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HEARING

BEFORE THE

SUBCOMMITTEE ON

TRANSPORTATION AND COMMERCE

OF THE

COMMITTEE ON

INTERSTATE AND FOREIGN COMMERCE

HOUSE OF REPRESENTATIVES

NINETY-SIXTH CONGRESS

SECOND SESSION

NOVEMBER 20, 1980

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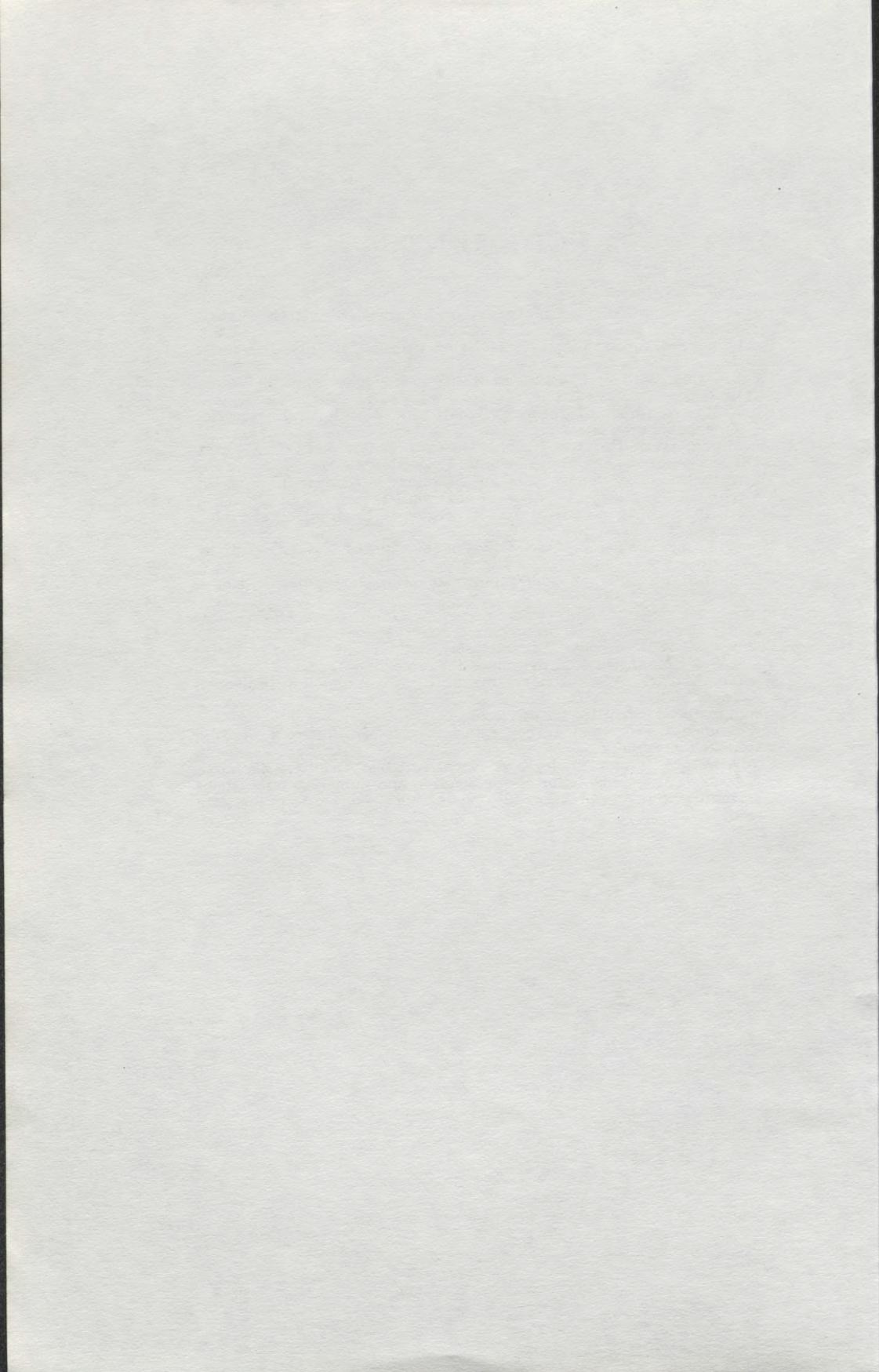
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HAZARDOUS WASTE DISPOSAL PROBLEMS AT FEDERAL FACILITIES

THURSDAY, NOVEMBER 20, 1980

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON TRANSPORTATION AND COMMERCE,
COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
Washington, D.C.

The subcommittee met, pursuant to notice, at 9:30 a.m., in room 2123, Rayburn House Office Building, Hon. James J. Florio, chairman, presiding.

Mr. FLORIO. The subcommittee will come to order.

This morning I would like to welcome all to the subcommittee's hearings on hazardous waste disposal practices at Naval Aviation Engineering Center in Lakehurst, N.J., and other Federal facilities. In particular we are going to be exploring some questions that have been raised concerning disposal practices at the Naval Air Engineering Center at Lakehurst, N.J.

Recently, there have been reports as to dumping practices in the past at the Navy's facility at Lakehurst. This is of particular concern since the facility is located in the New Jersey Pine Barrens and above the Cohansey aquifer. It is a very important aquifer for the purpose of drinking water supplies for the people in the southern half of the State, a major source of drinking water, as I have said, for many communities.

While I am interested in a sort of provincial way in learning more about the problems at Lakehurst and potential threat to residents in this area, this particular facility provides us with just one possible example of hazardous waste disposal problems at Federal facilities. I am afraid we are just beginning to learn about the problems which may exist on Federal facilities as a result of inappropriate dumping practices in the past.

Documents obtained by the subcommittee indicate that the Department of the Navy alone has 79 installations where there are potential hazardous waste disposal problems resulting from past dumping operations. These problems may not be confined to the boundaries, and most probably are not confined to the boundaries of the particular military establishment since contaminants in the ground water migrate from Federal property to private.

I am concerned about the actions that Government agencies are taking to correct past toxic waste disposal problems at their facilities and the steps that are being taken to prevent hazardous waste disposal problems now and in the future, and to explore the interconnection between the Resource Conservation and Recovery Act regulations which are now going into effect and Federal practices and proposed Federal practices.

I think it is particularly important for us to keep in mind as we listen to the statements of our witnesses this morning that it is incumbent on the Federal Government to insure that its facilities adhere to the same environmental standards that are being imposed upon the private sector as we go into an era of a new appreciation of the importance of this whole practice.

As I have said on many occasions, I am convinced that our ability to deal with chemical dumping, hazardous waste disposal will be the environmental issue of the 1980's. I think it is incumbent that the Federal Government hold itself out as a key example as to how we should do this. It would certainly be inappropriate for the Federal Government or even military installations to do less than we are calling upon the rest of the Nation to do.

With that preliminary statement I am pleased to call our first witness, who is a personal friend, one whom I served with in the State legislature, assemblyman from the area in which Lakehurst is located, the Honorable John Paul Doyle, assemblyman from Ocean County.

Assemblyman Doyle, we welcome you to the subcommittee.

The practice of the committee is to enter your statement in the record in its entirety. You may feel free to proceed in any manner you see fit.

**STATEMENT OF HON. JOHN PAUL DOYLE, ASSEMBLYMAN
(NINTH LEGISLATIVE DISTRICT), STATE OF NEW JERSEY**

Mr. DOYLE. Thank you very much.

I have already entered my statement. I will read from it in part and make some interlineating comments.

We enter now not only a new decade but a new administration and therefore we look at what issues will be confronting us in this decade and in this new era. I do not think there is any more single important issue facing us than the one we are discussing today. In a broad sense, that issue is a sensible, safe, organized effort to dispose of the waste created by the vast technology of our rich society.

More acutely, our concern is the control of hazardous and toxic waste disposal. Today's hearing is particularly timely in that once again the citizens of Ocean County, the area of New Jersey which I represent, have been subjected to the uncertainty, the uneasiness of reports which indicate that past incidents of hazardous waste dumping may have led to the fouling of ground water which serves as a resource for water supplies in surrounding communities.

Specifically I refer to the accounts of waste dumping at the Lakehurst Naval Air Engineering Center.

I might point out that while the Lakehurst incidents are the first reported at the facility, Ocean County residents are no strangers to the suspicions and fears raised by reports of such incidents.

While these incidents do not relate to specifically dumping at military installations, they give a sense of what happens in a community when these problems do occur.

Since 1974, in separate unrelated occurrences within our county, dramatic incidents of ground water and well water contamination by toxic substances has created a discernible concern on the part of

homeowners that the very water tap in their home may have become a silent threat to their health and safety.

In Jackson Township, a community which borders the naval center on the north, 160 residents were forced to live an unbearable existence for more than 2 years as a result of toxic contamination of their well water. The source of the chemical contamination was unregulated dumping in a municipal landfill.

Twenty miles to the southeast in the Pleasant Plains section of Dover Township, yet another community within close proximity of the naval center, 60 families were forced to discontinue use of the well water due to the presence of toxic chemicals. The source of that contamination was dumps buried in a secluded section of the township which provided cheap disposal.

And similar toxic dumping incidents have occurred in Berkeley Township and more recently in Plumsted Township, which itself is near Fort Dix and Maquire. The extent and type of incident at Lakehurst may not compare to that of these other occurrences in Ocean County but, Congressman, it does reveal a reoccurring pattern, chance discovery; confusing and conflicting information, and a seeming failure by agencies to quickly respond. The pattern of events is not reassuring to the public.

At Lakehurst, the first incident of toxic waste dumping appears—I stress appears—to have occurred back in 1966. At that time some 20,000 gallons of tetraethyl lead, a substance used in aviation fuel, was disposed of at the base by pouring in a small hole in the ground. That fact was not discovered until by chance earlier this year a sign containing the legend, "Danger, tetraethyl lead buried here. Closed 13 April 1966" was found.

Since that time civilian workers at the Lakehurst Naval Air Engineering Center have reported dumping hazardous chemicals on the 7,412-acre base as late as 1973. These materials were improperly dumped directly on the ground because, it has been suggested, the employees found it inconvenient to use forklift trucks that were posted for that purpose.

Among the chemicals poured into the ground at Lakehurst are TCE, trichloroethylene, and other chemicals known to or suspected of causing a variety of ailments including cancer.

Navy and EPA officials have attempted to investigate and ascertain the extent of dumping. No well-water pollution has been revealed but there have been findings of soil contamination.

But in order for any official assurance to be valid, a new administrative structure is needed.

It is understandable that unfortunately these mixed reports we have received are greeted by a wary public with understandable skepticism. In order to try to curb that and correct the problem itself, let me make three suggestions:

First and foremost, the handling of hazardous wastes at any military installation should require a governmental partnership. Lakehurst Station has a population and land mass that is greater than the municipality that it is in. That partnership may come with some difficulty. Nevertheless, Lakehurst should be part of the process in the decisionmaking and knowing what is going on behind the gates.

Whether this is accomplished through the area of a waste management program which has already been implemented in New Jersey, or another administrative procedure, can go a long way toward assuring the public that no single agency will be permitted to protect that agency's interest above the public interest.

Second, and equally important, is the need for independent monitoring of waste disposal at military installations. The present monitoring of military installations by their own officials has not proved adequate and I don't think it is viewed by the public as adequate. Certainly this fact is proved by the very idea that it took 14 years to find out by the Lakehurst officials themselves what they had done back in 1966, and who knows what the results of that could be.

These are two elements that could be taken both as to the past problems and as to the future problems.

Let me suggest one final effort as to the past problem. There should be a Federal effort which is needed now to examine and investigate the record of all toxic waste handling which is taking place at military installations. If a single lesson has been learned from our most recent experience, it is that we are dealing with a toxic time bomb. If an investigation of known hazardous waste records is initiated and just one of these silent threats is uncovered, we will have defused the mechanism similar to those which have already caused hardship and anxiety in so many communities across the Nation.

I think the records have not been kept over the past number of years, shipping records and invoices. I think it is incumbent on every single military installation in the near future to come up with specific plans under Federal guidelines, reviewing their own history, what they did in the past, what possible dangers exist, and what they are doing to uncover those dangers.

The engineers have alerted us to a number of potential dangers in the handling of hazardous waste. Federal and State governments can react now by providing more effective monitoring and handling procedures. If that is not done, the unfortunate alternative may be to react to the devastating effects on the health and safety of our citizens.

Thank you.

Mr. FLORIO. Thank you.

You pointed to some of the areas we are going to evaluate today, the question of intergovernmental cooperation. One of the questions we will be going into when we have the appropriate State officials here is what they have been doing over the last number of years to monitor what it is that has been going on on the Federal facilities. I think we all know and we are proud of the fact that New Jersey has been in the lead in terms of attempting to have a manifest system operating even before the Federal Government system goes into effect.

We will be attempting to determine what the authority of the State is on the Federal installation and in fact whether there has been any degree of accountability in the past. Likewise, we will be attempting to uncover or determine what the Federal authorities on the military installations have been doing, not just to set out

procedure but to see that the procedures for disposal have been complied with.

Our information is the same as yours, that there are procedures and theoretically there should not have been some of the inappropriate dumping. It appears that the procedures were not adhered to in terms of the appropriateness of those procedures.

I will parenthetically note that I bring some degree of expertise to the hearing today by virtue of having been stationed at Lakehurst in the Active Naval Reserve in the period about 1958 to around 1974 as a weekend warrior. I recall going to Hangar 2 and my recollection is clear that nobody ever drank the water that came out of the taps because it had a foul odor, smelling very much like sulfur. There have always been water coolers in that particular area as long as I can remember.

So I will be looking forward to getting information about those types of questions that you have raised. I think it is important, also, in your capacity as a member of the State legislature to continue your interest which you have in attempting to get the Environmental Protection Agency to increase its degree of communication.

I have read the testimony of the witness from EPA. It seems to be saying that things are going along very well, that communication is good, cooperation is good. Yet at the same time we have the allegations of practices that have taken place. So we want to reconcile how, if communication has been good, some of these things have happened, if in fact they have happened.

You can rest assured that this committee will continue in cooperation with members of the State legislature to insure that this problem, if in fact it is a problem, is not going to be duplicated too terribly often in the future.

It is a pleasure to welcome our Congressman from the State which Lakehurst is in, Congressman Hughes.

Good morning, Congressman Hughes.

I think the idea of partnership is one that is not presupposed. In this key area the Federal Government is paramount. Certainly for security purposes and for other reasons the military base has a certain preeminence. When it comes to toxic dumping which runs past the limits of its boundaries and fences there must be equality and the State must have the authority to do neutral inspection which is essential to that partnership.

I am sure the State of New Jersey is prepared to share in that partnership.

Thank you again.

I would like at this point to welcome to the subcommittee the Congressman, as you indicate, in whose district Lakehurst resides, my colleague from the southern portion of the State, the Honorable William Hughes.

Mr. Hughes also has a prepared statement and without objection it will be printed in the record at the appropriate place.

Mr. HUGHES. Thank you, Mr. Chairman.

First let me thank you, Mr. Chairman, for conducting this very timely hearing. The dumping of hazardous waste is of tremendous concern to the people of the country. We are indebted to you for

conducting these hearings into the problem and trying to arrive at solutions.

I wanted also to commend our colleague, Senator John Paul Doyle, for his interest and concern. I welcome him to Washington and to this committee in particular. I wish to tell him that I look forward to examining his testimony.

I apologize for being somewhat late but we had an organization meeting this morning, which has now concluded. I assure him I look forward to working with him and his colleagues in the legislature and other agencies and with members of the committee in trying to address the problems of Lakehurst. I share Lakehurst with my colleague from the Sixth Congressional District, with Ed Forsythe, who has a portion of the land area.

Of course many of the employees and staff of Lakehurst reside in his district as well as my district. So we look forward to working out the problem with you.

[Mr. Hughes' prepared statement follows:]

STATEMENT OF HON. WILLIAM J. HUGHES, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW JERSEY

Mr. HUGHES. Mr. Chairman, I am pleased to have the opportunity to join the Subcommittee on Transportation and Commerce today to examine some of the problems related to hazardous waste disposal at Federal facilities. I am pleased to see that the subcommittee has taken an active interest in investigating reports of toxic dumping at the Naval Engineering Center in Lakehurst, N.J. As you know, this facility falls within my district, and many of Lakehurst's employees reside in the Second Congressional District as well.

The problems associated with the generation, transportation, and disposal of hazardous materials have received considerable attention in the 96th Congress. The majority of Americans are just now becoming aware of the long-term consequences associated with the haphazard production and disposal of hazardous materials that has been going on for years. In the past, far too little attention was given to how and where hazardous substances were disposed. For the most part, the old theory of out of sight out of mind governed disposal techniques. Under these circumstances, it was far too easy to simply dump the stuff out back, or down by the river.

It's somewhat disturbing to learn, however, that the Federal Government may be as responsible as others in dumping hazardous materials without regard to the adverse environmental consequences of their actions. All of us like to think that the various branches of the Federal Government need not be coaxed into complying with the environmental standards and procedures which have been developed to safeguard the public against such abuses.

It's clear though, that the Federal agencies may ultimately be responsible for the release of hazardous substances into the environment. The extent to which such release are neither negligently or intentionally undertaken is not clear. It's apparent, however, that stronger precautions and guidelines may be necessary to insure that Federal installations and facilities adequately handle and dispose of harmful substances under their control.

As part of these hearings, the subcommittee will investigate reports of improper dumping and handling of toxic material at the Lakehurst Naval Engineering Center. It's extremely important that we ascertain the extent to which such activities have occurred both at Lakehurst and other Federal facilities. It's also important that we ascertain the extent to which any adverse environmental impacts have already occurred, or can be expected to occur in the future. The possible contamination of ground-water supplies, and the health effects on workers resulting from exposure to hazardous materials, are serious concerns which should not be taken lightly.

I would like to thank the subcommittee for taking an active interest in tackling this complex issue. I will be pleased to assist the subcommittee in whatever manner possible.

Mr. DOYLE. Thank you.

Mr. FLORIO. Our next witness is Mr. Gerard Healy, former employee of the Lakehurst Naval Air facility. I will ask Mr. Healy to please come forward. It had been intended to have another former employee, Stanley Lyte, with Mr. Healy. We understand Mr. Lyte is ill this morning and will not be able to be here.

We understand Mr. Healy has a statement from Mr. Lyte and at his convenience I urge him to feel free to utilize that statement in any way he sees fit in order to elaborate on his own testimony.

Mr. Healy, welcome to the committee. Please feel free to proceed as you see fit.

STATEMENT OF GERARD HEALY, FORMER EMPLOYEE, NAVAL AIR TEST FACILITY, LAKEHURST, N.J.

Mr. HEALY. Thank you, sir.

The statement of Stanley Lyte, November 19, 1980:

I began working in 1973 as a temporary employee at the 4201 site, which is an expeditionary forces type launching platform. I was assigned to laying runway matting. At the site we were using jet fuel to propel the jet engine and gasoline for other engines.

In 1973 to 1974 I enrolled in the Metal Trades School at the Naval Air test facility. I was assigned to classroom activities each morning. The afternoons were spent at the site, at various sites for up to a one-month period. For example, I would be assigned to the rigging shop, to the welding shop, and various other shops which make up the various trades that were at the facility.

No. 3. When we cleaned out the hydraulic systems at the catapult, the main runway, we often used acid and trichloroethylene. Diesel fuel was used extensively, also. I noticed that the acid that we used sometimes caused bleeding if it contacted the skin.

A catapult was designed in such a manner that the runoff after each test shot expelled certain quantities of hydraulic fluids. These were led by a duct in a brook roughly a hundred feet from the catapult, itself. I would suggest that further tests be conducted there because in addition to that I observed actual dumping in addition to the runoff from the catapult. We used that as a dump site, in other words.

On occasion my supervisor said, "If we get caught dumping these drums and buckets it will be our neck".

In 1975 I was assigned to the Track Recovery Sites as an ALAD helper, aircraft launch and arresting devices mechanic helper. We washed equipment with trichloroethylene and diesel fuel frequently, always washing or cleaning something. We washed terminals . . . the terminals are part of the arresting cable that stops the aircraft when it lands on an aircraft carrier. They were coated in either Procotone or Cosmoline. We cleaned the terminals with Procotone to read the engraved numbers on the terminals each time that we hooked up. Anything with grease or Procotone we used trichloroethylene for because it cleans off easy and fast.

There was also a cleaning fluid that we used. Even when we were painting we dumped the thinners in the sand on Track 3.

In 1977 I was transferred to Hangar 2. I was assigned frequently to Hangar 3 also. I washed down the cable racks and machinery with the TCE. In Hangar 2 I would take the drums out to a tank, stand the drum up, take off the cap, screw in a pipe with a hose and shut off the valve on it. The forklift picked up 55 gallon drums to the top of the tank. We put the hose into the top of the tank and turned the valve and waited 45 minutes to 1 hour to drain because of the sludge in it. After the drum was empty we would set it down on the ground, undo it and start all over. This way you can only do about 12 drums a day. Now with the 75 to 100 drums lying around you hear a VIP is coming, then your boss would come out bringing two or three helpers and tell us to "Hurry up, we are too slow, take them out and dump them in the sand. A truck will be out in the morning to pick up the empty drums and take them away."

Note: A total of 10 skids on a Navy flatbed truck.

I am not certain of the way to interpret this. More than 1 drum would be on each skid. Apparently 3 would fit on a skid. So there was a total of 10 skids on a flatbed. If they used another truck, as they often did, it would accommodate 6 skids.

We would leave the drums upsidedown in the sand and go back later for the empty drums so that we could put them back on the skids.

Now, according to the way Mr. Lyte explained this to me—I'm not familiar with it, myself—within 6 to 10 feet from the receptacle that was provided where the forklift lifted these drums there was a drain, a runoff drain for rainwater, I suppose, outside the hanger door.

Sewer drain: Sometimes we would tip one at a time if it was a liquid that would come out real fast (5 minutes), 5 or 6 feet away from the tank.

Now drums were stored on racks in this same area. They rusted and leaked and when it rained the drums would overflow. Rain entered into the drums due to rusting of drums.

When you are not looking, Army or somebody, in fact it seemed everybody, was always dropping something off there.

Mr. E. Sanzin told us when he was in charge at the CATS not to get caught. Larry Baines and Mr. Iwasco drove past, didn't stop, quite a few times together, and saw us dumping the stuff in the sand but didn't stop.

It is signed "Stanley Lyte."

Mr. FLORIO. Mr. Healy, is there anything you would like to add by way of your own knowledge to supplement Mr. Lyte's certification?

Mr. HEALY. Yes, Mr. Chairman.

I believe it was sometime last April, prior to the visit of the EPA people from New York City, Mr. Lyte stopped at my house and told me that there was dumping because he was aware that I had registered a complaint and requested the EPA to look into the matter.

I said, "What are you dumping?"

He said, "You name it."

I said, "TCE."

He said, "Yes, and everything else."

Now, I have no personal knowledge of what was stored there because I was never assigned to that particular job. While working in that building and while employed in the machine shop for roughly a period of 60 days, most of my time it was assigned to cleaning equipment, some of which was in service, some of it was unconnected to anything, with a solvent. I don't know what the solvent was. I complained repeatedly to my supervisor. I told him that I felt that it wasn't justifying the salary that the U.S. Navy

was paying me. I had talent in several areas and I persisted in asking if I could speak to his superior, Mr. Iwasco.

After several weeks Mr. Iwasco sent for me and I told him the same thing, I felt that I could have been put to more productive use elsewhere. I felt it was, first of all, hazardous, wasteful, and I really didn't want any part of it. He told me, "This is not Russia, Mr. Healy. If you don't like working here you are free to quit."

Sometime shortly before Christmas of 1977, a few days before, I am not sure of the date, I was reassigned to the cable shop in Hangar 3, next door. In that cable shop we used trichlorothene. That is what they told me it was. I did notice a drum with that name on it. I noticed on the drum there was a warning that trichlorothene could be fatal if inhaled. I made a note of that. I don't have it and can't locate it but I recall copying part of the label down. I complained of the situation in that particular shop. It doesn't concern dumping but it does concern the environment.

May I elaborate?

Mr. FLORIO. Certainly.

Mr. HEALY. The productive work that I finally obtained in Hangar 3 during that Christmas season consisted of destroying cable in bundles of 4 to 6 at a time, cutting roughly 8- to 10-foot lengths, putting them in a dump truck outside, the purpose of which I don't know. I complained about it because it created tremendous clouds of heavy residual product, dust, hemp, smoke, carborundum material, and while it was a large room, as large as a football field, they tell me, it still hung in the general area.

The doors were closed and the heaters were on.

[Mr. Healy's prepared statement follows:]

STATEMENT OF GERARD HEALY

March 18, 1972 I was hired by the Naval Air Test Facility at Lakehurst as a temporary employee. I was assigned to the runway branch, specifically to the 7401 site—an expeditionary forces catapult and runway installation. Sometime later I enrolled in the Metal Trades School at N.A.T.F. which was basically classroom studies each morning and field training in the afternoon. The field training enable me to work in various shops and trades on all of the test sites for periods of approximately one month in each trade.

Upon completion of this training, I was assigned to the recovery areas of the test track sites. I was rotated according to need among the five tracks, but most of my time there was spent at tracks #1 and #2, where they tested cables and catapults.

In the fall of 1977 I was reassigned to Hangar Two several miles from the test sites. I was then working in a machine shop where we used solvents. I was to remain in the machine shop until December 20 or 21, 1977 when I was then transferred to the cable shop next door in Hangar Three. I was to remain in the cable shop which I knew was harmful to my health and which definitely aggravated a medical condition for approximately eight months until dismissal.

Mr. FLORIO. Let me ask you a question or two. Your testimony and the testimony of Mr. Lyte point to two problems, I think. One is the existence of procedures that called for disposal of material that apparently were not adhered to to a large extent. Over and above that, you have also in your testimony and the testimony of the other gentleman talked about normal procedures for maintenance of material that do not appear to be as carefully drawn as they could be.

You talked about the catapult and the runoff. There are two questions we are going to try to focus on. One is the normal routine operations of the facility which inadvertently results in improper

disposal of materials. Then the second part is the conscious dumping of materials that have accumulated.

We would like to focus in on those two items that you and Mr. Lyte apparently have some knowledge about.

Mr. HEALY. I am sorry I got into that because of Mr. Lyte being in Hangar 2. My experience mainly consists of the track-site recovery area. I can speak with first-hand knowledge of that.

Mr. FLORIO. Perhaps you could elaborate on that aspect and then we can go into some questions. For example, I am interested in what you said about reports of dumping that took place as late as April of this year.

Mr. HEALY. Yes; that is right. Mr. Lyte informed me of that. I passed that word to the EPA in New York. I spoke to Mr. Nagel a number of times and I followed through with a letter which may have been delivered after his approval requesting this visit.

Mr. FLORIO. There have been some reports that consultants who have been retained have in fact reported that substantial amounts of contaminated aviation fuels have been found in certain areas. Has that been brought to your attention?

Mr. HEALY. I only know what the newspapers and radio accounts have stated. I have no personal knowledge of that. That is something out of my scope. I know nothing about the aviation fuel.

Mr. FLORIO. There have also been some suggestions, and you testified and Mr. Lyte testified, that employees on occasion have been injured inadvertently by handling of acids and things of that sort. It is also my understanding that there have been some changes in procedures as of recent times, that gloves are required to be used when in fact in the past they were not used. Do you know anything about new procedures for handling materials?

Mr. HEALY. Only what I hear. I haven't been there for 2 years. My movements have been extremely limited when I do go on the base. So I really can't speak as to what the conditions are today. However, when I first began to work at the test-track recovery area, in 1973 I believe it was, a tool was dropped into a pit. The pit that contains the cable as it moves, sort of a 2- or 3-foot-deep concrete pit and it fills with water each time it would rain. The pit was flooded this particular day. It was actually my first day on the assignment.

I attempted to retrieve the tool for the other person. I reached in past my elbow. The senior mechanic on the job pulled my arm and told me never to do that again. I said, "I don't mind." I thought he meant you would get your hand dirty or something.

He said, "It is very bad, there is very dangerous material in there. Don't ever reach in there again."

That was my first experience. I didn't know at the time what it was, I didn't ask him. It looked like water to me.

Other times I was assigned to that track. Eventually I was assigned to the track almost permanently. I observed how they disposed of the trichloroethylene. We used the trichloroethylene on track 1, I think, more than any of the other test sites because track 1 was the routine test track. We tested the cable deck. No elaborate preparations were necessary to operate that.

Tracks 2, 3, 4, and 5 were specialized tests requiring possibly weeks or months to get ready for.

Mr. FLORIO. You indicated you did observe how the TCE was disposed of on that track you were working on?

Mr. HEALY. Yes.

Mr. FLORIO. How was it disposed of?

Mr. HEALY. It was just simply not always at the direction of the man in charge but I heard him say on several occasions, "Just dump it in the sand."

I do have with me a photograph of that particular spot and that is the same spot that was monitored last Friday.

Mr. FLORIO. Mr. Hughes?

Mr. HUGHES. Thank you, Mr. Chairman.

Mr. Healy, I gather much of your testimony which you related from Stanley Lyte you had no personal knowledge of?

Mr. HEALY. No. I am reading that from Stanley Lyte, trying to interpret the terminology that we used down there. I have my own statement.

Mr. HUGHES. I have read your statement dated November 20. I gather you were basically employed at that facility beginning in 1972 as a temporary employee and served roughly 6 years at the facility at Lakehurst.

Mr. HEALY. I did resign for a short period. I was there for roughly 60 days. I resigned and then I was rehired several months later.

Mr. HUGHES. When did you resign for awhile?

Mr. HEALY. I had an opportunity to photograph the L-1011 first equipment for TWA. It required over 10 days to do it in Chicago. That was my reason. Later I reapplied for the job and I was enrolled in the Metal Trades School.

Mr. HUGHES. How were you finally terminated? Did you resign or were you dismissed?

Mr. HEALY. I was terminated against my will. I discovered I had a disease of the blood. I wasn't aware of it. When I became ill on the job in this cable shop after several days of this particular operation that I discussed earlier with the cutting of bundles of cables, the doctor took a blood test and determined that I had a certain disease and he asked me what kind of environment did I work in. First he asked me if I smoked. I said "No, I haven't smoked in over 20 or 25 years. Maybe more than that."

He said, "Where do you work?" I detailed what it was like. Briefly I will say that the hemotologist and two medical doctors that I consulted, my family physician included, who referred me to the hemotologist, made written request to management officials, I believe to the medical department, that I be removed or could an accommodation be made in my employment; in other words, could I be detailed somewhere else.

Mr. HUGHES. This is when you were working in Hangar 2?

Mr. HEALY. Hangar 3. This is in the cable shop. The recommendations were ignored. I was to remain there a little over 8 months until I became ill. I was suspended for abusing sick leave for 2 weeks. I was never to come back to work again because when I reported to work my time card was intercepted by my supervisor and he told me, "Just forget it, there is no more work here. A doctor in the medical department said you are not fit for employment in this department."

Mr. HUGHES. As a result of your employment at Lakehurst did you file for some form of physical disability?

Mr. HEALY. Yes, they handed me a compensation form for the 1 day I was absent back in January, I mean this particular day. They said that they wouldn't pay me for that day. On the form it asked me to please describe the working conditions, the CA-2 form, the environment, and so forth. They had one small line. So I detailed it on a separate statement which I have with me today.

Mr. HUGHES. Your statement indicates that you felt that the working conditions aggravated a medical condition.

Mr. HEALY. That is correct.

Mr. HUGHES. Which would suggest there was a preexisting condition which you felt the employment environment aggravated?

Mr. HEALY. I said aggravated because the burden apparently is on me to prove it and that has been almost impossible because of the wording on my separation form.

Mr. HUGHES. What has happened to your application for disability benefits?

Mr. HEALY. It has not been adjudicated yet.

Mr. HUGHES. It is still pending?

Mr. HEALY. It is still pending.

Mr. HUGHES. You indicated that the runoff from the catapult system went into a drainage ditch. Is that something you saw?

Mr. HEALY. No. I only learned of that yesterday and I was asked to pass that word along to the committee. I have no personal knowledge of that, sir.

Mr. HUGHES. You have no knowledge of what substance might have been from the catapult system that would have drained into a drainage ditch?

Mr. HEALY. I have no personal knowledge of the area. That is about 1½ miles from where I worked. The people who did bring this forward to me and requested that I tell the committee so that testing may be looked into there are extremely reluctant to be identified because they are still presently employed and the belief is that it may have an adverse effect on their careers.

Mr. HUGHES. Do you have any personal knowledge of what was contained in those drums that were stored in hangar 2, the drums that were emptied? You read from Mr. Lyte's statement that there was a substance in the drum. What was in the drums?

Mr. HEALY. I have no personal knowledge of the drums that were stored outside because I don't recall seeing drums stored there when I worked there.

Mr. HUGHES. So, you have no personal knowledge of that?

Mr. HEALY. No.

Mr. HUGHES. The statement that you read from Mr. Lyte suggested that as soon as some of the VIP's came around that there was a hurried effort to disguise what was occurring. Who actually set that policy? Who set the policy, first of all, that any drums would be dumped? Do you know?

Mr. HEALY. I don't know. Mr. Lyte has the answer to that.

Mr. HUGHES. Who is Mr. Sanzin, and what is his function at the Lakehurst facility?

Mr. HEALY. Mr. Sanzin was my general foreman in my chain of command. I first knew him down at the test area. He was the

general foreman down there too. When I was assigned to hangar 2 and to hangar 3 he was assigned up there also. So, in effect he still remains my boss.

Mr. HUGHES. Mr. Chairman, would you like to break at this time?

Mr. FLORIO. I think it is appropriate. We have a vote.

We will take a 5- or 10-minute break and we will be right back.

[Brief recess.]

Mr. FLORIO. The committee will reconvene.

Mr. Hughes.

Mr. HUGHES. Thank you, Mr. Chairman.

Mr. Healy, when we broke you were telling me Mr. Sanzin was your immediate supervisor?

Mr. HEALY. No, sir, he was in my chain of command. There were two supervisors above me and then Mr. Sanzin. My immediate supervisor—at which point now, the tract sites?

Mr. HUGHES. Tract sites where you were first employed.

Mr. HEALY. Mr. Sanzin was general foreman at all times. There were supervisors that I reported to that reported to Mr. Sanzin, one supervisor down at the tract site, two up at the hangar.

Mr. HUGHES. Who was your immediate supervisor at the tract site?

Mr. HEALY. Mr. Frank Rys.

Mr. HUGHES. Is he still employed at the facility?

Mr. HEALY. Yes, sir.

Mr. HUGHES. When you were at the hangars who was your immediate supervisor?

Mr. HEALY. Mr. Fortuci, I believe. Pacifico Fortuci.

Mr. HUGHES. Is he still employed?

Mr. HEALY. No, sir, he is recently retired.

Mr. HUGHES. Who is Harry Baines and what was his responsibility at Lakehurst?

Mr. HEALY. I never knew what Mr. Baines' responsibility was. I think Mr. Fortuci reported to Mr. Baines and in turn Mr. Baines reported to Mr. Iwasco and then to Mr. Ellis.

Mr. HUGHES. What was Mr. Iwasco's title and responsibility?

Mr. HEALY. I don't know, I am sorry. I know what his responsibility was but I don't know what his official title was.

Mr. HUGHES. Was there not a procedure in place for dumping of toxic substances? Wasn't there a policy set by the facility?

Mr. HEALY. Well, I will go back to the test sites, if I may. The procedure was routine, dump it in the sand. There was never any receptacle provided. The first time I saw anything provided for the acceptance of the waste was last Friday during the tour. The concrete was apparently recently poured and there was a drum on it. Prior to that there were no instructions to do anything but dump it in the sand.

I would like to elaborate on one point, something that I may contribute that we have not covered. At least two times when I was working at the tract sites during the roughly 3 years that I was there the large flatbed Navy truck appeared and we were instructed to pick up all the empty drums. We picked them up from the woods, from behind buildings, indentations in the ground. We filled that truck.

Mr. HUGHES. Are you suggesting that the policy was to dump—

Mr. HEALY. The drums were already emptied. They may have been there some time before I arrived.

Mr. HUGHES. You have no knowledge whether the policy was to dump them?

Mr. HEALY. I never saw a drum being dumped, myself. I saw the container. When we used the trichloroethylene on the test site at Tract 1 we used a smaller container, roughly 20- or 25-gallon stainless steel, as our working container. The drum, itself, would be emptied that way. In other words, we would dump from that container, not from the drum.

Mr. HUGHES. If I understand your employment history you spent about 5 years at the tract, at the catapult site?

Mr. HEALY. That is inaccurate. I was employed a total of 5 years to the day minus 5 days. In other words, 4 years 11 whatever it is. I was up in that hangar for approximately 9 months. So, most of my experience was back at that recovery area.

Mr. HUGHES. That is what I am referring to. Isn't that the tract site, the recovery area? You are talking about the catapult area some of the time you spent in school?

Mr. HEALY. Yes. That was roughly maybe 4 months.

Mr. HUGHES. The balance, except for 9 months and the time you were in school was spent at the catapult sites?

Mr. HEALY. No, at the recovery sites. The catapult sites are 1½ miles from the recovery site.

Mr. HUGHES. That is still out in the field?

Mr. HEALY. Yes. The old NATF.

Mr. HUGHES. What were the substances you saw dumped at that site?

Mr. HEALY. Trichloroethylene, TCE, in quantities of roughly 20 to 25 gallons. I am estimating that.

Mr. HUGHES. That was just dumped into the sand?

Mr. HEALY. Dumped in the sand. I have a photograph with me today that shows the exact spot.

Mr. HUGHES. Who actually set that policy? Who gave instructions to dump at that site?

Mr. HEALY. There were various supervisors. I don't think it was necessary to have somebody tell you to dump it. I think the men automatically dumped it.

Mr. HUGHES. You see, my difficulty is that somewhere along the line it was common knowledge that you never dump when the VIP's and the people who set policy are around.

Mr. HEALY. No. The purpose of the cleanup before the VIP's would come would be to remove the empty barrels that were scattered in different places. You are referring to Stanley Lyte's statement?

Mr. HUGHES. Yes.

Mr. HEALY. He refers to the dumping at hangar 2. I have no firsthand knowledge of that other than he reported to me last April and I in turn passed that information on to Mr. Nagel before he arrived. He was aware of what I had told him.

Mr. HUGHES. To your knowledge there was no policy set, no provision to dump any of the toxic substances or other waste material other than in the sand as was done in the recovery site?

Mr. HEALY. There was never any effort to retrieve it. There were no receptacles for it. I never saw any tank truck or anything come around. There was no provision made for recouping the used and spent liquids.

Mr. HUGHES. You would have been aware of such a policy?

Mr. HEALY. Sure. I was always there. I mean I was assigned there.

Mr. HUGHES. I am sorry, Mr. Chairman, to have taken so much time. I have no further questions.

Mr. HEALY. For example, up at hangar 2 they provided a small, it looked like a fuel truck body, and the thing that they had to lift up and so forth. There wasn't anything at all like that down at the test sites.

Mr. HUGHES. Thank you.

Mr. FLORIO. I have one or two points. As I understand your testimony as to where you worked and the observations you made in regard to the TCE dumping in the sands, that was not done pursuant to any particular policy that was enunciated, it seemed to be done in accordance with the normal routine at work?

Mr. HEALY. Just normal working procedure.

Mr. FLORIO. At the hangar and the fork lift operation for the dumping of materials into some sort of receptacle that periodically was supposed to be drained, when was that procedure initiated, if you know? Was it there when you started?

Mr. HEALY. I don't recall ever seeing it there. It may have been there but I didn't see it.

Mr. FLORIO. The fork lift operation?

Mr. HEALY. I don't recall it. It is very possible it was there. I spent almost my entire workdays inside that hangar. I rarely was able to go outside. It did reach a point where I went next door to a separate smaller building to obtain materials that I needed to complete an assignment when I was making machine parts in the machine shop. It resulted in a suspension for leaving the job to which I was assigned without proper permission. That was one of several charges. So, I was not able to go outside that door. Stanley Lyte worked at that end of the shop and he was completely familiar with that. But whether they had that facility when I was employed there I really can't say.

Mr. FLORIO. In conclusion I understand you have some certification of your own health situation from your doctors and you also have some photographs. If you would leave those with the committee I will be happy to place them in the record. Are you willing to give us that information?

Mr. HEALY. Yes, sir.

[Testimony resumes on p. 44.]

[The following materials were received for the record:]



DEPARTMENT OF THE NAVY
NAVAL AIR ENGINEERING CENTER
LAKEHURST N. J. 08733

15 DAYS TO APPEAL
IN REPLY REFER TO
123:KRR:11F
12752

28 JUL 1978

→ Recd. Aug 1

From: Mr. Thomas F. Ellis, Superintendent Development and Site Support Department, Naval Air Engineering Center
To: Mr. Gerard Healy, Payroll #196-05727, AL&AD Mechanic Helper, Development and Site Support Department, Naval Air Engineering Center

Subj: Proposed Removal for Disability; Gerard Healy

Ref: (a) FPM 752B
(b) CMMI 752
(c) Negotiated Agreement Local 284 NFFE, Article 16
(d) Code 123 Memo to CDR Dickson of 25 July 1978

Encl: (1) Senior Medical Officer's Memo of 18 July 1978

1. In accordance with references (a), (b), and (c), this notice is to inform you that I propose to remove you from your position of Aircraft Launching and Arresting Devices Mechanic Helper, no earlier than thirty (30) calendar days, beginning the day after the date that you receive this notice.

2. This proposed action is based on the medical evidence submitted by your physicians to the Activity's Medical Clinic, indicating illnesses as described in enclosure (1); and, the Senior Medical Officer's determination that you are not fit for employment in industrial environments that contain fumes, gases, smoke, and other environmental pollutants, (enclosure (1)). Specifically the reasons for this proposed action are as follows:

a. Your present position of AL&AD Mechanic Helper requires you to work in areas where grease, oils, solvents, and acid are continuously present. The Launching and Arresting gear devices, when operating, produce smoke, fumes, and possibly other unidentified air pollutants. Specifically, one of the work areas, known as the cable shop, requires persons in your position to preserve, and clean, cables with oil solutions and solvents, and also to physically cut these cables. The cutting of these cables generate considerable smoke and fumes.

123:KRR:11f
12752

28 JUL 1978

Subj: Proposed Removal for Disability; Gerard Healy

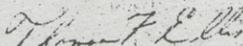
b. In accordance with reference (d), a review of your OFF and your qualifications, limits your reassignment to work areas which have been excluded by enclosure (1), therefore, it has been determined that there is no other position available for which you qualify that would not involve exposure to an industrial environment.

3. You may review the materials relied upon to support these reasons in building 200, the Labor-Management/Employee Relations Office. If you do not understand the reasons why your removal is being proposed, please contact Mr. Steve Iwasko, who is located in building 148, room 129, for further information.

4. You may answer this notice both personally, and in writing, to Mr. T. Ellis, building 148, room 211, and you or your representative may submit affidavits in support of your answer. You will be allowed ten (10) calendar days from the date you receive this letter to submit your answer. Full consideration will be given to extending this period, if you request such an extension in writing, stating your reasons for requiring more time, within the ten (10) day period. Full consideration will be given to your response(s).

5. If you report for work, you will be allowed eight (8) hours of Official Time to review the file, containing the materials relied on to support this proposed notice. You should arrange with Mr. Iwasko for the use of Official Time.

6. As soon as possible after your answer is received, or after the expiration of the ten calendar day limit, you will be issued a written decision. During the notice period you will be granted sick leave, annual leave, and then leave without pay, when necessary, based on the Senior Medical Officer's redetermination (enclosure (1)) that rather than a change in job placement, removal from an industrial environment is indicated.



THOMAS F. ELLIS

Appellant's Exhibit #3
12/11/78 *spj*

(201) 363-7200

(201) 363-7201

ANTONINO E. MARASCA, M. D.
DONALD C. GREIG, D. O.
ROBERT M. COHEN, D. O.

INTERNAL and FAMILY MEDICINE

RIVER AVENUE and PROSPECT STREET - LAKEWOOD, N. J. 08701

May 9, 1978

To Whom It May Concern:

This is to certify that Mr. Gerard Healy has Secondary Polycythemia.

It is my opinion that any prolonged exposure to any form of air pollution will definitely aggravate this condition.

Very truly yours,

Antonino E. Marasca
Antonino E. Marasca, M. D.

AEM: jf



DEPARTMENT OF THE NAVY
NAVAL AIR TEST FACILITY
NAVAL AIR STATION
LAKEHURST, N. J. 08733

4800

2 SEP 1975

From: Commanding Officer, Naval Air Test Facility
To: Mr. Gerald Healy (250-05726)
Via: Operations Officer

Subj: Letter of Appreciation

1. Mr. Richard O'Connell, Head of the Photo Instrumentation Division of my Engineering Department has advised me that you generously loaned your negatives of the pictures you took during the Change of Command Ceremony to the Photo Lab.
2. The still photographs obtained from your negatives were of great value to the Facility. I know this is a source of pride to you as well as this command.
3. Please accept my personal thanks and appreciation for a job well done.

Justice

F. W. HILL

Copy to:
NAS, Lakehurst (1212)

FOR AGENCY USE) 68335 154

1. NAME (LAST-FIRST-MIDDLE) HEALY GERARD P	MR, MISS, MRS. MR	2. (FOR AGENCY USE)	3. BIRTH DATE (Mo., Day, Year) 07-09-28	4. SOCIAL SECURITY NO. 0 XXXXXXXXX
5. PAY PLAN PREFERENCE 1-REG 2-10 PF. DISAB 3-10 PF. COMP 4-10 PF. OTHER	5A. (FOR AGENCY USE) NR	6. TENURE GROUP 1	7. SERVICE COMM. DATE 03-18-72	
8. FLGS: 1-COVERED (If regular only-declined Optional) 2-INELIGIBLE 3-WAIVED 4-COVERED (Reg.-Cvtl.)		10. RETIREMENT 1-1-CS 2-FICA 3-FS 4-NONE 5-OTHER		11. (P/O) CSC (OS)

12. DATE AND NATURE OF ACTION 376 SEPARATION - DISABILITY	13. EFFECTIVE DATE (Mo., Day, Year) 09-08-78	14. CIVIL SERVICE OR OTHER LEGAL AUTHORITY
---	--	--

15. FROM: POSITION TITLE AND NUMBER AL & AD MECHANIC HELPER SI-72	16. PAY PLAN AND OCCUPATION CODE WG-5346	17. (a) GRADE OR LEVEL 05	(b) STEP OR RATE 03	18. SALARY PII \$6.51
19. NAME AND LOCATION OF EMPLOYING OFFICE DEVELOPMENT & SITE SUPPORT DEPARTMENT, OPERATIONS DIVISION SITES BRANCH, RSTS SECTION NAVAL AIR ENGINEERING CENTER				

20. TO: POSITION TITLE AND NUMBER	21. PAY PLAN AND OCCUPATION CODE	21A. FUNCT. CLASS.	(a) GRADE OR LEVEL	(b) STEP OR RATE	23. SALARY
24. NAME AND LOCATION OF EMPLOYING OFFICE					

25. DUTY STATION (City-county-State) LAKEHURST, OCEAN, NEW JERSEY	28. LOCATION CODE 34-1580-029
27. APPROPRIATION	29. ADDITIONAL DUTY POSITION FROM: TO: STATE
	1-COMPETITIVE SERVICE 2-EXCEPTED SERVICE 3-PROVED 3 4-WAIVED 2

REMARKS: A. SUBJECT TO COMPLETION OF 1 YEAR PROBATIONARY (OR TRIAL) PERIOD COMMENCING DATE: B. SERVICE COUNTING TOWARD CAREER (OR PERMANENT) STATUS FROM: C. DURING PROBATION

SEPARATIONS: SHOW REASONS BELOW, AS REQUIRED, CHECK IF APPLICABLE:
 UNABLE TO PERFORM DUTIES IN INDUSTRIAL ENVIRONMENT THAT CONTAIN FUMES, GASES, SMOKE AND OTHER ENVIRONMENTAL POLLUTANTS.
 YOU WILL RECEIVE A LUMP SUM PAYMENT FOR ANY ACCRUED ANNUAL LEAVE DUE.
 SE-3 GIVEN TO EMPLOYEE.
 SE-15 PREPARED AND COPY GIVEN TO EMPLOYEE.

30. UNIFORMED SERVICE: <input type="checkbox"/> COVERED <input type="checkbox"/> UNIFORMED SVC. PAY GRADE: <input type="checkbox"/> UNIFORMED SVC. COMPENSATE: <input type="checkbox"/>	DATE OF RETIREMENT FROM UNIFORMED SERVICE (Mo., Day, Year)
31. SCHEDULE: <input type="checkbox"/> INVESTIGATION: <input type="checkbox"/>	F. PAY RATE DETERMINANT: <input type="checkbox"/>

32. DATE OF APPOINTMENT AS FIDAVIT (Accessions only)	34. SIGNATURE (Or other Authentication) AND TITLE C. A. PHILLIPS CAPT. USN, EXECUTIVE OFFICER
33. EMPLOYING DEPARTMENT OR AGENCY DEPARTMENT OF THE NAVY	35. DATE 08-30-78
36. EMPLOYEE COPY	36A. SUBMITTING OFFICE NUMBER 2347

Standard Form 83—Rev. July 1968
U.S. Civil Service Commission
Form No. 295

REQUEST FOR PERSONNEL ACTION

PART I. REQUESTING OFFICE: Unless otherwise instructed, fill in all items in this part except those inside the heavy line. If applicable, obtain resignation and separation data on reverse side.

1. NAME (CAPS) LAST-FIRST-MIDDLE HEALY, GERARD P.		MR-MISS-MRS. MR.	2. (For agency use) 196-05726	3. BIRTH DATE (Mo., Day, Year) 07-09-28	4. SOCIAL SECURITY NO. XXXXXXXXXX
A. KIND OF ACTION REQUESTED (1) PERSONNEL (Specify appointment, reassignment, resignation, etc.) Suspension from duty from 12 July thru 25 July 1978			B. REQUEST NUMBER DSSD# 185-78	C. DATE OF REQUEST 5 July 1978	
(2) POSITION (Specify establish, review, abolish, etc.)			D. PROPOSED EFFECTIVE DATE 07/12/78	E. POSITION SENSITIVITY	
5. VETERAN PREFERENCE 1—NO 2—10 PT. 3—10 PT. DISAB 4—10 PT. COMP 5—10 PT. OTHER		6. TENURE GROUP 1		7. SERVICE COMP. DATE 3-18-72	
9. FEGLI 1—COVERED (REGULAR ONLY—DECLINED OPTIONAL) 2—INELIGIBLE 3—WAIVED 4—COVERED (REG. & OPT.)		10. RETIREMENT 1—CS 2—FICA 3—PS 4—NONE 5—OTHER		11. (For CSC use)	
12. NATURE OF ACTION 830 CODE <i>Suspension 07-12-78 thru 07-25-78</i>		13. EFFECTIVE DATE (Mo., Day, Year) 07-12-78		14. CIVIL SERVICE OR OTHER LEGAL AUTHORITY	

15. FROM: POSITION TITLE AND NUMBER AL&D Mechanic Helper SI-72		16. PAY PLAN AND OCCUPATION CODE WG-5346	17. (a) GRADE OR LEVEL 05	(b) STEP OR RATE 03	18. SALARY \$6.51 p/h
19. NAME AND LOCATION OF EMPLOYING OFFICE NAVAL AIR ENGINEERING CENTER Development & Site Support Department			Operations Shops Branch Operations Shops Branch		

20. TO: POSITION TITLE AND NUMBER		21. PAY PLAN AND OCCUPATION CODE	22. (a) GRADE OR LEVEL	(b) STEP OR RATE	23. SALARY
24. NAME AND LOCATION OF EMPLOYING OFFICE					

25. DUTY STATION (City-county-State) Lakehurst Ocean New Jersey				26. LOCATION CODE	
27. APPROPRIATION		28. POSITION OCCUPIED 1—COMPETITIVE SERVICE 2—EXCEPTED SERVICE	29. APPORTIONED POSITION FROM: 1—PROVED-1 2—WAIVED-2		STATE

F. REMARKS BY REQUESTING OFFICE (Continue in item F on reverse side, if necessary)

Failure to comply with Prescribed Requirements regarding use of Sick Leave.

See Code 8623 memo of 9 Jun 78 attached

G. REQUESTED BY (Signature and title) (Leave blank if resignation) S. V. CHASSO		I. REQUEST APPROVED BY: SIGNATURE: <i>T. F. Ellis</i>	
H. FOR ADDITIONAL INFORMATION—CALL (Name and telephone number) E. WEINSTEIN X2394		TITLE: DSSS Superintendent	

PART II. TO BE COMPLETED BY PERSONNEL OFFICE (Items inside heavy lines in Part I above also to be completed)

J. POSITION CLASSIFICATION ACTION IDENTICAL ADDITIONAL		NEW	VICE	REGRADED
K. CLEARANCES		Initials or Signature		Date
(1)	(2) CELL OR POS CONTROL			
(3) CLASSIFICATION	(4) PLACEMENT OR ENPL.	<i>MA 7/1/78</i>		
(5)	(6) APPROVED BY:			

(7) REMARKS: (Note: Use item 30 on reverse for Standard Form 50 remarks)

QUALIFICATION STANDARD:

Reason: Failure to comply with prescribed requirements regarding use of sick leave

CENTRAL JERSEY HEMATOLOGY ONCOLOGY ASSOCIATES, P. A.

THE RELATED
 AMERICAN BOARD INTERNAL MEDICINE
 AMERICAN BOARD HEMATOLOGY
 AMERICAN BOARD MEDICAL ONCOLOGY
 EUGENE F. CHESLOCK, M. D.
 P. PAULO C. FERREIRA, M. D.
 MARK S. KROLL, M. D.
 RICHARD A. KRULL, M. D.
 ARTHUR A. TOPLOW, M. D.

2100 CORLIES AVENUE
 NEPTUNE CITY, N. J. 07793
 776 SHREWSBURY AVENUE
 TINTON FALLS, N. J. 07724
 206 GREENGROVE ROAD
 BRICKTOWN, N. J. 08725

July 18, 1978

RE: Gerard Patrick Healy

To whom it may concern:

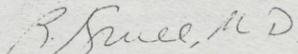
Mr. Healy was seen by me on June 7, 1978, for evaluation and blood studies. At that time, his hematocrit was 51.7; hemoglobin 17.3; white count 9500; platelet count was normal. This was very similar to a blood test done on April 28, 1978, by Doctor Marasca in Lakewood, N.J., and another test prior to that, March 7, 1978.

On April 17, 1978, at Paul Kimball Hospital, a total blood volume was done which showed the patient to have 9.9 liters with a normal expected value of 6.8. His red cell mass was increased to 4.5 with a normal expected value of 3.1. His plasma volume was also increased to 5.4 with a normal of 3.7.

Physical examination did not reveal hepatosplenomegaly. During the past year, he has been seen in Lakewood by his private physicians and at the Lakehurst Naval Center. His main complaints have been dizziness and anxiety. In view of his previous history of hypertension, the clinical diagnosis of Gaisbocks syndrome seems warranted. However, these blood volume red cell mass studies indicate that there is a strong possibility that he has early polycythemia vera.

The level of the blood is not high enough to medically treat, however, in view of this diagnosis, anxiety-producing situations can cause a worsening of his blood studies, and if possible, should be avoided. If accommodations in his work status can be made, we would be most appreciative.

Sincerely,


 Richard A. Krull, M.D.

RAK:1a

Employment Standards Administration of Workers' Compensation Programs Injured Employee (last, first, middle) HEALY GERARD PATRICK		FEDERAL EMPLOYEES' UNION AND CLAIM FOR (TRAUMATIC INJURY AND CLAIM FOR PAY/COMPENSATION) Date of Birth (mo., day, year) 7-9-28		SEX OF TRAUMATIC INJURY AND CLAIM FOR PAY/COMPENSATION <input checked="" type="checkbox"/> Male <input type="checkbox"/> Female Social Security Number XXXXXXXXXXXX	
5. Employee's Home Mailing Address (No., street, city, state, zip code) RD 2 BOX 383 JACKSON N.J. 08527			6. Home Telephone Area Code: XXX Number: XXXXXXXX		
7. Name and Address of Employing Agency U.S. NAVY N.A.E.C. TEST GROUP 2400 1ST ST.			8. Place Where Injury Occurred (e.g., 2nd floor, Main Post Office Bldg., 12th & Pine) ENTRANCE TO A.G. BUILDING FOLLOWING END OF TRACK #1 (P.S.T.S. SITES)		
9. Date and hour of injury (no., day, year) 7/8/77 11:00 AM		10. Date of this Notice (no., day, year) 7/11/77		11. Dependents Wife: <input type="checkbox"/> Children Under 18 Years Old: <input checked="" type="checkbox"/>	
13. Cause of Injury (Describe how and why the injury occurred) IMMOLATION OF CORRUPT HEAP AND THE SUBSTANCE IN CHEMICALLY TREATED CABLE (STEEL) THAT I WAS CUTTING W/CLC. CORDING SAW. - FLOOR FAN CAUSED SMOKE TO TRAP OVER MY HEAD			14. Nature of Injury (Identify the part of the body injured, e.g., fractured left leg, etc.) - WAS EXHAUSTED AND FEELING ILL WHEN I AWAKENED DURING THE NIGHT ABOUT 3 PM 7/8 - CHILLS & SWEATING		
15. If this Notice And Claim Was Not Piled With The Employing Agency Within 2 Working Days After The Injury, Explain The Reason For The Delay.					
16. I certify that the injury described above was sustained in performance of duty as an employee of the United States Government and that it was not caused by my willful misconduct, intent to injure myself or another person, nor by my intoxication. I hereby claim medical treatment, if needed, and the following, as checked below, while disabled for work: <input checked="" type="checkbox"/> a. Sick and/or annual leave - 8 HRS 7-8-77 <input type="checkbox"/> b. Continuation of regular pay not to exceed 45 days and compensation for wage loss if disability for work continues beyond 45 days (if my claim is denied, I understand that the continuation of my regular pay shall be changed to sick or annual leave, or be deemed an overpayment within the meaning of 5 USC 5524).					
Signature of Employee or Person Acting on His/Her Behalf <i>Gerard Healy</i>					
17. Statement of Witness (Describe what you saw, heard or know about this injury) X WHILE CUTTING CABLE FUMES OR SMOKE WAS PRESENT.					
18. Witness' Signature <i>Frank Rys</i>		19. Witness' Address 134 JAMES ST. TOMS RIVER, N.J. 08753		20. Date Signed (no., day, year) 7-12-77	

ENCL (1)

JAN 26 1979

13 July 1978

From: Senior Medical Officer, Branch Clinic, NRMCPHILA Naval Air Engineering Center, Lakehurst, New Jersey 08733

To: Labor-Management/Employee Relations Officer

Subj: Fitness for Duty Medical Examination; Mr. Gerald HEALY

Ref: (a) Your ITR 123:752 19 April 1978

(b) Fitness for Duty Examination 3 May 1978

1. Reference (a) requested that fitness for duty examination be done on SMM for evaluation of Hypertension and Anxiety reaction. It further requested that assessment should be made as to whether the type of work and environment is detrimental to SMM's health.
2. Reference (b) concluded that due to Hypertension and Anxiety reaction that a change in job placement was indicated.
3. Since that time, on 9 May 1978, correspondence from SMM's physician certified that Mr. HEALY is suffering from the medical condition of Polycythemia Vera (secondary).
4. Further correspondence of 27 June 1978, revealed that another doctor concurred with the diagnosis of Polycythemia and further stated Mr. HEALY suffers from Anxiety Neurosis.
5. In telephone conversation with Dr. BROWNSTEIN, N.S.Y. Phila, Penna (occupational health), he felt that the patient should avoid fumes, gases and smoke. It was recommended that SMM be removed from the present type industrial environment.
6. It is our recommendation that Mr. HEALY be removed from his present industrial environment and that he be found not fit for employment in industrial environments that contain fumes, gases, smoke and other environmental pollutants.

F. X. FARRELL
CAPT, MC, USNR

123
for action

31 JUL 1978

96:TFE:bq
12752

25 JUL 1979

MEMORANDUM

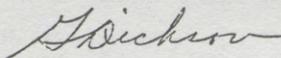
From: Development & Site Support Officer
 To: Civilian Personnel Officer *Fuller* 7-26

Subj: Fitness for Duty Medical Examination; Mr. Gerard Healy

Ref: (a) Code 123 memo 12752 of 25 Jul 78

Enc1: (1) S. F. 52 - #DSSD 212-78

1. Enclosure (1) of reference (a) indicates that Mr. Gerard Healy is suffering from "Polycythemia Vera (secondary)." Due to his condition Mr. Healy is prohibited from working in an industrial environment which contains fumes, gas, smoke, or other environmental pollutants.
2. Reference (a) requests that Mr. Healy be assigned work in an office environment within DSSD. Unfortunately, this is not in keeping with the medical restrictions imposed by enclosure (1) of reference (a), since the office spaces of DSSD are an integral part of an industrial building, and are subject to the same environmental pollutants. Therefore, it is my intent that on Wednesday, 26 Jul 1978, when Mr. Healy returns from his ten-day Suspension, he will be sent home on sick leave.
3. Based upon your certification in reference (a) that there is no other position available at NAEC for which Mr. Healy qualifies, enclosure (1) is forwarded to separate Mr. Healy due to his disability.



G. K. DICKSON
 CDR, USN



DEPARTMENT OF THE NAVY
 NAVAL AIR ENGINEERING CENTER
 LAKEHURST, N. J. 08733

IN REPLY REFER TO
 123:KRR:11f
 12752
 25 July 1978

From: Labor-Management/Employee Relations Officer, Naval
 Air Engineering Center
 To: CDR G. Dickson, Development and Site Support
 Department Head, Naval Air Engineering Center

Subj: Fitness for Duty Medical Examination; Mr. Gerard Healy
 Encl: (1) Senior Medical Officer's ltr of 18 July 1978

1. Enclosure (1) contains the Senior Medical Officer's recent redetermination on the fitness for duty of Mr. Gerard Healy. Subject employee has been found not fit for duty in his present position. Due to the nature of his illnesses, and his limited qualifications, we have determined that there is no other position available for which he qualifies at the Center that would not involve exposure to an industrial environment.

2. Mr. Healy does not have five years of Civilian service, and, therefore, does not qualify for disability retirement. It does not appear that Mr. Healy's illnesses are job related, and it is doubtful that he is entitled to Workmens' Compensation.

3. Under the circumstances, it is recommended that you take immediate action to propose Mr. Healy's separation for disability. Since separation for disability is an adverse action, it will require a thirty day notice period during which time the employee is required to be in a duty status unless he requests otherwise. In the event that Mr. Healy has insufficient annual or sick leave, and refuses leave without pay, it is suggested that in order to protect the government's interests he be detailed to office work within the department for the duration of the notice period. It is recognized that while this will not be effective utilization of personnel, it will get him out of the industrial environment and keep him in a duty status until a decision is reached in his proposed separation.

4. Upon receipt of your decisions, we will expedite preparation of the appropriate documentation to resolve Mr. Healy's work status.

Kenneth R. Robinson
 KENNETH R. ROBINSON

F
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 F
 (R)

6761NWC 9
5 JAN 1979

BEFORE THE FEDERAL EMPLOYEE APPEALS AUTHORITY

In the Matter of the :
Adverse Action Removal of :
MR. GERARD HEALY :

1-23-79
Gerard
Review our notes
to cover the
submitted by
with the
ment that
addressed in
what was the
into the
2-12-79
R1

SUBMISSION OF ADDITIONAL EVIDENCE AND
CLOSING ARGUMENT PRESENTED TO
FEAA EXAMINER MS. SQUIRES

The National Federation of Federal Employees, on behalf of the Appellant Mr. Gerard Healy, submits additional information, obtained from his Official Personnel Folder, for consideration in rendering a decision in this appeal. This information reflects training he received as a Federal employee, recognition of his photographic skills by a Department of Navy commanding officer, a report of separation from a military service which indicates his occupation prior to entering the military, his employment background prior to entering the Federal service as a Department of Navy employee at Lakehurst, satisfactory performance ratings for the years 1974 through 1977, and his educational background. In addition, a form 52 "Request for Personnel Action," obtained from the OPF, is submitted to further demonstrate the predisposition of the agency to remove Mr. Healy and the circumvention of procedural requirements in effecting his removal.

Mr. Gerard Healy is a Federal employee who never should have been removed from the civil service. The record in this appeal demonstrates Mr. Healy was not only a satisfactory but also a conscientious Federal employee who had a "clean" employment record until he began to ask questions. Mr. Healy asked questions about the government's benefit from his assignment and whether more productive work was available. Mr. Healy asked questions about the affect of certain work methods and assignments upon his health and safety and that of his fellow employees. These innocent questions opened a pandora's box for Mr. Healy. For, not coincidentally, Mr. Healy shortly after pursuing these questions became the target for removal.

-2-

The appellant sought to produce a witness, Mr. Marvin Brown (a Department of Navy employee at Lakehurst) whose testimony would demonstrate the manner in which Mr. Healy was targeted for removal. If Mr. Brown had been made available to testify he would have described how he was present at a retirement party in January 1978, when Mr. Baines, a management representative in Mr. Healy's supervisory chain, said to the effect:

I am going to get rid of that SOB Gerry Healy. We'll put letters in his jacket and then fire him.

The failure of the agency to produce this witness, especially in light of the testimony of Mr. Tart, can only lead one to the conclusion that in fact Baines correctly described the scenario for the removal of Mr. Healy. Further, the record indicates an enthusiasm of Mr. Healy's supervisors to "write him up" and effect disciplinary action. This scenario as described by Baines, by itself, indicates the decision to remove Mr. Healy was made long before the agency went through the technical niceties of issuing a notice of proposed removal.

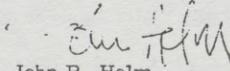
The agency has not made a bonafide effort to obtain a position for Mr. Healy in which he would perform without aggravating his health. The Form 52 obtained from the OPF not only demonstrates Mr. Ellis, the proposing official, approved Mr. Healy's removal but also the form did not clear the personnel office until after the effective date of the removal. Further, the testimony of Messrs. Iwasko and Mr. Ellis is recalled insofar as they rejected medical doctors' suggestions that Mr. Healy be reassigned as "personnel and not medical matters." In addition, the testimony of Ms Dowd is recalled with regard to Mr. Healy's background and whether he was a high school graduate, yet his OPF clearly shows an extensive work history and that Mr. Healy is a high school graduate.

For these reasons and those presented at the hearing it is requested Mr. Healy be retroactively reinstated to his position at Lakehurst because this removal action grossly violates the procedural and substantive

-3-

requirements of law and regulation.

Respectfully submitted,



John P. Helm
Staff Attorney
National Federation of Federal Employees
1016 16th Street, NW
Washington, DC 20036
(202) 862-4431

dated: December 22, 1978

22 September 1978

TO: SAC, NEW JERSEY
 Attn: Mr. [redacted]
 Room 333
 Newark, New Jersey 07107

FROM: [redacted]
 Federal Building, 76 Federal Plaza
 New York, New York 10007

SUBJECT: REMOVAL FOR DISABILITY - [redacted]

I hereby wish to appeal my removal for disability effective September 6, 1978 as AL & AD Mechanical Helper at SAC Lakeland.

Labor-Management/Employee Relations Officer Mr. A. R. Robinson in his memorandum dated 25 July 1978 to Mr. G. Dickson, Development and Site Support Department Head gave a judgment that I had limited qualifications and therefore "we have determined that there is no other position available for which he qualifies at the Center that would not involve exposure to an industrial environment."

This judgment was made in my absence and without my knowledge of what was taking place, as I was at home on a ten-day suspension for failure to adequately provide certification of illness when absent.

It is stated "Since separation for disability is an adverse action, it will require a thirty-day notice period during which time the employee is required to be in a duty status unless he requests otherwise." I reported for work on Monday 26 July 1978 and was told by my Foreman, Mr. Dickson, that there was no work for me at all and that I must make out a leave slip for either annual - sick or LWOP. I chose annual for that day, not yet fully aware of the unusual circumstances that I was in.

As I stated earlier, I reported for work and I did not request otherwise. My Union knew nothing of what was happening until later in the day when they were consulted by Management after I went to Mr. Robinson's office and sought answers as to what was going on. I requested something in writing. On 1 August 1978 I received a certified letter at home - the proposed removal for disability.

The thirty day notice period actually was a 36 day notice period. I received the decision letter on 6 September 1978. It was mailed from Wakehurst on 31 August 1978.

It is interesting that Mr. Robinson in his memo of 25 July 1978 to Mr. Icksea said "in spite of the need to take immediate action (paragraph 3) and "we will expedite" etc. (paragraph 4). In short, they made a conscious and concerted effort to deprive me of the disability retirement which I would have received had I been continued for five more weeks to the day of the effective date of renewal for disability.

It should be noted here that I have been the subject of a vicious, all-out campaign to fire me for requesting a more productive daily schedule over a year ago, and since January of 1978, a change in working environment due to an occupational disease I contracted in the "punishment post" I was to remain in until my final renewal as it now stands.

All levels of WASC Management including Mr. T. J. Ellis, Capt. Development and Site Support Dept. WASC, ignored the recommendations of three outside medical doctors and two navy medical officers (Mr. Peck and Mr. McGrath) that a change in working environment was indicated. I knew that I was unable to continue much longer under the continuous harassment and toxic environment in the Cable Shop but management's attitude was, "This is not Russia, Mr. Leahy. If you don't like working here, you are free to quit." (Direct quote from Mr. J. J. Iwaske, Capt., Operations Division), or, "If you don't like it here, why don't you quit?" (Direct quote from Mr. E. Garcia, WASC General Foreman.)

On 6 September 1978 and again on 7 September 1978 I went to Mrs. Lawa, the staffing specialist, and described my skills in other areas where I believed that I could contribute to the organization, but it became clear to me that she was not motivated to assist me, and I then went to speak directly to Lieutenant Izak, Supply Officer, and to Mr. Heever, General Foreman of the Transportation Division seeking a job as a base taxi driver for which I had heard a vacancy may exist as a driver had just quit his job. I was a fully qualified Navy licensed driver until I was transferred up to WASC. Mr. Heever stated that he would look into my situation.

My appeal is based on:

-3-

1) I should have been employed during the 90 day notice period. I was sent home prior to that and against my will.

2) No effort was made to discuss my possible "other job qualifications" with me -- Mr. Robinson and Mrs. Dowd decided negatively and in my absence. No effort at all was made to reassign me.

I do have illnesses but I would like to have an opportunity to be productive in a new area.

Gerard Healy

The decision letter indicated that I must state in this appeal whether I wish to have a hearing or not. I choose not to, but if my presence is needed, I shall be happy to meet at Lakehurst or New York with any parties.

Yellow copy

NATIONAL FEDERATION OF FEDERAL EMPLOYEES



JAMES M. PEIRCE • PRESIDENT
SADIE E. SEELEY • SECRETARY TREASURER

In reply refer to: 284-RE-34

July 27, 1979

SERVING THE FEDERAL EMPLOYEE SINCE 1917

Director
Office of Appeals Review
Merit Systems Protection Board
Washington, DC 20419

Re: In the matter of the adverse action appeal of Mr. Gerard Healy, Naval Air Engineering Center, Lakehurst, New Jersey NY752B90108, decided 24 April 1979.

Dear Sir or Madam:

It is requested on behalf of the above named Appellant, Mr. Gerard Healy, that the Board reopen and reconsider the previous decision of the appeals officer because it:

1. involves an erroneous interpretation of law or regulation, and a misapplication of established policy;
2. is of a precedential nature involving new or unreviewed policy considerations that may have effect beyond the case at hand; and
3. involves policy implications extending beyond the case at hand of such significance as to merit the personal attention of the Board members.

The record developed in the adverse action appeal of Mr. Healy demonstrates numerous errors occurred in the Agency action effecting his removal and in the Appeals Officer decision affirming the removal. The primary focus of this request for review is upon the fact the Appellant's removal was motivated, not by the good of the service, but by personal animus, and the fact the medical reasons given for his removal are unreasonable and unsupportable by facts.

Vice Presidents: Region 1, Paul C. McNaught, Woburn, Mass. • Region 2, Robert M. Teates, Takoma Park, Md. • Region 3, Lewis W. Fussell, Panama City, Fla. • Region 4, Ray K. Sinclair, Houston, Tex. • Region 5, Joseph V. Chiarella, Phoenix, Ariz. • Region 6, Marlene Steffen, Vista, Cal. • Region 7, Leroy Kailman, Billings, Mont. • Region 8, Walter J. Burke, Jr., St. Louis, Mo. • Region 9, Ahe Orlofsky, Chicago, Ill.

1016 16th St., N.W. WASHINGTON, D.C. 20036 PH: 202-862-4400

-4-

The appellant was advised by letter dated July 28, 1978, signed by Thomas F. Ellis, Superintendent, Development and Site Support Department, of a proposal to remove him from the position of AL and AD Mechanic's Helper, for the following reasons:

Subj: Proposed Removal for Disability; Gerard Healy

Ref: (a) FPM 752B
 (b) CMMI 752B
 (c) Negotiated Agreement Local 284 NFFE, Article 16
 (d) Code 123 Memo to CDR Dickson of 25 July 1978

Encl: (1) Senior Medical Officers Memo of 18 July 1978

1. In accordance with references (a), (b), and (c), this notice is to inform you that I propose to remove you from your position of Aircraft Launching and Arresting Devices Mechanic Helper, no earlier than thirty(3) calendar days, beginning the day after the date that you receive this notice.

2. This proposed action is based on the medical evidence submitted by your physicians to the Activity's Medical Clinic, indicating illnesses as described in enclosure(1); and, the Senior Medical Officer's determination that you are not fit for employment in industrial environments that contain fumes, gases, smoke, and other environmental pollutants (enclosure (1)). Specifically the reasons for this proposed action are as follows:

a. Your present position of AL & AD Mechanic Helper requires you to work in areas where grease, oils, solvents, and acid are continuously present. The Launching and Arresting gear devices, when operating, produce smoke, fumes, and possibly other unidentified air pollutants. Specifically, one of the work areas, known as the cable shop, requires persons in your position to preserve, and clean, cables with oil solutions and solvents, and also to physically cut these cables. The cutting of these cables generates considerable smoke and fumes,

b. In accordance with reference (d), a review of your OFF and your qualifications, limits your reassignment to work areas which have been excluded by enclosure(1), therefore, it has been determined that there is no other position available for which you qualify that would not involve exposure to an industrial environment,

The Senior Medical Officer noted in a memorandum dated 18 July 1978 (referred to as enclosure are in the proposal letter) with regard to a fitness for duty examination of Gerard Healy that:

1. Reference (a) requested that fitness for duty examination

be done on SNM for evaluation of Hypertension and Anxiety reaction. It further requested that assessment should be made as to whether the type of work and environment is detrimental to SNM's health.

2. Reference (b) concluded that due to Hypertension and Anxiety reaction that a change in job placement was indicated.
3. Since that time, on 9 May 1978, correspondence from SNM's physician certified that Mr. Healy is suffering from the medical condition of Polycythemia Vera (secondary),
4. Further correspondence of 27 June 1978, revealed that another doctor concurred with the diagnosis of Polycythemia and further stated Mr. Healy suffers from Anxiety Neurosis.
5. In telephone conversation with Dr. Brownstein, N.S.Y. Phila, Penna (occupational health), he felt that the patient should avoid fumes, gases and smoke. It was recommended that SNM be removed from the present type industrial environment.
6. It is our recommendation that Mr. Healy be removed from his present industrial environment and that he be found not fit for employment in industrial environments that contain fumes, gases, smoke and other environmental pollutants.

The correspondence dated May 9, 1976 from Mr. Healy's physician, referred to in item 3 of the Senior Medical Officer's memorandum, stated:

To Whom It May Concern:

This is to certify that Mr. Gerard really has Secondary Polycythemia.

It is my opinion that any prolonged exposure to any form of air pollution will definitely aggravate this condition.

The fitness for duty examination which is referred to as "reference B" in the Senior Medical Officer's Memorandum above, and contained in the record as tab 14 does not note any medical findings about Mr. Healy's health but does note "suggest change of job placement, away from present supervision- as a trial!" The document referred to in item 4 of the Senior Medical Officer Memorandum regarding correspondence dated 27 June 1978 from another doctor concurring with the diagnosis of Polycythemia was not produced by the Agency is not contained in the record. Moreover, there is no record of the conversation which the Senior Medical Officer had with Dr. Brownstein (item 5 above) demonstrating the facts and medical basis upon which the removal was justified,

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The advance notice was received by the appellant on August 1, 1978. It required the appellant to respond within ten (10) calendar days from the date of his receipt of the notice. The record reflects that the appellant responded both orally and in writing on August 11, 1978, to the Superintendent, Development and Site Support Department and requested that the removal be changed or transferred to workman's compensation and further that the removal be deferred until that action was accomplished. By letter of August 14, 1978, the Agency denied the appellant's request for extension. On August 30, 1978, the agency issued a decision letter removing the employee effective September 8, 1978. The letter of decision was signed by C.A. Phillips, Executive Officer, Naval Air Engineering Center.

Federal Personnel Manual Supplement 752-1, 53-1 directs that:

In every case the agency's action should be based on the conclusion that the adverse action is warranted and reasonable and that the agency can establish, or "prove" the facts which support its reason for action;

The appellant contends the Appeals Officer's decision is erroneous because a review of the record demonstrates the agency's action removing Mr. Healy is not warranted and reasonable. The record demonstrates Mr. Healy was removed because of a medical finding that he "is not fit for employment in industrial environments that contain fumes, gases, smoke and other environmental pollutants." Yet, Mr. Healy was never examined by an agency doctor. Neither the Chief Medical Officer nor Dr. Brownstein who recommended the employee be removed from "the present type industrial environment" met or examined the employee Healy. The fact Healy was examined by an individual who signed the form where the physician's name is required does not mean the individual was a medical doctor. (See tab 14 of agency record) In fact, the Agency Medical Officer's signature no where indicates he is a medical doctor. Rather the signature apparently indicates by the designation CWO's that he was a Chief Warrant Officer which is an unlikely if not improbable designation of rank for a medical doctor. Thus, the examination did not comply with the direction contained in FPM Chapter 339, 1-3 c which directs a fitness for duty examination be conducted by the Agency Medical Officer or a other agency-designated physician. Moreover, an adverse action which is based upon a question regarding an employee's fitness for duty cannot be fair and reasonable where a medical doctor never examined the individual.

The Appeals Officer erred in not taking official notice of the definition of the medical terms Polycythemia Vera and the lack of definition for the medical term Polycythemia Vera (secondary) which was the finding of Captain Farrell. A review of primary medical sources reveals Gaisbocks Syndrome and Polycythemia Vera are two different illnesses with two different causes. In fact, there is no known cause of Polycythemia Vera.

-5-

This is shown in the attached medical definition of polycythemia and the comparison of the various known types. It could not, therefore, be known or proven that his physical condition was aggravated by industrial pollutants.

We feel that the failure of the Agency to produce the requested appellant witness Mr. Brown, is a serious violation of 5 CFR 772.307. Therefore, his expected testimony should be given much credence instead of "no further consideration." This testimony would have strengthened appellant's case.

In addition, I am submitting new material as enclosures which was recently brought forth by the appellant. This material, regarding a previous grievance that died, was previously subdued at the request of the NAEC, CPD. The material speaks for itself.

We reiterate that the record substantiates that the appellant was removed for reasons other than disability. The record does not show the Agency supported its action with medical documentation. We believe our arguments presented here support our request to you to review and overturn the decision. If this request is granted, we feel Mr. Healey should be reinstated. Your continued cooperation is appreciated. We look forward to your prompt response. In replying, please state 284-RE-34.

Sincerely,

/s/ JAMES M. PEIRCE

James M. Peirce
President

Enclosure

RE:ws

STATEMENT OF SERVICE

I do hereby solemnly state that the attached request for review has been served on the following parties by mail, as stated:

Department of the Navy Certified Mail
Naval Air Engineering Center
Lakehurst, NJ 08733

Gerard Healy Regular Mail
Member, Local 284
R.D. 2, Box 333
Jackson, NJ 08527

Albert E. Tart Regular Mail
President, Local 284
RR #1, Box 600
Waretown, NJ 08758

Robert Teates Regular Mail
National Vice President, Region 2
7223 Garland Avenue
Takoma Park, MD 20012

Signed this 27th
day of July 1979.

James M. Peirce
President
National Federation of Federal Employees
1016 16th Street, N.W.
Washington, DC 20036
(202) 862-4444

FACSIMILE COPY OF LETTER - FOR LEGIBILITY
(Original in possession
of Gerard Healy)

Box 333, R. D. 2
Jackson 08527, New Jersey
January 28, 1975

To: Mr. Nick Grand
P. A. N. A. S.

From: Gerard Healy

Dear Sir:

Please excuse my delay in writing this letter stating my goals and motives regarding picture taking on the base.

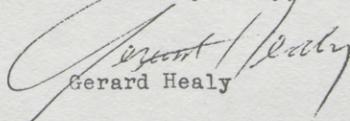
To begin with, I am a next door neighbor ($\frac{1}{2}$ mile to Hangar One) and have a great sense of pride living next to such an historic and important installation. It has long been my wish to record the Base in still photographs on an occasional basis and eventually to compile a portfolio which would depict the people, facilities and events which is Navy Lakehurst. These pictures would be made available to the Navy at no cost as they are taken, and may be used by the Navy for any purpose.

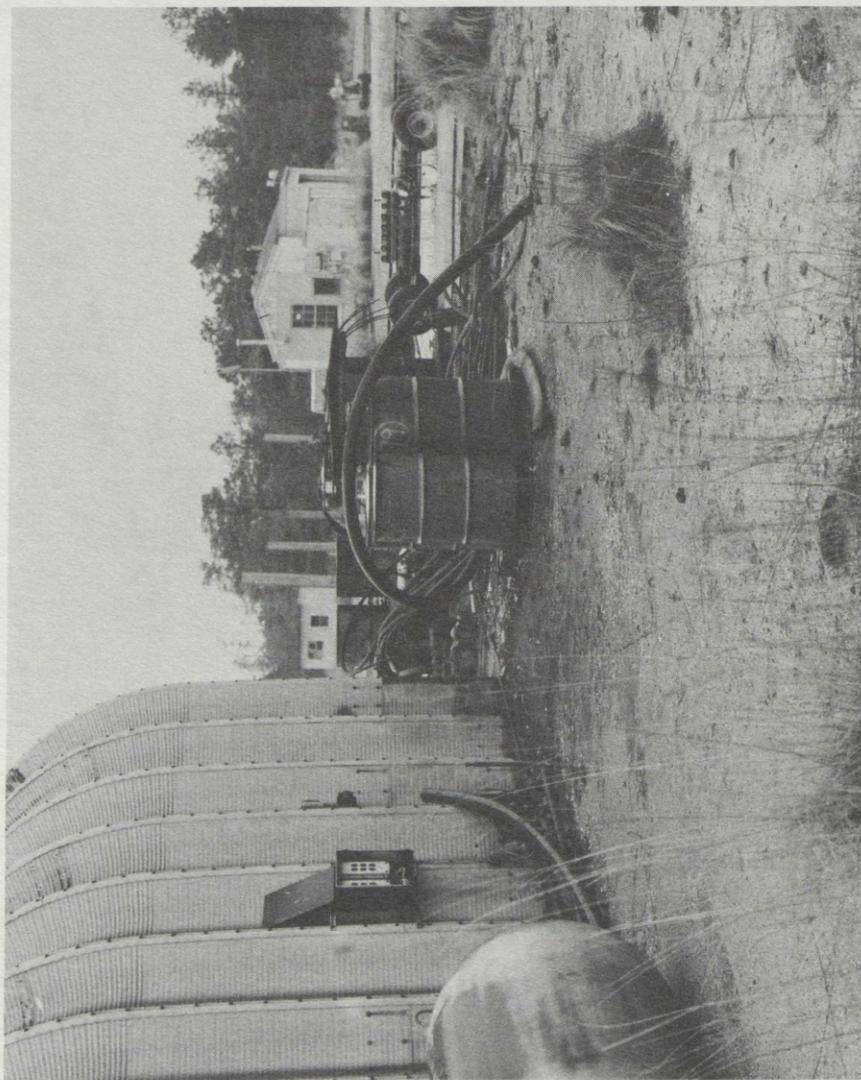
My efforts would be directed to a creative approach with a positive outlook designed to show us at our best. For example, my photographs of commercial jets, New York bridges and other aspects of American life have been displayed in our embassies overseas as part of the United States State Department's Art in the Embassies Program. In addition, my portfolio includes Pan American and Trans World Airlines promotion -- samples on request.

I believe that I can be of service to Navy Lakehurst even though I am employed as machanic-helper at R. S. T. S. N. A. T. F. I have absolutely no desire to work there as a photographer, and I am very happy in my present job. The picture work can easily be accomplished before and after working hours and on annual leave and holidays.

Thank you for your interest and courtesy.

Yours very truly,


Gerard Healy



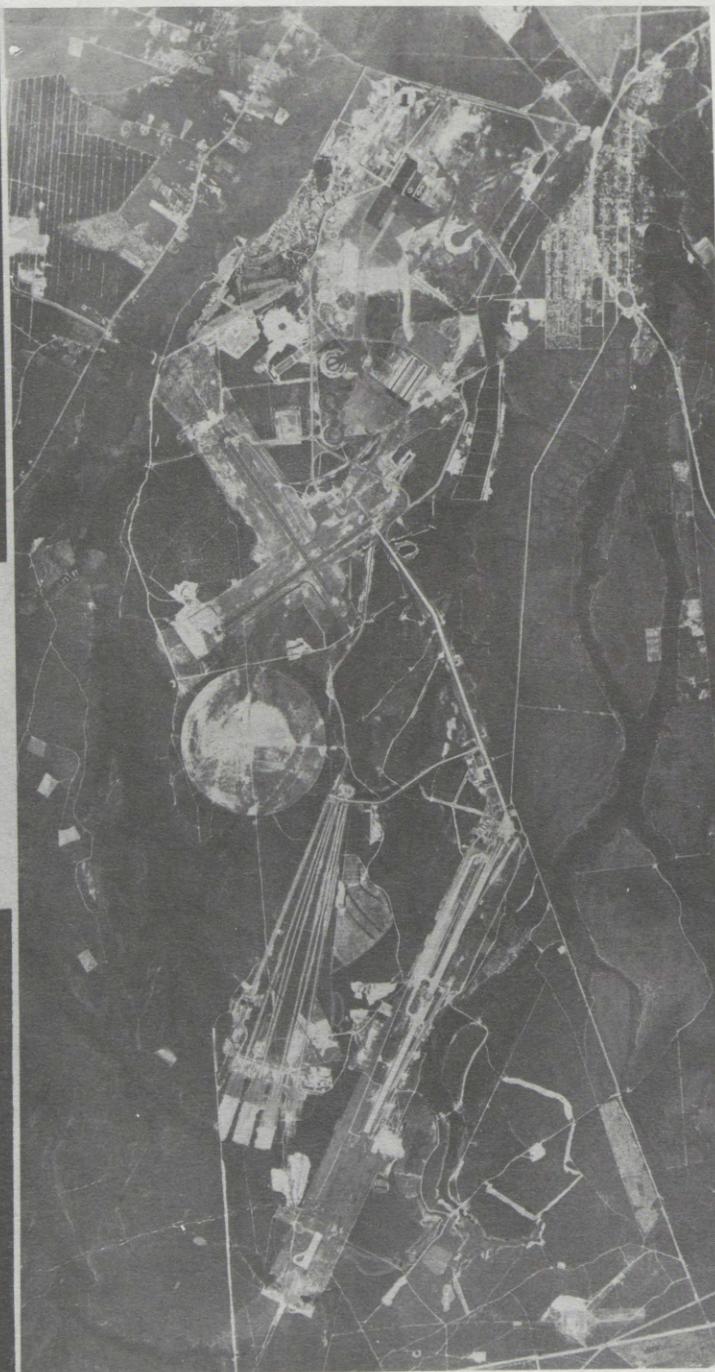


NAVAL AIR STATION LAKEHURST, NEW JERSEY

PHOTO: LCDR VICKERS
28 MAY 1946
10,000' ALTITUDE
CAMERA: PHi BEOHINS
17" FOCAL LENGTH



MADE: JOHNSVILLE, PA.



Mr. FLORIO. Thank you very much for your cooperation and we appreciate your testimony.

Mr. HEALY. Thank you.

Mr. FLORIO. Our next witness is Mr. Steven Picco, assistant commissioner for government affairs in the New Jersey Department of Environmental Protection.

Mr. Picco, we welcome you to the committee. You may feel free to proceed.

STATEMENT OF STEVEN J. PICCO, ASSISTANT COMMISSIONER FOR GOVERNMENT AFFAIRS, NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION, ACCOMPANIED BY KEITH ONSELORFF, CHIEF, OFFICE OF ENFORCEMENT

Mr. Picco. Thank you Mr. Chairman and Congressman Hughes. With me this morning is Keith Onselorff, chief of our office of enforcement of the department. Any questions that exceed my present knowledge of the case I am going to refer to Keith for his answers.

I am pleased that the Subcommittee on Transportation and Commerce is continuing to pursue the public health and safety problems posed by the improper disposal of toxic chemical waste. As the commission has testified before this subcommittee and the Senate subcommittee, the New Jersey Department of Environmental Protections considers the improper disposal of waste chemicals constitutes a great environmental threat.

Moreover, since this problem of abandoned dump sites across the entire length of our country far exceeds the resources of the individual States, a national cleanup fund is essential to provide adequate protection to the public. For your information New Jersey's experience has clearly shown the cost of these cleanups will be enormous. This past week it was verified that the New Jersey Spill Compensation Fund was fully depleted by the expenditure of over \$20 million with an excess of \$15 million being spent at the chemical control sites alone.

This morning's hearing comes at a potential irreversible crossroad in determining society's response to thousands of ticking time bombs buried across America. Reports which recently surfaced in the media concerning chemical waste dumping at the Lakehurst, N.J., Naval Air Center constitute another facet of the hazardous waste problem potentially rivaling the irresponsible conduct of so-called midnight dumpers.

The Federal Government must set an example for industry if it expects to maintain credibility in the eyes of the sometimes cynical and wary public in the field of environmental protection and management in handling the disposal of toxic chemical waste. Thus revelation that the contaminated aviation fuel and spent solvents were dumped at the Lakehurst center pose a serious potential for undermining essential public confidence in the agencies of the U.S. Government. This unacceptable dumping incident becomes even more intolerable however when viewed in the context of the Navy's belated and apparently grudging notice to the New Jersey Department of Environmental Protection of these improper disposal practices.

Under the New Jersey Compensation and Control Act any entity, private or governmental, has an obligation to resolve the problem it has knowledge of discharging of hazardous chemicals into the environment. Although lawyers may argue whether such a legal obligation involves the Federal Government, I understand it is allegedly the Federal policy to comply with State laws of this nature whenever possible.

Mr. FLORIO. Mr. Picco, to clarify one point, what does the State regard as its responsibility as concerning Lakehurst? That is, the statutory authority for the facility. Does that bring with it the State authority for the implementation of state laws, for example, the State manifest system which has been in operation, has the State regarded the Federal facility to dispose of hazardous materials?

Mr. PICCO. We have not finally answered the question. We are getting different responses from different agencies. We are having our attorney general research that specific question right now. I don't have an answer in the near future.

Mr. FLORIO. The answer that comes is that they have not been to this point.

Mr. PICCO. That is true. That is in large part our problem. Apparently both the Navy and EPA have been aware of the dumping practices at Lakehurst for at least several months, yet failed to comply with the substance and spirit of the State law until this matter was brought to the attention of the general public via the media. In cases where chemical incidents take place in a restricted area due to national security reasons the Federal Government may wish to resolve the hazard without direct State personnel present.

Even in such cases however when EPA personnel may be precluded from entering into the site, no valid justification can exist for not notifying the Department as to the problem and the fact that the contamination could migrate beyond the limits of the site into the public drinking water supplies. I suspect that numerous Federal military installations in New Jersey may have been involved in dumping hazardous chemicals on site. It is indisputable that the Congress must take vigorous action to mandate that a comprehensive site evaluation be carried out at all such military installations by the command personnel with an immediate report provided to the appropriate State facility detailing the findings relevant to contamination of the ground water situated below these facilities.

Without such a strong program as a minimum first step the Department will be severely handicapped if not entirely precluded from carrying out its statutory responsibilities to protect the health and safety of the citizens living in the area of Federal installations.

That concludes my statement. I would like to put in an aside that it has been our experience both in New Jersey and in talking with environmental people in the States that the Federal installations are somehow treated as islands in the Federal-State ocean. I think that policy is a shortsighted one and ignores the potential for ground water migration. There is no such thing as an island as far as ground water is concerned. In order for the State of New Jersey and other State environmental agencies to discharge their statutory requirements to protect all the citizens of the State we should

be at least given an accurate picture of what is happening on these Federal installations and also an accurate picture of whether or not there is a migration possibility.

I will be glad to answer any questions you might have.

Mr. FLORIO. I commend you, Mr. Picco, for some apparent modifications of the statements that was previously submitted to this committee which indicated there were no problems. Your statement before the committee today probably reflects reality more than your previously submitted statement.

Mr. PICCO. In fairness to the Federal Government, once we have a working relationship we have a very good working relationship. The problem is establishing the working relationship in the first place. I thought that was the paramount question in this hearing. That is why that statement was expanded a little bit.

Mr. FLORIO. Just before yielding to the gentleman from the Second Congressional District let me ask if you can elaborate on what you know about the consultants' report that deals with this question of the dumping of 20,000 gallons of aviation fuel?

Mr. PICCO. We know that it exists. I don't believe that the report itself has been made available to the technical staff of the Department. Mr. Onseloff, who would be the person to whom that report should be sent, has not received a report.

Mr. FLORIO. Has a request been made for the report?

Mr. PICCO. Our technical staff has made that request.

Mr. FLORIO. Mr. Hughes.

Mr. HUGHES. Thank you, Mr. Chairman.

I just want to welcome you to the committee. Don't feel that you are alone when you prepare two statements. We get that all the time. Many of the agencies who testify before us only decide in the morning which statement they are going to give us when they testify.

First of all let me tell you I could not agree with you more relative to the suggestion that there can be no enclave when it comes to ground water or other problems such as we have at Lakehurst. Is it possible that some of the contamination that exists in the Ocean County area is related to perhaps dumping at Lakehurst?

Mr. PICCO. I could not answer that question truthfully. I have no idea. Some engineers have suggested to us that there is a clay formation that roughly parallels the border of the Lakehurst facility which would retard, if not prevent, a significant migration. I have not seen the geological maps on that particular point. But certainly, as I said before, no facility is an island as far as ground water is concerned.

Mr. HUGHES. Do we have any base line studies that would indicate to us the nature of the ground water in the area let us say back in the early 1970's so that we can compare that with the ground water today?

Mr. PICCO. I don't believe so.

Mr. HUGHES. Have we done any testing in this immediate area now?

Mr. PICCO. Certainly the immediate area is Jackson Township among others.

Mr. HUGHES. That is what I am referring to.

Mr. PICCO. Our testing indicates that the aviation fuel described at Lakehurst is not a factor in the Jackson Township situation.

Mr. HUGHES. Did you find any aviation fuel at all in the ground water in Jackson Township?

Mr. PICCO. We didn't find the aviation fuel, itself. We did find substances that would be byproducts of aviation fuel but also byproducts of other—

Mr. HUGHES. Byproducts of other distillate fuel perhaps?

Mr. PICCO. Yes.

Mr. HUGHES. So, it would be difficult to really identify the source.

Mr. PICCO. Of that particular chemical; yes.

Mr. FLORIO. How about TCE? You heard testimony this morning there has been dumping of TCE. Has that been a factor in the Jackson Township general pollution problem?

Mr. PICCO. That has been one of the chemicals found. But the Jackson Township test results presented an array of chemicals in various quantities. The aviation fuel and TCE don't represent the major part of the Jackson Township problem.

Mr. HUGHES. I wonder if you can tell us if any of the firms in the area either manufacture or distribute TCE?

Mr. PICCO. Not to my knowledge. TCE is a rather commonly used chemical.

Mr. HUGHES. That was my next question. Is it not a chemical that is used frequently?

Mr. PICCO. We are turning up TCE in ground water tests, at least in trace amount, almost everywhere in the State.

Mr. HUGHES. That is even in areas where there are no aviation facilities?

Mr. PICCO. In areas where there is no industry.

Mr. HUGHES. In some residential areas I understand quantities of TCE are becoming evident.

Mr. PICCO. Yes, sir. For your information several wells in Pennsylvania have already been closed as a result of some substantial TCE contamination, in areas where there is little or no industry but high residential use.

Mr. HUGHES. How far along the line are we to securing baseline studies in New Jersey?

Mr. PICCO. A science unit working on a grant from the Spill Conservation and Control Fund has started a baseline study for the State. Our first shot was to take samples all over the State just to get an idea of what the problems might be. Then we are starting to go into those areas and indicate there might be some problems. I don't have the specific areas. I don't even know if they put them down in any geographic fashion other than this one well was a particular problem. This fund is bankrupt until the accelerator, which has recently been kicked in, builds up. So that program will probably be cut back until we can get some more money into it.

Mr. HUGHES. I think those are all the questions I have except I would hope that your office will keep us informed of the progress you are making in dealing with the Federal Government.

Mr. PICCO. I will be happy to.

Mr. HUGHES. These islands you refer to, or enclaves, I think it is very important for Federal agencies of all types to comply with State law.

Mr. PICCO. I could not agree with you more.

Mr. HUGHES. If anything, they should be setting an example and not be looking for easy ways to dispose of toxic wastes. I am sure the Chairman shares my belief that it is important to have a working relationship with the State agency that has the ultimate responsibility to protect the public

Thank you. Thank you, Mr. Chairman.

Mr. FLORIO. Mr. Picco, I would like to raise one point that certainly is related to this whole question. I have been reading in the newspapers that the State spill fund is exhausted. That is part of the motivation for working as hard as we all are for the superfund program. Notwithstanding the fact that the spill fund is supposed to be exhausted I do not understand why the spill fund should be exhausted inasmuch as the spill fund is dependent upon revenues and assessments of an industry in order to insure that there is a smooth cash flow. Is there any legal impediment to that fund drawing upon general revenues prior to the assessment process which can keep cash flow going so that we should never be in the State of New Jersey without appropriate resources to deal with an emergency?

Representations are being made right now in the event of emergency there is no way that it can be dealt with.

Mr. PICCO. There is an administrative ruling from our Treasury Department which would preclude going into general revenues. They rely on a fairly tightly worded section of the statute and I think that the statute as written probably precludes going after general revenues. The fund itself is the insurer. It is really an indemnity fund. They believe there is some constitutional impediment in going into that general fund.

Mr. FLORIO. Thank you, Mr. Picco.

We have members from the EPA who are here. Perhaps we could hear their testimony prior to hearing the final witness. Mr. Warren is here from region II. Ms. Miller, the Assistant Administrator for Enforcement, Mr. MacMillan, Director of the Hazardous Waste Enforcement Task Force and Mr. Plehn, Deputy Assistant Administrator for Solid Waste.

Mr. HUGHES. Mr. Chairman, could I have unanimous consent to submit a formal statement?

Mr. FLORIO. Without objection, your opening statement will be entered into the record.

Mr. FLORIO. Gentlemen, we will accept your statements for the record. I will ask you to determine who will proceed.

STATEMENT OF CHARLES WARREN, ADMINISTRATOR, REGION II, ENVIRONMENTAL PROTECTION AGENCY, ACCOMPANIED BY ANNE MILLER, OFFICE OF FEDERAL ACTIVITIES, REGION II; DOUG MacMILLAN, DIRECTOR, HAZARDOUS WASTE ENFORCEMENT TASK FORCE, OFFICE OF ENFORCEMENT, EPA; AND STEFFAN W. PLEHN, DEPUTY ASSISTANT ADMINISTRATOR, SOLID WASTE, OFFICE OF WATER AND WASTE MANAGEMENT

Mr. WARREN. Thank you, Mr. Chairman, for inviting me to discuss from the regional point of view the Environmental Protection Agency's (EPA) role in the management of hazardous waste generated by Federal agencies. I am accompanied by Anne Miller who heads the Office of Federal Activities in region II and has been at the Lakehurst site. If there are any specific detailed questions, she has walked the site recently.

Because of time constraints, this statement has not been cleared by the Office of Management and Budget, and it represents my personal views. My testimony today focuses on region II's Federal facility hazardous waste site inspection program and the current status at the Lakehurst Naval Air Station in New Jersey.

Since its inception, EPA has worked with other Federal agencies to insure that environmental standards are met. This role for EPA was once advisory, and compliance by other agencies voluntary. But recent changes in Federal legislation and the issuance of Executive Order 12088, dated October 13, 1979, have increased Federal responsibilities. Specifically, Executive Order 12088 states that:

* * * all Federal facilities must comply with the same Federal, State, and local environmental standards, procedural requirements, and schedules for clean-up that apply to individual citizens and corporations.

EPA works to insure this compliance through inspections and review of pollution abatement plans submitted by Federal agencies.

Mr. FLORIO. Does that not resolve the problem that the representative from the State suggests existed as to some ambiguity in the State's authority to enforce the manifest system, that it presupposes that if the State is qualified and the State system is certified as being appropriate, that the State then has the same authority that EPA has under the system?

I understand what the Executive order means. You are saying now that there should be no question about the fact that EPA or the State that is carrying out the manifest system should have total control to require all Federal facilities to comply with the new regulations that are going into operation. Is that a correct assessment of what this Executive order represents?

Mr. WARREN. My reading of the Executive order is that it does seek to put those requirements into effect in Federal facilities. Steve Plehn heads that program, could give that a little more definition.

Mr. PLEHN. What you said is substantially correct although one part of it I think is a little bit different. The way it is worded a State can be authorized to operate the program once it has been demonstrated that the program is substantially equivalent to the Federal program. One of the issues there is does the State under its own statutory and regulatory authority have coverage over Federal facilities? So that it would be a question to be answered in the

authorization process whether the State statutes include coverage of Federal facilities.

Absent that we would probably conclude that they do not have a program that is substantially equivalent to the Federal program and we would continue to operate the program until they had established that authority.

Mr. FLORIO. The only difficulty I have with that is that from time to time there have been representations that the State does not have the ability to exercise authority, whether it be in zoning cases or other types of matters. What you are saying is that it is clear that it is Federal policy that the State has the ability to assert authority over Federal preserves if they see fit to do so.

Mr. WARREN. That is right. That is what RCRA explicitly states and that is what the Executive order goes to.

Ms. MILLER. Let me attempt to clarify that section 6001 of RCRA says:

Each Federal agency shall be subject to and comply with Federal, State, interstate, and local requirements, both substantive and procedural, respecting control and abatement of solid waste and hazardous waste disposal in the same manner as private citizens.

That is analogous to similar provisions in the Federal environmental statutes. So, if a State law does in fact cover Federal facilities, they would be subject to those requirements. The question you have to ask is whether the particular State statute purports to cover Federal facilities and that may well turn on how the State statute defines "person." If it is written each person shall do thus and so and they define "person" to include Federal governmental entities, then they are covered and presumably they are required by section 1001 in the Executive order to comply with that.

If the State statute is more narrowly drawn so that it does not mention the Federal Government, then as a matter of law it might not reach that far.

Mr. WARREN. We have enough lawyers, I guess we can get through this.

In November 1979, to complement our existing program for compliance with the Clean Air and Water Acts, EPA region II initiated a Federal facility potential hazardous waste site inspection program. This program has been primarily a data-gathering operation and has been coordinated with other Federal and State agencies on a facility-by-facility basis.

EPA has identified 55 Federal facilities in region II that might have potentially hazardous waste sites; 29 in New York State, 20 in New Jersey, and 6 in Puerto Rico. Of these, 42 are present or former Department of Defense facilities, 4 are under the jurisdiction of the Department of Energy, and the rest are under the jurisdiction of other Federal agencies.

We are aware that the Department of Defense has a comprehensive program to identify hazardous waste sites at all of its facilities. We anticipate a close working relationship in this program.

Mr. FLORIO. Is Lakehurst one of them?

Mr. WARREN. Yes; Lakehurst is one of them.

As of October 1, 1980, we had performed preliminary site inspections at 26 of these Federal facilities with 92 identified active or inactive land disposal sites.

Followup site visits have been performed at Griffiss Air Force Base in Rome, N.Y., and the former Lake Ontario Ordnance Works (LOOW) in Model City, N.Y. These additional visits were needed because of suspected radioactive material disposal sites at these facilities. While true for the LOOW site, disposal of radioactive material was not verified at Griffiss. More extensive investigations may also occur at Picatinny Arsenal in Dover, N.J., and Seneca Arsenal in Rowalus, N.Y., because we know that munitions, propellants, and other chemicals are used at these facilities.

Preliminary site inspections involve both "walking the territory" and, perhaps more importantly, discussions with facility or former facility personnel to discover what they remember of past waste disposal methods and locations. This information, supplemented by data submitted to us from official sources, enables us to make a preliminary determination as to whether there is a hazardous waste site at the facility and, if so, to make an initial decision as to the hazard potential.

We submit this information to our regional hazardous waste teams for their review, accompanied by recommendations prepared by our Federal facility office.

When a site merits further attention, a team is sent for more in-depth investigation from the region or from our contractors, Fred C. Hart & Associates. Based on this investigation, which may or may not involve a field sampling effort, we will request that the Federal facility develop a monitoring program to assess the possible damage.

If there has been contamination of the environment, we expect the facility to institute remedial measures for cleanup. Our approach to insure that monitoring and, if necessary, a clean-up program are implemented is to enter into an administrative order with the facility, which includes a schedule. If the facility were to refuse to enter into an administrative order or to make a good faith effort to comply with that order, we would refer the matter to our headquarters. They would work to resolve the matter with the facility's parent agency. Should this fail, the case would be referred to the Office of Management and Budget for resolution in accordance with the Executive Order 12086 mentioned earlier. In certain cases we might also pursue legal remedies under the appropriate Federal environmental statutes.

I am sure that representatives from the Federal facilities will testify with regard to their efforts to secure the necessary funding for facility compliance. I would only like to say that EPA is very concerned that funds be made available for this work and that such funding be sufficient to prevent a reduction of Federal facility efforts to achieve compliance with the Clean Water and Clean Air Acts. A major premise of Executive Order 12088 is that agencies will make funds available for environmental cleanup.

With regard to the Naval Air Station in Lakehurst, N.J., region II received a complaint in February from a former base employee that trichloroethylene (TCE) had been dumped at a specific location on the base and that this had been an on-going practice for a number of years. The complainant also identified four other sites at the facility where dumping allegedly took place. After several conversations with the complainant and a request to the facility for

information on past procedures for the disposal of hazardous wastes, the region inspected Lakehurst on April 8, 1980. The complainant submitted a site map supporting his statement.

Based on the information received, a number of sites at the facility were examined. The facility's former landfill had been closed in 1978. Inspections by EPA in 1976 and 1977 had determined that acceptable landfill practices were being followed and it was determined during this visit that remedial measures were not necessary.

We did, however, recommend a limited monitoring effort. An inner, fenced area of the closed landfill site is used for the storage of bagged asbestos that is periodically hauled by a contractor to the State-approved Ocean County landfill. Activities at this area appeared to be satisfactory.

An additional potentially hazardous waste site was identified at the facility by the Navy, an area where it appeared that aviation fuel had been dumped in the 1960's—a posted sign dated April 13, 1966 stated "Danger, do not uncover, materials containing tetraethyl lead". The Navy has conducted initial monitoring in January 1980, which indicated that the soil and groundwater were contaminated and to determine what remedial action is necessary.

It is our understanding that the Navy has entered into a contract for further monitoring to include soil samplings and one ground-water monitoring well. This effort will be coordinated with the New Jersey Department of Environmental Protection. It is also our understanding that the Navy will pursue funding for a more extensive effort to include five monitoring wells.

We also examined the other areas mentioned by the complainant where dumping was alleged to have occurred. At the time, house-keeping efforts appeared to be generally satisfactory and there was no apparent evidence of dumping.

In October, another exemployee alleged improper disposal of hazardous materials. We planned another site visit in response and requested the help of our contractor. We also asked the two former employees to accompany us, since they could directly point out the areas of concern. This inspection was made on November 14. Following a meeting with site personnel the various sites were identified and examined. Our contractor used a portable organic vapor analyzer to test for the presence of volatile hydrocarbons in the soil.

This instrument is a field instrument that can be used to identify sites that warrant further investigation. At two of the sites, readings indicated higher than background levels of volatile hydrocarbons. The first site was beyond the parking lot west of hangar 2. It appears that this material, including trichloroethylene (TCE), may have been dumped last spring by workers in hangar 2.

At the second site a gas chromatographic analysis indicated the probable presence of TCE. This is the area where the first complainant indicated that TCE had been disposed of on a routine basis. The contamination in the area seemed to be confined to the ground immediately outside the hut. Water from a well located 300 feet east of this site was tested for TCE with negative results.

It should be pointed out that the samples were taken by drilling shallow holes and more extensive contamination could exist at

lower levels. More refined monitoring will determine what remedial action if any is needed.

We have told the Navy that a monitoring program should be initiated at all sites where improper dumping appears to have occurred or may have occurred. This will be necessary despite actions the Navy has already taken, such as a program to identify all barrels on base and their contents. We are prepared to work with the Navy to develop a monitoring program as soon as possible. We hope that the Navy continues its present effort to identify and track chemicals in use and to construct containment areas where chemicals are used.

Future generation, transportation, storage, treatment, and disposal activities at Federal facilities will be subject to the hazardous waste regulations developed under the Resource Conservation and Recovery Act (RCRA). These regulations became effective November 19. A list of Federal facilities in New Jersey and New York that have notified EPA under RCRA of such activities is included as an appendix to my statement.

As in the non-Federal sector, the Lakehurst situation may be repeated at many facilities. It is crucial that a high priority be placed on identifying potentially hazardous waste sites in Federal facilities and assessing their potential. This is especially critical in areas like Lakehurst where there are vulnerable ground water supplies used for drinking water.

Responsibility for this program must be borne by the facilities, because EPA has neither the staff nor the funds to act as a contractor. We do, however, work with Federal agencies to insure that their programs are properly designed under the laws and Executive Order 12088 to achieve compliance with the environmental statutes.

Thank you. I would be pleased to answer any questions you may have.

[Attachment to Mr. Warren's prepared statement follows:]

APPENDIX

Generators (GEN)
 Transporters (TRANS)
 Treatment, Storage or Disposal
 Facilities (TSDF)

New Jersey

ID # NJD000 764928 Bethlehem Steel Corp. Bayonne Yard Bayonne, New Jersey	TSDF
NJ469 0308933 Coast Guard Training Center Cape May, New Jersey	GEN
NJ 2571824018 Dept. of the Air Force McGuire AFB - Cookstown Road Wrightstown, New Jersey	GEN TRANS TSDF
NJ 5690510024 FAA Technical Center Atlantic City, New Jersey	GEN
NJ 4660019987 Mason & Hanger Silas Mason Co., Inc. GSA Raritan Depot Edison, New Jersey	GEN TRANS TSDF
NJ D000566653 McGuire AFB Vandenburg Av. New Hanover Township, N. J.	
NJ 7170023744 Naval Air Engineering Center Lakehurst, New Jersey	GEN
NJ 0170022172 U.S. Naval Weapons Station Earle Colts Neck, New Jersey	GEN TSDF
NJ 1960011152 Princeton Plaza Physics Laboratory Forrestal Campus Princeton, New Jersey	GEN
NJ 9170022694 U.S. Naval Air Propulsion Center Trenton, New Jersey	GEN TRANS TSDF

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NJ D000566703 U.S. Army Res. & Dev. Command Dover, New Jersey	GEN TSDF
NJ 3210020704 U.S. Army Armament Res. & Dev. Command Dover, New Jersey	GEN TSDF
NJ 2210020978 U.S. Army Comm. Electr. Matl. Read Command Charleswood Area Fort Monmouth, New Jersey	GEN TSDF
NJ 7210020304 U.S. Army Comm. Elect. Matl. Read Command Main Post Fort Monmouth, New Jersey	TSDF
NJ 4213720275 U.S. Army Training Center & Fort Dix Fort Dix, New Jersey	GEN TRANS TSDF

New York

NY 2572824249 Air National Guard Facility Suffolk County Airport Westhampton Beach, N.Y.	GEN TRANS TSDF UIC
NY4572024624 Bell Test Center Air Force Plant Porter, N.Y.	GEN TSDF UIC
NY 7890008975 Brookhaven Nat'l Lab U.S. Dept. of Energy	GEN TRANS TSDF
NY 0214020281 Department of the Army Fort Drum, N.Y.	GEN TSDF
NY D002228849 Daniel Greene Co. Doigville, N.Y.	GEN

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NY 2690300635
 General Services Administration GEN
 U.S. Coast Guard Supply Center

NY D080445505
 U.S. Public Health Service GEN
 Hospital
 Staten Island, N.Y.

NY 821002915
 U.S. Military Academy GEN
 West Point, N.Y.

NY 0690308424
 U.S. Coast Guard Base TSDF
 Buffalo, N.Y.

NY 7213820940
 U.S. Army GEN
 Watervliet Arsenal TSDF

NY 3360007279
 Veterans Administration GEN
 Medical Center
 Bronx, N. Y.

NY 8360032082
 Veterans Administration GEN
 Extended Care Center
 St. Albans, N.Y.

NY 4360010249
 Veterans Administration GEN
 Medical Center
 Brooklyn, N.Y.

Mr. FLORIO. Mr. Hughes.

Mr. HUGHES. Thank you, Mr. Chairman and thank you, Mr. Warren.

I gather that the bottom line is that the tests that were conducted were somewhat inconclusive even though it showed that there was presence of volatile hydrocarbons and further testing indicated probably the presence of TCE, there is no evidence that that was found in drinking water some 300 feet east of there?

Mr. WARREN. That is correct. Thus far that is all we have found.

Mr. HUGHES. Basically it is inconclusive as to whether, if dumping did occur, that dumping actually contaminated the ground water?

Mr. WARREN. I think at this point we would have to say that we don't know what happened with regard to the ground water. The well, as we indicated we tested thus far, has not shown anything. That is why we have asked for more extensive monitoring to see just what the extent of the contamination might be. We know some TCE is there.

Mr. HUGHES. Presumably the tests that the Navy is going to conduct, including soil sampling, will produce results that will give us a better indication of whether or not any dumping has damaged the ground water?

Mr. WARREN. Yes, that is the purpose of their carrying out these tests. I think we will have a clearer picture once that is done as to the extent of any problem.

Mr. HUGHES. Your one analysis indicates the presence of TCE is not too significant, is it, because actually TCE is found in many places in New Jersey as I understand.

Mr. WARREN. There are background levels. I think we are concerned in the two areas that seem above background, that the presence might be accounted for by some possible dumping but again we have to check further.

Mr. HUGHES. Does the testing you performed show the amount or volume of the TCE in the ground water or does it just indicate traces?

Mr. WARREN. I think we did have some numbers on that. I would like to ask Anne if she could respond to that.

Ms. MILLER. The portable organic analyzer did not monitor the ground water. It only gave us an idea of soil concentration.

Mr. HUGHES. Does that test vapor?

Ms. MILLER. Yes. They go down and make a small hole 3 to 4 feet deep and put the probe in and if there are any chemicals in the soil they will vaporize in the air. The site that was behind hangar 2 beyond the parking lot, you could tell probably that something happened. There was an oily residue. There was one site where the machine, and again it is a field instrument, it is not a laboratory instrument, indicated 200 to 300 parts per million of TCE. There were a couple other areas where it was maybe 50 parts per million.

But again it was a very limited area.

Mr. HUGHES. What is the background?

Ms. MILLER. The background I believe is two to three parts per million.

At the site at tract 1 where Mr. Healy used to work there again was a very limited area right outside the hut where the machine registered greater than a thousand parts per million. The thousand parts per million is the limit that the machine can measure. There were several sites around there again where there were some limited concentrations. The team did take four samples around the hut and six samples north of the catchment area, which is an area maybe a hundred feet away, and found less than four parts per million which I believe again is the limit of detection of the machine.

The first site appeared to have been perhaps a one-time dump. We could not tell but it looked like it might have been. It seems to be the one that Mr. Lyte referred to as having occurred last spring. At the hut it did look as if this was from ongoing past dumping of

TCE from normal operations. It is this site specifically that we are interested in having the Navy go in and find out what the soil concentrations really are and whether or not it has gone into the ground water.

Mr. HUGHES. How big an area seems to be contaminated, where you see some evidence?

Ms. MILLER. The major area seems to be maybe a 10- to 50-foot radius. There was some detected 30 feet away but it was a very small area.

Mr. HUGHES. Were you able to determine what quantity of TCE was used on a weekly or monthly basis at the facility?

Ms. MILLER. I do not know but I believe the Navy has an inventory of the amount of chemicals that they used at that site. I don't know.

Mr. HUGHES. You didn't have any discussion with them as to the volume?

Ms. MILLER. In talking to Mr. Healy, he said they would dump small buckets out, 10 to 20 gallons at a time. It was a bit here, a bit there over a long period of time.

Mr. HUGHES. Thank you. Thank you, Mr. Chairman.

Mr. FLORIO. The committee will stand in recess for about 10 minutes while we vote.

[Brief recess.]

Mr. FLORIO. The subcommittee will reconvene.

While we are waiting for Mr. Hughes to return, and he is momentarily delayed, I will just ask a general question of you, Mr. Warren. With regard to your anticipated cooperation with the Department of Defense in particular and all Federal facilities, and I am hopeful you are right and I am sure you are right in cooperating from this point forward, DOD has stated in its statement that they use six criteria to determine how a candidate for an initial assessment study received a ranking in its priority list of sites that have to be at least identified, much less addressed.

How did this criteria correspond to the criteria used by EPA to determine a potentially hazardous waste site and did you in fact coordinate these efforts, that is DOD and EPA coordinate the efforts to have the two systems be identical or close to identical?

Mr. WARREN. I have not seen the testimony but I think just from our perspective at least to my knowledge I don't think that we have to this point coordinated and said that these are our criteria and Defense has said these are their criteria and we have tried to put those together.

Mr. FLORIO. Isn't it important because if in fact you have identified some potential problem areas and now you are going to defer to DOD to go forward with the completion of the assessment process and then take remedial action, they might very well be taking remedial action in accordance with their standard which might not be your standard and when they complete their whole process it might not be satisfactorily what it is you think should be done if the standards are not appropriate.

Mr. MACMILLAN. In terms of the EPA criteria—I have not reviewed the DOD testimony—in terms of the criteria that EPA has established to determine which sites should be subject to onsite inspection, first, EPA has used commonsense criteria related to the

toxicity of the pollutants thought to be at the site, the volume of pollutants thought to be at the site, the potential danger to the environment, if in fact the pollutants migrate and the population potentially at risk if in fact there is such migration. I think your point is well taken that we do need further discussions with the Department of Defense about the comparability of their criteria and ours.

I would assume that at least they are generally comparable.

Mr. FLORIO. The difficulty I have with the commonsense approach is that we presume everyone uses a commonsense approach. As a result of that presumption I have a difficult time reconciling the fact that of the 79 sites that the Navy has identified as being potentially hazardous, EPA has only determined that 5 of those sites are problem areas. So there is a difference in approach. I am not sure how one accounts for that unless the standards that are being used are different, which I suspect is the answer.

Mr. MACMILLAN. One explanation for that may be that EPA has not yet reviewed the same universe or same group of sites that the Navy and the Department of Defense have indicated. It may be that the criteria are the same but based on resources EPA has not yet had review of all of those sites. Conceivable if they did conduct such a review the numbers would emerge roughly equivalent.

Mr. FLORIO. What are you going to do about those areas where, in accordance with the previous statement, the State has not asserted jurisdiction over Federal reserves or Federal facilities and you are going to defer to the Department of Defense or the Federal facility that happens to be in the situation, that we do not know what it is that is being done. I think the testimony we will hear in a while is that there has not been any Department of Defense money that has been specifically allocated for remedial action.

Mr. MACMILLAN. I think over the past few years some \$2 billion in Defense Department funds have been expended for remedial action as a result of discussions as between OMB, the Department of Defense and EPA.

Mr. FLORIO. Is that remedial action or assessment action?

Mr. MACMILLAN. I think that those are actions to actually bring the facility into compliance. I think those are engineering costs but I would defer to the Department of Defense witness on that question.

Ms. MILLER. The \$2 billion is the amount of funds that has been authorized over the past 2 or 3 years for environmental cleanup generally by the Federal Government in its facilities of hazardous waste problems, most of which are air and water pollution projects. The Department of Defense has spent a considerable amount of money in clearing up the waste sites.

Mr. MACMILLAN. It is not EPA's intention to stand aside from the site assessment process being conducted by any Federal agency. We are moving forward with a plan that would ask various Federal agencies to provide us with information that they currently have concerning hazardous waste sites and then review that information to determine if the Environmental Protection Agency wanted to verify, expand on or collect additional information from the appropriate Federal agency concerning those sites.

So that I don't think that we would be in as passive a role relative to those assessments as one might believe.

Mr. FLORIO. Let me ask a few questions, specifically about the Lakehurst site.

My understanding is that the onsite testing which has taken place has been at locations where allegedly TCE was dumped. Was there testing at the site where the aviation fuel was supposed to have been dumped?

Ms. MILLER. In terms of the monitoring that the Navy did, it was at the aviation fuel site. This was done last January. The only monitoring that has been done at the other site is with this portable field instrument, last week.

Mr. FLORIO. Will you give us some details as to the monitoring result at the site where the aviation fuel was disposed?

Ms. MILLER. I believe there were five locations that they sampled, and perhaps people from the facility can give you the actual results. There was some contamination from lead, from the tetraethyl lead, as I recall; the deepest sample was taken at 7 feet, which is where the ground water began, and the lead concentration ranged around two parts per million.

Mr. WARREN. We are asking for further monitoring also, Mr. Chairman. We understand that is being undertaken, or a contract for that is being undertaken.

Mr. FLORIO. Contract by DOD?

Mr. WARREN. Yes. The Navy has entered into a contract.

Mr. FLORIO. Who is the contractor that you retained for the monitoring?

Ms. MILLER. When we went out with the vapor analyzer?

Mr. FLORIO. Yes.

Ms. MILLER. It was Fred C. Hart Associates.

Mr. WARREN. We only do this on-the-spot monitoring.

Mr. FLORIO. Ross-Nagel & Associates were not your contractors; they were contractors retained by the Navy?

Ms. MILLER. That is correct.

Mr. FLORIO. Have you had an opportunity to review the results of their monitoring efforts?

Ms. MILLER. We have a copy of the Ross-Nagel report. We are working with them, and we anticipate that they will give us the results of their future monitoring as well.

Mr. WARREN. On the basis of our first results that we looked at, we asked them to go back and do some more monitoring, and they are doing that. We would like to know just how extensive any contamination might be from the lead.

Mr. FLORIO. Mr. Hughes?

Mr. HUGHES. I have no questions, Mr. Chairman.

Mr. FLORIO. I have copies of the Ross-Nagel report and some questions that might be more appropriate to present to the representatives from DOD.

In conclusion, I will convey to you the feeling of this committee, that this is potentially a great void that could be created in the implementation of the RCRA regulations. We hope that void will be filled, and we urge that EPA do as much as it can to insure that the intergovernmental cooperation takes place, not only between

the Federal level agencies but also between the Federal and the State levels.

New Jersey—and I say this with some degree of pride—is very progressive and is working very hard to implement the regulations in an effective way; yet today we heard that there is some ambiguity and there is some lack of confidence as to what the state of the law is concerning the ability of the State to deal with Federal facilities.

New Jersey is fairly progressive, and we can be concerned around the Nation that other States which may not be as attuned and sensitive to the problem are not going to be in a position to deal with Federal reserves and Federal facilities as effectively and as quickly as may be required.

Mr. PLEHN. Mr. Chairman, we have been talking today, as we generally do in these hazardous waste hearings, about these two related but separable problems. One is the problem of identifying the sins of the past and mobilizing to analyze those and take remedial action.

The other is to implement the Resource Conservation Recovery Act in terms of a management program for the future. With respect to that, we have received notification nationally from—my latest number is—863 Federal facilities that have notified us that they either produce or transport or store treated disposable hazardous waste, and those facilities will be subject to the manifesting requirement, subject to the interim status requirement and all the other requirements of the RCRA program as it presently stands.

That effort is going forward. The question you asked me, where the State authority question becomes important, is where the State can demonstrate it has coverage over the facilities in order to secure interim authority. To my knowledge, many of the States that have applied for interim authorization have that authority, so they will be able to qualify for interim authorization and then act in lieu of the Federal Government in the oversight of the implementation of the RCRA program.

Mr. FLORIO. How long do you believe it will take for the State of New Jersey to be certified to implement the new regulations which are coming out? It is my understanding that unofficially the review of the State manifest system has resulted in unofficial feelings that the State system does comply with the regulations.

When can we anticipate certification of the State of New Jersey's system so that you will be able to authorize it to fully implement the regulations under RCRA?

Mr. WARREN. Mr. Chairman, let me answer that in a couple of ways:

First, I anticipate signing today or tomorrow at the latest a cooperative agreement with the State of New Jersey for them to undertake a lot of the activities under the Federal law immediately. We anticipate interim authorization.

We are trying to make that as early as possible. We have a few details to work out, but we think that that interim authorization ought to come through in the first quarter of next year. So, they will start immediately doing things like inspections and a lot of the other things as if they had interim authorization under this procedure we call a cooperative agreement.

Then early next year they will get official interim authorization, we estimate.

Mr. MACMILLAN. I would like to add one point, that there is a possible confusion here, based on the assumption that if, in fact, individual State laws do not give the jurisdiction over a Federal facility that Federal facility somehow falls through the cracks in terms of the RCRA permit compliance process. That is not true, since—if a State does not have that authority, as has been suggested, it would probably not be granted the program operating authority. That authority would then remain with EPA and EPA would, in fact, have jurisdiction over Federal facilities and their compliance.

Mr. FLORIO. I can appreciate that.

I think we both know that the manpower limitations that you have precluded any effective implementation under EPA directly of these regulations; is that an unfair statement?

Mr. MACMILLAN. I agree, from a resource point of view, it would be far better if, in fact, as many States as possible could assume the operation of those programs.

I would like to make one other point: The RCRA regulations, as you know, will handle hazardous waste-handling treatment and disposal from this point forward and will regulate in the future.

We still face the problem of how we deal with the problems of the past. For that reason, we are particularly pleased by the recently passed RCRA amendments, particularly section 6003, which provides the EPA Administrator with the authority to work with other Federal agencies and to request from them in a uniform and, hopefully, rational format information about their past waste disposal practices, so that we can, in fact, deal with both aspects of the problem as they relate to Federal facilities.

Mr. FLORIO. An interesting question, of course, is raised by the other provision of the recently passed amendments to provide criminal penalties for inappropriate disposal. In the event of Federal facilities having inappropriate disposal practices, from this point forward you may find yourselves in the ironic situation of having the Justice Department prosecuting Federal facilities.

It seems to me fairly clear from the testimony we have had today that there is some question which has been raised as to the appropriateness of policies in the past, or nonpolicies, at least practices, in the past, at this particular facility.

So, everyone should be well advised that from this point forward there are regulations, but there are also criminal penalties associated with inappropriate disposal practices.

Mr. MACMILLAN. I think it would be candid to say that EPA believes, and the Department of Justice believes, that in terms of compliance by Federal facilities, the best tool available to effectuate that compliance is going to be Executive Order 12088 and the dispute resolution clause contained therein. That is true because of the fact that it is basically Department of Justice practice and policy not to support any action by one part of the executive against another part of the executive.

That is based both on policy questions and based on constitutional questions. There is some question as to whether you actually have a case or controversy if the issue at hand could be theoretical-

ly at least decided by the President. So that I think that as we move forward in this area, our major tool for effectuating compliance and insuring compliance and working cooperatively will be Executive Order 12088.

Mr. FLORIO. I think that is the case, as long as everyone understands what compliance entails, and to the degree that it can be conveyed to all that compliance entails compliance with the regulations, as opposed to anyone's independent, commonsense evaluation as to how to go about disposing of things.

Unless we get that message directly to all the agencies in the Federal Government, procedures which are already started can be pursued and can be complied with only to find out at a later point that those procedures do not measure up to the expectations that EPA has and is required to have under the law that it is charged with implementing.

Ms. MILLER. I think there is no question that Federal departments and agencies recognize that they are subject to the RCRA and its implementing regulations. The commonsense came up in a discussion of how do we prioritize the old sites, the existing problems which are not covered by RCRA, how do we prioritize looking at those; and that is another question which is not clearly covered by statute/regulation.

Mr. WARREN. I agree with what you have been saying, Mr. Chairman. I think the hazardous waste problem—I know you are aware—is one that has come upon all of us, and I think even at EPA only in the last few years have we known the full magnitude of it.

I think in EPA we can say that we probably haven't always moved as fast as we would have liked to. We think now we are doing as much as we possibly can to deal with the situation. I think the Federal facility compliance effort is part of that general scene. I think now we are seeing a lot more effort to identify and look at possible past problems, where there still may be problems at Federal facilities.

The Department of Defense, as Mr. Marienthal is going to detail, is going through a program of trying to identify a lot of these sites. I think we are going to see better coordination and cooperation in dealing with this Federal facility problem as all of the agencies from EPA extending to others, where it is not their immediate interest or jurisdiction, start to get a little more sensitive and a little more sophisticated in dealing with this problem.

Mr. HUGHES. Mr. Chairman——

Mr. FLORIO. Mr. Hughes?

Mr. HUGHES. I think hearings like this are very important, because if I understand Mr. Warren, he is, I think, pinpointing much of the problem, and that is, lack of awareness and appreciation and concern for these problems until they have grown into sizable ones, such as Jackson Township, where in some areas we can't even use the water.

But the problem is an awareness problem on the part of the individuals. It seems to me the scenario we have heard of today may well be the easy way for employees to get rid of material. I don't know whether or not we have sufficient management policies

in place or not. We are going to hear from the Department of Defense.

It may be that we could have had better policies. Just as EPA can't have somebody behind every bush, the management at Lakehurst cannot have someone behind every bush; it may well be that these spot dumpings might be because it is the easy way for employees to get rid of material which they do not appreciate can harm the water system.

It is an educational problem as well as a problem of trying to put in place regulatory mechanisms that will help.

As I say, I think that this hearing is needed. More hearings like this are needed, so that we can begin to educate people to the need not to cut corners but take good precaution.

I am anxious to hear from the Department of Defense, because I suspect that much of the dumping was done—as one of the witnesses indicated—without the knowledge or consent of the VIP's, as Mr. Lyte indicates. He is talking about people in policy; they did not do it when people in policy were around.

Mr. WARREN. I agree very much, Congressman Hughes. I know that I personally, and I think the agency, feels very strongly, that we have learned a lot and become aware of a lot of the problems, and we appreciate the efforts made, particularly by this committee and Chairman Florio, in making us aware and in helping us to solve some of these problems, with the legislation that he has passed in the House.

Mr. HUGHES. Thank you.

Thank you, Mr. Chairman.

Mr. FLORIO. Thank you very much, gentlemen.

Our last witness is George Marienthal, Deputy Assistant Secretary of Defense for Energy, Environment, and Safety, from the U.S. Department of Defense.

Mr. Marienthal, we welcome you to the committee. Thank you for your appearance.

Will you identify your colleagues?

STATEMENT OF GEORGE MARIENTHAL, DEPUTY ASSISTANT SECRETARY OF DEFENSE (ENERGY, ENVIRONMENT AND SAFETY), DEPARTMENT OF DEFENSE, ACCOMPANIED BY CAPT. BENJAMIN MONTOKA, USN, OFFICE OF THE CHIEF OF NAVAL OPERATIONS; AND ROBERT KLINE, CHIEF, ENGINEERING DEPARTMENT, NAVAL AIR ENGINEERING CENTER, LAKEHURST, N.J.

Mr. MARIENTHAL. Thank you very much, Mr. Chairman. It is a pleasure for me to be here this morning. We have an outstanding environmental program and are pleased to be able to be here with you to present some of the highlights of that program.

With me this morning, on my left, is Capt. Ben Montoya, who is the director of a division within the Chief of Naval Operations Office; and on my right is Mr. Bob Kline, who is head of the engineering department at the Naval Air Engineering Center at Lakehurst, N.J.

We do appreciate the opportunity to discuss the hazardous waste at Lakehurst NAEC and, more importantly, to describe the Depart-

ment of Defense's comprehensive program to control hazardous wastes.

For many years, the Department of Defense has had cooperative programs underway with the Environmental Protection Agency (EPA), and its predecessors, as well as State and local governments, to manage all types of wastes from defense activities. We initiated these programs from our concern for public health and public welfare, in some cases prior to any legislative mandates or public outcry.

Today, I would like to address the Department of Defense's efforts in the hazardous waste management program.

First, I will discuss the scope of the hazardous waste problems in Defense. Second, I will outline briefly our program to manage hazardous waste from present operations. Then, I will describe our installation restoration program which focuses on the assessment and containment of environmental contaminants that may have occurred from past operations. Finally, I will address the situation at NAEC, Lakehurst.

The Department of Defense hazardous waste program consists of two essential elements: (1) Management of waste from present operations in accordance with the Resource Conservation and Recovery Act and recent implementing regulations, and (2) identification and control of past disposal practices at our installations.

To begin, Mr. Chairman, let me provide some perspective for the Defense hazardous waste management program.

The Department of Defense has about 500 major installations, each one equivalent to a medium-sized city. The installations range from large, industrial-type facilities, like Army ammunition plants and naval shipyards, which generate the majority of our hazardous waste, through training bases and residential communities which generate very little hazardous waste.

The NAEC, Lakehurst, fits approximately in the middle of these two extremes. Some defense installations date back to the Revolutionary War period, others to World War I or II. The diversity and age of these facilities make it difficult, if not impossible, to identify exact volumes of hazardous wastes, or specific disposal practices, or to determine the exact potential for present environmental contaminant problems.

In the 1940's and 1950's, we have found that very few records were maintained which give detailed accounts of volumes and constituents of disposed wastes.

With regard to management of our current operations, we have made the cradle-to-grave management of hazardous wastes our highest environmental objective for 1980. It will continue to be at the top of our list of priorities in 1981 and beyond. It has been the subject of two major Defense environmental policy directives which spell out specific component responsibilities concerning generation, transportation, storage, and disposal of hazardous wastes.

A significant policy was the designation of the Defense Logistics Agency as the lead for the disposal of Department of Defense hazardous wastes. Recently, in accordance with EPA regulations, defense activities officially notified EPA regional offices of specific hazardous waste activities.

Mr. FLORIO. When was that?

Mr. MARIENTHAL. The law required us during August to notify the EPA regional offices of their status. As Mr. Plehn from EPA indicated to you, on their master list they showed some 863, I believe, Federal facilities that had notified EPA. That is what I am referring to.

This week, defense activities will apply to EPA regions for permits to operate hazardous waste storage, treatment, and disposal facilities. The Defense Department will monitor activity compliance through our semiannual management review, but the primary responsibility remains at the installation level.

Now, I would like to describe our system to identify and control past hazardous waste disposal practices.

We call this our installation restoration program. Certainly, this bears most keenly on the NAEC, Lakehurst, situation. In the installation restoration program, we are systematically identifying, characterizing, and controlling any environmental contaminant which may have resulted from past disposal practices.

Over the past 5 years, the Army has been the lead service and has developed an installation restoration concept plan which encompasses assessment of installations' past disposal practices, evaluation of the effects of such practices on the environment, including technical development of any remedial actions that might take place, and containment or decontamination operations, as needed.

Obviously, the assessment of past practices and evaluation of environmental effects are the cornerstones of the installation restoration program. They are also very complex and expensive.

To illustrate the implementation of the installation restoration program, I will examine the Army's results to date.

The Army, which has led the other military departments, has reviewed a list of over 1,400 major and minor installations. The majority of those installations are not potential sites for environmental contamination. For example, a recruiting center in a Federal building located in a metropolitan area will not be a problem.

Some 200 installations, however, will require an assessment phase to collect and evaluate all evidence to support the possible existence of contaminant migration.

Currently, the Army has reviewed over 86 installations and published 74 final reports. Of these 86, approximately 50 percent of the installations needed some followup action, mainly additional survey analysis; in other words, a more detailed survey.

To date, only three installations—Rocky Mountain Arsenal, Redstone Arsenal, and Pine Bluff Arsenal—have shown evidence of contaminant migration. Each of these has a program to control that migration. We believe that discovery of only those problems out of over 86 installations, which included those installations with the greatest potential for problems, indicates the limited scope of the problem within the Army.

I might add, in all three of those instances, we are talking about the bulk of contamination resulting from leases that the Army had with a private contractor on base in light of our joint use program and not from the direct Department of the Army contamination problem.

Mr. FLORIO. That still does not diminish the responsibility of the Department of Defense to oversee the action of the contractor in

terms of appropriate disposal. I assume everyone acknowledges that. Just because the Department of Defense did not directly provide disposal, if the contractor provides for the disposal and it is inappropriate, the Department of Defense still has the responsibility. I assume we all know that.

Mr. MARIENTHAL. The contractors we are talking about leased property from the Federal Government and carried on their private business on this property. The leases in the past were written very loosely with regard to environmental protection and with respect to landlord oversight of environmental problems. At that time, there were agencies in existence which preceded EPA which had responsibility for such oversight. The landlord relationship did not provide for such. But in essence, you are correct, Mr. Chairman.

Mr. HUGHES. I was not satisfied with that answer. Just because you contract with an independent contractor to dispose of material does not mean that the responsibility of the Department of Defense has ended. You are not suggesting that that is the case? Suppose they wanted to dump in the street?

Mr. MARIENTHAL. I was talking about where we have a piece of land and we lease a corner of it or parcel in the middle to a private chemical company, who builds and uses the facilities. The operation of that private chemical company on Federal Government land under a lease arrangement between the chemical company and the Federal Government is what I am talking about.

Mr. HUGHES. Maybe I misunderstood the chairman.

Mr. FLORIO. If the gentleman will yield, I think the point that we are both making is, yes, you have responsibility. I thought your response was that the provisions in the lease were largely for implementing and overseeing if nothing inappropriate was done with responsibility for EPA and its predecessor agencies and therefore in a sense you are indicating that you do not take some of the responsibility whether those leasehold practices of disposal were correct or incorrect. If that is your position, I think it troubles me, and I expect it troubles Mr. Hughes as well.

I am not sure what it is we concluded from that in the past, but certainly that is not going to be a procedure from this point forward under the law as well as under the Executive order.

Mr. MARIENTHAL. Obviously, if there is a present problem which resulted from that outlease program, we, the Federal Government, have the responsibility for that property. There are some situations where perhaps the Department of Justice will come back to try to share that responsibility with the contractor who used the property and did not dispose of things properly in light of today's technology.

Mr. FLORIO. In the three instances that you named, those were that type of situation, the three facilities named? You named three facilities and indicated there was a problem at those arsenals. Was the problem caused by leasing a portion of the Federal facility to a private contractor?

Mr. MARIENTHAL. Yes, sir. What I am saying is that of all the 1,400 sites we looked at, 200 we know require some survey, of which we have done 86; 74 have a final report; 50 percent of those 86 will require additional work.

At this time only three have any sort of engineering work underway to take the remedial action to abate the flow of contaminants of the installation. What I am saying is that those three that have some engineering work underway are all the direct result of not us, but a contractor who came on, leased that land and did not do proper disposal activities.

Mr. HUGHES. Mr. Chairman, obviously, the responsibility of any Federal agency goes beyond just contracting with somebody to dispose of something.

Do you make a determination as to how an independent contractor is going to dispose of material to see whether it is in a fashion that is compatible with public policy?

Mr. MARIENTHAL. Yes, sir.

Mr. HUGHES. That is the issue. Did you find out what a contractor is going to do with the material?

Mr. MARIENTHAL. Yes, sir. We comply with those requirements that are pertinent to the disposal of those materials. If we, the Federal Government, have a contract with someone to dispose of the materials, that contractor would have to be licensed and certified in the State in which he operates, and the disposal of Federal materials would be in a State-approved site. Is that what you are getting at?

Mr. HUGHES. Yes.

Mr. FLORIO. I cannot let it go without commenting on it. Having said all that, the fact of the matter is that we are only now beginning to appreciate the need for some minimum degree of standardization as to what those practices are. To say that you are abiding by State law in the past is not saying terribly much in those States. There has not been any really effective State law.

As a practical matter, saying you are going to adhere to standards in the past—I am not faulting the Department of Defense; it is almost the fault of the Nation in not appreciating the seriousness of the problem—we should not be relying on anyone's representation that we have done what the law required in the past, because in many instances the law did not require anything, or very little.

We should not in any way be lulled into a sense of security that what has been done in the past has been appropriate because it was in compliance with the law. I think that has to be said, so that no one leaves here with the feeling that, "Well, there are no problems because we have all complied with the law."

Mr. MARIENTHAL. Following the Army's lead, if I may continue, Mr. Chairman, the Navy and the Air Force have recently adopted the Army concept and have developed similar installation restoration programs. It has been and will continue to be our policy to advise Federal, State, and local authorities of the results of our installation surveys. We will review regularly their programs to insure an aggressive implementation of those programs.

The Department of Defense has probably the greatest expertise and the most experience in the identification, characterization, and control of environmental contaminants. We believe strongly in the systematic approach that we have taken and are convinced that positive action to protect the public health can result only from such a dedicated, orderly program.

With this background on the Defense hazardous waste management program, I would like to address the specific situation of NAEC, Lakehurst. I will briefly cover the history and the mission of the NAEC; then, I will describe the present situation as it relates to your interest at this hearing.

The history begins in 1916, when the Eddystone Chemical Co. occupied a portion of what is now the NAEC. Eddystone Chemical tested ordnance for the Imperial Russian Government. Following World War I, the Army purchased Eddystone Chemical and called it Camp Kendrick.

In June 1921, the Navy assumed ownership and the facility became the Naval Air Station, Lakehurst. The facility became the primary U.S. rigid airship development area. In World War II, Lakehurst became the central blimp station for antisubmarine warfare. In 1961, the Navy lighter-than-air program was terminated.

In the early 1970's, the Naval Air Station mission was to support fleet and reserve helicopter squadrons. Other activities at the station were the Naval Air Technical Training Center and the Naval Air Test Facility. In March 1973, a Navy shore establishment realignment moved the Naval Air Engineering Center from Philadelphia to Lakehurst. Eventually, the NAEC remained as the host command, as other functions were consolidated or moved.

The NAEC is now comprised of 7,420 acres of relatively flat, sandy, pine-covered land in an area referred to as South Jersey's Pine Barrens.

The mission of the NAEC is research, development, test, and evaluation. The Navy does not manufacture materials at that location and does only routine maintenance on a limited number of aircraft.

In accordance with Navy and EPA requirements, the station has surveyed all hazardous material storage and waste generation areas and has developed a plan for the proper handling of all wastes. The activity did notify EPA as a generator of hazardous waste in compliance with RCRA.

That is the August timeframe I am talking about.

Mr. FLORIO. Is it the intention of Lakehurst to apply for licensing as a hazardous waste disposal facility?

Mr. MARIENTHAL. When will it apply to meet the November 1980 date?

Mr. FLORIO. That was just notification it was a facility. The next step was to actually apply for a disposal facility permit. I am interested in whether the intention is to do that.

Mr. MARIENTHAL. Lakehurst does not intend to apply as a disposal facility.

Mr. FLORIO. In lieu of that representation, inasmuch as there has been testimony from your own consultants as well as other people here that disposal has taken place in the past of materials that are utilized in the routine business of the facility, what is it that is intended to be done with the materials that have been disposed of in the past?

Mr. KLINE. We have a waste contract being advertised right now for a commercial handler licensed from New Jersey to haul it off

our base. We will keep it in a contained area at specific locations and we will haul it off.

Mr. FLORIO. Where are those locations?

Mr. KLINE. We have identified four locations on the base where materials will be kept as primary storage. We have applied for a license to store until it is hauled away by a contractor, certified contractor.

Mr. FLORIO. So that you will be required, it seems to me, under the law, to first of all get your storage facilities certified by EPA?

Mr. KLINE. That is correct.

Mr. FLORIO. Then to have the ultimate disposal facility identified and certified? I assume it is your intention to do that?

Mr. KLINE. That is correct.

Mr. FLORIO. You are advertising?

Mr. KLINE. It is advertised.

Mr. FLORIO. When can we anticipate that contract being let?

Mr. KLINE. The bid opening is December 7, I think.

Mr. FLORIO. In the specifications is there a statement as to where disposal is to take place?

Mr. KLINE. Right now, there is no place in New Jersey that it can be disposed. We are waiting for the New Jersey Department of Environmental Protection to tell us what we are supposed to do with it. In the meantime, we must hold it in a containment location.

Mr. MARIENTHAL. The recent publicity concerning hazardous wastes at NAEC, Lakehurst, has addressed alleged dumps of aviation gasoline and cleaning solvents. I will report to you everything we know about these alleged dumps, including actions which the Navy has taken or planned, as well as our coordination efforts with the authorities of the state and region II of the Environmental Protection Agency.

In November 1979, the Navy found a sign labeled, "Danger, Materials Containing Tetraethyl Lead Buried Here, Closed 13 April 1966" in the north central portion of the base. The Navy took samples in January, 1980, which revealed maximum concentrations of 2 milligrams/liter of lead in standing surface water, and 20 milligrams/kilogram in the soil.

EPA region II and the State department of environmental protection, DEP, officials visited the site in April 1980, and were shown the site and the survey results. A contract was let in August 1980, for a well to sample the deeper aquifers from which drinking water supplies are drawn. The well sampling program was coordinated with EPA region II and the State DEP.

You should note that while newspaper accounts indicate 20,000 gallons of aviation gas were dumped, we are unable to verify that quantity or, for that matter, any quantity.

Mr. FLORIO. Where did the sign come from? You indicated there was a sign in the particular location warning of the existence of possible contamination. This is a military facility with a high degree of security. One presumes that one knows what goes on in such a facility.

Mr. MARIENTHAL. Mr. Kline may want to amplify this, but the sign was put there by a Navy employee whose name is unknown

and what quantities went in are unknown. Certainly there is no known figure, in our opinion, which relates to 20,000 gallons.

Mr. FLORIO. It is not an official sign that was posted?

Mr. KLINE. What happened in 1966 is the Navy arranged with a contractor to buy all the contaminated fuels. At that time they stopped dumping. Some very far-sighted person environmentally put the sign up on his own volition. We don't know who he is, but he was ahead of his time.

Mr. FLORIO. Is there a suggestion that their contaminated fuels were dumped in this area?

Mr. KLINE. It was a standard practice.

Mr. FLORIO. What contamination, aviation fuel?

Mr. KLINE. Not being an aviator, I might go to another person, but basically it is when a plane is defueled, the fuel is considered contaminated. There is also a small amount of contamination through the filtering system.

Mr. FLORIO. It is waste fuel, waste oil?

Mr. KLINE. It is any kind of contaminated fuel with water, bacteria.

Mr. FLORIO. There is a record of this contract having been let for the 20,000 gallons for someone to dispose of it?

Mr. KLINE. No, it was the practice to take contaminated fuel and to dump it at this site up until 1966. At that time, a contract was awarded for disposal of the fuel through a contractor, through the Department of Defense property disposal system.

In 1970, I believe it was, an air technical training fire school came to the base, and they used the contaminated fuel in their process of training. So, at this point, we have no disposal of contaminated fuel off the base; it is done at the fire school.

Mr. FLORIO. I mentioned earlier I had some experience at the facility. I do remember firefighting efforts. They would take a plane out and douse it with kerosene and try to put out the fire. Is that what you are talking about?

Mr. KLINE. Yes, sir.

Mr. MARIENTHAL. On cleaning solvents, NAEC was unaware of any such dumping until newspapers reported that a former employee alleged he had dumped 200 to 300 barrels in various locations.

Mr. FLORIO. How does that square with what you have just said? You say you are unaware of any dumping and you have just conveyed to us it was standard practice?

Mr. KLINE. Of aviation fuel.

Mr. FLORIO. I am sorry. Finish what you were saying.

Mr. MARIENTHAL. Shall I proceed?

Mr. FLORIO. Yes. I misunderstood what you said.

Mr. MARIENTHAL. Subsequently, on November 14, 1980, the former employee, accompanied by installation personnel, as well as representatives from EPA region II and the State department of environmental protection, pointed out five sites where the alleged dumping took place. These five sites were tested to determine whether the soil contains contaminants.

Our indications at this time, as verified by EPA this morning, are that only two sites out of five are suspect.

In addition to the tetraethyl lead and cleaning solvent issues, the installation has two inactive landfills. One, in the center of the base, was closed with the official concurrence of the State in 1979. The other landfill, on the northeast border of the installation, was closed in the 1959-60 time frame.

We will seek State certification for its official closure, but it has not been used in 20 years. The installation will drill into those landfills and take whatever steps are necessary to determine and evaluate environmental effects, in accordance with our installation restoration program.

To summarize the NAEC, Lakehurst, situation, I wish to point out several important factors:

One, and most important, there is no indication that NAEC, Lakehurst, has caused any contamination of well water, including Navy wells on base.

Two, there has been complete and open exchange of information and cooperation among health and environmental authorities and the NAEC.

Three, where there are questions concerning materials dumped in the past, or environmental effects concerning such materials, work underway or soon to be initiated should answer those questions.

Mr. FLORIO. Is it appropriate to make the distinction, as you are obviously making, between contamination of well water and contamination of ground water supplies? At this point you are saying there has been no monitoring of wells that has uncovered any contamination, but reports you have from your contractor indicate that there have been rather substantial concentrations of lead as a result of the aviation fuel dumped in ground water supplies.

At this point, no one has uncovered that those ground water supplies are the particular supplies that a particular well is drawing upon. It is a fair assumption that the ground water supplies could very well be a source of problems, if not now at a later point, in somebody's well, which certainly dictates at least rather extensive monitoring activities to make sure that what I am suggesting does not come to pass?

Mr. MARIENTHAL. That is correct, Mr. Chairman. In essence, we are talking about drinking water wells, where routine analysis is done based on EPA standards for testing for primary drinking water. So, routine analysis does go on, not only on Federal facilities like Lakehurst to determine that the drinking water well supplies quality water that meets standards, but also off base, where you come up with problems as have been mentioned at Jackson Township, which you uncover by doing that analysis.

So, drinking water wells provide empirical evidence that contaminants which might be at the surface or directly below, at the subsurface, haven't gotten into the drinking water. It is one of the best possible checks for the contaminants which might have gotten into the ground water.

Mr. FLORIO. I understand. All I am suggesting is the fact that there has been some discovery of ground water supply contamination at this point from the report from our own contractor, which dictates from this point forward there be constant monitoring to make sure those ground water supplies in no way do migrate to

drinking water wells that draw upon the ground water supplies. Is that an unfair assessment of what the situation is?

Mr. MARIENTHAL. The difference is that the contractor study that went on in January 1980, the Ross-Nagel report, took it only to a depth of 7 feet. We did ground, 3 feet, 5 feet, and 7 feet, where we hit standing water. We are not convinced, based on initial geological evidence at this time, that we got into the drinking water aquifer. But I agree with you, Mr. Chairman, we must get into monitoring to determine what has happened.

Mr. FLORIO. Let me ask one specific question with regard to my own experience at the facility:

At hangar 2—and I believe that is the hangar of the Naval Air Facility, the water was always terrible in terms of not being able to be consumed. I don't know what the practice is now, but it really had a terrible odor, looked blackish and smelled like sulfur. What is that caused by?

Mr. MARIENTHAL. That is part of the problem we are facing in trying to deal rationally with this issue that we are discussing today, either the aviation gas or the alleged dumping that has taken place, in that when the employees moved from Philadelphia to NAEC, Lakehurst, and during your time there you noticed that based on the difference between what you were drinking before and what you had to drink at Lakehurst, there was dissatisfaction with the drinking water at Lakehurst. In fact, there is a high degree of iron content in the water at Lakehurst as background; it is very high. There is no biological reason to be concerned about the high iron content. In fact, iron is an essential element to be consumed by all humanity.

Mr. FLORIO. There were signs posted not to drink the water. This is not that far back. We are talking about 1973-74 in my experience. It is not a matter of iron content. Philadelphia water is nothing to be raved about in terms of iron content. So I know the difference. This is something more than just iron content.

Mr. KLINE. The water system at Lakehurst during your tenure out there was rather poorly maintained. We have since done some major changes to the water distribution around hangar 2. We have repaired several of the wells which basically had to be redeveloped—new screens to prevent the infiltration of the sand and silt which affected its performance. Also, the usage has been up considerably, which eliminates a great deal of the concentrations of iron that were left in the piping system. The signs have been taken down.

There is virtually no known bottled water in those areas, I personally drink the water, and it has lost its iron taste and also its smell.

Mr. FLORIO. Would you like to conclude, Mr. Marienthal?

Mr. MARIENTHAL. Yes, Mr. Chairman.

In conclusion, we are proud of the leadership that the Department of Defense has taken to manage hazardous waste. We will continue to pursue actively our installation restoration program over the next several years. Also, we will improve an already effective program to implement RCRA throughout the Defense Department.

Thank you again for the opportunity to be here today.

We would be happy to answer any questions that you might have.

Mr. FLORIO. I have a whole lot of questions about the appropriateness of practices in the past.

Suffice it to say that I would like to convey to you—and I think the message has been conveyed, that there is a whole new sense of awareness, and there is a need to scrap many of the procedures that have been followed in the past and start to adopt new procedures.

It is not sufficient to say that the law has been complied with or good practices have been complied with in the past, because there is a new sense of awareness. For example, if you are monitoring the drinking water at this point in accordance with national standards, and we have some evidence that TCE has been disposed of, there is no component for evaluating TCE, so you could be monitoring the water, finding it is acceptable, and it can have more TCE in it than is acceptable because there are no standards.

We are all on notice that it is a time for reevaluation of what has been done in the past. I would just hope that all would realize that. EPA is the lead agency. EPA has the expertise and I am in no way being critical of DOD. DOD has certainly very important things that it is charged with the responsibility of dealing with.

I would suggest very strongly that the Department of Defense defer to EPA. You suggested, and I think that was with an appropriate amount of pride, that the Department of Defense was pursuing aggressively a policy of restoring old facilities, and that the Department of the Army was the lead agency. Of course, it has taken 4 years for the Navy to start the process of identifying what the sites are.

In 1976 the Department of Defense designated the Army as the lead military service for development of technology standards for hazardous waste site programs. Four years later the Navy has just begun to implement its naval installation restoration program.

I suggest very strongly that there be the cooperativeness in order to have us all deal with the same set of standards from this point forward, as well as to try to clean up those areas that are in need of cleaning up.

Mr. MARIENTHAL. I would agree; it is a new ball game. We recognize that past practices will change in the future. We also are very, very proud of what we have done in the 1970's to come into compliance. Our environmental program is the best. I would defy anyone to come and describe an overall program that runs 500 medium-sized cities and has the depth and breadth and volume of dollars that have gone into that program, to come into compliance with the various air, water, pesticide, toxic substances, hazardous materials, and environmental impact statement requirements like the Department of Defense has done, including the EPA, itself.

When we turn to the specific aspect of installation restoration programs, which has no basis, no true legislative mandate accompanying it, we, on our own initiative, came up with a program fully 5 years ago and have published a variety of documents giving the Army the lead, for example, and we have learned a lot about how to go about such a program.

So, the Navy will start perhaps at full speed where before they would have had to jog or walk for a while, while we learned how to approach such things.

EPA can learn a lot from the Department of Defense on this particular program. I am not denying that EPA is the lead Federal agency for everything in dealing with public health and public welfare concerning environmental protection, but there is a great deal of experience and expertise that rests within the Department of Defense on the installation restoration program. From what I have seen of EPA's national programs, they could profit from a detailed analysis of what we are doing, Mr. Chairman.

Mr. FLORIO. I have two points, and then we will conclude.

Prospectively, from the new policies which will be going into effect—and you have stated what you anticipate doing with regard to waste—what should give us any confidence that that policy is going to be monitored more than what has happened in the past? We have had some testimony this morning that you had a forklift operation and all hazardous waste was supposed to be dumped into a particular receptacle and disposed of in the appropriate way, in whatever way “appropriate” was defined.

At the same time, we have testimony that notwithstanding the existence of that policy, there was a standing procedure that inappropriate disposal took place.

Now we are saying that we are going to have a system that is going to have containerization on base in holding facilities and ultimate disposal. It will be a little more difficult to do that than it will be just to dump.

How do we in some way monitor the difference between what policy is and what in fact takes place? Do you have some sense of educational procedures or educational programs that are going to be initiated to convey to the employees even though it may be a little more difficult, that it certainly is something that is required, as well as desirable to do?

Mr. MARIENTHAL. Yes, sir. All of the above. Ultimate responsibility for each of our installations rests with the installation commander. It is up to him to implement and ensure implementation at his installation. We are charging him with that responsibility. It is a continuing educational problem to insure employee compliance with the various regulations, not only dealing with hazardous materials, but also the other area which I work in, which is occupational health.

Some employees refuse to comply with the use of personal protective equipment. We could provide the proper type of gloves or hearing protectors and the like, and you find a great reluctance by each and every individual employee to do what he knows he should do, and so forth. It is going to be a tremendous educational effort in the 1980's to insure individual compliance.

Before we leave, I might indicate that on previous discussions that took place, I have a great deal of difficulty understanding the Federal enclave notion that was discussed. It has long been the Department of Defense policy for the past decade to comply with all substantive Federal, State, and local requirements. The Executive order that came into place in October 1978, wired in procedural requirements.

For a long, long time before 1978, we complied with all substantive requirements. If it was 0.5 parts per million for the State, it was 0.5 parts per million for the Department of Defense in that State. There was never a doubt about a purely substantive requirement dealing with public health and public welfare. The procedural requirements were wired in in 1978, largely due to this committee. This committee was the driving force in the Congress of the United States which brought about the change in the requirements and deserves a great deal of credit for ensuring that there is only one system.

The point, Mr Chairman, is that we are sitting out there in a Federal facility; it is sunshine and open door as far as environmental protection is concerned at that installation. No State should feel any reluctance to come aboard and look at anything they wish. The door is open. Anyone who says otherwise has not tried. If there is a problem, then we are as near as the phone, and I assure you that everything will be opened up in a hurry, and we will get to the bottom of whatever issue anyone wants to look at.

The point is that as far as individual compliance, getting back to your original question, sir, everybody is looking over your shoulder. I do not understand the Federal enclave myth. We have local inspectors; we have State inspectors; we have Federal inspectors; and, we have our own inspectors, inspectors general, and similar organizations that are charged with insuring compliance. I have every degree of confidence that, in the future, events will not occur on a broad scale that will cause problems.

Mr. FLORIO. That is good to know. I take it that any previous feelings that there will not be full cooperation from this point forward certainly will have no justification.

Let me ask one last question about a subject that is related to this; it is a question of accessing Federal property.

In my own area, there is a NIKE site that is going to be given to the local community. What has been the process in the past for reviewing the possible environmental problems associated with land that is given to a local community? Has there been a procedure or certification that the Defense Department gives on the conveyance of property that there is no difficulty that can be expected?

Mr. MARIENTHAL. I am not an expert in that area, but I can in general say that there is a process which has occurred in the past, routinely, that before an excessing action has taken place a survey is done that will determine that the land to be conveyed would be fit and be compatible with its intended use. Before the Department of Defense can turn that surveyed land over to the General Services Administration, which is the single Federal agency charged with any excessing action, there would be a certification from the Department of Defense that we had done one, so GSA is allowed to take it over.

GSA would then have the requirement as a Federal action under the National Environmental Policy Act to do an environmental assessment to insure that the ultimate use of that land as it is conveyed from the Federal Government to a non-Federal entity would be consistent with environmental protection in that location.

Mr. FLORIO. But as a practical matter, I suspect that much of that certification is boilerplate, in the sense that no one consciously was aware—I think this is something that is changing—was aware of the need to explore the possible ramifications of disposal.

I would just think that the Department of Defense would be well advised from this point forward to make it a more specific and important part of its certification process and evaluation process, that when one turns over property, which the Department does on a regular basis, that there are not going to be problems associated with inappropriate disposal practices.

I would hope that the Department would look a little more closely at that part of its certification process.

Mr. MARIENTHAL. We have looked at that closely. We are getting much, much better at surveying this. What the effect is, what will happen, is that we will find less excessing in the future because the cost of excessing will now rise so drastically because of cleanup, you will find a Federal big-fence concept that keeps that land fenced and nonexcessed, because no one can afford to clean it up and certify that it does meet certain standards.

Mr. FLORIO. Gentlemen, thank you very much. We appreciate your testimony.

Mr. MARIENTHAL. Thank you, Mr. Chairman.

Mr. FLORIO. The committee stands adjourned.

[Whereupon, at 12:35 p.m., the hearing was adjourned]

