

September 14, 2005

**VIA FACSIMILE: 703-806-8032**

General Benjamin Griffin  
Commanding General  
U.S. Army Materiel Command  
9301 Chapek Road  
Fort Belvoir, Virginia 22060-5527

Re: Implementation of your memo regarding OPSEC review and  
dissemination of information dated August 2005

Dear General Griffin:

Public Employees for Environmental Responsibility (PEER)<sup>1</sup> represents Donald Van Winkle. Mr. Van Winkle is a civilian Army employee who works as an air monitoring operator / mechanic at the Bluegrass Army Depot (BGAD) located near Richmond, Kentucky.

Mr. Van Winkle has raised concerns about the capability and effectiveness of the Army's chemical warfare agent monitoring program at BGAD. Mr. Van Winkle raised his concerns through the chain-of-command and when his concerns were not fully addressed, Mr. Van Winkle discussed his concerns with co-workers and others interested in the safe and efficient operation of BGAD.

As a result of raising his concerns, Mr. Van Winkle had his Chemical Personnel Reliability Program (CPRP) security clearance removed pending investigation. On September 3, 2005, one day after filing a complaint with the U.S. Department of Labor and ten days after filing a request for investigation

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<sup>1</sup> Information about PEER is available at [www.peer.org](http://www.peer.org).

with DOD Deputy Inspector General L. Jerry Hanson, Mr. Van Winkle received a notice that his CPRP status would be suspended indefinitely.

On September 12, 2005, Mr. Van Winkle and other BGAD employees were required to sign off on your memorandum concerning OPSEC review and release of information (attached). Mr. Van Winkle has no public outreach or communication duties. Mr. Van Winkle was also given an August 31, 2005 memorandum from CMA Director Michael Parker (attached) referencing your memorandum and other documents regarding release of information to the public.

Consequently, Mr. Van Winkle feels that BGAD management's distribution of the Parker memorandum and requirement that he and others review and sign off on your memorandum amounts to a gag order preventing him and co-workers from disclosing concerns about worker health and safety, environmental protection /regulation, or public safety issues. Was it your intent to restrict communications in any manner about such issues?

As you may know, several federal laws provide specific protections enabling employees to raise or report concerns about worker health and safety, environmental protection and other issues. See, *e.g.*, 42 U.S.C. § 6971 (hazardous waste law employee protection provision); 5 U.S.C. § 2302(b)(8) (federal civil service protections governing the disclosure of illegality, waste, fraud, abuse, or public health or safety issues). In addition, there has been a provision inserted in the appropriation measures passed by Congress since the late 1980s prohibiting the use of federal funds to restrict the release of information to Members of Congress or as encouraged under federal civil service law. See, 2005 Consolidated Appropriations Act, PL 108-477 §§ 618, 620. Finally, the First Amendment gives employees at facilities such as BGAD the right to communicate and associate with other persons and organizations (including the media) regarding their opinions and concerns about how the government is performing.

Mr. Van Winkle has bravely raised critical concerns about the Army's ability to accurately monitor chemical warfare agents in storage igloos at BGAD. I think it unlikely that you or CMA Director Parker intended your memos to serve as a gag order restricting employees like Mr. Van Winkle from performing their duty to protect their co-workers, the public and the environment. Please provide a written clarification so that we may advise Mr. Van Winkle of his obligations.

Thank you for your prompt attention to this important issue.

Sincerely,

Richard E. Condit  
General Counsel

Attachments:

- (1) Message from COL Paul Wentz on behalf of Commanding General Griffin, dated August 2, 2005.
  - (2) Memorandum from CMA Director Michael Parker, dated August 31, 2005.
- cc: Members of the Senate Armed Services Committee  
Members of the House Armed Services Committee  
CMA Director Michael Parker