility. The WTP is being designed to process the tank farm waste during a roughly 40-year period. The current design requires waste to be processed through the PT Facility, where it will be separated into a low-activity waste stream to be vitrified in the LAW Facility and a high-level waste stream to be vitrified in the HLW Facility. The LAB and BOF support these vitrification activities.

The LAW Facility, BOF, and the LAB—collectively referred to as the LBL—are nearest to completion and do not have any significant remaining technical issues. As described in more detail in the following sections, technical issues associated largely with mixing in the vessels of primarily the PT Facility, and to a lesser extent the HLW Facility, have caused construction of the PT Facility to be suspended and construction of the HLW Facility to be slowed.

Addressing Technical Risks and Challenges

Hanford tanks contain a complex and diverse mix of radioactive and chemical waste in the form of sludge, salts, and liquids, necessitating a variety of unique waste retrieval and treatment methods. The uncertainty and diversity of the physical and chemical properties of the 56 million gallons of waste make the mission uniquely complex.

The underground tank farms at Hanford include 149 older SSTs that are decades past their design life. Some of these tanks are known or are assumed to have leaked, and some SSTs continue to slowly leak. Although there is no immediate health and safety risk posed by these leaks, addressing the long-term environmental concerns associated with the leaks requires a robust and sustainable strategy for waste retrieval, treatment, and disposal or long-term storage. This strategy, thus far, has involved transferring the pumpable liquid waste that posed the highest risk of leaking to the environment from the SSTs to 28 DSTs.

As the design and construction of the WTP has progressed, a number of technical issues have emerged involving the tank farms, the WTP, and the interfaces between the two. As previously noted, the issues in WTP are primarily associated with the PT Facility and, to a lesser degree, the HLW Facility. However, because in the current design all waste flows through the PT Facility, these technical issues impact ORP's overall ability to begin treating Hanford's tank waste.

The WTP technical issues are centered on the ability of the PT Facility to mix and transfer HLW slurries with high solids concentrations and the adequacy of the piping and vessel designs in inaccessible black

cells to support the WTP's 40-year operational life. Some of these issues involve uncertainties associated with the erosion and corrosion of piping and vessels, criticality, and hydrogen generation in vessels. In the tank farms, the primary issue is lack of capability to ensure that the waste feed delivered from the tank farms to WTP meets the applicable waste acceptance criteria (WAC).

In response to the emergence of these technical issues, DOE assembled a Design Completion Team and five associated technical teams to resolve these issues. The majority of ongoing work associated with the HLW Facility is focused on resolving the technical issues and completing the facility design. In addition, DOE suspended all of the construction work on the PT Facility to focus resources on resolving the open PT Facility technical issues. The timing of resolution of these issues will determine when construction can begin again on the HLW and PT Facilities. Given the more narrow scope of the technical challenges and the HLW vessel testing program currently underway, DOE expects to be able to restart full construction for the HLW Facility prior to restarting PT construction.

Hanford's Three Waste Streams

The 56 million gallons of tank waste can be roughly binned into three major categories for treatment: (1) low-activity waste; (2) potential contact-handled transuranic waste (CH-TRU); and (3) high-level waste, which is further subdivided into waste not requiring special handling (easier to process) and waste requiring special handling (harder to process).

1. **Low-activity waste.** Consisting primarily of the supernate (liquid) portion of the tank waste with most of the solids and radioactivity removed before vitrification, low-activity waste will be the largest tank waste stream by volume (approximately 90% of the volume), but the lowest in radioactivity content (approximately 10% of the curies).
2. **Potential contact-handled transuranic waste.** There are approximately 1.4 million gallons of waste in 11 SSTs that could potentially be classified as CH-TRU and transferred to the WIPP for disposal. The waste in these 11 tanks is undergoing review to determine whether or not it can be classified as CH-TRU.
3. **High-level waste.** High-level waste is primarily sludge and saltcake, with the sludge fraction of the waste consisting of metal oxides and hydroxides, and the saltcake fraction consisting of the product of numerous acid-base reactions. The high-level waste in the tanks accounts for the bulk of the radioactivity. However, once the liquid is removed from the tanks, this waste form is not very mobile. The high-level waste feed stream can be further divided into two subcategories, depending on the need for some form of special handling in order to meet the plant's WAC.
 - a. **High-level waste not requiring special handling (easier to process).** This subcategory of waste is expected to meet the PT WAC and be processed through the PT Facility and vitrified in the HLW Facility. The majority of the high-level tank waste is not expected to require special handling.
 - b. **High-level waste requiring special handling (harder to process).** This high-level waste stream contains high concentrations of fast-settling particles, plutonium dioxide, or metal particles. Options for treating the waste include directly feeding the waste to the HLW Facility (bypassing the PT Facility) or preconditioning the waste prior to treatment in PT Facility or the HLW Facility.



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Emails raise questions about DOE's role in firing of official

By Annette Cary, Herald staff writer

A string of emails among Hanford officials has raised questions about whether the Department of Energy was involved in discussions that led to the firing of a top-level vitrification plant official.

The official, Walt Tamosaitis, has filed a whistleblower case in Benton County Superior Court, claiming he was transferred from his position as research and technology manager for the \$12.2 billion vitrification plant at Hanford in retaliation for raising safety and technical concerns.

A day after Bechtel National claimed to meet its June 30, 2010, contract requirements for resolving technical issues related to safe operations of the vit plant, Tamosaitis questioned Bechtel's claims, the lawsuit alleges.

Bechtel needed to meet the deadline to earn much of a \$6 million payment from DOE.

DOE has said it does not become involved in contractor personnel issues at Tamosaitis' level, and DOE project director Dale Knutson said in a legal document that he did not direct Bechtel National or URS to take any specific action with regard to Tamosaitis.

Bechtel is the DOE contractor building the vitrification plant, and URS is its primary subcontractor and Tamosaitis' employer.

However, emails obtained during court discovery by Tamosaitis' attorney, Jack Sheridan, show Knutson was involved in discussions, Hanford Challenge has alleged.

URS said in a court document that Tamosaitis sent an email with inappropriate comments to independent consultants on the project, which upset DOE and led to him being escorted from his building a day later.

In that email, Tamosaitis forwarded an email from Frank Russo, Bechtel project director, congratulating staff on clearing technical hurdles on the plant. Tamosaitis included his own comments in the forward, saying that it looked like "no matter what people tell you" experts had bought into the technical solutions so a technical issue was being closed.

A copy of Tamosaitis' July 1 email, which Bechtel called "very derogatory," was forwarded to Knutson the same day.

Knutson responded in an email to Russo that, "Walt does not speak for DOE." He also wrote, "Please use this message as you see fit to accelerate staffing changes ..."

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URS has indicated in legal documents that it had planned to reassign Tamosaitis, but that the reassignment was done ahead of schedule because Bechtel was upset about Tamosaitis' email.

Within minutes, Russo forwarded the "accelerate staffing changes" memo from DOE to Tamosaitis' boss at URS, Bill Gay.

"Walt is killing us," Russo said. "Get him in your corporate office today."

URS indicated in legal documents that a meeting had been scheduled with Tamosaitis on the next day, July 2, to discuss the transition of research and technology group personnel, and that Tamosaitis would be put on temporary assignment at the vit plant overseeing the group.

But when Tamosaitis showed up for the meeting, instead of discussing the new job, he was told to turn in his badge and phone and was escorted from the building.

He continues to work for URS but with no meaningful work and in a basement office that he shares with copy machines, according to court documents filed by Sheridan.

The string of emails concluded July 5 with a message from Gay to a URS corporate official that started with, "This email was the straw that broke" It ended with, "This action was initiated by Dale Knudsen (sic) probably not knowing the sensitivity."

Initially, DOE said Tamosaitis' removal was a natural and planned evolution of his work scope and that DOE was not involved in the decision to remove him, Tom Carpenter, executive director of Hanford Challenge, said in a statement. "The new evidence reveals a retaliatory culture," he added.

The Herald asked to speak with Knutson to hear his side of the story, but DOE instead issued a statement saying its policy "is not to dictate these kinds of contractor employment decisions."

DOE had no further comment because of the ongoing litigation, according to the statement.

"The wheels were in motion for this transfer," said Suzanne Heaston, Bechtel spokeswoman. "I don't think anything would alter that."

As technical issues were being resolved at the vit plant, jobs related to them were decreasing, she said. It was routine for highly paid, high-level managers to be relocated to corporate offices until they received their next assignment, she said.

URS indicated in a legal document that it began discussing the transition of workers in Tamosaitis' group as early as May 2009, and that Tamosaitis knew that as design of the vit plant was completed there would be no more work.

Assoc
Term

Russo had decided it was time for Tamosaitis to leave the project before Tamosaitis sent the email that upset DOE, and on July 1 he said that Tamosaitis would no longer be paid from the vitrification plant budget, according to an email from Russo.

Bechtel thought then that a job was available for Tamosaitis on a Bechtel project in Sellafield in the United Kingdom, Heaston said.

URS said in a legal document that it had been unsuccessful in finding him an assignment with the possible exception of an opportunity at Sellafield. Until -- and if -- that job became available, it planned to temporarily assign him to oversee the research and technology group.

Tamosaitis' understanding was that he would stay in charge of the same group, which would essentially continue to do the same work, but that it would shift to another building, said his attorney.

Annette Cary: 582-1533; acary@tricityherald.com; More Hanford news at hanfordnews.com.

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Independent Probe, Manager's Firing Raise Questions About 'Safety Culture' at DOE's Nuclear Waste Site

By EMILY YEHLER of Greenwire
Published: July 22, 2011

More than six years ago, a Department of Energy official wrote to Bechtel National, the company in charge of the design and construction of the most expensive environmental remediation project in the world.

The letter summarized a survey of workers and their belief that those who raised safety concerns would be "targeted for future lay-off lists." Safety is of paramount concern at the Hanford Site; the Washington state nuclear production complex is home to more than 50 million gallons of radioactive waste that is slated to undergo a first-of-its-kind treatment.

"Discussions between [the Office of River Management] and BNI management on these issues have demonstrated BNI's willingness to work to address these employee concerns," ORM manager Roy Schepens wrote in the 2005 letter. "In addition, the ORM recognizes the efforts BNI has made and continues to make to address the perception of a chilling effect in the workplace."

It wasn't the first time such accusations surfaced and it wouldn't be the last. But this year, DOE is facing perhaps its most public criticism yet, with a new report that reveals a broken safety culture and a former manager who says he was fired for voicing concerns about serious risks in the project.

The report -- from the independent Defense Nuclear Facilities Safety Board (DNFSB) -- details known concerns with the project, which aims to trap the waste in glass so it can be safely buried. The process includes mixing the waste in large tanks using "pulse jet mixers" that have never been used at another nuclear facility.

Many problems have cropped up over the years, pushing back the construction deadline and causing billions of dollars in budget overruns. Ten years ago, officials estimated the project would cost little more than \$4 billion; today, that number stands at more than \$12 billion.

The pressures of deadline and cost appear to have created what the board calls a "chilled atmosphere." Management discouraged technical dissent affecting safety, it wrote, and "subtly, consistently, and effectively communicated to employees that differing professional opinions counter to decisions reached by management were not welcome and would not be dealt with on their merits."

DOE is promising to study the safety issues and have launched a public campaign of "town halls" to talk to workers. But the department is also demanding all the board's investigative records, pointing to a former in-house study DOE officials say found different results. So far, the board has refused, citing confidentiality concerns for the 45 employees interviewed.

Longtime Hanford critics say it is an all-too-familiar dance.

"Naturally they're responding by saying, 'We'll fix this.' At the same time, out of the other side of their mouth, they're saying they don't really see a problem," said Tom Carpenter, the executive director of Hanford Challenge, a group whose mission is to "hold Hanford accountable." "How heartfelt is it really that they're going to undertake some reforms?"

A matter of perspective

In a recent interview, Deputy Secretary of Energy Daniel Poneman characterized the agency's request as an honest attempt to get to the root of the problem.

"Obviously the things that the board had found were quite different in many respects from the things we had found and since we all work for United States of America ... it seemed like the normal and natural thing to make sure we had the underlying facts right," he said.

Poneman pointed to a report from DOE's Office of Health, Safety and Security, which conducted an investigation in August and September of 2010. The report's executive summary applauds BNI's establishment of a "framework for a strong nuclear safety culture" and attributes the perception of a broken safety culture to small "pockets" of employees.

"Although a small number of individuals expressed such opinions, any indicators that individuals are concerned about the safety culture in general, and retaliation in particular, warrant management attention, including efforts to determine the extent of the concerns," HSS officials wrote. "The HSS team's analysis indicated that underlying weaknesses in communications and change [in] management have contributed to the perception of a chilled atmosphere among some employees."

DNFSB describes the problem as far more serious, drawing from a yearlong investigation that included 45 interviews and 30,000 pages of documents. The board also questions the HSS findings, pointing out that employees were escorted to their interviews by management.

"The Board's record shows that involving management with the interviews clearly can inhibit the willingness of employees to express concerns," DNFSB Chairman Peter Winokur wrote in the report. "In its own way, DOE's decision to allow management to be involved in the HSS investigation raises concerns about safety culture."

In a recent interview, Winokur said the board would reaffirm its conclusions if Energy Secretary Steven Chu did not eventually accept all of their findings. But he said the process appeared to be moving forward. Poneman was also optimistic.

"I know that there's been a lot of back and forth on it, but at end of day I think we're moving in right direction," Poneman said.

Relegated to a 'mole hole'

DNFSB launched its investigation into the site's safety culture last year, after Walter Tamosaitis wrote the board a letter alleging that he was fired after raising safety concerns. Tamosaitis, a 63-year-old former engineering manager at the plant, had been head of a research group that had a budget of about \$500 million.

He was suddenly laid off in July 2010, after repeatedly raising concerns over whether the radioactive waste was being fully mixed in the tanks. The pulse jet mixers appeared insufficient to dredge up the bottom of the tanks, where plutonium could settle and cause bubbles of explosive hydrogen gas.

His firing came after the June 30 deadline to close such technical issues; managers celebrated the milestone, while Tamosaitis continued to insist that the "M3 issue" was not resolved.

"Walt is killing us," Betchel manager Frank Russo wrote in an email on July 1, to one of Tamosaitis' bosses. "Get him in your corporate office today."

The next day, Tamosaitis was fired. He now works in what he calls the "mole hole," a basement office of URS Corp., a subcontractor to Bechtel. He has little to do, after 40 years of managing chemical plants and working on nuclear cleanup projects.

In a recent interview, Tamosaitis recalled an oft-told joke at the Hanford site: Workers ask new employees whether they have their "bus ticket," he said, to flee when the problem-plagued plant goes into operation.

Managers are so focused on getting technical issues closed that they constantly "solve" safety concerns by promising later reports and studies, Tamosaitis said.

The HSS report describes the process this way: "Although the broad M3 issue is categorized as closed, a number of related or subordinate issues have been generated to track additional actions that need to be performed to provide additional assurance or confirmation that the uncertainties in the mixing issue are sufficiently understood."

In other words, BNI will have to do more testing to ensure the design works.

"They keep throwing it forward and eventually it's going to bite you and you have to do something," Tamosaitis said. "Or you end up with a plant that doesn't run well."

Watchdog woes

Tamosaitis and Carpenter questioned whether DOE could effectively oversee Bechtel. After more than 20 years of failed attempts, both entities share a common goal: Get the plant built and in operation.

"I think DOE is not investigating it, doing an investigation into the details of what happened to me or other occurrences like me typifies one of the problems in DOE," Tamosaitis said. "In my opinion, they do not have ability and manpower to oversee the contractors. They are so closely linked with the contractor and tied to the cost and getting it done, they become the contractor in essence."

But Poneman said DOE is continuously looking to improve. The department did not investigate Tamosaitis's claims, he said, because the Department of Labor had already begun its own investigation. He also pointed to a third-party survey that will be done at the Hanford Site and the fact that DOE will conduct an analysis of the concerns Tamosaitis brought up.

"There is no room for complacency and we don't shirk from self-analysis," he said. "In the end, this will all turn out to be a healthy thing. We certainly want to make sure no one suffers retaliation."

Still, he emphasized that employees should follow the official process for lodging concerns.

"You can't run a project and have 11,000 independent questions taking the decisions in different directions," he said. "You have to have a thoughtful and orderly process."

A process does exist, though questions remain about whether it is effective. Tamosaitis, for one, maintains that a manager raising concerns with his colleagues should put remediation into action.

"As a upper manager, by vocalizing it in a meeting and talking, that should create enough focus and concern to talk about it and address it," he said. "Did I vocalize? Yeah, I got fired. The proof is in the pudding."

Soon, DOE might be left to be its own watchdog. DNFSB suffered a 20 percent budget reduction in fiscal 2011, and if the money is not restored in 2012, the board will be forced to lay off a quarter of its staff, Winokur said.

"We've used some carryover funds to keep our head above water," he said in a recent interview. But if Congress does not pass a spending bill before the start of the next fiscal year, he will be forced "start to dismantle the board."

That worries Tamosaitis, who sees the board as the only entity keeping DOE and Bechtel in check.

"If it wasn't for the defense board watching over DOE, there wouldn't be a damn soul watching over them," he said.

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The Washington Post

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After complaint, he landed in basement

By [Joe Davidson](#), Published:
December 8, 2011

Walt Tamosaitis thought he was doing the right thing when he blew the whistle on problems with an Energy Department project. He was banished to the basement for his trouble.

The Richland, Wash., engineer was working as a federal contractor on the Hanford Waste Treatment Plant (WTP) project, which he described as “our nation’s most contaminated facility, containing two-thirds of the nation’s high level nuclear waste.” It’s an Energy Department program, run by [Bechtel Corp.](#) and [URS Corp.](#) as the prime subcontractors. Tamosaitis said the objective “is to put 56 million gallons of hazardous nuclear waste into a stable waste form to eliminate an environmental and safety threat.”

Tamosaitis fully supports that objective, but he wants it done right. So in June 2010, he submitted a long list of technical issues that needed attention.

“I am opposed to efforts to cut corners in order to meet artificial deadlines in order to earn fees,” he said in congressional testimony Tuesday.

His efforts apparently were not appreciated.

“I was suddenly terminated from the WTP job and escorted off the premises after I continued to raise valid safety and technical concerns,” he said.

Though taken off the project, he was not fired: He was exiled to the cellar, like a bad boy sent to his room. “My employer, URS, assigned me to a basement office that housed two working copying machines,” he told the Homeland Security and Governmental Affairs [ad hoc subcommittee on contracting oversight](#). “I’ve been sitting in

a basement office now for nearly 16 months.”

URS declined to comment because Tamosaitis’s case is in litigation.

Energy Department officials “have made clear time and again, retribution for raising safety concerns will not be tolerated,” said Jen Stutsman, a department spokesperson. “We are committed to continuing to improve our approach to safety at the Waste Treatment Plant, including making sure that technical and safety issues are addressed in an effective manner.”

The congressional panel is considering legislation that would extend whistleblower protections to employees of government contracting companies. If passed, the bill would greatly increase the number of people who have protections against retaliation for making certain disclosures while doing Uncle Sam’s work.

It would be “the largest expansion in whistleblower rights for employees performing federal functions,” Tom Devine, legal director of the Government Accountability Project, a nonprofit whistleblower advocacy organization, said in an interview.

In her testimony, Angela Canterbury, public policy director for the nonprofit Project on Government Oversight, said tighter protections are needed because “whistleblowers have saved countless lives and billions of taxpayer dollars.” There are some protections in place for Defense Department contractors and those funded through the stimulus act of 2009. But that’s not enough.

“The accountability loopholes are many in the patchwork of laws that protect only some federal fund recipients and only under very limited circumstances,” Canterbury said.

Closing the loopholes would come too late to help Tamosaitis, but his story is helping to push the legislation.

“Despite my career being ended, I would do it again because it was the right thing to do,” Tamosaitis said. “Given the tools, more people like me will stand up against, waste, fraud, abuse, bad practices and poor quality in government contracts.”

Sen. Claire McCaskill, (D-Mo.), chairman of the subcommittee and sponsor of the legislation, seemed taken aback by Tamosaitis’s ostracism and particularly by the strong message it sends. Here’s an excerpt from the hearing transcript:

“McCaskill: And everyone sees you go to work in the basement with no windows?”

“Tamosaitis: Yes, yes, ma’am.

“McCaskill: And knows that you are not allowed to work, even though you’re there on site and getting paid?”

“Tamosaitis: Correct.

“McCaskill: So everyone — so every day you are an example to all the workers there, whether they’re federal employees or Bechtel employees, don’t say anything or you too will be banished to the basement?”

“Tamosaitis: Yes, Senator, very directly. It’s a very visible example of what happens if you speak up.

“McCaskill: It’s just unbelievable to me that we’ve allowed this to occur. . . . I — I — I’m — I’m speechless

about the reality of you still going there every day as a walking billboard to everyone about — to keep their mouth shut. Because that’s essentially what you are.”

Not so, says Bechtel, which is contesting Tamosaitis’s allegations. Bechtel national spokesperson Jason Bohne said, “We have not and will not tolerate retaliation or harassment in any form against anyone who raises issues.”

A recent independent study, he added, found “no widespread evidence of a chilled atmosphere adverse to safety, or that WTP management suppresses technical dissent.”

Did they take the temperature in Tamosaitis’s office?

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Little Impact From Air Regs On Power Prices—EPA

BY CHRIS HOLLY

In the face of highly skeptical Republicans, a senior Environmental Protection Agency official told a House subcommittee Wednesday that a recently finalized rule establishing stringent limits on power plant emissions of mercury and other hazardous air pollutants would have little impact on electric reliability, raise electricity rates by a mere 3 percent nationally and yield a net increase in jobs.

EPA Assistant Administrator for Air and Radiation Gina McCarthy, appearing before the House Energy and Commerce Committee's Subcommittee on Energy and Power, said EPA's latest modeling continues to show the agency's

(Continued on p. 4, [click here](#))

Pennsylvania Lawmakers Impose Impact Fee On Marcellus Shale Drillers

BY CHAD WOODWORTH

After a heated political battle with major implications for the industry's rush to develop the massive Marcellus Shale gas field, the Republican-controlled Pennsylvania General Assembly Wednesday passed a bill permitting counties to charge drillers an "impact fee" to help address the public costs of increased drilling—a scheme opponents say leaves the state with one of the lowest effective tax rates on produced gas in the country.

Community groups and lawmakers opposing the bill say in addition to the relatively low revenues it will generate, the bill provides minimal authority to localities to control where drillers operate, does little to address ground-

water and other environmental concerns and relieves producers of many responsibilities other businesses carry in the state.

Proponents of the bill say it could generate nearly \$180 million for local governments and the state government in its first year, and more than \$210 million the year after. Most of the money will stay with the county governments to fund road, sewage treatment and other public facility improvements needed to accommodate population increases brought on by the drilling boom; a small amount of the money will go to the state for road maintenance and environmental response.

However, critics charge that because the bill requires counties to decide whether they will levy an impact fee on drillers, the legislation will effectively pit counties against each other

(Continued on p. 3, [click here](#))

Amid Broad DOE Safety Review, Sproat Named To Fix WTP Issues

BY GEORGE LOBSENZ

Amid sweeping efforts by the Energy Department to address the issue across the agency, Bechtel this week named Ward Sproat, a former top Energy Department official, to lead efforts to improve the nuclear safety "culture" at the radioactive waste treatment plant the contractor is building at DOE's Hanford site so that workers feel more comfortable raising safety concerns without fear of management retaliation.

Bechtel's appointment of Sproat, a Bechtel executive who earned a reputation for candor as head of DOE's nuclear waste disposal office under the Bush administration, comes as DOE

is assessing safety culture at many of its other nuclear sites and major projects. The reviews are being done to carry out a December 5 policy memo from Energy Secretary Steven Chu in which he underlined his commitment to openness on safety issues.

"No one who expresses a safety concern need fear retribution or penalty for stepping forward with a concern," Chu said in his memo to all DOE managers. "It is against the law, regulation and DOE policy for either federal or contractor employees to suffer any such reprisal. There are multiple channels through which to express safety concerns, and it is the policy of the department to review and respond appropriately to any and all concerns.

"Of course, there are multiple factors at play in the evaluation of any potential safety concern, and reasonable people with relevant subject matter expertise may differ on the appropriate response to any given set of data," he added. "That is why the department is committed to an analytically sound and honest evaluation of any safety concern, in order to assure adequate protection from possible radiological or other safety hazards."

DOE released Chu's memo in a January 24 letter to the Defense Nuclear Facilities Safety Board (DNFSB), a federal oversight agency that backed concerns raised by safety whistleblowers at the Hanford Waste Treatment Plant (WTP) and formally told DOE in a June 2011 recommendation that it saw deep safety culture problems in Bechtel's handling of those concerns.

(Continued on p. 2, [click here](#))



Amid Safety Review, Sproat Named To Fix WTP Issues... (Continued from p. 1)

After initially disputing some aspects of the DNFSB's assessment, the department now has fully accepted the board's recommendation and filed a detailed implementation plan for addressing safety culture problems at the WTP and across its nuclear weapons complex, with Deputy Energy Secretary Daniel Poneman having overall responsibility for the initiative.

Interestingly, the implementation plan calls for Tom D'Agostino, head of the National Nuclear Security Administration (NNSA), DOE's semi-autonomous and secretive nuclear weapons agency, to carry out safety culture improvements not only at NNSA sites, but at sites run by DOE's Office of Environmental Management as well.

Not surprisingly, the main focus of the DOE implementation plan is the WTP project, and Bechtel officials made clear the appointment of Sproat was just the first step in their efforts to respond to DOE directives for improvements.

Sproat's appointment was announced Tuesday in a memo to WTP employees by Frank Russo, the top Bechtel official on the \$12.2 billion project to dispose of some 50 million gallons of radioactive waste now stored at the DOE site in eastern Washington.

Russo said Sproat would be responsible for overhauling Bechtel's "nuclear safety and quality culture" in response to harsh criticisms made in a report released last month by DOE's Office of Health, Safety and Security (HSS) that found that a "significant number" of WTP workers were reluctant to raise safety problems, with some Bechtel employees specifically saying they fear retaliation by management.

The report, done by independent consultants hired by HSS, also raised questions about whether officials at DOE's Office of River Protection, the Hanford site office that directly oversees the WTP project, and the department's Office of Environmental Management had been sufficiently vigilant in maintaining an open safety culture.

While Bechtel said it had sought to foster an open safety culture, the HSS report said some of the contractor's executives on the project had been dismissive of the issue, and had failed to resolve bitter internal fights between WTP safety officials and plant design and engineering staff.

And in a finding effectively endorsing the complaints of some WTP whistleblowers—

and exposing an apparently ongoing rift between Bechtel and DOE—the HSS review also disclosed that Bechtel may not be in compliance with specific DOE standards for construction of new nuclear facilities, raising major questions about whether the contractor's "safety basis" for the WTP can gain regulatory approval.

The HSS review revealed that internal disagreements over the safety basis caused "severe tension and frequent animosity" among staff within Bechtel, with the contractor's safety staff clashing with its plant design and engineering teams over the need to comply with DOE Standard 3009, which governs nuclear facility construction.

The review said senior Bechtel and DOE managers for years failed to resolve the internal fight over the safety basis, in part because there are "inconsistencies" between the DOE standard and the regulatory review requirements specified in Bechtel's WTP contract.

In appointing Sproat, Russo made clear one of Sproat's key tasks would be to bring the WTP's safety and engineering staff together on key issues—and to resolve the regulatory problems with WTP's safety basis.

"The HSS report identified that a primary factor affecting WTP's safety culture was the need to better align engineering and nuclear safety," Russo told WTP employees in his internal memo. "I am pleased to announce that Ward Sproat has accepted a special assignment from Bechtel Corp. to help define and launch our nuclear safety and quality culture improvement efforts.

"Ward is ideally suited for this role. He has spent his professional career in the nuclear industry, and he has been leading nuclear projects for the Power Global Business Unit since joining Bechtel in 2009. Among his accomplishments was his role as the DOE Director of the Office of Civilian Radioactive Waste Management (OCRWM), leading the work of numerous organizations in developing and submitting the Yucca Mountain license application to the Nuclear Regulatory Commission.

"As director of OCRWM, Ward was responsible for successfully completing submission of the licensing application that has frequently been characterized as the most complex licensing undertaking in the history of the NRC. Ward is uniquely qualified to help us resolve our design and safety basis alignment

issues as we move into the licensing phase of the project and seek to resolve the remaining technical, design and operational issues."

While DOE is focusing on the WTP, the implementation plan it filed with DNFSB revealed it also plans to do safety culture reviews at many of its other sites.

"DOE will conduct an 'extent of condition' review to find out whether similar safety culture weaknesses exist at other sites in addition to the WTP and whether there are barriers to strong safety culture at [DOE] headquarters and the department as a whole," the implementation plan filed December 27 with the DNFSB said.

The plan says self-assessments will be done by NNSA and contractor officials at the Savannah River Site in South Carolina; Los Alamos National Laboratory in New Mexico; Sandia National Laboratories in New Mexico and California; Lawrence Livermore National Laboratory in California; Nevada National Security Site; Y-12 National Security Complex at Oak Ridge, Tenn.; and the Pantex site in Texas.

Self-assessments also will be done by federal officials and cleanup contractors reporting to DOE's Office of Environmental Management at the Savannah River Site; Idaho National Laboratory; Hanford; the Waste Isolation Pilot Plant in New Mexico; and East Tennessee Technology Park at Oak Ridge.

A self-assessment will be done by one site reporting to DOE's Office of Science, the radiochemical processing unit at Pacific Northwest National Laboratory, and at headquarters offices of the environmental management and science programs, NNSA and DOE's Office of Engineering and Construction Management.

The HSS will conduct safety culture reviews at several major projects. They are the Salt Waste Processing Facility project at Savannah River; Uranium Processing Facility at Y-12; Chemistry and Metallurgy Research Building Replacement at Los Alamos; Waste Solidification Building at Savannah River; and the Sodium Bearing Waste Treatment Facility at Idaho.

On a sensitive topic, DOE also agreed to look at the impact on the WTP safety culture of the whistleblower case brought by Walt Tamosaitis, a highly respected senior technical expert on the WTP project who was removed from his position after raising safety concerns later endorsed by the DNFSB.

EPA Proposes Additional Water Permits For Arctic Drilling

The Environmental Protection Agency last week proposed requiring new wastewater disposal permits for oil and gas exploration activities in Alaska's Beaufort and Chukchi seas that would require water quality testing at drill sites while limiting the types and amounts of pollutant discharges allowed.

EPA said January 30 the proposed Clean Water Act permits—one each for the Beaufort and Chukchi seas—will replace the now-

expired Arctic general permit which covered wastewater discharges in both seas up until June last year.

In addition to limiting and placing conditions on wastewater discharges by oil and gas producers, the permits require drillers to conduct water quality tests before, during and after disposal of any wastewater to limit damage to the fragile Arctic environment, and ensure compliance with the permit limits.

EPA will be accepting public comments on

the proposed National Pollutant Discharge Elimination System general permits until March 30.

In December, the Interior Department gave approval to Royal Dutch Shell to drill several exploratory wells in Alaska's Chukchi Sea on the condition that the company ends the drilling season more than a month before the winter ice season to give the company and regulators time to close the well should a leak occur.

Additional approvals from EPA, The U.S. Fish and Wildlife Service and the National Marine Fisheries Service are also required before Shell can move forward with its exploration plans.

Lawmakers Impose Impact Fee On Marcellus Shale Drillers... (Cont'd from p. 1)

in a competition to get the economic development provided by drilling by luring producers with lower fees.

The fee cost is determined according to the average annual price of natural gas on the New York Mercantile Exchange. On the low end, if natural gas prices are less than \$2.25 per million British thermal units (MMBtu), the fee will be set at \$40,000 for a well's first year. On the high end, if the fuel costs more than \$6 per MMBtu, the impact fee rises to \$60,000 for the first year.

On Wednesday, the Pennsylvania House voted 101 to 90 to give final passage to the bill after opponents of the measure spoke for hours on the floor, accusing GOP leaders of trying to reduce public scrutiny of the legislation by rushing it through the chamber in a late-night vote.

The state Senate passed the bill Tuesday by a vote of 31 to 19. Four Republicans voted against the measure and five Democrats voted for it, which was largely shaped by House and Senate GOP leaders in a private conference committee.

Gov. Tom Corbett (R) supports the impact fee structure and has pledged to sign the bill, despite charges by environmentalists that he is in thrall to anti-tax zealots and is costing the state millions of dollars in badly needed revenue.

Corbett's predecessor, Democrat Edward Rendell, repeatedly called for Pennsylvania to impose a severance tax like virtually all other oil- and gas-producing states, even those in the politically conservative oil patch regions of the

Southwest.

Citizens for Pennsylvania's Future (PennFuture), a leading environmental group calling for a severance tax and stronger drilling regulations in the state, says the bill shortchanges state residents while benefitting drillers with low impact fee rates and loose regulations.

"The bill adopts one of the nation's lowest extraction fees, weakens environmental protections over drinking water and our streams and wetlands, confers special stature on the drillers over other businesses in Pennsylvania, and destroys local rights to use zoning ordinances to manage drilling and withholds funds from any municipality that attempts to use those rights," said PennFuture President Jan Jarrett in a statement Tuesday.

Among the most contentious issues is the use of a county-by-county impact fee to collect revenue from drillers for public spending. PennFuture and others say the bill will create an effect tax rate between 1.4 and 2.5 percent, well below other severance taxes charged by other producing states.

PennFuture noted the severance tax in neighboring West Virginia, another Marcellus Shale state, was 5 percent the value of the gas at the wellhead, plus 47 cents per thousand cubic feet as a flat production tax. The group noted the rate in Texas was 7.5 percent.

PennFuture and other opponents also said the bill circumvents local zoning powers to manage drilling, limiting municipalities' control over where drilling occurs.

"[T]he legislation eviscerates the ability of local government to have any say in how, whether and where drilling will occur in their communities; and the supposed improved environmental protection standards turn out to be a total sham," PennFuture said in a review of the bill.

"[T]he proposed bill also takes away the right for any municipality to legally challenge a permit decision by [the Department of Environmental Protection] that the local government believes is not in the best interest of its community," the group added.

State Sen. Joe Scarnati (R), who played a key role in the bill's development as president pro tempore of the Senate, pushed back against allegations that the zoning provisions of the bill trampled local control.

"Local governments will retain their traditional powers to provide for local zoning and regulation," said Scarnati, who represents a district in northern Pennsylvania with heavy drilling activity.

"The legislation also provides for standardized but flexible zoning standards which would allow communities to retain reasonable control over zoning power and encourage consistency in regulating the gas industry," he added in a statement.

Corbett last week signed into law a bill requiring drillers to register GPS coordinates of their wells with local emergency authorities, the Department of Environmental Protection and the state emergency management authority.

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Patriot, Alpha Idling Appalachian Coal Mines Due To Weak Demand

Two leading Appalachian coal producers announced last week they were idling mines in response to weak demand, with Alpha Natural Resources Inc. announcing shutdowns or reduced production at 10 mines in West Virginia and Kentucky and Patriot Coal Corp. closing its Big Mountain complex in West Virginia's Boone County.

Alpha, based in Bristol, Va., said its central Appalachian mines had seen falling demand as more electric utilities switched their plants from coal to lower-priced gas.

And in a clear reference to recent Obama administration initiatives imposing emission reduction requirements on coal-fired power plants, Alpha said in a Friday press release: "A series of federal regulatory actions also have prompted utilities to implement plans for shutting down a number of generating stations that have traditionally run on coals sourced from central Appalachia."

Alpha said it would idle four mines in Kentucky and West Virginia immediately and two others between now and early 2013 while reducing output at several others. Altogether,

four mines in eastern Kentucky and six in southern West Virginia will be affected.

Alpha said the cutbacks would reduce its output by approximately 4 million tons. The company has production capacity of more than 120 million tons a year.

In its shutdown announcement, Patriot also cited low natural gas prices—along with unusually warm winter weather and slow economic growth—as creating the likelihood that thermal coal demand would remain depressed for "an extended period."

The company is closing the Big Mountain complex in Boone County, West Virginia, which produced 1.8 million tons of thermal coal in 2011. St. Louis-based Patriot sold 31.1 million tons of coal in 2011.

Little Impact From Air Regs On Power Prices—EPA... (Continued from p. 1)

Mercury and Air Toxics Standards (MATS) rule-making would have "modest" impacts on electric reliability.

"EPA's resource adequacy analysis continues to demonstrate that only a modest amount of generating capacity will become uneconomic to operate under the MATS standards, and removal of this capacity will not adversely affect capacity reserve margins in any region of the country," McCarthy said. "The analysis projects that, as a result of MATS, plant operators will choose to retire less than one half of 1 percent (4.7 gigawatts) of the more than 1,000 GW that make up the nation's electric generating capacity."

McCarthy also noted that an Energy Department analysis had concluded MATS would not create generating resource adequacy issues, and that a recent Congressional Research Service report concluded that almost all of the capacity reductions resulting from the rule will occur in areas that have substantial reserve margins.

But as if on cue, FirstEnergy Corp. announced Wednesday that its Monongahela Power Co. subsidiary is closing three older coal-fired power plants in West Virginia in September, and blamed the closures on MATS and other EPA rulemakings.

The three plants—Albright Power Station, Willow Island Power Station, and Rivesville Power Station—have a combined capacity of 660 megawatts (MW), about 3 percent of FirstEnergy's total regulated and competitive generation portfolio. However, FirstEnergy said the three plants have been used recently mostly as peaking facilities, generating on average less than 1 percent of the electricity produced by FirstEnergy over the past three years.

FirstEnergy announced in January that its generation subsidiaries will retire six aging coal-fired power plants with a capacity of nearly 2,700 megawatts in Ohio, Pennsylvania and Maryland by September 1, and again blamed the MATS rule for making the units uneconomic.

However, FirstEnergy's January announcement prompted an analysis by UBS Investment Research that found that those plant closures could double electricity capacity prices in northern Ohio. As a result, UBS raised its investment rating for FirstEnergy to "buy," concluding the utility would reap an additional \$200 million from those higher prices.

The UBS conclusions comport with research released months earlier by Bernstein Research that concluded the MATS and other EPA air regulations ultimately would benefit eastern utilities because the rules—by forcing the retirement of the least-efficient coal-fired generation—would ease the capacity glut that has kept power prices relatively low.

Environmentalists reacted swiftly to FirstEnergy's Wednesday plant closure announcement, saying that just as with the closures announced in January, FirstEnergy is likely shuttering the West Virginia plants for reasons unrelated to the MATS rule.

Environmental Defense Fund noted Wednesday that continued low natural gas prices have helped push older coal plants down the economic dispatch ladder, and that utilities are concluding that the fixed costs of keeping decades-old coal plants in service are too high to justify their occasional use as peaking plants.

Republicans pounced on the FirstEnergy announcement Wednesday, telling McCarthy

that it indicated EPA's projections on likely plant retirements are incorrect.

"This single company's retirements represent more than half of the 4.7 gigawatts EPA predicted would retire as a result of its [MATS] rule," subcommittee Chairman Ed Whitfield (R-Ky.) said. "That leaves me with no option but to conclude that projections regarding costs are wrong."

But McCarthy suggested that FirstEnergy had made a business decision based on the impact of many factors, noting that it is closing the nine coal plants some four years before the plants would have had to comply with the MATS rule.

And she said that EPA's analysis concludes there are ample reserves of underused capacity across the country to make up for any capacity shortfalls that might result as utilities shut down their oldest coal plants.

"We believe that the uneconomic units that operators decide not to continue to operate because they don't want to invest in controls will be replaced by new or existing capacity, and there is enough existing capacity in the system" to prevent any reliability issues, McCarthy said.

McCarthy also said that EPA's analysis factored in the impacts of plant closures on regional capacity reserve market prices, saying that these prices are but one component of many that influence retail electricity prices.

"EPA's modeling shows that after both MATS and the [Cross State Air Pollution Rule] are implemented, electricity prices are projected to stay well within the range of normal historical fluctuations and below levels seen as recently as 2009," she said.

Editorial: A whistleblower exposes Hanford

Posted: Tuesday, December 4, 2012 11:22 am

In an attempt to contain billions of gallons of dangerous waste at the former Hanford nuclear site, billions of taxpayer dollars have been wasted.

And without the courageous decisions of a number of employees, billions more would be heading down that rabbit hole. All of that would postpone mitigating environmental risks at one of the most contaminated sites in North America.

Last Thursday, Walt Tamosaitis and the whistleblower support groups Government Accountability Project and Hanford Challenge, spoke at Whitman College as part of the American Whistleblower Tour.

Tamosaitis served as manager of research and technology at Hanford, but was removed from the position after he raised concerns about plant safety and operation. The plant was under construction and the federal contractor tasked with designing and building it was moving forward at all costs. Yet Tamosaitis had serious concerns about basic scientific principles – namely that the plant would not work, or if it did run it wouldn't treat waste as planned.

So he spoke up. And he suffered serious retaliation.

His security clearance was revoked, he was taken off of top-level projects, was socially shunned and relegated to a basement desk to do menial work. But Tamosaitis, who has more than 40 years experience in the field and a solid industrywide reputation, didn't sit back and take it. He wrote a letter to an industry watchdog that garnered attention from the media and the government. He was eventually called to testify before Congress.

Tamosaitis' testimony had serious impact. Secretary of Energy Steven Chu has personally taken an interest in the work at Hanford, creating oversight boards to keep a closer eye on it. And the waste treatment plant that Tamosaitis argued against has been scrapped for now. Since he bravely stepped forward, others have followed. The culture of secrecy at Hanford is slowly being chipped away and the taxpayers – those of us who are paying for this cleanup and will suffer if it is not done right – are becoming more informed.

Recent findings show a double-walled tank, expected to last hundreds if not thousands of years, has begun to leak. The number of serious short-term issues that that must be addressed continues to rise.

Bureaucracies too frequently protect themselves instead of the public. Instead of penalizing a whistleblower like Walt Tamosaitis, America should be grateful to him.

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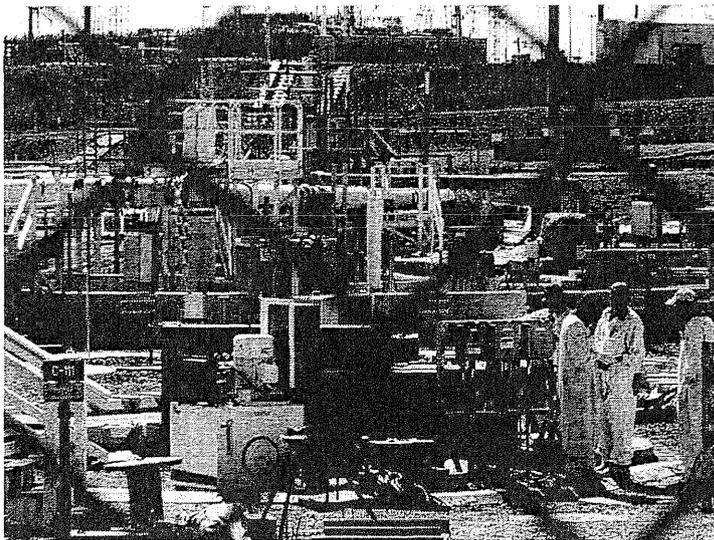
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NATION NOW

Senators urge protection of Hanford whistleblower Tamosaitis

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Workers at the Hanford Nuclear Reservation near Richland, Wash. (Shannon Dinny / Associated Press / March 16, 2009)

By Ralph Vartabedian
October 9, 2013 | 7:47 p.m.

Two U.S. senators angered by the firing of whistle-blower Walter Tamosaitis from the contaminated Hanford, Wash., nuclear site sharply criticized the U.S. secretary of Energy on Wednesday.

Tamosaitis, an engineer, had raised safety concerns two years ago about the design of a plant that is intended to turn radioactive waste into glass. After that, San Francisco-based URS Corp. took away his staff and assigned him to a basement office without furniture or a telephone.

Last week, Tamosaitis was laid off in what the company called a cost-cutting move. His defenders called it retaliation.

This week, Sens. Ron Wyden (D-Ore.) and Edward J. Markey (D-Mass.) wrote to Energy Secretary Ernest J. Moniz to say that Tamosaitis' dismissal would set a bad precedent and set back efforts to improve the department's safety culture.

Tamosaitis once ran a research group of 100 scientists at the Hanford site and had worked 44 years

www.latimes.com/nation/nationnow/la-na-nr-tamosaitis-hanford-cleanup-20131009,0,7082502.story#axzz2pMrUEHQ

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As an editor and reporter, Michael Muskal has covered local, national, economic and foreign issues at three newspapers, including the Los Angeles Times. @latimesmuskal



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Court OKs law license for immigrant in U.S. illegally

for URS. His dismissal was first reported by the Los Angeles Times.

Construction of the \$12.3-billion waste-processing plant was halted after federal investigators validated his concerns.

Hanford, a former nuclear weapons site, is the nation's most contaminated property. It holds 56 million gallons of highly radioactive sludge in underground tanks, some of which are leaking. The complex sits on a plateau above the Columbia River, which could be threatened if the waste is not contained. The Energy Department is supervising the cleanup.

Tamosaitis' dismissal came days after Moniz issued a statement affirming his commitment to safety and the protection of whistle-blowers.

Wyden, chairman of the Senate Committee on Energy and Natural resources, told Moniz that the dismissal "can only be seen as perpetuating a culture that would plunge DOE employees and contractors who dare to raise safety issues into the deep freeze or worse."

Wyden noted that URS was demanding that Tamosaitis release the company from any legal claims arising from his termination to get a severance package.

Markey demanded that Moniz reverse Tamosaitis' firing and alluded to URS retaliation against other employees.

"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 ... who have raised safety concerns, your efforts to improve the department's safety culture will lack all credibility," Markey wrote. "Please do what is necessary, and what is right, to protect a truly heroic individual."

The senators' letters were disclosed by Hanford Challenge, a watchdog group in Washington state.

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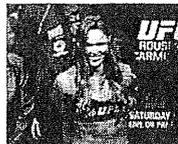
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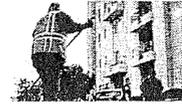
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America's Fukushima?

By Alexander Nazaryan / November 20 2013 7:42 AM



The nuclear reactors at Hanford made plutonium for Fat Man, the nuclear weapon dropped on Nagasaki, and stocked our Cold War arsenal; today, they sit on a radioactive wasteland that whistle-blowers say is a ticking time bomb. Jeff T. Green/Getty Images

At Atomic Ale Brewpub & Eatery in Richland, Wash., you can feast on a “Reactor Core” pizza, made with “spicy nuclear butter,” wash it down with a Half-Life Hefeweizen or an Atomic Amber, and finish your meal with Plutonium Porter Chocolate Containment Cake. Later you might have at some pins at Atomic Bowl, the “Home of Nuclear Bowling,” or catch a Richland

High School football game, the team's name – Bombers – looming over the field, a mushroom cloud logo on the scoreboard.

The town's pervasive dark humor alludes to a darker past – and a troubling, radioactive present. The plutonium for the atomic bomb dropped on Nagasaki came from what's known today as the Hanford Nuclear Reservation, around which Richland grew and thrived. During the Cold War, Hanford churned out plutonium for our nuclear arsenal. Then the Soviet threat ended, and the residents in this corner of eastern Washington were left with what is routinely called the most toxic place in the Western Hemisphere.

Today, it is not a Soviet missile that threatens this once-pristine high desert. If disaster strikes Richland, it will be because the federal government (namely, the Department of Energy) allowed 56 million gallons of radioactive waste to fester in this sandy soil, where some say it is rife for an explosion. And, critics charge, the DOE has watched its prime contractor on the site, Bechtel, grossly overcharge the American public for a waste-treatment plant so poorly built that, once it's finished (if it ever gets finished), feeding nuclear material through it could cause a catastrophe.

A poster from the recent Occupy Portland protests called Hanford “North America's Fukushima.” That isn't just left-wing, anti-corporate fear mongering – a catastrophic accident involving radioactive waste scares the two most prominent Hanford whistle-blowers, nuclear engineer Walter L. Tamosaitis, fired from the site last month, and Donna Busche, a nuclear safety compliance officer who remains employed by URS, a Hanford subcontractor, even as her legal complaints – which include allegations of everything from pressure to downplay safety concerns to sexual harassment – proceed. Unprompted, Busche told *Newsweek* she is worried about “when ‘Fukushima Day’ hits.”

Last year, nuclear scientist Donald H. Alexander, formerly of the DOE, likened Hanford to the doomed 1986 Challenger mission, a disaster arising from an excess of confidence.

Speaking of the cosmos: Some have suggested we launch our nuclear waste into space, to be swallowed by the sun. That may sound insane, but spend a little time sorting through the Hanford morass, and just about anything other than the status quo will seem appealing.

Taking Out the Manhattan Project Trash

Tamosaitis began working at Hanford on April Fools' Day in 2003. Back in 1989, he had started another job on April Fools' Day – at the Savannah River Site in South Carolina, a Manhattan

Project legacy whose waste had to be safely secured. He says that job was better, though. The New Jersey-born engineer with a Ph.D. from the University of Alabama at Huntsville still speaks fondly of life in Columbia, S.C., where his family – wife and two daughters – remained while he started work at Hanford as an employee of URS, which is a Bechtel subcontractor on the site.

It was a lonely existence, with Tamosaitis ensconced in temporary quarters at the Washington Square Apartments, a row of gray polygons on the town's meager main strip. He points these out as we drive toward the Hanford site, which sits at the northern edge of town, just past a severe turn of the Columbia River. "I considered work my calling, I really enjoyed it," he says in the booming voice of a general who has no need or patience for affectation. "Many times, work came before the family."

Bechtel had taken over the site three years prior to Tamosaitis's arrival, promising to clean up what had become a confounding problem for the DOE. It was here, in 1943, on the tumbleweed-covered banks of the Columbia, that the federal government confiscated 586 square miles of land in the name of the Manhattan Project, effectively leveling two towns – White Bluffs and Hanford. Remote and close to a large supply of water, Hanford became – along with plants in Savannah River, S.C.; Rocky Flats, Colo.; and Oak Ridge, Tenn. – a secretive node where the musings of Los Alamos physicists took bellicose shape.

The reactor on these desiccated steppes converted uranium-238 into plutonium-239, the fissionable stuff inside the Fat Man bomb dropped on Nagasaki on August 9, 1945. The ensuing Cold War escalation was a boon for the engineers and workers at Hanford, with eight more reactors built throughout the subsequent two decades. Only one of them – completed in 1963 and visited by John F. Kennedy two months before his assassination – was ever harnessed to produce energy. The rest worked solely to enrich nuclear materiel for rockets intended to fend off a Soviet assault that never materialized.

The last of those nine reactors was decommissioned in 1987, inaugurating an era that would prove even more lucrative for those who sought to make Hanford their livelihood: cleaning up the waste left behind from four decades of making nuclear weapons. The Atomic Energy Commission had by now become the Department of Energy, and it presented a daunting challenge to contractors: 177 underground storage tanks (the bucolically named "Tank Farms") holding 56 million gallons of waste that included radionuclides like strontium-90 and cesium-137.

Private firms quickly realized how profitable a contract here could be, yet little actual cleaning up was done for years, with *The Economist* noting, “most of the 1990s [were] frittered away, along with billions of dollars.” A potential savior arrived when British Nuclear Fuels Limited (BNFL) contracted with the DOE to build a waste-treatment plant in 1998 that was going to turn the radioactive refuse into glass, thus allowing it to decay in a form that would be largely impervious to outside shocks, whether from earthquakes or terrorists. Two years later, with costs having risen to a projected \$15.2 billion from the original \$6.9 billion estimate, Energy Secretary Bill Richardson booted BNFL. An executive for the company said he was “sorry to lose the Hanford contract” but noted, prophetically, that it “promised too little reward and left us with a high level of financial risk.”

That risk is indeed great. Vast and vastly radioactive, Hanford has some 1,000 separate waste sites of varying size, according to John M. Zachara, senior chief scientist for environmental chemistry at Pacific Northwest National Laboratory. These include a plume of hexavalent chromium – the carcinogenic villain in *Erin Brockovich* – moving towards the Columbia, the Northwest’s largest river, as well as technetium-99, which has also seeped into the groundwater, in addition to uranium, beryllium, and other wastes, both radioactive and not. The technetium has a half-life (the length of time it will take for half of the element to decay) of 212,000 years, meaning it’s pretty much around until the proverbial end of time.

Yet risk didn’t deter Bechtel, the nation’s largest construction firm, one which has been responsible for projects as varied as the Hoover Dam and Boston’s Big Dig. It built the 1,068-mile Trans-Arabian Pipeline and has upgraded the London Underground. In late 2000, Bechtel promised the DOE that for only \$4.3 billion, it could finish the job BNFL had started. Its motto back then: “Glass in 2008.”

Thirteen years later, no waste has been vitrified at Hanford – there may be some glass in 2019, but even that is an optimistic projection. In the process, Bechtel has been accused of silencing and even firing those who’ve raised concerns about its Hanford project, which has been slow, expensive and full of evasions. It has nearly tripled in estimated cost (now at about \$13 billion), and could hit \$25 billion. The nuclear waste, all 56 million gallons of it, remains underground and will stay there for a while, because in 2012 the DOE – no longer able to ignore whistle-blowers, including those within its own ranks – stopped all but some marginal work on the waste-treatment plant, worried that Bechtel was rushing to meet benchmarks without thinking the project through, potentially exposing nuclear materials to conditions that could lead to an explosion.

11/20/13

America's Fukushima?

Company chief Stephen Bechtel Sr. once boasted, "We can build anything, anytime, anywhere."
That may be true, but at what cost?



Walter L. Tamosaitis Rajah Bose

Corporate Welfare and Radioactive Ketchup

Those proud predictions of “Glass in 2008” ended in 2005, recalls Tamosaitis. He had been part of the team that built a successful vitrification plant at the Savannah River site, but Hanford resisted easy solutions. Six different processes had been used there to enrich plutonium from uranium, which made for radically different waste signatures within the 177 canisters at the Tank Farms, where one container could hold up to a million gallons of waste. Sixty-seven of those tanks were single-shell carbon steel containers that had leaked at one time or another, which isn't much of a surprise, since they were supposed to last only 20 years. And each tank holds its own toxic cornucopia. As *Scientific American* noted last spring, “Overall, the tanks hold every element in the periodic table, including half a ton of plutonium, various uranium isotopes and at least 44 other radionuclides.” While the Tank Farms were not Bechtel's responsibility – that is now managed by Washington River Protection Solutions – the creep of nuclear waste toward the Columbia River has made it imperative that the tanks be drained, that their waste be turned into glass.

In late 2005, Tamosaitis was asked by his bosses to head a review team that identified the 28 most trenchant problems with the treatment plant, from the broad (“Inconsistent Long-Term Mission Focus”) to the particular (“Instability of Baseline Ion Exchange”). That Tamosaitis was picked to lead the review seemed an endorsement by URS of his ability to solve complex problems. I don't know if Tamosaitis is a creative thinker, but he is obviously a meticulous one. This is obvious from the museum-quality antique cars in his basement, each of which he restored to its near-original condition. He is now working on a Chevy pickup with his 5-year-old granddaughter, who helps him paint each part.

The daunting challenges at Hanford, however, would not allow for a car hobbyist's leisurely pace. Part of the problem was the “design-build” approach Bechtel chose for the project, meaning that it moved ahead rapidly with construction before resolving some major technical challenges, hoping to solve problems as they arose, rather than testing exhaustively beforehand. Design-build is not uncommon, but perhaps not prudent for an engineering feat as complex as the waste-treatment plant. It is like trying to change a tire while flying down the highway.

By 2009, an issue coded M3 was the largest remaining problem: "Inadequate Design of Mixing Systems." The plant Bechtel was racing to complete called for a facility that would pull waste from the Tank Farms and send the contents to either to a High Level or Low Activity vitrification plant, where it would be turned into glass by 2,000-degree melters. The glass canisters bearing less dangerous elements could remain on site, while the rest would be shipped to a permanent storage facility – for example, the beleaguered Yucca Mountain 90 miles northwest of Las Vegas, a project President Obama halted in 2009.

The waste in the Tank Farms is not uniform: about 33 percent is liquid, according to a 2003 study, "a caustic brine containing sodium, nitrate, nitrite, hydroxide, fluoride, phosphate, and sulfate"; another 42 percent is "salt cake" precipitated from the liquid. What remains, the last 25 percent, has proven to be the trickiest – a radioactive sludge that has settled at the bottom of tanks. Laced with radioactive isotopes, it is viscous like an especially thick, pulpy ketchup, difficult to move through pipes because it does not follow the Newtonian properties of most fluids.

Before the waste becomes glass, it has to be properly separated and prepared for vitrification. That's to take place at the Pre-Treatment Plant, where it flows into tanks in which pulse-jet mixers – Tamosaitis describes them as giant turkey basters – are supposed to stir it into a homogenous mixture. But tests found that the heavier sludge may still settle at the bottom. At the Savannah River site, mechanical agitators – Tamosaitis likens these to the blades of a blender – whip this grainy goo back up; no such agitators have been installed at Hanford, meaning that the flow of the heaviest, most radioactive particles could be impeded by their settling at the bottom of the vessels or inside pipes.

Should that occur, there will be little chance to correct an accumulation of radioactive sludge, since the mixers are installed in "black cells" that will be so rife with radiation that workers won't be able to enter them, meaning that the plant will have to operate with minimal human input, even if something goes amiss.

An incident at the Sellafield nuclear complex on England's northwest coast was an ominous warning: In 2004, a pipe feeding into a black cell burst, spilling what a British governmental investigation calls a "highly radioactive liquor" rich in uranium and plutonium. A report in *The Oregonian* on Hanford's problematic black cells noted of the Sellafield incident: "The cell contained the leak. But operators didn't discover it for three months, and the plant shut down for two years."

Even worse, the accumulation of nuclear material in Hanford's tanks could create highly combustible hydrogen gas pockets. "You get enough [hydrogen] and some spark source and you get an explosion," MIT nuclear engineer Michael Golay told *Scientific American*, explaining what had precipitated Fukushima and Three Mile Island, the worst nuclear accident in United States history.

An outright nuclear explosion is highly unlikely, but possible. The radioactive material at the bottom of the mixing tanks could cause the splitting of radioactive atoms known as fission, similar to what happens in a nuclear bomb (blessedly, on a much smaller scale). That would be an unspeakable disaster, one that would almost certainly endanger workers at the Pre-Treatment Plant, while also shutting down the site. It might not kill a lot of people, but it would cost hundreds of millions dollars and take years to clean up.

The risks of a Fukushima-type disaster are incredibly slight, and those who make the comparison caution against a literal interpretation of their warnings. Yet the consequences of such a mishap would be so catastrophic that it cannot be allowed to happen. The Tokyo Electric Power Company was not worried about an earthquake causing a tsunami, and that tsunami in turn flooding and disabling a nuclear power plant on the eastern coast of the island of Honshu. Much later, a panel would find "collusion" between the Fukushima Daiichi plant operators and government regulators, as well as "ignorance and arrogance" and a "disregard for public safety."

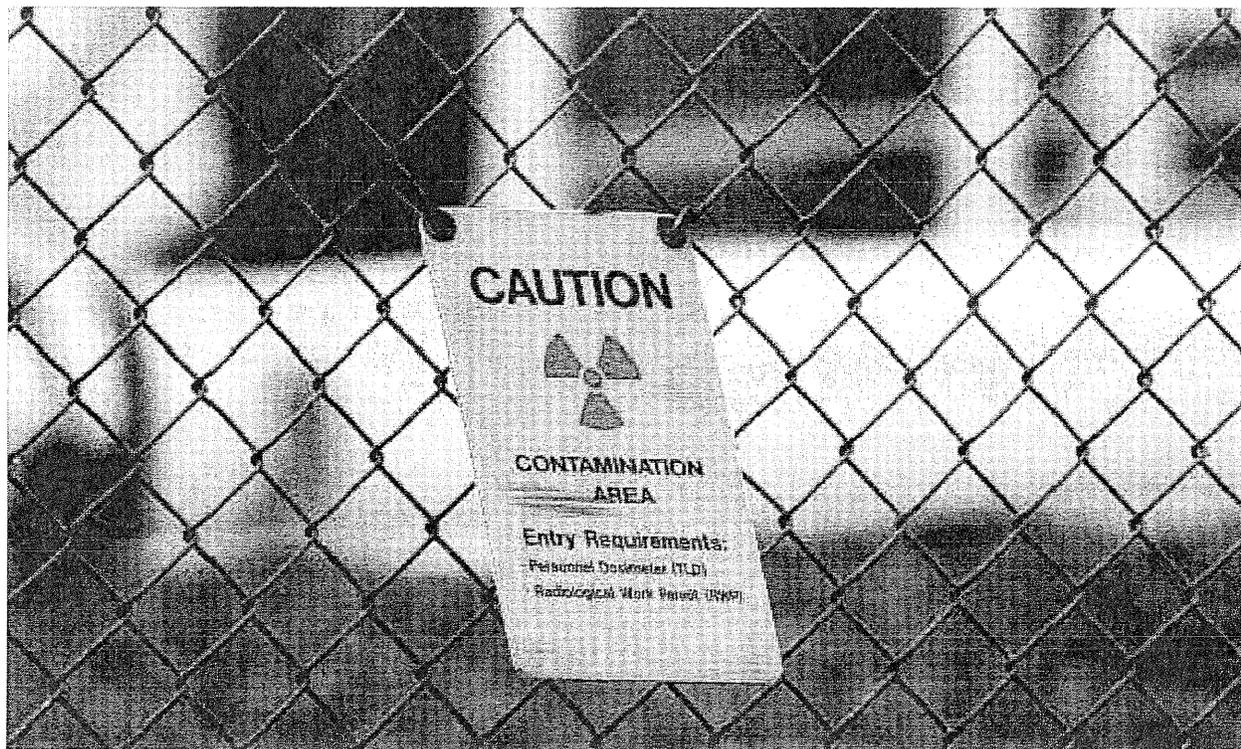
Tamosaitis calls Hanford an example of "corporate welfare," in which Bechtel is stringing along the federal government as it moves completion dates further and further into the future, all for the supposed sake of the very safety issues it has repeatedly ignored. As long as nothing horrific happens, he says, the money will flow. Tamosaitis sums up Bechtel's strategy as "delay, delay, delay, deny."

Recall that Tamosaitis is a spurned and clearly bitter former employee, but plenty of evidence supports his claims. His first seven years at Hanford were challenging. The last three were close to unbearable, pitting him against his superiors, who actively conspired to marginalize and discredit his work.

In early 2010, as Tamosaitis and his team were still grappling with the mixing problem, Hanford got a new manager: Frank Russo, a Bechtel vice president who had spent his entire professional career with the corporation, having worked just about everywhere from Iraq to Idaho. Russo's objectives were clear from emails during his first four months on the job: meet a

mid-year DOE bonus, potentially worth \$6 million, and secure another \$50 million of annual funding from Congress.

Tamosaitis, with his persistent nagging about the balky flow of nuclear sludge, stood in the way of that massive payday.



A sign warning of radioactive contamination dangles from a fence at the 'C' Tank Farm at the Hanford Nuclear Reservation. Ted S. Warren/AP Images

The Hanford Necklace and Other Scars

"They are so schizophrenic," Tom Carpenter, head of Hanford Challenge, a watchdog group based in Seattle, says of the people who live near Hanford. The 250,000 residents of these communities, he explains, see the plant as a source of jobs, a constant stream of money into a local economy that would otherwise have to fall back on the region's orchards and vineyards. Of course, money isn't the only thing that has wafted into Richland from the nuclear site. And they know that, too.

Carpenter alleges that Bechtel and the DOE have created a nuclear tinderbox at Hanford. As he

talks, two dogs gambol through his sunny office – equipped with a treadmill desk – in Seattle's Pioneer Square, 200 miles from the semi-arid steppe upon which he is fixated with Ahab-like intensity. "Hanford is a long-term threat to humanity," Carpenter declares.

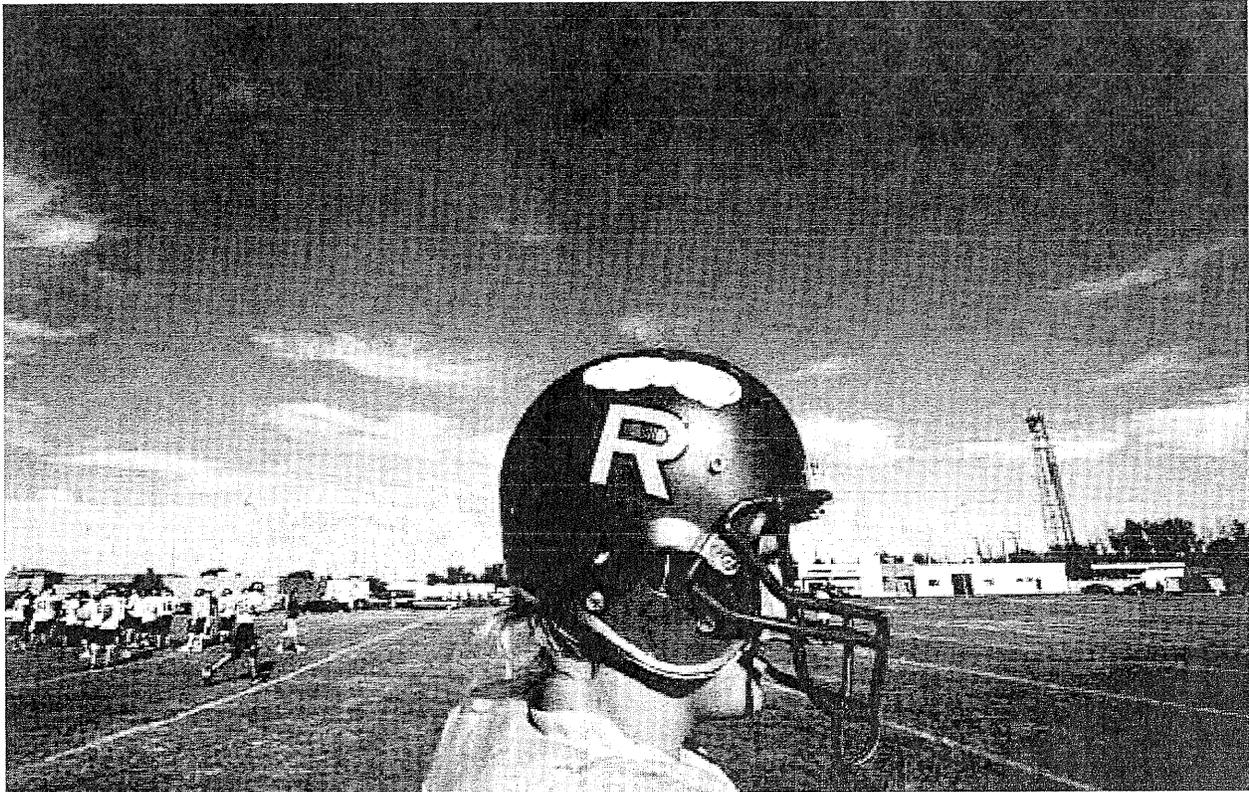
Not everybody in Richland agrees. Suspicion of the defense industry does not run especially high in this conservative corner of the United States. Sarah Palin came here in 2009, in the midst of her book tour for *Going Rogue*, to have Thanksgiving dinner with her aunt (Palin's grandfather came to Richland in 1943 to work as a labor relations manager at the Hanford plant).

On a day that is probably too windy for boating, I head out on the Columbia River with Neal, a native of Richland who has been navigating these waters for 52 years. He refers to having worked on projects associated with Hanford, though his association with the site is unclear. He says Bechtel is an "awesome company" and that Hanford has made the area rich: "We've always been in a bubble," immune to the most recent recession. Yes, his father had cancer four times and parts of the site are "screaming hot" with radiation. But these facts he takes in stride, much as he does the waves that yearn to capsize our boat.

On the eastern bank of the Columbia are orchards and vineyards. Cormorants alight on the water, a coyote searches for food. In 2000, President Bill Clinton designated this stretch of river, called the Hanford Reach, a national monument. And when that last reactor drops out of view, this still looks like the land Lewis & Clark traversed in 1805, a land still sacred to the Native American tribes who have lived here since the Ice Age glaciers receded.

Nobody really knows if Hanford has made people sick. Locals refer to the "Hanford necklace" – "a thyroidectomy scar that distinguishes many of the downwinders whose diseased thyroid glands were removed," as the Associated Press once described it. Yet the Hanford Thyroid Disease Study did not find an association between the release of iodine-131 during the 1940s and 1950s and an increase in cancers of the thyroid gland, thus discounting a major illness related with radiation exposure.

That is only one cancer dismissed, however, and maladies from the past aren't the most pressing concern here anyway. It's what remains in the ground that worries the likes of Carpenter, the Seattle watchdog. He says of Hanford: "We've opened a Pandora's box that we can't put the lid back on." Behind him, the city settles comfortably into dusk.



The Richland High School football team at practice. In the fall of 1945, after an atomic bomb was dropped on Nagasaki, students changed the team's mascot to a mushroom cloud and called themselves the 'Bombers'. Stuart Isett

'Don't Do What That Guy Did'

"We need to kill this BS now," reads an April 25, 2010, email from Russo to senior Bechtel and URS officials at Hanford.

Earlier that day, URS senior manager William Gay had noted in an email to Russo and other project managers that Tamosaitis and his team wanted more testing, which would prevent Bechtel from collecting its \$6 million bonus. And that wasn't the worst news Gay had to deliver: "In the 2004 timeframe, [we] spent about \$143 [million] on testing these tanks. We are essentially being told that we start over from scratch."

With Bechtel intent on declaring the mixing issue solved, Tamosaitis decided he needed more people echoing his grave concerns. Emails show him soliciting the opinions of outside consultants, who responded that Bechtel's approach to high-level waste is "a bit of smoke and

mirrors” and “criminally negligent.” Tamosaitis shared these opinions with managers at Bechtel and URS, who were plainly coming to feel that he was undermining their work.

“By the end of May I felt like I had a target on my back,” Tamosaitis would later tell Congress. “I could sense that Bechtel management was not happy with my continual raising of issues.”

Tamosaitis was acutely aware of the June 30 deadline, but he was increasingly convinced that declaring M3 solved was irresponsible and dishonest. If something were to happen, he would have to answer to his neighbors, to his government, to his God. And so he kept up the pressure, even as Russo was reminding his managers that “fee is in play in a big way,” that nothing could jeopardize the bonus Bechtel stood to collect from the DOE for timely resolution of the mixing issue.

DOE signed off on the M3 issue just as Russo hoped – but the notion of Tamosaitis as a fifth column at the Waste Treatment Plant remained. On July 1, Russo wrote to URS’s Gay: “Walt is killing us. Get him in your corporate office today.” Gay responds: “He will be gone tomorrow.”

And he was. On July 2, Tamosaitis was told that he was being transferred to URS headquarters in downtown Richland. URS tells *Newsweek* that his “reassignment had been discussed with him for several months prior to June 2010, as his work scope on the project was coming to an end,” a position seconded by Bechtel, which says he had been offered a job at Sellafield in England.

Tamosaitis says the transfer was retaliation. “They wanted to send a signal” to other potential whistle-blowers: “*Don’t do what that guy did.*”

Tamosaitis was buried in a basement office with two copiers, one of which was “used to compile large documents,” he told Congress. “I brought in a pair of earmuffs to dampen the sound when it was running.” One time, with a snowstorm approaching, everyone else left the building without bothering to tell him. He jokes that when he emerged from the basement into a silent office in the middle of the afternoon, he thought the rapture had come.

Two weeks into his banishment, Tamosaitis wrote to the Defense Nuclear Facilities Safety Board, a government organization whose concerns Russo had effectively minimized. He told it of Bechtel’s desire to “suppress...safety concerns” and the “chilling effect” his removal from the project would have on others wishing to voice dissent.

The Defense Board notified URS, in a July 27 letter, that it was “conducting an investigation...of

health and safety concerns" raised by Tamosaitis. The board, a presidentially appointed panel of scientists, does not have regulatory powers, but it can hold hearings and issue subpoenas. More important, its recommendations carry significant weight within the DOE.

The hearings took place over two days in Kennewick, Wash., in early October 2010. Russo and other senior managers heard Defense Board chairman Peter Winokur tell them his group was "deeply concerned that the plant may be commissioned before several key technical issues are fully resolved," singling out the black cells that worried Tamosaitis as both expensive and potentially dangerous.

Bechtel and DOE officials did their best to dismiss Winokur's worries. But then Donna Busche spoke. She told the board members she had concerns about the pulse-jet mixers in the black cells, the ones Tamosaitis said could cause a hydrogen explosion or even a criticality (i.e., an uncontrolled nuclear reaction). Busche later alleged in a legal complaint that, during a break, her superiors were furious and asked her to "provide a different answer" when the hearings resumed later that day. No such luck. In subsequent testimony, Busche told the Defense Board that Bechtel had not done a thorough enough job of evaluating risk at the plant. Hers was the lone cautionary voice that day amid a litany of sunny assurances. (Tamosaitis was not invited to testify.)

The next day's session featured a painfully prescient warning from a board member who realized that Busche had made enemies of her own bosses; he wondered if Busche was "up to working under this kind of pressure." She answered that she was. And she has been, for three years running.

The assault on Bechtel continued throughout 2011. That August, Don Alexander, the senior DOE scientist who had been among the first to sound warnings about safety issues, wrote in a letter to his superiors (including the department's chief nuclear safety officer) that Bechtel, Washington River Protection Solutions and on-site DOE staff had "deliberately conspired together to try to undermine the pursuit of legitimate technical issues." He added, "I have been under tremendous stress for more than a year. It seems to me that this is beyond a purely technical issue and is a whistle-blower issue."

Nobody's whistle was louder than that of Tamosaitis. He appeared before a Senate subcommittee on contracting and oversight on December 6, 2011. There, he found a receptive audience in Senator Claire McCaskill, D-Missouri, who called his plight "unbelievable...I'm speechless about the reality of you still going there every day as a walking billboard to everyone

about – to keep their mouth shut. Because that's essentially what you are.”

A month later, URS moved Tamosaitis out of the basement, into a first-floor office with a window.

The DOE finally seemed to validate his concerns in the spring of 2012, when then-Secretary of Energy Steven Chu halted a good portion of the work at Hanford, citing concerns about how the radioactive waste was going to be pumped through the 100 miles of piping, mixed and turned into glass.

The pressure on Bechtel was growing. That summer, DOE scientist Gary Brunson, who at the time oversaw engineering work at the plant, sent an internal memo – subsequently leaked to the press – in which he documented 34 instances when Bechtel had “provided a design solution that was not technically defensible, technically viable, or was technically flawed.” He said, also, that safety was widely ignored and that some of the conclusions Bechtel had reached about the Waste Treatment Plant were “factually incorrect.”

Brunson was difficult to ignore because he was not a spurned employee; he was a senior engineering official putting his reputation on the line. He did it once again that December, sending Chu a memo detailing seven major technical and safety lapses on Bechtel's part. He recommended that all work at the Waste Treatment Plant be suspended. Then he resigned.

Six months later, in May of this year, MIT physicist Ernest Moniz was sworn in as Chu's successor at the Department of Energy. In June, he came to Richland, meeting with Busche and Tamosaitis, as well as three other Hanford employees concerned about the damage Bechtel had caused there.

In late September, Moniz wrote a memo to his departmental heads in which he vowed to enforce “a culture in which workers at all levels are empowered to bring forth problems” – a tacit endorsement of whistle-blowers that can be interpreted as extending to all DOE contractors and subcontractors.

Two weeks after that, URS fired Tamosaitis.

URS's high-end New York crisis-management firm, Sard Verbinen & Co., told *Newsweek* what it has told every outlet seeking an explanation: “In recent months URS has reduced employment levels in its federal sector business due to budgetary constraints.” Among the most dispensable, apparently, was an engineer with 44 years of experience, one who had dedicated

much of his professional life to the safe disposal of nuclear waste.

I visited Tamosaitis, who is 66, a month after he was fired. He lives in a subdivision in the hills high above Hanford. To get there, you drive past a wine bar called Three-Eyed Fish, with its radioactively deformed piscine logo. His house is at the end of a lane overlooking the parched hills. The decor is heavy on floral arrangements, Christian imagery (he and his wife are devout Presbyterians) and replicas of antique cars.

In the afternoons, Tamosaitis's wife Sandy plays tennis, and he is left in the house alone with his dog, a turgid black terrier named Maggie. "We've lost a lot of friends," he tells me. This is a small town, and while some support what he has done, enough people don't to make almost any outing uncomfortable.

Tamosaitis could have signed a severance agreement with URS that included a financial settlement, but that would have come with the promise to shut up, and he can't do that. "I want change," he says. He isn't seeking money or revenge, he says. He wants whistle-blowers protected from corporate bullies, and he wants the American people protected from nuclear waste, whether in Washington, New Mexico, or New Jersey. As for the Waste Treatment Plant, his message remains both frightening and simple: "The place will never run, and it will never run safely."

The Man Without Friends

Whistle-blowers are, by definition, shrill – they shout in our ears, telling us things we don't want to hear, but need to hear. Tamosaitis was not a federal worker, so he could not seek protection under the Whistleblower Protection Act. He filed a complaint with the Department of Labor on July 31, 2010, but was quickly disheartened by the federal bureaucracy. "Things seemed very dark," he said in his congressional testimony. "The more I learned, the more helpless I felt." Thus, that September, he filed lawsuits against Bechtel, in state court, and URS and the DOE, in federal court.

Tamosaitis does not like the term *whistle-blower*, which he thinks most people equate with *troublemaker*. Nevertheless, he says, "I've grown used to it." Tall and wide, he seems to diminish in size as he describes the challenges ahead, not to mention those of the past three years.

He may not have many friends in his town, but he has a few powerful ones in Washington, D.C., most notably senators Ron Wyden of Oregon and Edward Markey of Massachusetts, both of

whom were infuriated by Tamosaitis's recent firing. Wyden told me Tamosaitis is "the most visible whistle-blower in the nation," one whose firing could have a "chilling effect." He calls Hanford "a very real safety, environmental and health concern" and urges Moniz to "turn this around."

On November 14, during nomination hearings for the DOE's general counsel, Wyden voiced his chagrin about the department reimbursing its contractors for legal fees incurred while fighting whistle-blower claims; that essentially means taxpayers are funding the attempts to muzzle Tamosaitis.

Unlike Tamosaitis, Busche is garrulous and cheerful, though her position is arguably just as challenging as his, if not more so – she remains a URS employee, even as her prominence as a Hanford whistle-blower rises (she appeared, with Tamosaitis, on *CBS Evening News* in June).

I meet her in a small frame house renovated by her husband, who sits with us throughout the interview. Educated at Texas A&M, Busche is animated and confident, her hair a wild gray shock. As we sit in her airy studio, she describes with something approaching cheer the predictable hell of going to work at a place where you are loathed.

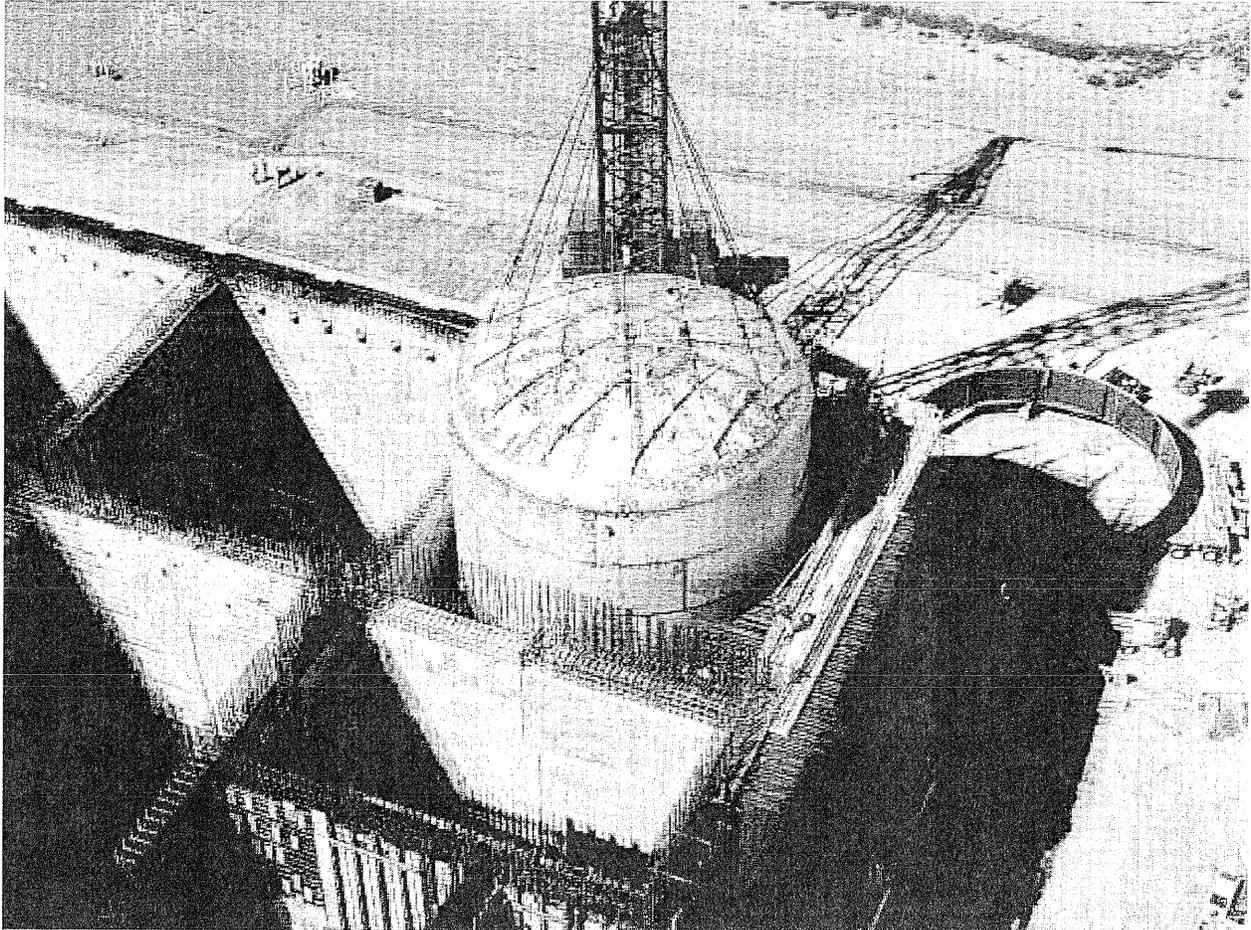
"They would do anything to have me not speak," Busche says. She filed her first discrimination complaint against URS in November 2011. Among the allegations is that William Gay – who had helped Russo expel Tamosaitis from the Waste Treatment Plant – told "Ms. Busche [that], as an attractive woman, she should use her 'feminine wiles' to better communicate with the men at URS. Mr. Gay also stated that if Ms. Busche were single, he would pursue a romantic relationship with her." That complaint was later turned into a federal lawsuit. Late last week, she also filed a discrimination complaint with the Department of Labor against both Bechtel and URS.

On the day after meeting with Busche, I went to Tamosaitis's hearing before the Ninth Circuit Court of Appeals in Seattle. A district court judge had thrown out Tamosaitis's complaint against the DOE and URS, almost fully on technical grounds, and Tamosaitis was hoping to have that decision overturned.

Essentially, the hearing involved lawyers for both URS and the DOE disavowing all responsibility for employing Tamosaitis – and hence for firing him. They tried to convince the judges it was all Bechtel's fault. (The chief Bechtel spokeswoman at Hanford, Suzanne Heaston, told me, "He has never been employed or paid by [us]," although the email trail appears to

show that managers from all three entities had a hand in axing Tamosaitis.)

The three judges seemed to side with Tamosaitis. At hearing's end, the lawyers for the DOE and URS huddled at their table as if over a coffin.



Pretreatment Facility Waste Receipt Bechtel National

Speed Over Safety

After the hearing, I got into my rental and drove back to Richland, through the sharply winding passes of the Cascade Mountains that essentially divide the state in two, sequestering the eastern counties from the center of power and influence that is Seattle, as well as the capital city of Olympia, which is also on the Pacific Coast. The following day, my last in Washington state, I would finally be allowed to set foot in the Hanford plant.

It is truly a strange place, with its mixture of the postapocalyptic – defunct reactors, men in full-body protective suits – and the pristine, the prairie and the tumbleweeds and the slow Columbia River. In the distance is the low, ugly hump of Rattlesnake Mountain, which a local tourism bureau claims is “the tallest treeless mountain in the Western Hemisphere.”

The concrete and steel of the Pre-Treatment Plant, the black cells over which so many battles have been waged – all looked impressive but also obviously incomplete. Lacking outside walls, the Pre-Treatment Plant seemed at once massive and vulnerable. From its higher floors, the sight lines receded into a beige infinity of hills. The laboratory building had the feel of a never-used chemistry classroom. “This is like Willy Wonka’s chocolate factory,” said a local NPR reporter.

The site was quiet that day – Friday is a day of rest for the roughly 2,300 Bechtel and URS employees there. But even if it weren’t, the plant would not have been the hive of activity it was three years ago. That’s because Secretary Moniz has not lifted the moratorium imposed by Secretary Chu. On September 24, he did release a framework that suggests, among other recommendations, pulling the least radioactive waste directly from the Tank Farms and bypassing the problematic Pre-Treatment Plant. This would dispose of perhaps as much as 80 percent of the waste, but it would leave behind the radioactive sludge that poses the greatest threat.

Chu’s shutdown has probably been the most firm action taken by the federal government at Hanford. It didn’t solve any problems, but it finally acknowledged that problems exist. Moniz’s plan may be well-intentioned, but he will have to battle against an insular Bechtel culture that is averse to outsiders’ orders.

Just a week after the framework was released, Department of Energy Inspector General Gregory H. Friedman accused Bechtel of favoring speed over safety. His report found “significant shortcomings” in how design changes had been made.

In response, Frank Russo’s successor, Peggy McCullough, said what Bechtel always says: There is nothing new here, nothing to get worked up about. That’s not to say its engineers aren’t trying to get Hanford fixed: Russell Daniel, the technical director of the site, accompanied the press tour and has persuasive rebuttals for pretty much all of the concerns raised by Tamosaitis. He claims that the pipes of the Pre-Treatment Plant can easily contain a hydrogen gas accumulation of up to 20 feet in length, if not longer. The four feet of concrete around the black cells would absorb even the most serious incident, as would the eight feet of concrete

along the cells' floors. The pulse-jet mixers will not corrode the mixing vessels, which have been outfitted with wear plates. And the waste will be adequately mixed, with no radioactive deposits, as the frequency of mixing will not allow for settling. Waste will move through the pipes. Waste will become glass.

Bechtel also sent me a memorandum from atomic physicist Nils Diaz explaining why "a Fukushima-like event is impossible." Diaz, a former chairman of the Nuclear Regulatory Commission, headed a task force to study the disaster and whatever lessons it held. Diaz – previously a paid consultant for Bechtel – noted that Hanford's radioactive waste was neither hot nor pressurized enough for a "Fukushima-like" event. Tamosaitis, and others, disagree with that assessment.

At the same time, Bechtel subtly deflects blame toward the Tank Farms, managed by Washington River Protection Solutions and overseen, like almost everything else here, by the DOE. The suggestion seemed to be that the true danger lay in these enormous vats, whose exact contents remain unknown and possibly seeping into the ground. Bechtel couldn't fairly do its job unless it knew "what's coming through the front door," explains Heaston.

Tamosaitis says this deft evasion of responsibility is part of what he calls "the Bechtel approach" – keep the project going while managing to neither complete it nor fall entirely out of favor. That way, Tamosaitis explains, it can keep collecting federal money (congressional funding is back down to \$690 million per year) while claiming progress.

Bechtel's record elsewhere supports his accusation. In 2003, *The Boston Globe* ran an investigative series called, "Easy Pass: Why Bechtel never paid for its Big Dig mistakes." The first article of the series describes what might generously be called an error of omission: in its designs for fixing Boston's knotted highways, Bechtel overlooked the sports arena known today as the TD Bank Garden. The mistake would cost \$991,000, all of it borne by the public.

"[Even] as Bechtel's errors helped drive up the Big Dig's cost, the company never paid for any of its mistakes," the *Globe* said. "Instead, it profited... in part because Bechtel received additional money to fix its errors."

Of course, Bechtel's primary job as a corporation is to make money – which is why many believe the DOE deserves blame for leakages and oversights and whatever other horrors may yet materialize at Hanford. The Defense Board's technical director, Steven Stokes, says the DOE "continues to be slow" in resolving safety issues. Tom Carpenter, an acerbic critic of

Bechtel, nevertheless says the corporation “is capable of doing the job” – except that it knew it could get away with what he calls its “C-team,” always shuffling managers, never taking the project quite seriously enough because, with the DOE in charge, it didn’t really have to.

The most problematic captain of that C-team was Russo, who oversaw the plant during the three most contentious years of its recent history. He was variously described to me as a villain, a ruthless money-maker, a liar, a bully, an above-the-law renegade, and a slick salesman who will say anything to close the deal.

I liked him from the start. Friendly and plain-spoken, Russo deployed a gimme-a-break tone to dismiss the technical issues Tamosaitis raised – as well as accusations that he ordered the engineer fired, even if emails convincingly show Russo doing precisely that. Ditto for allegations that he was rushing to meet deadlines to the detriment of safety. Of course he wanted the Pre-Treatment Plant done; who in his right mind wouldn’t? He was doing what he had been asked to do, what he had been doing for the 40 years he’d spent with Bechtel: “building stuff.”

Russo says that ultimate authority resides with the DOE, and on this, if little else, he and Carpenter agree, the latter calling the department “incompetent” and “systematically unwilling...to accomplish this mission.” Senator Wyden says much the same thing: “The clock is running out on the Department of Energy,” he told me.

Busche told me that when she met with Secretary Moniz this past summer, he had only paid lip service to her concerns.

After many off-the-record conversations, the DOE finally gave me a statement for attribution. It is “absolutely committed to completing the important work at the Hanford Site.”



Hanford Nuclear Site Stuart Isett

His Last Great Challenge

As Tamosaitis drove around Richland or talked for hours at his living room table, we returned frequently to the recent book *Toms River* by the environmental journalist Dan Fagin, about a cancer cluster in coastal New Jersey. We had both been deeply touched by the book, which details one of the most tragic lapses in environmental safety in modern American history – the ongoing pollution of drinking water by Ciba Geigy, a Swiss firm that ran a dye plant in town that later made industrial solvents. The childhood cancers that resulted – of the blood and central nervous system, mostly – could have been prevented by the right questions posed at the right time.

Someone told Tamosaitis to read the book after he gave a talk at Portland State University. He grew up about 50 miles inland from Toms River and vacationed at Ortley Beach, a part of the town that fronts the Atlantic Ocean.

There were no whistle-blowers in Toms River; it took the relentless mother of a child born deformed by cancer to finally shame the state and federal authorities into action.

In 1984, when Toms River residents become alarmed about the safety of their water supply, an official from Ciba Geigy assured them that the chemical plant's effluent was "99 percent water and a little salt." This was criminally untrue – the wastewater was teeming with carcinogens. But human beings are trusting creatures; we do not want to be suspicious of those in power. And so the people of Toms River believed what they were told.

Today, the people of Richland are getting restless. Other parts of Washington State are celebrated for their vineyards and their mountains; Richland is known for nuclear waste. Recently, efforts have started to re-brand the region and make it friendly to tourists. It is today possible to schedule a tour of the reactor where the plutonium for Fat Man was enriched, but officials want to use the supposedly cleaner outer edges of the site for "outdoor recreation," according to a recent AP report. Local tribes hope to use the land for growing traditional foods and hunting, arguing that their claims to Hanford are at least as valid as those of weekend warriors looking for caloric catharsis.

Not everyone thinks that's realistic. Zachara, the Pacific Northwest National Laboratories scientist, is hesitant when I ask him about recent plans for recreation at Hanford. "I am not sure about that, to be honest with you," Zachara tells me over the phone. When he says the word "remediation" – that is, cleanup – he prefaces it with the word "quote."

In the middle of this toxic maelstrom resides Tamosaitis – a man of God but also a company man, a believer in nuclear energy who fears nuclear waste, a maligned employee who became a principled whistle-blower, a fixer of things who was powerless to fix the last great challenge placed before him. Because of what he saw at Hanford, he started talking. Nothing can make him stop.

From the Web

by Taboola

Homeowners Are In For A Big Surprise...

Smart Life Weekly

Pastor Mocked for His 'Biblical Money Code,' Gets Last Laugh

Moneynews

You Won't Believe Who's Related to Abraham Lincoln

APPENDIX 3



October 2, 2013

Walter L. Tamosaitis
1622 Meadow Hills Drive
Richland, WA 99352

Dear Mr. Tamosaitis:

URS Corporation has conducted a thorough review of the staffing levels required to meet our current and projected business needs. Based on this evaluation, we are compelled to reduce our workforce to a level appropriate to meet these business needs.

Your position has been affected and as of today, October 2, 2013, your employment with URS Corporation will end.

For your information:

- Your final paycheck, which is being given to you today, includes payment of unused, accrued PTO.
- Information regarding conversion or continuation of benefits, including health coverage through COBRA, will be mailed to your home. You will also receive a package from Fidelity regarding your options for your 401K. Please allow up to 14 days for delivery to your home address.
- You are eligible to receive severance pay. In order to receive a severance payment, you will be required to sign a release agreement. Specific information about this option is being provided to you today.

If you have any questions, please do not hesitate to contact Pat Pinkard at 803-502-5722.

Sincerely,

David E. Hollan, Vice President
Human Resources & Communications

URS Corporation
106 Newberry Street, SW
Aiken, SC 29801
Tel: 803.502.5710
Fax: 803.502.9795