



PNNL manager Aleta Busselman makes a statement about the whistleblower complaint she filed with her attorney Jack Sheridan against the Pacific Northwest National Laboratory. Busselman is accusing the contractor operating the Richland lab of retaliation.

By Bob Brawdy

LOCAL

They wanted to dismiss a whistleblower lawsuit over \$530,000 theft. The judge had bad news for Battelle

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RICHLAND, WA — A federal judge has refused Battelle's request to dismiss a whistleblower lawsuit claiming that a Pacific Northwest National Laboratory manager lost her position over an investigation of the theft of \$530,000 of taxpayer money.

The Department of Energy Office of Inspector General also has completed its report on the alleged retaliation, finding that Aleta Busselman would have been removed from her position regardless of events surrounding the fraud investigation.

However, a dispute over the conclusions the investigation reached amounted to a whistleblower action and could have contributed to her removal from her position, the IG report said.

Last spring Busselman sued Battelle Memorial Institute, which holds the Department of Energy contract to manage the national lab in Richland. The lab is the Tri-Cities' largest employer, with around 4,200 employees in the area.

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Busselman said in court filings that as the lab's enforcement coordinator, she was responsible for investigating why PNNL had been vulnerable to the theft of \$530,000, or the "root cause" of the incident.

In December 2016 PNNL was tricked into sending a \$530,000 payment owed to Fowler General Construction of Richland to a fraudulent bank account after falling for an email saying there was a new bank account for Fowler payments. Fowler was being paid in periodic installments for building the \$9.8 million Discovery Hall in Richland.

The lawsuit says that some officials of the lab found the conclusions of the report Busselman's team prepared for DOE too critical of management and watered it down over Busselman's objections. She was told her report made management seem "asleep at the wheel," according to court documents.



Battelle Memorial Institute holds the Department of Energy contract to manage Pacific Northwest National Laboratory in Richland.

Tri-City Herald file

Busselman notified a lab director that "we do not just let concerned stakeholders manipulate root causes at the end of the process to make us sound better" and days later was removed from her position, she said in court documents.

Battelle had asked Judge Sal Mendoza Jr. to dismiss the case, saying it did not qualify as a whistleblower action under the National Defense Authorization Act.

It said Busselman's concerns about Battelle changing the investigation report related to an internal policy only — and a policy Busselman created — rather than a violation of law or regulation that would be considered a whistleblower action under federal law.

Busselman said in court documents that when she began managing the investigation team, she found that management exerted pressure to change the results of the team's final conclusions, even though she said changing the independent analysis was known to be prohibited.

She created a formal policy saying that if disagreements could not be resolved, the investigative team's document would stand.

The judge found that if the allegations made by Busselman are true, the defendant's violation of the policy could be considered a violation of Battelle's contract and regulations.

Battelle's contract with DOE requires it to develop procedures to combat fraud and ensure they are effective.

In addition, a case could be reasonably argued that the management change to the investigation report was made despite a conflict of interest and a lack of investigative training and expertise by those who changed it, he said in his ruling.

The arguments Busselman makes in initial court filings are plausible enough for the case to proceed, he said.



Aleta Busselman

She is suing for reinstatement to her former position as a division director managing an investigative team, plus money for emotional harm.

She also is asking the court to order changes at the lab, including a prohibition against management pressure to influence similar PNNL investigations.

Battelle says that it is common for vigorous debate to occur as investigations of the causes of incidents go through reviews and people with additional information weigh in.

"There most certainly was no retaliation," said Greg Koller, a spokesman for PNNL. "PNNL and Battelle do not tolerate retaliation in the workplace, and we take claims of this nature very seriously."

For many months before overseeing the investigation into the cause of the fraud, Busselman had requested reassignment to a position in a research directorate, Koller said.

"That request was honored and Busselman is, and has been, employed at PNNL as a project manager," he said.

The Office of Inspector General report said in Busselman's last performance appraisal before the disagreement over the investigation report that shortcomings in her performance were found and that there were weaknesses in her interactions with other groups.

She had been stressed in her position and Battelle was looking at a reassignment for her, the IG report said.

Busselman said in a sworn statement that her stress was related to her "treatment and public humiliation" at the hands of another manager who had objected to some of her duties being given to Busselman. One performance report wrote that she "had some difficult personalities that felt threatened" when Busselman had been promoted.

Despite that conflict, Busselman said she still had a "desire to fully and passionately perform the essential duties of my position."

Busselman said she had looked into opportunities offered by another open position, but was not interested in leaving the position she had.

Her last six reviews rated her performance as achieving or exceeding recommendations, and from October 2015 to December 2016 she received raises totaling \$19,635.

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In her last performance review before the fraud investigation, her manager wrote that “you accomplished much and had a very good year.” He said she “met the high expectations for someone at your level.”

She was removed from her position in April 2017, and was told she needed to find other work at PNNL by Oct. 1, according to court documents.

Battelle, working with the bank where funds were stolen, was able to recover some of the money and covered the remainder of the loss, Koller said.

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