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October 25, 2016

Mr. John Ellis
U.S. Environmental Protection Agency
1200 Pennsylvania Ave NW (MC 2822T)
Washington, DC 20460

Dear Mr. Ellis:

The National Archives and Records Administration (NARA) is aware of an alleged unauthorized disposition of Environmental Protection Agency (EPA) records based on a news article published in the Federal Times on September 30, 2016 (see attachment). The news article stated that “a whistleblower tip revealed that inspections, notices of violation and noncompliance files from EPA’s Atlanta Regional Office’s unsecured mixed-use file room were improperly disposed of because of shortcomings in the office’s ‘internal controls.’”

In accordance with 36 CFR 1230.16(b), NARA is requesting that EPA provide us with a response within 30 calendar days indicating the specific actions EPA will take to address these allegations and the steps EPA will take to mitigate future losses of EPA records. If EPA determines that an unauthorized disposition has occurred, then EPA must submit a report to NARA as described in 36 CFR 1230.14. Please indicate if the specific records outlined in the allegation can be recreated or duplicated from other sources.

Thank you for your cooperation. If you have any questions, please contact Andrea Noel, Senior Records Analyst, at 301-837-3564 or by email at andrea.noel@nara.gov.

Sincerely,

LAURENCE BREWER
Chief Records Officer
for the U.S. Government

Enclosure

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Check Out Our Dis



EPA OIG finds improperly managed records at regional office

By: [Tony Ware](#), September 30, 2016 (Photo Credit: Coolcaesar via Wikipedia Commons)

An investigation within the U.S. Environmental Protection Agency found files from open and closed lead cases were thrown into a recycling bin, according to a report acquired by Public Employees for Environmental Responsibility (PEER).

The June 21 report, assembled by the EPA's Office of Inspector General after a whistleblower tip, revealed that inspections, notices of violation and noncompliance files from the EPA's Atlanta Regional Office's unsecured mixed-use file room were improperly disposed of because of shortcomings in the office's "internal controls."



[Federal Times](#)

Porn, pot and theft spotlighted in EPA misconduct hearing

The lack of proper evidence management could damage both pursuing pending air quality enforcement action and penalties for repeat violators of the agency's program to ensure lead-safe residential repairs and renovation. Following the investigation, proper safeguards and procedures have been outlined and instituted.

The report does not clearly determine why an EPA employee would recycle the records, which constitutes criminal concealment and removal of federal records. While one employee was counseled, ultimately no disciplinary action was taken.

"Incredibly, EPA undertook no review of its managers who allowed and tolerated trashing enforcement records," said PEER Staff Counsel Laura Dumais, who obtained the report through



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Diane St George · Never Been to College

That takes the cake. The EPA often does a lousy job. I wonder how much the tax payers are paying them. Also how much do they get paid by Big Oil and Mining that deystroy's our environment.

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NATIONAL
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January 9, 2017

Mr. John Ellis
U.S. Environmental Protection Agency
1200 Pennsylvania Ave NW (MC 2822T)
Washington, DC 20460

Dear Mr. Ellis:

We have reviewed your response concerning the unauthorized destruction of 93 lead-based enforcement files in the Air, Pesticides & Toxics Management Division in EPA Region 4.

The December 14, 2016, letter describes the events and corrective actions, which effectively satisfy all the requirements listed in 36 CFR 1230.14 on reporting to the National Archives and Records Administration (NARA) any unlawful or accidental destruction of Federal records. NARA accepts your description of the events and the corrective actions taken to address the loss of records in this matter. This case is now closed.

Thank you for your cooperation. If you have any questions, please contact Andrea Noel, Senior Records Analyst, at 301-837-3564 or by email at andrea.noel@nara.gov.

Sincerely,

LAURENCE BREWER
Chief Records Officer
for the U.S. Government

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

OFFICE OF
ENVIRONMENTAL INFORMATION

December 14, 2016

Laurence Brewer
Chief Records Officer for the U.S. Government
National Archives and Records Administration
8601 Adelphi Road
College Park, MD 20740-6001

Dear Mr. Brewer:

I am writing in response to your letter of October 25, 2016, that refers to an article published in the Federal Times on September 30, 2016, entitled, *EPA OIG Finds Improperly Managed Records at Regional Office*, which discusses an alleged unauthorized disposition of Environmental Protection Agency (EPA) records.

In compliance with 44 U.S.C. § 3106 and 36 C.F.R §§ 1230.14 and 1230.16, I am reporting details about the likely destruction of 93 temporary EPA enforcement files. Below is a summary of the findings addressing each of the required items cited in the regulations.

The office maintaining the records

The temporary records were located in the EPA Region 4 Air, Pesticides & Toxics Management Division, Chemical Safety and Enforcement Branch, Lead and Asbestos Section.

A description of records with volume and dates, if known

The records at issue that were lost include 93 lead-based enforcement files in the Air, Pesticides & Toxics Management Division in EPA Region 4. The date range for the files spans 2004 to 2014.

The records at issue were not permanent records. The missing enforcement files were subject to EPA Records Schedule 207 item a, which was replaced in July 2016, as a result of EPA's Records Schedule Consolidation efforts, with Records Schedule 1044, item c. Both records schedules have a temporary retention period of 10 years. Therefore, at the time of the loss, the files from 2004 would have been eligible for final disposition pursuant to the applicable records schedule.

Statement of exact circumstances surrounding the removal or destruction of records

The loss occurred between May 1 and August 31, 2014, and was discovered sometime in September 2014. An employee initially reported difficulty in locating certain files to a section supervisor. After later confirmation that the files could not be located, the section supervisor reported the files missing to

the appropriate manager. Next, Region 4 employees conducted a search in and around the file rooms and offices to locate the files, with no success. On January 28, 2015, a Region 4 employee then reported the incident to the Region 4 Security Officer, the Information Security Officer (ISO), the Agency Records Officer and the Privacy Liaison Officer.

Because staff initially thought that the records may have contained Personally Identifying Information (PII), both the ISO and the Privacy Liaison Officer reported the incident to the Computer Security Incident Response Capability Center (CSIRC) and the Breach Notification Team (BNT), respectively. The Region 4 Security Officer conducted an initial fact finding and reported the issue to the Office of the Inspector General (OIG), who opened an investigation. The OIG conducted a thorough investigation and concluded that 93 lead enforcement files were missing from the Lead and Asbestos Section. The initial focus of the reporting by staff concerned the possibility of a PII breach. The OIG investigation concluded earlier this year.

Actions taken to salvage, retrieve or reconstruct the records

As described above, EPA Region 4 conducted a thorough search to locate the missing files. However, EPA Region 4 was unable to locate the files and did not have enough information to reconstruct the files. The missing files did not impact Region 4's pending enforcement actions.

Statement of safeguards established to prevent further loss of documents

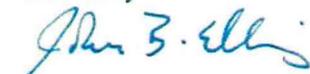
The OIG investigation concluded that a lack of internal controls was a significant contributing factor in the Lead and Asbestos Section's failure to account for the missing files; not theft, intentional destruction or removal.

The Lead and Asbestos Section instituted additional safeguards and procedures to prevent further loss of records and ensure the security of the files. These additions include:

- (1) keeping the files locked when in the central filing locations;
- (2) inventorying and inputting file data into a records tracking system;
- (3) implementing a formal standardized procedure for retrieving and returning files through a document control officer;
- (4) providing supplemental records management training to the Section's staff; and
- (5) hiring additional records contract staff to provide records management support to the Air, Pesticides & Toxics Management Division.

Please contact me if you have any questions.

Sincerely



John B. Ellis, CRM
EPA Records Officer

cc: Kevin Miller, OGC