

JUN-06-2002 09:50

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

MAR _ 6 2002

Thomas R. Frieden, M.D., M.P.H.
Commissioner
New York City Department of Health
125 Worth Street
New York, NY 10013

OFFICE OF
SOLID WASTE AND EMERGENCY RESPONSE

Dear Dr. Frieden:

Thank you for your letter of February 14, 2002, to Governor Whitman, Administrator of the U.S. Environmental Protection Agency (EPA or Agency) regarding Ms. Cate Jenkins, to which the Governor has asked me to reply. You asked for clarification of the Agency's position with respect to asbestos, following your receipt of a letter from Ms. Jenkins, an Agency employee, which offered her opinion with respect to the sampling and analysis taking place in and around the World Trade Center site.

Your department and any other person or organization should consider Ms. Jenkins' views on this matter as those of any private citizen, and not those of an official Agency representative. As she stated in her letter, her opinions are her own and do not reflect the official scientific or policy views of the EPA. Under her official duties, she holds no responsibilities related to the response work being carried out at the site. She does not represent EPA's position on asbestos analytic methods, risk assessment approaches, or response methods. For the record, EPA disagrees with the asbestos risk assessment approach this employee proposed, and believes it does not reflect the scientific consensus on characterizing the health effects of asbestos.

I appreciate your kind words regarding EPA's support to New York City. EPA has been coordinating closely with New York City, New York State, and other Federal agencies to ensure consistent use of the latest proven state-of-the-art analytical methods, to evaluate data from multiple agencies on a daily basis, and to protect potentially exposed individuals. I agree that we have had a successful, collaborative approach among the various Federal, state and local agencies involved. This has been a difficult situation for all concerned, and I apologize for the confusion caused by this employee's letter.

I hope this clarifies the Agency's position. If you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in dark ink, appearing to read "Marianne C. H.", written over a horizontal line.

Marianne Lamont Horinko
Assistant Administrator

Complainant's Credibility

Claimant's credibility is the key issue in this case, both because there is frequent conflict between her version of events and that of other witnesses and because her

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perception of events is the principal component in her belief that she has been discriminated against for her protected activities. Accordingly, much of this part of the decision will address claimant's credibility.

Getting right to the point, Cate Jenkins is the most disingenuous, evasive, and self-serving witness I have ever observed. She is an intense woman who believes that any means are acceptable if, in her view, the ends are desirable, including lying (even under oath), searching through co-workers' personal effects, and leaking confidential information. She further believes that any person, rule, or law which stands in her way can be ignored. She has acted and continues to act as if she believes she is the only person at EPA who is concerned with the public interest and everyone else is selling out to the industries regulated by EPA. Accordingly, she irrationally assumes that every criticism of her job performance, no matter how obviously valid, is part of a plan to impede her efforts to protect the public and the environment. It does not appear to have entered her mind that proposals which differ from hers may nevertheless be meritorious or even worthy of consideration, nor does it appear to have occurred to her that her "ends justify the means" philosophy may compromise both her credibility and that of the EPA. Dr. Jenkins' sanctimonious, condescending, and distrusting attitude toward her colleagues made it inevitable that serious problems would develop in her employment relationships.⁸

What makes the foregoing particularly lamentable is that Dr. Jenkins is without doubt an extremely intelligent woman and a capable chemist. Her near photographic memory was demonstrated repeatedly at the hearing (when it suited her convenience) through her uncanny ability to instantaneously identify the exhibit numbers of documents and to locate particular passages in these documents. This was all-the-more impressive when it is considered that complainant had marked almost 400 documentary exhibits taking up five loose-leaf binders. Moreover, she firmly believes in the mission of the EPA, and in that respect is well-intentioned. But she is so lacking in judgment that she actually has made it more difficult for EPA to accomplish its mission.

Complainant's utter lack of credibility could only truly be appreciated through personally observing her six days of testimony. I do not often rely solely on demeanor in determining a witness's credibility, but the complainant's demeanor was so disquieting that it is dispositive here by itself. Complainant often appeared to be in her own world, divorced from reality. She frequently answered questions with long discourses that quickly became unfocused. During her period on the witness stand complainant lied with impunity and did not appear the least embarrassed when she was caught in these lies (e.g., TR 968-82, 1014-17). She bragged about her bizarre behavior which she seemed to have no idea was in any way aberrant or unusual (e.g. TR 1245-55). In addition, she had alleged lapses of memory on unfavorable points so frequently that it was obvious the problem was one of honesty rather than memory. She has her own moral standards which are not in accord with those of the rest of society. She has no concept of team or organization, refuses to