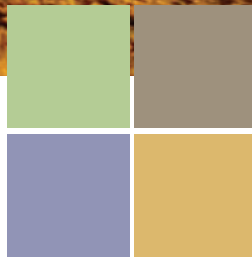


2014 REPORT



HANFORD
CONCERNS
COUNCIL

An independent, non-profit partnership of safety advocates and participating Hanford contractors.

Case and Advisory Activities 2010 – 2013



Who We Are

The Hanford Concerns Council is an independent fact-finding and conflict resolution body that works to resolve disputes between employees and Hanford site contractors. Cases handled by the Council are typically rooted in concerns about worker or public health and safety, environmental protection, or allegations of retaliation against the employees who raise such issues. Our main purpose is to try to resolve such conflicts before they escalate to litigation and/or highly publicized whistleblower complaints. An important, secondary purpose of the Council is to provide substantive and timely recommendations to participating Hanford site contractors on ways to improve safety management and better address worker concerns. The Council was created in 1994 in response to protracted conflicts between workers and Hanford contractors that frequently led to costly litigation, national media attention, and Congressional investigations.

The Hanford Concerns Council...

- *Receives safety-related concerns from Hanford workers*
- *Determines whether concerns fall within the Council's purview*
- *Assigns teams of contractor, employee, and neutral advocates to investigate*
- *Recommends immediate stabilization actions when warranted*
- *Builds consensus findings and recommendations based upon the Council's investigation*
- *Delivers recommendations to Hanford contractors for "presumptive" and timely implementation*
- *Oversees independent technical reviews in an advisory role to participating site contractors*



The Challenge

In principle, workers at federal nuclear sites are legally protected from retaliation when they raise safety and environmental protection concerns. In practice, however, the acts of raising such concerns may lead to a chilled and strained work environment in which the employee feels ostracized or, worse, is treated as though his or her actions are disloyal or insubordinate. When there is a breakdown in trust, the resulting polarization becomes a threat to workplace morale and productivity. If the conflict escalates further, it invites a lose/lose scenario. The employee may become a whistleblower—with potential career damaging consequences—and the company can face public recriminations, litigation, or both. The challenge is to interrupt this downward spiral of distrust; to ensure safety issues are heard respectfully and issues requiring attention get addressed. The goal is also to repair communication in the workplace and reinforce the company's commitment to a safety conscious work environment.

The Benefits

In instances where Council involvement is the best avenue to address employee concerns there are often cost avoidance and trust-building advantages that would otherwise be out of reach. It is not uncommon, for example, that the Council will be approached to address a workplace conflict that potentially implicates the company in a statutory violation. More often than not, the employee's objective is not to win a lawsuit, nor to punish the company with legal sanctions. Rather, what the employee seeks is compliance with legal and professional standards, and to do his or her job without experiencing unwarranted repercussions. Without access to the Council, the employee may conclude that the only option is to file a formal complaint or a lawsuit, either of which could result in considerable financial penalties—and legal costs—at company and/or taxpayer expense. A Council resolution not only averts these direct expenses, but it preserves the value of the company's investment in the employee, avoids losses in productivity, and reaffirms the company's commitment to a safe and professional work environment.



How the Council Works

The Council's role in dispute resolution begins when an employee contacts the Council with one or more concerns. The first step is an exchange of information to assess whether the concern(s) are within the Council's scope and capacity. At the same time, the Council works with the employee to help him/her determine whether the Council is the best avenue to resolve the concern(s). If the criteria are met, the Council's engagement is formalized and its inquiry is initiated with

close coordination among its members. Where immediate action is necessary to prevent a conflict from further escalating, the Council works closely with the company to stabilize the workplace. The objective of the case work is to reach a Council consensus on a full, fair, and final resolution of the concern(s) with a detailed action plan that can be promptly implemented by the company's chief executive officer and line management.





A Tale of Two Outcomes

The Council exists because it offers an effective alternative to the costs, risks, and lengthy delays that attach to whistleblower litigation. Looking just at cost, the disparity is striking. When a case that might otherwise be suitable for Council involvement tumbles down a litigation track, the legal fees *alone* are regularly in the millions of dollars. Even if the case settles before trial, the settlement costs are often in the range of \$500,000 to upwards of \$1,000,000. Remarkably, the collateral costs can exceed even the litigation costs. Major Hanford projects have been stopped or slowed to a crawl as a result of the negative publicity and heightened scrutiny that often accompanies a high-profile whistleblower case. By comparison, the Council's track record demonstrates that such conflicts can be quietly and effectively resolved without major interruptions and at a fraction of the costs.

"When an employee has lost trust in other systems or people, either because they failed or the employee just wants a thorough and independent look, the Council is the only place on the Hanford site where an employee can find true resolution both of the concerns they have raised as well as any alleged retaliation which resulted from raising the concern. Other avenues such as litigation are costly, time-consuming and often unsatisfactory. The Council is an alternative that seeks to protect the employee, help the contractor, and improve the cleanup."

Tom Carpenter, Executive Director, Hanford Challenge

The contrast in outcomes is evident in the following two examples:

1) In recent years, a succession of prominent whistleblower cases at Hanford (affecting contractors outside the Council's process) have fueled highly negative regional and national publicity, scathing external reports, and legal expenses reportedly in the several millions of dollars. The issues raised have been the subject of Congressional hearings and investigations by the Defense Nuclear Facilities Safety Board, the Government Accountability Office, and various offices of the Department of Energy, including the Inspector General. Because the Council channel was not an option, the whistle-blowing employees chose the only channels available. A Council resolution, even at the most expensive level of Council resolutions, would have entirely avoided the staggering and still mounting costs of litigation. It would also have enabled a more constructive examination of the technical issues by the appropriate authorities and experts, and would almost certainly have reduced the extensive delays to the project.

2) During the same period, a number of cases arising at Hanford's tank farms were quietly and effectively resolved

"Worker safety is critical to our cleanup efforts at Hanford, and that's why fostering a safe work environment has been one of my top priorities there. The Hanford Concerns Council plays an important role as an independent organization able to resolve difficult health and safety issues, and will continue to be a valuable resource as cleanup moves forward at Hanford."

Patty Murray, United States Senator

by the Council. These cases could have easily attracted the same level of media attention, Congressional scrutiny, and agency investigation. They had all the earmarks of cases that would lead to crippling operational disruptions, fractured work environments and large legal bills. Yet, all of these cases were resolved within a year through the Council's assessment and mediation process. Both the Contractor and Hanford Challenge—a prominent whistleblower advocacy organization—endorsed use of the process. As a consequence, the project was not interrupted, co-workers did not testify against each other or managers, nor did managers testify against employees.

The Council recommendations were used as a learning and fence-mending opportunity for the organization.

Indirect Costs of Litigation

- *Project delays and lost personnel time*
- *Erosion of public confidence in project and project management*
- *Flawed safety practices and risks to workers go unaddressed*
- *Testimony against co-workers and managers leads to increased polarization and mistrust in workplace*
- *Deterioration of union-management relationships*
- *Career damage to managers and workers*
- *Impact on DOE-Contractor relationship*

When No News is Better News

As high as the direct cost of litigation is, the price tag still doesn't account for the collateral damage to project schedules, careers, and workplace relationships. On the other hand, the *avoided* cost of resolving a conflict through the Council process is only part of the value *added*.

A successful resolution by the Council invariably comes with the quiet, added benefits of improved trust, better internal communication and a reinforcement of the best practices that are intrinsic to a safety conscious work environment. It's important to recognize that most litigated cases do not produce any effect on the original safety issue or conditions that gave rise to the conflict. Conversely, the very nature of the Council process—with its integrated approach to fact-finding and crafting of resolutions—ensures that participating companies are engaged in identifying the problems and composing the remedies.



“Terminated. A strong and powerful word that can cause long term effects on ones self, family, friends and co-workers. Having the Hanford Concerns Council involved in my situation helped tremendously. I highly recommend them as a positive and fair avenue for anyone not knowing which way to turn.”

Employee

The best outcome is one that resolves the employee’s concern while investing the company in the solutions. The business-like efficiency and diplomacy that characterize the Council’s successes are in quiet contrast to the screaming headlines that come with high-stakes litigation.

Building the Safety Culture

The very nature of the Council’s work indirectly contributes to ensuring efforts to build and sustain a Safety Conscious Work Environment (SCWE) are actually succeeding. At the Hanford site, there is no other avenue that offers this combination of independent evaluation and problem-solving.

Supporting Department of Energy Initiatives

The Council’s work complements DOE’s efforts and recent initiatives to support SCWE at their sites. The Council provides expertise in areas that DOE has recently identified as needing attention, including but not limited to:





- improving safety cultures,
- addressing perceptions of retaliation,
- improving and implementing lessons learned,
- addressing negative perceptions and weaknesses of programs,
- resolving complex cases that defy solution through other existing avenues.

Systemic Reforms

The Council's mandate enables it to examine concerns and workplace conflicts through a systemic lens, such that root causes can be identified and addressed. The lessons gained through this approach can then be distributed horizontally or vertically, to the benefit of work groups throughout the company. Cooperation and commitment from the CEO is instrumental because it provides the leadership and internal accountability needed for these kinds of changes to take hold.

Over the past few years, for example, the Council noticed a need for a broader awareness about how to hear and evaluate

“The Hanford Concerns Council was a critical component to resolving wide-ranging cultural issues at WRPS, and the Council’s unique problem-solving and solutions significantly contributed to the improvement in the WRPS Safety Conscious Work Environment. Often overlooked is the positive impact on productivity, safety, and cost-effectiveness that flow directly from a heightened SCWE; it was obvious at WRPS.”

***Mike Johnson**, Former CEO and Project Manager, Washington River Protection Solutions*

the concerns of employees raising safety concerns. It also became clear that there needed to be a broader awareness among managers about how they should work to ensure that employees engaging in protected activities are, in fact, protected. This is a complicated challenge in Hanford's often-stressful work environments because the understandable passion that causes a worker to call attention to a safety concern can spill over into what may be perceived as

disruptive behavior. Responding to these observations, the Council recommended training to better prepare managers to hear and register complaints. The recommendations also emphasized the importance of managers working with employees to ensure concerns are effectively communicated through the proper channels while, at the same time, holding workers accountable for inappropriate conduct.

The Council's Advisory Role

As part of its charter, the Council is also empowered to serve in an advisory role, and did so during this reporting period in response to urgent concerns over vapor exposures at Hanford's tank farms. During the previous fifteen years vapor exposures to workers had given rise to numerous lawsuits, reports by regulators, DOE Headquarters and external entities, as well as cases in the Council. The Council was commissioned to retain a panel of national experts to independently study this complex problem and make recommendations. Previously, (2007-2009), an expert panel recruited by the Council conducted an initial investigation with recommendations accepted by the tank farm contractor, Washington River



Protection Solutions (WRPS). A second phase, completed in October 2010, focused on evaluating and recommending improvements to vapors monitoring and protections.

As before, the expert panel was guided by a scope of work agreed to by WRPS and Hanford Challenge, but which was then significantly fashioned by the panel itself. The experts reviewed data, researched the literature and best practices, visited the site, and met with WRPS industrial hygiene (IH) staff, tank farm workers (including at off-site locations), and USDOE officials. A Council subcommittee facilitated the panel's access to site resources and personnel. Concurrent briefings enabled real-time improvements in IH practices during the study and for adding depth and clarity to the meaning of recommendations.

As a result of the second phase, the expert panel recommended an enhanced strategy for measuring and tracking

Current Council Members and Affiliations

Jonathan Brock, Chair	Neutral	University of Washington, Retired
Christine Spieth, Vice Chair	Neutral	Service Employee Int'l Union, Local 6, Retired
Tom Carpenter	Advocate	Hanford Challenge
John Ciucci	Contractor	CH2M Hill Plateau Remediation Company
Timothy Connor	Advocate	Independent Consultant
Laura Cusak	Contractor	CH2M Hill Plateau Remediation Company
Rick Garcia	Contractor	CH2M Hill Plateau Remediation Company
Billie Garde	Contractor	Washington River Protection Solutions
Dana Gold	Advocate	Government Accountability Project
Don Hardy	Contractor	Washington River Protection Solutions
Steve Killoy	Contractor	Washington River Protection Solutions
Charlie Kronvall	Contractor	CH2M Hill Plateau Remediation Company
Todd Martin	Advocate	Independent Consultant
Nancy Milliken	Contractor	Washington River Protection Solutions
Daniel Plung	Contractor	Washington Closure Hanford
Max Power	Neutral	Washington State Department of Ecology–Retired
Gerald Simiele	Contractor	Washington Closure Hanford
Harry Thomas	Neutral	Seattle Housing Authority – Retired
Council Staff		
Sherry Arnold	Chief Mediator and Administrator	
Autumn Fielding	Staff Mediator and Case Analyst	

emission levels, for responding to employee reports of vapor exposures, and for providing access to appropriate protective equipment. WRPS agreed with

“The Council system can prevent the kinds of disruptions that have been so common at Hanford; disruptions that harm safety conscious workplace relations, policies and actions and which preclude opportunities for learning and progress.”

Jonathan Brock, Chair, Hanford Concerns Council

a majority of the recommendations. A number of important improvements were made, notably in sampling methodology, policies regarding monitoring practices, and in the overall quality of the IH program related to vapors. Still, protecting workers from tank vapors has proven to be a difficult challenge, one that requires heightened use of engineering controls, as well as improvements to vapor monitoring, medical interface, and epidemiological documentation. As this report goes to press there have been new episodes involving exposures to tank vapors that have caused workers to seek medical attention.



“CHPRC values the benefit that the Council provides for employees to have a choice of venues to bring concerns for resolution. The Company has committed to cooperation with the Council’s Charter provisions and supports the confidentiality of the process. Our support of the Council ensures that our employees have a place to take concerns when they feel the need to go outside of normal channels.”

John Fulton, *President, CH2M Hill Plateau Remediation Company*

“At WRPS, we strive to make our internal systems work to support a safety conscious work environment at the Hanford Tank Farms. However, in order to ensure that employees have alternative ways to raise concerns, WRPS supports the Hanford Concerns Council. As an outside, independent channel, the Council is empowered to fully resolve issues concerning the safety of the workforce and the environment, including concerns regarding retaliation. The Council is available to any WRPS employee at any time.”

Dave Olson, *CEO and Project Manager, Washington River Protection Solutions*

“Washington Closure

Hanford works to maintain a safety conscious work environment, but recognizing the complexity of the work environment at Hanford, we are among the companies that agree to abide by the independent assessment and resolution of the Hanford Concerns Council, available to any employee that wishes to have a new assessment or simply feels the need for an outside, independent review of their concerns. The Council’s discretion and confidentiality provisions provide a unique and valuable back up to the company and site mechanisms that are available.”

Scott Sax, *President, Washington Closure Hanford*

Working Together in a Dynamic Environment

The Council is most effective when all major players who affect the resolution of whistleblower issues are working together. The cornerstone of this partnership is the agreement between contractor and advocacy organizations—parties who might otherwise be facing off in court—to collaborate with each other. They come together to work with neutral (non-aligned) members to gather the pertinent facts in a case and then shape consensus findings and recommendations based upon the results of the Council’s good faith inquiry. For the Council process to work, every member must “leave their hats at the door” and assess each case with an objective and independent mindset. The different

perspectives and sets of expertise ensure a comprehensive assessment and effective resolution. Also crucial is ongoing DOE support for contractor participation. In order to proceed with a case, the Council sometimes needs to coordinate with OSHA, union officials, and others. The Council will not initiate a case where the concern is the subject of an active grievance or OSHA complaint. Thus, not only must the employee and employer agree to the Council’s involvement, but union officials and OSHA management must agree to hold any grievance or complaint proceedings in abeyance while the Council works for a resolution.





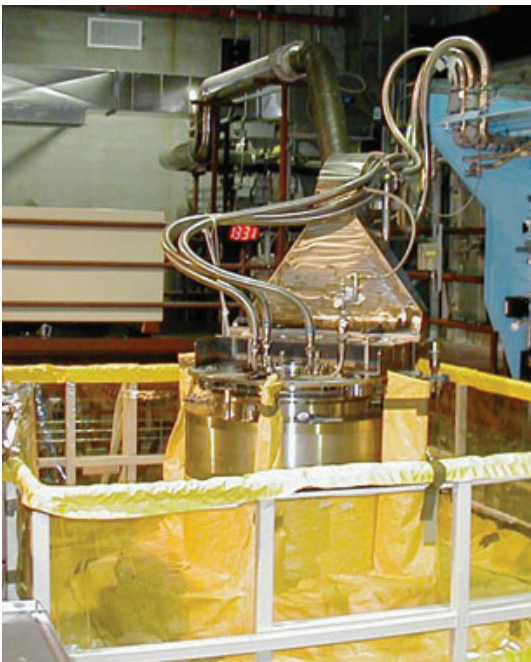
Lessons Learned

The Council regularly conducts “lessons-learned” reviews to distill and augment its institutional knowledge and to develop a more effective and efficient process. In the lessons-learned reviews, policies and procedures are critically examined along with evaluations of the Council’s

internal and external relationships. The Council also tries to assess local and national policy shifts and then make the adjustments and changes necessary to optimize the Council effectiveness.

Seeking More Rapid Stabilization and Resolution

To cite one example of how a lesson learned changed Council practices, the Council recently began to work on ways to enter, stabilize and resolve cases on a more timely basis. This resulted in the development of a new model that can be used to quickly address ongoing issues and improve the employee’s working environment. By applying this model—which deeply engages the company in addressing the issues—the Council is better able to deliver immediate stabilization actions even as the more complex issues are being patiently and fully assessed. In this approach, a Council working group,





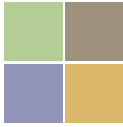
consisting of a balanced membership, is assigned to monitor the employee's situation and to readily address and resolve new issues that may arise. This also enables the Company to make real-time adjustments in response to the most pressing issues.

The Council continues to evolve and adjust to a complex and changing environment. Our goal is to learn from our work, collaborate with other entities, and seize opportunities to deliver quality and value to the Hanford Site, its employees, its contractors, and to the nation's taxpayers.

If you would like more information please contact the Council at www.hanfordconcernscouncil.org or 509-783-5695.

"Without an avenue to voice concerns, workers are more likely to turn their discontent into a legal battle. At Hanford, such conflicts sometimes drag on for years, costing taxpayers millions of dollars."

Tri-City Herald



**HANFORD
CONCERNS
COUNCIL**

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