

Special Review - Allegations Of Improper Use Of EPA Facilities At National Health And Environmental Effects Research Laboratory, Gulf Ecology Division, Gulf Breeze, Florida

#6400045

EXECUTIVE SUMMARY

PURPOSE

We received allegations that: (1) staff and/or students from at least three universities used Gulf Ecology Division (GED) facilities for unauthorized research, including research funded by a large oil company; and (2) EPA scientists at the GED solicited private funding of research through a university, to be done at GED's laboratory.

As a result of these allegations, we initiated a special review to determine:

- Whether the allegations were true and if they represented a material misuse of EPA facilities and an improper augmentation of EPA appropriations.
- Whether relevant laws, regulations, or policies were violated.

BACKGROUND

GED

GED, formerly known as the Gulf Breeze Environmental Research Laboratory (GBERL), is a division of the Office of Research and Development's (ORD) National Health and Environmental Effects Research Laboratory (NHEERL) in Gulf Breeze, Florida. GED's primary mission is to develop and analyze data on the impact of toxic and hazardous materials released in marine, estuarine, and near-coastal environments and to evaluate biological treatments of hazardous wastes in these environments.

Complaint

In April 1995, we received an anonymous complaint concerning potential improprieties occurring at GED. The allegations in this complaint were as follows:

1. Twelve students from the University of West Florida (UWF) were performing unauthorized, private research, funded by a large oil company, at GED's laboratory.
2. A former National Research Council (NRC) research associate continued working at GED after ending her associate tenure and becoming an employee of the University of South Alabama (South Alabama). GED had no formal agreement or other relationship with South Alabama.
3. Two EPA scientists at GED had solicited private funds for a research project to be conducted at GED's facilities. The research proposal was made to a nonprofit institute through a university that had previously employed one of the EPA scientists.

SUMMARY OF REVIEW RESULTS

Non-Federal personnel were using GED's laboratory without proper authorization. The research planned and/or being performed at GED was not approved under a proper agreement between EPA and the non-Federal parties involved. We identified students and/or faculty from at least three universities who had worked or were currently working on-site, whose use of GED facilities was not authorized under any agreement or contract with EPA. Some of these non-Federal personnel were directly assisting GED staff on EPA research projects. In addition, two GED scientists solicited private funding for research at GED without proper approval or authorization.

Non-Federal assistance provided to EPA staff on GED research projects violates the prohibition against Federal agency acceptance of voluntary services found in 31 United States Code (U.S.C.) 1342 (the Antideficiency Act). In addition, non-Federal use of EPA facilities without proper authorization raises questions of EPA's liability in case of accidents, injuries, or compensation claims, as well as ownership of patents and proprietary information resulting from the research.

The former laboratory director implemented a Memorandum of Understanding (MOU) with UWF without proper approval. Many of the unauthorized uses of GED facilities were justified by GED staff based on questionable or vague provisions in this unapproved MOU. However, ORD had received the proposed MOU over three years ago and had not taken expeditious action to approve or deny the MOU.

Proper security over access to GED facilities had not been established. Some minimal restriction on access to GED during normal business hours needs to be implemented. In addition, more information needs to be required on the entrance log to properly identify individuals entering GED after normal business hours.

RECOMMENDATIONS

We recommend that the Assistant Administrator for Research and Development coordinate with EPA's Office of the Comptroller in order to fulfill the reporting requirements of 31 U.S.C. 1351 for a violation of 31 U.S.C. 1342. The Administrator must report all relevant facts and a statement of action taken to the President and Congress through the Director, Office of Management and Budget.

In addition, we recommend that the Assistant Administrator for Research and Development work with the Acting Assistant Administrator for Administration and Resources Management to prepare an Agencywide "umbrella" delegation for implementation of 42 U.S.C. 4370, Reimbursement for Use of Facilities. Also, we recommend that the Assistant Administrator for Research and Development coordinate with the Office of Administration and Resources Management (OARM) and the Office of General Counsel (OGC), to develop guidance concerning non-Federal use of EPA facilities and fees to be charged for such use, and the solicitation and use of private funds for EPA research. The NHEERL Director should identify and terminate all unauthorized non-Federal use of GED facilities and provide an expeditious review of the proposed MOU between GED and UWF.

AGENCY COMMENTS

ORD generally concurred with the issues and recommendations and included a corrective plan in its response that addressed each of the report's recommendations. However, ORD disagreed with two conclusions presented in the draft report. These conclusions related to GED's acceptance of prohibited voluntary services and ORD's authority to permit non-Federal use of EPA laboratory facilities.

ORD's disagreements and our evaluation of ORD's comments are included in Issue 1 of this report. ORD's complete response is included as Appendix I.

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- [Report of Review: Special Review Allegations Of Improper Use Of EPA Facilities At National Health And Environmental Effects Research Laboratory, Gulf Ecology Division, Gulf Breeze, Florida](#)