Department of Energy
Idaho Operations Office
1955 Fremont Avenue
Idaho Falls, ID 83415

December 22, 2009

CCN: 219590

RECEIVED
JAN - 4 2010

[redacted]

[redacted]
Battelle Energy Alliance, LLC
P.O. Box 1625
Idaho Falls, ID 83415-3695

SUBJECT: Mark David Siciliano 10 CFR 708 Whistleblower Complaint (AS-HR-ECP-10-004)

Dear [redacted]:

Enclosed is a 10 CFR 708 Whistleblower Complaint filed by Mark David Siciliano, an employee of Battelle Energy Alliance. According to 10 CFR 708.16, your management has ten (10) days from the receipt of this complaint to provide any comments to Jan Ogilvie, Idaho Operations Office Employee Concerns Program Manager.

If all parties are in agreement, an informal resolution process such as mediation may be used to resolve the complaint. This informal resolution process is limited to 30 days unless all parties agree to an extension. If the parties resolve the complaint informally, a written copy of the settlement agreement must be provided to the DOE-ID Employee Concerns Program Manager.

If you have any questions, please contact me at 526-9272.

Sincerely,

Jan Ogilvie

Jan Ogilvie, Employee Concerns Program Manager
Idaho Operations Office

Enclosure

10 CFR Part 708 (Whistleblower) Complaint Filing Instructions

The following information is required to process your complaint. This basic information will be made available to DOE, the contractor or subcontractor against whom the complaint is filed for purposes of resolving or investigating the complaint. There is no specific form or format required, but the information requested should be complete, including elements which may not be applicable (simply state Not applicable). This information needs to be submitted within 90 days of your being retaliated against.

A. **PROCESSING INFORMATION:**

1. Complainant. (Include your full name, mailing address to which you want all correspondence directed, and telephone number.)

2. Complainant Legal Representative (if Applicable). (Include your attorney's name, mailing address, telephone and fax numbers.)

3. Field Element. (Identify the DOE Field element receiving this complaint and the assigned contact person. For INL employees, this is DOE-Idaho Operations Office, and the contact person is Jan Ogilvie, Employee Concerns Manager.)

4. Contractor Data. (Identify the contractor or subcontractor against whom the complaint is filed, and also the primary management employees or others named in the complaint, noting their positions or titles.)

5. Previous Resolution Attempts/Other Actions. (Required by 10 CFR Part 708): Describe the steps that show that you have exhausted all applicable grievance-arbitration procedures

   (a) Did you use your contractor's internal grievance procedures? Explain, including dates and results.

   (b) Have you sought a state, Federal or other remedy? Explain, specifying the agency, date filed, and case status.

   (c) Have you attempted to resolve your complaint through the DOE Informal Resolution Process (i.e. with the DOE Employee Concerns Program)? Explain including dates and results.

B. COMPLAINT INFORMATION:

1. Employee's Disclosure ("Whistleblowing" Action) or Refusal. (Describe the specific disclosure or refusal to act, including circumstances and dates. Indicate whether it: involves health or safety; involves a violation of a law, rule or regulation; constitutes fraud, waste or abuse, or poses a danger.)

2. Retaliatory Action (Reprisal). (Describe the specific actions believed to have been taken against you, the circumstances, and dates. Explain how you believe the disclosure or refusal led to the reprisal and any harm experienced.)

3. Remedy Sought. (Describe the action or relief that you desire, if it is found that the above cited reprisals resulted from a protected disclosure or refusal.)

☐ I request a hearing through the DOE Office of Hearings and Appeals.
☐ I request an investigation through the DOE Office of Hearings and Appeals.

December 11, 2009

From: CDR Mark D. Siciliano, USN-Ret.
9733 Andee K Lane
Pocatello, ID 83204
208-360-4367

To: Ms. Janice Ogilvie, DOE-ID Employee Relations

SUBJECT: 10 CFR PART 708 (WHISTLEBLOWER) COMPLAINT

Dear Ms. Ogilvie,

It is with deep regret that I am filing an official 10 CFR Part 708 Complaint against Bettelle Energy Alliance for damages incurred as a result of retaliation that has resulted in a reassignment of my position, reduction in authority, reduction in accountability, a reduction in responsibilities, negative impact on my professional reputation, negative impact on my ability to promote as well as defamation of character. I have gone from a department manager where I supervise 79 employees and subcontractors, manage a [redacted] budget, manage [redacted] in Business Volume, employ [redacted] FTE's, have the authority to approve travel, procurements, and direct the management of a multitude of classified projects and conduct client interface throughout SOCOM, DOD and the IC, to being a relationship manager where I supervise no one, have a minimal budget compared to my previous position, and have little or no approval authority. Furthermore, I have been given a very narrow client sent compared to other relationship managers. For example: One relationship manager is responsible for the entire DoD and OSD client set (approx [redacted] Dollars) while I am managing a client with less than [redacted] of that. Finally, due to recent decisions by the [redacted] to "divest" from what I believe to be very low risk work, the SOCOM client that I am responsible for has virtually pulled out of the INL. It appears to me that I am being "set up" for failure.

1. I was informed on the 22nd of September, by my director [redacted] that the [redacted] considers me "unfit" to be a Department Manager. When I asked [redacted] why, he referenced the following:

A. An email exchange between me and [redacted] of DOE-ID that [redacted] was furious about.

B. A verbal exchange I had with [redacted] in which [redacted] blamed my department in an open forum for the security shortfalls incurred for the entire NHS Division.

C. Written remarks I made when several of my employees expressed concerns over accusations of responsibility for a security infraction before an investigation was completed. For my effort, I was required to fill out a statement of the incident several months later which I gather was to teach me a lesson. Sadly, I wasn't even an employee when the incident took place. That's retaliatory in and of itself.

D. A perception that I do not care about security which is ridiculous, arbitrary and capricious.

Additionally, I believe I have been retaliated against because:

-- I provided my leadership with numerous suggestions starting twenty months ago to improve our security posture to include recommendations provided in writing in February of 2009. I received no feed back from my leadership on these recommendations and BEA leadership did not act in a timely manner to safeguard our classified information and inaction resulted in several additional infractions.

-- I drafted value statements as a result of the Management Self Assessment and Corrective Action Plan to improve the leadership and management in National and Homeland Security which was filtered by the Directors in National and Homeland Security. (Correspondence attached)

-- After discovering that the [redacted] traveled to a sensitive country without following the proper protocol for someone with a TS/SCI clearance I submitted a memorandum of security concern to the [redacted] and [redacted] as I am required to do when a security issue arises. (correspondence attached)

-- I commented in writing in my periodic SOCOM business update that SOCOM is divesting from the INL due in part to the ALD's decision to turn down low-risk classified work in which we lost 1.8 M in funding and millions in additional follow-on work. (Correspondence attached). This work is of National strategic importance and the INL could have played an important role in the security of our nation, however the NHS leadership appears to be more concerned about receiving a potential IMI than they are of meeting the real-world challenges facing our country. I understand this is the ALD's decision, however as the relationship Manager for SOCOM it reflects negatively on me as well as the Laboratory. Specifics are classified.

-- I submitted an equity concern because I was misled and when I was hired as a Department Manager 3 in the Special Programs Division. (Correspondence attached).

I also believe there is an element of discrimination due to a disability that I should be reasonably accommodated for, which does not include being forced out of a department manager position because I am direct and to the point. My supervisor is aware of this disability.

As a result of the above, I was reassigned on the 7th of December, 2009 which I consider the date of retaliation.

Previous Resolution Attempts and Additional Complaint Information:

It is important to recognize that until the 22nd of September I had no idea there was an issue with my performance. The only mildly negative feedback I received on my mid-year review was "to be more careful when interaction with DOE employees and in emails." Once I was told that I was considered "unfit" to be a department manager on the 22nd of September, I immediately contacted [redacted] in Diversity to seek a resolution and file a memorandum for the record to document the facts concerning these issues. [redacted] recommended and I agreed to meet with the Directors and [redacted] one-on-one in order to address these concerns. To that end, Mr. [redacted] wanted to set up the meeting

with the ALD and [redacted] was aware of that. Between October 2nd and 5th I set up individual meetings with the Directors [redacted] and I had already spoken to [redacted]). Mr. A[redacted] indicated that [redacted] did not want to meet with me (refused) and said "**whatever** it is, let [redacted] handle it." The primary purpose of meeting with [redacted] was to discuss the facts in an attempt to clear up any misconceptions concerning my performance as well as discuss my department's performance and an equity concern that I had. I did meet with the Directors and felt the meetings with Mr. [redacted] and [redacted] were productive. The meeting with [redacted] was less productive and I believe he resents me standing up to his address to my department in which he wrongfully concluded that "all the security issues stem from this audience and this building" or words to that affect. You will read in my supporting documentation that personnel in my department have not received one single infraction in over seventeen months. It is important to note that each Director told me how "pissed off" [redacted] was concerning my email exchange with [redacted] from DOE-ID, as well as the comments I made when [redacted] addressed my department, and the concerns that I brought to the attention of senior management when my employees were very concerned about being pre-judged and signing a form that indicated they were responsible for a security incident <u>before</u> an investigation was completed. I explained to them that I had no idea there were any concerns or issues with my performance and that I cannot self correct when I receive no feedback. Each director told me "they would have no problem working with me, however I had virtually no chance of influencing [redacted] opinion of me or decision not to consider me for a Department Manager position under the reorganization" or words to that affect. In short, without the facts, [redacted] used the reorganization of National and Homeland Security to remove me from a department manager position. It is very, very important to note that each director referenced how "pissed off" [redacted] was concerning my email exchange with [redacted], because [redacted], in the presence of Mr. [redacted] and I, denied he ever read it or knew anything about it. Keep in mind this individual holds a TOP SECRET/SCI and DOE Q clearance and is trusted with extremely sensitive classified information. I gave [redacted] at least three opportunities to tell the truth, but in each case he said he didn't know anything about an email from Ms. [redacted] was present.

At any rate, since the ALD refused to meet with me I saw no other option except to go forward with the equity complaint. It is important to read this complaint in its entirety as it speaks to the deception and deceit in which we operate under the leadership of National and Homeland Security. I felt that the Leadership and Management Team of the Laboratory need to be informed of the situation so I copied them on the email with the attached complaint.

Once [redacted] saw the email and that the Laboratory leadership was now in the loop, he immediately set up a meeting with me to discuss the equity issue. Due to being misled in the past, I was uncomfortable meeting with [redacted] one-on-one and I requested that [redacted] attend the meeting with me. All parties agreed.

I took the opportunity in the meeting to address the derogatory comments about me and any concerns that [redacted] might have about my performance. When I began to discuss the email exchange with [redacted] he denied knowing anything about it and that "this was the first I've heard of this." I mentioned to [redacted] that I felt like I was being retaliated against without an opportunity to defend or explain my position. For the record, not only was [redacted] on the original email string, there were several other emails to and from [redacted] where he commented on it. Copies of these can be found on [redacted] computer and I have read them myself. Furthermore, he instructed [redacted] to make

sure I was counseled on it during mid-year reviews and finally, [redacted] commented in writing on [redacted] copy of my mid-year review. To summarize, [redacted], the [redacted], who holds a TS/SCI/Q clearance willfully and wantonly lied to his employee, a member of the FIE, and I can and will prove it. The motivation to lie about this is to avoid admitting he retaliated against me.

After this event and due to the senior level of the individual involved I have lost confidence in BEA's ability to come to a fair and equitable resolution. I have met with Ms. Janice Ogilvie of DOE-ID Employee Concerns in an attempt to resolve these issues and/or begin the 10CFR Part 708 process.

Additional information to include a Memorandum for the Record and other correspondence is attached.

Remedy Sought:

1. I am concerned about the ethical conduct of [redacted] as it relates to his senior position and I question his judgment and character as it relates to security. Therefore, the immediate suspension of [redacted] security clearance pending a full investigation of his ethical conduct and behavior as it pertains to his ability to maintain a security clearance is in order. This investigation should be done by DOE IN, or the appropriate authority, and I would like his record as the ALD of National and Homeland Security at the INL reviewed as it pertains to security performance as well as his ethical conduct.

2. Immediate reinstatement as a Department Manager in Special Materials and Processes with my previous collateral duties as the strategic relationship manager for USSOCOM included.

3. I would like the equity complaint reviewed and adjudicated along with a leveling in pay and grade between myself and [redacted] and reimbursement of back pay from the time I became a department manager until I am leveled.

4. I would like a full investigation conducted by DOE to determine if Dr. KP Ananth lied or misled me as it relates to the information provided in this complaint or uncovered during an investigation. I would ask that this information be provided to the Laboratory Director to determine [redacted] suitability to perform his assigned duties and responsibilities in a position of national trust.

5. I request that I am not retaliated against for filing this complaint or security concerns. And I want anyone who misrepresents the truth to be held accountable during the adjudication of this complaint.

Complaint Legal Representative: Not retained at the moment

[redacted]
Idaho Falls, ID
Phone: [redacted]

DOE Field Element is DOE-Idaho Operations Office, and the contact person is Jan Ogilvie.

(208)-526-9272

Contractor Data: Battelle Energy Alliance–[redacted]

In the conduct of an investigation, I request at a minimum the following personnel be interviewed:

Email to [redacted] to include his files and computer records on the incident, Mr. [redacted] as a witness to the meeting with [redacted] (DOE).

[redacted] **address to my department:** [redacted]

Concerns of my employees during a security investigation: [redacted]

Security Proactiveness: Anyone in my former department.

Being lied to or misled by [redacted] to include his documentation.

Very Respectively,

Mark D. Siciliano

MARK D. SICILIANO