



Department of Energy

Washington, DC 20585

May 20, 2010

Mr. Michael Kluse
Laboratory Director
Battelle Memorial Institute
Pacific Northwest National Laboratory
902 Battelle Boulevard
Richland, Washington 99352

Dear Mr. Kluse:

The Office of Health, Safety and Security's Office of Enforcement conducted an evaluation of the accidental firearm discharge that occurred in an occupied classroom during training led by Battelle at the Volpentest HAMMER Training and Education Center (HAMMER) in August 2009. The weapon discharge, which occurred during unsupervised student handling of a handgun, could have resulted in a fatal injury to one of the many students in the classroom. Battelle Memorial Institute (Battelle) manages and operates the Pacific Northwest National Laboratory (PNNL). Battelle uses the HAMMER facility to conduct training through an inter-contractor procurement (ICP) arrangement with Mission Support Alliance, LLC (MSA), the managing and operating contractor for HAMMER. Since 1997, Battelle has trained international border security officers to detect, identify, and interdict the illicit movement of materials, commodities, and components associated with the development or deployment of weapons of mass destruction. Each week-long course culminates in a one-hour concealed weapons demonstration performed by an off-duty deputy sheriff who is a subcontractor to Battelle.

Following the concealed weapons demonstration conducted on August 28, 2009, the instructor provided the students an opportunity to handle his privately owned weapons. The discharge occurred when a student was handling a handgun presumed to be unloaded. The instructor had failed to verify that his firearms were unloaded before the demonstration. On September 22, 2009, Battelle submitted Noncompliance Tracking System report NTS-RL--PNNL-PNNLBOPER-2009-0009, *Accidental Firearm Discharge* to report to DOE the noncompliances associated with the event.

The Office of Enforcement reviewed MSA's initial critique of the event, the cause analysis conducted by Battelle and MSA, and Battelle's corrective action plan. The Office of Enforcement also examined Battelle's worker safety and health program and firearms safety program for relevant requirements. In addition, contract documents between Battelle and MSA and between Battelle and the



firearms instructor were reviewed to determine roles, responsibilities, and authorities for safely conducting the work.

The Department of Energy's (DOE) evaluation of the circumstances associated with this event disclosed a number of potential violations of 10 C.F.R. Part 851, *Worker Safety and Health Program* in the areas of worker safety and health program coordination and implementation, hazard assessment and abatement, and firearms safety procedures.

- Battelle did not establish clear roles, responsibilities, and procedures for delivering the training at the MSA-managed HAMMER facility, nor did Battelle define responsibilities for performing worker safety and health program support and oversight for these activities.
- Battelle did not identify and assess firearms activities at HAMMER through its hazard assessment process for contract work. The risk assessment questionnaire, risk assessment checklist, concealed weapon demonstration contract, and statement of work did not identify the use of firearms. In addition, Battelle inappropriately categorized the hazards associated with the training as routine and low-risk, thereby limiting review and analysis.
- Battelle safety and health representatives focused on evaluating static classroom props and field exercises during development of the safety and health plan for the training. Since the hazards associated with the concealed weapons demonstration were not identified, a firearms safety subject matter expert (SME) was not integrated into the hazard assessment process, and a firearms safety protocol was not developed.
- Battelle did not establish and implement firearms safety policies, procedures, and controls for instructor or student handling of firearms during the concealed weapons demonstration. The policies and procedures in Battelle's Firearms Safety Program address the use of firearms in a research capacity to protect personnel from predatory animals and during instructional training for protective forces, but they do not cover handling weapons in a classroom environment.
- The instructor for the concealed weapons demonstration did not verify that his firearms were unloaded, which is a fundamental firearms safety control, before entering the Hanford site or the classroom, or before the firearms were handled by students. In addition, Battelle did not confirm that the concealed weapons instructor met firearms safety training and qualification requirements of its firearms safety program.
- Battelle did not ensure that the firearms safety SME was appropriately qualified and experienced to administer a firearms safety program consistent with the type of training conducted at HAMMER.

Battelle performed a comprehensive causal analysis of the event and developed corrective actions that are traceable to the causal analysis findings and judgments of need. The corrective action plan appears to address the root and contributing causes of the accidental firearms discharge. To correct the most significant causal factors, we understand that Battelle plans to:

- Review non-PNNL firearms activities to ensure risks are identified;
- Review props used for the training program for unidentified hazards;
- Conduct a review of five percent of Battelle projects for unidentified hazards;
- Review, improve, and institutionalize the memorandum of agreement process; and
- Provide training for technical administrators and the firearms SME.

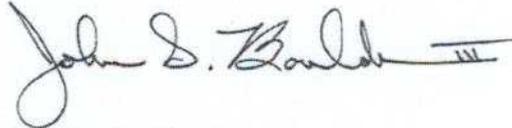
Battelle may want to consider the following corrective actions to strengthen the response to the accident and eliminate opportunities for recurrence:

- Conduct an extent of condition review to determine whether all Battelle firearms activities have been identified and incorporated into the Battelle firearms safety program;
- Evaluate firearms use at PNNL for unidentified risks;
- Evaluate existing firearm safety protocols to determine whether the scope adequately describes firearm use associated with Battelle activities and identifies hazards and appropriate administrative and engineering controls;
- Determine whether an independent verification of controls is required for every onsite and offsite use of firearms; and
- Evaluate risk rating criteria and corresponding level of management assurance appropriate for offsite projects containing firearm use or other hazardous activity(s).

DOE is issuing this notice to Battelle due to the high safety significance and potential noncompliances associated with the event as well as to express concerns regarding the absence of effective coordination with other contractors to ensure that workplace hazards were identified and mitigated. In recognition of Battelle's prompt, candid, and complete reporting of the event and deficiencies, and thorough causal analysis, DOE has determined that further enforcement investigation is not warranted at this time. In conjunction with the Office of Science and the Pacific Northwest Site Office, we will continue to monitor completion of the corrective actions.

No response to this letter is required. Should you have any questions, please contact me at (301) 903-2178 or your staff may contact Kevin Dressman, Acting Director, Office of Worker Safety and Health Enforcement, at (301) 903-0100.

Sincerely,

A handwritten signature in black ink that reads "John S. Boulden III". The signature is written in a cursive style with a horizontal line at the end.

John S. Boulden III
Acting Director
Office of Enforcement
Office of Health, Safety and Security

cc: Sandra English, PNNL