

## FOIA APPEAL

December 9, 2006

Mr. Neil McPhie, Chairman  
U.S. MSPB  
1615 M St., NW  
Fifth Floor  
Washington, DC 20419

Re: FOIA Appeal

Dear MSPB Chairman McPhie,

I present an appeal of the December 4, 2006 response to my December 1, 2006 FOIA request about the Board's compliance with its statutory duty, per 5 USC 1204(a)(3) to "report to the President and the Congress as to whether the public interest in a civil service free of prohibited personnel practices is being adequately protected."

Bottom line, none of the reports cited in the response to my FOIA request make the statutory required report. Neither were the other specific questions for information in my FOIA request addressed.

If you disagree, I respectfully request your response to this FOIA appeal specifically state your opinion "as to whether the public interest in a civil service free of prohibited personnel practices is being adequately protected," and your basis for so stating.

My opinion is that you, as everyone else at MSPB, are unable to objectively state "whether the public interest in a civil service free of prohibited personnel practices is being adequately protected," despite MSPB's claims to be the "chief protector of the Federal merit systems" (according to page 1 of the MSPB's FY 2005 Annual Report, made per 5 USC 1206). MSPB has not and does not do the reviews necessary of OSC, EEOC, federal employee unions, its special studies, its case records, its surveys, and other sources of information, available to it per 5 USC 1204(e)(3), to objectively make such a report.

I suggest my situation, in which I have prevailed no fewer than 8 separate time at MSPB since 1994 in PPP related decisions (detailed at <<http://www.carsonversusdoe.com>>), despite OSC not determining once, not in over 20 PPP complaints filed with it, that "there are reasonable grounds to believe a PPP occurred," demonstrates this public interest is not adequately protected. This is particularly so as my "whistleblowing" was about specific and substantial dangers to public health and safety, related to my work as a nuclear safety engineer in the Department of Energy, including the safeguards and security of America's nuclear stockpile.

**FILED**

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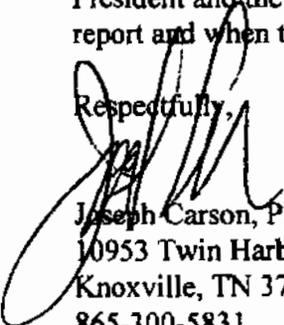
NANCY MAYER WHITTINGTON, CLERK  
U.S. DISTRICT COURT

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I have documented OSC (and its attorneys) systemic and persistent lawbreaking failure to protect those who seek its protection from PPP's in eye-glazing detail at <http://whsknox.blogspot.com/osc/>. Neither you nor others at MSPB can say you any longer do not know about my concerns and their basis in fact and law.

I suggest the path forward is for you, as Chairman of MSPB, to notify the President and the Congress, per 5 USC 1204(a)(3), that MSPB has not complied with this statutory obligation and is, at this point, unable to objectively report "whether the public interest in a civil service free of prohibited personnel practices is being adequately protected." I suggest you inform the President and the Congress that MSPB is now conducting the reviews necessary to make such a report and when the report will be made.

Respectfully,



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Enclosures:

My FOIA request of December 1, 2006

The Board's response of December 4, 2006

copy: MSPB Inspector General; Administrative Judge Cummings

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