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August 8, 2012

Honorable Steven Chu
Secretary of Energy
1000 Independence Avenue, SW
Washington, DC 20585

Re: Request for Office of Legal Counsel review of crucial civil service laws

Dear Secretary Chu,

I have attached my recent letter to President Obama about this matter. I understand Joe Carson, P.E., a nuclear safety engineer in the Department of Energy has tried numerous methods – including submitting employee concerns and differing professional opinions, making disclosures to the Department of Energy Inspector General, and filing grievances – to obtain a resolution to his concerns regarding the Civil Service Reform Act of 1978 and the Whistleblower Protection Act of 1989 and their related regulations (“the civil service laws”) since you became the Secretary of Energy. I further understand that Mr. Carson will engage in mediation with the Department on August 20, 2012 about his concerns. I hope – for the sake of every American – that the outcome of the mediation includes your exercising your lawful authority, as head of a Cabinet-level agency, in directing the Office of Legal Counsel of the Department of Justice to resolve Mr. Carson’s concerns, regarding the implementation of the federal civil service laws.¹

As you certainly know, there was an unprecedented breach of security at the Y-12 plant in Oak Ridge on July 28, 2012. In a statement provided to the Knoxville News-Sentinel on August 3, 2012, you described it as “unacceptable” and “deeply troubling.”² Might the misconstruction and misapplication of the federal civil service laws be a causal factor in that breach of security? Did the responsible DOE employees know of their right to make classified disclosures, confidentially, to the Office of Special Counsel? Was the Office of Special Counsel able to receive and process such classified disclosures? Have you designated another Department official (besides the Inspector General) with the authority to receive such classified disclosures from concerned employees? Upon what objective basis can you tell any DOE employee that you are complying with your duty to “prevent reprisal and other types of prohibited personnel practices (PPPs)”?³

Mr. Carson is contending, in the most respectful and responsible way he can, that causal factors of the security breach at Y-12 possibly involve the Office of Special Counsel and Merit Systems Protection Board – not just DOE and its contractors. The investigation

¹ See, 28 U.S.C. §§ 510-512

² See, <http://blogs.knoxnews.com/munger/2012/08/huge-security-shake-up-at-y-12.html>

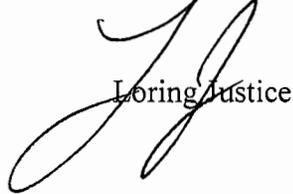
³ See, 5 U.S.C. §§ 1213(a)(2), 2302(b)(8)(B), and 2302(c).

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you announced is limited to DOE and its contractors – if the scope of the investigation is insufficient, its determinations may prove inadequate to prevent future - breaches of DOE security, which as you well know could prove catastrophic.

I respectfully request you, particularly in light of the deeply troubling breach of security at Y-12, direct a resolution of Mr. Carson's concerns about the construction and application of the federal civil service laws at the Office of Legal Counsel. I hope you take this letter in the spirit it is written as the articulation of serious concerns by a deeply patriotic American and his equally troubled Counsel who are distressed at the misconstruction and misapplication of the civil service laws essential for safety. Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "Loring Justice". The signature is fluid and cursive, with a large initial "L" and "J".

Loring Justice

Cc: Mr. Joe Carson, P.E.