

**BEFORE THE UNITED STATES
DEPARTMENT OF LABOR**

OCCUPATIONAL SAFETY & HEALTH ADMINISTRATION

In the Matter of:

WALTER TAMOSAITS,

Complainant,

v.

**URS, INC., BECHTEL NATIONAL, INC.,
and THE DEPARTMENT OF ENERGY,**

Respondents.

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2010 DEC 15 PM 1:27

FIRST AMENDED COMPLAINT OF DISCRIMINATION

Complainant Dr. Walter L. Tamosaitis, P.E., through counsel, hereby files this Complaint of Discrimination against his employer, URS, Inc., a contractor at the Hanford Nuclear Site, under the Energy Reorganization Act, 42 U.S.C. Section 5851.

I. PARTIES

1.1 Dr. Walter L. Tamosaitis ("Complainant"), residing at 1622 Meadow Hills Drive Richland, WA 99352, is an employee of URS, Inc., a subcontractor to Bechtel National, Inc., at the Hanford Nuclear Site (Hanford). On July 2, 2010, Dr. Tamosaitis was removed from that assignment in retaliation for having raised performance and safety issues at a meeting held on July 1, 2010. Prior to his removal, Complainant held the position of the Deputy Chief Engineer

and Manager of the Research and Technology division and had been employed at the Hanford Waste Treatment Plant since 2003.

1.2 URS, Inc. (“URS”), located at 723 The Parkway, Richland, WA, 99352, (509) 946-3100, is a partner and Principal Subcontractor to Bechtel National, Inc. (“BNI”) in a government contract to design, build and commission the Hanford Waste Treatment and Immobilization Plant, which is intended to stabilize the radioactive and chemical wastes stored in underground tanks at the Hanford Nuclear Site. While URS is called a “subcontractor” they function as a partner in that they split profits (fees paid) 50/50 with BNI and also staff key positions. Their earnings are a direct result of contract milestone performance with BNI as judged by DOE rather than a typical subcontractor payment schedule.

1.3 BNI is a government contractor hired to design, build and commission the Hanford Waste Treatment and Immobilization Plant, which is intended to stabilize the radioactive and chemical wastes stored in underground tanks at the Hanford Nuclear Site.

1.4 The Department of Energy (“DOE”) is an agency of the United States government, and is responsible for the Hanford site.

II. BACKGROUND AND PROTECTED ACTIVITY

HANFORD HISTORY AND THE WASTE TREATMENT PLANT

2.1 The Hanford Nuclear Site (“Hanford”), is located in Southeastern Washington State, and is a former nuclear weapons production facility. Since 1990, the DOE has been dedicated to a clean-up mission to deal with the cold-war legacy of high-level pollution on site. Hanford sits adjacent to the Columbia River and is home to 53 million gallons of hazardous high-level nuclear waste.

2.2 For more than forty years, reactors located at Hanford produced plutonium for America's defense program. The process of making plutonium is extremely "inefficient" in that a massive amount of liquid and solid waste is generated while only a small amount of plutonium is produced. The DOE's mission is to ensure that all of the facilities and structures that were associated with Hanford's defense mission are deactivated, decommissioned, decontaminated, and demolished. Over 10,000 employees are currently employed at Hanford for that purpose.

2.3 High-level nuclear waste, which is composed of chemical and radioactive waste ("high-level nuclear tank waste"), is currently stored in 177 large underground tanks, all of which have exceeded their projected stable lifetime by at least twenty years and a third of which are confirmed to have leaked into the ground beneath the tanks. DOE estimates that approximately 1 million gallons of high-level nuclear tank waste have leaked into the ground at Hanford. The groundwater under more than 85 square miles of the Hanford site is contaminated above current standards.

2.4 The cornerstone of the high-level nuclear tank waste cleanup project at Hanford is the Hanford Tank Waste Treatment Plant ("WTP"). The WTP will be an industrial complex of facilities for separating and vitrifying (immobilizing in glass) millions of gallons of high-level nuclear tank waste. Vitrification technology involves blending the high-level nuclear tank waste with glass-forming materials and heating it to over 2,000 degrees Fahrenheit. The mixture is then poured into stainless steel canisters to cool and solidify. In this glass form, the high-level nuclear tank waste is currently considered stable and impervious to the environment, and its radioactivity will dissipate over hundreds or thousands of years.

2.5 The five major components of the WTP will be: the Pretreatment Facility for separating the high-level nuclear tank waste into the high level radioactive waste stream and the

low level stream, the High-Level Waste and Low-Activity Waste facilities where the high-level nuclear tank waste will be immobilized into glass, the Analytical Laboratory for providing chemical analysis for plant operations and testing the quality of the glass, and the Balance of Facilities, which will comprise several support facilities such as compressed air and treated water.

2.6 The WTP is currently one of the largest, if not the largest, project in the United States and once complete, the WTP will be the largest facility of its kind in the world.

2.7 The original Bechtel cost estimate for the WTP was about \$5 billion and with a time estimate of seven years to complete it.

2.8 The current Bechtel cost estimate for constructing the WTP is over \$12 billion and the time estimate to complete it is nearly twenty years. Both cost and schedule for the WTP have grown by over 240 percent.

2.9 Construction of the WTP is projected to be complete in about 2016, and, following commissioning, the plant is planned to be fully operational by 2020.

2.10 The WTP is being built with a design life of forty years. There are parts of the WTP that must operate for forty years with no maintenance including, for example, tanks, pipelines, mixers in tanks, level control instrumentation, steam spargers, and air system control devices.

2.11 The high-level nuclear tank waste in the Hanford waste tanks includes plutonium and enriched uranium. A criticality accident occurs when a nuclear chain reaction is accidentally allowed to occur in fissile material such as plutonium and enriched uranium. This chain reaction releases radiation, which is highly dangerous to personnel and could result in contamination of the surrounding facilities and structures. When such incidents occur outside reactor cores and

test facilities where fission is intended to occur, they pose a high risk both of injury or death to workers.

2.12 A criticality incident of sufficient magnitude could also damage the facility and endanger the public.

2.13 While the actual probability of a criticality may be low, the consequences of a criticality would be significant. Consequences include notification and reviews by state, federal, and international agencies, which could result in a shutdown for an indeterminate period.

2.14 The hazardous high-level nuclear tank waste in the Hanford waste tanks contains materials that constantly generate explosive hydrogen gas. The hydrogen gas can become trapped and accumulate in the waste.

2.15 A combined criticality with explosive gas release at the WTP could be an accident of the worst magnitude and could cause injury and death to workers as well as endangering the public and the environment.

DOE-ORP AT HANFORD

2.16 The U.S. Department of Energy's Office of River Protection ("DOE-ORP") manages the storage, retrieval, treatment, and disposal of Hanford's high-level nuclear tank waste. The DOE-ORP was established by the U.S. Congress in 1998, as an independent office at the Hanford Site with the exclusive focus of solving the Hanford tank cleanup challenge. The goal of the DOE-ORP is to complete tank cleanup quickly, safely, and cost effectively. To this end, it provides contract management, safety oversight, and project integration for its prime contractors, which are currently: Bechtel, Advanced Technologies and Laboratories International, Inc., and Washington River Protection Solutions, LLC. DOE-ORP is also

responsible for ensuring that high-level nuclear tank waste cleanup is accomplished as an integrated waste treatment operation.

2.17 To ensure the safety of the overall project, the DOE-ORP implements an Integrated Safety Management approach for benchmarking and maintaining its safety culture.

BECHTEL AT HANFORD

2.18 Bechtel is a prime contractor for the DOE-ORP at Hanford. Bechtel was awarded the project in December 2000 and is directly responsible for the overall project management including design, construction, and startup/commissioning as well as other support functions such as project controls.

2.19 Bechtel has contract and legal obligations prohibiting retaliation against whistleblowers at Hanford.

URS AT HANFORD

2.20 URS is a partner and principal subcontractor to Bechtel at Hanford for work on the WTP. While URS is referred to as a “subcontractor,” URS functions as a partner in that it splits profits and fees paid equally with Bechtel and URS also shares key staff positions with Bechtel.

2.21 URS’s earnings are a direct result of contract milestone performance with Bechtel as judged by DOE, rather than a typical subcontractor payment schedule.

2.22 The milestone performance includes both distinct milestones as well as subjective judgments by the DOE in areas such as responsiveness and percentage of work completed.

2.23 URS has contract and legal obligations prohibiting retaliation against whistleblowers at Hanford.

2.24 Bechtel has no authority to direct URS to remove URS employees from Hanford in retaliation for whistleblowing activities.

DR. TAMOSAITIS

2.25 Dr. Tamosaitis has a Ph.D. in Systems Engineering and Engineering Management, over forty years industrial experience in chemical and nuclear plants, and is a registered professional engineer.

2.26 In 2003, while employed by Washington Group International, Dr. Tamosaitis was assigned to work at the WTP as Research and Technology Manager. In the second half of 2006 he was assigned the additional duties as an Assistant Chief Process Engineer. In this capacity he executed the duties of the Chief Engineer as required and called upon.

2.27 In about 2005, URS acquired Washington Group International and Dr. Tamosaitis became an employee of URS maintaining the same job functions as he had performed under Washington Group International.

2.28 As the Research and Technology Manager and Assistant Chief Process Engineer, Dr. Tamosaitis was responsible for the Research and Technology Program supporting the \$12+ billion WTP Project, which included: project management of about \$500 million of chemical process and flowsheet development and design involving worldwide support; program management of first-of-a-kind development programs involving chemical engineering, chemistry, as well as flowsheet development; leading the \$100 million Pretreatment Pilot Plant Facility Program from conception to closure; maintaining working knowledge of DOE 413.3A Project Management and Technology Readiness Reviews; acting in the capacity of, and representing, the Chief Engineer in on-site and off-site meetings and presentations; overall guidance of the process flowsheet; leading the External Flow Sheet Review Team of the WTP

flowsheet; interacting with all major review and customer groups including the Defense Nuclear Facilities Safety Board (“DNFSB”), State of Washington, DOE, and the Government Accountability Office;; program coordination with major universities, national laboratories, and consultants worldwide; research and development business development for URS involving direct and joint teaming proposals to DOE and program coordination with DOE grant recipients; and, development and mentoring of personnel in URS and Bechtel including summer students and interns.

2.29 Dr. Tamosaitis’ job responsibilities for the WTP Project also included identifying and solving technology problems and raising concerns to management about engineering and process issues that could potentially affect the safe, efficient, and effective operation of the WTP including, but not limited to, waste mixing issues, vessel design, tank sampling, process limits, mixer operation, material pump out, heel removal, chemical reactions, viscosity control, pipeline transfer, glass formulations, melter operation, melter sampler systems, as well as the continuity of knowledge for future operations.

DOE ORDERS EVALUATION OF WTP VIABILITY

2.30 In October 2005, Dr. Tamosaitis was appointed as the lead of the first DOE External Flowsheet Review Team (“EFRT”) study, also known as the “Best and Brightest” review. This study was initiated in April 2005, and pursuant to commitments from the Energy Secretary for an independent review. Over fifty consultants were hired to review the technical viability of the WTP Project over a four-month period.

2.31 The EFRT study identified twenty-eight issues, and its report (“EFRT Report”) was the subject of media coverage and much external review and inquiries to Bechtel.

BILL GAY BECOMES WTP ASSISTANT PROJECT MANAGER

2.32 In 2009, URS appointed Bill Gay as the WTP Assistant Project Manager.

2.33 In early 2009, Dr. Tamosaitis sent a letter to a URS Vice President Dave Pethick identifying engineering issues and safety culture issues at Hanford. Bill Gay reviewed the letter written by Dr. Tamosaitis no later than March 2009.

2009 TAMOSAITIS SAFETY ISSUE LIST

2.34 In late June 2009, at the request of the Bechtel Engineering Director, Greg Ashley, Dr. Tamosaitis submitted a list of about 100 issues ("2009 Tamosaitis Safety Issue List") that needed to be addressed and required design attention to ensure the safety, efficiency, and effectiveness of the WTP operation.

2.35 At the time of submitting the 2009 Tamosaitis Safety Issue List, Dr. Tamosaitis recommended that one overall issue list be developed to either replace the many individual lists or to provide a master tracking list. Bechtel did not develop one issue list as recommended, which made the tracking of unresolved issues much more difficult than had one list been created and maintained.

THE 2009 EFRT M3 MIXING ISSUE: MILESTONE DELAYED

2.36 On May 15, 1989, the DOE, the U.S. Environmental Protection Agency, and the State of Washington Department of Ecology signed a comprehensive cleanup and compliance agreement known as the Tri-Party Agreement, which is an agreement for achieving compliance at Hanford with the Comprehensive Environmental Response Compensation and Liability Act (CERCLA) remedial action provisions and with the Resource Conservation and Recovery Act (RCRA) treatment, storage, and disposal unit regulations and corrective action provisions. The

Tri-Party Agreement:

- 1) defines and ranks CERCLA and RCRA cleanup commitments at Hanford;
- 2) establishes responsibilities;
- 3) provides a basis for budgeting; and
- 4) reflects a concerted goal of achieving full regulatory compliance and remediation, with enforceable milestones in an aggressive manner.

2.37 The Tri-Party agreement was revised in late 2008 or early 2009. One milestone of the Tri-Party agreement was the closure of all technical issues by December 31, 2009. The M3 issue was the last open EFRT issue of the twenty-eight that required closure (“ERFT M3 mixing issue”). Twenty-seven of the twenty-eight EFRT issues were closed by October 2009.

2.38 The EFRT M3 mixing issue required that design problems be resolved concerning the mixing of the high-level nuclear tank waste in thirty-eight tanks in the pretreatment area of the WTP. Of the thirty-eight tanks, fourteen tanks presented special design and mixing challenges. The design provides that the more than 50 million gallons of high-level nuclear tank waste be transported via pipelines to and between these pre-treatment tanks in preparation for vitrification. If the high-level nuclear tank waste is not sufficiently mixed in the pre-treatment tanks, plutonium may settle out and may cause a criticality accident. If the high-level nuclear tank waste is not sufficiently mixed in the pre-treatment tanks, hydrogen gas bubbles will accumulate and may be trapped in the waste, which could lead to a sudden gas release and an explosion or fire. Even if neither of those scenarios develop, poorly mixed high-level nuclear tank waste may cause the WTP to operate inefficiently, and under some circumstances to shut down. Inefficient and ineffective design can lead to the design life of the plant being exceeded before all the Hanford nuclear waste is processed.

2.39 The EFRT M3 mixing issue had not been resolved as scheduled, and in September 2009, at the direct request of DOE-ORP manager Shirley Olinger, Dr. Tamosaitis was appointed to lead the EFRT M3 mixing issue resolution effort.

2.40 In a multi-day weekend meeting, between October 2-4, 2009, Dr. Tamosaitis proposed a September 30, 2010 (a nine month delay), date for closure of the EFRT M3 mixing issue. During the meeting, Bechtel management changed the date to complete testing by April 30, 2010 and close the EFRT M3 mixing issue by June 30, 2010. Bechtel Manager Ted Feigenbaum and Assistant Project Manager Bill Gay, URS, told Dr. Tamosaitis to “throw the kitchen sink at it.” Bechtel management indicated that Bechtel wanted to solve the mixing problem and, rather than worry about the mixing design within the tanks, other external systems would be changed to support the design including, the air supply system, air removal system, mixing systems within the tanks, and structural components.

2.41 On information and belief, in late 2009, a revision to the Tri-Party Agreement was approved setting June 30, 2010, as the new deadline for closure of EFRT M3 mixing issue.

**BECHTEL MANAGER RUSSO BECOMES
WTP PROJECT MANAGER AND SEEKS CLOSURE OF
THE EFRT M3 MIXING ISSUE AT ANY COST**

2.42 In or about November 2009, Bechtel Manager Frank Russo became the WTP Project Manager. Russo was the fifth WTP Bechtel Project manager in eight years.

2.43 In January 2010, Russo replaced Dr. Tamosaitis as the manager leading the EFRT M3 mixing issue resolution effort with retiring manager Mike Robinson. Dr. Tamosaitis stayed involved and provided several key contributions, which enabled closure efforts to proceed, including scaling reports, changes in the particle size distributions, improvements to the stimulant compositions as well as leadership to his direct reports involved in the EFRT M3 mixing issue resolution.

2.44 In or about January 2010, Russo made it clear that the M3 program must be closed by June 30, 2010. This was important to meet the Tri-Party Agreement milestone and to ensure that Bechtel was paid \$6 million in fees for meeting the milestone. To achieve closure of the EFRT M3 mixing issue, Russo implemented a plan to do the least possible work at the lowest expense to meet the June 30th deadline despite valid safety and throughput concerns (“Bechtel’s M3 management approach under Russo”).

2.45 Russo claimed to have a contact in DOE headquarters who would help ensure that the EFRT M3 mixing issue was closed by the June 30, 2010 deadline. Russo claimed to have a “silver bullet” he could use with a contact at DOE to achieve this objective.

2.46 Despite being almost ten years into the project, from January to March, 2010, Bechtel engineering identified many key and pertinent design facts that severely impacted the EFRT M3 mixing issue designs. These included limitations on the maximum mixer velocities, limitations in the pressure supply, unavailability of equipment, and inadequate modeling methods. Despite the design issues that were being identified, Bechtel and URS management would not entertain or consider a change in the completion date despite having only a few months left to complete testing.

2.47 Due to the inadequate mixing results, in about February 2010, Bechtel engineering proposed using an alternate scaling approach so that the velocity of the mixers met what was allowed by the current design (“Bechtel’s alternative scaling approach”). This signaled to Dr. Tamosaitis that the strategy of “throwing the kitchen sink at it” had now changed. Dr. Tamosaitis directly raised concerns to Bechtel Engineering, specifically to Russell Daniel, about the inadequacy of using different scaling parameters at different tank operating levels. Dr. Tamosaitis expressed his concern that this method increased safety risks and was a questionable

design approach. In May 2010, an external consultant on the EFRT M3 mixing issue, referred to Bechtel's alternative scaling approach as criminally negligent.

2.48 In March 2010, due to continued unacceptable mixing test results regarding the EFRT M3 mixing issue, Bechtel engineering again changed the design approach to mixing in a manner that further increased safety risks. This change involved only partial clearing of the bottom of the tank with each mixer pulse. Dr. Tamosaitis again lodged concerns with Bechtel engineering management and was told that improved and more efficient designs will be investigated in an optimization period following M3 closure.

2.49 In the February-March 2010 timeframe, the Pacific Northwest National Laboratory ("PNNL") raised questions concerning the simulant being used in the EFRT M3 mixing issue testing and whether it was really representative of the actual hazardous waste. If the simulant being used was not representative of the actual waste, the test results could provide a result that indicated success when failure actually occurred.

2.50 In about March 2010, DOE issued a letter to the Bechtel stating that in order to obtain the \$6 million award fee set for June 30, 2010, all, not just a portion, of the M3 issue had to be closed, or words to that effect. During this period, Russo and Gay both supported the changes that reduced mixing effectiveness, despite the comments of several people, including those from PNNL. Russo and Gay continued to push the June 30, 2010 closure date.

2.51 In addition to supporting the changes that reduced mixing effectiveness, Russo and Gay also supported changes that reduced the amounts (the amount of solids in the waste) of what the plant processed as well as suggesting reducing operating levels in vessels.

2.52 In late March 2010, in a meeting comprised of technical and management persons from Bechtel, URS, and PNNL, called to discuss the EFRT M3 mixing issue, a DOE Ph.D.

scientist raised a concern about the mixing of thin, water-like solutions in tanks designed to mix thicker solutions (“DOE mixing concern”). This concern was specific to five of the pretreatment tanks, which were a part of the EFRT M3 mixing issue.

2.53 On information and belief, Russo and Bechtel engineering managers discussed the schedule and concluded that if they had to do testing to address the DOE mixing concern, the June 30, 2010 closure date would not be met and therefore Bechtel would lose the \$6 million award fee. Bechtel then advocated that the DOE mixing concern could be resolved without testing. In about late April 2010, Bechtel launched an effort to show that no testing was needed for these five tanks.

2.54 Dr. Tamosaitis suggested that testing was needed to resolve the DOE mixing concern to ensure the safety of the WTP.

2.55 As a response to the DOE mixing concern, Bechtel proposed putting in systems to pump residual materials out of approximately fourteen tanks to prevent buildups on the bottom of the tank rather than directly addressing the main mixing issue.

2.56 On information and belief, Bechtel did not want to address the mixing issue directly because of the design changes that would be needed as well as the reconstruction of vessels. This would result in major cost increases and schedule impacts and require more testing thereby jeopardizing the \$6 million milestone award for meeting the June 30, 2010 deadline.

2.57 Around March or April 2010, discussions continued regarding Bechtel’s alternative scaling approach. A large-scale mixing demonstration test was proposed to DOE about this time (“large-scale demonstration test”). Gay told Dr. Tamosaitis that Tamosaitis and his group would manage and conduct that large-scale demonstration test after the EFRT M3 mixing issue was closed.

2.58 In May 2010, Gay held a meeting of URS employees assigned to resolve the EFRT M3 mixing issue, and chartered a clandestine effort to prepare for another test to resolve the DOE mixing concern (the “Gay test plan”). Dr. Tamosaitis questioned Gay about the Gay test plan and noted that it was in direct violation of the Earned Value Management System (“EVMS”) principles by which the WTP Project is sworn to operate. Dr. Tamosaitis also pointed out to Gay that Bechtel and DOE would have to approve all aspects of any test so a clandestine effort made little sense. Gay responded, “I am the boss and just do it,” or words to that effect.

2.59 In early June 2010, Bechtel management notified Dr. Tamosaitis and others that there would be no optimization testing. This was another departure from the “throw the kitchen sink at it” approach taken by Bechtel before Russo assumed management responsibilities.

2.60 On information and belief, the Gay test plan resulted in costs of over \$150,000.

2.61 Between February and June 2010, URS Deputy Project Manager Gay repeatedly discussed the importance of closing the EFRT M3 mixing issue and the negative impact that failing to close would have on careers and compensation. On one or more occasions, Gay stated, “If M3 doesn’t close I’ll be selling Amway in Tijuana.”

2.62 In late June, Dr. Tamosaitis sent emails to consultants working on the M3 mixing issue asking them to state their opinions on aspects of Bechtel’s M3 management approach under Russo (“June 2010 Tamosaitis consultant emails”). On or about July 1, 2010, Russo and Gay became aware of the June 2010 Tamosaitis consultant emails.

2.63 On June 29, 2010, URS Manager Bob French, directed that words like “M3 testing” not be used in any future correspondence.

2.64 On June 30, 2010, Bechtel announced that the EFRT M3 mixing issue was closed, which was the agreed date for closure despite the existence of many unresolved safety and technical issues. As of June 30, 2010, items related to tank mixing performance, which had not been designed and/or tested included: level control, mixer operation, sampling, heel pump out, and pumpout of the actual materials over a range of operating conditions.

2.65 As of June 29, 2010, Bechtel estimated that approximately \$14.6 million was available for Dr. Tamosaitis' Research and Technology group over the next eight years, and about \$4.8 million was available to support his Research and Technology group in 2011.

2.66 On June 29, 2010, Richard Edwards, PETD manager, circulated a draft organizational announcement stating that Dr. Tamosaitis and Dr. Tamosaitis' Research and Technology group would move to the WTP Operations Department with Dr. Tamosaitis reporting to Dennis Hayes ("first Research and Technology organizational announcement").

2.67 On June 30 2010, Dennis Hayes agreed to meet with Dr. Tamosaitis that Friday morning to discuss the final details of Dr. Tamosaitis' and his Research and Technology group's move to WTP operations.

2.68 On June 30, 2010, Richard Edwards issued an email stating that it was his last day at the WTP. On information and belief, Edwards transferred and did not report to work after that day at Hanford and was not involved in WTP activities after that.

2.69 On the evening of June 29, 2010, Gay announced that the closure of M3 was imminent.

THE JULY 1, 2010 ISSUES MEETING

2.70 On July 1, 2010, Dr. Tamosaitis participated in a meeting called by Bechtel Technical Director Greg Ashley to discuss open issues (“July 1, 2010 open issue meeting”) related to the WTP. Ashley did not attend, but delegated the running of the meeting to Bechtel Chief Engineer Barbara Rusinko. At this July 1, 2010 open issue meeting, Dr. Tamosaitis provided a list of about fifty open issues (“2010 Tamosaitis Safety Issue List”) along with a copy of the 2009 Tamosaitis Safety Issue List (referred to jointly as the “two safety issue lists”), most of which were still open.

2.71 Rusinko brought cherries to the July 1, 2010 open issue meeting, and after Dr. Tamosaitis asked if he could have some, Rusinko stated to Dr. Tamosaitis: “Maybe you will choke on the cherries,” or words to that effect.

2.72 Others attending the July 1, 2010 open issue meeting provided issue lists, but none were as extensive as Dr. Tamosaitis’ two safety issue lists. Also, very few of the issues suggested by others dealt directly with process issues as did Dr. Tamosaitis’ two safety issue lists.

2.73 Each line item on the various lists was reviewed by the attendees at the July 1, 2010 open issue meeting, and most of the line items were discussed.

2.74 Rusinko attempted to dismiss Dr. Tamosaitis’ concerns at the July 1, 2010 open issue meeting by stating that she thought most of the issues listed on the two safety issue lists were already closed.

2.75 One or more persons at the July 1, 2010 open issue meeting expressed disagreement with Rusinko’s characterization of Dr. Tamosaitis’ two safety issue lists as being “mostly closed.”

2.76 At the July 1, 2010 open issue meeting Dr. Tamosaitis also raised the same concern he had raised the year before, which was that Bechtel should maintain one list of open issues for issue tracking; otherwise, the tracking of unresolved issues is nearly impossible without one list being created and maintained.

2.77 The 2010 Tamosaitis Safety Issue List contained several items that were needed to ensure the tanks mixed safely, efficiently, and effectively. These included level control, mixer operation, sampling, heel pump out, and pumpout of the actual materials over the range of operating conditions. Dr. Tamosaitis suggested that these items could be tested as part of a large-scale demonstration test. The large-scale demonstration test had been previously discussed by Bechtel, URS, and DOE; however, the estimated cost for the test was about \$150 million and was a major concern to Bechtel.

2.78 While the U.S. Government pays for everything in the projects at Hanford, if a task can be shown to be within the technical scope of the contractor, the cost goes against the contractor's performance and their fees and earnings are then penalized for poor cost performance. On information and belief, Bechtel did not want to identify technical issues since the issues could be tied to Bechtel and Bechtel then would be financially penalized.

2.79 At the July 1, 2010 open issue meeting Rusinko suggested that the two safety issue lists should be "combined and regrouped." Several persons present at the meeting expressed disagreement with Rusinko's approach to combining and regrouping the two safety issue lists because as issues are combined, the details and reasoning is lost and forgotten.

2.80 At the July 1, 2010 open issue meeting, a recommendation was made by URS Manager Donna Busche, that a process hazards operations review should be conducted to identify what issues remained open regarding the WTP. Rusinko stated that the review could be

done “if it is quick and short.” Busche stated that it would be long and tedious, as it should be to be effective. Rusinko again stated, “make it quick and short.”

2.81 After the July 1, 2010 open issue meeting ended, Dr. Tamosaitis sent an email to Busche offering his support of the process hazards review (“July 1, 2010 Tamosaitis process hazards review email”). Dr. Tamosaitis also requested information on how Dr. Tamosaitis and his Research and Technology group could support it. Dr. Tamosaitis copied Ashley and Gay on the email.

2.82 Dr. Tamosaitis left the work site early in the afternoon of July 1, 2010.

**ON JULY 1, 2010 RESPONDENTS WORK TO REMOVE
DR. TAMOSAITS FROM HANFORD**

2.83 On information and belief, on or about July 1, 2010, Russo became aware of the June 2010 Tamosaitis consultant emails, Dr. Tamosaitis’ statements during the July 1, 2010 open issue meeting including the suggestion of a large-scale demonstration test and of the July 1, 2010 Tamosaitis process hazards review email (“Tamosaitis whistleblower activities”), and formed an agreement with Gay, Ashley, URS Operations Manager Dennis Hayes, and/or URS Human Resources Manager Cami Krumm, to remove Dr. Tamosaitis from the Hanford site and from his job duties regarding the WTP.

2.84 On information and belief, the Tamosaitis whistleblower activities were a substantial factor in the decision to remove Dr. Tamosaitis from Hanford.

2.85 In the alternative, Bechtel, Russo and Ashley intentionally interfered with the business relationship between Dr. Tamosaitis and URS causing URS to remove Dr. Tamosaitis from his job duties at Hanford.

**ON JULY 2, 2010 THE RESPONDENTS REMOVE
DR. TAMOSAITS FROM HANFORD**

2.86 On July 2, 2010, Dr. Tamosaitis was scheduled to return to work for a 7:00 a.m. meeting, which was a planned vacation day for Dr. Tamosaitis. The purpose of the July 2, 2010 meeting was to discuss the final details of the movement of Dr. Tamosaitis' Research and Technology group to the operations department at the WTP.

2.87 On July 2, 2010, Dr. Tamosaitis arrived at work for the 7:00 a.m. meeting ("July 2, 2010 termination meeting"). One of his managers accompanied him. Before the meeting started, URS Operations Manager Dennis Hayes, told his manager to leave and that he was not needed. When asked why, Hayes said that the topic of the meeting had changed or words to that effect.

2.88 Hayes then told Dr. Tamosaitis to go into his office. Present in the office was Patrick Ellis, acting for the URS Human Relations manager (Krumm). Hayes immediately told Dr. Tamosaitis that he was fired from the WTP Project as of that moment or words to that effect.

2.89 At the July 2, 2010 termination meeting, Hayes directed Dr. Tamosaitis to return his badge, cell phone, and Blackberry, and to leave the site immediately, or words to that effect.

2.90 At the July 2, 2010 termination meeting, Hayes stated to Dr. Tamosaitis that the decision to remove Dr. Tamosaitis from the project was made the night before, on July 1, 2010, or words to that effect.

2.91 At the July 2, 2010 termination meeting, Hayes stated to Dr. Tamosaitis that, "Bechtel Manager Frank Russo wants you off the project immediately" or words to that effect.

2.92 At the July 2, 2010 termination meeting, Hayes again told Dr. Tamosaitis to return his badge, phone, and Blackberry and to leave the site or words to that effect, and in

response Dr. Tamosaitis returned both his badge and phone as he did not have his Blackberry with him

2.93 At the July 2, 2010 termination meeting, Hayes told Dr. Tamosaitis that Dr. Tamosaitis could not go to his office to retrieve any personal belongings or words to that effect. Hayes told Dr. Tamosaitis that Dr. Tamosaitis must leave [Hanford] immediately and talk to no one or words to that effect.

2.94 At the July 2, 2010 termination meeting, several times Dr. Tamosaitis asked Hayes and Ellis for an explanation for his removal from the project. Hayes said he had no explanation and was only doing what he had been directed to do or words to that effect. Ellis made the similar statements. No reason was provided to Dr. Tamosaitis for why this action was being taken.

2.95 At the July 2, 2010 termination meeting, Dr. Tamosaitis asked if he could go by the desk of a person on the same floor and pay the dog-sitting fee to a secretary for her daughter's effort to watch his dog over the July 4th weekend. Hayes told Dr. Tamosaitis that he could not do that and must leave the building immediately under the escort of Ellis or words to that effect. Ellis was in URS Human Resources and was acting as the URS Human Resources Manager. He was present for the complete July 2, 2010 termination meeting.

2.96 Ellis escorted Dr. Tamosaitis out of the building. When he reached the main door of the building, Dr. Tamosaitis again asked Ellis what was going on and why was this happening? Ellis again told Dr. Tamosaitis that he did not have any information and knew nothing or words to that effect.

2.97 After being escorted out of the building by Ellis, Dr. Tamosaitis left Hanford and returned to his home.

2.98 Neither Hayes nor Ellis took action to oppose Dr. Tamosaitis' removal from Hanford.

DOE POSSIBLE INVOLVMENT IN RETALIATION

2.99 On July 2, 2010, from his home, Dr. Tamosaitis spoke with Leo Sain, the URS Senior Vice President in Aiken, South Carolina, by telephone ("July 2, 2010 Tamosaitis/Sain telephone call"). Sain stated that he could not elaborate on why Dr. Tamosaitis was removed from the WTP Project or words to that effect. Prior to the July 2, 2010 Tamosaitis/Sain telephone call, Sain had been briefed about Tamosaitis' removal from Hanford.

2.100 Sain asked Dr. Tamosaitis whether at the July 1, 2010 open issue meeting Dr. Tamosaitis had recommended that a large-scale demonstration test was needed or words to that effect. Dr. Tamosaitis stated that "yes, I had it on the list, but not specific to just for mixing; it was on the list to test other issues like sampling, controls, level measurement, like others, including Bechtel engineering, had brought up before the [July 1, 2010 open issue] meeting." The large-scale demonstration test was referred to on the 2010 Tamosaitis Safety Issue List, which Dr. Tamosaitis had disseminated at the July 1, 2010 open issue meeting as Items 45, 42, 10, and 14.

2.101 In the July 2, 2010 Tamosaitis/Sain telephone call, Sain directed Dr. Tamosaitis to come to Aiken, South Carolina on July 7, 2010 to discuss his termination from Hanford and an "opportunity" or words to that effect.

2.102 After several attempts, Dr. Tamosaitis was able to reach Gay by telephone on July 2, 2010 ("July 2, 2010 Tamosaitis/Gay telephone call"). Gay stated that he was on vacation, but would be back late Monday, July 5, 2010 and contact Dr. Tamosaitis then or words to that effect.

2.103 In the July 2, 2010 Tamosaitis/Gay telephone call, Gay stated that he had very little information and could only offer that DOE had become very upset with an email that he

had sent out [the June 2010 Tamosaitis consultant emails] or words to that effect. Gay stated that someone on the outside had contacted someone in DOE and expressed concern over the email or words to that effect. This indicated to Dr. Tamosaitis, that similar to Sain, Gay had been actively involved in the termination decision.

2.104 In the July 2, 2010 Tamosaitis/Gay phone call, Gay stated that he did not have enough information to discuss the termination action.

2.105 In the July 2, 2010 Tamosaitis/Gay telephone call, Gay told Dr. Tamosaitis that he would contact him late on Monday when he returned to Richland and that he should have a good weekend, or words to that effect.

2.106 On July 2, 2010, Greg Ashley directed the creation and dissemination of a second organizational announcement (“second Research and Technology organizational announcement”). The second Research and Technology organizational announcement issued by Greg Ashley was the same as Edwards’ first Research and Technology organizational announcement, but had removed Dr. Tamosaitis’ name and only stated that the Research and Technology group was moving to Operations.

2.107 Neither Gay nor Sain took action to oppose Dr. Tamosaitis’ removal from Hanford.

**URS HR MANAGER KRUMM TAKES NO ACTION
TO PROTECT DR. TAMOSAITIS FROM RETALIATION FOR HIS
WHISTLEBLOWER ACTIVITY**

2.108 On July 5, 2010, at about 2:00 p.m., URS HR Manager Krumm contacted Dr. Tamosaitis to schedule a meeting later that day with Gay. In the conversation, Dr. Tamosaitis asked Krumm for a written explanation as to why he was terminated from Hanford. Krumm said she had no information that she could provide or words to that effect. Krumm further stated that things had not been handled properly.

2.109 Krumm took no action to oppose Dr. Tamosaitis' removal from Hanford.

**URS MANAGERS SAIN AND HOLLAN AGAIN TAKE NO ACTION
TO PROTECT DR. TAMOSAITIS FROM RETALIATION FOR HIS
WHISTLEBLOWER ACTIVITY**

2.110 On July 7, 2010, Dr. Tamosaitis met with Sain in Aiken, South Carolina ("Aiken meeting"). Also in attendance was URS Human Resources Manager Dave Hollan. The Aiken meeting involved meetings in the morning and the afternoon with Tamosaitis, Sain and Hollan as well as short separate meetings between Tamosaitis and Sain, and Tamosaitis and Hollan.

2.111 At the Aiken meeting, Dr. Tamosaitis asked why he was there and why he had been terminated [from Hanford]. Both Sain and Hollan stated that they had looked at the [June 2010 Tamosaitis consultant] emails and did not see anything wrong.

2.112 Dr. Tamosaitis asked if he could read the DOE response to the June 2010 Tamosaitis consultant emails and was told "no" by Sain. Sain would only read him one or two sentences out of it or words to that effect.

2.113 At the Aiken meeting, Sain told Dr. Tamosaitis that if he really tried he could read something into the [June 2010 Tamosaitis consultant] emails that could be construed negatively or words to that effect.

2.114 At the Aiken meeting, Dr. Tamosaitis gave Sain and Hollan the background of the consultant-authored emails leading to the June 2010 Tamosaitis consultant emails. Again, both Sain and Hollan stated that they did not see anything wrong with the [June 2010 Tamosaitis consultant] emails but "URS did whatever Bechtel said" since URS was a subcontractor or words to that effect. At the Aiken meeting, Dr. Tamosaitis questioned the term "subcontractor" because of the contract fee agreement in which URS obtains 50% of all Project earnings.

2.115 At the Aiken meeting Sain and/or Hollan told Dr. Tamosaitis that "they (URS) would have handled it differently but they do what Bechtel says" or words to that effect.

2.116 At the Aiken meeting, Sain told Dr. Tamosaitis that he had to “forget the issues” or words to that effect. Dr. Tamosaitis understood “forget the issues” to mean the issues he had raised as part of the Tamosaitis whistleblower activities. Dr. Tamosaitis pointed out to Sain that identifying issues was part of Dr. Tamosaitis’ job scope. Dr. Tamosaitis asked Sain if he was not to do his job. Sain told Dr. Tamosaitis to bring the issues to him or words to that effect.

2.117 On July 20, 2010, Sain contacted Dr. Tamosaitis by telephone. In that call, Sain said that, “Russo made a mistake” or words to that effect, and said that any “issues” should be brought to him or words to that effect. He also said, “Hell Walt, haven’t you ever made a mistake?”

GAY BLAMES RUSSO AND DOE FOR DR. TAMOSAISIS’ REMOVAL FROM HANFORD

2.118 At a meeting held on July 12, 2010 (“July 12, 2010 URS meeting”), in the presence of Dr. Tamosaitis, Hayes, and Krumm, Gay stated that Dr. Tamosaitis was removed from the WTP Project at the direction of Bechtel WTP Project Manager Frank Russo and DOE WTP Federal Project Director Dale Knudson or words to that effect.

2.119 At the July 12, 2010 URS meeting, Gay stated that he had not been involved and that Hayes had been the leading URS person to participate in the action or words to that effect. Dr. Tamosaitis then questioned Hayes as to the basis for his termination. Hayes stated that he did not have to answer Dr. Tamosaitis’ questions as he (Hayes) was only there to observe and that Dr. Tamosaitis “was not in charge of the meeting.”

2.120 At the July 12, 2010 URS meeting, Gay said Bechtel had the right to terminate Dr. Tamosaitis as stated in the contract or words to that effect. Dr. Tamosaitis said he had read the contract, had not seen this provision, and questioned Gay as to where it was. Gay said he was not sure, or words to that effect.

2.121 Dr. Tamosaitis then asked for a copy of the contract that allegedly gave Bechtel this right to terminate Dr. Tamosaitis from the WTP project ("Gay's alleged contract"). Krumm said she would take it under advisement or words to that effect. Gay's alleged contract statement has not been provided to Dr. Tamosaitis.

2.122 Dr. Tamosaitis also asked for a written and signed reason for his termination [from Hanford]. Krumm said she would take that under advisement or words to that effect. No written and signed reason for his termination has been provided to Dr. Tamosaitis.

2.123 At the July 12, 2010 URS meeting, Gay read from a prepared script except for briefly answering Dr. Tamosaitis' questions. Dr. Tamosaitis asked Gay as to why his termination had occurred. Gay first stated it was a result of poor customer attitude or words to that effect. Dr. Tamosaitis objected and asked Gay if his attitude was any worse than others including Gay. Gay appeared to acknowledge that it was not.

2.124 At the July 12, 2010 URS meeting, Gay then said the reason was poor performance or words to that effect. Dr. Tamosaitis objected to this and asked where it was documented as this was the first time he had heard this. Gay did not reply to this direct question.

2.125 At the July 12, 2010 URS meeting, Dr. Tamosaitis then asked Gay why Ashley was telling people that he (Dr. Tamosaitis) was going to be transferred to England. Gay said he had been pursuing this or words to that effect. Gay admitted that he had not discussed a transfer to England with Dr. Tamosaitis but had looked into it anyway or words to that effect.

2.126 After the July 12, 2010 URS meeting, Krumm told Dr. Tamosaitis that it was a "bad situation and that things had not been handled properly but her hands were tied" or words to that effect.

DR. TAMOSAITS CONTACTS THE DNFSB

2.127 On or about July 16, 2010, Dr. Tamosaitis sent a letter to the DNFSB outlining his concerns regarding WTP engineering issues and the manner in which the safety of the nuclear and chemical processes are being handled. Dr. Tamosaitis also included concerns in the DNFSB letter about his punitive and retaliatory termination in his letter.

2.128 The DNFSB placed a litigation hold on all relevant documents directing the respondents not to destroy or otherwise dispose of such documents.

DR. TAMOSAITS' NEW MANAGER THREATENS HIM WITH MORE RETALIATION

2.129 On July 19, 2010, over lunch Dr. Tamosaitis' new supervisor, Duane Schmoker, told Dr. Tamosaitis that Dr. Tamosaitis would be better off dropping the issue of his termination from Hanford, or words to that effect, and stated: "If you go to court, Bechtel is going to win," or words to that effect. Schmoker further stated: "If you pursue this, your longevity is in danger." Dr. Tamosaitis asked if this meant his life, health, or job. Schmoker made no reply.

DR. TAMOSAITS REMAINS EMPLOYED WITHOUT A MEANINGFUL ASSIGNMENT

2.130 Dr. Tamosaitis has been reassigned to a URS facility off Hanford, in downtown Richland, in a non-supervisory role.

2.131 Dr. Tamosaitis has been given an office in the basement, which he shares with two copying machines and a field worker who is usually not present. Since being assigned to the basement, he has been given little or no meaningful work, and has been relegated to projects that do not require his level of experience.

2.132 Dr. Tamosaitis' reputation in the community and his reputation in the industry have been severely damaged by the illegal and retaliatory actions of URS, Bechtel and the individual respondents.

2.133 Dr. Tamosaitis has lost friends and his family's social involvement in the community has been impacted.

2.134 Dr. Tamosaitis has suffered loss of enjoyment of life, pain and suffering, mental anguish, emotional distress, injury to reputation, and humiliation.

2.135 Dr. Tamosaitis will lose income and professional opportunities for the remainder of his work life owing to the wrongful actions of the respondents.

2.136 URS, BNI, and DOE are liable for the actions of their agents under the doctrine of respondeat superior.

III. ADVERSE ACTIONS

3.1 After 40 years of service and over 20 years in the Environmental Management arena supporting DOE, Complainant's career has been irreparably harmed by the Respondents' illegal and retaliatory removal of Complainant from his position at URS at the WTP site, because of his protected activity.

3.2 Complainant has been threatened and warned not to pursue a claim as a result of his removal.

3.3 Complainant's career growth in the Hanford and DOE community has been irreparably harmed as a result of the Respondents' retaliatory termination.

3.4 Complainant's reputation in the community as well as his reputation in the industry is severely damaged by Respondents' illegal and retaliatory actions.

3.5 Respondents' actions have caused a chilling effect on the willingness and ability of other employees at the Waste Treatment Plant to bring forth safety and engineering concerns that could impact the cost and schedule of the facility in a manner that might threaten the fees and profits of Respondents.

3.6 Complainant was subjected to a hostile working environment.

3.7 Complainant's future career was threatened, and insinuations about his physical well-being as being in jeopardy were communicated to him.

IV. CAUSES OF ACTION

4.1 Complainant's acts in reporting violations of laws and regulations and safety non-compliances, are protected activities under the Energy Reorganization Act, 42 U.S.C. Section 5851.

4.2 The Respondents had knowledge of the foregoing protected activity.

4.3 Respondents acted in concert to harass and terminate Complainant in a discriminatory manner, and subject him to a hostile working environment.

V. REQUEST FOR RELIEF

Complainant respectfully requests the following relief from the Department of Labor:

5.1 The contractors of the WTP Project and the DOE be directed to conduct periodic independent third party reviews of the Safety culture;

5.2 The WTP Project to establish a well documented process to document all issues on a single list so that the status is readily available;

5.3 The WTP project to establish an issue resolution process that crosscuts WTP divisions and includes the DOE;

5.4 The prominent posting by the current contractors of the WTP Project to post in visible places and distribute to all employees individually a statement denouncing their action towards Complainant (this statement must meet the approval of Complainant);

5.5 The contractors of the WTP project and DOE to undertake training for their management in how to prevent retaliatory actions, prevention of issue suppression, and how to prevent a chilling environment;

5.6 Payment equal to what would have resulted from the Complainant's career plans over the next decade. This includes all benefits such as his 401K, medical, and life insurance;

5.7 An award of damages to compensate Complainant for emotional harm;

5.8 An award of damages to compensate Complainant for lost wages, lost future business opportunities, lost benefits, and retirement;

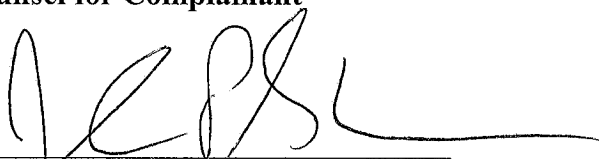
5.9 All costs for bringing this action, including attorney fees and litigation costs; and

5.10 Any and all such other relief to which Complainant may be entitled.

SUBMITTED this 15th day of December, 2010.

Respectfully submitted,

Counsel for Complainant

A handwritten signature in black ink, appearing to read 'JP Sheridan', written over a horizontal line.

John P. Sheridan
The Sheridan Law Firm, P.S.
Hoge Building, Suite 1200
705 Second Avenue
Seattle, WA 98104
jack@sheridanlawfirm.com
(206) 381-5949