

Special Exposure Cohort Petition
under the Energy Employees Occupational
Illness Compensation Act

U.S. Department of Health and Human Services

Centers for Disease Control and Prevention
National Institute for Occupational Safety and Health

OMB Number: 0920-0639

Expires: 07/31/2010

Special Exposure Cohort Petition — Form B

Page 1 of 7

Use of this form and disclosure of Social Security Number are voluntary. Failure to use this form or disclose this number will not result in the denial of any right, benefit, or privilege to which you may be entitled.

General Instructions on Completing this Form *(complete instructions are available in a separate packet):*

Except for signatures, please **PRINT** all information clearly and neatly on the form.

Please read each of Parts A — G in this form and complete the parts appropriate to you. If there is more than one petitioner, then each petitioner should complete those sections of parts A – C of the form that apply to them. Additional copies of the first two pages of this form are provided at the end of the form for this purpose. A maximum of three petitioners is allowed.

If you need more space to provide additional information, use the continuation page provided at the end of the form and attach the completed continuation page(s) to Form B.

If you have questions about the use of this form, please call the following NIOSH toll-free phone number and request to speak to someone in the Office of Compensation Analysis and Support about an SEC petition: 1-877-222-8570.

If you are:	<input type="checkbox"/> A Labor Organization,	Start at D on Page 3
	<input type="checkbox"/> An Energy Employee (current or former),	Start at C on Page 2
	<input type="checkbox"/> A Survivor (of a former Energy Employee),	Start at B on Page 2
	<input checked="" type="checkbox"/> A Representative (of a current or former Energy Employee),	Start at A on Page 1

A Representative Information — Complete Section A if you are authorized by an Employee or Survivor(s) to petition on behalf of a class.

A.1 Are you a contact person for an organization? Yes (Go to A.2) No (Go to A.3)

A.2 Organization Information:

Name of Organization _____

Position of Contact Person _____

A.3 Name of Petition Representative:

Mr./Mrs./Ms. First Name Middle Initial Last Name _____

A.4 Address:

Street Ant # P.O. Box _____

City State Zip Code _____

A.5 Telephone Number

A.6 Email Address:

A.7 Check the box at left to indicate you have attached to the back of this form written authorization to petition by the survivor(s) or employee(s) indicated in Parts B or C of this form. An authorization

If you are representing a Survivor, go to Part B; if you are representing an Employee, go to Part C.

Name or Social Security Number of First Petitioner: _____

Special Exposure Cohort Petition

under the Energy Employees Occupational Illness Compensation Act

U.S. Department of Health and Human Services

Centers for Disease Control and Prevention
National Institute for Occupational Safety and Health

OMB Number: 0920-0639

Expires: 07/31/2010

Special Exposure Cohort Petition — Form B

Page 2 of 7

B Survivor Information — Complete Section B if you are a Survivor or representing a Survivor.

B.1 Name of Survivor:

Mr./Mrs./Ms. First Name Middle Initial Last Name

B.2 Social Security Number of Survivor:

B.3 Address of Survivor:

Street Apt # P.O. Box

City State Zip Code

B.4 Telephone Number of Survivor: () -

B.5 Email Address of Survivor:

- B.6 Relationship to Employee:**
- Spouse
 - Son/Daughter
 - Parent
 - Grandparent
 - Grandchild

Go to Part C.

C Employee Information — Complete Section C UNLESS you are a labor organization.

C.1 Name of Employee:

Mr./Mrs./Ms. First Name Middle Initial Last Name

C.2 Former Name of Employee (e.g., maiden name/legal name change/other):

Mr./Mrs./Ms. First Name Middle Initial Last Name

C.3 Social Security Number of Employee:

C.4 Address of Employee (if living):

City State Zip Code

C.5 Telephone Number of Employee:

C.6 Email Address of Employee:

C.7 Employment Information Related to Petition:

C.7a Employee Number (if known):

C.7b Dates of Employment: Start 1984 End 2002

C.7c Employer Name:

C.7d Work Site Location: HANFORD, RICHLAND WASHINGTON

C.7e Supervisor's Name:

Go to Part E.

Name or Social Security Number of First Petitioner: _____

Special Exposure Cohort Petition — Form B

D Labor Organization Information — Complete Section D ONLY if you are a labor organization.

D.1 Labor Organization Information:

Name of Organization

Position of Contact Person

D.2 Name of Petition Representative:

D.3 Address of Petition Representative:

Street Apt # P.O. Box

City State Zip Code

D.4 Telephone Number of Petition Representative: () - _____

D.5 Email Address of Petition Representative: _____

D.6 Period during which labor organization represented employees covered by this petition
(please attach documentation): Start _____ End _____

D.7 Identity of other labor organizations that may represent or have represented this class of employees (if known):

Go to Part E.

Name or Social Security Number of First Petitioner: _____

Special Exposure Cohort Petition — Form B

E Proposed Definition of Employee Class Covered by Petition — Complete Section E.

E.1 Name of DOE or AWE Facility: HANFORD

E.2 Locations at the Facility relevant to this petition: PLUTONIUM FINISHING PLANT,
200 AREA

E.3 List job titles and/or job duties of employees included in the class. In addition, you can list by name any individuals other than petitioners identified on this form who you believe should be included in this class: CHEMICAL OPERATOR, PLANT ENGINEER, OPERATIONS
SPECIALIST, NUCLEAR CHEMICAL OPERATOR, FIREMAN, PATROLMAN

E.4 Employ _____ relevant to this petition

Start	<u>1984</u>	End	<u>2002</u>
Start	_____	End	_____
Start	_____	End	_____

E.5 Is the petition based on one or more unmonitored, unrecorded, or inadequately monitored or recorded exposure incidents?: Yes No

If yes, provide the date(s) of the incident(s) and a complete description (attach additional pages as necessary):

SEE ATTACHED PAGES

Go to Part F.

Name or Social Security Number of First Petitioner: _____

Special Exposure Cohort Petition -- Form B

**F Basis for Proposing that Records and Information are Inadequate for Individual Dose —
Complete Section F.**

Complete **at least one** of the following entries in this section by checking the appropriate box and providing the required information related to the selection. You are not required to complete more than one entry.

- F.1 I/We have attached either documents or statements provided by affidavit that indicate that radiation exposures and radiation doses potentially incurred by members of the proposed class, that relate to this petition, were not monitored, either through personal monitoring or through area monitoring.

(Attach documents and/or affidavits to the back of the petition form.)

Describe as completely as possible, to the extent it might be unclear, how the attached documentation and/or affidavit(s) indicate that potential radiation exposures were not monitored.

- F.2 I/ We have attached either documents or statements provided by affidavit that indicate that radiation monitoring records for members of the proposed class have been lost, falsified, or destroyed; or that there is no information regarding monitoring, source, source term, or process from the site where the employees worked.

(Attach documents and/or affidavits to the back of the petition form.)

Describe as completely as possible, to the extent it might be unclear, how the attached documentation and/or affidavit(s) indicate that radiation monitoring records for members of the proposed class have been lost, altered illegally, or destroyed.

SEE ATTACHED PAGES

Part F is continued on the following page.

Special Exposure Cohort Petition — Form B

- F.3 I/We have attached a report from a health physicist or other individual with expertise in radiation dose reconstruction documenting the limitations of existing DOE or AWE records on radiation exposures at the facility, as relevant to the petition. The report specifies the basis for believing these documented limitations might prevent the completion of dose reconstructions for members of the class under 42 CFR Part 82 and related NIOSH technical implementation guidelines.

(Attach report to the back of the petition form.)

- F.4 I/We have attached a scientific or technical report, issued by a government agency of the Executive Branch of Government or the General Accounting Office, the Nuclear Regulatory Commission, or the Defense Nuclear Facilities Safety Board, or published in a peer-reviewed journal, that identifies dosimetry and related information that are unavailable (due to either a lack of monitoring or the destruction or loss of records) for estimating the radiation doses of employees covered by the petition.

(Attach report to the back of the petition form.)

Go to Part G.

G Signature of Person(s) Submitting this Petition — Complete Section G.

All Petitioners

of three persons may sign the petition.

10-26-09

Date

Signature

Date

Signature

Date

Notice: Any person who knowingly makes any false statement, misrepresentation, concealment of fact or any other act of fraud to obtain compensation as provided under EEOICPA or who knowingly accepts compensation to which that person is not entitled is subject to civil or administrative remedies as well as felony criminal prosecution and may, under appropriate criminal provisions, be punished by a fine or imprisonment or both. I affirm that the information provided on this form is accurate and true.

Send this form to: SEC Petition
Office of Compensation Analysis and Support
NIOSH
4676 Columbia Parkway, MS-C-47
Cincinnati, OH 45226

**If there are additional petitioners, they must complete the Appendix Forms for additional petitioners.
The Appendix forms are located at the end of this document.**

Name or Social Security Number of First Petitioner: _____

Special Exposure Cohort Petitionunder the Energy Employees Occupational
Illness Compensation Act**U.S. Department of Health and Human Services**Centers for Disease Control and Prevention
National Institute for Occupational Safety and Health

OMB Number: 0920-0639

Expires: 07/31/2010

Special Exposure Cohort Petition — Form B

Page 7 of 7

Public Burden Statement

Public reporting burden for this collection of information is estimated to average 300 minutes per response, including time for reviewing instructions, gathering the information needed, and completing the form. If you have any comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, send them to CDC Reports Clearance Officer, 1600 Clifton Road, MS-E-11, Atlanta GA, 30333; ATTN:PRA 0920-0639. Do not send the completed petition form to this address. Completed petitions are to be submitted to NIOSH at the address provided in these instructions. Persons are not required to respond to the information collected on this form unless it displays a currently valid OMB number.

Privacy Act Advisement

In accordance with the Privacy Act of 1974, as amended (5 U.S.C. § 552a), you are hereby notified of the following:

The Energy Employees Occupational Illness Compensation Program Act (42 U.S.C. §§ 7384-7385) (EEOICPA) authorizes the President to designate additional classes of employees to be included in the Special Exposure Cohort (SEC). EEOICPA authorizes HHS to implement its responsibilities with the assistance of the National Institute for Occupational Safety (NIOSH), an Institute of the Centers for Disease Control and Prevention. Information obtained by NIOSH in connection with petitions for including additional classes of employees in the SEC will be used to evaluate the petition and report findings to the Advisory Board on Radiation and Worker Health and HHS.

Records containing identifiable information become part of an existing NIOSH system of records under the Privacy Act, 09-20-147 "Occupational Health Epidemiological Studies and EEOICPA Program Records. HHS/CDC/NIOSH." These records are treated in a confidential manner, unless otherwise compelled by law. Disclosures that NIOSH may need to make for the processing of your petition or other purposes are listed below.

NIOSH may need to disclose personal identifying information to: (a) the Department of Energy, other federal agencies, other government or private entities and to private sector employers to permit these entities to retrieve records required by NIOSH; (b) identified witnesses as designated by NIOSH so that these individuals can provide information to assist with the evaluation of SEC petitions; (c) contractors assisting NIOSH; (d) collaborating researchers, under certain limited circumstances to conduct further investigations; (e) Federal, state and local agencies for law enforcement purposes; and (f) a Member of Congress or a Congressional staff member in response to a verified inquiry.

This notice applies to all forms and informational requests that you may receive from NIOSH in connection with the evaluation of an SEC petition.

Use of the NIOSH petition forms (A and B) is voluntary but your provision of information required by these forms is mandatory for the consideration of a petition, as specified under 42 CFR Part 83. Petitions that fail to provide required information may not be considered by HHS.

Name or Social Security Number of First Petitioner: ____

Special Exposure Cohort Petition

under the Energy Employees Occupational
Illness Compensation Act

U.S. Department of Health and Human Services

Centers for Disease Control and Prevention
National Institute for Occupational Safety and Health

OMB Number: 0920-0639

Expires: 07/31/2010

Petitioner Authorization Form

Page 1 of 2

Use of this form is voluntary. Failure to use this form will not result in the denial of any right, benefit,

Instructions:

If you wish to petition HHS to consider adding a class of employees to the Special Exposure Cohort and you are NOT either a member of that class, a survivor of a member of that class, or a labor organization representing or having represented members of that class, then 42 CFR Part 83, Section 83.7(c) requires that you obtain written authorization. You can obtain such authorization from either an employee who is a member of the class or a survivor of such an employee. You may use this form to obtain such authorization and submit the completed form to NIOSH with the related petition. **Please print legibly.**

For Further Information: If you have questions about these instructions, please call the following NIOSH toll-free phone number and request to speak to someone in the Office of Compensation Analysis and Support about an SEC petition: 1-800-356-4674.

Authorization for Individual or Entity to Petition HHS on Behalf of a Class of Employees for Addition to the Special Exposure Cohort

I, _____
Name of Class Member or Survivor

_____ Apt. # _____ P.O. Box _____
Street Address of Class Member or Survivor

_____ City, State, Zip Code of Class Member or Survivor

do hereby authorize:

_____ Name of Petitioner

_____ Apt. # _____ P.O. Box _____
Address of Petitioner

_____ City, State and Zip Code of Petitioner

to petition the Department of Health and Human Services on behalf of a class of employees that includes:

_____ Name of Class Member (employee, not the employee's survivor)

for the addition of the class to the Special Exposure Cohort, under the Energy Employee's (42 U.S.C. §§ 7384-7385).

I, _____ the petitioner named above will have all the rights
(_____ 83.

_____ Date 10-26-09

Name or Social Security Number of First Petitioner: _____

Special Exposure Cohort Petition

under the Energy Employees Occupational
Illness Compensation Act

U.S. Department of Health and Human Services

Centers for Disease Control and Prevention
National Institute for Occupational Safety and Health

OMB Number: 0920-0639

Expires: 07/31/2010

Petitioner Authorization Form

Page 2 of 2

Public Burden Statement

Public reporting burden for this collection of information is estimated to average 3 minutes per response, including time for reviewing instructions, gathering the information needed, and completing the form. If you have any comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, send them to CDC Reports Clearance Officer, 1600 Clifton Road, MS-E-11, Atlanta GA, 30333; ATTN:PRA 0920-0639. Do not send the completed petition form to this address. Completed petitions are to be submitted to NIOSH at the address provided in these instructions. Persons are not required to respond to the information collected on this form unless it displays a currently valid OMB number.

Use of this form is voluntary. Failure to use this form will not result in the denial of any right, benefit, or privilege to which you may be entitled.

Name or Social Security Number of First Petitioner: _____

E.5

Page 2 of The Internal Dosimetry Report R EXID: [redacted] for the Petitioner [redacted] was based upon fraudulent data created by the United States Testing Company (UST). This fraud was discovered in an investigation by the United States Environmental Protection Agency (EPA) as set forth in their Action Referral Memorandum dated April 4, 1990, recommending that UST be suspended from further work on dosimetry testing at both their Richland Washington and Hoboken, New Jersey laboratories. See attached copy of the EPA report.

F.2

Note the following instances of fraudulent activity described in the numbered paragraphs of said EPA report encompassed time periods relevant to the dosimetry testing data set forth on the attached page 2 of the Internal Dosimetry Report for Petitioner.

#15 concerning signatures of persons qualified to do the work were forged by unqualified UST personnel that actually did the work, at least between December, 1987 and August, 1988. This time period would include the analysis of Petitioner's fecal samples done [redacted] 1988 and [redacted] 1988.

#17 concerning the false report by UST that during 1987 and 1988 data was fraudulently reported as being analyzed on certain types of equipment that was not present or used at the UST facilities during said periods. All of Petitioner's sampling beginning with his urinalysis tests of [redacted] 1987 through to his last fecal test of [redacted] 1988 were included within the period of the described fraud.

#19 concerning "backdating" of sample preparation and analysis used by UST in all analyses done under both Organics and Inorganics contracts since at least 1987. This backdating was also done by another method known as "cut and paste." All of Petitioner's samples since his urinalysis of [redacted] 1987 up through his urinalysis of [redacted] 1989 were within the period of this type of fraud.

#20 concerning the improper calibration of analytical equipment and failure to utilize required standards made it impossible to determine if the analysis results were reliable. These practices took place at least in 1987 and 1988, which would include the Petitioner's urinalyses of [redacted] 1987 through to his fecal sample of [redacted] 1988.

#22 concerning analyses results produced on computer printouts as a graph in the form of peaks which indicate if a proper standard was used. "Peak shaving" was accomplished by manipulating the computer program to bring the peak within the desired range. This was a common practice throughout the Hoboken and Richland facilities where computer graph printouts were used, which means that all of Petitioner's dosimetry requiring computer graphic confirmation that a proper standard was utilized are suspect and unreliable.

All of the fraudulent practices are supported by numerous exhibits and proofs gathered by the EPA that are specific to each practice described. Most of these exhibits were put under seal and only a few have survived. Two such survivors are the attached interviews of [redacted] and [redacted] UST was a subcontractor to Battelle NW which had the contract with the DOE for all testing. All of UST facilities and those of UST subsidiaries were suspended nationally from any further work at Superfund sites over which EPA had jurisdiction. Battelle subsequently sued UST for fraud.

Petitioner asserts that none of the Hanford dosimetry results for the year 1987, 1988, and 1989, until the discovery of the fraud, could possibly be deemed reliable. The fraud would have also infected the results of Petitioner's co-workers. Without reliable dosimetry data there is no way that a reasonably accurate dose reconstruction for Petitioner can be performed, and consequently Petitioner is entitled to SEC status.

**Radiological Exposure System
Internal Dosimetry Report**

**Page 2
02/08/2007 16:52**

**REXIC Soc Sec Num
Emergency Search For:**

Sex: M

Parameter Dates:



~~CONFIDENTIAL~~ OFFICIAL USE ONLY

OFFICE OF THE INSPECTOR GENERAL
OFFICE OF INVESTIGATIONS

INTERVIEW OF

On August 15, 1989, EPA OIG Special Agent CARL W. FRIEDRICH and DOE OIG Special Agent DONALD G. FARMER interviewed _____
Special Agents FRIEDRICH and FARMER properly identified themselves and provided to _____ an immunity letter dated August 15, 1989 from Assistant United States Attorney ROBERT S. LINNELL, Eastern District of Washington, United States Department of Justice. _____ was then questioned relative to her activities and knowledge of her former employer, UNITED STATES TESTING COMPANY, INC., Hoboken, New Jersey. No other persons were present.

Special Agent FRIEDRICH recontacted _____ by telephone on September 14, 1989 to obtain additional information relative to UNITED STATES TESTING COMPANY, INC. The information obtained has been incorporated into the body of this report.

_____ voluntarily provided the following information:

Home Address:

Home Telephone:
Work Address:

Work Telephone:
DOB:
SSN:

_____ provided the following information in response to questions:

_____ is presently employed as a Sales Representative for CLAYTON ENVIRONMENTAL CONSULTANTS. She received in _____ a

INVESTIGATION CONDUCTED ON		CONDUCTED AT	
1989			
CONDUCTED BY		O/F FILE NUMBER	
C. FRIEDRICH and D. FARMER			
DATE DICTATED	DATE TRANSCRIBED	BY	
1989	1989		

This report is the property of the Office of Investigations and is loaned to your agency; it and its contents may not be reproduced without written permission. This report is FOR OFFICIAL USE ONLY and its disclosure to unauthorized persons is prohibited. Public availability to be determined under 5 U.S.C. §22.

~~CONFIDENTIAL~~

OFFICIAL USE ONLY

was formerly employed by UNITED STATES TESTING COMPANY, INC. (USTC), Hoboken, New Jersey, from 1983 to 1987. was hired by USTC as a and was subsequently promoted to in 1985. and her staff conducted laboratory testing for inorganic compounds. Her staff consisted of who were all Chemists, and (NFI) who were Laboratory Technicians. Initially, her immediate supervisor was but left in 1986 and was replaced by reported to and reported to

recalled that in July of 1987, instructed her to go to USTC's Richland Division in Richland, Washington. told her that Richland was trying to obtain an inorganic contract from the EPA, and needed her assistance in completing their pre-award performance evaluation samples. explained that she arrived in Richland on a Wednesday evening, expecting her visit not to exceed three days. The next day when she went to work at the Richland Division, it became immediately apparent that she could not complete the work in three days. indicated that the Richland Division personnel did not know how to do the required tests and had made no progress in completing the work. She was alarmed because the due date for submitting the test results to the EPA was the second Friday after arrived in Richland. stated that she immediately telephoned POSNER and advised him of the situation. told her to get it done. indicated that he didn't care how she did it, just get through the testing of the preaward samples.

continued that around midnight on the Wednesday just prior to the due date, she was testing the EPA samples in the graphite furnace, which is used to identify the presence of metals. The tests had to be completed that evening because the report needed to be sent out the next day so that it would reach the EPA by Friday. recalled that during the testing, she ran into a problem producing standards within EPA requirements. explained that the EPA requires that a standard be run after every ten sample tests to ensure reliability of the test data. A standard is a sample which contains a known concentration level of a particular compound. The standard is tested in the graphite furnace to see what the concentration of that particular compound is according to the test data. If the data indicates a concentration level within 10% of the known concentration level, the data generated during the previous 10 samples is acceptable. If the concentration level is outside the 10% window, the EPA requires that the laboratory retest all of the previous 10 samples.

continued that the standards were not producing concentration levels within the 10% window, and that given the

~~CONFIDENTIAL~~

OFFICIAL USE ONLY

impending due date, there was not enough time to rerun all of the previous samples. She discussed the problem with [redacted] who was a Richland Division employee who assisted [redacted] on the testing. Per [redacted] suggestion, and with the agreement of [redacted] they ran a new standard and cut and pasted the resulting test data on top of the strip chart which showed the failed standard test results. The cut and pasted strip chart was then photocopied and included in the report which was submitted to the EPA. [redacted] indicated that she helped assemble this report the following day.

[redacted] stated that because she and [redacted] cut and pasted the strip chart, the report submitted to EPA may reflect inaccurate concentration levels.

[redacted] also recalled that during her trip to the Richland Division, she tested on Richland's ICAP 9000 the Ionization Coupled Plasma (ICP) samples which were part of the inorganic pre-award samples that Hoboken received from the EPA. [redacted] explained that Instrument C in Hoboken was inoperable due to a failed generator, and as a result had caused a one month backlog of sample testing. In addition, USTC had just returned to the EPA 100 EPA samples that they could not test because of equipment failure. Before she left Hoboken for her trip to the Richland Division, [redacted] instructed her to take the samples and test them at Richland. [redacted] recalled asking [redacted] whether this was the right thing to do, and [redacted] told her not to worry about it because the EPA would never know. [redacted] stated that the samples were important to USTC in Hoboken because their current inorganic contract was running out, and that they were under pressure to get a new inorganic contract from the EPA.

In addition, while [redacted] was at the Richland Division, [redacted] sent to her USTC Hoboken's graphite furnace sample data. [redacted] took the data and incorporated the ICP test results into one report, signed off on the package and sent all of the test results to the EPA via overnight mail while [redacted] from the Richland Division. Per [redacted] instructions, she recorded USTC in Hoboken as the return address on the overnight mail receipt so that it would appear to the EPA that the test results were conducted and sent in from Hoboken.

[redacted] stated that POSNER told her that the Richland Division always did what he wanted, and that [redacted] and [redacted] of the Richland Division were nothing. [redacted] explained that [redacted] had a lot of power at USTC.

[redacted] recalled that while at USTC in Hoboken, she told [redacted] that she was having trouble getting all her work done on time. [redacted] told [redacted] that to meet the work load, she was "helping the standards along", which refers to getting the standard within the 10% window by either spiking the sample when it is too low, or

~~CONFIDENTIAL~~

OFFICIAL USE ONLY

by adding water to the sample when it is too high. [redacted] knew what "helping the standards along" was and that it was wrong. [redacted] told [redacted] to do what she had to do to get the work done.

[redacted] overheard a conversation that [redacted] was a part of which included discussions about techniques that USTC was using to falsify test data. This included enhancing the spectra and backdating test results.

[redacted] never showed [redacted] any techniques for falsifying inorganic test data because she did not know anything about inorganic testing.

[redacted] indicated that [redacted] told her that the [redacted] Section had two sets of logbooks, one for the EPA and one for the work they actually did. [redacted] stated that she never saw a second set of logbooks.

[redacted] recalled that during the middle part of 1987, she had a problem getting a standard to work while testing an EPA sample for tin in the graphite furnace. [redacted] told [redacted] that she couldn't get the standard to work for it was coming out too high. [redacted] instructed her to add more water to the standard to get it to work. [redacted] admitted that she followed [redacted] instructions even though it was improper and in essence doctoring the sample. [redacted] estimated that she did this on two to three times.

[redacted] stated that she never instructed her employees to falsify tests, nor did she let them see her falsify tests. [redacted] explained that whenever her employees had a problem with a standard, she would come back at night after they had left the facility and add water to the standards for them. [redacted] indicated that she never discussed POSNER's instructions to fix the standards with [redacted].

[redacted] added that she overheard [redacted] instruct [redacted] to add water to standards. [redacted] indicated that [redacted] knew that adding water to standards was improper.

[redacted] stated that [redacted] saw [redacted] cut and paste test results and then proceeded to cut and paste test results on her own. [redacted] indicated that this occurred during a two to three week period at the end of 1987 on samples that were being tested in the graphite furnace. [redacted] stated that when she discovered that [redacted] had done this, she told her not to cut and paste test results. [redacted] explained that [redacted] knew the pressure that she was under and was just trying to help out.

[redacted] recalled that she heard on many occasions [redacted] instruct USTC employees to backdate their instruments. This included employees who tested organic and inorganic samples. She

~~CONFIDENTIAL~~

OFFICIAL USE ONLY

specifically recalled that [redacted] and [redacted] were among those employees who received such instruction. [redacted] explained that for organic testing, the instrument had to be calibrated every 24 hours. The tests were backdated less than 24 hours so that it would appear that the sample was tested during the 24 hour calibration period. This enabled the operator to conduct more tests in the 24-hour calibration period. [redacted] explained that the test results generated on backdated EPA sample tests are questionable because the instrument was not recalibrated before testing.

[redacted] recalled that [redacted] created a stressful, high pressure work environment. [redacted] He required the employees to work long hours for the purpose of improving production.

During January of 1987, [redacted] announced that all employees would receive a 25% pay cut. He told [redacted] that she was not getting enough samples done, and that to get the money back she had to up production. [redacted] stated that they had a lot of samples to do and POSNER wanted them done fast. [redacted] indicated that [redacted] had an expense account and company car, and that it was all contingent on his department making money.

[redacted] recalled that [redacted] instructed her to spike samples with a known amount of the target compound before testing so that it would be easier to identify the target compound. This eliminates the risk of masking, which is when another compound hides the presence of the target compound. If someone forgot to spike a sample prior to testing, the sample was spiked and tested again independently without the EPA required blank and standards tests. GAMBINO stated that this was improper and could affect the concentration levels of the target compounds reported to the EPA.

In 1983/1984, [redacted] of the Extraction Laboratory told [redacted] that she was directed by [redacted] to backdate extraction logsheets so that it would appear [redacted] the organic extractions were done within the holding times.

[redacted] recalled that during 1984, approximately 100 BATTELLE PACIFIC NORTHWEST LABORATORY samples received from USTC's Richland Division were run in her laboratory. [redacted] explained that for the entire month of October 1987, [redacted] of the Richland Division tested the samples at USTC in Hoboken because the Richland Division's mercury analyzer was broken. [redacted] returned again with OZANICH for a period of one week in December of 1987 and tested some more of the samples. [redacted] indicated that [redacted] and [redacted] recorded the tests in Richland Division logbooks, and surmised that the logbooks indicate that the tests were run on the broken mercury analyzer.

[redacted] recalled that in 1985, the Richland Division was in the process of setting up their laboratory and was unable to do any

~~CONFIDENTIAL~~

OFFICIAL USE ONLY

of their own testing. Consequently, USTC in Hoboken did all of Richland's organic and inorganic testing. indicated that the samples were from BATTELLE PACIFIC NORTHWEST LABORATORY.

stated that during the end of 1986, beginning of 1987, offered her some cocaine at USTC. She refused the offer and consequently was ridiculed by for doing so. stated that would use cocaine in office. It was common knowledge that whenever and went into office and closed the door they were doing cocaine. stated that this went on for about a year and that she overheard and talking about it. She also overheard POSNER offering cocaine to .

also told and her staff not to run EPA samples when EPA was present at the laboratory during an on-site inspection. did not want the EPA to see USTC having any problems testing their samples.

stated that commercial samples were routinely poured down the sink during periodic clean ups. During the end of 1986, instructed USTC employees to pour New Jersey State Drinking water samples down the sink drain. indicated that USTC was required to hold onto the samples until the end of the state contract, and that the samples were acidified with a PH of approximately 2.



~~CONFIDENTIAL~~

OFFICIAL USE ONLY

OFFICE OF THE INSPECTOR GENERAL
OFFICE OF INVESTIGATIONS

INTERVIEW OF

On 1989, Special Agents CARL W. FRIEDRICH and KENT MONTGOMERY interviewed at Tukwilla, Washington. Special Agents FRIEDRICH and MONTGOMERY properly identified themselves and questioned relative to his activities and knowledge of his former employer, UNITED STATES TESTING COMPANY, INC. (USTC) of Richland, Washington. No other persons were present.

On June 21, 1989, Special Agent CARL W. FRIEDRICH reinterviewed at Tukwilla, Washington. Special Agent properly identified himself and questioned NICHOLS relative to his activities and knowledge of USTC. No other persons were present.

voluntarily provided the following:

Home Address:

Home Telephone:

Work Address:

Work Telephone:

DOB:

SSN:

provided the following information in response to questions:

is presently employed by as a Gas Chromatograph (GC) Chemist. was formerly employed by USTC as a in their Hazardous Substances Analysis Group from 1988 to 1989. stated that he only conducted testing relative to Pesticides and PCBs.

INVESTIGATION CONDUCTED ON June 5, 1989		CONDUCTED AT Tukwilla, Washington	
CONDUCTED BY C. FRIEDRICH/K. MONTGOMERY		OI FILE NUMBER	
DATE DICTATED 1989	INTERVIEW DATED 1989	BY	

This report is the property of the Office of Investigations and is loaned to your agency; it and its contents may not be reproduced without written permission. The report is FOR OFFICIAL USE ONLY and its disclosure to unauthorized persons is prohibited. Public availability to be determined under 5 U.S.C. 522.

From August of 1984 to July of 1988, --- was employed by LOCKHEED ENGINEERING AND SCIENCES COMPANY in Las Vegas, Nevada, as a

has attended approximately two years of college at Stockton State College in New Jersey and one and a half years at Northern Arizona University. He studied chemistry and has not completed all of the requirements for a degree.

recalled that approximately two weeks after starting to work at USTC, he was assigned to conduct pesticide analysis of two samples which were part of EPA Case Number 10015. stated that the samples were very important to USTC because they were performance evaluation samples and that it was common knowledge that if USTC did not do a good job of analyzing these samples, they would lose their laboratory contract with the EPA.

explained that told him at the time he was interviewed for the job on March 16, 1988, as well as after he was hired, that USTC had done poorly on previous EPA contract work and that they were concerned about USTC's ability to hold onto their contract with the EPA.

On August 7, 1988, he tested sample number X1516 during the required 72 hour testing sequence. On approximately August 8 or 9, 1988, he discovered upon reviewing the chromatogram generated during the testing of sample X1516 that it would be necessary to test the sample over again. explained that the chromatogram for sample X1516 contained a peak which was not generated from sample X1516. The peak was a result of information generated on sample X1517, which he tested just prior to X1516. Consequently, the chromatogram was not representative of sample X1516.

recalled that he immediately went to , his immediate supervisor, and told him that he had encountered a big problem in testing one of the samples of EPA Case Number 10015. stated that he did not tell specifically what kind of problem he had encountered, but he made sure that understood that it was a critical problem and that it concerned samples associated with EPA Case 10015. stated that he felt obligated to tell about the problem right away because the samples in question had to be done on time or USTC could lose their contract with the EPA.

stated that he then ran a second test on sample X1516 and generated a new chromatogram. explained that he cut off the header portion of the bad chromatograph which included the test date of "08/07/88" and pasted it on top of the header portion of the second chromatograph. stated that he then photocopied the cut and pasted chromatograph and submitted the photocopy as the original chromatogram generated during the initial test on August 7, 1988. explained that by doing

so, the test appeared legitimate because it look as if it had been done during the required 72 hour sequence. In addition, he was able to save time in that there was no need to start up a new 72 hour sequence to retest sample X1516.

stated that while he was cutting and pasting the chromatogram, he told what he was doing. was also in the room at the time and suspects that she overheard him telling about this incident as well.

Immediately after cutting and pasting the chromatogram, he told that he had fixed the problem with the EPA sample. NICHOLS stated that he did not tell specifically that he had cut and pasted the chromatogram, nor did he tell him which EPA sample was involved.

was provided photocopies of his employee timesheets and stated after reviewing the timesheets that he gave all of the data generated on EPA Case Number 10015, including the cut and pasted chromatogram, to THOMPSON on August 25, 1988. stated that August 25, 1988 was the day before he returned to Las Vegas, Nevada to gather up and move the rest of his belongings to his new residence in Richland, Washington. explained that he had originally planned to leave for Las Vegas on August 25, 1988, but couldn't because the work on EPA Case Number 10015 had not been completed.

recalled that on September 2, 1988, the first day back to work after his trip to Las Vegas, he met with in office regarding the cut and pasted chromatogram. showed him two handwritten letters which he read in presence. One of them written by , described in detail how had cut and pasted the chromatogram. The second letter written by , indicated without specifically referencing the cut and paste chromatogram that wanted USTC to fire stated that after reading the letters, told him not to be so obvious when cutting and pasting chromatograms. explained that did not tell him that he should not have cut and pasted the chromatogram, nor did he say that should not cut and paste chromatograms in the future.

stated that approximately one to two months later, it became clear to him during a conversation that he had with who is the Director of the Hazardous Substances Analysis Group and supervisor, that knew that NICHOLS had cut and pasted the chromatogram. told him during the conversation that should have been quieter about the incident.

stated that he and discussed the cut and paste chromatogram a second time during a meeting on April 13 or 14,

~~CONFIDENTIAL~~

OFFICIAL USE ONLY

1989, shortly after USTC had received a suspension letter from the EPA. went to see because he was concerned that who had since left USTC may have told the EPA about the cut and paste chromatogram. told him that the cut and paste chromatogram was not what the EPA was referring to in the suspension letter. told him that the suspension letter referred to falsifying data all the time.

 also recalled that around the time of the suspension letter, he went to office and looked for the letters that had showed him on August 29, 1988. knew that kept the letters in his office in a file which had name on it because he had seen them there since the August 29, 1988 meeting. However, discovered that the letters were missing from the file. subsequently asked why the letters were no longer in his file and told him not to worry about it because it was "just employees bitching."

 was provided a copy of the Data Package Report for EPA Case 10015 dated August 26, 1988, and stated after reviewing the document that page 723 is the photocopy of the above referenced cut and paste chromatogram (Attachment "A"). In addition, was provided a copy of a chromatogram dated "00/00/00" (Attachment "B"). stated after reviewing this document that this was the chromatogram that he generated on the second test of sample X1516, and that he used it to create the cut and paste chromatogram. explained that the chromatograms on both documents are identical because they were in fact generated from the same test. added that under normal conditions, it is virtually impossible for two chromatograms to be identical.

 stated that he "fixed" another chromatogram approximately two months later on EPA Case Number explained that he tested as part of the required 72 hour sequence a "PBLK" sample on October 12, 1988. Upon reviewing the chromatogram, he determined that it was not usable. did not recall specifically what was wrong with the chromatogram, but did state that it was necessary to retest the "PBLK" sample.

On , 1988, at approximately retested the "PBLK" sample and backdated the test results so that it would appear that the test was actually performed on October 1988 at 2050 hours. explained that he accessed the configuration system on his computer and changed the date and time on the internal clock of the gas chromatograph to approximately the same date and time of the failed 1988 "PBLK" test. As a result, the chromatogram generated during the second test on 1988 indicated that the test was performed on October 12, 1988 at 2050 hours, which is within minutes of the date and time of the failed test.

10008552

~~CONFIDENTIAL~~

OFFICIAL USE ONLY

89-5010

added that he then deleted the failed test data generated on October 12, 1988 from the magnetic storage tape and replaced it with the backdated test data generated on October 14, 1988.

explained that by backdating the test and inserting the data into the 72 hour sequence, he made it appear on the reports submitted to the EPA that the test data was generated on October 12, 1988. In addition, indicated that backdating the test made it unnecessary to retest all of the samples which were tested during the 72 hour sequence.

stated that he told about the backdated test shortly thereafter during an internal audit of his records. recalled that he did not tell specifically what he had done, but told him that he had "fixed" another chromatogram. explained that he went to THOMPSON because he suspected that had told the internal audit staff about the cut and paste chromatogram and consequently had triggered an audit of his records. told that he was angry that USTC was auditing his records when he had cut and pasted the chromatogram for the benefit of USTC with the knowledge of his supervisors,

was provided a copy of the Data Package Report for EPA Case 10316 dated November 17, 1988, and stated after reviewing the document that pages 408 and 484 provide information relative to the above referenced backdated test (Attachments "C" and "D").

indicated that told him at the time left USTC, that and falsified some data on the first EPA package that USTC received. stated that it was either the pre-award samples or the first case samples received by USTC under the EPA contract.

also indicated that after USTC received the suspension notice from the EPA, he talked to about altering peak areas and the firing of stated that told him that USTC in Hoboken, New Jersey altered peak areas all the time and that Hoboken was a lot worse than they were in Richland relative to running the tests properly. In addition, stated that he knew enough to "sink Hoboken."

16 23.72

235h1
157228
2384h1

8.202

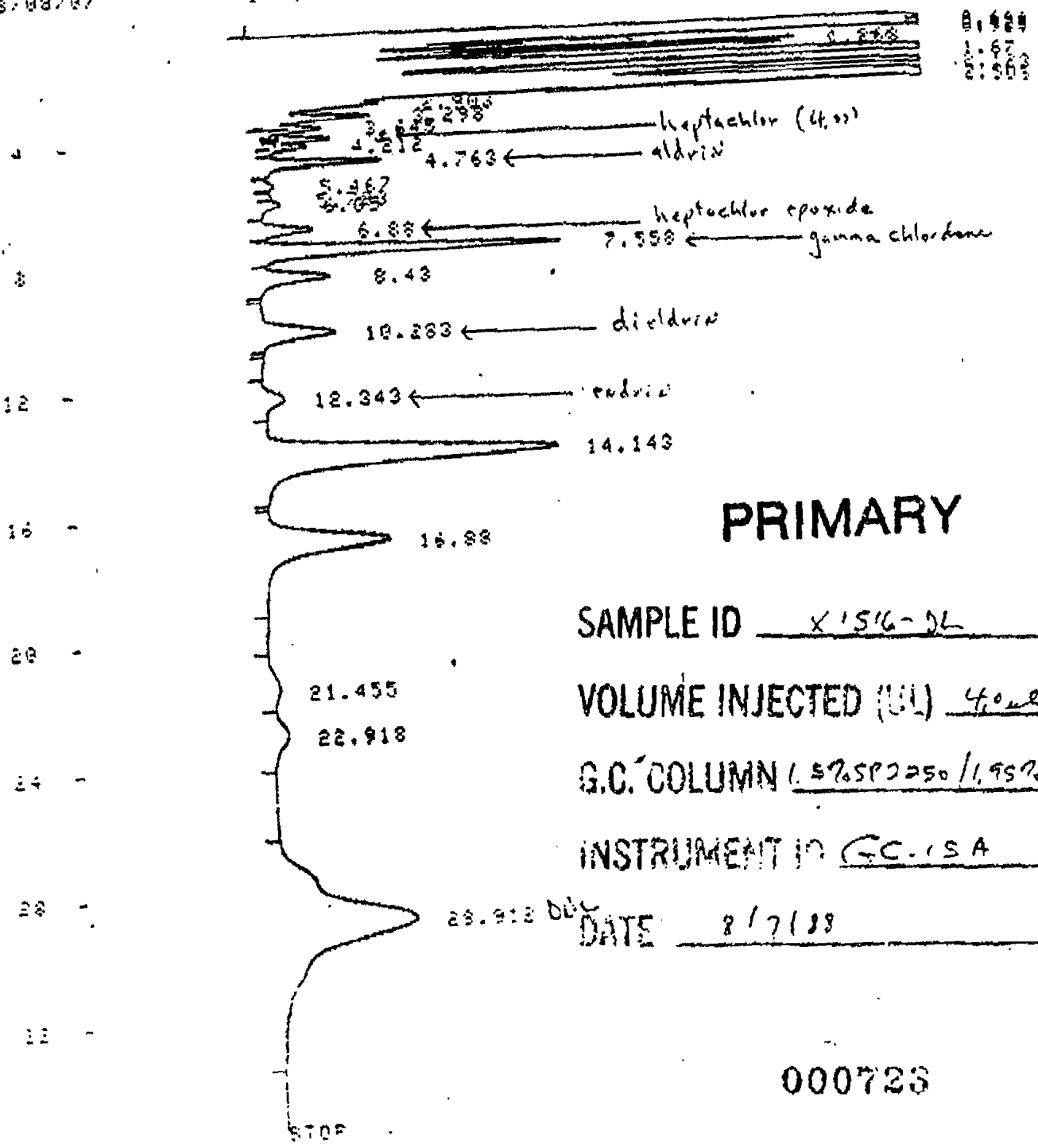
OFFICIAL USE ONLY

TOTAL 1916663

100

START 1
88.08/07

24:14:07 01:1 7/25/80



239074719-1 1-8824
SAMPLE NO 28
REPORT NO 1-

FILE
METHOD 2461

10008554

PESTICIDE EVALUATION STANDARDS SUMMARY
 Evaluation of Retention Time Shift for Dibutylchlorodate

Name: U.S.T. CO. Contract: 68W80031
 Lab Code: USTCWA Case No.: 10316 SAS No.: _____ SDG No.: YE941
 Instrument ID: GC15A GC Column ID: 1
 Dates of Analyses: 10/12/88 to 10/13/88

EPA SAMPLE NO.	LAB SAMPLE ID	DATE ANALYZED	TIME ANALYZED	% D	*
01	EVALA	10/12/88	1017	-0.2	
02	EVALB	10/12/88	1103	-0.4	
03	EVALC	10/12/88	1147	0.0	
04	INDA	10/12/88	1230	0.0	
05	INDB	10/12/88	1314	0.6	
06	TOXAPH	10/12/88	1357	0.3	
07	AR1016	10/12/88	1441	0.2	
08	AR1221	10/12/88	1524	0.4	
09	AR1232	10/12/88	1608	0.4	
10	AR1242	10/12/88	1651	0.3	
11	AR1248	10/12/88	1735	0.2	
12	AR1254	10/12/88	1818	0.2	
13	PBLK	10/12/88	2001	-1.0	
14	PBLX	10/12/88	2050	-0.8	
15	YE941-DL	10/12/88	2133	-0.8	
16	YE941MS-DL	10/12/88	2217	-0.4	
17	YE941MSD-DL	10/12/88	2300	0.0	
18	EVALB	10/12/88	2344	0.7	
19	YE942-DL	10/13/88	0027	-0.3	
20	YE943-DL	10/13/88	0111	-0.2	
21	YE944-DL	10/13/88	0154	-0.3	
22	YE945-DL	10/13/88	0238	-0.3	
23	YE946-DL	10/13/88	0321	0.1	
24	INDB	10/13/88	0405	0.8	
25	YE947-DL	10/13/88	0448	100.0	*
26	YE948-DL	10/13/88	0523	-0.1	
27	YE949-DL	10/13/88	0615	-0.2	
28	YE953-DL	10/13/88	0659	-0.1	
29	INDA	10/13/88	0742	0.7	
30	INDB	10/13/88	0826	0.6	
31	PBLK	10/12/88	2050	-0.8	

* Values outside of QC limits (2.0% for packed columns, 0.3% for capillary columns)

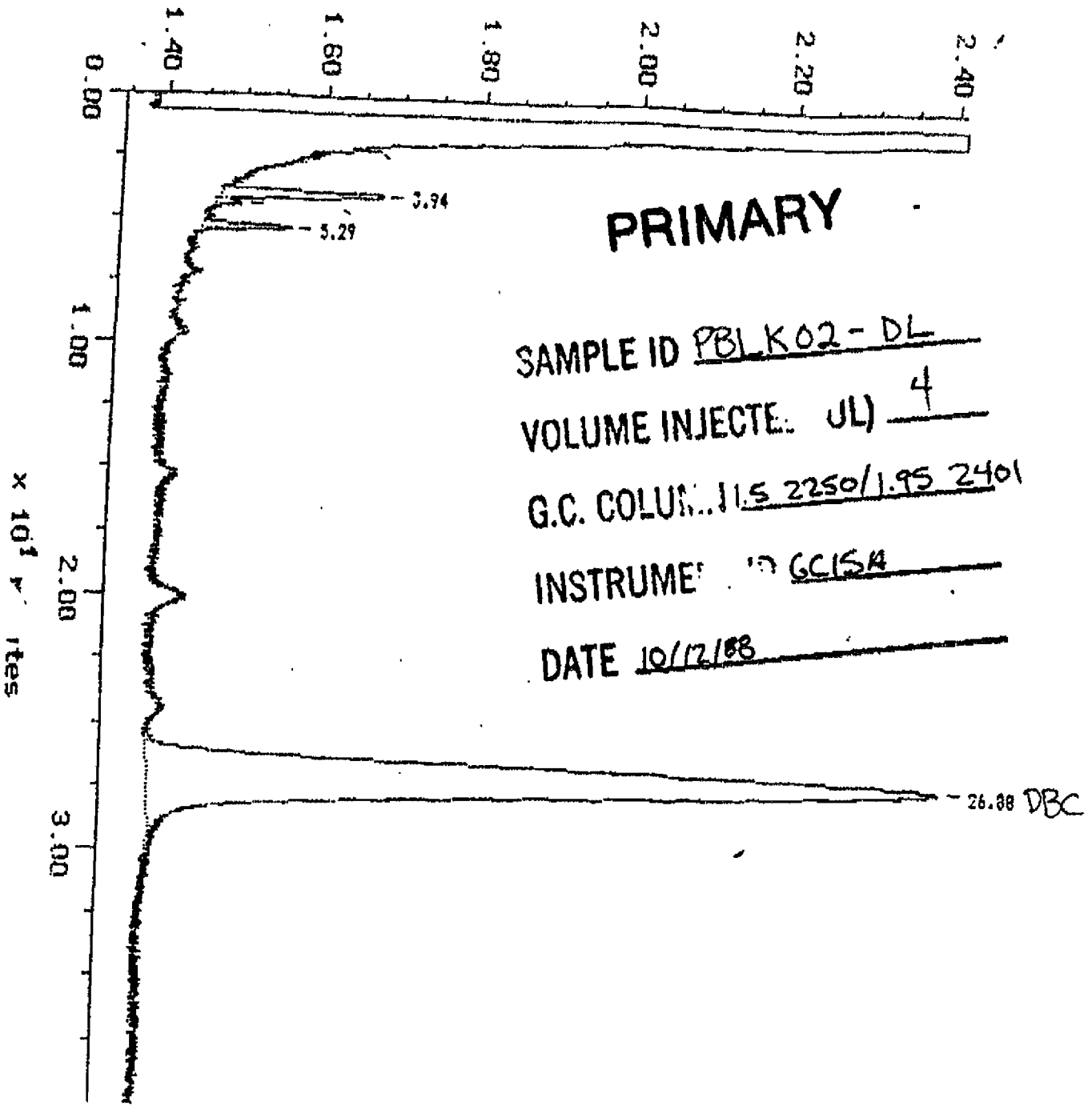
OFFICIAL USE ONLY

Sample: PBLK02-DL
Acquired: 12-OCT-88 20:30
Inj Vol: 4.00

Channel: ECD-PORT1
Method: \MAX\DATA1\CLPPEST

File: 25458-1
Operator: FL

$\times 10^{-2}$ volts



PRIMARY

SAMPLE ID PBLK02-DL

VOLUME INJECTE: 4 μ L

G.C. COLUMN: 11.5 2250/1.95 2401

INSTRUME: GC15A

DATE 10/12/88

26.88 DBC



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

1000

OFFICE OF
ADMINISTRATION
AND RESOURCES
MANAGEMENT

ACTION REFERRAL MEMORANDUM

SUBJECT: Request for Suspension of United States Testing Co., Inc., (EPA No. 89-0021-00); Nationwide Consumer Testing, Inc., EPA No. 89-0021-01; Research & Testing Co., Inc., EPA No. 89-0021-02; and Qualitest, Inc., EPA No. 89-0021-03

FROM: Sharon O. Mitchell, Esq. *Sharon O. Mitchell*
Compliance Specialist (PM-216F)
Jeanne Pascal / Sharon O. Mitchell
Jeanne Pascal, Assistant Regional Counsel
Region 10 (SO-125)

Frank Dawkins, Compliance Specialist *Frank Dawkins*
Compliance Branch (PM-216F)

THRU: Robert F. Meunier, Chief *Robert Meunier*
Compliance Branch (PM-216F)

David J. O'Connor, Director *David J. O'Connor*
Procurement and Contracts Management Division (PM-214F)

The following facts have come to my attention and are offered for your information in support of this request for the immediate suspension of the United States Testing Co. Inc., Nationwide Consumer Testing, Inc., Research & Testing Co., Inc., and Qualitest, Inc. pursuant to the Federal Acquisition Regulation (F.A.R.) Subpart 9.4, and Title 40, Code of Federal Regulation (C.F.R.), Part 32.

Contract Laboratory Background

1. Under the United States Environmental Protection Agency (EPA) Contract Laboratory Program (CLP), contracts are awarded to laboratories determined to have met the requirements of the EPA for analyses of Superfund site samples. Data of known and documented quality is critical due to EPA's Superfund mission and due to the need to successfully identify the nature of hazardous materials present at Superfund sites in order to assess the impact on human health and the environment. Accurate data is the primary factor upon which all implemental and operational decisions are made in carrying out remedial and removal actions at Superfund

sites and for the support records for decisions which determine cost recovery from potentially responsible parties. In order to insure data of known and documented quality, stringent quality control procedures and chain-of-custody procedures are incorporated into the CLP contracts. (Exhibit AA, pp8, 14, 52, 55).

2. In order for the EPA to determine whether a laboratory has the potential to perform work under a CLP contract among other things, a laboratory must successfully analyze pre-award performance evaluation samples and submit to on-site inspections conducted by Agency officials to determine whether the laboratory meets the contract requirements for personnel and equipment and as a facility. Additionally, the laboratory must demonstrate adequate standard operating procedures which insure a defined quality of analytical operations, maintenance of data integrity, and chain-of-custody requirements. Finally, the laboratory must be among the lowest competitive bidders. (Exhibit AA, pp53-54).
3. Once qualified, a CLP Laboratory must adhere to clearly defined protocols incorporated within a contract's statement of work (SOW) as well as contractual requirements and standard operating procedures regarding equipment, personnel education, applicable work experience, documentation and chain-of-custody procedures. The Agency monitors adherence to contract requirements through evaluation of quarterly blind Performance Evaluation (PE) samples, Gas Chromatograph/Mass spectrograph (GC/MS) tape audits, data package audits and on-site inspections conducted on a scheduled and as-needed basis. (Exhibit AA, pp63-66)
4. In order to monitor data quality and insure chain-of-custody of samples, CLP contract awards are laboratory specific. In other words, if Company A owns laboratory B and laboratory C, a contract awarded to laboratory B must be performed solely by Laboratory B, even if laboratory C has qualified as a CLP. Any deviation from the SOW must be authorized by the Agency's Contracting Officer or laboratory C must be listed as an alternate laboratory site under laboratory B's contract. CLP laboratories are patently aware of this restriction. (Exhibit AA, p90)
5. There are three major types of organic analyses incorporated in an Organic Contract: volatile, semi-volatile (commonly referred to as acid-base-neutral or ABN) and PCB/Pesticides.

Semi-volatiles and PCB/Pesticides must first be prepared in the Extraction Laboratory. Inorganics contracts involve two major types of analyses relating to metal and cyanide.

Corporate Background

6. UNITED STATES TESTING CO., Inc. (UST), is a corporation organized and operating under the laws of the State of New York. Its principal place of business is located at 1415 Park Avenue, Hoboken, New Jersey 07030. UST is engaged in the business of providing laboratory services including chemical analyses of environmental samples.
7. UST is a wholly owned subsidiary of SGS North America Inc., which is located in Fort Lee, New Jersey. SGS North America, Inc. is a wholly owned subsidiary of Societe Generale de Surveillance Holding S.A. of Geneva, Switzerland. UST, in turn, operates 22 unincorporated constituent branch laboratories of which 19 are known to be operating in the United States. UST also controls three U.S. incorporated wholly owned subsidiary corporations known as QUALITEST, INC. (1415 Park Avenue, Hoboken, New Jersey 07030); Research & Testing Co., Inc. (1415 Park Avenue, Hoboken, New Jersey 07030); and NATIONWIDE Consumer Testing Institute, Inc. (1415 Park Avenue, Hoboken, New Jersey 07030). These corporations are engaged in the business of providing analytical services and are all located at the same address as the parent lab in Hoboken, New Jersey.
8. UST is currently doing business with the EPA and the Department of Energy.
9. UST has performed under Organics and Inorganics CLP contracts since approximately 1983. These contracts were laboratory specific and involved laboratories in Richland, Washington and Hoboken, New Jersey. Neither laboratory was listed as an alternate site to perform work on a contract for the other.

Current Status

10. On April 6, 1989, the Director, Grants Administration Division, suspended the above named Respondents from further participation in Federal assistance and benefit programs under 40 C.F.R. Part 32 and the FAR Subpart 9.4. That action was taken at the request of EPA Region 10 and the Compliance Branch upon receipt of information and allegations of misconduct by UST during performance of services as a CLP laboratory under an EPA contract.

(Exhibit A). John Aldock and Franklin Kramer have represented UST in the past and should be copied at the time of notice.

11. On May 24, 1989, the Director entered into an Interim Agreement with the Respondents. Under the agreement, UST agreed to a voluntary exclusion of the Richland laboratory. The UST lab at Hoboken and all other UST labs, both constituent and separately incorporated, were temporarily reinstated pending further development of the investigation. (Exhibit B).
12. Additionally, UST agreed to implement an interim corporate-wide Corporate Responsibility Program (Exhibit B, pp. 2, 3) to prevent, detect, and correct any conduct similar to the improper conduct alleged in the Notice of Suspension dated April 6, 1989 (Exhibit A).
13. Pursuant to paragraph 9 of the Interim Agreement, UST agreed to an immediate reinstatement of UST's suspension if the EPA, at any time, obtained adequate evidence that current management or employees at the UST Hoboken facility had engaged in misconduct regarding the provision of analytical services of a nature that would justify suspension under the FAR subpart 9.4 and 40 C.F.R. Part 32.

FACTS

14. The EPA Office of Inspector General has furnished the Compliance Branch with adequate evidence to believe that UST management, contrary to CLP protocols, and during performance of Organics and Inorganics contracts at the Richland, Washington facility and the Hoboken, New Jersey facility conspired, directed, carried out, and otherwise condoned a scheme to defraud the United States.
15. With the knowledge and participation of management in both the Hoboken & Richland laboratories, initials of personnel who met the required qualifications and work experience criteria were forged onto logbooks and analysis sheets to conceal the fact that the work had actually been done by unqualified personnel. Alterations of log book pages and destruction of worksheets and pages of log books were also committed at least between December, 1987 and August, 1988. (Exhibit C, pp 1, 3, 4; Exhibit G pp 5, 7, 8, 10-26; Exhibit H, p 2; and Exhibit E, pp 1, 3, 4).
16. Contrary to CLP protocol and contract requirements, the required chain of custody was breached frequently by UST

personnel and management by the carrying of samples and data from Richland for analyses in the Hoboken laboratory and vice versa. This practice is believed to have existed at least since 1987 and affected EPA samples, pre-award samples, and PE samples. This practice encompassed work done under Inorganics and Organics contracts and was done with the knowledge and assistance of management and without the knowledge or consent of the EPA. (Exhibit C, p.1; Exhibit E, p2).

17. At least during 1987 and 1988 data was fraudulently reported as being analyzed on certain types of equipment. For determinations of pH readings, UST reported results to a degree of accuracy which could only have been done on a pH meter. UST also indicated the use of an automatic sampling machine. Neither a pH meter nor an automatic sampler was present or used at the times this equipment was represented as having been used. (Exhibit G, pp 3-4, pp7-8; pp 10-41).
18. EPA standards require a clearly defined analytical sequence of standards and samples for PCB/Pesticides during which standards are to be dispersed throughout the analytical sequence. Instead, UST analyzed the samples as a group and the standards as second group and indicated in the logbooks by the letter "A" that the standards and samples were injected in the required sequence by an automatic sampler. This was done solely to conceal the fact that neither the standards nor the samples were performed according to contract requirements. This practice is believed to have taken place between May, 1987 and January, 1989. (Exhibit G, pp3-4; pp7-8; pp10-41)
19. Each sample received by a CLP must be analyzed within contract time requirements depending on the nature and volatility of the substance. UST developed a pervasive practice of analyzing samples past their expiration date but reporting the sample preparation and analysis as being within contractual requirements. This is commonly referred to as backdating. Since at least 1987, this practice was used by UST in all analyses done under both Organics and Inorganics contracts. Some 70%-80% of EPA work has been estimated to have been affected at the Hoboken laboratory. Supervisory personnel left written instructions for technicians to run samples while entering into the computer and/or log a time and date which would indicate that the sample had been run earlier. These written instructions were then destroyed. Backdating was also accomplished through another method known as "cut and paste." This is the technique of pasting a false date which meets contract requirements in place of the actual late date on the generated data, photocopying the falsified document and

submitting the finished product for payment to the EPA as the "original". (Exhibit I, p.2, Exhibit F, p2; Exhibit G, pp2, 4-5, 10-41).

20. CLP protocols require the use of specified standards for the purpose of calibrating (checking the accuracy) the equipment used during analyses. The improper calibration of equipment and the failure to use standards required by CLP protocols affected work done under Organics and Inorganics contracts. (Exhibit C, pp 1-2; Exhibit D, p2; Exhibit F, pp 2-3). UST also failed to use the mediums or standards required by the EPA. (Exhibit G, pp 4-5). These practices make it impossible to determine if the analyses results are reliable. These practices are believed to have taken place at least in 1987 and 1988.
21. CLP protocols also require that each time a sample is prepared a method blank (reagent water which measures contamination from a source other than the sample) is also prepared, and these results are analyzed and reported along with the sample analyses results. (Exhibit AA, p61) Method blanks and samples are prepared in the Extraction laboratory and then sent to the correct laboratory for analysis. Instead, UST management would misrepresent that the proper blanks had been used when, in fact, they had not. These practices are believed to have existed at least in 1987 and 1988. (Exhibit G, pp4-5).
22. Analyses results are often produced on a computer print out as a graph in the form of peaks which indicate whether the proper standard was used. "Peak shaving" consists of manual manipulation of a computer to bring the peak within the required range. This appears to have been common business practice throughout the Hoboken and Richland facilities where equipment producing computer printouts was used. (Exhibit C, p2; Exhibit D, p2; Exhibit F, pp2-3). Data produced from such practices is unreliable.
23. From at least May 1987 to January 1989, with the knowledge and acquiescence of management, hazardous wastes were apparently discarded into city dumpsters present on UST property, improperly handled and stored on UST premises and poured down laboratory drains which discharged into local sewer systems and the waters of the United States, a potential violation of 33 USC §1311 and 42 USC §6928 (d)(2)(A). (Exhibit G, p5; Exhibit AA, p26)

- 24 The allegations set out supra in paragraphs 14-24 not only took place during the time periods denoted in each allegation but involved management and employees who were employed at the Hoboken facility at the time the Interim Agreement was signed. (Exhibit C, pp1-4; Exhibit D, p2; Exhibit E, pp1-4; Exhibit F, pp2-3; Exhibit G, pp2-5, 7-8, 10-41; Exhibit H, p2; Exhibit I, p2; Exhibit BB).

Causes For Suspension

25. Under paragraph 9 of the Interim Agreement (Exhibit A, p 9), UST agreed that... "If at any time EPA obtains adequate evidence to believe that current UST management or employees at the UST Hoboken lab facility have engaged in misconduct regarding the provision of analytical services that would justify suspension under the FAR and 40 C.F.R. Part 32, UST agrees that the Director may immediately reinstate UST's suspension." From the foregoing facts, the EPA believes that adequate evidence has been provided to the Director for the reinstatement of the suspension of UST.
26. The information contained in this request, together with its attachments, constitute adequate evidence and cause for UST's suspension under the FAR Subpart 9.407-2(a)(1) and (3) and, if true, may ultimately result in UST's debarment from federal procurement activities under the FAR §9.406-2(a), (b) and (c).
27. The information referenced in this request, together with its attachments, constitutes adequate evidence and cause for UST's suspension under 40 C.F.R. §32.405(a), (b)(1) and (2) and, if true, may ultimately result in UST's debarment from federal assistance activities under §32.305(a)(1), (3), (b)(1) and (d).

Inclusion of UST Branches

28. UST's unincorporated constituent branch laboratories, not specifically named herein, but located in various places throughout the United States and elsewhere, are included in and covered by any suspension issued pursuant to this request under the F.A.R. §9.407-1(c), 40 C.F.R. §§32.420 and 32.325(a)(1).
29. UST's wholly owned, separately incorporated, subsidiary laboratories constitute "affiliates" under the F.A.R., §9.403 and 40 C.F.R. §32.105(b). Because they are engaged in providing analytical services and because the nature of UST's alleged misconduct is so extreme and extends to the management level rendering all

affiliates' operations suspect, we hereby request that the affiliates named above be made respondents to this action pursuant to F.A.R. §9.407-1(c) and 40 C.F.R. §§32.420 and 32.325(a)(2).

Circumstances Necessitating Suspension

30. EPA currently has one CLP contract with the Hoboken facility, #68-01-7473 due to expire in July, 1991 and one CLP contract with the Richland facility #68W80031, due to expire June, 1990. The Richland facility is currently under a voluntary exclusion from EPA work via the Interim Agreement (Exhibit A, p2). With the exception of the Richland facility, all UST facilities and affiliates are eligible to receive immediate EPA and other federal contracts or contracts under federal nonprocurement and benefits programs. UST is currently the low bidder in at least one sub contract on a superfund site to be awarded by the State of New York in mid-April.
31. Additionally, EPA CLP Organics and Inorganics IFB solicitations are currently in progress and bidding is expected to take place in April and May, 1990. The estimated cost of these awards is approximately \$54 million dollars in Organics contracts and \$13 million dollars in Inorganics contracts. Currently, UST is expected to bid for work under both of these contract areas.
32. There is adequate evidence to believe that UST is, until proven otherwise, a company that conspired, directed, and condoned a scheme in at least the Richland facility and the Hoboken facility to defraud the United States Government. This resulted in the submission of false, inaccurate and unreliable test results and data submitted to the EPA for payment under its contracts. This was apparently done with knowing, willful and flagrant disregard for state and federal laws, contract requirements and CLP protocols. The potential impact upon Federal programs, public health and the environment at this time, cannot be measured.
33. There are approximately 100 laboratories qualified to do EPA work under the CLP, therefore UST does not provide unique or sole source services to the EPA.

Recommendations

34. EPA requests that the Respondents be suspended from participating in future government procurement and non procurement contracts and assistance programs for the

maximum suspension period as set out in 40 C.F.R. §32.415 and the FAR §9.407-4 pending completion of investigation and legal proceedings.

35. Pursuant to the Government's need for confidentiality, the EPA Office of Inspector General requests that attachments J through Z be reviewed In Camera. (Exhibit J).
36. EPA's Office of Inspector General has cleared this matter for suspension action.