



**U.S. OFFICE OF SPECIAL COUNSEL**

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202-254-3600

April 5, 2017

Ms. Elizabeth Wilde  
c/o Laura Dumais, Esq.  
Public Employees for Environmental Responsibility  
962 Wayne Ave, Suite 610  
Silver Spring, MD 20910

Re: OSC File No. DI-16-3546

Dear Ms. Wilde:

The U.S. Office of Special Counsel (OSC) has completed its review of the information you disclosed. You disclosed deficiencies in Environmental Protection Agency (EPA) Region 4's lead-based paint inspections over an approximately three-year period. OSC has made a determination to refer some of your disclosures to the EPA to be investigated pursuant to 5 U.S.C. § 1213(c). OSC has decided to close its inquiry into other allegations in your disclosure.

**Allegations Referred for Investigation**

We have concluded that there is a substantial likelihood that some of the information that you provided to OSC discloses a possible violation of law, rule, or regulation; gross mismanagement; and a substantial and specific danger to public health. Thus, we have transmitted these allegations to the Administrator of the EPA for a report within 60 days pursuant to 5 U.S.C. § 1213(c).

OSC is authorized by law to receive disclosures of information from federal employees alleging violations of law, rule, or regulation; gross mismanagement; a gross waste of funds; an abuse of authority; or a substantial and specific danger to public health and safety. 5 U.S.C. § 1213(a) and (b). OSC does not have the authority to investigate a whistleblower's disclosure; rather, if the Special Counsel determines that there is a substantial likelihood that one of the aforementioned conditions exists, she is required to advise the appropriate agency head of her determination, and the agency head is required to conduct an investigation of the allegations and submit a written report. 5 U.S.C. § 1213(c).

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Upon receipt, the Special Counsel reviews the agency report to determine whether it contains all of the information required by statute and that the findings of the head of the agency appear to be reasonable. 5 U.S.C. § 1213(e)(2). The Special Counsel will determine that the agency's investigative findings and conclusions appear reasonable if they are credible, consistent, and complete based upon the facts in the disclosure, the agency report, and the comments offered by the whistleblower under 5 U.S.C. § 1213(e)(1).

The allegations referred for investigation are as follows:

- The majority of EPA Region 4's lead-based paint inspections from mid-2013 to mid-2015 were conducted by individuals without proper training or credentials.
- The majority of EPA Region 4's lead-based paint inspections for FY 2012 through FY 2015 were deficient because inspectors failed to:
  - Obtain required Notice of Inspection and Consent for Entry documentation;
  - Review or collect documentary evidence to verify that firms conducting renovations had complied with the RRP Rule and TSCA, including proof that older residential buildings were tested for lead-based paint before being renovated; that renovators disclosed the hazards of lead-based paint to residents; and that renovations were performed with an EPA-certified renovator using lead-safe work practices
  - Determine whether children occupied the facilities being renovated.

With your consent, we identified you as the source of the information, so that a representative of the Administrator's office may contact you for an interview. We have requested that the agency interview you at the beginning of the agency investigation when, as in this case, you consent to the disclosure of your name. As the originator of the complaint, you can provide additional information and an explanation of your allegations, thereby streamlining the agency investigation.

You should be aware, however, that these matters may take longer and the agency may request an extension of the reporting date. After we have reviewed the report, unless it is classified or otherwise not releasable by law, we will send you a copy and give you an opportunity to comment. The report and your comments will be transmitted to the President and the appropriate congressional oversight committees, and will be maintained by OSC in a public file available at our website, [www.osc.gov](http://www.osc.gov). We emphasize that until the agency's final report is

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forwarded to the President and Congress, this remains an open matter under investigation. We will notify you when the report is available for public release.

**Allegations Not Referred for Investigation**

You also made other allegations that we have decided not to refer for investigation. OSC is authorized by law to determine whether a disclosure should be referred to the involved agency for investigation or review, and a report. If a substantial likelihood determination cannot be made, OSC will determine whether there is sufficient information to exercise its discretion to refer the allegations.

In your disclosure to OSC, you alleged that certain Region 4 employees intentionally, unlawfully destroyed logbooks and other documentation regarding lead-based paint inspections to cover up inspection deficiencies. You told OSC that you reported this alleged misconduct to the EPA's Office of Inspector General (OIG) in 2015. With your consent, OSC contacted OIG to confirm that OIG had investigated these allegations. As you now know, OIG did investigate, and issued findings in Report No. OI-AT-2015-CAC-0031. OIG closed its case on June 21, 2016.

As we have discussed, OSC generally does not transmit allegations of wrongdoing to the head of an agency when the Inspector General for that agency has already investigated, or is currently investigating, those same allegations. Having reviewed OIG's findings here, we see no reason to depart from that policy. OSC will therefore take no further action on the above allegation.

Please contact me at (202) 254-3710 if you have any questions regarding this matter.

Sincerely,



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Retaliation & Disclosure Unit  
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