Description of document:	**US Department of the Interior (DOI) closed Office of the Inspector General (OIG) investigations (various), 2003-2007, including several investigations of Native American tribes and businesses**
Requested date:	25-May-2007
Released date:	05-June-2009
Posted date:	08-June-2009
Title of documents	Office of Inspector General Office of Investigations U.S. Department of the Interior, Report of Investigation
Date/date range of document:	24-April-2003 – 10-January-2007
Source of document:	U.S. Department of the Interior Office of Inspector General Attn: Sandra Evans, FOIA Officer 1849 C Street, N.W. MS-4428-MIB Washington, D.C. 20240 Fax: (703) 487-5406 Email: FOIA@doioig.gov

United States Department of the Interior

OFFICE OF INSPECTOR GENERAL
Reston Plaza 1
12030 Sunrise Valley Drive, Suite 350
Reston, VA 20191

JUN 5 2009

Re: 07-FOI-00026

This is in response to your letter dated May 25, 2007, which was received by the Office of Inspector General (OIG) on May 30, 2007, in which you ask for information under the Freedom of Information Act (FOIA), 5 U.S.C. § 552. You ask for a copy of the closing memo or the first twenty pages of the final report for each of the following closed investigations:

1) Ponca Tribal Business Committee;
2) Private Fuel Storage, LLC;
3) Ute Indian Tribe;
4) Turtle Mountain Band of Chippewa;
5) Pokagon Band of Potawatomi Indians;
6) Coushatta Tribe;
7) Standing Rock Sioux Tribe Loans;
8) Sac & Fox Tribe of the Mississippi in Iowa;
9) Chippewa Cree Tribe of the Rocky Boy Reservation;
10) Lucky Star Casino;
11) FWS Alaska;
12) Timbisha Shoshone Tribe;
13) Load Star Casino;
14) Mardis Gras Wreck;
15) MHA Nation Refinery Project;
16) Anadarko Petroleum Corporation et al
17) Wind River Indian Reservation;
18) BLM Cooperative Management Agreement;
19) Mescalero Apache Tribe;
20) Oklahoma Indian Gaming Working Group;
21) BLM Land Sale to Bridgeport Paiute Indian;
22) Winnemucca Indian Colony;
23) Emergency Response Management Review, Carrizo Plain Incident
24) National Geospatial Technical Operations Center;
25) Whistleblower Protection Program;

26) St. Paul Minnesota Casino Task Force;
27) Apache Business Committee;
28) MMS Federal Leases - Natural Gas Royalties;
29) U.S. Fish & Wildlife Service - Atlanta Regional;
30) National Park Foundation; and
31) CA Valley Miwok Tribe.

A search was conducted and we have obtained the 31 Reports of Investigation (ROI) you requested. One report, Private Fuel Storage, LLC, which contains 3 pages, is being withheld in its entirety.

Deletions have been made of information that is exempt from release under the provisions of 5 U.S.C. §§ 552(b)(3), (b)(5), (b)(6), (b)(7)(A), and (b)(7)(C). These sections exempt from disclosure items that pertain to: (1) information specifically exempted from disclosure by statute; (2) inter-agency or intra-agency memoranda or letters which would not be available by law to a party other than an agency in litigation with the agency; (3) personnel and other similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; (4) records of information compiled for law enforcement purposes, the release of which could reasonably be expected to interfere with enforcement proceedings; and (5) records of information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information could reasonably be expected to constitute an unwarranted invasion of personal privacy. Exemption (b)(3) was used to protect Federal Grand Jury information covered under Rule 6(e) of the Federal Rules of Criminal Procedure. One report with Federal Grand Jury information was withheld in its entirety. Exemption (b)(5) was used to protect the deliberative process of the Assistant United States Attorney (AUSA) regarding their decision to decline prosecution, as well as the agent's strategy on how to proceed with the investigation. Exemptions (b)(6) and (b)(7)(C) were used to protect the identities of witnesses or those individuals who were the subject of another investigation. The name and the case file number were redacted for those individuals who were the subject of an investigation. Exemption (b)(7)(A) was used to protect information pertaining to an ongoing investigation. In addition, the material is exempt from release under the provisions of 5 U.S.C. § 552a(k)(2)of the Privacy Act, pertaining to investigatory material compiled for law enforcement purposes.

If you disagree with this response, you may appeal the decision by writing to the FOIA Appeals Officer. The FOIA Appeals Officer must receive your FOIA appeal no later than 30 workdays from the date of this final letter responding to your FOIA request. Appeals arriving or delivered after 5 p.m. E.T., Monday through Friday, will be deemed received on the next workday. Your appeal must be in writing and addressed to:

Freedom of Information Act Appeals Officer
Department of the Interior
Office of the Solicitor
1849 C Street, NW, MS-6556
Washington, DC 20240

You must include with your appeal copies of all correspondence between you and the bureau concerning your FOIA request, including a copy of your original FOIA request and this denial letter. Failure to include this documentation with your appeal will result in the Department's rejection of your appeal. The appeal should be marked both on the envelope and the face of the letter, with the legend, "FREEDOM OF INFORMATION APPEAL." Your letter should include as much detail as possible any reason(s) why you believe the bureau's response is in error. Due to disruptions to the mail service in the Washington, D.C. area, you may want to consider an alternative means of communicating with the Department of the Interior, e.g., facsimile, e-mail, Federal Express, etc. There may be a delay in our receipt of mail sent through the U.S. Postal Service. The FOIA Appeal Officer's facsimile number is (202) 208-6677. Your appeal should be filed in accordance with the regulations set out in 43 C.F.R. §§ 2.28-2.32, a copy of which is enclosed.

Please contact me at (703) 487-5436, if you have any questions concerning this response.

Sincerely,

Sandra Evans

Sandra Evans
OIG FOIA Officer

Enclosures

§ 2.27 How will a bureau handle a request for information that is contained in a Privacy Act system of records? (See DOI's Privacy Act regulations (Subpart G of this part) for additional information.)

(a) When you request information pertaining to yourself that is contained in a Privacy Act system of records applicable to you (*i.e.*, the information contained in the system of records is retrieved by the bureau using your name or other personal identifier), the request will be processed under both the FOIA and the Privacy Act. If you request information about yourself, you must submit certain identifying information, usually an original signature (see the appropriate Privacy Act system notice and, Subpart G of this part) before the bureau will process your request. (Note: If you request information about yourself that is not covered by the Privacy Act, *e.g.*, the information may be filed under another subject, such as an organization, activity, event, or an investigation not retrievable by a name or personal identifier, the request will be treated only as a FOIA request.)

(b) The Privacy Act never prohibits disclosure of material that the FOIA requires to be released. Both a Privacy Act and a FOIA exemption must apply to withhold information from you if the information you seek is contained in a Privacy Act system of records applicable to you.

(c) Sometimes a request for Privacy Act information is submitted by a "third party" (an individual other than the person who is the subject of the Privacy Act record). If you request Privacy Act information about another individual, the material will not be disclosed without prior written approval by that individual unless—

(1) The release is provided for under one of the Privacy Act conditions of disclosure (5 U.S.C. 552a(b)), one of which is that Privacy Act information is releasable if it is required to be released under the FOIA, or

(2) In most circumstances, if the individual is deceased. See § 2.8(d)(4).

(d) In handling a request covered by paragraph (a) of this section, the fee provisions and time limits under the FOIA will apply, except that with regard to information that is subject to the Privacy Act, the bureau will charge only for duplication and not for search and review time (see Appendix C to this part). There will be no charge if the fee for processing the request is $30 or less.

Subpart D—FOIA Appeals

SOURCE: 67 FR 64530, Oct. 21, 2002, unless otherwise noted.

§ 2.28 When may I file an appeal?

(a) You may file an appeal when:

(1) Records or parts of records have been withheld;

(2) The bureau informs you that you have not adequately described the records you are seeking, or that it does not possess responsive records and you have reason to believe it does or you question the adequacy of the bureau's search for responsive records;

(3) A decision has not been made on your request within the time limits provided in § 2.12;

(4) The bureau did not address all aspects of your request for records;

(5) You believe there is a procedural deficiency (*e.g.*, fees are improperly calculated);

(6) A fee waiver has been denied; or

(7) A request for expedited processing has been denied or not responded to on time. (Special procedures apply to this type of appeal (see §§ 2.14, 2.29(c), and 2.32(b)). An appeal of this type relates only to the request for expedited processing and does not constitute an appeal of your underlying request for records.

(b) Before filing an appeal, you may wish to communicate with the contact person listed in the FOIA response or the bureau's FOIA Officer to see if the issue can be resolved informally. Informal resolution of your concerns may be appropriate where the bureau has not responded to your request or where you believe the search conducted was not adequate. In this latter instance, you may be able to provide additional information that may assist the bureau in locating records. However, if you wish to file an appeal, it must be received by the FOIA Appeals Officer within the time limits in § 2.29.

§2.29 How long do I have to file an appeal?

(a) Appeals covered by §§2.28(a)(1), (2), and (4) thru (6). Your appeal must be received by the FOIA Appeals Officer no later than 30 workdays after the date of the final response or 30 workdays after receipt of any records that are provided to you.

(b) Appeals covered by §2.28(a)(3). You may file an appeal any time after the time limit for responding to your request has passed.

(c) Appeals covered by §2.28(a)(7). You should file an appeal as soon as possible.

§2.30 How do I file an appeal?

(a) You must submit your appeal in writing, *i.e.*, by mail, fax or e-mail, to the FOIA Appeals Officer, U.S. Department of the Interior (see Appendix A for the address). Your appeal must include the information specified in paragraph (b) of this section. Failure to send your appeal directly to the FOIA Appeals Officer may result in a delay in processing.

(b) Your appeal must contain copies of all correspondence between you and the bureau, including your request and the bureau's response (if there is one). DOI will not begin processing your appeal and the time limits for responding to your appeal will not begin to run until these documents are received.

(c) You also should include in as much detail as possible any reason(s) why you believe the bureau's response was in error.

(d) Include your name and daytime telephone number (or the name and telephone number of an appropriate contact), e-mail address and fax number (if available), in case DOI needs additional information or clarification of your appeal.

(e) If you file an appeal concerning a fee waiver denial or a denial of expedited processing, you should, in addition to complying with paragraph (b) of this section, demonstrate fully how the criteria in §2.19(b) (see Appendix D) or §2.14(a) are met. You also should state in as much detail as possible why you believe the initial decision was incorrect.

(f) All communications concerning your appeal should be clearly marked with the words: "FREEDOM OF INFORMATION APPEAL."

§2.31 How will DOI respond to my appeal?

(a) Appeals will be decided by the FOIA Appeals Officer. When necessary, the FOIA Appeals Officer will consult other appropriate offices, including the Office of the Solicitor (in the case of all denials of information and fee waivers, and other technical issues as necessary).

(b) The final decision on an appeal will be in writing and will state the basis for DOI's decision as follows:

(1) *Decision to release or withhold records.* (i) If the FOIA Appeals Officer decides to release the withheld records or portions thereof, he/she will make the records available or instruct the appropriate bureau to make them available as soon as possible.

(ii) If the FOIA Appeals Officer decides to uphold in whole or part the denial of a request for records, he/she will advise you of your right to obtain judicial review.

(2) *Non-possession of records.* If the FOIA Appeals Officer decides that the requested records exist, the bureau that has the records will issue a response to you promptly and the FOIA Appeals Officer will close the file on your appeal. If the FOIA Appeals Officer decides that the requested records cannot be located or do not exist, he/she will advise you of your right to treat the decision as a denial and seek judicial review.

(3) *Non-response to a FOIA request.* If a bureau has not issued an appropriate response to your FOIA request within the 20-workday statutory time limit, the FOIA Appeals Officer will direct the bureau to issue a response directly to you as soon as possible. If the bureau responds to your request within 20-workdays after receipt of the appeal, the FOIA Appeals Officer will close the file on your appeal. Otherwise, the FOIA Appeals Officer will advise you that you may treat the lack of a response by the bureau as a denial of your appeal and seek judicial review.

(4) *Incomplete response to a FOIA request.* If a bureau has not issued a complete response to your FOIA request, the FOIA Appeals Officer will direct

the bureau to issue a complete response directly to you as soon as possible, and provide you with the name and telephone number of a contact person. The FOIA Appeals Officer will close your FOIA appeal and advise you that you may treat the incomplete response by the bureau as a denial of your appeal and seek judicial review.

(5) *Procedural deficiencies.* If the FOIA Appeals Officer decides that the bureau was in error, he/she will instruct the bureau to correct the error and advise you accordingly. If the FOIA Appeals Officer decides that the bureau acted properly, he/she will deny your appeal and advise you of your right to seek judicial review.

(6) *Fee waiver denials.* If the decision is to grant your request for a fee waiver, the FOIA Appeals Officer will advise the appropriate bureau of the Department's decision and instruct the bureau to proceed with processing the request or to refund any monies you have paid. If the decision is to deny the fee waiver request, the Department will advise you of your right to seek judicial review. You also should contact the bureau office to make further arrangements to process your request if you still wish to obtain the records.

(7) *Denial of expedited processing.* If the FOIA Appeals Officer decides to grant expedited processing, he/she will direct the bureau to process your request as soon as practicable. If your request for expedited processing is denied on appeal, the FOIA Appeals Officer will advise you of your right to seek judicial review of the denial of expedited processing.

§ 2.32 How long does DOI have to respond to my appeal?

(a) The statutory time limit for responding to an appeal is 20 workdays after receipt of an appeal meeting the requirements of § 2.30.

(b) If you request expedited processing of your appeal, you must demonstrate to the Department's satisfaction that the appeal meets one of the criteria under § 2.14(a). The FOIA Appeals Officer will advise you whether the Department will grant expedited processing within 10 calendar days of its receipt of your appeal. If the FOIA Appeals Officer decides to grant expedited processing, he/she will give your appeal priority and process it ahead of other pending appeals.

(c) If you have not received a decision on your appeal within 20 workdays, you have the right to seek review in a District Court of the United States (see 5 U.S.C. 552(a)(4) and (6)). In the event that the Department is unable to reach a decision within the given time limits, the FOIA Appeals Officer will notify you of the reason for the delay and the right to seek judicial review.

§ 2.33 How will the Department notify you and the submitter of commercial or financial information when it makes an appeal decision concerning such information?

(a) *Notice of appeal decision.* If the Department decides on appeal to release records over the objections of a submitter who has advised DOI that the information is protected from release by exemption (4), the Department will advise you and the submitter that it intends to release the records 10 workdays after the notice to the submitter regarding the appeal decision.

(b) *Notice of litigation.* (1) The Department will notify the submitter within 10 workdays of receipt of the court complaint if you file a lawsuit seeking access to any records found on appeal to be protected from release by exemption (4).

(2) The Department will notify you within 10 workdays of receipt of the court complaint if the submitter files a lawsuit requesting the court to prohibit the Department from releasing information it alleges qualifies for protection under exemption (4).

Subpart E—FOIA Annual Report

SOURCE: 67 FR 64530, Oct. 21, 2002, unless otherwise noted.

§ 2.34 Where can I get a copy of DOI's FOIA annual report?

Under 5 U.S.C. 552(e), DOI is required to prepare an annual report regarding its FOIA activities. The report includes information about FOIA requests, appeals, and litigation against the Department. Copies of DOI's annual FOIA

DEPARTMENT OF THE INTERIOR

Office of the Secretary

43 CFR Part 2

RIN 1090–AA61

Amendment to the Freedom of Information Act Regulations

AGENCY: Office of the Secretary, Interior.

ACTION: Direct final rule.

SUMMARY: This document amends the Department of the Interior's (DOI) regulations implementing the Freedom of Information Act (FOIA), 5 U.S.C. 552. In particular, it: clarifies the time limit that requesters have for filing FOIA appeals; clarifies that requesters must include the required documentation with their appeals or their appeals may be rejected by the FOIA Appeals Officer; clarifies that requesters must file a FOIA request with each separate bureau/office from which they are seeking records; changes the language regarding requests for expedited processing to be consistent with the language used in the FOIA including removing a paragraph in that section pertaining to "due process rights;" makes the use of multitrack processing mandatory for all bureaus and offices; advises requesters that they may contact the bureau/office's FOIA Requester Service Center and the FOIA Public Liaison concerning the status of their requests; and includes current contact information for DOI's FOIA and Public Affairs/Office of Communications Contacts and its reading rooms (Headquarters). Additionally, the final rule revises the definitions of the terms: "representative of the news media" and "freelance journalist" in accordance with the Openness Promotes Effectiveness in Our National (OPEN) Government Act of 2007 (December 31, 2007). The term "news" is defined within the term "representative of the news media."

DATES: With the exception of § 2.3(k) and (r), this rule is effective May 14, 2009. Section 2.3(k) and (r) have been revised consistent with the OPEN Government Act of 2007 and are effective May 29, 2009 without further action unless significant adverse comments are received by May 14, 2009. If significant adverse comments to § 2.3(k) and (r) comments are received, DOI will publish a timely withdrawal of these paragraphs in the **Federal Register**.

ADDRESSES: You may submit comments, identified by the number 1090–AA61, on the portions of this rule identified in Part II, Procedural Matters and Required Documentation, that have not previously been published for review by any of the following methods:

—*Federal rulemaking portal: http://www.regulations.gov* [Follow the instructions for submitting comments]; or

—*Mail or hand delivery:* OCIO/DOI, 1849 C Street, NW., Room 7456–MIB, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Alexandra Mallus, Office of the Chief Information Officer, MS–7438, Main Interior Building, 1849 C Street, NW., Washington, DC 20240; Telephone (202) 208–5342. E-Mail: *Alexandra_Mallus@ios.doi.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The Department of the Interior published a final rule in the **Federal Register** on October 21, 2002, revising its regulations implementing the FOIA, 43 CFR part 2. In this publication, the language used in § 2.21(d)(6), "How will the bureau respond to my request?" and the language used in § 2.29, "How long do I have to file an appeal?" were inconsistent with each other concerning the timeframe for filing an appeal. This rule clarifies the 2002 final rule by noting that appeals must be received by the FOIA Appeals Officer no later than 30 workdays from the date of the final response. Additionally, this rule clarifies that a requester's failure to include all correspondence between himself/herself and the bureau concerning his/her FOIA request will result in the Department's rejection of the appeal unless the FOIA Appeals Officer determines that good cause exists to accept the defective appeal.

This rule also changes § 2.22, "What happens if a bureau receives a request for records it does not have or did not create?" to eliminate paragraph (a)(1) of § 2.22, which has been construed by some courts to require bureaus that had received a FOIA request to refer the request to another bureau for a search of its records, regardless of whether the bureau that received the request had responsive records. The result of this change is that FOIA requesters must submit their requests in accordance with § 2.10, which requires that the FOIA requester specify which bureau's records are being sought or, at a minimum, specify when the FOIA requester is seeking the records of more than one bureau.

Consistent with EO 13392, this rule adds a new paragraph (c) to § 2.12, "When can I expect the response?" advising requesters that they may contact the bureau/office's FOIA Requester Service Center and the FOIA Public Liaison concerning the status of their requests. Additionally, the language in §§ 2.3 and 2.14 regarding expedited processing has been amended to reflect the FOIA's statutory language; therefore, the term "exceptional need" has been replaced with "compelling need," and paragraph (a)(3) in § 2.14 pertaining to "due process rights" has been removed.

This rule also revises the language in § 2.26, "Does the bureau provide multitrack processing of FOIA requests?" to make the use of multitrack processing mandatory for all bureaus and offices within the Department and remind the bureaus of the statutory requirement of due diligence.

Appendix A to part 2, Department of the Interior FOIA and Public Affairs Contacts and Reading Rooms, has been updated to include current contact information for DOI's FOIA and Public Affairs/Office of Communications Contacts and its reading rooms (Headquarters) and to delete the FOIA contacts and reading rooms for the field offices. In the future, bureaus/offices will maintain information pertaining to the field offices on their FOIA Web sites to ensure that their contact information is accurate and current.

Finally, this final rule revises the definition of the terms "representative of the news media" and "freelance journalist" (§ 2.3(k) and § 2.3(r)) in accordance with the OPEN Government Act of 2007 (December 31, 2007).

II. Procedural Matters and Required Documentation

Administrative Procedure Act

On October 25, 2007, DOI published a proposed rule that revised its existing regulations under the FOIA. See 72 FR 60611, October 25, 2007. Interested persons were afforded an opportunity to participate in the rulemaking through submission of written comments on the proposed rule. The Department did not receive any comments from the public in response to its proposed rule. Accordingly, those provisions previously published are now final. Additionally, the Department is publishing, as a direct final rule three additional administrative updates: (1) The contact information in Appendix A to part 2, Department of the Interior FOIA and Public Affairs Contacts and Reading Rooms; (2) incorporation of the definitions for the terms "representative of the news media" and "freelance journalist" in accordance with the OPEN Government Act of 2007; and (3) one technical change to § 2.29(a), which

clarifies the time appellants have to file an appeal.

Executive Order 12866—Regulatory Planning and Review

This document is not a significant rule and the Office of Management and Budget has not reviewed this rule under Executive Order 12866. We have made the assessments required by Executive Order 12866 and have determined that this rule will not:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments, or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients; or

(4) Raise novel legal or policy issues.

Regulatory Flexibility Act

DOI certifies that this regulation will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 606(b)). Under the FOIA, agencies may recover only the direct costs of searching for, reviewing, and duplicating the records processed for requesters. Thus, fees assessed by DOI are nominal.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule will not result in an annual effect on the economy of more than $100 million per year; a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based companies to compete with foreign-based enterprises. It deals strictly with implementation of the FOIA within DOI.

Unfunded Mandates Reform Act

This rule does not impose an unfunded mandate on State, local, or tribal governments, or the private sector of more than $100 million per year. The rule does not have a significant or unique effect on State, local, or tribal governments, or the private sector. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*).

Executive Order 12630—Takings

In accordance with Executive Order 12630, this rule does not have any takings implications. It deals strictly with implementation of the FOIA within DOI. Therefore, a takings assessment is not required.

Executive Order 13132—Federalism

In accordance with Executive Order 13132, this rule does not have Federalism implications as it deals strictly with implementation of the FOIA within DOI. Therefore, a Federalism assessment is not required.

Executive Order 12988—Civil Justice Reform

In accordance with Executive Order 12988, the Office of the Solicitor has determined that this rule does not unduly burden the judicial system and the requirements of sections 3(a) and 3(b)(2) of the Order.

Paperwork Reduction Act

This rule does not contain any information collection requirements for which OMB approval under the Paperwork Reduction Act (44 U.S.C. 3501–3520) is required.

National Environmental Policy Act

This rule does not constitute a major Federal action significantly affecting the quality of the human environment. A detailed statement under the National Environmental Policy Act (42 U.S.C. 4321–4347) of 1969 is not required.

Executive Order 13211—Regulations That Significantly Affect the Supply, Distribution, or Use of Energy

Executive Order 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. As this rule is not expected to significantly affect energy supplies, distribution, or use, this action is not a significant energy action and no Statement of Energy Effects is required.

Clarity of This Regulation

Executive Order 12866 requires each agency to write regulations that are easy to understand. We invite your comments on how to make this rule easier to understand, including answers to such questions such as the following:

(1) Are the requirements in the rule clearly stated?

(2) Does the rule contain technical language or jargon that interferes with its clarity?

(3) Does the format of the rule (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce its clarity?

(4) Would the rule be easier to understand if it were divided into more (but shorter) sections? (A "section" appears in bold type and is preceded by the symbol "§" and a numbered heading; for example, "§ 2.7 What do I need to know before filing a FOIA request?")

(5) Is the description of the rule in the **SUPPLEMENTARY INFORMATION** section of the preamble helpful in understanding the proposed rule? What else could we do to make the rule easier to understand?

Send a copy of any comments that concern how we could make this rule easier to understand to: Office of Regulatory Affairs, Department of the Interior, 1849 C Street, NW., MS–7229–MIB, Washington, DC 20240.

List of Subjects in 43 CFR Part 2

Administrative practice and procedure, Classified information, Courts, Freedom of information, Government employees, Privacy.

Dated: February 26, 2009.

Pamela K. Haze,

Acting Assistant Secretary, Policy, Management and Budget.

■ For the reasons given in the preamble, we hereby amend part 2 of title 43 of the Code of Federal Regulations, as set forth below:

PART 2—RECORDS AND TESTIMONY: FREEDOM OF INFORMATION ACT

■ 1. The authority citation for part 2 continues to read as follows:

Authority: 5 U.S.C. 301, 552 and 552a; 31 U.S.C. 9701; and 43 U.S.C. 1460

Subpart A—General Information

■ 2. In § 2.3, revise paragraphs (i), (k), and (r) to read as follows:

§ 2.3 What terms do I need to know?

* * * * *

(i) *Expedited processing* means giving a FOIA request priority, and processing it ahead of other requests pending in the bureau because a requester has shown a compelling need for the records (see § 2.14).

* * * * *

(k) *Free-lance journalist* means an individual who is regarded as working for a news-media entity because he/she can demonstrate a solid basis for expecting publication through that entity, whether or not the journalist is actually employed by that entity. A publication contract would present a

solid basis for such an expectation; the Government may also consider the past publication record of the requester in making such a determination.

* * * * *

(r) *Representative of the news media* means any person or entity that gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw materials into a distinct work, and distributes that work to an audience. The term '*news*' means information that is about current events or that would be of current interest to the public. Examples of news-media entities are newspapers, television or radio stations broadcasting to the public at large, and publishers of periodicals (but only if such entities qualify as disseminators of '*news*') who make their products available for purchase by or subscription by or free distribution to the general public. These examples are not all inclusive. As methods of news delivery evolve (for example, the adoption of the electronic dissemination of newspapers through telecommunication services), such alternative media will be considered to be news-media entities.

Subpart C—Requests for Records under the FOIA

■ 3. In § 2.12, add a new paragraph (c) to read as follows:

§ 2.12 When can I get the response?

* * * * *

(c) *Determining the status of your request.* To determine the status of your request, you should call, fax, or email the point of contact provided in the bureau/office's acknowledgment letter to you, referencing the FOIA control number assigned to your request. You may also contact the appropriate FOIA Requester Service Center. If you are dissatisfied with the FOIA Requester Service Center's response, you may contact the bureau/office's FOIA Public Liaison to resolve the issue. (The relevant names and telephone numbers are listed at *http://www.doi.gov/foia/liaison.html*).

■ 4. In § 2.14, revise paragraph (a) to read as follows:

§ 2.14 When can I get expedited processing?

(a) A bureau will provide expedited processing when you request it if you demonstrate to the satisfaction of the bureau that there is a compelling need for the records. The following circumstances demonstrate a compelling need:

(1) Where failure to expedite the request could reasonably be expected to pose an imminent threat to the life or physical safety of an individual; or

(2) An urgency to inform the public about an actual or alleged Federal Government activity if the request is made by a person primarily engaged in disseminating information. In most situations, a person primarily engaged in disseminating information will be a representative of the news media. The requested information must be the type of information which has particular value that will be lost if not disseminated quickly, and ordinarily refers to a breaking news story of general public interest. Therefore, information of historical interest only, or information sought for litigation or commercial activities, would not qualify, nor would a news media deadline unrelated to breaking news.

* * * * *

■ 5. In § 2.21, revise paragraph (d)(6) to read as follows:

§ 2.21 How will the bureau respond to my request?

* * * * *

(d) * * *

(6) A statement that the denial may be appealed to the FOIA Appeals Officer (see Appendix A to this Part), in accordance with the requirements in § 2.29.

* * * * *

■ 6. In § 2.22, revise paragraph (a) to read as follows:

§ 2.22 What happens if a bureau receives a request for records it does not have or did not create?

(a) *Consultations/referrals within DOI.* If a bureau (other than the Office of Inspector General) receives a request for records in its possession that another bureau created or is substantially concerned with, it will consult with the other bureau before deciding whether to release or withhold the records. Alternatively, the bureau may refer the request, along with the records, to that bureau for direct response. The bureau that received the request will notify you of the referral in writing, along with the name of a contact in the other bureau(s) to which the referral was made. A referral does not restart the statutory time limit for responding to your request.

* * * * *

■ 7. Revise § 2.26 to read as follows:

§ 2.26 Does the bureau provide multitrack processing of FOIA requests?

(a) All bureaus will use three processing tracks to distinguish between simple, normal, and complex requests based on the amount of time needed to process the request. FOIA requests will be placed in one of the following tracks:

(1) Simple: 1–5 workdays;

(2) Normal: 20 workdays; or

(3) Complex: Over 20 workdays.

(b) Bureaus will exercise due diligence in processing requests in accordance with the requirements of the FOIA. Requesters should assume, unless notified by the bureau, that their request is in the "Normal" track.

(c) A bureau should, if possible, give requesters in its "Complex" track the opportunity to limit the scope of their request in order to qualify for faster processing. A bureau doing so will contact the requester by telephone (which should be promptly followed up by a written communication) or in writing, whichever is more efficient in each case.

(d) See the Department's FOIA home page at *http://www.doi.gov/foia/policy.html* for details.

Subpart D—FOIA Appeals

■ 8. Revise § 2.29 to read as follows:

§ 2.29 How long do I have to file an appeal?

(a) Appeals covered by § 2.28(a)(1), (2), (4), and (5). Your FOIA appeal must be received by the FOIA Appeals Officer no later than 30 workdays from the date of the final response.

(b) Appeals covered by § 2.28(a)(3). You may file an appeal any time after the time limit for responding to your request has passed.

(c) Appeals covered by § 2.28(a)(6). Your FOIA appeal must be received by the FOIA Appeals Officer no later than 30 workdays from the date of the letter denying the fee waiver.

(d) Appeals covered by § 2.28(a)(7). You should file an appeal as soon as possible.

(e) Appeals arriving or delivered after 5 p.m. E.T., Monday through Friday, will be deemed received on the next workday.

■ 9. In § 2.30, revise paragraph (b) to read as follows:

§ 2.30 How do I file an appeal?

* * * * *

(b) You must include with your appeal copies of all correspondence between you and the bureau concerning your FOIA request, including your request and the bureau's response (if there is one). Failure to include with your appeal all correspondence between you and the bureau will result in the Department's rejection of your appeal, unless the FOIA Appeals Officer determines, in the FOIA Appeal Officer's sole discretion, that good cause

exists to accept the defective appeal. The time limits for responding to your appeal will not begin to run until the documents are received.

* * * * *

■ 10. Appendix A to part 2 is revised to read as follows:

Appendix A to Part 2—Department of the Interior FOIA and Public Affairs Contacts, and Reading Rooms

Departmental		
Departmental FOIA Officer Senior FOIA Program Officer "Policy Only-No Requests" MS–7438–MIB 1849 C St., NW. Washington, DC 20240 Telephone No. (202) 208–5342 (202) 208–5412 Fax No. (202) 208–6867, (202) 501–2622	Departmental FOIA/Privacy Act Appeals Officer MS–6556–MIB 1849 C St., NW. Washington, DC 20240 Telephone No. (202) 208–5339 Fax No. (202) 208–6677	Departmental Privacy Officer MS–7438–MIB 1849 C St., NW. Washington, DC 20240 Telephone No. (202) 208–3909 Fax No. (202) 208–6867
Public Affairs Office Office of Communications MS–6013, MIB 1849 C St., NW. Washington, DC 20240 Telephone No. (202) 208–6416 Fax No. (202) 208–5133	Reading Room—DOI's Library MIB (C Street Entrance) 1849 C St., NW. Washington, DC 20240 Telephone No. (202) 208–5815 Fax No. (202) 208–6773	
Office of the Secretary		
FOIA Officer MS–116, SIB 1951 Constitution Ave., NW. Washington, DC 20240 Telephone No. (202) 565–1076 Fax No. (202) 219–2374	Public Affairs Office Office of Communications MS–6013, MIB 1849 C St., NW. Washington, DC 20240 Telephone No. (202) 208–6416 Fax No. (202) 208–5133	Reading Room—DOI's Library MIB (C Street Entrance) 1849 C St., NW. Washington, DC 20240 Telephone No. (202) 208–5815 Fax No. (202) 208–6773
Office of Inspector General		
FOIA Officer MS–4428, MIB 1849 C St., NW. Washington, DC 20240 Telephone No. (703) 487–5436 Fax No. (703) 487–5406	Public Affairs Office MS–4428, MIB 1849 C St., NW. Washington, DC 20240 Telephone No. (202) 513–0326 Fax No. (202) 219–3856	Reading Room Room 4428, MIB 1849 C St., NW. Washington, DC 20240 Telephone No. (703) 487–5443 Fax No. (703) 487–5400
Office of the Solicitor (SOL) Headquarters		
FOIA Officer MS–6556, MIB 1849 C St., NW. Washington, DC 20240 Telephone No. (202) 208–6221 Fax No. (202) 208–5206	Public Affairs Office Office of Communications MS–6013, MIB 1849 C St., NW. Washington, DC 20240 Telephone No. (202) 208–6416 Fax No. (202) 208–3231	Reading Room Room 2328, MIB 1849 C St., NW. Washington, DC 20240 Telephone No. (202) 208–6505 Fax No. (202) 208–5206
Fish & Wildlife Service (FWS) Headquarters		
FOIA Officer Arlington Square, Room 380 4401 North Fairfax Dr. Arlington, VA 22203 Telephone No. (703) 358–2504 Fax No. (703) 358–2251	Public Affairs Office Arlington Square, MS–330 4401 North Fairfax Dr. Arlington, VA 22203 Telephone No. (703) 358–2220 Fax No. (703) 358–1930	Reading Room Arlington Square, MS–380 4401 North Fairfax Dr. Arlington, VA 22203 Telephone No. (703) 358–2504 Fax No. (703) 358–2251
National Park Service (NPS) Headquarters		
FOIA Officer Office of the CIO Org Code 2550 1849 C St., NW. Washington, DC 20240 Telephone No. (202) 354–1925 Fax No. (202) 371–5584	Public Affairs Office P.O. Box 37127 Washington, DC 20013–7127 Telephone No. (202) 208–6843 Fax No. (202) 219–0910	Reading Room Contact: NPS FOIA Officer 1201 Eye St., NW. 8th Floor Washington, DC 20005 Telephone No. (202) 354–1925 Fax No. (202) 371–5584

Bureau of Land Management (BLM) Headquarters		
FOIA Officer MS–WO–560 1620 L St., NW., Room 750 Washington, DC 20240 Telephone No. (202) 452–5013 Fax No. (202) 452–5002	Public Affairs Office MS–WO–610 1620 L St., NW., Room 406 Washington, DC 20240 Telephone No. (202) 452–5125 Fax No. (202) 452–5124	Reading Room 1620 L St., NW.—Room 750 Washington, DC 20240 Telephone No. (202) 452–5193 Fax No. (202) 452–0395
Minerals Management Service (MMS) Headquarters		
FOIA Officer 381 Elden St. MS–2200 Herndon, VA 20170–4817 Telephone No. (703) 787–1689 Fax No. (703) 787–1207	Public Affairs Office Office of Communications 1849 C St., NW., MS–4230 Washington, DC 20240 Telephone No. (202) 208–3985 Fax No. (202) 208–3968	Reading Room Public Information Office 1201 Elmwood Park Blvd. New Orleans, LA 70123–2394 Telephone No. (800) 200–GULF Fax No. (504) 736–2620
Office of Surface Mining (OSM) Headquarters		
FOIA Officer MS–130, SIB 1951 Constitution Ave., NW. Washington, DC 20240 Telephone No. (202) 208–2961 Fax No. (202) 219–3092	Office of Communications MS–262, SIB 1951 Constitution Ave., NW. Washington, DC 20240 Telephone No. (202) 208–2565 Fax No. (202) 501–0549	Reading Room Contact: OSM FOIA Officer Room 263, SIB 1951 Constitution Ave., NW. Washington, DC 20240 Telephone No. (202) 208–2961 Fax No. (202) 501–4734
U.S. Geological Survey (USGS) Headquarters		
FOIA Officer 12201 Sunrise Valley Dr., MS–807 Reston, VA 20192 Telephone No. (703) 648–7158 Fax No. (703) 648–6853	Office of Communications 12201 Sunrise Valley Dr., MS–119 Reston, VA 20192 Telephone No. (703) 648–4460 Fax No. (703) 648–4466	Reading Room USGS Library 12201 Sunrise Valley Dr. Reston, VA 20192 Telephone No. (703) 648–4302 Fax No. (703) 648–6373
Bureau of Reclamation (BOR) Headquarters		
FOIA Officer P.O. Box 25007, 84–21300 Denver, CO 80225–0007 Telephone No. (303) 445–2048 Fax No. (303) 445–6575	Public Affairs Office P.O. Box 25007, 82–40000 Denver, CO 80225–0007 Telephone No. (303) 236–7000 Fax No. (303) 236–9235	Reading Room Reclamation Library P.O. Box 25007, 84–27960 Denver, CO 80225–0007 Telephone No. (303) 445–2072 Fax No. (303) 445–6303
Bureau of Indian Affairs (BIA) Headquarters		
FOIA Officer MS–3071, MIB 1849 C St., NW. Washington, DC 20240 Telephone No. (202) 208–4542 Fax No. (202) 208–6597	Public Affairs Office MS–3658, MIB 1849 C St., NW. Washington, DC 20240 Telephone No. (202) 208–3710 Fax No. (202) 501–1516	Reading Room Room 3071, MIB 1849 C St., NW. Washington, DC 20240 Telephone No. (202) 513–0883 Fax No. (202) 208–6597

Note: For more information on FOIA, including the most current listing of FOIA Contacts and reading rooms, visit DOI's FOIA Web site at *http://www.doi.gov/foia/*. Henceforth, contact information will be maintained and updated on DOI's FOIA Web site. If you do not have access to the Web, please contact the appropriate bureau FOIA Officer or the Departmental FOIA Office.

Dated: April 6, 2009.

[FR Doc. E9–8206 Filed 4–13–09; 8:45 am]

BILLING CODE 4310–RK–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 64

[Docket ID FEMA–2008–0020; Internal Agency Docket No. FEMA–8069]

Suspension of Community Eligibility

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final rule.

SUMMARY: This rule identifies communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are scheduled for suspension on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If the Federal Emergency Management Agency (FEMA) receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will not occur and a notice of this will be provided by publication in the **Federal Register** on a subsequent date.

Office of Inspector General
Office of Investigations
U.S. Department of the Interior

Report of Investigation

Case Title	Case Number
Ponca Tribal Business Committee	OI-OK-01-0009-I
	Related File(s)
Case Location	**Report Date**
Tulsa, OK	January 3, 2006
Report Subject	
Closing Report	

SYNOPSIS

Allegation: This investigation was initiated based on complaints alleging the Ponca Tribal Business Committee (PTBC), Ponca Tribe of Oklahoma (Ponca Tribe), Ponca City, OK, inappropriately invested and subsequently lost approximately $180,000 in Bureau of Indian Affairs (BIA) and Indian Health Service (IHS) funds. These funds were allegedly invested into a failed "get rich quick" scheme during the summer of 2000.

Investigative Steps: The investigation determined the Ponca Tribe made a $180,000 investment in September 2000 with Columbia Holding Enterprises, LLC (Columbia Holding), Richland, WA, to pay closing costs for Columbia Holding's $18 million bank loan for its purchase of the 350-acre Bradwood Rock Quarry in Clatsop County, Oregon. In return, the tribe expected to receive its principal investment of $180,000 plus $500,000 earnings within ten days after making this investment. The tribe was also promised an additional $37 million in earnings over a subsequent ten-week period as part of a Federal Reserve bond trading program. [redacted] Columbia Holding, was the principal promoter of this investment and made numerous assurances that the tribe would realize a return on its money. In November 2001, the Ponca Tribe reportedly received $21,000 of its $180,000 investment back from Columbia Holding. Interviews conducted with PTBC committee members confirmed that in September 2000, the PTBC invested $180,000 in Columbia Holding through Jerry Scott for the Bradwood Rock Quarry, and that $86,000 in federal funds were used to fund this investment. These federal funds included $35,000 in BIA Roads Project funds, and another $51,000 in IHS funds.

Copies of the Ponca Tribe's Self Governance Compacts, Annual Funding Agreements, and Single Audit Reports were obtained from the U.S. Department of the Interior (DOI), Office of Self Governance (OSG), Washington, DC. The Ponca Tribe's FY 2000 Single Audit Report included a finding identifying the tribe's misapplication of $35,000 in DOI-Roads Contract funds and $51,000 in IHS-Special Diabetes Grant funds.

All redactions are 5 U.S.C. §§ 552(b)(6) and (b)(7)(C) of the FOIA unless marked otherwise.

Reporting Official/Title	Signature	Date
[redacted]/SA		
Approving Official/Title	**Signature**	**Date**
Gary M. Mitchell/SAC		

Distribution: Original – Case File Copy - SAC/SIU Office Copy – HQ Other:

Conclusion: OSG subsequently informed BIA and the Ponca Tribe regarding this audit finding, and tasked BIA to specifically review the audit finding concerning the $35,000. BIA determined the questionable cost was actually the tribe's profit on a P.L. 93-638 Road Construction Project, in which the contract had ended and the deliverable was received. BIA determined the questionable cost was actually allowable under the contract, and considered the audit finding resolved and the cost reinstated. OSG took no subsequent action against the Ponca Tribe concerning these questioned costs. The Ponca Tribe reported to OSG that it repaid the $51,000 to the IHS Special Diabetes Grant Program based on the audit finding.

DETAILS

On January 26 and 28, 2001, two anonymous complaints were received alleging that during the summer of 2000, the PTBC unlawfully took at least $100,000 BIA funds and $51,000 in IHS funds to invest $180,000 into a failed "get rich quick" scam, and that the PTBC was never able to recover any of the funding. The Hotline complainant identified the PTBC members responsible for authorizing this investment as follows: [redacted] (See Exhibits 1 - 2).

On February 9, 2001, [redacted] DOI, OSG, Washington, DC, confirmed that in 1999 the Ponca Tribe became a federally-recognized, Self-Governance Tribe as authorized under Title IV of the Indian Self-Determination and Education Assistance Act (ISDEAA) (P.L. 93-638), as amended by the Tribal Self Governance Act of 1994 (P.L 103-413). [redacted] provided funding reports documenting the Ponca Tribe received 26 funding awards in 1999 totaling $1,173,486; 18 funding awards in 2000 totaling $1,017,305; and 5 funding awards in 2001 (as of February 2001) totaling $833,393. [redacted] explained one distinguishing difference between Self Governance Tribes and other federally recognized tribes is the greater autonomy and control Self Governance Tribes have in managing federal program funds. Unlike other tribes, Self Governance Tribes are authorized under the ISDEAA to draw down federal funds in advance of their needs at the beginning of the fiscal year. The Self Governance Tribes must spend these funds consistent with the provisions detailed in their Annual Funding Agreements filed with OSG.

Additionally, Congress authorized Self Governance Tribes to invest advance payments received under ISDEAA from the time these advance funds are received until the funds are spent. The Self Governance Tribes can use the interest or income from these investments for any purpose approved by the tribes. However, tribes receiving these advance funds may only invest in (a) obligations of the United States; or (b) obligations or securities that are guaranteed or insured by the United States; or (c) deposits into accounts that are insured by an agency or instrumentality of the United States (25 CFR Part 1000.398). (See Exhibit 3).

On February 16, 2001, a copy of the Ponca Tribe's FY 1999 Single Audit Report was received from OSG. This report indicated that during FY 1999, the Ponca Tribe received a total of $3,931,009 in federal awards. Of this amount, $1,075,749 was awarded by the Department of the Interior. (Note: A Single Audit Report for FY 2000 was not published at this time). (See Exhibit 4).

On February 26, 2001, a copy of the Ponca Tribe's Self Governance Compact dated November 30, 1998 was received from the OSG. Also provided were copies of the Ponca Tribe's Annual Funding Agreements with the Department of the Interior for FY 1999, FY 2000 and FY 2001. (See Exhibit 5).

On February 13, 2001, reviews were conducted on several articles from various Oklahoma newspapers, which corroborated the anonymous allegations received by the OIG Fraud Hotline. The articles identified Ponca tribal members, [redacted] who alleged the Ponca Tribe of Oklahoma misused $180,000 in tribal health and road funds by investing these funds with Columbia Holding. Columbia Holding Enterprises reportedly used these funds to close a loan for the purchase of Bradwood Rock Quarry in Clatsop County, OR. The tribe was reportedly promised a $500,000 profit within 10 days after the investment was made, plus an additional $3.7 million a week thereafter for ten weeks. No return of the Ponca Tribe's investment was made. [redacted] was identified as the [redacted] for Columbia Holding Enterprises in Richland, WA. (See Exhibits 6 - 9).

On February 27, 2001, [redacted] with the Ponca Tribe, was interviewed and provided copied tribal records detailing the $180,000 investment the PTBC made in Columbia Holding in September 2000. [redacted] identified [redacted] as the [redacted] for Columbia Holding who dealt with the PTBC regarding the Bradwood Rock Quarry deal. [redacted] also identified [redacted] of Ellis Financial Services, Oklahoma City, OK, as an investment broker for the PTBC who arranged the Columbia Holding deal, as well as a similar $50,000 investment made previously during 2000. [redacted] identified five funding sources used by the PTBC to make the $180,000 investment in Columbia Holding, which were as follows:

Roads Project (BIA-Federal Funds)	$35,000
Pow Wow	$15,000
Indian Health Service (IHS) Special Diabetes Program	$51,000
Clinic Upgrade	$20,000
World Investment	$59,000
Total Investment	$180,000

(See Exhibit 10).

On March 5, 2001, [redacted] provided additional information indicating that the PTBC used proceeds from a class-action lawsuit to replace the $51,000 previously taken from the tribe's IHS Special Diabetes Fund. (See Exhibit 11).

On March 7, 2001, [redacted] PTBC [redacted] was interviewed and confirmed that during 2000, the PTBC made two investments through investment broker, Ellis Financial Services, Oklahoma City, OK. In February 2000, the PTBC used $50,000 tribal smoke shop and vehicle tag revenues to invest in a monetary "rollover program" with Pacific Communities Escrow. Within 3 months the tribe received its $50,000 principal investment plus an additional $125,000 in earnings. On September 22, 2000, the PTBC invested $180,000 with the Columbia Holding venture to finance Columbia Holding's closing costs for a $30 million bank loan needed to purchase and develop the 350-acre Bradwood Rock Quarry in Oregon. Columbia Holding provided the PTBC a $180,000 promissory note, collateralized with 18,000 shares of stock of a privately held company called Nuvotec located in Portland, OR. Of the $180,000 invested with Columbia Holding, $60,000 came from the Ponca Tribe's earnings from the Pacific Communities Escrow investment. The remaining funding came from "Roads Project" money, tribal tax revenues, tribal tag revenues and tribal smoke shop revenues. (See Exhibit 12).

On April 3, 2001, [redacted] Former PTBC Member, was interviewed and reported that investment brokers, [redacted], Ellis Financial Services, Oklahoma City, OK, promoted the Bradwood Rock Quarry Project to the PTBC, and told the PTBC that the Ponca Tribe would not lose any money if it invested in the Bradwood Project. [redacted] also confirmed that the PTBC previously invested $50,000 with Ellis Financial Services, which the tribe earned a return on investment of $124,000. (See Exhibit 13).

On June 29, 2001, [redacted] PTBC, was interviewed and confirmed that during 2000, the PTBC invested $180,000 with [redacted] of Columbia Holding for the Bradwood Rock Quarry, and $86,000 in federal funds were used to fund this investment. These federal funds included $35,000 in BIA Roads Project funds, and another $51,000 in Indian Health Service funds. The remaining amount of the Columbia Holding investment came from tribal sources. The Ponca Tribe never received its money back from this investment. (See Exhibit 14).

On February 26, 2002, [redacted] tribal member, Ponca Tribe, provided information indicating that as of November 2001, Columbia Holding paid the Ponca Tribe $21,000 on the failed $180,000 investment. (See Exhibit 15).

On October 3, 2002, [redacted] Attorney, Office of Tribal Government Affairs, BIA Southern Plains Regional Office, Anadarko, OK, was interviewed regarding new allegations [redacted] received from Ponca tribal member, [redacted] regarding the alleged misapplication of tribal burial trust funds. [redacted] reported the DOI, Office of American Indian Trust, recently cited the Ponca Tribe for mismanagement of trust funds involving the Ponca Tribal Realty Program. This has placed the Ponca Tribe at risk of losing its Self-Governance status. (See Exhibit 16).

On October 22, 2002, [redacted] Ponca Tribal Business Committee Member, Ponca Tribe, was interviewed and acknowledged he voted for the $180,000 Columbia Holding investment in September 2000, but withdrew his support when he became convinced the deal was a scam. [redacted] confirmed that federal program funds were used to fund this investment, to include BIA Roads program funds and IHS-Special Diabetes program funds. To his knowledge, Columbia Holding has not repaid any funds back to the tribe, though the tribe has made requests for a refund from [redacted] (See Exhibit 17).

On January 10, 2003, Bob Impson, Deputy Director, BIA, Southern Plains Regional Office, Anadarko, OK, reported the BIA took control of all trust programs and records from the Ponca Tribe on January 9, 2003 because of mismanagement of the trust programs. These trust funds totalling $145,000 included agriculture, realty, burial, water resources, and environment. Impson had no information indicating embezzlement or fraud affecting those programs. (See Exhibit 18).

On August 4, 2005, this investigation was coordinated with DOI, OSG, Washington, DC, which provided a copy of the Ponca Tribe's FY 2000 Single Audit Report. A review of the audit report and related correspondence identified a reportable finding of questionable cost involving the Ponca Tribe's misapplication of $35,000 in DOI-Roads Contract funds and $51,000 in IHS-Special Diabetes Grant funds to make a $180,000 loan to Global Energy Investments (GEI). OSG subsequently informed BIA and the Ponca Tribe regarding this audit finding, and tasked BIA to specifically review the audit finding concerning the $35,000 in DOI-Roads Contract funds. BIA subsequently determined the questionable cost was actually the tribe's profit on a P.L. 93-638 Road Construction Project, in which the contract had

ended and the deliverable was received. BIA determined the questionable cost was actually allowable under the contract, and considered audit finding resolved and the cost reinstated. OSG took no subsequent action against the Ponca Tribe concerning these questioned costs on the tribe's FY 2000 Single Audit Report. The Ponca Tribe reported to OSG that it repaid the $51,000 to the IHS Special Diabetes Grant Program based on the audit finding. (See Exhibit 19).

SUBJECT(S)/DEFENDANT(S)

1. Columbia Holding Enterprises, LLC
2. [redacted] Columbia Holding Enterprises, LLC
3. [redacted] PTBC
4. [redacted] PTBC
5. [redacted] PTBC
6. [redacted] PTBC
7. [redacted] PTBC
8. [redacted] TBC

DISPOSITION

[redacted] Ex. 5

This investigation is being closed. No criminal activity was substantiated by PTBC members, [redacted] or Columbia Holding. No referral was made to the Department of Justice.

EXHIBITS

1. OIG Hotline, [redacted], dated January 26, 2001
2. OIG Hotline, [redacted], dated January 28, 2001
3. IAR – Interview of [redacted] Office of Self Governance, February 9, 2001
4. IAR – Receipt of FY 1999 Single Audit Report, Ponca Tribe, February 16, 2000
5. IAR – Receipt of Self Governance Compact and FY 1999–FY 2000 Annual Funding Agreements for Ponca Tribe, dated February 26, 2000
6. IAR – Newspaper Article, Daily Journal, Perry, OK, dated December 6, 2000
7. IAR – Newspaper Article, Daily Oklahoman, dated February 11, 2001
8. IAR – Newspaper Article, Tulsa World, dated February 11, 2001
9. IAR – Newspaper Article, Ponca City News, dated February 13, 2001
10. IAR – Interview of [redacted] Ponca Tribe Member, dated February 27, 2001
11. IAR – Interview of [redacted] Ponca Tribe Member, dated March 5, 2001
12. FBI FD-302 – Interview of [redacted] PTBC, dated March 7, 2001
13. FBI FD-302 – Interview of [redacted] Former PTBC Member, dated April 3, 2001
14. FBI FD-302 – Interview of [redacted] PTBC, dated June 29, 2001
15. IAR – Interview of [redacted] Ponca Tribe Member, dated February 26, 2002

16. IAR – Interview of [redacted], Attorney, Office of Tribal Government Affairs, BIA Southern Plains Regional Office, Anadarko, OK, dated October 3, 2002
17. IAR – Interview of [redacted] Member, Ponca Business Committee, Ponca Tribe of Oklahoma, dated October 22, 2002
18. IAR – Coordination with Bob Impson, Deputy Director, Bureau of Indian Affairs, Southern Plains Regional Office, Anadarko, OK, dated January 10, 2003
19. IAR - Review of FY 2000 Single Audit Report dated August 29, 2005

Office of Inspector General
Office of Investigations
U.S. Department of the Interior

Report of Investigation

Case Title	Case Number
Ute Indian Tribe	OI-NM-01-0046-I
	Related File(s)
Case Location	**Report Date**
Tulsa, OK	April 17, 2006
Report Subject	
Closing Report	

SYNOPSIS

This investigation was initiated on August 28, 2001, based on information received from [redacted], [redacted], Business Committee (BC), Ute Indian Tribe (UIT), Fort Duchesne, UT. [redacted] alleged that millions of dollars provided to the UIT pursuant to the Ute Indian Rights Settlement (Settlement), Title V of the Reclamation Projects Authorization and Adjustment Act of 1992, Pub. L. No. 102-575 (1992 Act), had been misappropriated by certain individuals through various tribal business enterprises.

The investigation did not identify evidence of a federal violation. [redacted] This matter will be closed.

DETAILS

The original allegations involved a litany of facts and were derived primarily from conclusions of [redacted] Their allegations were primarily directed at [redacted], a financial consultant hired by the UIT in December 2000. It was alleged that [redacted] had convinced a majority interest of the UIT's BC to withdraw $185,000,000 in funds held in trust by the Department of the Interior (DOI), Office of Trust Fund Management (OTFM), which were provided to the UIT under the 1992 Water Settlement Act, and provide the funds to [redacted] for securities investments. [redacted] also allegedly involved UIT oil and gas lessees in matters in which [redacted] had a personal financial interest, without the UIT's consent.

[redacted] was hired as a financial consultant by the UIT on December 1, 2000. Pursuant to a Consulting Agreement executed that same date between [redacted] and the UIT BC, the UIT agreed to allow [redacted] to personally participate in specific transactions or projects for a financial gain. Three separate Tribal Resolutions granted [redacted] authority to act on behalf of the UIT with regards to providing investment advice and instruction to OTFM concerning the investment of water settlement funds managed by OTFM.

Reporting Official/Title [redacted] Special Agent	**Signature** [redacted]
Approving Official/Title for Jack Rohmer/Special Agent in Charge	**Signa** [redacted]

Distribution: Original – Case File Copy - SAC/SIU Office Copy – HQ [redacted]

Consultation with the DOI Office of Special Trustee (OST) revealed OST had previously reviewed voluminous documents related to the UIT's application to withdraw its water settlement funds from OST, which included a Tribal Development Plan (TDP). The initial application was submitted to OST in 2003. Over a course of approximately two years, OST made several requests for additional information and/or revisions to the TDP. In addition, the Central Utah Project Completion Act (CUPCA) office, which was established by the 1992 Act, reviewed the UIT's TPD for compliance with the Settlement and advised OST that such compliance was met.

On March 3, 2005, the Associate Solicitor, Indian Affairs, DOI, issued a memorandum addressing issues regarding the UIT's proposed withdrawal of the Settlement funds. Of pertinence to this matter, the Associate Solicitor included the following information in the memorandum:

> Reference was made to the American Indian Trust Fund Management Reform Act of 1994, Pub. L. No. 103-412 (1994 Act), which provided tribes an opportunity to withdraw and manage tribal funds held in trust by the United States and managed by the Secretary in order to further the goals of tribal self-governance and self determination. The 1994 Act required an approved Tribal Management Plan, which contained many of the same requirements as the TDP under the Settlement.
>
> The 1994 Act provided that the DOI's trust responsibility or liability with respect to such funds shall cease upon withdrawal of the funds, except for disagreements concerning the account balance at the time of withdrawal. Following withdrawal of trust funds, a tribe may revise its plan without approval from the DOI; however, any revisions must be made in accordance with the law, which in this case was the Settlement. By requiring that the Tribal Management Plan includes procedures that ensure compliance with the Settlement's provisions after withdrawal, the DOI fulfills its statutory and trust obligations.

On March 8, 2005, the DOI Assistant Secretary for Water and Science approved the TDP and recommended OST approve the final TDP. Final approval was communicated to UIT by OST on March 15, 2005.

The Settlement funds were released to the UIT and were transferred directly to Bears Stearns Companies, Inc., an investment banking and brokerage firm, to be managed in a fixed income portfolio by Dolan McEniry Capital Management.

In May 2005, the UIT entered into a joint business venture with Questar Corporation subsidiaries, Questar Exploration and Production Company and Questar Gas Management Company, for exploration, development, and production of natural gas on UIT lands. Current UIT BC Chairperson [redacted] credited [redacted] for providing guidance in the Tribe's more active and aggressive role in managing its natural resources.

In October 2005, the UIT formed Ute Energy, LLC, a fully integrated oil and gas entity, as part of its financial plan. Business partners in the venture included Questar Corporation, Fidelity Investors Management, Bill Barrett Corporation, and Berry Petroleum Company.

As the allegations made by [redacted] were derived primarily from their respective conclusions and not based on factual information, the task for the OIG of

determining whether fraudulent use of the Settlement funds occurred, absent further information, has been made difficult, if not impossible.

For the reasons set out above, this investigation was closed with no further investigative action to be conducted absent additional information.

[Agent's Note: Due to the voluminous nature of the documents received by DOI-OIG throughout the course of this investigation, the documents were maintained in the case file, and were not attached as Exhibits to this report].

SUBJECT(S)/DEFENDANT(S)

[redacted]

DISPOSITION

[redacted] Ex. 5

Absent additional information, this matter is closed.

EXHIBITS

None

All redactions are 5 U.S.C. §§ 552(b)(6) and (b)(7)(C) of the FOIA.

Office of Inspector General
Office of Investigations
U.S. Department of the Interior

Report of Investigation

Case Title	Case Number
Turtle Mountain Band of the Chippewa Indians	**OI-SD-02-0006-I** **Related File(s)** [redacted]
Case Location **Rapid City, South Dakota**	**Report Date** **August 16, 2005**
Report Subject **Closing Report**	

SYNOPSIS

This investigation was initiated based upon a request from the U.S. Attorney's Office, District of North Dakota, Bismarck, ND, to participate in a joint investigation with the Federal Bureau of Investigation (FBI), Internal Revenue Service - Criminal Investigation Division, and the State of North Dakota - Office of Attorney General, into various allegations relating to a $18.8 million Bureau of Indian Affairs (BIA) 90% guaranteed loan originating in November 1999, by the Rolette State Bank, Rolette, ND, to the Turtle Mountain Band of the Chippewa Indians (TMBCI), Belcourt, ND. Specifically, it was requested that our office determine whether the proceeds of the BIA guaranteed loan were used properly by the TMBCI.

The investigation resulted in six indictments including one superseding indictment. The violations charged in these indictments included Title 18, United States Code (U.S.C.), Section 371, Conspiracy; Title 18, U.S.C., Section 1163, Theft from an Indian Tribal Organization; Title 18, U.S.C., Section 666, Theft from a Federal Program; Title 18, U.S.C., Section 1512, Tampering with a Witness; Title 18, U.S.C., Section 1623, False Declarations before a Grand Jury; Title 18, U.S.C., Section 1622, Subornation of Perjury; and Title 18, U.S.C., Sections 1956 and 1957, Money Laundering with a corresponding asset forfeiture count.

Five individuals were indicted during the course of this investigation. Four individuals were sentenced to a total of 117 months imprisonment, 132 months probation, and ordered to pay $731,320 in restitution. Charges pending against a fifth individual were dismissed.

DETAILS

The BIA Loan Guaranteed Certificate was executed on September 10, 1999, and granted to consolidate 12 existing loans. Initial examination of the records showed large transactions, totaling approximately $3.7 million, between various tribal accounts in which the loan monies may have been commingled with other monies and used improperly, and even illegally. Money was traced through TMBCI's unrestricted account to Tribal Services, Inc., a company owned by two former TMBCI tribal council members. The

Reporting Official/Title	Signature
[redacted], Special Agent	
Approving Official/Title **Gary M. Mitchell, Special Agent in Charge**	**Signature**

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State of North Dakota Financial Institutions reviewed the financial records of the bank that provided the loan.

Investigation focused on a variety of issues concerning the apparent theft and misapplication of substantial amounts of money related to the BIA guaranteed loan proceeds by an unidentified number of tribal officials. Preliminary investigation and financial records analysis conducted by this office identified several instances wherein employees of two TMBCI business entities, Uniband and Tribal Services Inc., appeared to have perpetrated a fraudulent billing invoice scheme that resulted in the theft of tens of thousands of dollars in federal and tribal funds.

The investigation expanded into examining other highly suspect TMBCI financial transactions that involved a series of substantial fund transfers and payments by and between several individuals associated with questionable TMBCI business entities including Uniband, Tribal Services Inc., Computeband, American Taekwondo Academy, and Sports N Things. In addition, the investigation focused on an apparent building lease scheme wherein the TMBCI donated an old school garage to one of these tribal business entities, that in turn, leased the garage for $5,000 to $10,000 per month to another TMBCI entity that purportedly paid these unreasonably high rent payments in order to use this structure for document storage. Finally, this investigation also targeted a series of TMBCI transactions pertaining to payments in excess of $100,000, purportedly for heavy construction services rendered by a company allegedly owned by the son of a TMBCI Councilman.

Multiple interviews of subjects and witnesses were conducted during the course of this investigation. Consensual monitored phone calls were also placed.

The investigation revealed that Raymond Poitra, former CEO of Uniband Inc., a TMBCI corporation and controlled data entry service provider that received approximately $44 million annually in federal contracts, stole and laundered approximately $295,000 in Uniband funds through his use of nominee construction company bank accounts established and controlled by Poitra and his daughter. This scheme to defraud both Uniband and TMBCI was also accomplished through Poitra's creation, submission, and approval of fraudulent vendor invoices for purported technical and/or construction services. These technical and construction services were either not performed or were double billed and paid twice by Uniband based on Poitra's fraudulent approval as CEO of Uniband.

Investigative findings also revealed a conspiratorial scheme whereby Raphael DeCoteau, former TMBCI Tribal Chairman, and Ronald Morin, former TMBCI Contract Administrator and CEO, stole in excess of $110,000 in federal and tribal funds. The theft occurred, in part, through the subject's creation of a business that fraudulently obtained $77,000 in lease payments from another TMBCI entity for the storage of sensitive documents in connection with data entry services being provided to federal agencies based on federal service contracts. The evidence detailed a complex and fraudulent transfer of a previously owned BIA building that was used by DeCoteau and Morin to steal and convert to personal use, approximately $77,000 in fraudulent building lease payments for sensitive document storage. The $77,000 represented a series of building lease payments by Uniband Inc., a tribally-owned data entry service provider, remitted to DeCoteau and Morin through another tribally-owned business. Another $33,000 in TMBCI funds was fraudulently obtained by DeCoteau and Morin through this scheme.

Additional investigative findings revealed that DeCoteau, while TMBCI Chairman, misapplied $7,300 in TSI/TMBCI funds that he used to purchase approximately 15 acres of land from a TMBCI enrollee. After DeCoteau purchased this land using TSI funds, the land was initially titled in the names of DeCoteau's

[redacted] and in January 2000, title to this land was transferred to DeCoteau's [redacted] The investigation established that Rafael and Les DeCoteau prepared and mailed two letters, respectively, to the case agents that contained false information in an apparent attempt to obstruct this investigation by concealing the true facts and circumstances surrounding DeCoteau's acquisition of this 15-acre land parcel. In addition, Rafael DeCoteau, following the initiation of this investigation, made several improper contacts with the seller of this 15-acre land parcel, in an apparent attempt to improperly influence this witness' recollection of events central to this investigation.

Doug Delorme, former TMBCI Councilman, fraudulently provided [redacted] with a [redacted] TMBCI check. Delorme instructed [redacted] to cash this TMBCI check and remit the majority of the check proceeds to Delorme.

CASE SUBJECTS/DEFENDANTS

1. Rafael DeCoteau, former Tribal Chairman, TMBCI
2. Ron S. Morin, former Contract Administrator and CEO, TMBCI
3. Raymond Poitra, former CEO of Uniband Inc., TMBCI
4. Douglas John Delorme, former Councilman, TMBCI
5. [redacted]

CASE DISPOSITION

Raymond Poitra was indicted and pleaded guilty to all seven felony counts in violation of Title 18, U.S.C. Sections, 666, 1163, 1956 and 1957. Poitra was sentenced to 57 months imprisonment, 24 months probation, and ordered to pay $577,397 in restitution.

Ron Morin and Raphael DeCoteau were both charged in a five count indictment in violation of Title 18, U.S.C., Sections 371, 666, and 1163. Morin and DeCoteau were both convicted by jury trial and sentenced to 21 months of incarceration, 24 months probation, and ordered to pay restitution in the amount of $69,411.50. In a separate indictment for the criminal offense of embezzlement and theft, DeCoteau pleaded guilty and was sentenced to another 6 months incarceration to be served concurrently with his 21 month imprisonment and ordered to pay an additional $7,300 in restitution.

Doug Delorme was charged in a three count indictment in violation of Title 18, U.S.C., Sections 1163, 1512, and 1622 for a fraudulent check cashing transaction and subsequent witness tampering/ subordination of perjury. After additional information was developed, Delorme was charged with a five count superseding indictment. Delorme entered into a plea agreement and was sentenced to 12 months imprisonment, 36 months probation, and ordered to pay $7,800 in restitution.

[redacted]

Office of Inspector General
Office of Investigations
U.S. Department of the Interior
Ex. 2
Investigative Activity Report

Case Title	**Case Number**
Pokagon Band of Potawatomi Indians Dowagiac, MI	OI-MN-02-0023-I **Related File(s)**
Case Location	**Report Date**
Dowagiac, MI	April 20, 2006
Report Subject	
Closing ROI	

SYNOPSIS

This investigation was initiated as a joint investigation with the U.S. Department of House and Urban Development (HUD), and the Federal Bureau of Investigation (FBI). HUD received an allegation that the Pokagon Band of Potawatomi Indians (PBP) diverted federal funds from both HUD and BIA grants for unauthorized purposes. At the time of the initiation of this investigation, HUD had provided PBP with more than $4 million for housing construction; however, no houses had yet been built.

Investigation, including interviews and records review, failed to substantiate any violations of law or locate any funds which had been diverted from BIA or HUD grants for unauthorized purposes. This investigation is terminated with the submission of this report.

DETAILS

On 5 Mar 02, HUD OIG, Chicago, IL and FBI, St. Joseph, MI, requested this office participate in an investigation at the PBP, Dowagiac, MI. The investigation involved allegations that the PBP Tribal Council diverted federal funds from both HUD and BIA grants for unauthorized purposes. HUD had provided over $4 million to PBP for the construction of residential housing, but as of 5 Mar 02, no houses had been built. Other allegations involved the PBP abuse of funds obtained under BIA PL 638 contracts for financial services of an undermined amount, and for stipend fees of approximately $250,000.

Between 5 Mar 02 and 11 Jun 02, SA [redacted] and SA [redacted] FBI, interviewed PBP personnel and identified additional questionable practices regarding the spending of federal funds. On 22 May 02, DOI OIG, HUD OIG, and FBI personnel convened a meeting and discussed a plan of action and identified several possible leads to investigate. **(See ISR 11 Jun 02, of SA [redacted] index number 2, for details)**

On 5 Jun 02, HUD OIG issued a subpoena to PBP for records and documents of the PBP housing authority. **(See IAR 5 Jun 02, of SA [redacted] index number 3, for details)**

Reporting Official/Title	**Signature**	**Date**
[redacted] /Special Agent	[redacted]	20 Apr 06
Approving Official/Title		**Date**
Neil Smith/Special Agent-in-Charge	[redacted]	4/20/06

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Between 11 Jun 02 and 11 Sep 02, SA [redacted] as well as agents from HUD OIG, and the FBI reviewed documents received via subpoenaed by the HUD OIG. Review of the documents revealed the tribe had poor internal financial controls. Further, it was discovered that PBP employed unqualified personnel to oversee large projects and federal grant money. The poor hiring practice was apparently the result of nepotism and favoritism. Although these administrative problems were identified, the review did not disclose any illegal activity by the tribe. **(See ISR 11 Sep 02, of SA [redacted], index number 4, for details)**

On 18 Apr 06, SA [redacted] coordinated with [redacted] HUD OIG auditor, Chicago, IL, who stated that the HUD OIG terminated its investigation. [redacted] related that the investigation failed to substantiate the allegation and no action had been taken. [redacted] added that [redacted] had conducted an audit of the PBP programs, which revealed several administrative issues but no violations of law.

On 19 Apr 06, SA [redacted] coordinated with SA [redacted] FBI, Eau Clair, WI, who stated the FBI terminated its investigation, as the investigation failed to substantiate the allegations. SA [redacted] did not anticipate further investigative activity by the FBI.

On 19 Apr 06, SA [redacted] coordinated with AUSA [redacted], U.S. Attorney's Office, Grand Rapids, MI, who stated that [redacted] had declined to prosecute this investigation and had closed [redacted] file. [redacted] Ex. 5

SUBJECT(S)/DEFENDANT(S)

None.

DISPOSITION

A thorough investigation failed to disclose any criminal activity. No further investigative activity is anticipated.

ATTACHMENTS

1. IAR of SA [redacted] (case initiation)
2. ISR of SA [redacted] with attachments (11 Jun 02)
3. IAR of SA [redacted] (Service of Subpoena)
4. ISR of SA [redacted] with attachments (11 Sep 02)

Office of Inspector General
Office of Investigations
U.S. Department of the Interior

Report of Investigation

Case Title	Case Number
Coushatta Tribe of Louisiana (CTOL)	**OI-LA-02-0025-I**
	Related File(s)
Case Location	**Report Date**
Kinder, LA	**November 8, 2004**

Report Subject
Closing Report of Investigation

RESTRICTED INFORMATION – FEDERAL GRAND JURY MATERIAL
FEDERAL RULES OF CRIMINAL PROCEDURE, RULE 6(e) APPLIES

SYNOPSIS

This investigation was initiated on April 1, 2002, based on allegations that $150,000 in grant funds provided by the Bureau of Indian Affairs (BIA), U.S. Department of the Interior (DOI), to the Coushatta Tribe of Louisiana (CTOL) were used improperly for political activity by tribal officials. The investigation was conducted jointly with the Office of Inspector General, U.S. Department of Agriculture.

As part of our investigation, we interviewed CTOL and BIA officials. [redacted] Ex. 3

[redacted] Ex. 3

Our investigation disclosed no evidence of misuse or diversion of federal funds for personal use. This matter was ultimately discussed with an Assistant U.S. Attorney for the Western District of Louisiana, who declined to prosecute.

DETAILS

Ex. 3

FGJ

Reporting Official/Title	Signature
[redacted], Special Agent	[redacted]
Approving Official/Title	
Gary M. Mitchell, Special Agent in Charge	

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Ex. 3 FGJ

Flowcharts, a timeline and [redacted] were created to assist in the analysis of the information obtained in the investigation and to track the flow of funds. Ex. 3

Ex. 3 FGJ

Ex. 3 FGJ

From September 1 through October 6, 2004, queries through Special Agent [redacted], OIG, USDA, New Orleans, LA, disclosed that the USDA funds in question were crop subsidy funds and carried no restrictions on their use. Therefore, no statutory violations exist in this matter.

Refer to Exhibits A-N for interviews and record examinations conducted during this investigation.

DISPOSITION

On October 8, 2004, this matter was discussed with Assistant United States Attorney (AUSA) [redacted] Western District of Louisiana, Lafayette, LA. AUSA [redacted] declined prosecution [redacted] Ex.5 [redacted]. No further investigative activity will be conducted.

EXHIBITS

A. IAR - Interview of [redacted], July 26, 2001
B. IAR - Interview of [redacted] August 17, 2001
C. IAR - Interview of [redacted] September5, 2001
D. IAR - Interview of [redacted], March 22, 2002
E. IAR - Conversation with [redacted], June 4, 2002
F. IAR – Interview of [redacted], April 16, 2002
G. IAR – Conversation with [redacted], June 6, 2002
H. IAR – BIA contract overview, September 13, 2002
I. Ex. 3 FGJ
J. IAR - Interview of [redacted], July 1, 2003
K. IAR – [redacted]
L. IAR – Interview of [redacted] August 4, 2004
M. IAR – Interview of [redacted], August 5, 2004
N. IAR – Interview of [redacted] June 17, 2004

All redactions are 5 U.S.C. §§ 552(b)(6) and (b)(7)(C) of the FOIA.

Office of Inspector General
Office of Investigations
U.S. Department of the Interior

Report of Investigation

Case Title	Case Number
Standing Rock Sioux Tribe Loans	OI-SD-02-0027-I
	Related File(s)
Case Location	Report Date
Rapid City, SD	April 24, 2003
Report Subject	
Report of Investigation	

SYNOPSIS

This investigation was initiated on April 8, 2002, based on allegations of misappropriation and mismanagement of funds awarded to the Standing Rock Sioux Tribe (SRST), Fort Yates, North Dakota, through Public Law 102-575, Title XXXV, "Three Affiliated Tribes and Standing Rock Sioux Tribe Equitable Compensation Program, North Dakota" (P.L. 102-575). The allegations made were that $7.4 million dollars in Joint Tribal Advisory Committee (JTAC) funds were improperly used for a questionable program through which the SRST co-signed on loans made to nearly 600 tribal members through various private lending institutions. The allegations originated during field hearings held by the Committee on Indian Affairs, United States Senate, on April 3, 2002, at Fort Yates, North Dakota.

During 1992, the U.S. Government awarded $90.6 million to the SRST through P.L. 102-575 as compensation related to the tribe's loss of 56,000 acres of land due to the construction of Oahe Dam and Reservoir on the Missouri River. P.L. 102-575 allowed the SRST to use only the interest earned on the investment of the aforementioned principal, beginning with fiscal year 1998 and without fiscal year limitation, "for educational, social welfare, economic development, and other programs," subject to the approval of the Secretary, Department of the Interior (DOI). The only prohibition cited in the legislation is per capita payments to tribal members. The SRST has approximately 14,000 enrolled members, of which approximately 7,000 members reside on Standing Rock Indian Reservation.

When interviewed by the Office of Inspector General (OIG), Bureau of Indian Affairs (BIA) officials reported that P.L. 102-575 was vague and does not clearly indicate that the SRST must submit spending plans in order to obtain JTAC funds and only states that the funds shall be available subject to the approval of the Secretary, DOI. Officials from the Office of Trust Funds Management (OTFM), DOI, interviewed during this investigation, also indicated that P.L. 102-575 was vague and reported that the language used in the law provided great latitude as to how the tribe could use its JTAC funds. In an attempt to satisfy the legislative requirement for the Secretary's approval, the BIA officials looked at

Reporting Official/Title	Signature	Date
[redacted]/Special Agent	[redacted]	4/24/03
Approving Official/Title	Signature	Date
Jack E. Hawkins/Special Agent-in-Charge	[redacted]	4/25/03

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similar past legislation when determining how to handle this requirement and the disbursement of the judgment funds that were to be awarded to the SRST. The only similar awards made to Indian tribes involved "Judgment Funds" made through the U.S. Indian Claims Commission in which Indian tribes were required to submit spending plans to be approved by the BIA in order to receive judgment funds.

In April 1997, the BIA sought legal guidance from the Office of the Solicitor relative to the existence of any regulations or precedent for managing the use of the JTAC funds. The opinion from the Solicitor's Office found no clarifying supplemental rules or regulations related to the P.L. 102-575 legislation and did not identify that any other laws, rules or regulations existed governing the use of JTAC funds.

The SRST submitted two spending plans to support its use of JTAC funds. The BIA approved both spending plans. The first spending plan, titled "Resource Development and Land Acquisition Fund (Phase 1) Joint Tribal Advisory Commission (JTAC) Fund Access Plan," pertained specifically to land purchases, and was used to support the first two drawdowns of JTAC funds by the SRST. The second plan, titled the "Standing Rock Sioux Tribe Joint Tribal Advisory Committee (JTAC) Fund Access Plan" was intended as a comprehensive spending plan and was used to support all remaining drawdowns completed by the SRST.

The investigation disclosed that the SRST requested JTAC funds through the BIA and OTFM based on justifications reflected in approved tribal council resolutions that specifically indicated the monies would be used for purposes authorized by P.L. 102-575. The BIA and OTFM compared the justifications provided by the SRST to the uses authorized in its own spending plans and the provisions of P.L. 102-575. After finding that the justifications from the tribe were consistent with the law, the BIA approved the transactions and allocated JTAC funds. BIA officials reported that once the tribe received the funds, the accountability rested with the tribe and its administration to ensure that the funds are spent appropriately.

Review of records disclosed that beginning February 1999 through November 2001, the SRST received six payments of JTAC funds totaling $46.3 million dollars. As part of this investigation, our Office of Audits completed a financial review of the JTAC funds. The review showed that the SRST earned an estimated $1 million in interest on the $46.3 in million JTAC funds, after receipt from the U.S. Treasury, for a total of $47.3 million in available funds for the tribe's use. The review disclosed that the SRST expended approximately $22.9 million out of the $47.3 million. The remaining $24.4 million is accounted for in various checking and savings accounts and investments in certificates of deposit (CDs) and money market accounts. The audit review concluded that the SRST was generally committed to spending the JTAC funds in accordance with provisions of P.L. 102-575.

The investigation further determined that on May 14, 2001, the SRST Tribal Council passed a "blanket" resolution authorizing the tribe to co-sign loans for any tribal member. The financial review conducted as part of this investigation disclosed that the SRST used $7.4 million of the unexpended funds to provide collateral for this loan program. The $7.4 million was invested at 17 separate lending institutions in low risk CDs and money market accounts, as collateral for the loan program. Of the tribe's approximate 14,000 members, 475 obtained co-signed loans totaling approximately $11 million. To date, 246 loans, totaling $2.9 million are in "delinquent" status. These loans are considered delinquent and not defaulted because the SRST has either paid off the loans or assumed the monthly payments on the loans. The audit review also showed that the tribe's casino revenues have been used to repay the loans in delinquent status.

In October 2001, the SRST Tribal Council submitted two tribal resolutions one of which requested $5.5 million for a tribal re-lending loan program. When questioned by the BIA and OTFM how this re-lending program fit into the SRST's own JTAC fund access plan previously approved by the BIA, the SRST failed to respond. The BIA and OTFM subsequently did not approve the $5.5 million requested for the re-lending loan program because they found it was inconsistent with uses authorized by the SRST's own spending plans.

The investigation did not disclose any information indicating the SRST planned to initiate a co-signature loan program at the time it originally submitted drawdown requests to the BIA and OTFM for JTAC funds. Our investigation further disclosed that although $7.4 million in JTAC funds was used in relation to the co-signed loan program, no JTAC funds were used to directly finance loans or cover the costs associated with any delinquent or defaulted loans. Therefore, the investigation accounted for the $7.4 million dollars.

By letter dated April 5, 2002, U.S. Senator Kent Conrad, North Dakota, requested further clarification from DOI Secretary Gale Norton relating to DOI's administration of JTAC funds. This request produced two different legal perspectives from the Office of the Solicitor regarding the Department's oversight of the JTAC funds. One perspective, dated July 3, 2002, from the Division of Indian Law, concluded that P.L. 102-575 does not require or authorize BIA oversight of the tribe's actual use of the funds after the funds are withdrawn from the trust account by the tribe. A second, undated, perspective from the Division of General Law, concluded that the Department has broad authority to oversee the use of JTAC funds to provide that they are used for the purposes within the scope of the JTAC.

The primary focus of this investigation was the SRST's receipt and use of JTAC funds. However, during the course of the investigation and the financial review it was determined that two of the Districts receiving JTAC funds from the SRST (Running Antelope District and Wakpala District) did not use their funds in the most productive matter.

In addition, this investigation also reviewed broad allegations received alleging that the co-signature loan program was initiated by elected SRST officials for the purpose of "buying" votes for re-election during the primary and general elections held by the tribe during June and September 2001, respectively. This investigation did not disclose any evidence indicating that the co-signing loan program was used for the purpose of buying votes.

DETAILS

During 1992, the U.S. Government awarded $90.6 million to the SRST through P.L. 102-575 as compensation related to the tribe's loss of 56,000 acres of land due to the construction of Oahe Dam and Reservoir on the Missouri River (Attachment 1). The amount awarded, and interest earned on the principal, was deposited into an Economic Recovery Fund at the U.S. Treasury. An investigative review of P.L. 102-575 shows that it allows the SRST to use only the interest earned on the investment of the principal amount, beginning with fiscal year 1998 and without fiscal year limitation, "for educational, social welfare, economic development, and other programs," subject to the approval of the Secretary, Department of the Interior (DOI). The only prohibition cited in the legislation is any distribution of monies as per capita payments to tribal members.

Cora Jones, Regional Director and [redacted] Tribal Government Services (TGS), Great Plains Region (GPR), BIA, Aberdeen, SD, were interviewed during this investigation. Jones began working in her position in approximately 1997. As Regional Director, Jones was responsible for overseeing all BIA programs, operations, and employees in North Dakota, South Dakota, and Nebraska. Additionally, Jones worked closely with the 16 Indian tribes located in the aforementioned area that receive funding and services through the BIA. [redacted] is responsible for providing technical assistance to Indian tribes and BIA agency offices with respect to tribal constitutions, by-laws, tribal law and order codes, and other tribal enactments. [redacted] also provides technical assistance to other BIA officials regarding tribal government, judicial services, and other contracts awarded to Indian tribes. Additionally, [redacted] specifically advised Jones on matters involving the SRST and its JTAC funds. Jones reported that "other programs," as reflected in the legislation, essentially established that the SRST could use JTAC funds for any purpose. In addition, Jones and [redacted] reported that P.L. 102-575 is vague and that no clarifying rules or regulations exist related to the legislation. As a result, the BIA looked at similar past legislation when determining how to handle the JTAC funds awarded to the SRST. The only similar awards made to Indian tribes involved "Judgment Funds" made through the U.S. Indian Claims Commission during the early 1970's. To receive judgment funds, Indian tribes were required to submit spending plans to be approved by the BIA (Attachments 2A-Z and 3A-I).

A review of records disclosed that in April 1997, the BIA obtained legal guidance from the Office of the Solicitor, Division of Indian Law, relative to the existence of any precedent or regulations, to include those that apply to judgment funds, 25 C.F.R. Part 87, for managing the use of the JTAC funds. The Solicitor's opinion provided to the BIA reflects that no precedent or regulations do exist related to P.L. 102-575 (Attachment 4). However, the Office of the Solicitor's response stated that nothing in P.L. 102-575 prohibited the Secretary of Interior from utilizing and applying the criteria and standards for the preparation, review and approval of spending plans for judgment funds to spending plans submitted for consideration and approval related to JTAC funds. The same documents also reflected that the BIA Deputy Commissioner, and those officials authorized to act on her behalf, have discretionary authority per delegation to approve or disprove payment plans submitted pursuant to P.L. 102-575. According to Jones, the BIA decided that spending plans would be used to ensure that JTAC funds would be used as intended by P.L. 102-575. The authority to approve spending plans was delegated to Jones under 209 Departmental Manual (DM) 8, Secretary's Order No's 3150 and 3177, as amended and 19 Bureau if Indian Affairs Manual (BIAM), Bulletin 13, as amended.

Jones delegated to [redacted] the responsibility of reviewing any plans submitted by the SRST to the BIA. Two spending plans were submitted by the SRST to the BIA. According to [redacted], the plans were reviewed to verify that the spending purposes reflected in the plans complied with the uses authorized by P.L. 102-575. The purposes reflected in the documents were found to be consistent with the purposes reflected in P.L. 102-575 and [redacted] advised Jones to approve the tribe's spending plans.

A review of BIA records revealed that Jones approved the first plan submitted by the SRST, titled "Resource Development and Land Acquisition Fund (Phase 1) Joint Tribal Advisory Commission (JTAC) Fund Access Plan, during February 1999 (Attachment 5). SRST's request to the BIA to approve the Phase 1 plan was supported by two tribal council resolutions. [redacted] reported that the Phase 1 plan was limited specifically to land purchases and it supported the SRST's first two drawdowns of JTAC funds.

Further review of BIA records, disclosed a SRST transmittal letter (Attachment 6) reflecting that the tribe submitted its second plan titled, "Standing Rock Sioux Tribe Joint Tribal Advisory Committee (JTAC) Fund Access Plan" (JTAC fund access plan), to the BIA during May 2000. This JTAC plan approved by the BIA is marked "SEVENTH DRAFT." The funds or programs identified in this second plan included a Education Fund; Social/Cultural Development Fund; Resource Development and Land Acquisition Fund; Equity Development Finance Institution; and an Endowment Replenishment Fund. This letter, and excerpts attached to it (Attachment 7) identify that the SRST's Tribal Council approved the JTAC fund access plan (Attachment 8) through Tribal Council Motion No. 47 during a council meeting held on May 4, 2000. The same excerpts also note JTAC related training.

When interviewed, [redacted], who was employed [redacted] Standing Rock Agency (SRA), Fort Yates, ND, during May 2000, reported that Motion No. 47 may not have actually involved the tribal council approving the JTAC fund access plan. [redacted] understood that instead, the motion possibly pertained only to JTAC related training issues. However, [redacted] noted that based on the documents submitted to Jones for her review, when considering the plan for approval, she would not have known that the motion possibly related to anything other than the JTAC fund access plan (Attachment 9). A review of audio recordings and transcripts of this tribal council meeting was completed by DOI-OIG (Attachment 10). The conversation regarding the matter is somewhat difficult to follow, but it appears that the tribal council did approve the JTAC fund access plan that was subsequently submitted to the BIA for its review and approval.

Review of BIA records disclosed that Jones approved the JTAC access fund marked "SEVENTH DRAFT" in June 2000. According to Jones, that plan was intended to be a comprehensive plan designed to support all future drawdowns completed by the SRST. Jones reported that she conferred with her staff and decided that even though the plan was marked as a draft that it would be approved because it was the document approved by the tribal council and submitted to the BIA. In her the approval letter to the SRST, Jones confirmed with the tribe that the JTAC fund access plan approved was marked as the seventh draft (Attachment 11).

This investigation determined that between February 1999 and November 2001, the SRST completed six drawdowns of JTAC funds for a total of $46.3 million. A Standard Form (SF) 1034, PUBLIC VOUCHER FOR PURCHASES AND SERVICES OTHER THAN PERSONAL (SF-1034) was completed for each drawdown. Review of BIA records also determined that the SRST Tribal Council approved resolutions outlining specific justifications for each drawdown. The dates and amounts of each transaction, as well as the justifications reflected on the resolutions, are summarized below:

- SF-1034 dated February 10, 1999, for $6,000,000 (Attachment 12). Resolution No.'s 019-99 (Attachment 13) and 020-99 (Attachment 14) state the funds will be used for land acquisition and resource development projects.

- SF-1034 dated June 20, 2000, for $6,000,000 (Attachment 15). Resolution No. 192-00 (Attachment 16) states the funds will be used for land purchases and appraisals.

- SF-1034 dated November 17, 2000, for $7,150,000 (Attachment 17). Resolution No.'s 440-00 (Attachment 18); 441-00 (Attachment 19); 442-00 (Attachment 20); and 443-00 (Attachment 21) state the drawdown included $4 million for new campus construction for Sitting Bull College;

$2,150,000 as partial payment for a new school in the Wakpala District; $500,000 for a Tribal Entrepreneurship Investment fund; and $500,000 for graduate programs.

- SF-1034 dated January 12, 2001, for $18,000,000 (Attachment 22). Resolution No.'s 571-00 (Attachment 23); 572-00 (Attachment 24); 573-00 (Attachment 25); and 574-00 (Attachment 26) state that the drawdown included $6 million for rebuilding in the Kennel District; $4 million for a new school facility in the Fort Yates Public School District; $4 million for construction and enhancement of facilities for the McLaughlin School System; and $4 million for a new Solen-Cannonball School.

- SF-1034 dated May 31, 2001, for $2,150,000 (Attachment 27). Resolution No. 441-00 (Attachment 28) reflects the funds will be used as the remaining payment for the new school in the Wakpala District.

- SF-1034 dated October 17, 2001; for $7,000,000 (Attachment 29). Resolution No. 264-01 (Attachment 30) that the drawdown included $1 million for each district, excluding the Kennel District, which had previously received its JTAC distribution.

Jones advised that the above mentioned tribal council resolutions were submitted by the SRST to the SRA, BIA, Fort Yates, ND, for review and approval. The SRA Superintendent was responsible for initially reviewing the documentation (tribal council resolutions) to verify that the request for JTAC funds was in accordance with the uses authorized under P.L. 102-575 and under the SRST's own spending plans. A review of the above noted SF-1034's showed that three different individuals, [redacted] served in the position of SRA Superintendent, or Acting SRA Superintendent, and were involved with drawdowns completed by the SRST. Each of the SF-1034's were completed at the SRA and then signed by the SRA Superintendent and the SRST Tribal Chairman. Jones stated that no formal authority was ever delegated to the SRA Superintendent to authorize the approval of JTAC-related SF-1034's but that, historically, superintendent's have signed off on SF-1034's for various other funding requests. Consequently, the same approval procedure continued relative to drawdowns involving JTAC funds. The tribal council resolutions and SF-1034's were submitted as a package to the GPR for review. Upon receipt by the GPR, the request packages received a cursory review and were then routed to TGS ([redacted] office).

According to Jones and [redacted] Jones was involved in the approval process for only the first two drawdowns completed by the SRST. Jones had to approve those drawdowns because the BIA had not yet approved the SRST's comprehensive JTAC fund access plan. Jones and [redacted] both reported that once the comprehensive JTAC fund access plan was approved, any subsequent drawdowns could be approved without Jones' involvement as long as the purposes for which the JTAC funds were requested were included in that plan. Jones also delegated the responsibility for reviewing the first two drawdown requests to [redacted]. [redacted] said [redacted] reviewed the requests to determine if the justifications provided by the SRST, as provided in the tribal council resolutions, complied with the purposes authorized in the tribe's first spending plan and also with P.L. 102-575. After reviewing the requests, [redacted] determined that the justifications did comply with the tribe's spending plan and P.L. 102-575. Jones reported she approved the first two drawdowns based upon [redacted] recommendation. The requests were then forwarded to the Office of Trust Funds Management (OTFM), DOI, Aberdeen, SD, for payment.

A review of BIA records disclosed a letter was sent by [redacted] to Jones regarding the SRST's second drawdown request of JTAC funds and the JTAC fund access plan (Attachment 31). This drawdown request was the second drawdown request for funds related to land purchases. In the letter, [redacted] stated that [redacted] did not disagree with the tribe's second drawdown, but that [redacted] believed any additional drawdowns should be disapproved until the JTAC funds access plan was completed. When interviewed, [redacted] reported that although [redacted] would have preferred a more complete plan, that P.L. 102-575 was so general in nature, Jones was essentially required to approve any spending plan submitted by the SRST that generally reflected purposes consistent with the legislation. [redacted] further advised that if [redacted] had been serving in Jones' position that [redacted] also would have had to approve the JTAC fund access plan as submitted by the SRST. The aforementioned second drawdown was approved simultaneously with the JTAC fund access plan.

When interviewed, [redacted], OTFM, Aberdeen, SD, reported that P.L. 102-575 was vague and that the language in the law basically left it wide open as to how the SRST could use the JTAC funds. [redacted] also stated that no supplemental rules or regulations exist related to P.L. 102-575.

[redacted] reported that the SRA Superintendent initially approved each drawdown request submitted by the SRST for JTAC funds. In addition to ensuring that each request complied with the intended purposes authorized under P.L. 102-575 and the SRST's own spending plans, the SRA Superintendent was also responsible for ensuring that all tribal council resolutions were valid. After Jones approved the first two drawdown requests, the requests were forwarded to OTFM for review and approval. [redacted] concurred that the remaining four drawdown request were not required to be forwarded to Jones for approval prior to being submitted to OTFM. In addition to verifying various accounting data associated with drawdowns, [redacted] was also responsible for making sure that the stated purpose of each transaction, as reflected in the tribal council resolutions, was authorized under P.L. 102-575 and the tribe's own spending plans. After his review, [redacted] signed and certified each SF-1034 and then faxed the request documents to the Director, OTFM, Albuquerque, NM. According to [redacted], any transaction involving in excess of $1 million in trust funds also had to be reviewed and approved by the OTFM Director. The OTFM Director reviewed each drawdown request for the same purposes as [redacted]. After approval by the OTFM Director, the JTAC funds were disbursed from the U.S. Treasury to the SRST. A review of the previously noted SF-1034's disclosed that the funds from each drawdown were deposited into SRST accounts at Wells Fargo Bank, Mobridge, SD.

[redacted] reported that the OTFM did not have any oversight responsibility related to the JTAC funds once the funds were deposited into the SRST's financial accounts (Attachment 32A-C).

As part of this investigation, DOI-OIG Office of Audits completed a financial review of the JTAC funds allocated to the SRST (Attachment 33). This review showed that the SRST earned an estimated $1 million in interest on the $46.3 in million JTAC funds, after receipt from the U.S. Treasury, for a total of $47.3 million in available funds for the tribe's use. The review determined that the SRST expended approximately $22.9 million out of the $47.3 million for purposes consistent with the provisions of P.L. 102-575 (For a schedule of funds expended see attachment 33, Appendix 2). The remaining $24.4 million is accounted for in various checking and savings account and investments in certificates of deposit (CD's) and money market accounts. The review showed that of the remaining $24.4 million, the SRST used $7.4 million in JTAC funds as collateral for a co-signed loan program. The review also showed that the $7.4

million had been originally set aside to start a Tribal bank, help build a youth services building, enhance Tribal values and culture, and other purposes.

[redacted] SRST, has served in [redacted] current position since 1997. [redacted] when interviewed during this investigation, also characterized P.L. 102-575 as vague. [redacted] identified per capita payments as the only prohibition cited in the legislation. [redacted] reported that [redacted] was on extended [redacted] leave when the tribal council initiated the co-signature loan program. Investigative review of records disclosed that the program used a "blanket type" Resolution No. 156-01, approved May 14, 2001. [redacted] said [redacted] provided no input for the initiation of the co-signature loan program. [redacted] was told by [redacted], SRST, that the tribal council approved co-signing loans because tribal members needed financial assistance. [redacted] stated [redacted] did not question the program because the tribal council made the decision to start the program and, as SRST [redacted] was responsible for implementing its decisions.

[redacted] reported that some resolutions for co-signed loans had been approved before [redacted] returned to work from extended [redacted] leave. A review of Resolution No. 156-01 disclosed that it required the endorsement of the SRST Chairman and Secretary for authorization. This review also revealed that other tribal council members signed resolutions, in the capacity of Acting Chairman, on the space provided for [redacted] signature. Upon [redacted] return from [redacted] leave, [redacted] began approving resolutions for individuals requesting co-signed loans. [redacted] reported that written guidelines existed for the loan program, however, the investigation was unable to locate any written guidelines that existed or any other tribal official that was aware of any written guidelines. [redacted] reported that the SRST did not utilize any kind of formal application process relative to the loan program. Tribal members participating in the program simply submitted request letters to the SRST Recording Department identifying their need for a loan. The recording department prepared resolutions for each tribal member annotating the resolution with the amount of the loan requested and the name of the recipient. All of the resolutions used to obtain co-signed loans reflected the same date of May 14, 2001. [redacted] reported that unauthorized resolutions were brought in bulk into [redacted] office for approval. [redacted] said [redacted] denied some loan requests because some applicants did not have the ability to repay the loans or already owed the SRST money for other loans. There were no limits placed on the dollar amount of loans. With the exception of one business loan, recipients were not required to appear before any tribal official to have their loans approved. [redacted] reported that JTAC funds were not used to directly finance any co-signed loans. Upon receiving approved resolutions, tribal members presented the resolution to private lending institutions in order to obtain their loan. The SRST executed co-signature documents for banks prior to any loan proceeds being allocated to tribal members. [redacted] reported that the SRST did not require collateral be provided for the loans, however, some banks required some tribal members to provide collateral in order to obtain their loan (Attachment 34A-B).

When interviewed, [redacted] Recording Department, SRST, reported that [redacted] was primarily responsible for preparing the resolutions for co-signed loans. Other than each tribal member providing a request letter requesting the loan, the SRST had no other application requirements related to the loans. Investigative review of the request documents submitted for loans revealed the requests are very generic, general, and brief in nature. Most of the requests were handwritten and some were completed using "Post-It-Notes." [redacted] reported that the majority of resolutions for co-signed loans were prepared during May 2001.

[redacted] confirmed that tribal members were not required to appear before tribal council officials to receive resolutions for loans. [redacted] provided the prepared resolutions (No. 156), in bulk, to [redacted] office for approval. Request letters from the tribal members were not included with the respective resolution provided to [redacted] office for review and approval. [redacted] occasionally had questions about the resolutions, however, [redacted] does not recall [redacted] ever not approving any of the documents provided to [redacted] for [redacted] review. After each loan request and corresponding resolution was approved by the appropriate tribal council representatives, [redacted] secretary returned the resolutions to the Recording Department for distribution to the appropriate tribal member (Attachment 35).

[redacted] stated that [redacted] did not personally receive a co-signed loan, but several other tribal council members did receive co-signed loans approved under Resolution No. 156-01. [redacted] could not recall the dollar amount of any of these loans. An investigative review records verified that the following SRST members received loans: [redacted] received 12 loans ranging from $512.62 to $10,399.59, for a total of $27,906.50; [redacted] received a loan in the amount of $10,290.58; [redacted] received two loans totaling $15,970.27; [redacted] received a loan in the amount of $77,228.15; and [redacted] received a $50,000 loan. [redacted] are current on their loan payments to the tribe. [redacted] defaulted on [redacted] loan after making one partial payment to the tribe. [redacted] is current on [redacted] loan, [redacted]

[redacted], SRST, was interviewed during the course of this investigation. [redacted] reported that the tribe began co-signing loans around 1993. Approximately 30 loans were co-signed by the SRST from 1993 to mid-May 2001. However, those loans were approved through individual resolutions passed by the tribal council and not under a blanket type resolution such as Resolution No.156-01. According to [redacted], any collateral provided for these loans involved exclusively SRST generated funds.

[redacted] advised that the smallest co-signed loan using Resolution No. 156-01 was for approximately $1,000 and the largest loan was in the amount of approximately $740,000. Most loans involved $25,000 or less. Approximately 100 to 125 loans were for amounts in excess of $25,000. Less than 20 of the transactions involved business loans totaling approximately $2.5 million to $3 million. Approximately 50 loans, totaling approximately $1 million, were approved for home purchases or home improvement projects. The remaining loans were made for debt consolidation purposes, such as money owed on vehicle purchases, credit card bills, student loans, other bank loans, and a variety of other purposes.

[redacted] reported that [redacted] expressed concerns on several occasions to tribal officials about the co-signature loan program. According to [redacted] and contrary to statements made by [redacted] applicants for co-signed loans did not even have to be employed to get a loan. It was obvious to [redacted] that the program was going to be a major financial problem for the tribe. However, [redacted] reported that [redacted] was never provided with a response by tribal officials regarding [redacted] concerns of the co-signed loan program.

According to [redacted] lending institutions providing loans to tribal members did not require collateral from the SRST when the program started. However, as the number of loans grew, lending institutions began requiring collateral. [redacted] reported that the SRST Tribal Council did not pass any resolutions authorizing the use of JTAC funds as collateral for co-signed loans. However, [redacted] did report that, during a meeting

on May 29, 2001, the tribal council approved Motion No. 4 stating generally that the SRST would deposit funds as collateral at any financial institution providing loans to tribal members. [redacted] contended that JTAC funds could be used as collateral for loans because there were no restrictions in P.L. 102-575 dictating where the funds could be deposited. According to [redacted] the tribe's own JTAC fund access plan that was approved by the BIA, and under the section titled Endowment and Replenishment Fund, allows the tribe to invest JTAC funds in different financial institutions. [redacted] recalled informally discussing this with [redacted] and members of the SRST Judicial Committee. The judicial committee, among other duties, is responsible for developing the SRST's annual budget for approval by the tribal council. [redacted] said [redacted] and [redacted] signed the transaction document placing the JTAC funds in various accounts as collateral for co-signed loans. [redacted] also reported that none of the JTAC funds provided as collateral was used to cover the cost of any delinquent or defaulted loans. [redacted] reported that the majority of co-signed loans were processed through Wells Fargo (WF) Bank, Mobridge, SD (Attachment 36A-D).

When interviewed, [redacted] WF, reported that the first time [redacted] heard about the co-signed loan program using Resolution No. 156-01 was when approximately 50-60 tribal members showed up at the bank one day with approved resolutions asking the bank to issue them loans. The bank had so many tribal members at the WF each day that the bank eventually began processing co-signed loans through appointment only. [redacted] stated that the SRST did not have any qualification criteria, policies, or procedures set up for the co-signed loan program. As of June 2001, WF had appointments set up through November 2001 and normally processed up to 10 co-signed loans a week. WF handled approximately 200 to 300 co-signed loans totaling approximately $5-$6 million. Most of the co-signed loans to tribal members were made for debt consolidation purposes. Approximately 13 of the loans approved by WF were for business related loans.

[redacted] reported that [redacted] met with members of the SRST Tribal Council regarding the co-signed loan program, but [redacted] could not recall when those meetings occurred. SRST Tribal Council members also told [redacted] that the co-signed loan program was initiated because the tribe wanted to help its members re-establish their credit. [redacted] told the tribal council that WF would ignore bad credit histories of loan applicants and approve loans as long as the tribe co-signed the notes and the recipients had the ability to repay the loans. This proposal was never formalized through any sort of agreement with the SRST. [redacted] acknowledged if the SRST had not co-signed on the loans for tribal members that most of the applicants would have been denied a loan because of bad credit. [redacted] reported that [redacted] warned the tribal council that the tribe should set aside funding reserves because [redacted] estimated that 50-60% of the loans would end up in default status.

WF initially allocated approximately $1-$1.5 million in co-signed loans to tribal members without receiving collateral. However, the bank was providing so many loans to tribal members that WF requested that the SRST provide 100% collateral on all future loans. According to [redacted] did not know the source of funds the SRST used for the collateral. [redacted] stated that [redacted] discussed the collateral issue with [redacted] and [redacted] (Attachment 37).

The DOI-OIG Audit review showed that $7.4 million in JTAC funds was used as collateral for the co-signed loan program and was invested at 17 separate lending institutions in low risk CD's and money market accounts. Of the tribe's approximate 14,000 members, 475 individuals obtained co-signed loans totaling approximately $11 million. To date, approximately 246 loans are in "delinquent" status, totaling approximately $2.9 million. These loans are considered delinquent rather than defaulted because the SRST has either repaid the loans or assumed the monthly payments. In addition, the review verified that

JTAC funds were not used to cover the cost of any defaulted loans and further revealed that the tribe's casino revenues were used to repay the loans in delinquent status.

According to [redacted] neither the SRST's Constitution nor tribal codes contain any provisions that would allow the tribe to recover funds lost as a result of defaulted loans from loan recipients. [redacted] believes the only way the SRST may be able to collect on defaulted loans is to make payroll deductions from those loan recipients that are employed by the tribe.

This investigation determined that in addition to the $7 million drawdown during October 2001, for district related purposes, the SRST also requested, through Resolution No. 250-01 (Attachment 38) a $5.5 million drawdown for a re-lending program. [redacted] advised that the SRST wanted to use the JTAC funds for a direct loan program because there were a lot of tribal members that were mad because they did not receive a co-signed loan. When interviewed by DOI-OIG, [redacted] stated that [redacted] questioned the $5.5 million request because [redacted] could not find where a re-lending program was included as an authorized use of JTAC funds within the SRST's own JTAC fund access plan. [redacted] consulted with [redacted] about the drawdown request and [redacted] concurred with [redacted] findings. As a result, [redacted] and [redacted] requested that the SRST provide more information specifically identifying which part of its plan supported its request for the $5.5 million. This request for additional information relating to the $5.5 million was made by way of a BIA memorandum addressed from [redacted] to the SRA Superintendent, which was also sent to [redacted] (Attachment 39). The SRST failed to respond to the request and as a result, the request for the $5.5 million was not processed by the BIA. According to [redacted] and [redacted] because of the "other programs" language contained in P.L. 102-575, had a re-lending program been included in the tribe's JTAC fund access plan, the $5.5 million drawdown request probably could not have been stopped by the BIA and OTFM.

According to Jones, she did not learn about the SRST's co-signature loan program until after the field hearings held by the Committee on Indian Affairs, United States Senate on April 3, 2002, in Ft. Yates, ND. Jones reported it was implied during the hearing that the BIA was not living up to its fiduciary responsibility with respect to the JTAC funds. This investigation has determined that the BIA did not conduct any financial reviews of the use of JTAC funds received by the SRST. Jones stated that P.L. 102-575 does not direct the BIA to monitor the SRST's use of the JTAC funds after the tribe receives the funds. An investigative review of records disclosed a letter from the BIA to Senator Byron Dorgan, North Dakota, dated April 20, 2001 (Attachment 40). The letter relates to a complaint Dorgan's office had received regarding the BIA's oversight of the tribe's implementation of its plan for using the JTAC funds. The BIA response reflected in the letter states that P.L. 102-575 "...does not require or authorize Bureau of Indian Affairs' oversight of the Tribe's actual use of the funds or implementation of the Plan after the funds are withdrawn from the trust account by the Tribe." In addition, the same document reflects that the BIA believed "... the Tribe's requests for interest earnings from the Economic Recovery Fund have been according to the Act. Once the monies are received by the Tribe, the accountability then rests with the Tribe and its administration to ensure to its members that the funds are spent appropriately."

By letter dated April 5, 2002, U.S. Senator Kent Conrad, North Dakota, requested further clarification from DOI Secretary Gale Norton relating to DOI's administration of JTAC funds. This request produced two different legal perspectives from the Office of the Solicitor regarding the Department's oversight of the JTAC funds. One perspective, dated July 3, 2002, from the Division of Indian Law, concluded that the Department has no statutory obligation, trust responsibility or liability with respect to JTAC funds after the funds are withdrawn from trust (Attachment 41). However, a second, undated, perspective from

the Division of General Law, concluded that the Department has broad authority to oversee the use of JTAC funds to provide that they are used for the purposes within the scope of the authorizing legislation (Attachment 42).

The investigation did not disclose any information indicating the SRST planned to initiate a co-signature loan program at the time it originally submitted drawdown requests to the BIA and OTFM for JTAC funds. Although $7.4 million in JTAC funds were used in the co-signed loan program as collateral, no JTAC funds were used to directly finance loans or cover the costs associated with any delinquent or defaulted loan. Therefore, this investigation was able to account for the $7.4 million dollars in JTAC funds used as collateral.

SUBJECT(S)/DEFENDANT(S)

Standing Rock Sioux Tribe
P.O. Box D
Fort Yates, ND 58538

DISPOSITION

As a result of this investigation, this office forwarded a Management Advisory of Investigative Results Action & Response Required to the BIA recommending that the BIA adopt procedures to assure JTAC funds are used for the purposes intended, absent any regulation to the contrary. In addition, it will be recommended that the Department seek supplementary legislation that more clearly defines the Departments oversight and fiduciary responsibilities under P.L. 102-575. Finally, this office will recommend that the provision allowing the SRST to use JTAC funds for "other programs" be clearly defined. Currently, P.L. 102-575 provides the tribe flexibility in how to use the JTAC funds, which may not be consistent with the other three guiding principles for expenditure.

ATTACHMENTS

Note: Many of the attachments identified below also appear as attachments to Investigative Activity Reports (IARs).

1. Three Affiliated Tribes and Standing Rock Sioux Tribe Equitable Compensation Program, North Dakota, Public Law 102-575, dated October 30, 1992.
2. IAR - Interview of Cora Jones, Great Plains Regional Director, Great Plains Region, Bureau of Indian Affairs, Aberdeen, SD, on April 9, 2002.
3. IAR - Interview of [redacted] Tribal Government Services, Great Plains Region, Bureau of Indian Affairs, Aberdeen, SD, on April 11, 2002.
4. Memorandum from Office of the Solicitor, DOI, to Director, Office of Economic Affairs, BIA, dated April 10, 1997.
5. Resource Development and Land Acquisition Fund (Phase 1) Joint Tribal Advisory Commission (JTAC) Fund Access Plan, dated February 9, 1999.
6. Letter dated May 6, 2000, from SRST [redacted] to Cora Jones, Regional Director, BIA.
7. SRST Memorandum reflecting excerpts of SRST Tribal Council meeting on May 4, 2000.

8. Standing Rock Sioux Tribe Joint Tribal Advisory Committee (JTAC) Fund Access Plan ("Seventh Draft") dated April 28, 1999.
9. IAR - Interview of [redacted] Pine Ridge Agency, Pine Ridge, SD, on December 13, 2002.
10. SRST Tribal Council meeting transcripts for May 4, 2000.
11. Letter from Cora Jones to SRST [redacted] dated June 16, 2000.
12. SF-1034 for $6 million dated February 10, 1999.
13. SRST Tribal Council Resolution Number 019-99, dated February 2, 1999.
14. SRST Tribal Council Resolution number 020-99, dated February 2, 1999.
15. SF-1034 for $6 million dated June 20, 2000.
16. SRST Tribal Council Resolution Number 192-00, dated May 4, 2000.
17. SF-1034 for $7,150,000 million dated November 17, 2000.
18. SRST Tribal Council Resolution Number 440-00, dated October 5, 2000.
19. SRST Tribal Council Resolution Number 441-00, dated October 3, 2000.
20. SRST Tribal Council Resolution Number 442-00, dated October 5, 2000.
21. SRST Tribal Council Resolution Number 443-00, dated October 5, 2000.
22. SF-1034 for $18 million dated January 12, 2001.
23. SRST Tribal Council Resolution Number 571-00, dated December 7, 2000.
24. SRST Tribal Council Resolution Number 572-00, dated December 9, 2000.
25. SRST Tribal Council Resolution Number 573-00, dated December 7, 2000.
26. SRST Tribal Council Resolution Number 574-00, dated December 6, 2000.
27. SF-1034 for $2,150,000 million dated May 31, 2001.
28. SRST Tribal Council Resolution Number 441-00, dated October 3, 2000.
29. SF-1034 for $7 million dated October 17, 2001.
30. SRST Tribal Council Resolution Number 264-01, dated September 12, 2001.
31. Letter from [redacted], Standing Rock Agency, BIA, to Cora Jones dated June 8, 2000.
32. IAR - Interview of [redacted], Office of Trust Funds Management, Office of the Special Trustee, Aberdeen, SD, on April 11, 2002.
33. OIG-Office of Audits Financial Review of SRST JTAC funds.
34. IAR - Interview of [redacted] Standing Rock Sioux Tribe, Fort Yates, ND, on May 9, 2002.
35. IAR - Interview of [redacted] Recording Department, Standing Rock Sioux Tribe, Fort Yates, ND, on May 8, 2002.
36. IAR - Interview of [redacted] Standing Rock Sioux Tribe, Fort Yates, ND, on April 12, 2002.
37. IAR - Interview of [redacted] Wells Fargo Bank, Milbank, SD on September 12, 2002.
38. SRST Tribal Council Resolution Number 250-01, dated September 12, 2001.
39. Memorandum from Tribal Government Services, BIA to Superintendent, Standing Rock Agency, BIA, dated October 23, 2001.
40. Letter from [redacted] BIA to U.S. Senator Byron Dorgan, North Dakota, dated April 20, 2001.
41. Memorandum from the Division of Indian Law, Office of the Solicitor, dated July 3, 2002.
42. Undated Memorandum from the Division of General Law, Office of the Solicitor.

Office of Inspector General
Office of Investigations
U.S. Department of the Interior

Report of Investigation

Case Title	**Case Number**
Sac & Fox Tribe of the Mississippi in Iowa	OI-MN-04-0046
	Related File(s)
Case Location	**Report Date**
Tama, Iowa	4/14/2005
Report Subject	
Closing Report of Investigation	

SYNOPSIS

In March 2003, a group of dissident tribal members of the Sac & Fox Tribe of the Mississippi in Iowa (Sac & Fox) took control of all Sac & Fox operations and the Meskwaki Casino. This group of dissidents, who came to be known as the "[redacted] Group" and was not recognized by the Bureau of Indian Affairs (BIA), operated the Meskwaki Casino in defiance of a directive by the National Indian Gaming Commission (NIGC) until NIGC shut the casino down at the end of May 2003. Both the [redacted] Group and the tribal leadership whom they ousted, the "[redacted] Group," accused each other of misuse and theft of tribal and casino funds. At the time of the takeover, Sac & Fox bank accounts contained over $165 million, and the [redacted] Group had access to approximately $21 million in casino revenues earned during its illegal operation of the casino. The BIA hired the accounting firm of Clifton, Gunderson, L.L.P. to audit all bank accounts and tribal operations of the Sac & Fox tribal government and the Meskwaki casino from October 1, 2002 to September 30, 2003. In August 2004, Clifton, Gunderson's audit report was completed and provided to the Sac & Fox's currently elected tribal government and other interested parties. Clifton, Gunderson did not find any systemic or significant instances of fraud or misuse of tribal or casino funds by either the [redacted] or the [redacted] group. Although both parties complained that the audit report failed to address sufficiently various areas of concern, neither group provided any documentation to the BIA, the U.S. Attorney's Office, or the Federal Bureau of Investigation (FBI) to support their allegations. With the concurrence of the U.S. Attorney's Office and the FBI, no further investigative action will be taken on this matter. This case is closed with the submission of this report.

DETAILS

On March 26, 2003, a group of dissident tribal members of the Sac & Fox tribe physically took control of all Sac & Fox operations, including the Meskwaki Casino. The dissident group appointed traditional Sac & Fox Tribal [redacted] as their leader. Known as the "[redacted]", the dissidents

Reporting Official/Title	**Signature**
SA [redacted]	
Approving Official/Title	**Signature**

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claimed that the takeover was necessary because the duly elected tribal council had refused to acknowledge the results of two petitions for recall elections that were submitted in the fall of 2002.

The Sac & Fox elected council, led by [redacted] (known as the "[redacted] Group") sought relief from the BIA. The BIA notified both the [redacted] and [redacted] Groups that the physical takeover was not in accordance with the Sac & Fox constitution, and therefore the BIA could only recognize the [redacted] Group as the official leaders of the tribe. Consequently, the NIGC notified the [redacted] Group that they could not legally operate the Meskwaki Casino. In April 2003, the NIGC issued a final closure order demanding that the casino be closed. The [redacted] Group ignored the order and on May 23, 2003, the NIGC, assisted by federal marshals, physically closed the casino.

At the time of the takeover in March 2003, Sac & Fox bank accounts contained over $165 million. Additionally, Meskwaki Casino revenues have been projected to be in excess of $3 million per week; consequently it is estimated that at least $21 million was received by the [redacted] Group before the casino was closed.

Both the [redacted] and [redacted] Groups accused each other of misuse and theft of tribal and casino funds. In October 2003, the BIA awarded a contract to the accounting firm of Clifton, Gunderson, LLP to audit all bank accounts and tribal operations of the Sac & Fox tribal government and the Meskwaki casino from October 1, 2002 to September 30, 2003. The Office of Inspector General (OIG), the U.S. Attorney's Office, and the FBI coordinated with the BIA and Clifton, Gunderson during the audit to ensure that all matters of potential investigative interest were examined and addressed.

Clifton, Gunderson issued their audit report in February 2004, but several matters were additionally examined by the BIA and so the report was not released to the Sac & Fox tribal government until August 2004. By that time [redacted] was elected by the tribe as the tribal chairman. A copy of the report was also provided to the [redacted] faction.

The findings of the Clifton, Gunderson audit are summarized as follows. All bank accounts containing tribal government funds and/or casino funds were identified, examined, and summarized. Year end financial statements were complied for the tribe, the casino, and the Meskwaki Trading Post, to the extent that available documentation allowed. All payroll expenditures exceeding $300 were verified. Multiple administrative errors were identified, but the audit did not identify any systemic abuse, ghost employees, or unauthorized pay increases within the payroll systems. All other types of expenditures exceeding $1,000 were traced to supporting invoices and examined for legitimacy. Although Clifton, Gunderson was able to verify most expenditures, they noted numerous professional fees that were incurred under the [redacted] group's leadership. [redacted] Ex. 5

Clifton, Gunderson did not find any systemic or significant instances of fraud or misuse of tribal or casino funds by either the [redacted] or the [redacted] group. Although both parties complained that the audit report failed to address sufficiently various areas of concern, neither group provided any documentation to the BIA, the U.S. Attorney's Office, or the Federal Bureau of Investigation (FBI) to support their allegations. With the concurrence of the U.S. Attorney's Office and the FBI, no further investigative action will be taken on this matter. This case is closed with the submission of this report.

SUBJECT(S)/DEFENDANT(S)

N/A

DISPOSITION

This case is closed with the submission of this report.

ATTACHMENTS

1. Glifton Gunderson, L.L.P.'s Independent Accountant's Report on Applying Agreed-Upon Procedures, December 31, 2003 and September 30, 2003.

All redactions are 5 U.S.C. §§ 552(b)(6) and (b)(7)(C) of the FOIA.

Office of Inspector General
Office of Investigations
U.S. Department of the Interior

Report of Investigation

Case Title Chippewa Cree Commodity Distribution Center	**Case Number** OI-MT-04-0076-I
	Related File(s) None
Case Location Box Elder, Montana	**Report Date** December 6, 2005
Report Subject Investigative Case Closing	

SYNOPSIS

On October 27, 2003, William A. Sinclair, Director, U.S. Department of the Interior's Office of Self Governance (OSG), Washington D.C. forwarded a complaint from the Grass Roots People - Chippewa Cree Against Fraud and Corruption to the Office of Inspector General for investigative review. The complaint alleged the Chippewa Cree Business Committee drew down trust funds to build a commodity distribution center but did not build the distribution center and misused the funds

The investigation determined that the initial allegation was unsubstantiated in that the Chippewa Cree Tribe did construct a Commodity Distribution Center which is located adjacent to the Stone Child Community College, Box Elder, Montana. The building measured approximately 75' x 36', contained administrative offices and had a walk-in refrigeration unit (15' x 15') attached to the rear of the distribution center.

DETAILS

On October 23, 2003, William A. Sinclair, Director, U.S. Department of the Interior's Office of Self Governance (OSG), Washington D.C. forwarded a complaint from the Grass Roots People - Chippewa Cree Against Fraud and Corruption to the Office of Inspector General for investigative review. The complaint alleged the Chippewa Cree Business Committee drew down trust funds to build a commodity distribution center but did not build the distribution center and misused the funds.

On January 9, 2004, [redacted] Chippewa Cree Tribe responded to the OSG and forwarded an internal investigative report which addressed each of the complaint's allegations; to include the construction of the commodity distribution center.

On February 17, 2005, SA [redacted] traveled to Box Elder, Montana and verified that the Chippewa Cree Tribe had constructed a Commodity Distribution Center located adjacent to the Stone Child

Reporting Official/Title **SA** [redacted]	**Signature**
Approving Official/Title **SAC Neil Smith**	**Signature**

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Community College. The building measured approximately 75' x 36', contained administrative offices and had a walk-in refrigeration unit (15' x 15') attached to the rear of the distribution center. SA [redacted] photographed the commodity distribution center.

SUBJECT

None

DISPOSITION

None

ATTACHMENTS

1. IAR-Rocky Boy Commodity Distribution Center dated February 18, 2005.

Office of Inspector General
Office of Investigations
U.S. Department of the Interior

Report of Investigation

Case Title	Case Number
Lucky Star Casino	OI-OK-04-0430-I
	Related File(s)
Case Location	**Report Date**
Tulsa, OK	June 21, 2006
Report Subject	
Closing Report	

SYNOPSIS

This investigation was initiated on September 20, 2004, based on allegations that officials with the Cheyenne and Arapaho Tribes of Oklahoma (Tribe) Business Committee spent casino profits on used cars, rental cars, and other expenses, contrary to their established gaming revenue allocation plan. This investigation was conducted jointly with the Federal Bureau of Investigation (FBI), the Internal Revenue Service – Criminal Investigation Division (IRS-CID), and the National Indian Gaming Commission (NIGC). This matter was investigated primarily by the FBI. It was agreed the Office of Inspector General's role would be in an assisting capacity by coordinating with the Bureau of Indian Affairs, the U.S. Attorney's Office, and the FBI.

Due to the limited assistance needed by OIG in this matter and other priority investigations, this case will be closed.

DETAILS

James W. Pedro, Sr., former Cheyenne-Arapaho Business Committee member, his wife, Lea E. Schantz, and his secretary, Peggy Bigpond, used their positions within the tribe to gain unfettered access to tribal casino gaming revenue. The three individuals used their access to the funds to indiscriminately dole out cash and wire money to friends and family for personal use under the auspices of a Tribal Emergency Assistance (EA) Program. Additionally, one of Pedro and Schantz signed a HUD certification form stating they were not married in order to gain a preference in obtaining tribal housing.

On November 2, 2005Pedro, Schantz, and Bigpond pled guilty to a Criminal Information in the U.S. District Court for the Western District of Oklahoma. Specifically, Pedro and Schantz pled guilty to a one count violation of Title 18 U.S.C., Section 1001, and a one count violation of Title 18 U.S.C. Section 1163, embezzlement of $232,000. Bigpond pled guilty to a one count violation of Title 18 U.S.C. Section 1163, embezzlement of $39,000.

Reporting Official/Title [redacted]/Special Agent	Si[redacted]
Approving Official/Title for Jack L. Rohmer/Special Agent in Charge	Signatu[redacted]

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On March 1, 2006, Pedro was sentenced to 30 months in federal prison and ordered to pay $193,235.77 in restitution to the Tribe and $6,277.00 to the Oklahoma Housing and Finance Agency. On that same date, Bigpond was sentenced to 16 months in federal prison and ordered to pay $32,276.66 in restitution to the Tribe. Schantz was sentenced to eight months in federal prison and ordered to pay $48,434.64 in restitution to the Tribe and $6,277 to the Oklahoma Housing and Finance Agency.

Ex. 7A [redacted] OIG's involvement has been minimal to this point. Therefore, OIG will close this matter.

SUBJECT(S)/DEFENDANT(S)

James Wayne Pedro, Sr.
DOB:
SSN: [redacted]

Lea E. Schantz
DOB:
SSN: [redacted]

Peggy Bigpond
DOB:
SSN: [redacted]

DISPOSITION

Pedro, Schantz, and Bigpond entered guilty pleas and were sentenced in the U.S. District Court for the Western District of Oklahoma. [redacted] Ex. 7A

EXHIBITS

None

All redactions are 5 U.S.C. §§ 552(b)(6) and (b)(7)(C) of the FOIA.

Office of Inspector General
Office of Program Integrity
U.S. Department of the Interior

Report of Investigation

Case Title FWS Alaska	Case Number PI-04-0494-I Related File(s)
Case Location Washington, DC	Report Date December 7, 2004

SYNOPSIS:

This investigation was initiated by a complaint made by [redacted] United States Fish and Wildlife Service (USFWS), [redacted]. In the complaint, [redacted] alleges that [redacted], USFWS, Fairbanks, Alaska, [redacted] misused government property (personal use of government vehicles and airplanes), misused government funds, violated state wildlife laws, expressed racist views and attitudes toward Native Alaskans and converted U.S. government property for personal use. [redacted] submitted a fourteen page complaint with accompanying documentation that was received by DOI/OIG/PID in September 2004 **(attachment 1)**.

Investigation revealed that [redacted] admitted to misuse of [redacted] government vehicle and aircraft. Corroboration from multiple sources confirmed [redacted] misuse of [redacted] government vehicle and aircraft during [redacted] tenure [redacted]. USFWS Region 7 (Alaska) financial records indicate approximately $15,000 in U.S. government funds expended in 2002 to re-build a law enforcement cabin outside of Fairbanks in Minto Flats [redacted] approximated the figure at $25,000 to $30,000). Several sources, including [redacted] confirmed that the cabin has not been utilized for law enforcement purposes for several years. Several witnesses observed [redacted] use the cabin for a hunting and fishing weekend with [redacted]. [redacted] In an interview, [redacted] denied converting the property. [redacted] was also implicated [redacted] of converting government property to [redacted] own use (including a rifle). [redacted] was investigated by [redacted], returned the property and received a "verbal counseling." [redacted]. [redacted] was implicated in stealing crabs from commercial pots during a waterfowl patrol in SE Alaska in 2002. Hearsay testimony provided reasonable suspicion that [redacted] was involved; however, no direct evidence was found. [redacted] denied involvement. [redacted] admitted to using the racial term, "Eskimo Pie of Pie" in referring to Native Alaskans. [redacted]

Reporting Official/Title [redacted] Special Agent	Sign [redacted]
Approving Official/Title Steven A. Hardgrove, Director, Program Integrity Division	Sign [redacted]

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Several witnesses interviewed for this investigation were less than candid with investigators. Quotes attributable to a source by another witness were often disputed and disavowed by the source during the interview process. [redacted] on several occasions during the investigation, telephonically contacted witnesses in the investigation prior to their interviews with OIG investigators and informed them as to the nature of the interview, questions they might be asked and the identity of the complainant.

Background:

[redacted]

DETAILS:

The OIG/PID received a telephonic complaint from [redacted] on June 28, 2004. The complaint alleged that [redacted] USFWS, Fairbanks, AK, had engaged in misuse of [redacted] government vehicle and aircraft, misused Federal government funds in re-building a cabin rarely used for law

enforcement purposes, converted government property to [redacted] own use and possibly violated Alaskan state fishing laws. [redacted] provided a written complaint to PID on September 1, 2004.

Misuse of Government Vehicle:

[redacted] discussed in detail the government vehicle use policy. [redacted]

[redacted] observed [redacted] routinely leaving the office to pickup [redacted] children at school or transport them to [redacted] in [redacted] government vehicle. [redacted] also confirmed [redacted] continual use of the government vehicle for transporting [redacted] family **(attachment 6)**.

[redacted]

[redacted]

[redacted] addressed the question of what is [redacted] understanding of the USFWS "Volunteer" program **(attachment 7)**. [redacted] said that it's a common program in Alaska USFWS involving family members who participate and work with the federal employee on official business in order to be able to utilize (ride along) the government vehicles or aircraft. The family member(s) are signed up as volunteers on a document. [redacted] advised that [redacted] believed the volunteer forms could still be available (stored/archived) in the Fairbanks office.

[redacted]

[redacted]

[redacted]

admitted to misusing government vehicle on a number of occasions. For example, advised that has driven children to stopped for groceries and picked children up from school using government vehicle, and has driven with to lunch in government vehicle.

[redacted]

According to has, in the past, told that did not agree, nor believe in the government vehicle policy. told them there may be times when you have to use the government vehicle for personal reasons and if you do, I will not turn you in. admitted that it was not the right thing for to say.

[redacted]

[redacted]

was questioned as to how teenagers clothing had been discovered in the storage closets of the camper and whether or not the clothes belonged to [redacted] children. [redacted] said [redacted] didn't know how the clothes got into the storage closets and that they did not belong to [redacted] children.

[redacted]

Regarding that waterfowl patrol in SE Alaska, [redacted] advised that [redacted] drove the government camper back to Fairbanks from Ketchikan without [redacted]. [redacted] stated, "My [redacted] flew back to Fairbanks with [redacted] team (they can confirm) and I drove the camper myself." [redacted] also stated [redacted] met with [redacted] after [redacted] had left for Fairbanks. [redacted] admitted that instead of booking a hotel room in Ketchikan, [redacted] overnighted in the camper.

[redacted]

[redacted] reply to [redacted] alleged trip through Anchorage in 2002 with [redacted] was, "No way, absolutely not."

[redacted]

[redacted]

During [redacted] interview, [redacted] stated that USFWS does not have a nationwide policy regarding use of the government vehicle. SA [redacted] read the USFWS government vehicle policy (found in the USFWS Manual online), dated March 11, 1993 to [redacted] which stated, "The transportation of non-official passengers creates the possibility of tort claims and public criticism. Therefore, as a general rule, the transportation of non-official passengers shall be limited to emergency conditions." [redacted] said was unaware of that policy. [redacted]

Misuse of Government Aircraft:

[redacted]

Agent's note: former ASAC [redacted] attempted to clarify what the Volunteers in the Parks (VIP) program was and [redacted] explained that it allowed government employees to fly family members in the government plane as volunteers working under a temporary government capacity.

[redacted]

[redacted]

[redacted]

[redacted] admits flying [redacted] and [redacted] to the Minto Flats cabin in early September 2001. [redacted] stated [redacted] were signed up on a "Volunteer" form to clean the cabin. [redacted] acknowledged that two of [redacted] were working the weekend that [redacted] flew in with [redacted]. [redacted] admitted that [redacted] hunted ducks and fished besides cleaning the cabin. [redacted] stated [redacted] stayed in the cabin over the weekend.

[redacted]

[redacted] recalled taking [redacted] on a flight to the Yukon River during the summer of 2002. [redacted] advised the [redacted] was signed up as a "Volunteer" [redacted] said [redacted] helped pull in fishing nets). [redacted] stated it was approximately a four day trip of wildlife refuge areas and that the [redacted] fished while on the trip. [redacted] was asked who approved of the [redacted] riding in the government plane, "I think maybe [redacted] SAC, USFWS, Anchorage) approved the flight."

[redacted]

[redacted] admitted that [redacted] former supervisor from the state of [redacted] visited in June 2003. [redacted] signed both up as "Volunteers" and flew them on the government plane to Minto Flats for sightseeing [redacted] could not recall what they volunteered for). [redacted] justified the flight as an opportunity to add hours to [redacted] yearly flight total. [redacted] stated they provided no specific government function during the flight.

[redacted]

[redacted]

[redacted] stated [redacted] was told by [redacted] flight instructor that family members could fly on the government plane on a "space available basis." [redacted] advised that [redacted] used the "Volunteer" program infrequently and said, "I feel that it's incorrect." [redacted] stated [redacted] did not consistently use government aircraft to fly [redacted] family, and has done so a handful of times.

***Agent's note: [redacted] OAS Aviation Management, Anchorage, AK stated the space available policy for government planes does not encompass flying family members unless specifically authorized and approved in writing by the Agency head. The Agency that is conducting an official business mission shall certify in writing prior to the flight that the aircraft is scheduled to perform a bona fide mission activity and that the mission requirements have not been exceeded in order to transport such "Space Available" travelers (DOI AM Operational Procedures Memorandum) (OMB circular A-126-Space Available Passengers). Space available passengers can also be approved by the Secretary of the Interior on a trip-by-trip basis (attachment 19).**

SAC Stan Pruszenski, USFWS, Anchorage, AK stated that his interpretation of flying passengers on a space available basis consisted of authorized and non-authorized personnel **(attachment 20)**. If authorized, you had to be a government employee on official business. Unauthorized passengers were accompanying family members of the employee and if there was no added government expense to transport them, Pruszenski considered that to be permissible.

Pruszenski was asked if he felt that agent/pilots were taking advantage of the space availability regulations. He answered, "I don't know." Pruszenski said that these flights may or may not come to his attention because he said he has no knowledge what agents are doing on a daily basis.

Regarding other possible issues involving his agents and USFWS programs used by the agents, Pruszenski advised that he is unfamiliar with the "volunteer" program referred to by several USFWS agents in the course of the [redacted] investigation. Regarding the volunteer program, Pruszenski said, "That's not on my radar screen." Pruszenski was asked of his impression regarding family members being signed up for the volunteer program, he said it did not "smell" good to him.

According to [redacted] there is another government plane assigned to Fairbanks USFWS, a Super Cub; number N74996. [redacted] has used the plane to spot moose for a hunting trip with [redacted] children. [redacted]

[redacted]

[redacted]

[redacted] recalled the course in question and replied that [redacted] presented a video of St. Lawrence Island, flight training and a moose hunt (1995). [redacted] stated that the plane in the video was not a government plane but [redacted] supervisor's [redacted] personal aircraft (tail number [redacted]. [redacted] denied that [redacted] children were part of the video.

[redacted]

[redacted] advised that when flying the government plane, [redacted] has to land and urinate. On those occasions when this occurs, [redacted] stated that [redacted] has taken some time to go fishing. [redacted] stated that [redacted] can only fly eight hours a day and that [redacted] keeps [redacted] fishing pole in the government plane to use when there is "down" time. [redacted] advised that [redacted] takes a shotgun on flying trips for bear defense, not for hunting.

[redacted]

[redacted]

Misuse of USFWS Law Enforcement Funds:

[redacted] stated that in the fall of 2001, [redacted] proposed using USFWS law enforcement funds (initial requested amount by [redacted] was approximately $11,000), aircraft and USFWS law enforcement personnel to re-build the Minto Flats cabin. The old cabin was owned by the University of Alaska and [redacted] proposed to the Alaska Fish and Game office (owners of the land) that the USFWS replace the old cabin with a new one. A Memorandum of Understanding (MOU) was entered into by USFWS, the University of Alaska and Alaska Fish and Game **(attachment 22)**. USFWS would provide the funding, materials, equipment and manpower, and the other entities would provide the land. [redacted]

The MOU states the USFWS Law Enforcement entity will be responsible for maintaining a cabin use log. According to [redacted] has no knowledge of a Minto cabin use log in their office. [redacted] USFWS [redacted] advised there is a log and it's located at the Minto cabin. [redacted] stated that the University of Alaska and the Alaska State Fish and Game are the most frequent users of the Minto facility. [redacted] does not know how long the log has been in use.

[redacted] advised the cabin had been used sparingly by the USFWS for law enforcement purposes. [redacted]

A review of e-mails **(attachment 23)** between [redacted] and USFWS Anchorage officials established that end of the fiscal year (Sept. 2001) USFWS funds (unspecified amount) were carried over to fiscal year 2002 in order to fund the Minto cabin construction. [redacted] related that SAC Pruszenski approved of the new construction. An initial purchase order was approved by Pruszenski in the amount of $8,555.23 for building materials provided by Spenard Builders, Fairbanks, AK **(attachment 24)**. Additional expenditures for plane flights to transport the building materials, small tool purchases and the purchase of additional building materials for the cabin brought the amount of expended funds to approximately $15,100.00. The cost does not include the manpower hours (Special Agents on-duty and other US government personnel) used to construct the cabin.

During the spring and summer of 2002, [redacted] assigned agents from Fairbanks [redacted], to assist in building the cabin. [redacted] agents believed that building a cabin was not part of their criminal investigator job description. They also questioned the use of government aircraft used to ferry building materials to the job site. [redacted]

[redacted]

According to SAC Pruszenski, the Minto Flats cabin has been known as a law enforcement cabin for as long as he has been in Alaska with the USFWS [redacted] had indicated to him in 2001 that the cabin was in sad shape and needed to be updated or replaced. Pruszenski indicated to [redacted] that there were unspent funds from fiscal year 2001 in the budget and they could be carried over into 2002. These unspent USFWS funds could be used to fund the reconstruction of the Minto cabin. Pruszenski stated he did not consult his superiors in Washington, DC regarding spending the funds and that it was his decision to do so. Pruszenski advised that he had no personal knowledge or heard rumors of, agents or [redacted] utilizing the Minto cabin for personal use.

SAC Pruszenski believes the cabin will be used more for law enforcement activities due to the opening of a new spring and summer waterfowl subsistence season in the Minto Flats area. Pruszenski stated he was unaware of an in-service training meeting between Alaska state troopers and the USFWS Fairbanks office this summer where several troopers questioned the frequency of use of the Minto cabin for law enforcement purposes. According to witnesses, during that meeting, [redacted] had told the troopers that there really has not been much law enforcement activity at the cabin in seven years. Pruszenski said he was surprised that [redacted] would make that kind of statement.

[redacted]

[redacted] commented on the re-building of the Minto Flats cabin. [redacted] said it was [redacted] idea to rebuild the cabin and that it had been heavily used by USFWS law enforcement personnel from 1994 through 1997. [redacted] advised there was a drop off in waterfowl violations after 1997. [redacted] acknowledged the drop in violations but said the cabin was still of use, just not as much as in the past. [redacted] obtained approval from SAC Stan Pruszenski and went ahead with deconstructing the old cabin and building a new structure.

[redacted] estimated that $25,000 to $30,000 was spent to rebuild the cabin. [redacted] admitted to using USFWS law enforcement agents to build the cabin on government time [redacted] doesn't know the total man hours spent on the cabin). [redacted] justified their use by stating that's the way they did things in Alaska (costs would have been higher using contractors). [redacted] stated they used government planes to ferry building materials to the job site. [redacted] admitted they haven't used the cabin very much in the past two years for law enforcement actions. [redacted] denied [redacted] rebuilt the cabin for [redacted] personal use and has not personally used it since it was completed.

[redacted]

[redacted]

[redacted]

SAC Pruszenski advised that he was unaware that one of his agents, [redacted]. When Pruszenski was told of the circumstances surrounding [redacted] failed undercover effort, he was surprised that [redacted] pulled the aerial support due to the scheduling of government aircraft and agents to work on the rebuilding of the Minto cabin.

[redacted] did not recall the abovementioned incident between [redacted] and [redacted]. [redacted] acknowledged talking to [redacted] regarding [redacted] case, but doesn't remember saying [redacted] could not help [redacted] because of the rebuilding of the Minto cabin.

[redacted]

Conversion of U.S. Government Property for Personal Use and Property Issues:

[redacted] commented on the large amount of USFWS government equipment stored in three warehouses in Fairbanks. The office had two snowmobiles, two boats, rubber rafts, survival equipment, and weapons. [redacted]

[redacted]

[redacted]

[redacted]

According to [redacted] reported to [redacted] that [redacted] was taking "stuff" from the warehouse **(attachment 27).** [redacted]

[redacted] advised the items removed from the warehouse by [redacted] were not valuable (except a gas heater) and not on a government property list maintained by the Fairbanks office. [redacted] stated [redacted] thought [redacted] was a "scrounge" and that the items [redacted] removed were "junk."

[redacted]

[redacted] advised the firearm in question was an old Winchester 70 30.06 rifle that was missing a front sight. [redacted] informed that [redacted] did not find the rifle in the warehouse but that [redacted] signed it out of the gun safe three or four times for repairs. [redacted] said the rifle was on the office property list.

[redacted]

[redacted] advised that [redacted] issued a letter of counseling for the property incident **(attachment 28)** to [redacted] that did not remain in [redacted] personnel file. The letter went into a file kept by [redacted] in Fairbanks and [redacted] in Anchorage. [redacted] added that USFWS is "fairly tight" on property issues.

[redacted] advised [redacted] sought opinions and advice on [redacted] from [redacted] and USFWS personnel in Anchorage. [redacted] stated, "I could have fired [redacted] because [redacted] was on probation." [redacted] counseled [redacted] regarding the missing items and told [redacted] to return the property [redacted]. [redacted] called [redacted] counseling "a learning experience" for [redacted]. [redacted] never considered speaking to the U.S. Attorney's office in Fairbanks regarding a

possible prosecution of [redacted] advised [redacted] decision on how to handle [redacted] was approved by [redacted] supervisor, [redacted]

[redacted] USFWS, Anchorage advised that [redacted] was consulted by [redacted] on possible disciplinary scenarios regarding [redacted] **(attachment 29)**. [redacted] stated [redacted] did the investigation on [redacted] and related to [redacted] that [redacted] did not intend to convert the warehouse property to [redacted] own use. [redacted] based [redacted] disciplinary recommendation on [redacted] investigation.

According to [redacted] if [redacted] had known about [redacted] accounts regarding [redacted] statements to [redacted] involvement to [redacted] by [redacted] would have called for a stiffer disciplinary action against [redacted] [redacted] stated, "as a law enforcement officer, [redacted] could have been removed for [redacted] actions."

[redacted] acknowledged that [redacted] received a Letter of Warning from [redacted] that did not go into [redacted] Official Personnel File. [redacted] advised this type of administrative action was not considered discipline. [redacted] said, "in reality, we did not do anything to [redacted]."

[redacted] advised that [redacted] returned the skis, propeller and heater. [redacted] stated [redacted] was counseled by [redacted] regarding the taking of government property. [redacted] told [redacted] it was unacceptable behavior. [redacted] said [redacted] discussed the dos and don'ts of how to handle government property ([redacted] noted that [redacted] should have had this discussion with [redacted] when [redacted] arrived from DEA). [redacted] said it was not [redacted] intention to keep the property.

[redacted]

[redacted] stated [redacted] uses Cabella's as a supplier of equipment to [redacted] office. [redacted] denied that [redacted] has government bought equipment stored at [redacted] personal residence such as a camping tent purchased from Cabella's. [redacted] stated the tent in question is located in the office warehouse.

[redacted]

[redacted]

[redacted]

According to [redacted] the chain saw "just showed up" in the warehouse one day in 2002. [redacted] observed that the Minto cabin is heated with oil.

[redacted] stated that [redacted] bought the chainsaw notated on the office controlled property list **(attachment 31).** [redacted] was asked why the chainsaw appears on the list as of 10/01/01, but credit card records reveal [redacted] purchasing the saw on July 17, 2002 for $537.95. [redacted] replied, "I don't know." [redacted] said to [redacted] knowledge the chainsaw has never been used.

A review of [redacted] government credit card revealed no purchases for the chainsaw amount of $537.95 on or about September/October 2001.

[redacted]

[redacted] denied using [redacted] government vehicle to haul building materials and equipment to [redacted] personal residence [redacted]

[redacted]

[redacted] was asked to comment on [redacted] office property inventory and budget. [redacted] advised [redacted] doesn't know much about the budget and has no knowledge of how much money [redacted] office spends on equipment and supplies each fiscal year. [redacted] stated the office does an annual inventory of controlled property and they just instituted a Special Agent property list to capture what equipment each agent has in their possession. [redacted] agreed there were several pieces of property not on the property list but are in the possession of the office (i.e. a caribou sled). [redacted] admitted there are pieces of equipment that were bought within the last few years but not used ($500 chainsaw, ice auger, caribou sled et.al).

[redacted] advised that [redacted] knows [redacted] Wiggy's, Grand Junction, CO. Wiggy's is an outdoor equipment manufacturer. [redacted] admitted to endorsing products from Wiggy's in the late 1990's when [redacted] was a Special Agent **(attachment 32).** [redacted] supervisor, [redacted] told [redacted] to stop and [redacted] did. [redacted] advised [redacted] buys equipment for [redacted] agents from Wiggy's.

Misuse of the Government Credit Card:

[redacted] admitted to authorizing the splitting of government credit card purchases by [redacted] and [redacted] subordinates **(attachment 33)**. On August 8, 2003, [redacted] told agents [redacted] and [redacted] to purchase flight helmets using their government credit cards at a cost of $1,725 each. [redacted] also purchased a helmet (same price). Instead of doing a purchase order for the entire amount (can only use credit card up to $2,500.00), [redacted] authorized the agents to individually purchase the helmet. [redacted] justified the splitting by stating [redacted] had verbal authorization to do so from regional administrative officer [redacted].

On August 14, 2003, [redacted] told agent [redacted] to purchase two digital recorders at a total cost of $1,772.50 using [redacted] government credit card. At the same time, [redacted] used [redacted] government credit card to purchase two more recorders at the same price. Again, [redacted] stated [redacted] had given [redacted] verbal authorization to split the purchase instead of using a purchase order.

Use of Racial Slurs towards Native Alaskans:

[redacted] related that [redacted] has used racial slurs when referring to native Alaskans. [redacted]

[redacted] admitted using the term, "Eskimo Pie or Pie" when referring to Native Alaskans. [redacted] considers the term, "dark humor, slang and locker room humor." [redacted] said [redacted] has heard the native Alaskans use the term themselves. [redacted] advised [redacted] uses the term around the office as a "stress reliever." [redacted] further advised that [redacted] does not correct [redacted] subordinates that use the term.

Violation(s) of Alaskan State Law:

[redacted]

[redacted]

According to SAC Pruszenski, an anonymous letter was received by [redacted] in late August 2004 regarding a USFWS agent stealing crabs from commercial pots in southeast Alaska in 2001. Pruszenski stated [redacted] faxed him a copy of the letter. The letter was also copied to the Alaska state troopers by the writer. The letter was unsigned and not dated.

Pruszenski advised he went on leave after receiving the fax. When he came back, he contacted Rick Winn, Chief, Internal Affairs, USFWS on September 7. Pruszenski suggested to Winn that [redacted] investigate the complaint (no individuals were named in the letter). However, Pruszenski had reviewed the travel vouchers of agents who had worked in southeast Alaska during the time period in question (fall 2001) and discovered that [redacted] had been there. Pruszenski said he assigned the investigation to ASAC [redacted] Pruszenski understands that three agents had been interviewed by [redacted] and one, [redacted], had been on leave and had yet to be interviewed. Pruszenski advised that he had no knowledge of [redacted] possibly receiving the letter before August 2004 and delaying investigative action due to [redacted] potential involvement.

[redacted]

[redacted]

[redacted] recalls the waterfowl assignment onboard the Surfbird in the fall of 2002. [redacted] denies taking crabs from commercial pots while on the Surfbird. [redacted] said, "I don't remember if we ate crab in 2002." [redacted] stated, "I know the Alaskan state law regarding crabs and I did not steal any commercial crabs."

[redacted]

According to [redacted], last year [redacted] won a lottery for a moose hunting license. [redacted] went with [redacted] on the moose hunt. [redacted] advised that [redacted] shot a moose, but the moose kept moving and [redacted] was having trouble reloading a bolt action rifle. [redacted] stated [redacted] finished off the moose before it could get away. [redacted] advised [redacted] spoke to an Alaskan state trooper regarding the incident and the trooper told [redacted] that what [redacted] did was legal.

Less than Candid Witnesses:

During this investigation, several witnesses were less than candid in some of their responses to questions put forth by investigators. [redacted]

[redacted] One agent interviewed taped [redacted] interview without the knowledge of investigators.

[redacted]

[redacted]

[redacted]

[redacted]

[redacted] advised that [redacted] has never used [redacted] government plane to fly [redacted] to [redacted] AK [redacted] declined to be interviewed for this investigation) or to [redacted] house on [redacted] AK.

[redacted] did admit that in 1993, [redacted] flew [redacted] to [redacted] AK on a space available basis which [redacted] said it did not cost the government additional expense.

[redacted] commented that [redacted] had never seen [redacted] fly [redacted] family in a government plane.

DISPOSITION:

Referred to USFWS Director for administrative action.

ATTACHMENTS:

1. Copy of [redacted] Complaint.
2. Investigative Activity Report, interview of [redacted] dated September 3, 2004
3. Investigative Activity Report, interview of [redacted] dated September 19, 2004
4. Investigative Activity Report, interview of [redacted] dated October 5, 2004
5. Investigative Activity Report, interview of [redacted], dated September 15, 2004
6. Investigative Activity Report, interview of [redacted], dated September 30, 2004
7. Investigative Activity Report, interview of [redacted] dated December 1, 2004
8. Volunteer Services Agreement form for USFWS
9. Investigative Activity Report, interview of [redacted], dated September 18, 2004
10. Investigative Activity Report, interview of [redacted] dated September 3, 2004
11. Investigative Activity Report, interview of [redacted] dated October 4, 2004
12. Investigative Activity Report, interview of [redacted] dated September 3, 2004
13. Investigative Activity Report, interview of [redacted] dated October 5, 2004
14. Investigative Activity Report, interview of [redacted], dated September 16, 2004
15. Investigative Activity Report, interview of [redacted], dated September 15, 2004
16. Investigative Activity Report, interview of [redacted], dated December 14, 2004
17. Copies of photographs of [redacted] children at Minto cabin, September 2001
18. Copy of [redacted] OAS-2 flight report, dated 06/02/03
19. DOI AM Operational Procedures Memorandum and OMB circular A-126-Space Available Passengers)
20. Investigative Activity Report, interview of Stan Pruszenski, dated September 24, 2004
21. Investigative Activity Report, interview of [redacted], dated September 24, 2004
22. Memorandum of Understanding between USFWS, Alaska Fish & Game, University of Alaska for Minto Cabin rebuild
23. USFWS emails concerning rebuilding of Minto cabin
24. Pruszenski approved purchase order for Minto cabin building materials, dated April 29, 2002
25. Investigative Activity Report, interview of [redacted] dated October 1, 2004

26. Investigative Activity Report, interview of [redacted], dated October 27, 2004
27. Investigative Activity Report, second interview of [redacted] dated December 7, 2004
28. Investigative Activity Report, second interview of [redacted] dated October 25, 2004
29. Investigative Activity Report, interview of [redacted], dated December 7, 2004
30. Investigative Activity Report, second interview of [redacted] dated October 4, 2004
31. USFWS Fairbanks office property inventory, dated 2005
32. [redacted] memorandum, dated October 26, 2004
33. US government credit card statements for [redacted] dated August 2003
34. Investigative Activity Report, interview of [redacted] dated September 15, 2004
35. Investigative Activity Report, interview of [redacted], dated September 24, 2004
36. Investigative Activity Report, second interview of [redacted], dated September 15, 2004

All redactions are 5 U.S.C. §§ 552(b)(6) and (b)(7)(C) of the FOIA.

Office of Inspector General
Office of Investigations
U.S. Department of the Interior

Report of Investigation

Case Title	Case Number
Timbisha Shoshone Tribe	OI-CA-04-0578-I **Related File(s)**
Case Location Bishop, CA	**Report Date** April 28, 2006
Report Subject Case Closing	

RESTRICTED INFORMATION – FEDERAL GRAND JURY MATERIAL
FEDERAL RULES OF CRIMINAL PROCEDURE, RULE 6 (E) APPLIES

SYNOPSIS

This investigation was initiated based on information that Timbisha Shoshone Tribal Council members took bribes from a company named Rinaldo Corporation in exchange for two casino development contracts in violation of Title 18 U.S.C. 666, Bribery Concerning Programs Receiving Federal Funds and Title 18 U.S.C. 201, Bribery of Public Officials and Witnesses. Allegedly, Rinaldo also interfered with Timbisha's Tribal government and paid for an entire Tribal election in order to influence voting in violation of Title 18 U.S.C. 597, Expenditures to Influence Voting.

Based on the findings in this investigation to date this case is being closed. If additional information is developed in the future concerning this matter consideration will be given to reopen the investigation.

DETAILS

Allegations from the Region Director of the National Indian Gaming Commission Greg Bergfeld revealed that Timbisha entered into a contractual relationship with several members of an alleged "Organized Crime Group" based in Chicago, Illinois for the purpose of developing a gaming establishment in Hesperia, California. **(Exhibit 1)**

An interview of Tribal [redacted] revealed [redacted] met a Tribal Lobbyist for Avelino Corporation named [redacted]. [redacted] and [redacted] discussed the idea of [redacted] assisting Timbisha in securing land and developing a casino in Hesperia, CA. [redacted] claimed that through [redacted] several individuals and companies were introduced to the Timbisha Tribal Council including: **(Exhibit 2)**

Individuals:

- [redacted]
- [redacted]

Reporting Official/Title	Signature
[redacted], Special Agent	[redacted]
Approving Official/Title **David Brown, Special Agent in Charge**	**Signature** [redacted]

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- [redacted]

Companies:

- Rinaldo Corporation, 9 Gateway Drive, Collinsville, ILL 62234
- Emerald Ventures, Inc., 120 N. LaSalle #3300, Chicago, ILL 60602

[redacted] entered into a consultant agreement with [redacted] for the purpose of developing a gaming project for Timbisha and Avelino retained [redacted] to serve as a consultant to assist [redacted] in the development of the gaming project. (Exhibit 2)

[redacted] and [redacted] aforementioned associates entered into a very close relationship with Tribal [redacted] which caused a rift between [redacted] and the rest of the Tribal Council. [redacted] and [redacted] associates moved into the Tribal office with [redacted] and evicted the rest of the Tribal Council. [redacted] provided numerous documents that allegedly supported the above activity. (Exhibit 2)

A review of the documents provided by [redacted] **(Exhibit 3)** revealed the following:

- Timbisha had a contract with Rinaldo for the purpose of developing an Indian gaming facility since late 2002
- Rinaldo and Avellino had a consultant agreement whereas Rinaldo retained Avellino to serve as a consultant in "the project" (no specific project stated). According to the agreement, Rinaldo paid Avellino $80,000 up front and then $55,000 per month until "the project" was completed. This agreement was signed by [redacted].
- Avellino and [redacted] had a consultant agreement whereas Avellino retained [redacted] to serve as a consultant in "the project" (no specific project stated). According to this agreement, it was pursuant to the consultant agreement between Rinaldo and Avellino listed above. As stated in the agreement, Avellino paid [redacted] $26,000 per month until "the Project makes its first distribution of available cash flow after the opening of the Project to the public for gaming activities."
- Correspondence between [redacted] showed that [redacted] was upset because [redacted] thought [redacted] was entitled to receive money from [redacted] for introducing [redacted] to the Timbisha Tribal Council.

At a later date [redacted] provided a series of photographs depicting the tribe's negotiations with Rinaldo. A review of these photographs and the included footnotes revealed that former Timbisha Council members [redacted] met with representatives of Rinaldo to negotiate the agreement between Timbisha and Rinaldo regarding the future Timbisha gaming establishment. **(Exhibit 4)**

An interview of Timbisha Council Member [redacted] revealed [redacted] and Timbisha Council members [redacted] questioned the validity of the contract Timbisha had with Rinaldo. According to [redacted] this caused an internal dispute within the Tribal Council resulting in a 4-1 split. [redacted] sided with Rinaldo and physically expelled the other four members from the Tribal office..

Reportedly, from that point on Rinaldo employees [redacted] worked in the Tribal office with [redacted] **(Exhibit 5)**

Rinaldo provided the Tribe a subsidy of $30,000 per month from October of 2003 to late 2004, which was intended to pay the salaries of the Tribal Council members. Rinaldo also purchased or leased a Jeep Grand Cherokee for [redacted]. (Exhibit 5)

[redacted] provided a copy of a Christmas card sent from [redacted] to [redacted]. The card contained a Kmart gift card for $50. Additionally, the envelope contained a letter from the Shoshone Tribal Council to the Timbisha General membership. The letter read that [redacted] withheld $9,187.24 of the Revenue Sharing Trust Funds. According to the letter, these funds were used to pay for envelopes and postage. **(Exhibit 6)**

[redacted], Tribal [redacted] advised that Rinaldo was in the process of purchasing property along the interstate 15 corridor near Hesperia, CA, that was intended to become the future Timbisha casino location and that Rinaldo was going to get the property put into Trust for Timbisha so a casino could be built there. **(Exhibit 7)**

According to [redacted], Timbisha ultimately determined their contract with Rinaldo was not legally binding because it was not in accordance with the Indian Gaming Regulatory Act. It was at that time that [redacted] attempted to back out of the contract with Rinaldo. (Exhibit 7)

Rinaldo funded a Tribal election in Las Vegas, Nevada. [redacted] also claimed the purpose of this election was to remove [redacted] and the existing Tribal Council and replace them with a new council that would support Rinaldo. [redacted] stated that Rinaldo paid for all the expenses of the Tribal members related to this conference. (Exhibit 7)

During the election in Las Vegas [redacted] were elected as the new Tribal Council. [redacted] continued saying that after [redacted] filed an appeal disputing the validity of this election, [redacted] attempted to bribe [redacted] by telling [redacted] if [redacted] withdrew [redacted] appeal [redacted] would make sure [redacted] became the chairman of the gaming commission and be well compensated. (Exhibit 7)

At a later date [redacted] claimed [redacted] contacted also [redacted] and offered [redacted] money to drop [redacted] appeal concerning the dispute of the election of the new Tribal Council. [redacted] declined the offer from [redacted]. **(Exhibit 8)**

In support of this investigation [redacted] provided several DVDs containing video coverage of a conference between Rinaldo and Timbisha and another conference between a gaming developer company named Nevada Gold and Timbisha. **(Exhibit 9)**

A review of the documents obtained from [redacted] regarding the Timbisha Tribal meeting in Las Vegas, Nevada on August 21, 2004, revealed that there was no Tribal election at this meeting. According to the documents, the purpose of this meeting was to amend the development agreement that Timbisha had with Rinaldo as well as vote on four resolutions. One of these resolutions was to have the Tribal election on November 9, 2004. **(Exhibit 10)**

FGJ

(Exhibit

11)

Documents obtained from the Bureau of Indian Affairs (BIA) relating to 638 contract funds that were distributed to Timbisha for the fiscal years 1999 through 2004 revealed Timbisha received a total of $202,702 in 1999, $345,322 in 2000, $387,208 in 2001, $576,789 in 2002, $148,543 in 2003 and $134,801 in 2004. **(Exhibit 12)**

[redacted] for the Timbisha Shosone tribe revealed that Rinaldo initially paid Timbisha $10,000 a month and later increased the payments to $30,000 a month. The money was used to pay the salaries of the Tribal Council members, economic development officer, Tribal administrator, and two secretaries. In addition, the money was used to pay for Tribal committee meetings, legal fees and other basic operations. According to [redacted], the money from Rinaldo was a loan Timbisha would have to pay back after their casino was built. Rinaldo initially wired the monthly payments into then Tribal [redacted], [redacted] personal bank account and that $70,000 of the money that was wired to [redacted] was unaccounted for. **(Exhibit 13)**

FGJ

(Exhibit 14)

FGJ

(Exhibit 14)

Another interview of [redacted] revealed that [redacted] and [redacted] were former BIA employees who were paid by Rinaldo to influence BIA Superintendent [redacted] [redacted] ultimately recognized [redacted] as the Timbisha [redacted] and acknowledged the removal of [redacted], [redacted], and [redacted] from the Tribal Council. [redacted] was unaware of any bribes or anything of monetary value passed from [redacted] or [redacted] to [redacted] to influence [redacted] decision. **(Exhibit 15)**

At a later date, [redacted] provided two documents for review. The first document was Rinaldo's General Ledger of the payees and debt amounts to these payees concerning the Timbisha casino project. The second document was a memo from [redacted] to [redacted]. This memo stated that [redacted] was seeking legal advice in regards to recalling three Timbisha Tribal Council members. In the memo [redacted] encouraged [redacted] to advise [redacted] on this matter. In fact, [redacted] offered [redacted] the use of [redacted] personal airplane to fly [redacted] down to [redacted] to meet with [redacted]. **(Exhibit 16)**

[redacted], [redacted] for Timbisha from May of 2003 to August of 2004 said Rinaldo began loaning $10,000 a month to Timbisha on October 26, 2002. By the end of 2003 Rinaldo increased the amount of the loan to $30,000 a month. [redacted] said in July of 2003, Rinaldo started paying the

$30,000 a month into [redacted] personal bank account. [redacted] was also suspicious [redacted] received money from Rinaldo because even though [redacted] had trouble paying [redacted] rent, [redacted] was able to purchase two new vehicles in December of 2004. **(Exhibit 17)**

FGJ

(Exhibit 18)

FGJ

(Exhibit 19)

[redacted] for Timbisha since [redacted] said Rinaldo was in charge of putting the land in Hesperia, CA into Trust for Timbisha in order to build a casino. [redacted] stated that Rinaldo owns the land and gained community support in favor of having the casino built. Timbisha Tribal Council members [redacted] became concerned about the contract between Timbisha and Rinaldo when they found out Rinaldo was billing the tribe for unknown expenses. [redacted] opined that the most egregious of these expenses was the hundreds of thousands of dollars paid to Lobbyist [redacted]. Reportedly [redacted] did not lobby for Timbisha or submit invoices for the work [redacted] supposedly did. [redacted] attended most of the meetings with Hesperia city officials, who [redacted] was supposedly lobbying, but never saw [redacted] at these meetings. **(Exhibit 20)**

[redacted] recalled [redacted] were paid half of the money that Rinaldo paid to [redacted] for [redacted] lobbying services. The money paid to the [redacted] was supposed to be for consulting services they performed, however, they did not perform these services for the tribe. In addition, [redacted] suspected Rinaldo paid for [redacted] attorney fees. (See Exhibit 20)

The Federal GJ subpoenas for this investigation were given to IA [redacted] **(Exhibits 21)**

SUBJECTS

[redacted]

Rinaldo Corporation
9 Gateway Drive
Collinsville, ILL 62234

[redacted]

[redacted]

Avellino Corporation
5775 E. Los Angeles Ave., Suite 222
Simi Valley, CA 93062

[redacted]

[redacted]

[redacted]

[redacted]

DISPOSITION

This investigation is closed. The matter will be reconsidered if new/additional information concerning the initial allegations is developed

EXHIBITS

1. Complaint from NIGC dated 4/22/04
2. Interview of [redacted], dated 11/17/2004.
3. Review of Documents received from [redacted], dated 2/3/2005.
4. Receipt of Photographs from [redacted], dated 12/27/2004.
5. Interview of [redacted], dated 12/6/2004.
6. Receipt of Documents from [redacted] Tribal Council, dated 3/1/2005.
7. Interview of [redacted] Tribal Council, dated 3/1/2005.
8. Telephone Call Received from [redacted] Tribal Council, dated 3/1/2005.
9. Evidence Receipt – DVDs from [redacted] dated 3/25/2005.

10. Document Review – Records Regarding August 21 Meeting, dated 5/3/2006.
11. [redacted]
12. Creation of Spreadsheet for BIA 638 Funds, dated 6/1/2005.
13. Interview of [redacted] dated 6/22/2005.
14. [redacted]
15. Interview of [redacted], dated 6/22/2005.
16. Telephonic Interview of [redacted], dated 10/24/2005.
17. FBI (Form 302) Report – Interview of [redacted] dated 6/28/2005.
18. [redacted]
19. [redacted]
20. Interview of [redacted], dated 8/8/2005.
21. Receipts to provide Grand Jury Documents to the FBI. [redacted]

Office of Inspector General
Office of Investigations
U.S. Department of the Interior

Report of Investigation

Case Title	Case Number
Load Star Casino	OI-SD-05-0031-I
	Related File(s)
Case Location	**Report Date**
Rapid City, SD	May 2, 2006
Report Subject	
Closing Report	

SYNOPSIS

This investigation was initiated on October 22, 2004, based on information provided by the National Indian Gamming Commission (NIGC) concerning Load Star Casino (LSC), Crow Creek Sioux Tribe (CCST), Fort Thompson, SD. Specifically, while completing regulatory work at the casino, NIGC investigators received information from an attorney representing the CCST which indicated payroll funds had been embezzled from LSC during early 2004 by LSC General Manager Charlene Azure, Payroll Clerk Vienna Gourneau and Accounts Payable Clerk Sylvia Rockwood. The resulting investigation disclosed that the aforementioned employees violated LSC's payroll advance policies and obtained approximately $65,272.49 from LSC through fraudulent, non-repaid payroll advances. Additionally, the investigation disclosed that Azure also stole approximately $33,000 from LSC during late 2003 and early 2004 in a separate scheme through which she cashed personal checks at the casino knowing she had insufficient funds to cover the transactions.

Azure, Gourneau and Rockwood were terminated from their positions at LSC during August 2004. All three subjects were indicted by a Federal Grand Jury during March 2005 on theft and embezzlement charges. All three subjects plead guilty during July 2005. During October 2005, Azure was sentenced to 18 months incarceration, 36 months probation, and was ordered to pay a special assessment of $100 and restitution in the amount of $83,879.25. Gourneau was sentenced to 60 months probation and was ordered to pay a special assessment of $100 and restitution in the amount of $7,349.24. Rockwood was sentenced to 60 months probation and was ordered to pay a special assessment of $100 and restitution in the amount of $7,044.

DETAILS

NIGC formally reported this matter to the Office of Inspector General (OIG), U.S. Department of the Interior, Rapid City, SD, and the U.S. Attorney's Office, Sioux Falls, SD, during September 2004. At the

Reporting Official/Title	Signature	Date
[redacted] /Special Agent		
Approving Official/Title	**Signature**	**Date**
Neil Smith/Special Agent-in-Charge		

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request of the U.S. Attorney's Office, the OIG initiated its investigation into this matter during October 2004.

NIGC Investigation

The NIGC case report for this matter reflects that its investigators participated in a meeting with [redacted], Attorney; CCST Gaming Commission; and the CCST Tribal Council on July 20, 2004. During the course of that meeting, [redacted] provided information on behalf of the CCST Gamming Commission to NIGC that indicated Azure, Gourneau and Rockwood received a large number of questionable pay advances during the first half of 2004 (See Exhibit 1).

Investigation established that LSC employees were able to obtain pay advances from the casino for future earnings. LSC's policy is noted on its advance application and it requires that advances allocated be fully deducted from receiving employees next pay check (See Exhibit 2). However, the investigation disclosed that that the aforementioned employees violated LSC's payroll advance policies when they continued to obtain advance even though they had not repaid advances that they previously received.

The NIGC report shows that Gourneau contacted NIGC investigators later on July 20, 2004, and arranged for she and Azure to meet with NIGC investigators on the following day to discuss their questioned receipt of advances. On July 21, 2004, Azure and Gourneau voluntarily participated in separate interviews with NIGC investigators.

During her interview, Gourneau admitted that she was involved in issuing fraudulent pay advances to herself, Azure and Rockwood. Gourneau estimated that between April and July 2004, she and Rockwood each received about $7,400 from the casino through fraudulent advances and that Azure received approximately $45,000 from LSC through fraudulent advances. Gourneau provided NIGC investigators with a signed written statement through which she admitted her wrong doing (See Exhibit 3).

During Azure's meeting with NIGC investigators, Azure admitted she received approximately $50,000 from LSC through fraudulent advances. Azure also provided NIGC investigators with a signed written statement through which she admitted her wrongdoing (See Exhibit 4).

NIGC's report on this case reflects that Rockwood failed to appear for an interview that NIGC investigators arranged with her on July 22, 2004.

Azure, Gourneau and Rockwood were suspended from their LSC positions during July 2004. All three individuals were formally terminated by LSC during August 2004.

DoI OIG Investigation

The above noted NIGC case report was submitted to the Office of Inspector General (OIG), U.S. Department of the Interior, Rapid City, SD, and the U.S. Attorney's Office, Sioux Falls, SD, during September 2004. After reviewing the report, Assistant U.S. Attorney [redacted] requested that the OIG open a case and complete an investigation into the reported theft of funds from LSC.

On February 2, 2002, Rockwood was interviewed by [redacted], Special Agent (SA), OIG. During that interview, Rockwood initially denied any wrongdoing. However, she eventually admitted that she

violated LSC's policies by obtaining payroll advances after failing to repay advances that she had previously received (See Exhibit 5).

During the course of the OIG's investigation, LSC officials provided SA [redacted] with information indicating that Azure also stole approximately $30,000 from LSC through a personal check cashing scheme. Specifically, the information provided indicated that Azure cashed personal checks at LSC knowing her personal checking account contained insufficient funds to cover the transactions.

On February 3, 2005, Azure was interviewed by SA [redacted] regarding the above noted check cashing scheme. During that interview, Azure confessed that between October 2003 and January 2004, she stole approximately $30,000 from LSC by cashing checks when she knew there were insufficient funds in her account to cover the checks. Additionally, Azure admitted she hid her actions by destroying copies of her bad checks when they were returned to the casino by its bank so collection action would not be initiated (See Exhibit 6).

Investigation established that between the time period of February 2004 through June 2004, Azure, Gourneau and Rockwood stole a combined amount of approximately $65,272.49 from LSC through fraudulent non-repaid payroll advances. Additionally, the investigation established that Azure stole an additional amount of approximately $33,000 from LSC October 2003 through January 2004 through the aforementioned personal check cashing scheme.

When interviewed during the investigation, Azure and Gourneau both reported that they used the money they stole from LSC for gambling. Rockwood reported that she used the funds she stole from LSC to pay personal bills.

SUBJECT(S)/DEFENDANT(S)

Charlene Azure
General Manager
Load Star Casino
Date of birth: [redacted]
Social Security number: [redacted]

Vienna Gourneau
Payroll Clerk
Load Star Casino
Date of birth: [redacted]
Social Security number: [redacted]

Sylvia Rockwood
Accounts Payable Clerk
Load Star Casino
Date of birth: [redacted]
Social Security number: [redacted]

DISPOSITION

Azure, Gourneau and Rockwood were suspended from their LSC positions during July 2004. All three individuals were formally terminated by LSC during August 2004.

On March 17, 2005, Azure, Gourneau and Rockwood were indicted by a Federal Grand Jury with one count in violation of Title 18 U.S.C. 1168, Theft by officers or employees of gaming establishments on Indian lands, and Title 18 U.S.C. 2, Principals, for their fraudulent receipt of payroll advances. Azure was indicted on one additional count in violation of Title 18 U.S.C. 1168, Theft by officers or employees of gaming establishments on Indian lands, for her actions regarding the fraudulent personal check cashing scheme.

On July 18, 2005, all three defendants pleaded guilty to one count in violation of Title 18 U.S.C. 1168, Theft by officers or employees of gaming establishments on Indian lands, and Title 18 U.S.C. 2, Principals. Although Azure pleaded guilty to one count of the indictment her plea agreement established she was responsible for restitution for the financial loss of both schemes she was involved in.

All three defendants were sentenced on October 24, 2005. Azure was sentenced to 18 months incarceration, 36 months probation, and was ordered to pay a special assessment of $100 and restitution in the amount of $83,879.25. Gourneau was sentenced to 60 months probation and was ordered to pay a special assessment of $100 and restitution in the amount of $7,349.24. Rockwood was sentenced to 60 months probation and was ordered to pay a special assessment of $100 and restitution in the amount of $7,044. All court proceedings took place in U.S. District Court, District of South Dakota, Pierre, SD.

EXHIBITS

1. NIGC report dated July 28, 2004
2. Payroll advance application
3. Written statement provided by Gourneau to NIGC on July 21, 2004
4. Written statement provided by Azure to NIGC on July 21, 2004
5. IAR – Interview of Rockwood, dated February 2, 2005
6. IAR - Interview of Azure, dated February 3, 2005
7. Indictment for Azure, Gourneau and Rockwood, dated March 17, 2005
8. Judgment in Criminal Case for Azure, dated October 24, 2005
9. Judgment in Criminal Case for Gourneau, dated October 24, 2005
10. Judgment in Criminal Case for Rockwood, dated October 24, 2005

All redactions are 5 U.S.C. §§ 552(b)(6) and (b)(7)(C) of the FOIA.

Office of Inspector General
Office of Investigations
U.S. Department of the Interior

Report of Investigation

Case Title	Case Number
Mardi Gras Shipwreck	OI-LA-05-0053-I Related File(s)
Case Location	**Report Date**
Tulsa, OK	December 12, 2005
Report Subject	
Final Report	

SYNOPSIS

On August 23, 2004, officials with the Minerals Management Service (MMS), U.S. Department of the Interior (DOI), New Orleans, LA, reported that a Shell/BP Okeanos Gas Gathering Company (SOGGC), LLC, subcontractor, Magellan Marine, Inc., had concealed the discovery on the outer continental shelf (OCS) of an archeologically significant circa 1800 shipwreck in violation of Title 30, Code of Federal Regulations (CFR), Section 250.194c. It was alleged that evidence exists that the concealment may have been intentional due to a pipeline route.

Investigation determined that the shipwreck was discovered under 4,000 foot depth water by Shell/BP subcontractor Magellan Marine, Inc., who was hired to determine the best route for the Okeanos Lateral Pipeline. The decision to conceal the discovery from MMS, which controls the right-of-way, not only violated 30 CFR 250.194c, but also resulted in the destruction of antiquities, among them an 18th Century navigational tool by a shell/BP underwater remotely operated submersible vehicle. The shipwreck was one of the most significant archeological finds from the 18th Century in the Gulf of Mexico.

The findings in this investigation were discussed with an Assistant U.S. Attorney, who declined to prosecute both criminally and civilly. SOGGC entered into a settlement agreement with MMS agreeing to pay Texas A&M University $4,870,000 to salvage, restore, and curate the archeological remains of the shipwreck.

DETAILS

During the week of January 10, 2005, staff with MMS' pipeline operations group was interviewed and informed that in late 2001, Okeanos Gas Gathering Company LLC (BP and Shell Oil Company Joint Venture) applied to MMS for a gas pipeline Right Of Way (ROW) in the Gulf of Mexico. The Pipeline ROW was for a 24 inch dry gas pipeline, running north-south from approximately 80 miles to 20 miles offshore (Platform to Platform). Okeanos then conducted a pre-permit hazard survey of the ocean floor

Reporting Official/Title	Signature
[redacted], Special Agent	
Approving Official/Title	**Signature**
Joseph D. Crook, Jr., Assistant Special Agent in Charge	

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and identified several sonar targets (anomaly or protrusion on the ocean floor which, in this area, the floor surface is predominately smooth mud).

In February 2002, MMS approved the Okeanos pipeline application and granted a 200 foot ROW. MMS archeologist reviewed the target data and without further information instructed Okeanos to avoid the targets.

Okeanos elected to conduct an additional survey prior to actually laying the pipeline with a Remote Operating Vehicle (ROV) and video taped the anticipated route. During this survey, the ROV was diverted 125 feet to one of the pre-identified targets (D-11) 39 miles off shore and in 4,000 feet of water on OCS. The ROV operators annotated on their logs that the target was a shipwreck with anchors, cannon, weapons and other various debris. During the ROV's examination of the wreck, the Okeanos company representative supervising the survey, stated he was going to classify the wreck as modern debris and report it as such. Subsequently, Okeanos laid the pipeline along side the shipwreck within 125 feet of the main debris field.

In July 2004, during an unrelated off shore study, MMS contracted an ROV crew to conduct a deep water archeology and biological study. Consequently, the original ROV crew that identified target D-11 as a shipwreck in 2002, was the same crew contracted by MMS in 2004. During the deep water study, the ROV crew showed 2002 video of the shipwreck to the onboard MMS Archeologist. Based upon the video, the MMS archeologist determined the shipwreck was of substantial archeological value and was remarkably intact.

In August 2004, an MMS archeologist visited the site with an ROV and documented the site with underwater video and recovered a cup and plate to study and determine the date and origin of the ship. During the site visit the archeologist identified a number of significant artifacts, to include an Octant, which is a navigational instrument that predated the sextant and was only in use from 1760-1800. Less than 10 intact Octants have ever been recovered from deep water wrecks.

MMS contacted Okeanos and relayed the significance of the wreck and issued an Incident of Non Compliance (INC). The INC was based upon Okeanos' failure to report the shipwreck as required by the permit previously approved by MMS. The INC was appealed by Okeanos (BP) to the Interior Board of Land Appeals (IBLA).

Had Okeanos initially reported the shipwreck, MMS would have required the ROW be moved 1000 feet to avoid repeated discovery and to keep the location confidential.

On October 26, 2004, during an inspection of the same pipeline by an ROV contracted by BP (Okeanos), for an unexplained reason, the ROV crew departed from the pipeline and destroyed archeological artifacts such as bottles, pots, plates and the Octant. Subsequently, BP disclosed to MMS they had visited D-11 and provided a copy of the video tape of the visit. They also stated the ROV crew was on site for approximately 2-3 minutes. A review of the videotape showed the ROV's arrival on the shipwreck conducting a general video of the area, then suddenly the recording advanced 42 minutes later documenting the ROV returning to the pipeline. The activities while on the site were either missing or not recorded.

MMS demanded BP provide the missing 42 minutes of recording and all associated logs. Several weeks later, BP mailed MMS a video tape containing the missing 42 minutes. A review of the tape disclosed the ROV crew searching for and discovering the Octant and several other artifacts on the ocean floor. The ROV crew attempted to recover the delicate artifacts that had been lying on the ocean floor for over 200 years, with a massive manipulating arm with devastating results.

Based upon the results of this investigation, Shell/BP Okeanos Gas Gathering Company, LLC, entered into a financial settlement with MMS in which it agreed to pay Texas A&M University a total of $4,870,000 to salvage, restore, and curate the archeological remains of the circa 1800 shipwreck damaged by the exploration company **(Exhibit 1).**

Shell/BP Okeanos Gas Gathering Company, LLC, also agreed to provide for an educational outreach program to inform other companies operating in the Gulf of Mexico. Several production companies have since expressed an interest in producing a documentary of the salvage and curtain efforts by MMS and Texas A&M University.

SUBJECT(S)/DEFENDANT(S)

Okeanos Gas Gathering Company LLC

DISPOSITION

The Federal government has no legal means of protecting the site, since most historic preservation legislation does not apply on the OCS. Okeanos' failure to report the site has created a situation where an MMS permitted action resulted in adverse impact to the most significant archeological discovery ever made in the Gulf of Mexico OCS.

This investigation was briefed to the United States Attorney's Office, Eastern District of Louisiana, New Orleans, LA. Based upon the following issues, both the Criminal and Civil Divisions have declined to prosecute this matter. This matter is closed.

EXHIBITS

1. Settlement Agreement and Release between Okeanos Gas Gathering Company LLC and the U.S. Department of the Interior, Mineral Management Services, dated April 11, 2005

Office of Inspector General
Office of Program Integrity
U.S. Department of the Interior

Report of Investigation

Case Title	Case Number
MHA Nation Refinery Project	PI-05-0110-I **Related File(s)**
Case Location Washington, DC	**Report Date** 7/28/05

Report Subject
Final Report – MHA Nation Refinery Project

SYNOPSIS

This investigation was predicated upon allegations that unknown officials within the Bureau of Indian Affairs (BIA) transferred approximately $400,000 to the three affiliated tribes, Mandan-Hidatsa-Arikara (MHA), located on the Fort Berthold, North Dakota reservation. The complaint came initially to [redacted] Whistleblower Protection, from a Confidential Informant (CI). According to the CI, the funds, which had been allocated to study the feasibility of a refinery on the reservation, were transferred to MHA shortly before the national election of MHA Tribal [redacted] to the presidency of the National Congress of Indians.

Investigators discovered that MHA received $860,516 from BIA through two separate contract modifications that enabled it to continue its clean fuels refinery project. However, to date, MHA has not submitted a completed scope of work detailing project expenditures, a requisite document for the BIA award. Overall, this investigation revealed that BIA neglected its responsibility to maintain accurate records and acquire appropriate paperwork from MHA prior to awarding federal funds for the clean fuels refinery project.

It should also be noted that while [redacted] a former petroleum geologist with BIA, did not appear to violate any criminal or administrative statutes concerning [redacted] role in the development of this project, [redacted] nevertheless appears to be the primary beneficiary of a project intended, according to [redacted] interview, to improve the local economy of the tribes. Placed in a position with the BIA where [redacted] was in control of the project on behalf of the Federal government, [redacted] has left Federal employment and went to work directly for the same tribes, where [redacted] is currently reaping the benefits of the deal [redacted] oversaw as a Federal employee.

Reporting Official/Title [redacted], Special Agent	**Signature** [redacted]
Approving Official/Title SCOTT L. CULVER ACTING DIRECTOR- PROGRAM INTEGRITY	**Signature** [redacted]

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DETAILS

In 1999, [redacted] **(Attachment 1)**, a petroleum geologist for the Fort Peck, Montana, reservation, suggested construction of a clean fuel oil refinery on the Fort Peck Indian Reservation. [redacted] planned to use nearby Canada-based Enbridge Pipeline as a conduit to transport synthetic oil from Alberta to the proposed refinery site. However, according to [redacted], tribal councilmen at Fort Peck expressed no interest in the idea.

In August 2000, as a petroleum geologist with BIA's Central Office in Washington, D.C., [redacted] expected to help Indian tribes improve their local economies by using [redacted] geology skills. At one point, [redacted] proposed a reservation clean fuels refinery to MHA Tribal [redacted] and the other councilmen. This time, according to [redacted] the council liked [redacted] idea **(Attachment 2)**.

In 2001, [redacted] and MHA members submitted a proposal to the Department of Commerce **(Attachment 3)**, which garnered them $1.3 million toward the project. Afterwards, in December 2001, [redacted] and council members of the MHA attended an energy summit in Denver, Colorado, where MHA presented their Clean Fuels Refinery Project. Former BIA Assistant Secretary [redacted] attended this summit.

Sometime after the summit, [redacted] MHA council members, and an employee of Triad Corporation, the organization providing the project's front-end engineering design study, approached [redacted] and then BIA Office of Trust Responsibilities Director Terry Virden to pitch their refinery plans and request BIA funds for an Environmental Impact Study (EIS). [redacted] said MHA planned to purchase synthetic oil from Tar Sands in Alberta, Canada, and transport it to the refinery through Enbridge Pipeline. However, to do this, Enbridge Pipeline needed to construct three miles of runoff pipe from their main pipeline to communicate with the refinery. MHA's proposal mentioned Enbridge Pipeline as a feasible source for transporting synthetic crude to the proposed refinery location. [redacted] said the affiliated tribes had no plans to use the crude oil beneath the MHA reservation because their oil was natural rather than synthetic, making it unusable if the refinery wanted to maintain its "clean fuels" capacity, since natural crude emanates more pollutants than synthetic.

Following MHA's PowerPoint presentation to [redacted] and [redacted], both [redacted] approached [redacted] **(Attachment 4)** to brief [redacted] on the economic benefits of a clean fuels refinery. [redacted] said [redacted] interest led MHA to submit a grant proposal for $500,000, covering "administrative" costs that included an Environmental Impact Study (EIS), as well as any consultant fees. [redacted] also said that [redacted] told [redacted] BIA had only approximately $460,000 in its budget. This meant MHA had to rewrite its proposal, specifically to request $460,000 instead of the original $500,000. [redacted] maintained that MHA did not provide a statement of work to accompany the submission.

[redacted] now BIA Midwest regional director, affirmed [redacted] knew nothing about the project before MHA's presentation, **(Attachment 5)** and that [redacted] was under the impression that [redacted], similarly, knew nothing. When asked what the presentation had been about, [redacted] said, "To tell you the truth, I have no idea." Also, [redacted] could not recall receiving paperwork detailing the scope of the project. Nevertheless, [redacted] did recall expecting that oil for the refinery would come from the reservation rather than from Canada, as [redacted] learned later.

Later, when discussing the refinery with [redacted], [redacted] recalled [redacted] asking [redacted] to look into the availability of project funds. [redacted] thought that [redacted] wanted to contribute about $500,000, part of which [redacted] would have to reprogram from someplace else.

Asked if [redacted] office typically required a scope of work from the tribes to award money, [redacted] said, "Yeah, we would need some justification." However, [redacted] said, [redacted] could not remember seeing a scope of work from MHA. [redacted] also advised that typically BIA did not provide money for an EIS because such funds generally come from a staffing company or a private source.

When questioned about why BIA funded this particular refinery project, [redacted] stated, "That's a hard question to answer," and provided no further information. According to [redacted], [redacted] was not responsible for researching the project, relying mostly on [redacted]. [redacted] said [redacted] position description "was a lot broader than petroleum geologist," when asked why [redacted] would depend on a petroleum geologist to research the project's feasibility, [redacted] also said [redacted] was only required to determine the availability of the money, but that the Energy and Minerals Division's (EMD) would have researched project feasibility, even though [redacted] recalled no specific discussions with EMD. [redacted] concluded that [redacted] had made [redacted] available to the tribes, but that, once the project was underway, BIA Deputy Commissioner Sharon Blackwell approved [redacted] transfer to North Dakota.

Regarding the refinery, [redacted] said [redacted] had been told it would employ reservation people and supply the area's need for crude oil. [redacted] expected it to be built over an oil basin or reservoir beneath the reservation, extracting and refining the crude oil on site. Had [redacted] been aware that the tribes planned to use crude oil from Canada rather than reservation oil, [redacted] said [redacted] would have found the project less attractive [redacted] also said [redacted] was told at this meeting that the Department of Commerce already supported the project and was willing to supply funds to conduct an initial front-end engineering design study [redacted] liked the idea, but told [redacted] and [redacted] [redacted] would only commit to one-third of the overall costs, or approximately $287,000.

Based on [redacted] and [redacted] presentation, [redacted] directed [redacted] office to award the $287,000 in early 2002—this amendment, the first of two, to the MHA's self-determination contract will be referred to as Modification #7. A review of this specific modification shows the awarded amount came to $460,518, as opposed to the $287,000 [redacted] recalled during his interview with investigators **(Attachment 6)**. When informed of the actual amount, [redacted] insisted [redacted] knew nothing about the addition of other money. [redacted] advised that either [redacted] or [redacted] could have changed the amount. When asked if [redacted] had ever spoken with [redacted] or MHA about submitting their proposal for $460,518, [redacted] said "no."

When questioned about the refinery project, [redacted] **(Attachment 7)**, now retired from federal service, explained that [redacted] had announced [redacted] impending retirement in February 2002 to give [redacted] an opportunity to acquaint [redacted] with BIA, since [redacted] was still new to [redacted] position. [redacted] said [redacted] spent February through June 2002 "tying up loose ends" on certain projects, and that the refinery project only came to [redacted] attention when [redacted] presented [redacted] with a binder about it. [redacted] travels, [redacted] said, left [redacted] unable to commit fully to the refinery project, and so [redacted] told [redacted] to "run with it."

When investigators informed [redacted] of BIA's lack of appropriate paperwork, specifically a suitable scope of work, [redacted] explained that the contracting officer obtained and compiled these documents, while the Office of Trust Resources (OTR) usually located any necessary information. OTR would have

assembled the documents and sent them through the Deputy Commissioner's office, [redacted] said, at which point [redacted] would have relied on [redacted] to advise [redacted]: "The Office of Trust Responsibilities is the brainpower for this stuff."

According to [redacted], the prospective oil refinery fit the President's energy initiative and would have helped to demonstrate BIA's support for that initiative, something [redacted] would have recognized. As for reprogramming funds from BIA law enforcement to the refinery project, [redacted] said [redacted] was unaware of any transfer and could not recall the exact amount awarded in the initial modification. However, records indicate the money was awarded to the tribes on September 13, 2002.

In January 2002, [redacted] requested that BIA detail [redacted] to North Dakota to assist MHA with the refinery project. [redacted]'s request was honored, and [redacted] was detailed to North Dakota. Following [redacted] move, [redacted] left BIA in February 2003. [redacted] was hired by MHA as the project manager for the Clean Fuels Refinery Project. According to [redacted], Office of the Secretary Ethics Officer [redacted] found no conflict of interest surrounding [redacted] departure from federal service when they spoke before [redacted] left the agency. Since that time, [redacted] **(Attachments 8 and 9)** [redacted] currently works as a consultant on the Clean Fuels Refinery Project. [redacted] **(Attachment 10)**.

[redacted] reported that, in August 2004, [redacted] approached the BIA Central Office with a second grant proposal for $400,000 **(Attachment 11)**, pitched directly to BIA Assistant Secretary [redacted] **(Attachment 12).** According to [redacted] proposal letter, the money was intended "For the completion of the EIS and the Refinery Project Manager's salary"—the manager being [redacted].

[redacted] pointed out that the refinery was an ongoing project and that [redacted] relied on staff for the decision to continue its fiscal support. These individuals—[redacted]—recommended approving the grant. [redacted] commented that the current administration promotes petroleum projects, which encouraged [redacted] support of staff advice to approve additional funding.

This second modification garnered MHA a $399,998 award on September 27, 2004, referred to as Modification #37 to the MHA's self-determination contract **(Attachment 13)**. Again, no scope of work accompanied the proposal. According to [redacted], MHA has only recently submitted its first scope of work, which Fort Berthold Acting Superintendent [redacted] privately advised investigators was insufficient and unacceptable, requiring MHA to submit another scope in greater detail.

Investigators also questioned BIA Deputy Assistant Secretary for Management [redacted] about [redacted] involvement with the designation of money for a clean fuels refinery to MHA **(Attachment 14)** and, specifically, about modification numbers 7 and 37. At the beginning of the MHA project four years before, [redacted] said [redacted] had served as the Chief Financial Officer (CFO) in [redacted] current office.

[redacted] explained that a "reprogramming request" is one of the activities a CFO is authorized to perform. It is a procedure that involves the common practice of "pooling" money at the end of a fiscal year to cover year-end grants. A CFO may "reprogram" as much as $500,000 without congressional approval.

However, since contract modifications conform to applicable rules and regulations, [redacted] said, they generally are monitored by the awarding or contracting official, who, in this case, was [redacted], with the BIA Great Plains Regional Office, Aberdeen, South Dakota.

Regarding Modifications #7 and #37, [redacted] explained [redacted] had no firsthand information (**Attachment 15**), but relied on BIA Fort Berthold Agency Superintendent [redacted], the Awarding Officer's Representative (AOR). According to [redacted] the AOR ensures the grantee complies with the grant. In this instance, the AOR was assisted by [redacted]. Although [redacted] said [redacted] would have specific information on the draw-downs from these modifications, [redacted] also said that the MHA had to comply with the Single Audit Act Amendments of 1996, which require a non-federal entity expending $300,000 or more in federal awards during any given year to file a single audit report with the Federal Audit Clearinghouse no later than nine months after the end of the audited period, as implemented by the Office of Management and Budget Circular A-133, *Audits of State, Local Governments, and Non-Profit Organizations*.

[redacted] said MHA lagged behind in their audits, but had received extensions. Fiscal Year (FY) 2002 had been extended to August 15, 2004. Also, FY 2003 had been extended to December 31, 2004, and had not been received by the region at the time investigators spoke with [redacted] A review of this audit (**Attachment 16**) by the DOI Office of Audit and Evaluation, Office of the Chief Financial Officer, identified concern with finding 02-04 that indicated, "excess federal funds advanced to the Tribe were used to cover general fund expenditures." Further, a review of the financial statements by the Office of the CFO determined that the MHA had a cash shortfall of $1,529,912, the DOI portion of that shortfall being $1,320,477.

[redacted] maintained that the grant required MHA to provide an annual report (Section D under the Annual Funding Agreement), submitted within 90 days of the end of the fiscal year and upon contract completion. Guidelines for the narrative section indicated that it discusses "progress toward accomplishment of the goals and objectives envisioned in the Scope of Work, problems or delays encountered, etc." Basically, the annual report outlines progress on any given project. On March 23, 2004, the Regional Office received one annual report covering FY 2001 through 2003. The section of the narrative pertaining to the refinery identified the project manager as [redacted] and showed payments of $140,000 made to [redacted] from January 2003 to January 2005.

[redacted] further confirmed for investigators the absence of supporting documents justifying funds awarded in the modifications (**Attachment 17**). Usually, when obligating dollars, the agency wants a scope of work detailing how the money will be spent, [redacted] said, particularly because the scope of work, allows a decision to be made on whether or not to award the money.

When asked if MHA submitted a scope of work, [redacted] said, "yes," and identified December 2004 as the time of submission. [redacted] said [redacted] had not seen a scope of work from MHA before that date, which meant [redacted] did not see the scope of work when signing off on the modifications. Asked why [redacted] signed off on the modification without a scope of work, [redacted] maintained that the money had to be obligated before September 30 or it would have been lost. [redacted] admitted that, ideally, [redacted] would have wanted to see a scope of work before awarding the money

After speaking with [redacted] investigators contacted Superintendent [redacted] **(see Attachment 10)**, who had been assigned to Fort Berthold after Modification #7 occurred. [redacted] said [redacted] believed that both modifications were funded directly from the BIA headquarters office, following a meeting between MHA representatives and BIA personnel. [redacted] pointed out that such funding is atypical, though it does occur. [redacted] said [redacted] reviewed both modifications, finding the statement of work for Modification #37 too broad and, therefore, in need of being "refined."

[redacted] added that Greystone Environmental Consultants, who had been hired to complete the EIS, provided MHA with a monthly update **(Attachment 18)**, while [redacted] also provided a monthly report **(Attachment 19)**. [redacted] also indicated [redacted] had a draft scoping report prepared by [redacted]

Great Plains Regional Office Budget Officer [redacted] said **(Attachment 20)** [redacted] never saw Modification #7, which ordinarily would have come through [redacted] office, leading [redacted] to assume it must have gone to BIA in Washington, D.C. According to [redacted], funding for Modification #7 came from monies reprogrammed from Tribal Priority Allocations, while Modification #37 came from law enforcement services, as well as unobligated funds from minerals and mining. [redacted] believed the BIA Deputy Commissioner made the decision as to who got the money, thereby passing over [redacted]'s office.

Investigators also spoke with Fort Berthold Administrative Manager [redacted] **(Attachment 21)** [redacted] said [redacted] only learned of the modifications on January 6, 2005, when [redacted] called to decide on assignments pertaining to those awards. [redacted] added that [redacted], a member of the regional staff, had been acting as the Awarding Officer's Technical Representative (AOTR) during the life of the modifications, though [redacted] only learned this during this phone call. [redacted] said that during that same week, they received all the documents from the region that concerned these modifications, which they had not received until then.

[redacted] explained that MHA could draw-down the award funds, even though, given their missing scope of work, they probably should not have been allowed to do this. Like [redacted], [redacted] confirmed that the agency had been "out of the loop" on fiscal matters pertaining to these modifications because they had been handled out of the region. [redacted] believed [redacted] dealt directly with MHA.

Fort Berthold [redacted] confirmed [redacted] concerns **(Attachment 22)**. [redacted] said that the agency usually gets more information about modifications than it did for these two. When [redacted] saw modification #37, [redacted] contacted [redacted] of MHA to tell [redacted] that the scope of work statement was not appropriate. [redacted] told [redacted] would fax a copy of the scope of work to [redacted], which [redacted] finally received from [redacted] on January 6, 2005 [redacted] provided copies of the draw-downs for these modifications.

While interviews with [redacted] and [redacted] clarified the manner in which Modifications 7 and 37 had been handled at the local BIA level, other questions remained about the feasibility of the refinery project itself. [redacted] had indicated that MHA's initial proposal for $460,000 mentioned Enbridge Pipeline as a feasible transportation source for the Canadian synthetic crude. However, asked if any effort had been made by either [redacted] or MHA to contact Enbridge Pipeline before submitting the first proposal, [redacted] said [redacted] didn't think so, unless Triad Corporation had contacted them. [redacted] said [redacted] assumed it would be feasible to secure a contract with Enbridge at the appropriate

time. Also, when asked if MHA had any firm agreements with either Alberta tar sands or Enbridge Pipeline, [redacted] said they did not, and that they would be unable to sign any contracts until the refinery had been completed in approximately 24 months.

Investigators also contacted Enbridge Pipeline [redacted], MHA's point of contact **(Attachment 23).** [redacted] said [redacted] first spoke with tribal leaders, Triad Corporation consultants, and [redacted] about the refinery project approximately a year and a half ago. While some discussion occurred about the feasibility of transporting synthetic crude oil through the Enbridge Pipeline to the North Dakota reservation, no firm plans were made. [redacted] said the specific branch of Enbridge Pipeline that runs into North Dakota does not currently transport synthetic oil, a detail that could be managed by the pipeline as long as MHA bought the oil itself, which, [redacted] believed, would come from somewhere in Canada. After purchase, the oil then could be shipped to the reservation refinery if the refinery built an extension to the current pipeline. [redacted] stated that since Enbridge Pipeline does not run directly to the reservation, a second company, Plains Pipeline, would also be involved in transporting the oil—another agreement MHA needed to work out.

Although [redacted] believed the project sounded doable, [redacted] was skeptical about it actually coming to fruition. [redacted] said 10,000 barrels per-stream day was considered an extremely small refinery. When asked when [redacted] had last spoken with anyone concerning this project, [redacted] replied that [redacted] had not spoken with anyone in approximately nine months.

Triad Corporation [redacted] estimated Triad's involvement dated back to 2000 **(Attachment 24)**, when the company first had been approached by [redacted] who remains its primary contact. Triad developed a front-end engineering design study **(Attachment 25).** It also established the cost and length of time required for project start-up.

"We're the engineers," [redacted] explained, stating that Triad was initially hired by the three affiliated tribes. [redacted] maintained that they currently lacked a total cost analysis for the project, as numerous details still awaited finalization. [redacted] expected the cost to exceed the estimate, due to a rise in steel and labor costs. [redacted] said [redacted]'d spoken with Alberta Tar Sands about purchasing their synthetic oil, but when asked about any existing signed agreements with that company, [redacted] stated they could not sign an actual agreement until the refinery was built.

[redacted]

Throughout the course of the investigation, investigators questioned the legality of [redacted]'s post-employment consulting work, particularly since [redacted] represents MHA back to the federal government on the same project [redacted] initiated as a federal employee.

In reference to the ethics conversation [redacted] claimed to have had with [redacted] General Law [redacted] before leaving federal employment, [redacted] stated [redacted] remembered speaking with [redacted] but that their discussions were very general and did not specify [redacted] returning to work as a consultant for the Clean Fuels Refinery Project with the MHA. **(Attachment 26)**

A discussion with Department of Ethics Office Director [redacted] **(Attachment 27)** relayed to investigators the provisions of the "Indian exception rule" detailed in 25 U.S.C. 450 i(j). This permits any

former federal employee to resign from a federal position to work directly with a federally-recognized Indian tribe(s), even in representing the tribe(s) back to the government on the same contract the employee had worked on previously. The single caveat to this is that the employee write the head of the department, agency, or commission with which he or she is dealing on behalf of the tribe(s) to advise them of any personal and substantial involvement or connection with the matter.

Furthermore, [redacted] advised that prior to [redacted] departure from federal service, [redacted] met with [redacted] and discussed [redacted] desire to become a private consultant. [redacted] stated that [redacted] did not get into specifics about the projects on which [redacted] planned to be working, but only that [redacted] planned to work directly for Indian tribes.

SUBJECT(S)

- [redacted] former Petroleum Geologist, Bureau of Indian Affairs, Washington, D.C.

DISPOSITION

The findings of this investigation will be referred to BIA.

ATTACHMENTS

1. Investigative Activity Report, subject: Interview of [redacted], dated January 11, 2005.
2. Investigative Activity Report, subject: Interview with Members of the MHA Tribes, dated January 11, 2005.
3. Information from the Department of Commerce, Office of Inspector General.
4. Investigative Activity Report, subject: Interview of [redacted], dated May 2, 2005.
5. Investigative Activity Report, subject: Interview of [redacted], dated May 26, 2005.
6. Modification #7.
7. Investigative Activity Report, subject: Interview of [redacted], dated June 7, 2005.
8. Investigative Activity Report, subject: Interview of [redacted] and Members of the MHA Tribes, dated January 11, 2005.
9. Investigative Activity Report, subject: Interview of [redacted], dated April 20, 2005.
10. Investigative Activity Report, subject: Interview of [redacted], dated January 11, 2005.
11. Letter from [redacted] to [redacted], dated August 3, 2004.

12. Investigative Activity Report, subject: Interview of [redacted], dated February 4, 2005.

13. Modification #37.

14. Investigative Activity Report, subject: Interview of [redacted], dated December 17, 2004.

15. Investigative Activity Report, subject: Interview of [redacted], dated December 28, 2004.

16. Audit Report No. 04-A-0048.

17. Investigative Activity Report, subject: Interview of [redacted], dated April 18, 2005.

18. Greystone's report.

19. [redacted] monthly reports.

20. Investigative Activity Report, subject: Interview of [redacted], dated December 28, 2004.

21. Investigative Activity Report, subject: Interview of [redacted], dated January 11, 2005.

22. Investigative Activity Report, subject: Interview of [redacted] dated January 11, 2005.

23. Investigative Activity Report, subject: Interview of [redacted], dated April 4, 2005.

24. Investigative Activity Report, subject: Interview of [redacted], dated April 25, 2005.

25. Triad Corporation's business proposal for a clean fuel refinery.

26. Investigative Activity Report, subject: Interview of [redacted], dated April 20, 2005.

27. Investigative Activity Report, subject: Interview of [redacted], dated June 1, 2005.

Office of Inspector General
Office of Investigations
U.S. Department of the Interior

Report of Investigation

Case Title	Case Number
Anadarko Petroleum Corporation	OI-NM-05-0124-I
	Related File(s)
Case Location	**Report Date**
Albuquerque, New Mexico	March 31, 2006
Report Subject	
Closing Report	

SYNOPSIS

This investigation was initiated on December 21, 2004, based on information received from Assistant United States Attorney (AUSA), [redacted], United Stated Attorney's Office (USAO), District of New Mexico, Albuquerque, NM, requesting a preliminary inquiry into allegations companies are defrauding the U.S. Department of the Interior. Specifically, allegations, originating in a September 2003 qui tam action filed by [redacted], stating that Anadarko Petroleum Corporation and other companies defrauded the DOI by underpaying oil and gas royalties, produced from federal land in New Mexico between 1995 and 2003, in the amount of $1,199,506.65.

Attempts were made through [redacted] attorney to interview [redacted] and obtain additional information, specifically disclosure of his sources.

This matter was further discussed with an AUSA [redacted], who declined to prosecute.

DETAILS

In May 2005, [redacted] attorney agreed to obtain contact information from [redacted]. No information was obtained from the attorney.

Information was later obtained from the USAO that [redacted] met with a civil attorney and the attorney was unable to determine whether [redacted] complaint was a new complaint or part of a previous complaint handled by the USAO in Texas; that [redacted] knowledge of the alleged fraud was second hand, based largely upon rumors; and [redacted] refused to give up [redacted] sources.

SUBJECT/DEFENDANT

1. Anadarko Petroleum Corporation

Reporting Official/Title	Signature
[redacted], Special Agent	
Approving Official/Title	**Signature**
Jack Rohmer, Special Agent in Charge	

Distribution: Original – Case File Copy - SAC/SIU Office Copy – HQ Other:

DISPOSITION

AUSA [redacted] Ex. 5
[redacted] intended to decline for prosecution and close Ex. 5
the case. This office provided AUSA [redacted] with a letter indicating this office has closed the case.

All redactions are 5 U.S.C. §§ 552(b)(6) and (b)(7)(C) of the FOIA.

Office of Inspector General
Office of Investigations
U.S. Department of the Interior

Report of Investigation

Case Title	Case Number
Wind River Indian Reservation	OI-SD-05-0161-I
	Related File(s)
Case Location	**Report Date**
Lakewood, CO	December 1, 2006
Report Subject	
Closing Report	

SYNOPSIS

This investigation was initiated in January 2005, based on allegations of embezzlement and financial mismanagement at the Wind River Indian Reservation in Riverton, WY.

An Inspector General subpoena was issued to the Northern Arapaho tribe – one of two located on the reservation – for audit reports produced by Joseph Eve and Company, Wind River's accounting firm, located in Billings, MT. A review of these reports indicated charging of unallowable costs by the tribe and problems with tribal employees not filing travel vouchers, but no thefts or embezzlements were identified.

Based upon the lack of specificity in the allegations, and the lack of any significant progress in this investigation, this matter is being closed.

DETAILS OF INVESTIGATION

[redacted] Joseph Eve contracts with both tribes on the reservation, the Northern Arapaho and Eastern Shoshone **(Attachment 1)**. [redacted] told of numerous financial improprieties occurring, specifically among the Northern Arapaho tribe.

In June 2005, an Inspector General Subpoena was issued to the Northern Arapaho tribe for several audit reports produced by Joseph Eve and Co. The reports covered financial activity from 2002-2004. A review of these reports disclosed instances of chronic financial mismanagement – poor record keeping on travel vouchers, unallowable costs under Office of Management and Budget circulars – but did not show specific instances of monetary theft or embezzlement. Nor was it clear if the money in question came from Department of the Interior programs **(Attachment 2)**.

Reporting Official/Title	Signature
[redacted], Special Agent	
Approving Official/Title	**Signature**
Jack L. Rohmer, Special Agent in Charge	

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During this investigation, several requests were made to obtain [redacted] audit working papers, but [redacted] was unresponsive.

SUBJECT(S)

Unknown

DISPOSITION

Because of a lack of specificity of the allegations and any significant investigative progress since the allegations were received, this matter is being closed.

ATTACHMENTS

1. IAR – Interview of [redacted]
2. Audit Reports

All redactions are 5 U.S.C. §§ 552(b)(6) and (b)(7)(C) of the FOIA.

Office of Inspector General
Office of Program Integrity
U.S. Department of the Interior

Report of Investigation

Case Title	Case Number
BLM Grazing/Oil and Gas Committee	PI-05-0205-I Related File(s)
Case Location	**Report Date**
Washington, DC	January 6, 2006
Report Subject	
Final Report	

SYNOPSIS

[redacted] Field Solicitor, Department of the Interior (DOI), Santa Fe, NM, learned that officials with the Bureau of Land Management, New Mexico (BLM-NM), Farmington District Office (FDO) were soliciting monetary "gifts" from oil and gas companies. The BLM-NM officials, under [redacted] management, solicited contributions from oil companies leasing land within the FDO's area of operations. The solicitation was done via a solicitation letter and a contribution form that specifies a pre-established rate of $1,000 per acre leased is included with the application for permit to drill provided to each lessee.

[redacted] told the BLM-NM officials that they did not have authority to solicit and collect "gifts." Further, [redacted] advised the BLM-NM officials that collecting the funds from oil and gas companies equates to accepting money from a prohibited source, which is in violation of the Federal Advisory Committee Act (FACA) regulations. This investigation was initiated when [redacted] reported the BLM-NM officials disregarded [redacted] advice and continued to solicit contributions from oil companies leasing land within the FDO.

The investigation revealed that the BLM Grazing/Oil and Gas Committee's solicitation of funds violates both BLM and FACA regulations. The OIG Office of General Counsel issued a legal opinion, in which it was determined that BLM does not have the authority to solicit donations to remediate lands that are damaged during attempts to locate or extract natural gas and oil resources. In addition, the collection of monetary contributions from permit applicants represents solicitation from a prohibited source, which calls into question the impartiality of BLM officials in the administration of permits. Further, the Committee's solicitation of contributions at the time of application creates the impression that the applicant's contribution is not voluntary and may affect their ability to obtain a permit or affect any ongoing relationship with BLM.

[redacted] cial/Title Special Agent	Sign: [redacted]	Date 1/11/06
Approving Official/Title Scott L. Culver, DAIG-PI	S [redacted]	Date 1-11-06

Distribution: Original – Case File Copy - SAC/SKO Office Copy – IRQ Other:

BACKGROUND

The San Juan Basin (Basin), located in Northwestern New Mexico and Southwestern Colorado sprawls across 7,800 square miles and produces 10 percent of the nation's natural gas. The BLM-NM's Farmington District Office is responsible for managing operations of the Basin located within New Mexico's borders.

Since 1951, more than 26,000 wells have been drilled in the Basin, and about 18,000 are still producing. BLM's plan for this region proposes 12,500 new wells with an associated 6,100 well-site compressors, 319 new larger transfer compressors, and 800 miles of new roads over the next 20 years. In addition, BLM's preferred alternative management plan aims to have full field subsurface development while minimizing surface disturbances.

Much of the tension between traditional users of public lands in the Basin stems from unmitigated impacts from wells and infrastructure authorized by BLM before standards and procedures under the Federal Land Policy and Management Act were implemented. Older oil and gas leases often lacked stipulations regulating development and requiring restoration of disturbed areas. Additionally, the lands in most of the Basin are what are called "split estates." Under the Stock Raising Homestead Act of 1916, homesteaders received ownership of the surface while the federal government retained ownership of all subsurface minerals. Today, BLM allows these subsurface leaseholders to put wells, roads, fences, and pipelines on the surface on public lands, where some ranchers maintain grazing permits.

DETAILS

On February 8, 2005, [redacted] Field Solicitor, DOI, Santa Fe, NM, provided information to the OIG regarding the solicitation of monetary "gifts" from oil and gas companies by BLM-NM, FDO. **(Attachment 1)** [redacted] had learned of the FDO's solicitation practice from discussions with several BLM employees. [redacted] then advised BLM-NM officials that while it is "noble" to attempt to compensate land owners for the damage that was done to their land, BLM does not have express authority to solicit and collect "gifts" to achieve this end. [redacted] further advised that by collecting the funds, BLM-NM is not only accepting money from a prohibited source, but BLM-NM is also in violation of FACA regulations based on the suspected method of disbursement.

[redacted] noted that in response to [redacted] advisements, [redacted], FDO, replied, "Thank you, [redacted], for your response. We have a different view."

[redacted] FDO, advised that mitigation[1] has been an issue within the FDO's area of responsibility since the early 1990s. **(Attachment 2)** According to [redacted] much of the conflict arises from the increasing destruction of natural habitats as the result of the coal bed methane wells within the Basin. In recent years, relations between the ranchers and the oil industry have become increasingly adversarial and in response, the ranchers have formed vocal alliances to promote their complaints. Major complaints on the part of ranchers include the loss of grazing forage; the killing of livestock by oil company vehicles; the damages inflicted on roads and the watershed; and the damage to invasive species.

[1] Mitigation is a series of prioritized actions that reduce or eliminate adverse impacts to biological resources.

Ron Dunton, Deputy State Director for Resources, BLM-NM, stated that in late 1999, BLM Headquarters in Washington, DC, issued a mandate to mend relations between the oil companies and ranchers. (**Attachment 3**) Dunton could not recall if this mandate was oral or in written format.

When [redacted] was appointed to [redacted] position as the Farmington [redacted] in [redacted] made it [redacted] first priority to lessen these tensions and take steps to create resources to mitigate damages to the land as a result of ongoing oil development (**Attachment 4**). To assist [redacted] in this process, [redacted] hired a professional facilitator, [redacted] and convened a series of four "facilitated sessions" with representatives from the oil companies, the ranching community, and FDO staff. The sessions were convened in August, November, and December of 2001 and in February of 2002.

The result of these facilitated sessions was the creation of a committee with a floating membership comprised of oil company representatives, local ranchers, and BLM staff to advise [redacted] and [redacted] managers of current issues in the FDO, and to provide [redacted] with input into decisions affecting the committee members. The committee members present adopted the name Grazing/Oil and Gas Committee (Committee).

In order to better serve the constituency, the Committee created three sub-committees: 1) Hazards to Livestock, 2) Reclamation, and 3) Mitigation. The Mitigation Subgroup (Mitigation), comprised of [redacted] (Conoco Oil), [redacted] (Rancher), [redacted] (R.L. Bayless, LLC), [redacted] (Rancher), and [redacted] met on December 11, 2001, to submit recommendations for an off-site mitigation fund (the Fund) to be established and administered by FDO (**Attachment 5**).

[redacted] opined that relations between the two constituencies have improved significantly since the Committee's inception. Funds collected from the oil companies are currently being utilized to enhance biological conditions on the ground, mitigate damages from oil company operations, and develop water resources. [redacted] stressed that the monies in the Fund are spent on those ranches that are impacted by that particular oil company's activities. [redacted] regularly meets with cattle growers and the New Mexico Oil and Gas Association to report on expenditures and discuss future funding proposals.

OIG investigators interviewed individuals associated with four of the oil companies doing business within the FDO, all of whom expressed support for the committee and the reasoning behind the committee's conception. [redacted], Burlington Resources, advised that the Committee was created to deal with complaints that the oil companies were not "putting back" into the land they disturbed to conduct their drilling (**Attachment 6**).[2]

[redacted] Northstar Oil & Gas Company, and [redacted], Merrion Oil and Gas, both surmised that the Committee was created as a result of continued complaints by local ranchers about the damage inflicted on their grazing lands and the local oil companies' lack of mitigation on these lands (**Attachment 7**).

[redacted], Dugan Production, was supportive of the Committee's efforts to mitigate the effects of oil drilling and production on the land (**Attachment 8**). [redacted] Burlington Resources, characterized the Committee and the fund as beneficial for all parties involved (**Attachment 9**). [redacted] applauded the Farmington office for its foresight in bringing both the ranching and oil communities together and assisting them with mediation and disputes.

[2] It is to be noted that Burlington is one of the largest monetary contributors to the Fund.

The Mitigation members formulated the "voluntary contribution" concept. After discussion with the Mitigation sub-committee membership, [redacted] made the request that the contribution be $1,000 per acre; the Committee agreed with this figure. [redacted] proposed (and the Committee accepted) that 70 percent of the off-site mitigation funds collected would be applied to maintaining the health of the land and that 30 percent of the funds collected would be utilized toward BLM projects. [redacted] stressed that Committee members were not interested in managing any funds collected on behalf of the Committee; rather, they preferred that BLM oversee the operation. An account was created at BLM's National Business Center (NBC) in Denver, CO, to manage the collection and disbursement of the contributions.

Additionally, Mitigation approved a solicitation letter (**Attachment 10**), signed by [redacted], to be forwarded to the oil companies in requesting voluntary contributions. In the letter, [redacted] advises that the contributed funds are used to finance rangeland health improvement projects such as vegetation manipulation, riparian improvements, and wildlife habitat improvement projects in areas not disturbed by oil and gas infrastructure. As described in the letter, the goal is to offset the loss of vegetative production by enhancing productivity in other areas. Enclosed with the solicitation letter is a Proffer of Monetary Contribution (**Attachment 11**), which specifies the suggested contribution amount and memorializes the company's intended contribution(s) to the Fund.

The letter is forwarded with the company's Application for Permit to Drill (APD). [redacted] added that at no time is the oil company pressured to contribute to the fund and that no penalties of any kind are assessed on those companies who do not participate. [redacted] emphasized that the processing of the APD permits are in no way influenced by whether a company contributes to the Fund.

[redacted] advised that [redacted] did feel somewhat pressured to make the "voluntary" contribution, as the materials were included in [redacted] APD paperwork. [redacted] believed that if [redacted] had not made a contribution, the APD would have taken much longer to be approved. Conversely, [redacted], and [redacted] did not feel pressure to contribute to the Fund and have not contributed to date. [redacted] did not believe that [redacted] lack of contributions to the Fund had any adverse effect on the approval of [redacted] APDs.

[redacted], FDO, explained that when monies are contributed to the Fund, the monies are provided directly to FDO (**Attachment 12**). Upon receipt [redacted] deposits the monies into the FDO's general account; at this time, a notation is made to the general account manager (Manager) that the monies are to be forwarded to BLM's NBC for deposit into the Fund. The Manager electronically transfers the funds to NBC, at which time the funds become part of the NBC's General Treasury account. Accounting Technicians at NBC are then responsible for dispersing the funds to the identified account. [redacted] added that deposited funds are normally available the following business day.

Eddie Williams, Chief, Rangeland Management Branch, FDO, was placed in charge of general oversight and fiscal management of the Fund (**Attachment 13**). When the Committee approves funding for an offsite mitigation project, Williams is responsible for determining the cost of the project, hiring and/or appointing the necessary staff to work on the project, overseeing the work on that project, and managing maintenance and upkeep of the project, if necessary. Williams added that the funds are not handed to the rancher; rather the funds are utilized by BLM to purchase products, equipment (if necessary), and staff required for the job. Williams is responsible for reporting on the Fund at Committee meetings and producing written reports of accounting.

Williams advised that in spending those monies from the Fund that are designated for BLM projects (the BLM 30% allocation), the FDO management first reviews a list of project proposals submitted by the various BLM specialists (i.e. Minerals & Lands, Fire Management, Realty) and prioritizes the proposals. The management then presents the list of prioritized proposals to the Rancher Sub-Committee for comments in input before making a final decision on funding. In an "Off-Site Mitigation Funds Update" dated March 18, 2005, BLM projected allocation requests totaled $63,897.00 (**Attachment 14**).

Priorities for spending of these funds include:

- Noxious weed control in Rosa, Hart Canyon
- Thinning and seeding in Ditch Canyon
- Sediment control structures in Largo Canyon
- Stabilization/maintenance of historic structures
- Inventory and monitoring studies for threatened and endangered species

For fiscal year 2005, $29,946 in funds has been expended from the BLM project allocation fund, as follows:

- Wildlife/Reseeding - $9,946
- Riparian/Materials for YCC Project - $10,000
- Archaeology/Pueblito Restoration - $5,000
- Noxious Weeds/Treatments for Rosa & Middle Mesa - $5,000

Williams provided a document entitled "Off Site Mitigation Money," dated May 3, 2005, which details the funds received as well as funds expended for mitigation efforts. As of this date, a total of $651,237 has been collected since 2002, and a total of $344,273.14 has been expended.
Additionally, Williams provided a report entitled "Proffer of Monetary Contributions," (see **Attachment 11**), which outlines where the contributions received are directed.

After becoming aware of the subject investigation involving the Fund, [redacted] consulted with [redacted], BLM-NM, about alternatives that would allow the continuation of the system of contributions by the oil companies toward mitigation and reclamation efforts. [redacted] was told by [redacted] that the BLM-NM State Director, Linda Rundell, would like the program to continue; however, there would need to be modifications to the Fund's operation and management. One of the major modifications proposed is to remove BLM from the collection and management of the associated funds.

[redacted] has contacted the Association of Partners for Public Land (APPL) in Bethesda, MD, to request a review of the Fund and the Committee's voluntary solicitation policy. The review will determine if the Fund could be managed through a community-based, non-profit agency, thereby removing all BLM-related ties to the program. The APPL was expected to visit BLM-NM in late March of 2005 to conduct this review. In a follow-up phone call, [redacted] noted that this review had been postponed until the OIG investigation had concluded.

[redacted] believes that the conversion of the Fund, as described above, would create an additional layer of bureaucracy and incur oversight costs (which are currently being absorbed by the FDO). [redacted] believed that oil companies would be hesitant to donate to a non-BLM entity and may not support the fund in the

future. [redacted] maintained that BLM needed to remain in the "driver's seat" as far as setting spending priorities for the funds collected.

FACA, enacted in October of 1972, applies whenever an agency official establishes or utilizes a committee, board, commission, or similar group for the purpose of obtaining advice or recommendations on issues or policies within the agency official's responsibility. The FDO's Committee, formed in order for [redacted] to solicit advice from both ranchers and oil company management, and managed by individuals employed by the FDO, meets these criteria. The Committee has not consulted with US General Services Administration, has not filed a charter, and has not filed a notice in the *Federal Register*, as required by FACA.

Investigators requested that the OIG's Office of General Counsel (Counsel) issue a legal opinion in this matter. In a written advisory, (**Attachment 15**), Counsel advised that BLM does not have authority to solicit donations to remediate lands that are damaged during attempts to locate or extract natural gas and oil resources. According to the opinion, the integrity of the administrative process, by which oil and gas permits to drill and rights-of-ways are issued, is compromised by BLM solicitations for "voluntary donations," which lack the indicia of being voluntary. A solicitation for a donation, made simultaneously when an application is provided, leaves the applicant highly susceptible to the impression that the BLM-requested "donation" may affect their ability to obtain a permit or right-of-way and affect any ongoing relationship with BLM. This is especially true when a permit application is accompanied by a donation request, and the donation form specifies a pre-established "donation" rate and purpose.

Counsel further advised that an employee may participate in fundraising in an official capacity only if the employee is authorized to engage in the fundraising activity as part of his or her official duties, in accordance with a statute, Executive order, regulation, or otherwise[3] as determined by the agency. When authorized to participate in fundraising in an official capacity, an employee may use his or her official title, position, and authority.[4] An agency would be required to have express legal authority for official fundraising. It would not be enough for the fundraising activity to be consistent with the agency's mission or for the fundraising simply to further the agency's programs.

Further, the opinion noted that solicitation of prohibited sources[5] calls into question the impartiality of BLM officials in the administration of permits. The Office of Government Ethics (OGE) recognizes the potential, adverse appearance created when agencies accept funds from prohibited sources. "[OGE] generally suggest[s] that agencies avoid accepting reimbursements from organizations that do business with or are regulated by the agency," according to the OGE Advisory Opinion 86 x 10 (August 8, 1986). The recipients of these BLM solicitations are persons who, or entities which, have received or seek to receive permits and rights-of-ways from BLM and are potentially subject to inspections by BLM.[6]

[3] The Office of Government Ethics clarified that the phrase "or otherwise as determined by the agency," was "included because several agencies commented that the proposed Standards of Ethical conduct suggested that authority to engage in fundraising as part of his official duties may be found, for example, in statutes more general in character than those specifically providing for agency personnel to engage in fundraising." *See,* OGE Advisory Opinion 93 x 19 (Aug. 255, 1993).
[4] 5 C.F.R. § 2635.808(b) (2005).
[5] A prohibited source is defined as one who either has or is seeking to obtain, contractual or other business or financial relations with an employee's agency; or has interests that may be substantially affected by the performance or nonperformance of his or her official duties. 5 C.F.R. § 735.202(a) (2005).
[6] 30 U.S.C. §§ 1701, and 1711[6] (2005).

Counsel added that soliciting funds from those who seek permits or are regulated by BLM clearly contravenes the fundamental principle that, in the absence of Congressional or regulatory authority, a federal employee should not solicit from a prohibited source. An appearance is created that a reasonable person may question whether these donations affected the granting or subsequent administration of permits and rights-of-way.

The *Department of the Interior Donation Activity Guidelines (Guidelines)*, issued by the Assistant Secretary, Policy, Management and Budget and the Solicitor, dated May 21, 1996, specifically address the solicitation and acceptance of donations by DOI employees of bureaus that have gift authority. The *Guidelines* state that neither Departmental agencies, nor employees on behalf of their agencies, may accept donations from prohibited sources, such as these applicants for permits or rights-of-way. The *Guidelines* also prohibit DOI employees from soliciting donations from persons and entities who conduct operations or activities that are regulated by the agency that would receive the donation or appear to be offering a gift with the expectation of obtaining advantage or preference in dealing with the Department or any of its agencies. Furthermore, neither Departmental agencies, nor their employees, may solicit donations from any source except as part of an approved cooperative Foundation[7] program and otherwise consistent with the *Guidelines*. Absent authority from Congress to solicit gifts, the role of DOI agencies that have authority to accept donations is generally restricted to educating the public about the existence of the gift acceptance authority and the specific gift needs of the bureau. BLM is listed as one of the bureaus lacking Congressional authority to solicit donations.

Counsel determined that because BLM is accepting money from a "prohibited source," BLM appears to be in violation of FACA regulations. The fact that once the money is collected, closed meetings are held with a small group of farmers to determine how it will be disbursed also contravenes FACA emphasis on open, public forums.

In an interview dated February 16, 2005, Francis Cherry, (Former) Deputy Director, BLM advised that he was familiar with the Committee and the Fund (**Attachment 16**). Cherry understood that the program was not soliciting funds; rather, the program provided a means for the oil companies to voluntarily contribute to the costs of offsite mitigation in the Farmington District. Cherry reviewed the form letter provided to the companies requesting their voluntary participation in the Fund; Cherry noted that the word "voluntary" appeared in the letter, and therefore Cherry did not view the letter as a form of solicitation. [redacted] agreed that the requests were for voluntary contributions, noting that the letter states that the contribution is a "...good faith gesture in the interest of sustainable multiple-use of the public lands administered by the Farmington Field Office."

After the subject investigation was initiated, a BLM Instructional Memo (IM 2005-969) (**Attachment 17**), dated February 1, 2005, was issued to address the voluntary mitigation issue. The memo states that when an applicant's offsite voluntary mitigation proposal is part of the plan of development for an approved permit or grant, that mitigation will pass from being a voluntary proposal to becoming a requirement of the authorization. The applicant becomes committed to the offsite mitigation component once the authorization is granted. Further, this memo states that offsite mitigation may be considered after application of other forms of onsite mitigation including best management practices.

[7] This is a reference to the National Park Foundation and the National Fish and Wildlife Foundation.

Additionally, the memo specifies that BLM may identify other offsite mitigation opportunities to address impacts, but is not to carry them forward for analysis unless volunteered by the applicant. Further, the memo states that there is no establishment of an equivalency requirement for offsite mitigation.

Regarding financial contributions toward mitigation, BLM asserts that in order to qualify as offsite mitigation, the funds collected must be identified as "responsible for implementation of the project(s)." The memo advises that it is not BLM policy to waive or forego onsite mitigation of impacts through payment of monies.

In order to determine if similar off-site mitigation practices were in place elsewhere, OIG interviewed BLM officials in the states of Wyoming, Montana, and Utah. Investigation revealed that the IM issued by BLM Headquarters in early 2005 is the marker for the off-site mitigation efforts within these states. None of the individuals interviewed in the states of Wyoming and Montana solicit funds for this purpose. In the case of Wyoming, officials propose options to those companies who propose mitigation projects to BLM. In Utah, BLM officials developed a program through which proponents of a particular action could contribute private funds into an account administered by the National Fish and Wildlife Foundation.

SUBJECT

[redacted] Farmington District Office, New Mexico, Bureau of Land Management

DISPOSITION

This case is forwarded to Director, Bureau of Land Management, for appropriate action and final disposition.

ATTACHMENTS

1 - Investigative Activity Report, Interview of [redacted], dated February 8, 2005.

2 - Investigative Activity Report, Interview of [redacted], dated March 11, 2005.

3 - Investigative Activity Report, Interview of [redacted], dated March 11, 2005.

4 - Investigative Activity Report, Interview of [redacted], dated March 14, 2005.

5 - Mitigation Subgroup Recommendations.

6 - Investigative Activity Report, Interview of [redacted] dated March 17, 2005.

7 - Investigative Activity Report, Interview of [redacted], dated February 16, 2005.

8 - Investigative Activity Report, Interview of [redacted], dated February 18, 2005.

9 - Investigative Activity Report, Interview of [redacted], dated March 17, 2005.

10 - [redacted] solicitation letter.

11 - Proffer of Monetary Contribution.

12 - Investigative Activity Report, Interview of [redacted], dated April 4, 2005.

13 - Investigative Activity Report, Interview of Eddie Williams, dated March 18, 2005.

14 - Off Site Mitigation Funds Update, dated March 18, 2005.

15 - OIG's General Counsel legal opinion, dated March 7, 2005.

16 - Investigative Activity Report, Interview of Francis Cherry, dated February 16, 2005.

17 - BLM instructional memo.

All redactions are 5 U.S.C. §§ 552(b)(6) and (b)(7)(C) of the FOIA.

Office of Inspector General
Office of Investigations
U.S. Department of the Interior

Report of Investigation

Case Title	Case Number
Mescalero Apache Tribe	OI-NM-05-0286-I Related File(s) None
Case Location	**Report Date**
Albuquerque, NM	August 30, 2006

Report Subject
Closing Report

SYNPOSIS

This investigation was initiated based on allegations of fraud involving an Indian Self-Determination Act contract of approximately $984,000 to build a scenic parking lot at the Mescalero Apache Tribe, Mescalero, New Mexico. The contract expired in approximately 2002 and at close-out, the Bureau of Indian Affairs (BIA) discovered the funds were drawn down by the Tribe but only initial design work was performed.

This case is being closed based on other priority investigative matters and a lack of any substantial investigative progress.

SUBJECT(S)/DEFENDANT(S)

Unknown members of the Mescalero Apache Tribe

DISPOSITION

This case is being closed based on other priority investigative matters and a lack of any substantial investigative progress.

ATTACHMENTS

None

Reporting Official/Title	Signature
[redacted] Assistant Special Agent in Charge	
Approving Official/Title **Jack L. Rohmer, Special Agent in Charge**	**Signature**

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All redactions are 5 U.S.C. §§ 552(b)(6) and (b)(7)(C) of the FOIA.

Office of Inspector General
Office of Investigations
U.S. Department of the Interior

Report of Investigation

Case Title	Case Number
Oklahoma Indian Gaming Working Group	OI-OK-05-0386-I Related File(s)
Case Location	**Report Date**
Tulsa, OK	December 4, 2006
Report Subject	
Closing Report	

SYNOPSIS

The Oklahoma Indian Gaming Working Group (OK IGWG) was formed to address the many issues related to the expansion of the gaming industry in Oklahoma Indian Country. Initially opened as an investigation, the goal of this case was to track DOI-OIG activity related to the OK IGWG meetings and casework. A determination was made to close this investigative case and address the activity in another manner.

DETAILS

On May 10, 2005, several federal investigative agencies (consisting of the USAO, OIG, FBI, IRS Office of Indian Tribal Governments, IRS Criminal Investigation, NIGC, and BIA Law Enforcement) formed the OK IGWG in the spirit of the National Indian Gaming Working Group, which was initiated by SAC Neil Smith. The need for a local working group had become increasingly apparent with the criminal activity in the Oklahoma Indian gaming industry, which consisted of over 80 Indian gaming establishments (second only to California, which has over 100 Indian gaming establishments).

The role of the working group was to receive referrals from its member agencies, to prioritize those referrals, and to assist the field elements on those investigations the working group accepts as task force projects. It was envisioned that the assistance would include the following:

- Enhance the level of cooperation and communication between the various field elements of each member agency
- Provide a commitment from each member agency to accomplish the investigative task
- Combine resources to ensure that an adequate investigative effort can be accomplished
- Coordinate the assorted roles and functions of each member agency
- Assist the DOI's trust responsibility to Indian tribes as it relates to public corruption, and provide vital feedback to the IG

Reporting Official/Title	Signature
[redacted]/Special Agent	
Approving Official/Title	**Signature**
Jack L. Rohmer/Special Agent in Charge	

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The purpose of this investigative file was to serve as a conduit for substantive investigations or GIFs based on information obtained from the working group.

SUBJECT(S)/DEFENDANT(S)

N/A

DISPOSITION

Case closed with no further investigative activity anticipated under this case number.

EXHIBITS

None

All redactions are 5 U.S.C. §§ 552(b)(6) and (b)(7)(C) of the FOIA

Office of Inspector General
Office of Investigations
U.S. Department of the Interior

Report of Investigation

Case Title BLM Land Sale to Bridgeport Paiute Indian Colony	**Case Number** OI-CA-05-0451-I **Related File(s)**
Case Location Bridgeport, California	**Report Date** September 18, 2006
Report Subject Investigation Complete/Closing Report	

SYNOPSIS

This investigation was initiated based on information provided by a private citizen named [redacted] of Bridgeport, California. [redacted] opposes a proposed sale of Bureau of Land Management (BLM) land located near [redacted] residence to the Bridgeport Paiute Indian Colony (tribe). [redacted] opined that BLM officials [redacted], and the Bureau of Indian Affairs (BIA) were violating their trustee relationship with the American public by not following proper procedures. Specifically, [redacted] stated that BLM had not provided the local community with enough notification of the proposed sale, that BLM's appraisal undervalued the land, that BLM had not allowed any interested parties to bid on the property, and that the Environmental Assessment BLM used was flawed. [redacted] also thought it was suspicious that the tribe sought to have the land put into trust with BIA before the general public even knew about the proposed sale.

Interviews were conducted of the complainant and seven U.S. Department of the Interior (DOI) employees with knowledge of the proposed land sale. No criminal violations were alleged during the investigation. The investigation determined that because the values established in BLM's appraisal of the land expired in June 2005, that appraisal is obsolete; therefore, BLM will conduct a more current appraisal if and when all matters regarding this sale have been completely adjudicated.

During the course of the investigation, [redacted] formally protested the land sale, and the matter was referred to the Interior Board of Land Appeals (IBLA). In an attempt to avoid a costly and lengthy legal process through IBLA, all affected entities (BLM officials, tribal officials, the complainant and two other parties who appealed BLM's decision to proceed with the sale) are currently cooperating with mediators from the Office of Hearings and Appeals and the U.S. Institute for Environmental Conflict Resolution, a federal organization that is not part of DOI. If all parties cannot reach a mutual agreement, any remaining unresolved issues will be heard by IBLA.

DETAILS

Reporting Official/Title [redacted], Special Agent	**Signature**
Approving Official/Title **David W. Brown, Special Agent in Charge**	**Signature**

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[redacted] advised that in about 1988, the U.S. Government offered to give the tribe land as part of a bill to give several California Indian tribes land, but the tribe refused the government's offer because they had to agree to refrain from gaming as a condition of the transfer. The tribe subsequently began the process of trying to purchase the land from BLM, presumably to preserve the option of putting a casino there.

[redacted] opined that BLM officials [redacted], along with unnamed BIA officials, were proceeding with the sale without following proper land sale procedures and that the citizens of Bridgeport had not received proper notification of the proposed sale. [redacted] continued saying that BLM's appraisal drastically undervalued the parcel, that BLM had not allowed anyone the opportunity to bid on the property, and that the Environmental Assessment BLM used was flawed. [redacted] also wondered why the tribe sought to have the land put into trust by the BIA before the proposed sale was even made public. (Exhibit 1)

Historical Account

In the early 1980s, when Tilly Hardwick vs. the United States was heard, the court ruled that the government had acted without authority when it had taken the Indians' land thirty years earlier with the passage of the Termination Act. Several years later, in approximately 1994, the tribe came to BLM and requested that the 40 acre parcel at issue be set aside so they could extend the boundaries of their reservation. Initially, BLM and the tribe considered doing a land exchange, but they decided against it because the tribe would have had to buy some property just for that purpose. The tribe subsequently approached BLM about the possibility of doing a direct sale. (Exhibits 2 & 3)

The Bishop Field Office of BLM told the tribe that land could only be transferred for non-gaming purposes and informed them which parcels were available for disposal. In 1998, DOI contacted thirteen tribes, including this one, to report that a delegation was going to sponsor legislation to transfer land to those tribes. Though Congressman Doolittle categorically opposed the acquisition of land by any tribe without a gaming prohibition, this tribe and one other located in Doolittle's district refused to waive their gaming rights. Those two tribes subsequently withdrew from the bill so that the remaining eleven tribes could proceed with their land acquisitions. The remaining tribes subsequently received federal land due to the passage of the Omnibus Indian Assistance Bill (OIA Bill) in 2000. (Exhibits 2, 4 & 5)

After the tribe withdrew from the OIA Bill, they sent a letter to [redacted], BLM's California State Director at the time, requesting that they be able to buy land in fee. Even though the tribe's attorney assured that no gaming would be allowed on the land since it would still be private property, Congressman Doolittle insisted on a deed restriction prohibiting gaming. (Exhibit 2)

From 1989 until it was finalized in 1993, the Bishop Field Office worked on its Resource Management Plan (RMP). However, even though the tribe had previously requested 160 acres known as the Travertine Hot Springs from BLM in 1983, their request for land was overlooked in the 1993 version of the RMP. The RMP was eventually amended in 2004 to allow BLM to dispose of the 40 acre parcel so it would be available for the tribe to purchase. This particular parcel may have been excluded from the RMP initially because the land had apparently been used as an illegal dumpsite for Mono County. (Exhibits 2 - 4)

[redacted] does not know why the RMP had not been amended before [redacted] started with BLM in [redacted] but surmised that the matter may have been "put on hold" due to the illness of [redacted] predecessor, Steve Addington, who died in 2002. [redacted] assumed that BLM had inadvertently overlooked the 40 acre parcel in its original RMP. When [redacted] started with BLM, [redacted]

[redacted], told [redacted] to amend the RMP to designate the parcel the tribe wanted for disposal. (Exhibit 4)

Results of Investigation

The Federal Land Policy & Management Act (FLPMA) says that "communities" (such as tribes) can grow with BLM's assistance if no they have "no other practical alternative" of accomplishing growth other than acquiring BLM land. The land in question sits directly west of the tribe's current reservation and there is no other contiguous parcel of land that would allow the tribe to extend their reservation. BLM land behind the reservation is unavailable because it is part of a Wilderness Study Area, while the former BLM land to the north of the reservation is now a dump for Mono County. According to [redacted], BLM met the conditions set forth in 43 CFR 1710 to sell this land directly to the tribe. Though there is no official BLM policy to restore land to Indian tribes, there is an interest in helping tribes expand their reservations through sales or exchanges as long as no BLM policies are violated. (Exhibits 3 & 4)

Once BLM deeds the land to the tribe, it will be held in fee, but BIA will immediately convert the land into trust status for the tribe so they will not have to pay property taxes on it. BIA will receive a preliminary title opinion from the Solicitor's Office before placing the land into trust. [redacted] Branch of Lands Management, Sacramento, California, is not familiar with the role BIA has in placing the land in question into trust status for the tribe. [redacted] advised that BLM's role "stops upon conveyance" of the property. [redacted] has never met with any BIA employees about the transaction. (Exhibits 4 - 6)

[redacted] performed the appraisal for the land in question in June 2004. The Appraisal Review that accompanied [redacted] report states that the values [redacted] determined are only good until June 2005. The tribe was in a hurry to buy the land, but because there was an archeological site on portions of the property, those portions could not be readily sold; therefore, BLM decided to divide the property into four sections and sell them in different phases. That way, some of the sale could proceed without being held up by the State Historic Preservation Office, which had to study the archeological site. (Exhibits 3 & 7)

[redacted] determined the total value of four lots comprising the 40 acres was $80,740. The tribe only wants to buy lots one and two, at a value of $63,720, while California's Department of Transportation (commonly known as "Caltrans") wants to buy lots three and four at a value of $17,020. The cost to cure lot one, which contains old cans, buried cars and appliances, is $29,165. Deducting that cost from the tribe's cost of $63,720 for their two lots leaves a balance owed by the tribe of $51,575, per [redacted] report. [redacted] admitted that it was "not proper" for BLM to divide the parcel into four lots; the parcel should have been appraised as one piece. [redacted] used the overall value of the parcel and then calculated the approximate value of the four portions by applying the average price per acre to each parcel. (Exhibit 7)

The value of land is not the "sum of its parts" but the whole parcel as one estimate. [redacted] or the management of the Bishop Field Office probably asked [redacted] to break it down so they could do a "staged type disposal" of the land since they had to address the contaminated piece separately. The larger a parcel is, the lower its unit value is. If a large amount of acreage were split into smaller units, the smaller units would bring more on a per acre basis because smaller plots of land appeal to more buyers, thereby making them more desirable and driving up the price. This was not an issue because it was going to be a direct sale to the tribe. (Exhibit 7)

FLPMA requires federal land be sold at fair market value, but fair market value refers to a land's value "today", not its development potential. [redacted] feels that if BLM had made every land sale a competitive bid, that would have established the parcels' true market value. It was not unusual for BLM to sell land directly to one party, according to [redacted]. (Exhibits 4 & 7)

The sales comparison approach is the most commonly used to establish value. It is most often used on "raw land" with no improvements or income stream, such as the land in question. To estimate value for this appraisal, [redacted] averaged home site comparable sales [redacted] found in the local area through research at the Mono County Assessor's Office since [redacted] had no really good comparable property to use. (Exhibit 7)

[redacted] June 2004 appraisal is the most current appraisal. Since there was no binding agreement signed by the tribe and BLM to rely on [redacted] appraisal beyond June 2005, it is no longer valid. No one from BLM or BIA tried to influence the appraisal process in order to undervalue the land for the tribe. [redacted] viewed BLM's primary goal in this transaction as disposing of the property, not to providing land to the tribe. (Exhibits 4 & 7)

[redacted] do not know of any government personnel who have a personal motive to ensure that the tribe acquires land from BLM. [redacted] referred to the idea that BLM personnel could benefit personally by pushing land sales or exchanges through as "malarkey". [redacted] advised that though there is no "written policy" within BLM to restore land to Indian tribes when possible, [redacted] feels that as part of a "DOI bureau", BLM employees "feel an obligation to help (tribes) when it is appropriate". (Exhibits 3, 4, 6 & 7)

BLM has to make a "judgment call" and "find middle ground" when deciding how to best use the country's natural resources when there are members of the public with opposing needs. The public BLM serves is not limited to the local community of Bridgeport, but rather "270 million people". In determining which action to take regarding public land, BLM tries to look at issues over which it has "clear, legal authority" such as what environmental impact a land transfer would have and what the "potential social impact" of a transfer would be. A BLM State Director once commented that if BLM offended all parties equally, they had done their job. (Exhibits 2, 3 & 6)

In [redacted] opinion, selling the 40 acre parcel to the tribe is in the public's best interest. [redacted] agreed that it is in the public's best interest to get rid of the land because it would probably serve the public better in private ownership. However, [redacted] offered that if the government had wanted to maximize its return in this case, BLM would have put the land up for competitive bids. (Exhibits 4 & 6)

Many Bridgeport residents mistakenly believe that BLM has approved the tribe's economic development plan and authorized the tribe's plan to extend Buckeye Drive, which is currently a residential cul-de-sac. To no avail, [redacted] has explained that BLM has no authority to approve the tribe's economic plan or to authorize the extension of that road. The decision of whether to extend the road lies with Mono County, not the federal government. (Exhibits 4 & 6)

[redacted] opined that racism against tribal members is a factor in the protests of this sale. At a meeting of Bridgeport's Regional Planning Advisory Committee, one Bridgeport resident commented that [redacted] would be responsible if a "drunken Indian" ran over kids if Buckeye Drive were extended because of the sale. A deputy sheriff stood up at the same meeting and said that [redacted] knew the crime rate in Bridgeport would rise if the reservation population increased, which would likely happen if the reservation expanded.

Since [redacted] has been with BLM, the agency has made a "really concerted effort" to keep Bridgeport residents apprised of the land sale. [redacted] understands their view that they were not properly notified about the sale because they "probably thought it had gone away" since the process has taken so many years. [redacted] understands that the community feels "powerless to do anything if the land is taken into trust" on the tribe's behalf by the U.S. (Exhibit 4)

At one time, the tribe had a small casino on its current reservation that was "a miserable failure", indicating that there is no market for a casino in such a remote area. During this investigation, interviewees variously described the parcel in question as "in the middle of nowhere", "isolated" and mostly scrub brush. [redacted] opined that the town of Bridgeport is really a "junction" more than a town. (Exhibits 2, 4, 5 & 7)

The following Bridgeport residents appealed BLM's decision to go forth with the sale after BLM deemed their protest letters without merit to the Interior Board of Land Appeals (IBLA): [redacted]. [redacted] Solicitor, Sacramento, California, advised that representatives from BLM, the tribe and the appellants have been separately interviewed by a mediator from the U.S. Institute for Environmental Conflict Resolution, located in Arizona, and [redacted] an "ADR" (Alternate Dispute Resolution) Specialist with the Office of Hearings and Appeals. The mediators are optimistic that an agreement will be reached because the "first round" of their meetings with all involved parties was "productive". As of August 18, 2006, proceedings with IBLA have been suspended until all mediation efforts between BLM, the tribe and the appellants have been exhausted. If an agreement is reached, IBLA will not hear the case. [redacted] is hopeful this issue will be resolved by mid October 2006, at which time the government has to report on the progress of the mediation efforts to IBLA.

No updated appraisals have been done since the negotiations started with the appellants. A more current appraisal will have to be done at some point because the latest one is outdated, but BLM is not going to do anything until the mediation efforts are successful or hit an impasse. (Exhibit 8)

SUBJECT(S)

[redacted]

Bureau of Land Management
Bishop Field Office
785 North Main, Suite E
Bishop, California 93514

[redacted]

Bureau of Land Management
2800 Cottage Way, Room W-1834
Sacramento, California 95825

DISPOSITION

Other than the alleged inaccuracy of the appraisal by BLM, the complainant's issues surrounding the proposed sale are being addressed through an ongoing ADR process. The appraisal in question has expired and cannot be used to determine value anymore. If the ADR process is not satisfactory to the sale's opponents, the IBLA will hear their case. No allegations or evidence developed during the investigation to suggest any criminal violations occurred. For these reasons, this case is closed.

EXHIBITS

1. Interview of [redacted] on June 9, 2005
2. Interview of [redacted] on December 19, 2005
3. Interview of [redacted] on February 22, 2006
4. Interview of [redacted] February 22, 2006
5. Interview of [redacted] on November 4, 2005
6. Interview of [redacted] on November 9, 2005
7. Interview of [redacted] on January 31, 2006
8. Interview of [redacted] on August 18, 2006

All redactions are 5 U.S.C. §§ 552(b)(6) and (b)(7)(C) of the FOIA.

Office of Inspector General
Office of Investigations
U.S. Department of the Interior

Report of Investigation

Case Title Winnemucca Indian Colony	Case Number OI-CA-05-0549-I Related File(s)
Case Location Winnemucca Indian Colony	Report Date November 22, 2005
Report Subject Investigation Complete/Closing Report	

SYNOPSIS

The investigation was initiated based on a phone call from [redacted], former member of the Winnemucca Indian Colony (WIC), alleging that $299,072 in BIA funds had been improperly transferred from WIC to the Lovelock Pauite Tribe and then stolen. [redacted] alleged that BIA [redacted] colluded with WIC tribal members and had conspired to transfer the funds.

Interviews were conducted and copies of documentation pertaining to the allegations mentioned in the complaint were received and reviewed.

The investigation revealed that in 1999 BIA funds, Public Law 93-638 (638) funds, were allocated for the Winnemucca Indian Colony. At that particular time the Winnemucca Indian Colony did not want to accept Federal funds and chose, by resolution, to transfer the funds to the Lovelock Pauite Tribe. Documentation from the 108th Congress and U. S. General Accounting Office (GAO), Office of General Counsel (OGC) Appropriation Law authorizes BIA to legally reprogram Federal funds. A previous investigation was conducted by a BIA Special Agent (SA) concerning the embezzlement of the funds transferred to the Lovelock Pauite Tribe and the allegations were unsubstantiated. This investigation revealed that the allegations were unsubstantiated.

DETAILS

An interview with [redacted] revealed that funds were reprogrammed from the Winnemucca Indian Colony to the Lovelock Pauite Tribe. [redacted] provided photocopies of documentation after the interview concerning the transfer of the Federal funds. **(Exhibit 1 pertains)**

After the interview, on a later date, [redacted] provided documentation from the GAO, OGC Appropriation Law that confirms the authorization of BIA to reprogram Federal funds. **(Exhibit 2 pertains)**

A conversation with SA [redacted], BIA, revealed that [redacted] conducted an investigation into allegations that the money transferred from the Winnemucca Indian Colony to the Lovelock Pauite Tribe was embezzled by [redacted]. [redacted] said the allegations were unsubstantiated and [redacted] proved a copy of the report. In summary, the report stated that SAs from the BIA and FBI met with the Lovelock Tribal Council to discuss and retrieve bank documents concerning the alleged embezzlement. SA [redacted] conducted a preliminary review of the documents

Reporting Official/Title [redacted], Special Agent	Signature
Approving Official/Title	Signature

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and did not find any suspicious activity. The documents were returned to the tribe and the case was closed. **(Exhibit 3 pertains)**

SUBJECT(S)/DEFENDANT(S)

[redacted]
SSN: [redacted]
DOB:
[redacted] BIA [redacted]
[redacted]

[redacted]
SSN: [redacted]
DOB:
[redacted]

DISPOSITION

The investigation is complete and will be provided to the BIA for information purposes.

ATTACHMENTS

1. IAR – Interview of [redacted], on October 24, 2005, dated October 25, 2005.
2. Photocopies of documentation received from [redacted] from GAO, OGC Appropriation Law.
3. Photocopy of Fax cover sheet and incident report from SA [redacted]

Office of Inspector General
Program Integrity Division
U.S. Department of the Interior

Report of Investigation

Case Title Carrizo Plain Incident	Case Number PI-06-0003-I
	Related File(s)
Case Location Washington, D.C.	Report Date April 19, 2006
Report Subject Report of Investigation	

SYNOPSIS

The Office of Inspector General (OIG) initiated this investigation on October 2, 2005, at the request of Kathleen Clarke, Director, Bureau of Land Management (BLM), for an independent review of issues surrounding the death of former Carrizo Plain Monument Manager Marlene A. Braun. Braun received a 5-day suspension for criticizing her supervisor, [redacted], Field Manager, Bakersfield Office, in an August 11, 2004 e-mail to the Carrizo Plains National Monument managing partners. She appealed the matter to the California State Director, who sustained the 5-day suspension, and Braun ultimately served her suspension in January 2005. On May 2, 2005, after a year of increased tension and conflict at work, Braun committed suicide at her home on the Carrizo Plains. In her suicide note, Braun wrote that she could no longer take [redacted] abuse, humiliation, and lies about her abilities and character.

The OIG determined that BLM was compliant with federal law and Department of the Interior (DOI) personnel regulations regarding the suspension and treatment of Braun; however, BLM did not take action to resolve longstanding differences between Braun and [redacted] or to diffuse inter-office conflict, despite the availability of alternative dispute resolution methods. These personal differences between Braun and [redacted] remained unresolved, leading to a breakdown in trust, communication, and cooperation between the two, which adversely affected management of the Carrizo Plains National Monument, as well as development of the monument's Resource Management Plan.

On the date of Braun's death, BLM law enforcement personnel, at the request of [redacted], Assistant Field Manager, Bakersfield Field Office, entered her residence and removed BLM-owned office equipment. However, BLM law enforcement personnel failed to properly inventory the removed property or document their actions as required by BLM policy.

Reporting Official/Title [redacted]/Investigator	Sig[redacted]
Approving Official/Title Scott Culver/DAIGI/PID	Signature [redacted]

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BACKGROUND

On October 2, 2005, at the request of BLM Director Kathleen Clarke, the OIG initiated an investigation into the issues surrounding the May 2, 2005 suicide of former Carrizo Plain Monument Manager Marlene A. Braun (**Attachment 1**). The OIG Special Agent in Charge of the Western Region had previously referred this matter to BLM for "action as deemed appropriate," on July 1, 2005, following the OIG's receipt of a complaint, through Congressman William Thomas' Office (CA), from [redacted] friend of Braun (**Attachment 2**). [redacted] had also sent letters to Congressman John B. Larsen (CT) (**Attachment 3**) and [redacted] BLM California State Director (**Attachment 4**). [redacted] alleged that Braun's supervisor, [redacted] Field Manager, Bakersfield Field Office, created a hostile work environment, through inappropriate and excessive disciplinary actions, that ultimately contributed to Braun's suicide. Additionally, [redacted] faulted BLM's emergency response to Braun's residence on the date of her death and the unauthorized removal of United States Government property from Braun's home by BLM employees.

Independent of the OIG's investigation, on June 10, 2005, [redacted] California State Director, commissioned an internal management review by BLM to assess the appropriateness of personnel practices and procedures applied in Braun's case (**Attachment 5**). A review team consisting of the Oregon Deputy State Director for Management Services, the BLM National Safety Director, and the former Oregon Human Resources Officer conducted their review from June 20-22, 2005. A final draft report detailing their findings was submitted to [redacted] California Associate Director, and [redacted] Director, Law Enforcement and Security, on September 9, 2005. The review team's report was never finalized; however, a draft copy was provided to OIG investigators (**Attachment 6**). Additionally, the review team provided OIG investigators with records, documents, and notes collected during their review.

On September 8, 2005, the State Director submitted a memorandum, *Results of Emergency Response and Management Reviews Regarding Death of BLM Employee Marlene Braun*, to the Director of BLM, through the Director, Law Enforcement, Security, and Protection (**Attachment 7**). The State Director's memorandum summarized the findings of the management review team, as well as the results of a review of BLM's emergency response on May 2, 2005, conducted by [redacted], BLM Special Agent in Charge of Law Enforcement in California (**Attachment 8**). The State Director wrote that "personnel practices and procedures were technically in compliance with federal regulations," although opportunities to resolve disagreements between Braun and [redacted] through improved supervisory counseling, coaching, or mentoring were not exercised. The State Director also noted that, according to [redacted] BLM's response on May 2, 2005, was proper and did not deviate from accepted practice or policy. A copy of the State Director's memorandum was provided to the OIG with the Director's request for an independent investigation.

DETAILS

The OIG Program Integrity Division conducted an investigation into the circumstances surrounding, and the events leading up to, Marlene Braun's suicide. The purpose of this investigation was to conduct an independent review to identify human resource and programmatic issues relevant to the incident and address the allegations regarding BLM's emergency response on May 2, 2005. OIG investigators utilized information gathered during previous reviews in addition to information obtained during the course of this investigation.

Additionally, investigators reviewed a copy of a 30-page chronology, prepared by Braun, memorializing her relationship and conflicts with her supervisor [redacted], spanning the timeframe between February 2004 and October 2004. Excerpts of Braun's chronology, along with e-mails, memoranda, and other documents, were used to provide Braun's perspective on issues related to this investigation.

Braun's Selection and Probationary Period as Monument Manager at Carrizo Plains

The Carrizo Plains National Monument (CPNM) is located in California's San Joaquin Valley, approximately 55 miles from Bakersfield, CA. It comprises approximately 250,000 acres of land managed by the BLM in partnership with The Nature Conservancy (TNC) and the California Department of Fish and Game, herein referred to as the managing partners. The CPNM is home to the highest concentration of threatened and endangered plant and animal species in California, and is the most significant remaining example of the area's historic ecosystem. It also holds great Native American historical and cultural significance.

Braun was named CPNM's first Monument Manager (GS-340-13) in December 2001. Prior to accepting this job, Braun held non-supervisory positions at BLM locations in Alaska and Nevada and was unfamiliar with the management of national monuments. Former Field Manager [redacted] selected Braun as the monument manager through a competitive process. [redacted] Assistant Field Manager, Bakersfield Field Office (BFO), who aided in the selection process, stated that Braun was chosen for the position based on her excellent communications skills. Since this was her first supervisory assignment after 15 years with BLM, Braun served a 12-month probationary period that ended in December 2002.

Braun's position description provided that, as Monument Manager, she was responsible for the overall direction, execution, and review of all activities within CPNM. Braun operated under the general administrative and technical supervision of the BFO Field Manager, who provided overall guidance on policy and organizational matters, as well as program goals (**Attachment 9**). Braun's responsibilities included ensuring that all BFO assignments were accomplished and that the Field Manager was kept informed of progress and of all potentially controversial matters.

Braun was also responsible for coordinating and completing the CPNM Resource Management Plan (RMP). Development of the RMP was to be a collaborative effort between Braun, Assistant Monument Manager [redacted] and a BLM interdisciplinary staff consisting of a botanist, archaeologist, wildlife biologist, land coordinator, recreation planner, oil and gas specialist, and a soil, air, and water specialist. The purpose of the RMP was to establish guidelines for cattle grazing, wilderness land management, the protection of Native American painted rocks, and vehicle access on the CPNM. Braun wrote in a May 4, 2004 entry into her chronology, "The old Field Manager, [redacted] had demanded, after [redacted] hired me, that I change our grazing on the monument. [redacted] told me there was too much of it, that it wasn't justified scientifically, was highly criticized by the public, and didn't fit in with the mission of the national monument. [redacted] made it my job to get past the parochial views in the office and bring Carrizo out of the dark ages of BLM management" (**Attachment 10, Page 5**).

Braun worked remotely from the CPNM, traveling to Bakersfield once or twice each week for meetings and other activities. This work arrangement afforded Braun little direct daily contact with BFO management and staff. According to Braun's chronology, [redacted] focused [redacted] attention on BLM's external partners and constituents, and left administrative control of the BFO to [redacted]

Braun moved to the CPNM in early 2003, initially living in BLM housing at the Washburn Ranch. In June 2004, she moved to the Goodwin Ranch, a 40-acre property owned by the TNC, managing partner of the CPNM. She lived there rent free, in exchange for providing upkeep for the property. BLM equipped Braun's home with office equipment and internet access so that she could work remotely from the CPNM. Routine daily communications with the BFO were conducted by e-mail or telephone.

According to [redacted] during Braun's probationary year, she developed a controlling management style that offended the RMP development staff (**Attachment 11**). Staff members described her as confrontational, one-sided, and hard to deal with, resulting in inter-office conflicts (**Attachments 12-17**). These inter-office conflicts became obstacles that hindered the completion of the RMP. Staff felt that Braun discounted their professional opinions related to the RMP and changed portions of it to reflect her personal views and opinions.

[redacted] told investigators that during Braun's probationary year, [redacted] informally coached her in an unsuccessful attempt to correct her management shortcomings and improve her interpersonal skills; however, [redacted] kept no record of these coaching sessions. Braun also rejected management's offers to send her to supervisory training or to other national monument locations so that she could see how they were managed.

According to [redacted] as Braun completed her probationary year in late 2002, BFO senior management questioned her suitability to continue as CPNM Manager. Braun was at a crossroads, and [redacted] abdicated [redacted] responsibilities as the rating official to [redacted] leaving [redacted] to decide if Braun should continue as CPNM Manager. [redacted] explained that since no records had been kept to document Braun's performance deficiencies, [redacted] could not justify her removal. Braun's Employee Performance Plan and Results Report (EPPRR) for 2001 showed that she had achieved all required performance objectives and failed to mention her performance deficiencies, perpetuating the lack of documentation.

Conflicts between Braun and BLM Staff over Grazing Issues

According to [redacted] Braun became focused on RMP livestock grazing issues, and showed little interest in other aspects of the RMP's development. Livestock grazing had become a contentious issue between BLM and environmental groups including the managing partners who see livestock grazing only as a tool to control the proliferation of foreign plant species that endanger indigenous species.

[redacted], State Environmental Coordinator, advised that approximately 1,000 acres of the CPNM's valley floor was sold to BLM by TNC with the agreement that BLM would allow livestock grazing there only to control plant growth that threatened endangered native species (**Attachment 18**). Free use permits, issued yearly to cattlemen, provided BLM control over grazing by regulating whether and when cattle could enter the area. According to [redacted], grazing in the CPNM's "upland areas" is managed through the use of 10-year, traditional grazing permits. Traditional grazing permits are less restrictive than free use permits and provide BLM little control over how grazing is managed. The upland areas have been considered overgrazed by many conservation groups including the managing partners.

[redacted] stated that like the managing partners, Braun thought that the upland areas had been overgrazed and she advocated the involuntary phasing out of the existing traditional permits in exchange for free use permits. According to [redacted], current grazing regulations make it very difficult to limit grazing without cause, and currently there is no evidence to clearly show a problem in the upland grazing areas that would benefit from controlling or completely eliminating grazing in those areas. As a result, Braun's opinions on grazing and her desire to convert traditional permits to free use permits were inconsistent with

BLM policy and with the views of the RMP development staff. Later, they also brought her into conflict with [redacted], following [redacted] appointment to BFO Field Manager in March 2004.

Unresolved conflicts between Braun and the RMP development staff over grazing continued long after the completion of her probationary year. Staff members complained to [redacted], Assistant Field Manager for Resources, who attempted unsuccessfully to intervene. [redacted] provided the OIG with documentation dating back to April 3, 2003, detailing complaints from staff members about Braun's involvement in the RMP's development (**Attachment 19**). In an April 1, 2004 memorandum to [redacted] complained that Braun's unsolicited modifications to the RMP draft reflected opinions not commonly accepted by professionals having knowledge or experience with the species. [redacted] also identified a "no grazing" bias in the RMP modifications made by Braun. Due to Braun's modifications, [redacted] concluded, "the quality of the draft document was compromised and the efficiency of its development reduced" (**Attachment 19, pages 3-6**).

In an August 18, 2004 memorandum to [redacted] wrote (**Attachment 19, page 7**):

> I would like to document my extreme displeasure with the way the draft RMP is being developed, specifically, the manner in which staff input is being revised and sent out to our partners and eventually to the public without staff review or knowledge...By having my name on the document, the BLM is implying that I helped prepare certain portions of this document that have been changed from my original input, and this will reflect poorly on my professional reputation for which I have worked for over [redacted] years.

[redacted] prepared an analysis of the inter-office conflicts (**Attachment 19, pages 15-19**) to present to Braun, in an attempt to improve working relationships and increase effective staff support. [redacted] noted that Braun was reluctant to accept criticism and unwilling to discuss her staff's complaints in general terms. On April 3, 2003, [redacted] suggested to Braun that they have a meeting with the staff to "fix problems." Braun rejected the offer, according to [redacted], stating that the group would gang up on her and have a "feeding frenzy"; she would only deal with them individually.

[redacted] provided OIG investigators with copies of documents prepared by [redacted] and [redacted] showing examples of text changes and edits made by Braun that differed from the author's initial intent (**Attachment 20**). These documents were initially prepared on November 24, 2003, and March, 3, 2004, respectively.

Braun's Failure to Meet RMP Completion Deadlines and Replacement as RMP Coordinator

According to Associate State Director [redacted] under Braun's direction, the CPNM RMP fell behind schedule and exceeded its budget (**Attachment 21**). BLM's Primary Management Objectives for FY 2003 indicated that the RMP draft would be completed by September 30, 2003 (**Attachment 22**). In January 2004, State Director [redacted] submitted a memorandum to the BLM Director, requesting a change in the RMP planning schedule and proposing that a final RMP be made available to the public in September 2004 (**Attachment 23**). [redacted] did not know why the RMP had fallen behind schedule, but directed [redacted] to finalize a plan for its completion.

Despite Braun's inability to meet RMP completion deadlines, and her conflicts with the RMP development staff, her EPPRRs for the next 2 years showed that she had achieved all required

performance objectives, including those related to the development and timely completion of the RMP (**Attachment 24 & 25**). Additionally, the EPPRRs showed that she achieved all human resource management performance objectives, including accomplishing priority work, fostering teamwork, and ensuring consistency with BLM program policies. [redacted] was the reviewing official for Braun's 2001 through 2004 EPPRRs, and while [redacted] was aware of her performance deficiencies, [redacted] did not include them in the reports.

In March 2004, [redacted] replaced [redacted] as BFO Field Manager and was directed by [redacted] to give the RMP [redacted] immediate attention in order to meet deadline goals. [redacted] hands-on management style was much different than that of [redacted] and [redacted]. [redacted] was a career BLM employee who previously held management positions in [redacted] and [redacted]. [redacted] held employees accountable for meeting deadlines and wanted to be kept informed of the status of BFO programs and priorities.

According to [redacted] in April 2004, Braun had fallen behind schedule in her work and had asked for an assistant to coordinate RMP development (**Attachment 26**). [redacted] was also aware of Braun's conflicts with the RMP development staff. [redacted] conferred with [redacted] and [redacted] and selected [redacted] to replace Braun as the RMP coordinator. [redacted] was a [redacted]-year veteran of the Carrizo Plains National Monument, and BFO management felt [redacted] had the ability to re-focus the staff and meet RMP deadlines.

Braun opposed her removal as RMP coordinator and [redacted] selection for the position. She wrote in her chronology on May 4, 2004, [redacted] apparently met with [redacted] sometime this week or weeks prior, and [redacted] had made a decision to make [redacted], my planning lead who would transition [redacted] out of the job." She added that she was concerned that [redacted] had not consulted with her before selecting [redacted]. Braun also wrote, [redacted] took away almost all my influence on the plan. This was extremely damaging to my sense of self worth at my job, especially since [redacted] did it by essentially ignoring me and going around me" (**Attachment 10, page 5**). Despite [redacted] removal of Braun as RMP coordinator, [redacted] still expected her to prepare a comprehensive review of the draft RMP.

Braun also criticized [redacted] intent to meet the September 30, 2004, RMP deadline mandated by the State Director. She added, "I think [redacted] misunderstood the deadline and never talked to me about it. [redacted] decided the deadline was more important than anything else and was worried about pleasing [redacted] and [redacted] without knowing the details of the planning process."

Conflicts between Braun and [redacted]

During June 2004, a series of incidents occurred that further strained the relationship between Braun and [redacted]. According to Braun's chronology, the first incident occurred on June 20, 2004. [redacted] and Braun participated in a conference call with the California State Office, during which a heated discussion occurred regarding a June 18th memorandum detailing recent RMP grazing decisions and the potential for changing free use grazing to traditional grazing on the valley floor (**Attachment 27**). Braun represented the interests of the managing partners during the conference call, and explained that TNC and BLM had entered into a legal agreement in 1996, prohibiting such a change. Her views on grazing were inconsistent with those expressed by the State Office and by members of the (BLM) BFO staff.

Braun wrote that prior to the conference call, she discussed the June 18th memorandum with [redacted] of TNC. Unbeknownst to Braun, following their conversation, [redacted] passed on the information to [redacted] also of TNC. Later that day, [redacted] called the State Director's office at approximately 5:00 p.m., to discuss the contents of the memorandum (**Attachment 10, Page 8**).

The next day, [redacted] called Braun to advise her that the State Office had complained that she had called TNC after the telephone conference to report what was discussed. Braun wrote that she tried to explain that the State Office was incorrect and that she had actually talked [redacted] prior to the conference call.

On June 28, 2004, Braun was again confronted, this time by [redacted], about discussing the conference call with [redacted]. According to Braun's chronology, [redacted] told her to "never ever" leak internal information again (**Attachment 10, Page 9**). She described [redacted] demeanor during this meeting as that of "an angry father talking to a child." Later she wrote, "I felt like a bully had just beaten me up. Not only was I yelled at for a situation that [redacted] exaggerated and distorted...but [redacted] was not the least bit interested in hearing my side of the story." [redacted] counseling of Braun, on June 28, 2004, was not formally documented and she was not provided written direction concerning her communications with the managing partners.

A second incident occurred during a meeting with the managing partners on June 30, 2004, after which [redacted] alleged that Braun made inappropriate remarks to the attendees. According to Braun's chronology, [redacted] accused her of telling the managing partners that she was concerned about recent changes to the draft RMP and that, as cooperating agencies, they had the right to request a 30-day review under current regulations and she encouraged them to do so. Additionally, Braun told them that there had been subtle changes throughout the RMP draft and that a more comprehensive review was needed. According to [redacted], prior to her making this statement, the managing partners were willing to review only the chapters that had been changed in the RMP. [redacted] felt that Braun's comments left the impression that BLM had been less than candid about issues of significance to the plan, and had made the managing partners reluctant to conduct a focused review until the plan was finished. [redacted] concluded that Braun's behavior undercut TNC's trust in BLM.

Braun disputed [redacted] account of the meeting, stating that the managing partners had asked for a 30-day review for the latest draft, the same amount of time that Braun had allowed them to review the previous draft in February 2004 (**Attachment 10, Page 11**). She also noted that there was no discussion at the meeting about BLM not being candid with the managing partners.

Later on June 30, 2004, Braun wrote an e-mail to [redacted] stating that she was upset with [redacted] recent treatment of her (**Attachment 28**). In it, she accused [redacted] of yelling at her and belittling her in private and in public and stated that she was afraid to disagree with [redacted] or freely express her opinions on work related matters. Additionally, she pointed out that their oral communications had not been effective, so she offered to write out her concerns and present them to [redacted] Braun offered to work out their differences in private if [redacted] was willing.

According to Braun's chronology, on July 1, 2004, she asked [redacted] if [redacted] had received her June 30th e-mail and if [redacted] was willing to work together to try to improve their working relationship. Braun wrote that [redacted] told her that she needed to do as [redacted] said and to stop objecting to [redacted] directions. Their conversation reportedly digressed, by Braun's account, and there was no willingness on [redacted] part to change (**Attachment 10, Page 11**).

On August 4, 2004, [redacted] and Braun attended a meeting with the managing partners to provide them an opportunity to offer early feedback to BLM staff regarding the RMP and discuss the structure and detail of the remaining review process to ensure their support of the RMP. Minutes of the meeting were taken by [redacted] of the TNC and, on August 9, 2004, were made available to the attendees. On August 10, 2004, [redacted] added [redacted] remarks to the draft minutes and distributed them via e-mail to the attendees.

Braun disagreed with [redacted] remarks and openly criticized [redacted] in an August 11, 2004 e-mail to the managing partners (**Attachment 29**). In it, she stated:

> I have factual info on the traditional leases that differs considerably from [redacted]. [redacted] was wrong on the ephemeral leases (they are only allowed in areas specified in 1960's legislation and in no way can be applied here) and [redacted] was wrong on several technical issues in [redacted] e-mail and subsequent comments regarding the traditional leases as well.

Additionally, Braun stated that she would send her comments on "[redacted] e-mail" and would provide [redacted] a copy. Additionally, Braun proposed that she meet with the managing partners alone on August 18, 2004, to discuss her position.

Braun did not provide [redacted] an opportunity to discuss [redacted] remarks with her prior to sending the e-mail nor did she include [redacted] on the list of e-mail recipients. After sending it, she realized that she also sent it to [redacted]. Braun wrote in her chronology that she "accidentally" included [redacted], the only BLM employee on the recipient list (**Attachment 10, Page 14**). Braun asked [redacted] not to forward it to anyone and to delete it. [redacted], however, was troubled by the e-mail's contents and forwarded it to [redacted] without Braun's knowledge.

On August 13, 2004, Braun sent an e-mail to [redacted] and the managing partners including her comments on the August 4, 2004, draft notes from the CPNM managing partners meeting (**Attachment 30**). These comments further explained her objection to [redacted] position on grazing, and supported her August 11, 2004 e-mail.

On August 16, 2004, Braun met with [redacted] and [redacted] to discuss her annual job performance review, not knowing that [redacted] had received a copy of her August 11, 2004 e-mail. According to Braun's chronology, once they finished discussing her performance review, she got up to leave and was told by [redacted] to "sit back down." [redacted] then confronted her about sending the disparaging e-mail. As a result of the e-mail, [redacted] directed Braun to send all further communications with the managing partners concerning the RMP through [redacted]. At the conclusion of their meeting, [redacted] advised Braun that [redacted] would be issuing her a "letter of reprimand" (**Attachment 10, Page 14**).

On August 17, 2004, Braun met with [redacted] at the BFO, where they discussed [redacted] response to her August 11, 2004 e-mail, and [redacted] direction to her to send all further communications with the managing partners concerning the RMP through [redacted]. Braun memorialized portions of their conversation in her chronology. She wrote:

> The TNC was also my landlord, and to have [redacted] tell me not to talk to them or to work with them was more than awkward, it put all of us in an untenable situation,

and was very counterproductive. They were also my friends and we socialize together. I also said that I had not embarrassed [redacted] with TNC; that [redacted] had told them things over the past months that had upset them, and that [redacted] had caused a reduction in trust in [redacted], not BLM, or in me. My e-mail had absolutely no influence on TNC's opinion of BLM or of [redacted]. [redacted] had set those examples long ago. The e-mail really only just surfaced a huge problem that had been brewing a long time.

On August 18, 2004, [redacted] sent an e-mail to Braun, stating:

> As of right now, as I told you, I want all communications with the [managing] partners to go through me. I will address that at the meeting on Friday [August 20, 2004] since they will all be here. If there are issues to be addressed with the partners that I need to attend to, I expect you to bring them to my attention. Believe me, this is as inconvenient for me as it is for you...As of this point, your input to the plan will be through me. Your other duties on the Carrizo will remain the same until I give you further definition through the letter of reprimand (**Attachment 31**).

Later, on August 18, 2004, [redacted] sent an additional e-mail, directing Braun not to arrive at the Friday meeting with the managing partners before 9:00 a.m. (**Attachment 32**).

On August 20, 2004, Braun sent an e-mail from her personal computer to the managing partners in which she discussed their upcoming meeting scheduled for that afternoon (**Attachment 33**). In it, Braun addressed their concerns about her planned attendance at the meeting against their advice, her health and recent weight loss, her relationship with [redacted] and issues affecting the RMP. This e-mail was never forwarded to BLM and was obtained by investigators from [redacted] In the e-mail she wrote:

> Things are a mess and have degenerated quickly. I have not supported the agenda [redacted] is currently pushing. Much of [redacted] marginalization of me follows from that, along with what I feel are some serious personal shortcomings on [redacted] part. But I will ultimately have to accept what [redacted] says...I have no choice since [redacted]. You all however, do not, and have much power to influence the future of the Carrizo today, next week, and hopefully for the indefinite future.

[redacted] Proposes a 5-Day Suspension for Braun

[redacted] coordinated the preparation of Braun's Notice of Proposed Discipline with [redacted] Human Resource Specialist, California State Office. OIG investigators interviewed [redacted] concerning her involvement in the disciplinary process and how the proposed discipline jumped from a letter of reprimand, as initially proposed by [redacted] to a 5-day suspension (**Attachment 34**). [redacted] advised that supervisors and managers frequently use the term "letter of reprimand," when discussing administrative actions with employees. They do so before contacting [redacted] or reviewing the *DOI Handbook on Charges and Penalty Selection for Disciplinary for Adverse Actions*, which defines the Douglas Factors[1] and provides the DOI Table of Discipline (**Attachment 35**). Frequently, the offense for which the employee is accused carries a greater penalty than initially thought by the supervisor; such was the case of Braun.

All redactions are 5 U.S.C. §§ 552(b)(6) and (b)(7)(C) of the Freedom of Information Act unless marked otherwise.

[1] The Merit Systems Protection Board established 12 criteria that supervisors must consider in determining an appropriate penalty to impose for an act of employee misconduct, commonly referred to as "Douglas Factors."

During August 17-18, 2004, [redacted] and [redacted] communicated via e-mail and determined that Braun should be charged with "making irresponsible, disrespectful, or disparaging remarks about a supervisor" (**Attachment 36**). The DOI Table of Penalties provides that employees accused of sending disparaging e-mails about their supervisors, even for a first offense, may receive punishment ranging from a letter of reprimand to termination (**Attachment 35, page 14**). [redacted] and [redacted] agreed that a 5-day suspension was appropriate based on [redacted] responses to Douglas Factors. They subsequently prepared a draft copy of the Notice of Proposed Suspension.

[redacted] submitted the draft Notice of Proposed Suspension along with a copy of Braun's August 11, 2004 e-mail to [redacted] for review; it is the responsibility of the Regional Solicitor's Office to review all administrative disciplinary actions for legal sufficiency. [redacted] Ex. 5

As of September 10, 2004, Braun's Notice of Proposed Suspension had not yet been handed down when she contacted [redacted] Dispute Resolution Program Manager, to request mediation (**Attachment 38**). Braun advised [redacted] that she was about to receive some type of disciplinary action, possibly a written reprimand. [redacted] subsequently contacted [redacted] on September 21, 2004, to schedule mediation. According to [redacted], "[redacted] was fine with it, and never refused to attend mediation." [redacted] also stated that during her conversations with Braun, she learned that Braun was afraid of [redacted] and would not meet with [redacted] alone.

On September 20, 2004, [redacted] denied Braun's request for annual leave because she had not finished her review of the RMP. Braun had submitted a leave request almost 2 weeks earlier and, according to Braun, [redacted] allegedly waited until the last minute to deny her leave. After learning that her annual leave had been denied, Braun met with [redacted] who suggested that she go home, get some rest, and take some time off.

On the morning of September 22, 2004, [redacted] sent Braun an e-mail directing her to provide her substantive comments on the draft RMP by the close of business on September 24, 2004 (**Attachment 39**). She had originally been told to prepare her comments in May 2004, but she had failed to do so. [redacted] accused Braun of failing to meet [redacted] in July and August to discuss her review comments, opting instead to meet with [redacted]. [redacted] also told her that [redacted] wanted an overall strategy, with timeframes for completion of the RMP by September 24, 2004, as well; these requests were made of Braun even though she had been removed from her leadership role and [redacted] was now in charge of the development of the RMP.

Later that same day, [redacted] and [redacted] traveled to Braun's home at the Goodwin Ranch to deliver Braun's Notice of Proposed Suspension (**Attachment 40**). This came 5 weeks after [redacted] initially told her that she would be receiving only a letter of reprimand. In the Notice of Proposed Suspension, [redacted] cited Braun's disparaging e-mail dated August 11, 2004, and how it adversely affected [redacted] relationship with the managing partners, [redacted] reputation as a manager, and BLM's reputation as well. [redacted] wrote that Braun had followed up those comments in an additional e-mail dated August 13, 2004, that supported her position on the draft RMP. [redacted] also cited Braun's inappropriate comments at the June 30, 2004 meeting with the managing partners, and concluded that her cumulative

behavior had undercut TNC's trust in BLM. Braun's performance plan and responsibilities as monument manager remained unchanged despite [redacted] e-mail to Braun on August 18, 2004, in which [redacted] stated that [redacted] would redefine her duties in her letter of reprimand.

After receiving the Notice of Proposed Suspension on September 22, 2004, Braun contacted [redacted] to postpone mediation. According to [redacted] Braun was disappointed to learn that instead of a letter of reprimand as anticipated, she would receive a proposed 5-day suspension. Braun felt that the proposed suspension was excessive and had changed the climate of the situation. [redacted] explained that participation in the mediation process was voluntary and that Braun could not be forced to attend.

On September 24, 2004, 2 days after Braun received her notice of her proposed suspension, she sought medical treatment purportedly for [redacted] provided Braun with a handwritten note requesting sick leave (**Attachment 41**). The note read, "Please excuse the above named patient [Marlene Braun] 9/20/04 – 10/8/04 due to medical reasons." The note did not give a medical diagnosis. Braun had already been on sick leave since September 22, 2004, making it impossible for her to meet [redacted] September 24, 2004 deadline for completing the RMP review.

On Monday, September 27, 2004, Braun traveled to the BFO to attend a weekly management team meeting and to meet with [redacted] to discuss the RMP. Following the management team meeting, Braun told [redacted] that she did not feel well and was going home. She left [redacted] note in [redacted] in-basket and went home without personally telling [redacted] she was leaving. Later that day, she sent an e-mail to [redacted] explaining that she had been under a lot of stress that was affecting her both mentally and physically. Braun offered to telecommute from home while on sick leave and assured [redacted] that CPNM activities would not fall behind schedule.

On September 29, 2004, [redacted] sent an e-mail to Braun in response to her request for sick leave and her offer to telecommute (**Attachment 42**). [redacted] wrote, "Employees do not get to pick and choose how to adhere to a doctor's recommendations. If your doctor says you should be off for two weeks then you should honor it. Any return sooner would require another note from your doctor revising the original diagnosis/prognosis." Additionally, [redacted] stated that the diagnosis of [redacted] was too vague and told Braun that she would need to provide additional information to verify that her sick leave was warranted.

Braun returned to work on October 4, 2004, rather than October 8, 2004, as requested. Upon her return, Braun sent [redacted] an e-mail pointing out that she had taken only 3 days of sick leave during the previous week because she telecommuted, and she had provided [redacted] a doctor's note beforehand (**Attachment 43**). Additionally, she noted that [redacted] had sent her a three-page letter on her second day on sick leave, asking for detailed documentation of the nature of her illness. In the e-mail, Braun stated that she [redacted] request was unwarranted and explained that during the fiscal year 2004, she had used only [redacted] hours of sick leave and [redacted] hours of annual leave. Braun's annual leave balance as of October 4, 2004, was [redacted] hours. (***Investigator's note:*** *A review of Braun's Official Personnel File revealed that she had no history of leave abuse.*)

Braun's Appeal of the 5-Day Suspension and Successful Performance Evaluation

On October 13, 2004, Braun submitted her Response to the Notice of Proposed Suspension to the Associate State Director [redacted] after being granted a one-week extension to compete it (**Attachment 44**). In her response, Braun apologized for her August 11, 2004 e-mail and acknowledged that it seemed

"blunt and subject to misinterpretation." She explained, however, that her intent was not malicious, nor was the note intended to disparage [redacted] or damage [redacted] relationship with the managing partners. Despite her apology, she took issue with [redacted] account of what happened and its perceived affects on [redacted] relationship with the managing partners. Additionally, she asked that the proposed suspension not be implemented because it was too severe for what she maintained was an "unintentional error in communication." If implemented, she felt it would scar her record of more than 15 years of distinguished government service. Braun rallied support from the managing partners by asking them to provide letter of support. She received 10 such letters and attached them to her response memorandum for consideration by [redacted]

On November 1, 2004, Braun met with [redacted] to discuss the proposed suspension, the disciplinary review process, and her communication shortcomings with [redacted] According to [redacted], Braun was concerned that the 5-day suspension would ruin her career. Braun admitted to [redacted] that her e-mail to the managing partners was inappropriate and that it undermined [redacted] authority. Further, she agreed that it was subject to interpretation and that she had been wrong in sending it. [redacted] reminded Braun that [redacted] was her supervisor, that she was [redacted] subordinate, and that ultimately [redacted] was responsible for the completion of the RMP. [redacted] also explained that [redacted] direction for the RMP was consistent with BLM's livestock grazing policy and that [redacted] had been told to work within established regulatory guidelines. [redacted] suggested that she meet with [redacted] to show support for [redacted] management of the RMP.

[redacted] and Braun also discussed issues resulting from her relationship with [redacted] According to [redacted], Braun felt that she was inappropriately removed from the RMP planning effort and that, as a result, the RMP had been adversely affected. She also questioned how she could continue to perform her duties as monument manager if she was not able to talk to the managing partners as directed by [redacted].

On November 8, 2004, Braun sent an e-mail to [redacted], as a follow-up to their meeting (**Attachment 45**). In it, she discounted [redacted] recommendations for corrective action and defended her actions. Additionally, she was more critical of [redacted] than in previous communications. She wrote:

> I feel that it doesn't make sense for a competent monument manager to be left out of the monument planning process after two years of effectively and efficiently overseeing that same process...It doesn't make sense to me to expect that same manager to support and implement the vastly-changed plan with unnecessary (and correctible) flaws, after being left out of the process while the changes were made.

Braun criticized [redacted] treatment of the managing partners and also accused [redacted] of providing them misinformation on more than one occasion. Additionally, Braun asked [redacted] for explicit clarification of her duties as monument manager since her position description and EPPRR clearly did not define her amended job responsibilities. She also asked to be told what her deficiencies as a manager were, and why so many of her duties and decision making responsibilities were taken away.

According to [redacted], sometime in November 2004, [redacted] and [redacted] met with Braun to discuss her EPPRR covering the rating period October 1, 2003, until September 30, 2004 (Attachment 46). [redacted] served as the rating official and prepared the evaluation. Despite Braun's management shortcomings during that timeframe, her failure to meet RMP deadlines, and the disparaging e-mail about [redacted], none of these issues were addressed in her evaluation. The evaluation showed that she had

achieved all performance objectives, as well as high marks for the quality of her work, teamwork, and communication skills. When later questioned by investigators about these ratings, [redacted] explained that they did not want to appear too hard on Braun, following [redacted] recommendation for the suspension. [redacted] advised that during the meeting Braun appeared happy with the evaluation and expected to receive a lower score after not meeting deadlines for the draft RMP review.

[redacted] suggested to Braun that they begin meeting on Mondays to improve communications between them. This would prove to be the first of several unsuccessful attempts by [redacted] to schedule meetings with Braun to establish dialogue between the two. No other corrective steps were taken to clarify Braun's performance responsibilities or deficiencies, or to define plans for improvement.

In early December 2004, Braun requested 1 week of annual leave to begin on December 11, 2004, to vacation in Mexico with a friend. [redacted] approved her leave conditional on her completion of the overdue RMP draft review. Braun did not complete the review; however, she cancelled the vacation on December 8, 2004.

Prior to [redacted] finalizing [redacted] decision to suspend Braun for 5 days, Assistant Regional Solicitor [redacted] reviewed the file for legal sufficiency [redacted] Ex. 5

On December 9, 2004, [redacted] handed down Braun's suspension, effective January 3 through January 7, 2005 (**Attachment 48**). [redacted] felt Braun's claim that she did not intend to disparage [redacted] was not credible. Instead, [redacted] concluded that Braun was in complete disagreement with [redacted] comments on grazing, and that the purpose of her e-mail was to inform the managing partners that her information, not [redacted], was correct. [redacted] also felt that Braun's e-mail left the impression that there was an internal discord within BLM on the critical issue of grazing that could cause the public to question the credibility of the BLM.

[redacted], Dispute Resolution Program Manager, called Braun on December 12, 2004, to see if she was still interested in attending mediation. [redacted] recalled that Braun wanted to use mediation as a bargaining chip to mitigate her punishment; during their conversation, Braun told [redacted] that she would only participate in mediation in lieu of the suspension or punishment. [redacted] explained that mediation could not replace the discipline process, and told her that she would have to grieve her punishment through the administrative appeal process. Since Braun had described her punishment and denial of leave as harassment, [redacted] suggested that she file an Equal Employment Opportunity (EEO) complaint. [redacted] provided Braun the name and telephone number of the EEO Counselor, however, Braun never followed up her complaint to EEO.

Braun later wrote in an e-mail to [redacted], Chief, Human Resource Services, "My request for mediation was intended as a way to more positively deal with the issues at hand, and as a suggested part of the resolution to the grievance. The request was not intended to slow down the grievance process, but to show my own perspective on possible options for the decision-maker to consider" (**Attachment 49**).

On January 10, 2005, Braun appealed [redacted] decision and requested a 1-week extension to grieve her suspension, citing that the grievance period included three holidays and that she was also sick with the flu during part of the time. [redacted] granted the extension, and Braun was notified by a memorandum dated January 25, 2005. Initially Braun was informed that the venue for hearing the grievance would be either in Denver, CO, or Washington, D.C.; however, she was later told that [redacted] California State Director, had been selected as the deciding official for the formal administrative grievance.

Braun submitted an interim response to the Formal Administrative Grievance on January 31, 2005 (**Attachment 50**). She was concerned that her grievance had been referred to [redacted] after she had initially been told that there would be a change of venue to either Denver, CO, or Washington, D.C. Additionally, she questioned how [redacted] could be unbiased when [redacted] Associate had already ruled against her.

On February 9, 2005, [redacted] provided [redacted] formal decision in Braun's administrative grievance (**Attachment 51**). [redacted] concluded that Braun's e-mail was intended to challenge [redacted] authority and to make [redacted] look bad, and gave the managing partners the impression that [redacted] was uninformed. Additionally, [redacted] stated that her actions were serious enough to warrant a 5-day suspension, and denied her grievance.

Braun chose not to appeal [redacted] decision to the Office of Hearing and Appeals. On February 27 or 28, 2005, during a conversation with her friend, [redacted], Braun said she was not going to fight her suspension any further (**Attachment 52**). She had reconciled herself to the fact that she had to move on, and inquired about a position in Washington, D.C., even though she did not feel [redacted] would give her a favorable recommendation. Without [redacted] recommendation, Braun did not think she could get another position in BLM.

Braun Continues to Defy [redacted] Instructions

On April 19, 2005, Braun's communications with the managing partners were again called into question by [redacted]. In an e-mail to [redacted] concerning the RMP review, Braun asked for a minimum of eight copies of the document so she and the managing partners could review it (**Attachment 53**). She also stated that she would e-mail the managing partners to see how long they would need to review the draft plan.

[redacted] received a copy of Braun's e-mail and felt that it violated [redacted] previous direction controlling her communications with the managing partners. On April 21, 2005, [redacted] forwarded a copy of the e-mail to the Human Resource Specialist in the State Office, stating that the e-mail warranted further disciplinary action.

On April 22, 2005, Braun sent an e-mail to [redacted], berating [redacted] for changing the cover of the draft RMP, and criticizing the revised cover for not including the logos of the managing partners (**Attachment 54**). She also questioned why they must "constantly retrace all this ground again and again." The e-mail was not only sent to [redacted], but also to [redacted], [redacted], the State Office, and the managing partners.

After reviewing Braun's April 22, 2005 e-mail, [redacted] sent her an e-mail stating, "You are to immediately desist from sending e-mails outside the organization on issues related to the management of

the Carrizo, and specifically on issues related to the management plan. I will discuss this with you on Monday [April 25, 2005]" (**Attachment 55**).

On April 25, 2005, Braun, [redacted], and [redacted] met to discuss Braun's Employee Performance Appraisal Plan (EPAP), during which [redacted] provided her with an amended performance plan (**Attachment 56**). Braun was critical of some of the new performance standards, and objected strongly to the standard related to relationships with "constituent groups." She denied responsibility for the strained relations between BLM and the managing partners, and stated that she still communicated with them on a regular basis. During the meeting, [redacted] provided Braun with two memoranda; the first instructed her that until further notice, she was to have no further communications with the managing partners (**Attachment 57**). The second addressed three objectives: to establish mandatory weekly meetings; to limit Braun's visits to the BFO to once a week; and to provide instructions for managing grazing permits (**Attachment 58**).

Despite [redacted]'s memorandum prohibiting Braun from communicating with the managing partners, later on April 25, 2005, Braun sent an e-mail to [redacted], copied to the managing partners, suggesting that she call the grazers and postpone rescheduling their meeting until June (**Attachment 59**). Braun also sent a copy of the e-mail to [redacted], who replied to it stating, "Marlene, I sent you an e-mail Friday and handed you a copy of it less than an hour ago, instructing you not to send e-mails to the managing partners. I expect my direction to be complied with."

Braun sent an e-mail to [redacted], [redacted], and [redacted] on April 27, 2005, that again violated [redacted]'s directive on grazing permits (**Attachment 60**). Braun also criticized [redacted] for "treating her like a 'kindergartner'" and for making decisions regarding her duties without consulting her first.

Relations between Braun and [redacted] had deteriorated and on April 27, 2005, [redacted] contacted [redacted] requesting mediation. According to [redacted], [redacted] told [redacted] that the situation between Braun and [redacted] had, "gotten out of control." [redacted] immediately called Braun in an attempt to schedule mediation; however, Braun did not answer her telephone. [redacted] left a telephone message for Braun, assuming from past contacts with her that she would immediately call back. This time, however, she did not.

Braun's Suicide

On the morning of May 2, 2005, Braun was scheduled to attend the first of her Monday morning meetings with [redacted] and [redacted] However, instead of traveling to the BFO that morning, she sent a two-page e-mail (**Attachment 61**) to [redacted] stating, "I cannot bear the thought of coming into the office this morning or ever again to meet with [redacted]. I cannot take any more abuse from [redacted], [redacted] lies about my character and my abilities, and any more of the humiliation I have had to endure for the past year."

BLM and San Luis Obispo Sheriff's Department personnel responded to the Goodwin Ranch to check on her well being, and located Braun in the front yard, suffering from a gunshot wound to the head. A suicide note (**Attachment 62**) was found on a table near Braun that stated, "I have committed suicide. This is not a homicide." Braun also identified [redacted] as her next of kin with legal authority over her care and estate. Braun's two dogs were found nearby, both dispatched by apparent gunshot wounds.

Braun, who was still alive when emergency personnel arrived at the scene, was transported by helicopter to Marian Medical Center in San Luis Obispo, CA, where she was pronounced dead at 12:09 p.m. Her death was later ruled a suicide by the San Luis Obispo County Sheriff-Coroner's Department **(Attachment 63)**.

Following Braun's death, [redacted] received an eight-page letter from Braun written on April 30, 2005, in which she explained her reasons for taking her life **(Attachment 64)**. [redacted] later provided the OIG a copy of the first page of the eight-page letter, but chose not to copy the remaining seven pages because that contained financial and personal information. Braun wrote:

> I am very weary of working, of moving, and of dealing with conflict over environmental decisions that mean a lot to me. I can't face what appears to be required to continue to live in my world, at least as I see it. I am also weary of heartache and loneliness. Most of all, I can not bear to leave Carrizo, a place where I finally felt like I found a home, and which I now love dearly. [redacted], has made my life utterly unbearable this past year, and my hopes that things might get better have been dashed by [redacted] latest round of brow-beating and new charges of lies. [redacted] would have forced me to leave Carrizo soon enough.

On May 3, 2005, an external examination of Braun's body was conducted by Forensic Pathologist [redacted], who determined that the cause of her death was a perforating gunshot wound to the head **(Attachment 65)**. [redacted]

[redacted] (**Attachment 68**). (**Investigator's note:** During the interviews with Braun's friends and coworkers in this investigation, no one had been told by Braun or otherwise suspected that Braun was contemplating suicide.)

The U.S. Department of Labor ruled that there was insufficient evidence to show that Braun's death connected to her federal employment (**Attachment 69**). In a letter to Hermes, dated September 25, 2005, they wrote:

> There is insufficient evidence to establish Ms. Braun's suicide is causally related to her federal employment. Although extensive factual information has been provided by the [redacted], there is no medical evidence connecting the claimant's death to her employment at BLM. The required chain of causation test has not been met.

BLM's Emergency Response on May 2, 2005

OIG investigators prepared a timeline (**Attachment 70**) of events detailing BLM's response to Braun's May 2, 2005 e-mail, through interviews and from reviewing documents provided by: BLM; the Central California Interagency Communications Center (CCIC); California Shock/Trauma Air Rescue (CALSTAR); and the San Luis Obispo Sheriff – Coroner's Department.(**Attachment 71 thru 80**). All times noted are approximations.

At 9:10 a.m., Braun sent a two-page e-mail from her home computer to Assistant Field Manager [redacted] and Administrative Officer [redacted] Braun's e-mail did not specifically mention suicide, but provided specific directions for BLM's response to the Goodwin Ranch and for notification of her next of kin. [redacted]

At 9:30 a.m., [redacted] retrieved the e-mail, and after reading it, suspected that Braun was contemplating suicide. [redacted] printed a copy of the e-mail and took it to [redacted] office where [redacted] and [redacted] were participating in a weekly teleconference with Associate State Director [redacted] [redacted] interrupted the conference call and advised them of the e-mail. [redacted] subsequently directed BLM Acting Special Agent in Charge [redacted] to have law enforcement personnel go to Braun's home to check on her wellbeing. During that same time, [redacted] attempted unsuccessfully to contact Braun by telephone.

At 9:45 a.m., [redacted] contacted Special Agent [redacted] at the BFO and directed [redacted] to go to the Goodwin Ranch. [redacted] and [redacted] left the BFO at 9:55 a.m., en route to the Goodwin Ranch. The Goodwin Ranch is located approximately 75 miles from the BFO. [redacted] did not accompany [redacted] and [redacted] to the Goodwin Ranch and remained at the BFO.

At 10:05 a.m., [redacted] attempted to contact Paso Robles Resident Ranger [redacted] via cellular telephone, but received no answer. At 10:10 a.m., [redacted] contacted Field Staff Ranger [redacted] who was near Santa Clarita. [redacted] directed [redacted] to respond to the Goodwin Ranch and to contact the BLM dispatcher at the CCIC. [redacted] contacted the CCIC and advised the BLM dispatcher that [redacted] was responding from Placerita, approximately 3 hours away.

At 10:22 a.m., the CICC notified the San Luis Obispo Sheriff's Department and requested their assistance. [redacted] was dispatched to the Goodwin Ranch at 10:28 a.m.

Also at 10:28 a.m., Ranger [redacted] contacted [redacted] by telephone and was told of the incident. [redacted] advised [redacted] that [redacted] was responding from Atascadaro, approximately 62 miles away. CALSTAR was also notified and assigned a helicopter to the incident. The helicopter was airborne at 10:51 a.m.

Because Braun was known to possess firearms, responding emergency medical personnel from the California Division of Forestry did not immediately go to the Goodwin Ranch, but staged nearby pending the arrival of law enforcement personnel. At 11:06 a.m., the CALSTAR helicopter landed at the Goodwin Educational Center, approximately 3 miles from the Goodwin Ranch.

At 11:18 a.m., [redacted] and [redacted] arrived at the Goodwin Ranch and located Braun lying in a makeshift bed, near the northeast side of the residence. Braun was suffering from an apparent gunshot wound to the right side of her head. [redacted] examined Braun for signs of life and discovered that she was still breathing. [redacted] removed a handgun from her right hand and placed it a short distance away from her body. A suicide note was found on a table near Braun that stated, "I have committed suicide...This is not a homicide." Braun also identified [redacted] as her next of kin. Braun's two dogs were found dead nearby. Both had apparent gunshot wounds to the head.

At 11:22 a.m., [redacted] advised the CICC dispatcher, "On scene...keep emergency and med coming. We have a person down at this time. She is still alive, no estimate on how bad injuries are." Emergency medical personnel arrived on scene at 11:25 a.m. and initiated first aid.

Deputy [redacted] and Ranger [redacted] arrived at 11:35 a.m. [redacted] wanted to check the inside of the house for additional victims but found the house to be locked. Ranger [redacted] retrieved a key from a nearby shed and the two [redacted] check the inside of the house. Inside, they found that belongings had been sorted and labeled. Some items, such as two computers and a fax machine, were labeled "BLM."

At 11:52 a.m., Braun was airlifted to the Marian Medical Center where she was pronounced dead at 12:19 p.m. [redacted] arrived at the scene at 12:15 p.m.

[redacted] examined the scene, collecting physical evidence including the suicide note and handgun. [redacted] was assisted by [redacted] and [redacted] The three entered the house, where [redacted] photographed and [redacted] videotaped its condition, noting that Braun had separated and labeled property according to its intended recipients. (***Investigator's note:*** *According to the time recorded on the video tape, the interior of the house was videotaped at 12:30 p.m.)*

At 3:25 p.m., [redacted] concluded [redacted] investigation and left the scene.

*(**Investigator's note:** [redacted] and [redacted] told investigators that they received Deputy [redacted] approval before removing property from the house. [redacted], however, told investigators that [redacted] never discussed the removal of property with either [redacted] or [redacted] nor did [redacted] authorize the removal of any property. Additionally, [redacted] said that no computer equipment was removed from the house while [redacted] was conducting [redacted] investigation at the Goodwin Ranch.)*

After leaving the house, they turned the computer equipment over to BLM [redacted] who returned the equipment to the BFO. [redacted] took custody of Braun's government vehicle. The house was subsequently secured and a new padlock was placed the front gate, securing the driveway. [redacted] advised investigators that [redacted] did not inventory the property taken from Braun's

residence nor did [redacted] include it in [redacted] report because it was immediately turned over to [redacted] and was not being taken into law enforcement custody.

At the request of State Director [redacted] reviewed BLM's response to the May 2, 2005, suicide of Marlene Braun. [redacted] inquiry included interviews of [redacted], [redacted], Deputy [redacted] and CICC dispatch personal. [redacted] forwarded [redacted] results via memorandum, Emergency Response Review, Incident # [redacted] dated August 5, 2005, to State Director [redacted] (Attachment 72).

Ex. 2

[redacted] told investigators that [redacted] was named Special Agent in Charge and [redacted] (**Attachment 81**). One of [redacted] first assignments after reporting there was to conduct this review. [redacted] provided investigators with copies of [redacted] review, [redacted] chronology, and dispatch records provided to [redacted] by the CICC.

According to [redacted], Braun was still alive when taken to the hospital; however, because her actions clearly indicated a suicide attempt, Deputy Sheriff [redacted] "did not treat the location as a crime scene."

It was [redacted] understanding that [redacted] had obtained [redacted] permission to remove the items from the house that were labeled BLM property. This resulted in removal of computers and a fax machine with the understanding that these items would remain under "government control" in case they contained Indian Trust information. Later, this equipment proved to contain no such information.

Since removal of the computers by [redacted], [redacted], and [redacted] was not considered a law enforcement function, the removal of the equipment from Braun's home was not inventoried in accordance with BLM Law Enforcement General Order #28, Property and Evidence.[4] [redacted] did not question their re-entry into Braun's home, their photographing of its contents, nor removal of equipment, and concluded that the BLM response was "appropriate and in accordance with established protocol." However, investigators learned that [redacted] never visited the Goodwin Ranch, nor did [redacted] know that it was not United States Government Property.

Attachments

1. Memorandum: Director, BLM, to the Inspector General, Management Review-Carrizo Plains Incident, October 3, 2005
2. Letter: [redacted] to Congressman William Thomas, May 24, 2005
3. Letter: [redacted] to Congressman John B. Larsen, May 24, 2005
4. Letter: [redacted] to the BLM State Director, May 28, 2005
5. Memorandum: Request for Management Review, June 10, 2005
6. Management Review (Draft), July 11, 2005

[4] BLM General Order #28, Property and Evidence, Section IV., C., requires that any property that is taken into possession by law enforcement officers during the course of their duties (e.g., abandoned property, lost property, property secured incident to arrest, etc., including tents, camping equipment, and the contents of any closed containers, etc.) must also be completely inventoried.

7. Memorandum: Results of Emergency Response and Management Reviews Regarding Death of BLM Employee Marlene Braun, September 8, 2005

8. Memorandum: Emergency Response Review, August 5, 2005

9. Position Description, Carrizo Plains Monument Manager, November 11, 2000

10. Braun's Chronology: February to December 2004

11. Investigative Activity Report: Interview of [redacted], October 19, 2005

12. Investigative Activity Report: Interview of [redacted], October 19, 2005

13. Investigative Activity Report: Interview of [redacted], October 18, 2005

14. Investigative Activity Report: Interview of [redacted], October 18, 2005

15. Investigative Activity Report: Interview of [redacted], October 19, 2005

16. Investigative Activity Report: Interview of [redacted], October 19, 2005

17. Investigative Activity Report: Interview of [redacted], October 25, 2005

18. Investigative Activity Report: Interview of [redacted], January 26, 2006

19. Documentation Faxed by [redacted] to OIG, January 9, 2006

20. E-mail: [redacted] to OIG, January 26, 2006

21. Investigative Activity Report: Interview of [redacted], October 20, 2005

22. BLM Primary Level Management by Objectives, March 2003

23. Memorandum: CA State Director to Director, BLM, January 26, 2004

24. Employee Performance Plan and Results Report, rating period 01-07-02 to 09-30-02

25. Employee Performance Plan and Results Report, rating period 10-01-02 to 09-30-03

26. Investigative Activity Report: Interview of [redacted], October 19, 2005

27. Memorandum: [redacted] to [redacted] June 18, 2004

28. E-mail: Braun to [redacted] June 30, 2004

29. E-Mail: Braun to Managing Partners, August 11, 2004

30. E-Mail: Braun to BLM and Managing Partners, Draft notes from August 5th meeting, August 13, 2004

31. E-mail: [redacted] to Braun, August 18, 2004

32. E-mail: [redacted] to Braun, August 18, 2004

33. E-mail: Braun to Managing Partners, August 20, 2004

34. Investigative Activity Report: Interview of [redacted] January 26, 2006

35. DOI Handbook on Charges and Penalty Selection for Disciplinary and Adverse Actions

36. E-mails: Between [redacted] and [redacted] August 17-18, 2004

37. Investigative Activity Report: Interview of [redacted], January 26, 2006

38. Investigative Activity Report: Interview of [redacted], January 23, 2006

39. E-mail: [redacted] to Braun, September 22, 2004

40. Memorandum: Notice of Proposed Suspension, September 22, 2004

41. Doctor's Sick Leave Note, September 24, 2004

42. E-mail: [redacted] to Braun, September 29, 2004

43. E-mail: from Braun to [redacted] October 4, 2004

44. Memorandum: Response to the Notice of Proposed Suspension, October 13, 2004

45. E-mail: Braun to [redacted], dated November 8, 2004

46. Employee Performance Plan and Results Report, rating period 10-01-03 to 09-30-04

47. Investigative Activity Report: Interview of [redacted] January 24, 2006

48. Memorandum: Decision to Suspend for 5 Calendar Days, December 9, 2004

49. E-mail: Braun to [redacted], Interim Response to Formal Admin. Grievance, February 14, 2005

50. Interim Response to Formal Administrative Grievance, January 31, 2005

51. Memorandum: Formal Decision-Administrative Grievance, February 9, 2005

52. Investigative Activity Report: Interview of [redacted], November 15, 2005

53. E-mail: Braun to [redacted], April 19, 2005

54. E-mail: Braun to [redacted], April 22, 2005

55. E-mail: [redacted] to Braun, April 22, 2005

56. Braun's Employee Performance Appraisal Plan, April 25, 2005

57. Memorandum: [redacted] to Braun, Directive on Future Communications with the Managing Partners, April 25, 2005

58. Memorandum: [redacted] to Braun, Directive to Meet Weekly on Mondays, Limit to Field Office Visits, and Directive to Properly Manage Grazing permits, April 25, 2005

59. E-mail: Braun to [redacted] and Managing Partners, April 25, 2005

60. E-mail: Braun to [redacted], [redacted], and [redacted], April 27, 2005

61. E-mail: Braun to [redacted], May 2, 2005

62. Copy of Suicide Note

63. Coroner's Report, San Luis Obispo County Sheriff-Coroner's Department, June 7, 2005

64. Letter: Braun to [redacted], April 30, 2005

65. Postmortem Examination Report, May 5, 2005

66. Toxicology Report, May 10, 2005

67. Investigative Activity Report: Interview of [redacted], November 21, 2005

68. Blue Shield Insurance Bill with Diagnosis Code Information

69. Department of Labor Memorandum: Case of Marlene Braun, September 27, 2005

70. Investigative Activity Report: Emergency Response Timeline

71. Incident Investigation Report, BLM, May 2, 2005

72. BLM, Significant Activity Report, May 2, 2005

73. California Division of Forestry Agency Incident Report

74. Central California Interagency Communications Center Incident Report

75. BLM (CCIC) Dispatch Report

76. Incident Report, San Luis Obispo Sheriff's Department, May 2, 2005

77. Investigative Activity Report: Interview of [redacted], October 18, 2005

78. Investigative Activity Report: Interview of [redacted], October 19, 2005

79. Investigative Activity Report: Interview of [redacted] November 16, 2005

80. Investigative Activity Report: Interview of [redacted], October 19, 2005

81. Investigative Activity Report: Interview of [redacted], October 17, 2005

United States Department of the Interior

Office of Inspector General
Washington, D.C. 20240

February 7, 2006

Memorandum

To: P. Lynn Scarlett
Deputy Secretary

Mark A. Limbaugh
Assistant Secretary for Water and Science

P. Patrick Leahy, Acting Director
U.S. Geological Survey

From: Earl E. Devaney
Inspector General

Subject: Site Decision for National Geospatial Technical Operations Center

Attached, please find the Report of Investigation by the Office of Inspector General (OIG) concerning the site decision for the National Geospatial Technical Operations Center (NGTOC), U.S. Geological Survey (USGS).

In summary, the results of our investigation disclosed no evidence of pre-selection, misconduct or unlawful actions relative to decisions for competitive sourcing or for selection of the consolidated NGTOC site. No evidence was found to suggest that competitive sourcing decisions influenced the NGTOC site selection or that candidate sites were not given equal consideration for selection.

USGS utilized several processes that included considerable input by select employees. Ultimately, however, senior USGS managers and decision-makers failed to effectively communicate their instructions or wishes to these participating employees, paving the way for confusion, frustration, and distrust. Senior USGS managers and decision-makers also failed to clearly document and justify the ultimate bases – both objective and subjective – for the site decision, leaving themselves open to the very criticism they sought to avoid by keeping documentation to a minimum.

USGS had documented its actions and processes, including some of the very criteria that were coined "subjective" by decision makers. In *The National Geospatial Programs Office: A Plan for Action,* October 2005, U.S. Geological Survey Open-File Report 2005-1379, USGS clearly articulated numerous Strategic Priorities and Strategic Actions that embody most of the "subjective" criteria mentioned by decision makers during interviews with the OIG.

Because the site consolidation of the NGTOC was a discretionary management decision, unfettered by ministerial stricture, USGS senior decision makers were not bound by a specific process or rules – other than federal personnel rules and those attendant to A-76 competitive sourcing – and thus, were not required to proceed in any particular way. Absent demonstrable misconduct or unlawful actions, USGS was free to proceed in whatever way it determined was appropriate, using both the "quantitative and qualitative data" referenced in its December 19, 2005 Memorandum, entitled "National Geospatial Technical Operations Center Decision Process Review Team."

The OIG cannot substitute its judgment for that of USGS in making a determination as to whether or not the site selection criteria were appropriate – be they quantitative, qualitative, objective or subjective. We do conclude that ultimately, considering all the documents we compiled and witness testimony we developed, that the site selection and A-76 competitive sourcing decisions are supported by the whole of the record. On the other hand, we conclude that USGS failed to effectively and transparently demonstrate the entirety of its criteria or communicate the magnitude of its rationale.

We have also provided copies of our Report of Investigation to Missouri Senators Christopher Bond and James Talent and Congresswoman Jo Ann Emerson.

Attachment

Office of Inspector General
Office of Program Integrity
U.S. Department of the Interior

Report of Investigation

Case Title	Case Number
National Geospatial Technical Operations Center	Related File(s)
Case Location	**Report Date**
Washington, DC	February 6, 2006
Report Subject	
Report of Investigation	

SYNOPSIS:

This investigation was initiated at the request of Missouri Senators Kit Bond and Jim Talent and Representative Jo Ann Emerson. These members of Congress expressed concern about the process used by the United States Geological Survey (USGS) to select a site for the National Geospatial Technical Operations Center (NGTOC).

We conducted over twenty interviews of witnesses involved in this process, and reviewed dozens of pertinent documents over the course of 11 weeks. Some witnesses required additional interviews to ensure thoroughness and clarity.

Investigation revealed that USGS expended considerable time and effort to collect data, research the requirements for competitive sourcing, assess current and future mission requirements and comply with human resources requirements associated with the selection of a site for the consolidated NGTOC. Additionally, USGS hired a contractor to assess the NGTOC for suitability as a candidate for and to verify compliance with competitive sourcing requirements. These efforts provided the basis for an informed and considered executive decision for a site for the consolidated NGTOC and for competitive sourcing decisions. However, poor communication and conflicting information caused confusion and misunderstanding of roles and responsibilities. USGS also failed to adequately document its decision-making process. No meeting notes or minutes were made to document decisions or instructions to a team assigned to develop site selection criteria. Although the senior decision-makers drew upon their experience and exercised their independent judgment when considering expectations and needs for future mission accomplishment, the lack of documentation and details explaining the final site selection resulted in the appearance that the decision was made in isolation by a single executive who discounted the recommendation of the site criteria team. Documents announcing the site selection, signed by the Associate Director for Geospatial Information (ADGI) rather than by the USGS Director, exacerbated this perception.

Investigation revealed that the competitive sourcing and the site selection decisions were made by the ADGI in consultation with several other senior USGS executives and not made in isolation. USGS

Reporting Official/Title	Ex. 6 and 7C	Signature	Ex. 6 and 7C
Approving Official/Title		Signature	Ex. 6 and 7C

Distribution: Original – Case File Copy - SAC/SIU Office Copy – HQ Other:

utilized a formal process of data collection and preliminary recommendation by the site selection criteria team. The decision-makers considered the data collected by the site selection criteria team and incorporated subjective considerations such as program knowledge, experience, and expectations for the program in the future to make the NGTOC site selection.

Investigation disclosed no evidence of pre-selection, misconduct or unlawful actions relative to decisions for competitive sourcing or for selection of the consolidated NGTOC site. No evidence was found to suggest that competitive sourcing decisions influenced the NGTOC site selection or that candidate sites were not given equal consideration for selection.

DETAILS:

This investigation was initiated at the request of Missouri Senators Kit Bond and Jim Talent and Representative Jo Ann Emerson. Specifically, these members of Congress expressed their concern about the lack of specificity and documentation to justify the selection of Denver, CO as the site of the new NGTOC; that the USGS "pre-planning commission" scored the candidate sites with weighted factors showing Rolla, MO as the "clear winner;" the site selection decision was a subjective decision made by one person without procedural justification; that the selecting official overruled the Business Strategy and Scoping Team (BSST or team) assigned to develop site selection criteria; and that there was no set of specific criteria or formulaic process for the site selection. The Senators and Congresswoman requested that the OIG conduct an investigation of the site selection process, as well as the USGS decision to conduct a competitive sourcing study under Office of Management and Budget (OMB) Circular A-76 and whether the A-76 decision may have influenced the final site selection of Denver, CO.

On August 17, 2004, then USGS Director Charles "Chip" Groat announced to USGS employees the creation of the National Geospatial Program Office (NGPO) through realignment and reorganization of existing programs and offices. On January 7, 2005, Karen Siderelis, the USGS Associate Director for Geospatial Information (ADGI) announced that USGS would consolidate its existing mapping centers and other geospatial production activities and technical services into a new National Geospatial Technical Operations Center (NGTOC) within the NGPO. Siderelis also announced that a study would be conducted to prepare for a possible physical consolidation of most operations into one location and that a team would determine the feasibility of competing new functions under A-76 competitive sourcing guidelines.

USGS chartered the NGTOC BSST, charging the team to (1) define functions and responsibilities for the initial and future organization of the Center, including its organizational structure, and outline opportunities for programmatic and physical consolidation and (2) identify the functions of the organization that would be included in a competitive sourcing analysis to arrive at the desired future organization. The team consisted of six permanent members, an ad hoc member and two temporary members who worked with the team for one month. The BSST was tasked to conduct an A-76 Pre-Planning study and to develop site selection criteria upon completion of their original task.

Members of the BSST understood that their task was to provide data and information to USGS executives who would make decisions pertaining to competitive sourcing and the selection of a site for the consolidated NGTOC. The team collected data about the candidate sites, researched competitive sourcing requirements, and established criteria to assist in the decision making process. They also hired a

contractor, Management Analysis Incorporated (MAI), Vienna, VA, a firm that specializes in competitive sourcing analysis, to assess the feasibility of the NGTOC for competitive sourcing and to recommend strategies that might be used if NGTOC was considered a good candidate for the competitive sourcing process.

The MAI report, which included input from the BSST, recommended consolidation of all NGTOC functions (less Headquarters activities) at one site and that USGS conduct a full A-76 Competitive Sourcing Study. MAI also recommended a streamlined A-76 study for NGTOC Headquarters activities. MAI conducted a cost comparison of the three candidate sites utilizing A-76 costing rules to determine the cost of each organization over a five year period. MAI concluded that based only on personnel costs the Mid-Continent Mapping Center, Rolla, MO was the most efficient. MAI used the Rolla, MO site as the government organization to compare against a notional private sector entity to determine whether NGTOC was a good candidate for competitive sourcing. This desktop comparison resulted in the notional private sector entity being less costly than the selected government site, indicating that NGTOC was a good candidate for competitive sourcing. MAI used the Rolla, MO facility only to determine the competitive sourcing feasibility.

The MAI report did not recommend which candidate site should be selected for the consolidated NGTOC because they were tasked to determine whether the current and proposed NGTOC was a suitable candidate for the A-76 competitive process. This task focused on cost and did not include other factors that would likely be considered by USGS executives. ADGI Siderelis said that while the MAI report was useful for its intended purpose of determining whether NGTOC was a good candidate for competitive sourcing, it only considered costs and could not be used solely as a basis for a site selection decision.

The BSST prepared a business strategy, which included information from the MAI report, for the NGTOC which was approved by Director Groat on March 31, 2005. The BSST also recommended that USGS proceed with a preliminary planning phase which would precede a final decision to conduct an A-76 competitive sourcing study, consolidate NGTOC operations at a single site to be determined by the competitive sourcing process and establish a BSST for Headquarters to assess whether a streamlined A-76 study should be conducted for functions that appear to be commercial in nature. The recommendation was approved by Director Groat on April 13, 2005.

The BSST Chair conducted town hall meetings at the candidate sites throughout the process to explain the upcoming changes and to provide information to employees that may be impacted by the NGTOC consolidation. The BSST Chair reported back to ADGI Siderelis and Robert Doyle, USGS Deputy Director, that many employees wanted USGS to select a site for the consolidated NGTOC rather than wait for the competitive process to determine a site. The rationale was that employees wanted to know their fate sooner, and an earlier site selection would give employees more time to prepare for the changes to come. The BSST assessed the merits of selecting a site prior to the completion of the competitive sourcing process. They concluded that an earlier selection of a site was employee friendly because it gives employees the maximum amount of time in which to make decisions, would decrease the burden on Human Resources staffs, and could potentially strengthen the Most Efficient Organization (MEO) proposal by eliminating competition between the candidate sites. Siderelis estimated that it would cost $200k - $250k per site if USGS followed its initial plan to allow each of the candidate sites to compete for the MEO. Additionally, she believed the internal competition that would have been created by allowing the candidate sites to compete against each other under the A-76 competitive process would have an

adverse impact on geospatial operations because the candidate sites would not be inclined to continue to work together. Subsequently, USGS executives decided to begin the process to select a single site that would then compete against the private sector.

The team consulted MAI and the Department of Defense Base Realignment and Closure Commission (BRAC) to ascertain if the criteria they proposed to assist with the site selection decision was acceptable. MAI assessed the team's criteria as better than average and the BRAC considered the criteria to be adequate but declined to provide a written response.

The BSST received minimal guidance on how to accomplish its task and was not fully informed about what criteria were considered most important to management before beginning work on the site selection study. The team members believed that they were expected to collect and analyze data, create and populate criteria after vetting it with USGS executives and mapping center managers and to make a recommendation for the consolidated NGTOC site. The team did not consider whether there were advantages or disadvantages for the MEO at any particular candidate site while working toward making a site recommendation. However, they recognized that the recommendation to have only one site instead of all of the candidate sites compete under the A-76 process could potentially benefit the MEO by eliminating internal competition and allowing the remaining site to draw upon experience at the other sites.

The BSST Chair served as the primary communications conduit between the team and management. Throughout the process, the BSST Chair briefed and received direction from multiple sources – including the former USGS Director, the Acting USGS Director, USGS Deputy Director, the ADGI and the ADGI's deputy – creating misunderstanding and confusion about expectations for the final product. Communication was also not coordinated or documented to ensure that everyone had a uniform understanding of what was expected of the BSST.

At a meeting in about June 2005, then USGS Director Groat stated that he wanted a recommendation for a consolidated NGTOC site. ADGI Siderelis and her deputy believed Groat was directing that the ADGI provide a site recommendation to him while the BSST Chair believed that Groat was tasking the BSST to provide him with a site recommendation. Groat advised that his intention had been to have the BSST provide a site recommendation to him and that he would make the final selection decision. Groat also advised that if there were disagreement over the BSST site recommendation, he and USGS executives would need to justify any disagreement or the selection of a different site. Groat explained that USGS management had never discussed the process to be used if there were disagreement, but he recognized that there would be a need to document a decision contrary to the BSST recommendation, which might include factors considered only by upper management.

The BSST also vetted their site selection criteria with USGS executives and mapping center managers but did not vet the weights they placed on the criteria. The BSST believed that operational cost was the priority for site selection because the focus of the A-76 process is to reduce costs. The BSST Chair said that the team did not consider vetting weights for the criteria with the decision makers because the team worked in a collaborative process to provide executives with one option based upon the team's collective understanding of program goals. The BSST Chair said that the weighting of the criteria was only the team's opinion and decision makers might weight the criteria differently. This belief was echoed by other BSST members who acknowledged that they were only making a recommendation, that the final decision

was to be made at the executive level, and that it might differ from the BSST's recommendation due to other considerations and a different weighting scheme.

Groat did not recall any discussions about weighting the criteria. Doyle asked ADGI Siderelis to develop a weighting scheme for the criteria. Doyle intended that a weighting scheme be vetted through the Director's office as had been done with the site selection criteria. He presumed the BSST had been given sufficient instruction by Siderelis. However, there was confusion or misunderstanding between USGS executives and the team which resulted in the BSST weighting the site selection criteria without executive review or concurrence.

Acting Director P. Patrick Leahy, who replaced Director Groat after he resigned in June 2005, told investigators that he empowers his executives, and he intended to have ADGI Siderelis select the site for the consolidated NGTOC followed by his concurrence or non-concurrence. He did not expect the BSST to make a site recommendation. The change in decision authority, as well as Leahy's intention that the team not provide a recommendation, was not effectively communicated, not clearly understood, or was simply ignored, because the BSST continued to work toward making a recommendation for the Director.

The BSST Chair attended a number of meetings and briefings with ADGI Siderelis and other senior USGS managers about the team's activities throughout tenure of the team. The BSST Chair stated that during a briefing for Acting Director Leahy on July 7, 2005, he reported on the team's activities, decisions and studies. The BSST Chair said that Siderelis was teleconferenced into the meeting. The BSST Chair mentioned the development of the site criteria and reported that Rolla, MO was appearing to be the lowest cost location. The BSST Chair said he was contacted by the Deputy ADGI a short time later who told him that Siderelis "does not want you to put her in a box with [Leahy] about the site selection. She wants to have control over that decision." During that conversation, according to the BSST Chair, the Deputy ADGI also directed that the BSST was not to propose a priority weighted scheme or make a site recommendation. The Deputy ADGI told the Chair that Siderelis' three priorities for the study were (1) housing costs, (2) ability to draw a skilled workforce into the future, and (3) close to a major metropolitan airport hub. The BSST Chair deduced that housing costs eliminated Reston, VA; ability to draw a skilled workforce was subjective allowing argument for any site; and close to a major metropolitan airport eliminated Rolla, MO. The BSST Chair interpreted this new direction as unethical influence to manipulate an otherwise objective study and steer it toward selecting Denver, CO as the NGTOC site. The BSST Chair was never told to recommend Denver, CO but assumed it was implied.

The Deputy ADGI acknowledged that during at least one conversation she told the Chair that the team was not to weight the criteria or to make a recommendation. She denied telling the BSST chair the ADGI's specific priorities were housing costs, ability to draw a skilled workforce into the future or close proximity to a major metropolitan airport. The Deputy ADGI believed the BSST Chair misinterpreted examples of things that would be applied to key considerations such as program effectiveness, partnerships and costs as specific, stand alone decision criteria. The Deputy ADGI recalled that about a week prior to the team's scheduled August 10, 2005 meeting with Siderelis, she had a conversation with the BSST Chair about the next steps for the team. In that conversation, the Deputy ADGI said she reminded the Chair that the ADGI did not want the BSST to make a site recommendation.

ADGI Siderelis stated that she was physically present for the briefing on July 7, 2005, and recalled that she met with her deputy, her Chief of Staff, and the BSST Chair in her office for a debriefing. Siderelis

directed the BSST Chair not to go forward with weighting the site criteria to make a recommendation because she did not want to be put in a box when making the site selection decision. The Deputy ADGI did not recall details of the July 7, 2005 briefing but said that she and ADGI Siderelis met with the BSST Chair for debriefings on several occasions. The Deputy ADGI commented that Siderelis may have told the BSST Chair not to weight the criteria or make a recommendation during one of the debriefings.

ADGI Siderelis and her deputy denied that Denver, CO was favored, given unequal consideration, or that the BSST or its Chair were in any way pressured to manipulate their study to favor Denver, CO as the NGTOC site. Siderelis said that all candidate sites had equal consideration when USGS planned to allow the competitive process to select the site. She added that the same unbiased consideration was maintained after the decision was made to select a site outside of the competitive process. BSST members, with the exception of the Chair, expressed their belief that there was no improper attempt to influence the team's efforts.

The BSST Chair ignored instructions that the ADGI did not want the team to weight the criteria or make a site recommendation and made no changes to the site criteria, weights or recommendation developed by the team. The Chair commented that the ADGI's three priorities, related through the Deputy ADGI, were well documented and included amongst the other criteria.

The BSST Chair believed that his integrity and the integrity of the study were in jeopardy and decided to take his concerns to Acting Director Leahy. The BSST Chair met with Leahy on July 11, 2005 to relate his concerns. Leahy listened and directed the Chair to also convey his concerns to Deputy Director Doyle. After listening to the BSST Chair, Doyle believed that the BSST Chair was confusing management style with ethics issues. Doyle said that Siderelis' decisions were not improper just because the BSST Chair wanted to address issues differently.

On about July 12, 2005, the BSST Chair met with the Deputy ADGI and told her that he had approached Leahy and Doyle about his ethical concerns. He provided the Deputy ADGI with the team's weighted site selection criteria and told her that he had also provided it to Doyle. The Deputy ADGI related that she was angry that the BSST Chair had provided weighted criteria and made a recommendation, despite being directed not to do so. The BSST Chair was upset and did not want to talk to the Deputy ADGI when she questioned his failure to follow instructions. The Deputy ADGI noted that the team weighted cost as the key consideration, but the ADGI believed that while cost was important, mission accomplishment was a higher priority. The Deputy ADGI, who was acting ADGI while Siderelis was caring for an ill family member, did not recall if she told the ADGI Siderelis what the BSST recommendation was, although she recalled that she told the Siderelis that the team had made a recommendation. Siderelis said she learned of the team's recommendation for Rolla, MO from her deputy and/or Doyle prior to the team's scheduled meeting with her on August 10, 2005.

Leahy said the BSST Chair and his team had overstepped their bounds because they were only asked to develop site criteria. Leahy indicated the team weighted the criteria as they felt appropriate without executive review or concurrence. Leahy had the impression that the BSST Chair felt the work of his team regarding the site criteria was above review. Leahy added that he was uncomfortable about some of the criteria the team used in their analysis (e.g. number of high school graduates). Doyle had expected that the team would vet the weighting scheme with decision makers and, once agreement had been reached,

the criteria would be populated and analyzed. Had this been done, the BSST's site recommendation would have become the data-driven piece of the site selection process.

Doyle and Leahy met with Siderelis prior to the scheduled meeting with the BSST on August 10, 2005, and told her that the BSST Chair had provided Doyle with the team's work and that the team had recommended Rolla, MO based upon how the team weighted the criteria. Siderelis was advised not to accept the team's weighted spreadsheet or recommendation at the upcoming meeting so that she could base her decisions on how she desired to weight the criteria along with other considerations she deemed appropriate.

On August 10, 2005, the BSST members briefed the ADGI on their recommendation for the A-76 competitive sourcing study and the recommendation for the site of the NGTOC. The team recommended that USGS continue with the competitive sourcing initiative. The BSST Chair provided the ADGI with the team's site criteria and attempted to give her the weighted spreadsheet. Siderelis declined to accept the weighted spreadsheet. Siderelis requested that the team provide her with a blank spreadsheet that did not contain the weighted criteria. Siderelis asked if the team had prepared a site recommendation and the BSST Chair blurted out that it was Rolla, MO. Siderelis said that she wished he had not told her the recommendation. The Chair said that he had misunderstood the ADGI at the time, that he now believes she was looking for a yes or no answer to her question, and was not asking for the name of the recommended site. Other members of the team were confused that the ADGI did not want the weighted criteria. Team members speculated that Siderelis, being a cautious leader, wanted to digest the data, and make a decision without influence. They recognized that she might want to weight the criteria differently, or that she may have other things to consider when making the final decision.

Siderelis did accept the team's recommendation to proceed with the competitive sourcing process at one site, but did not agree with the weighting scheme that the BSST placed on the site selection criteria. She discussed her disagreement and concerns with Leahy and Doyle. They agreed that the ADGI should weight the criteria as she deemed appropriate and, along with other considerations, make a decision for the site.

Siderelis, Doyle and Leahy indicated that although USGS sought objective, fact-based criteria to assist with the site selection decision, they also recognized that other, more subjective factors would be pertinent to the site selection process, such as program knowledge, experience and expectations for the program in the future.

Siderelis believed that mission accomplishment was the most important factor and placed more weight on operational factors. She also considered factors such as anticipated long-term costs, expectations for future mission needs, proximity to partners, and information systems infrastructure. Siderelis explained, by way of example, that the Department of the Interior has invested in five sites (Denver, CO; Reston, VA; Menlo Park, CA, Sioux Falls, SD; and Anchorage, AK) to develop state of the art information systems infrastructure that USGS would be able to utilize, while USGS would have to invest heavily in development of information systems infrastructure at a site such as Rolla, MO. Siderelis developed her own site selection weighting, giving consideration to the criteria developed by the BSST which she used to assist with her decision. Siderelis said she elected not to score the candidate sites because she focused on a pro/con approach that did not work well with scores. Siderelis also discussed her thoughts and considerations with Doyle and Leahy to determine whether she was on solid footing and was not

overlooking a critical factor. Siderelis commented that the site selection decision was an executive decision that also relied on good judgment; it was not a science project with a single correct answer. She added that USGS could make the NGTOC work at any of the candidate sites. Her task was to exercise her best judgment to select the best site for NGTOC, not rule out a site or sites. Siderelis said she used the information available to her to select the site she believed was most likely to be successful in the future.

Leahy commented that the site selection decision involved evaluating short-term financial issues balanced with long-term mission accomplishment. Partnerships and DOI's investment in infrastructure in Denver, CO were major considerations because the NGTOC would need to leverage its resources with the ability to interact with partners. Doyle said that although Rolla, MO may be a less costly site, Denver, CO has more information technology capabilities, is listed as a location in the DOI enterprise strategy, and has a larger government presence that offers more opportunities. He said that ADGI Siderelis was concerned about the significant investment USGS would have to make out of its budget to develop better information technology capabilities at Rolla, MO. Doyle also said professional judgment is part of the decision making process and added that a case could be made for any location. He said that Rolla, MO would be the better site if cost were the only consideration, but when mission accomplishment and other factors are included, Denver, CO becomes the better site. The Deputy ADGI stated that the site selection decision was based upon what was best for NGTOC now and in the future. Partnerships and internet/digital transfer capabilities were major considerations. The Deputy ADGI indicated that cost differences between sites were not significant when comparing short-term and anticipated future costs for the candidate sites.

Siderelis said she did not fully document her decision process because it included subjective considerations such as future mission expectations and professional judgment which are not easily documented. Siderelis received guidance from the USGS Office of Communication and the USGS Human Resources Office to be open and honest, but publish minimal details about the decision process because of the belief that decisions which include subjective assessments are more likely to provide opportunities for criticism. Leahy said that it was important for the process to be transparent, but less important for the decision itself to be transparent. He added that the decision is not an algebraic equation and professional judgment must be used, which is why there are managers to make difficult decisions.

Leahy had meetings with Siderelis about the site selection decision and was comfortable with her choice. After receiving concurrence from Leahy, Siderelis publicly announced her decision to locate the NGTOC at Denver, CO on September 15, 2005. On September 21, 2005, Senator Bond, Senator Talent and Representative Emerson of Missouri wrote a letter to Leahy requesting additional information pertaining to the selection of Denver, CO as the NGTOC site. The USGS Office of Communication provided additional information including the team's weighted spreadsheet showing Rolla, MO as the lowest cost site. This spreadsheet, which, on its face, appeared to be in conflict with the decision to select Denver, CO as the site for the consolidated NGTOC, fueled the impression that the site selection team had been overruled by one executive without basis or justification. Leahy formally responded to the members of Congress on September 30, 2005 with details pertaining to the NGTOC site selection. Leahy's response provided background information, explained the reasons for consolidation, and provided rationale for the selection of Denver, CO as the NGTOC site.

BSST members, including the Chair, did not express disagreement with the selection of Denver, CO instead of Rolla, MO as the data on their weighted criteria spreadsheet suggested. They recognized that different weights for the criteria or other factors considered by management could sway the decision to another location. The BSST Chair said that although positions in Rolla, MO are the "cherished positions" in USGS, and federal employees are amongst the highest paid in the area, he also understood that Denver, CO has a significant DOI presence and close proximity to other federal agencies which are important considerations if mission accomplishment is given a high priority. The BSST Chair stated that the site selection is controversial, and that he did not envy ADGI Siderelis for having to make the decision because no matter which site was selected someone would be unhappy. Finally, the BSST Chair commented that he did not have an issue with Denver, CO as the selected site, but he questioned whether it was a fair and objective decision, given his belief that the ADGI's direction not to weight the criteria or make a recommendation was an effort to influence the results of the team's efforts.

The congressional interest, along with the knowledge that the BSST weighted spreadsheet had been released outside of USGS, resulted in USGS receiving requests for more information from Department officials. USGS prepared a briefing document detailing considerations used in the site selection and listing advantages of the Denver Federal Center as the location for the NGTOC. Additionally, at Doyle's direction, ADGI Siderelis requested a detailed list of partners and federal agencies that NGTOC would be working with or supporting in and around Denver, CO. Doyle sought this information in order to answer questions. Siderelis was apprehensive about making this data request because of concern someone would complain that she should have had this information prior to making a decision. Siderelis commented that she did not need the detailed information because she knew from experience the Denver Federal Center was the largest concentration of federal agencies outside of Washington, DC and that many of their customers and contacts were in the area.

The *Rolla Daily News* telephonically contacted Groat some time after the September 15, 2005 announcement of the site selection. Groat recalled that it was a short conversation. The *Rolla Daily News* reporter informed Groat that Denver, CO was the site selection of NGTOC and asked for his reaction. Groat did not specifically recall what was asked or how he responded to the questions. Groat believed he mentioned that while USGS Director he met with the Missouri Congressional delegation and that Rolla, MO presented a strong case. Groat added that he may have said Rolla, MO was the most economical and friendly, but that there were other criteria to consider for selecting the NGTOC location. Groat further commented that he may have told the reporter that cost was important, but other factors existed. Groat was not aware USGS had selected Denver, CO as the NGTOC site until he was contacted by the reporter. Groat said he did not know if Denver, CO was a good selection or a bad selection for the NGTOC because he does not have access to the data and information used to make the decision.

Siderelis disputed an allegation in the *Rolla Daily News* that she selected Denver, CO for the NGTOC because it was the least likely location in which the government could win the MEO competition against the private sector. Siderelis believed the rationale for the allegation was that Denver, CO is a technology center which would provide an advantage to the private sector. She believed the complaint inferred that she had a bias toward the private sector. Siderelis said there was no corporate influence in her decision and that she maintained an unbiased, fair approach. Siderelis indicated that if she had a bias toward the private sector she would not have made a number of decisions. Siderelis explained that the initial decision to allow the competitive process to select the site gave all candidate sites an opportunity to compete. Later, although not the only reason for the decision to select a site outside of the competitive

process, she concluded that having one site could potentially strengthen the MEO because it would eliminate internal competition and allow the MEO to draw on the full NGTOC expertise. Finally, The Siderelis noted that she elected to keep all of the sites open during the competitive process as a means of potentially strengthening the MEO and to provide employees more time to make personal career decisions. Siderelis added that she did not pursue the option of quickly closing the non-selected sites. Doyle and the Deputy ADGI said there were no preconceived notions or preferences as to where the NGTOC would be located prior to the actual site selection. They added that whether one location or another offered a better opportunity for the MEO competition was never a part of the decision making process.

On October 21, 2005, at the direction of Mark Limbaugh, Assistant Secretary for Water and Science, DOI, Leahy chartered an internal review of the process leading to the NGTOC site selection to assess whether the process was open, fair, and adequate to support the decision. The internal review team (IRT) was comprised of USGS personnel from other internal organizations as an effort to ensure there was no bias in the IRT's conclusions. The IRT published its report, including clarification changes requested by Leahy, on December 9, 2005. The IRT interviewed 22 primary participants in the site selection process, requested information from 18 other individuals and collected documents and emails pertaining to the site selection decision. The IRT concluded that the process leading to the selection for the NGTOC site was open, fair, and adequate to support the decision. The IRT noted that weaknesses in the coordination of internal communications contributed to assumptions and expectations not supported by the full documentation and that the communications could have been improved.

All redactions are 5 U.S.C. §§ 552(b)(6) and (b)(7)(C) of the FOIA unless marked otherwise.

Office of Inspector General
Program Integrity Division
U.S. Department of the Interior

Report of Investigation

Case Title	Case Number
Whistleblower Protection Program	PI-06-0067-I
	Related Files: [redacted]
Case Location	Date:
Washington, D.C.	May 23, 2006
Report Subject	
Report of Investigation	

SYNOPSIS

This inquiry was initiated on November 18, 2005, upon receipt of a letter from Senator Dianne Feinstein (CA), requesting that the Office of Inspector General (OIG) review concerns raised by her constituent [redacted] a Bureau of Land Management (BLM) employee. In a letter to Feinstein, dated August 5, 2005, [redacted] questioned the integrity of the OIG's Whistleblower Protection Program after filing a whistleblower disclosure in which [redacted] accused senior management at the Redding Field Office of mismanaging French Gulch Fire Emergency Stabilization Project funds and creating a hostile work environment. According to [redacted], in the two months since [redacted] had filed [redacted] disclosure, the OIG had apparently not acted on [redacted] complaint.

This inquiry determined that the allegation the integrity of the OIG Whistleblower Program was compromised was without merit. The Associate IG for Whistleblower Protection processed the complaint filed by [redacted] in an effective and timely manner and ensured that it was referred to the OIG Western Region for further investigation. Additionally, guidance was provided to [redacted] to assist [redacted] in appropriately addressing [redacted] concerns in the Redding Field Office.

This inquiry further determined that on July 28, 2005, [redacted] initial complaints of mismanagement and a hostile work environment were referred by the OIG Special Agent in Charge, Western Region, to Kathleen Clarke, Director, BLM, for "action as deemed appropriate" and "response required." Based on this referral by the OIG, BLM conducted separate inquires into the procurement irregularities identified by [redacted] and allegations of a hostile work environment. Their inquiry into mismanagement of funds found that while there were no apparent violations of federal law or other misconduct that would warrant further investigation, BLM did identify a need for improved management controls and a clarification of procurement policies. Additionally, it found that the actions of management at the Redding Field Office did not rise to the level of a hostile work environment.

Reporting Official/Title [redacted] **/Investigator**	**Signa** [redacted]
Approving Official/Title **Alan Boehm/Director/PID**	**Signature** [redacted]

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DETAILS

On August 1, 2005, [redacted] submitted letters to Senators Dianne Feinstein (CA) and Charles Grassley (CA), questioning the integrity of the Whistleblower Protection Program within the Office of Inspector General **(Attachment 1)**. [redacted] wrote that on June 20, 2005, [redacted] contacted the Richard S. Trinidad, Associate OIG for Whistleblower Protection, alleging the [redacted] the BLM Redding Field Office had misappropriated funds intended for fire relief efforts. [redacted] also wrote that [redacted] had "openly" reported these violations to senior BLM law enforcement personnel, the Office of Law Enforcement and Security (OLES), Office of General Counsel (OSC), the National Interagency Fire Center, Susanville Interagency Fire Center, and the Equal Employment Opportunity Office (EEO).

[redacted] concluded that as a result of these disclosures, [redacted] and other employees have been subjected to an increasingly hostile work environment and prohibited personnel practices. [redacted] letter stated that it had been two months since [redacted] filed [redacted] whistleblower disclosure and, apparently, the OIG had not acted on [redacted] complaint. As a result, she questioned whether she would report fraud, waste, and abuse in the future to the DOI-OIG.

Richard S. Trinidad, Associate Inspector General for Whistleblower Protection, advised that the OIG Whistleblower Program serves as an "interim step" between the DOI and OSC for reporting waste, fraud, and abuse without fear of reprisal **(Attachment 2)**. Disclosures received by Trinidad through the Whistleblower Protection Program are evaluated and, based on their merit, investigated by the OIG or referred to the OSC. Additionally, the OIG may refer matters directly to bureaus for investigation. Only the OSC can confer whistleblower status to an employee and sanction managers for acts of reprisal. Trinidad explained that the OSC may extend whistleblower protection to persons reporting: violations of a law, rule, or regulation; gross mismanagement; gross waste of funds; abuse of authority; or a substantial and specific danger to public health and safety. The OIG does not have authority to investigate equal employment opportunity complaints.

Trinidad advised investigators that [redacted] initially contacted him on June 20, 2005. [redacted] reported that funds earmarked for firefighting efforts, in the French Gulch Fire Emergency Stabilization Project, were used to make unrelated purchases by BLM senior management at the Redding Field Office. According to a chronology prepared by Trinidad **(Attachment 3)**, [redacted] also provided an intricate web of information that included EEO issues, allegations of a hostile work environment, and potential retaliation by management at the Redding Field Office. [redacted] also stated that [redacted] had already reported these issues to the EEO and OSC, and [redacted] had contacted OIG Special Agent [redacted] DOI-OIG, Western Region.

According to Trinidad's chronology, [redacted] stated during their initial conversation that the BLM State Office was aware of the problems at the Redding Field Office and had scheduled an administrative investigation. [redacted] advised that [redacted] containing evidence of how disbursement protocols were not being followed. [redacted] Trinidad told [redacted] that [redacted] should turn over the contents of the [redacted] to Special Agent [redacted]

Trinidad contacted [redacted] on June 28, 2005, concerning his conversation with [redacted] They discussed the allegations made by [redacted] and [redacted] advised that [redacted] would review material provided by

[redacted] to determine if an OIG investigation was warranted. [redacted] subsequently mailed copies of [redacted] files to [redacted] on or about June 30, 2005. After reviewing [redacted] complaint of mismanagement of funds, and supporting documentation, OIG Western Region opened a case on July 15, 2005.

According to Trinidad, while [redacted] could qualify for whistleblower protection, the perceived acts of retaliation and reprisal by management that [redacted] described to him did not qualify as prohibited personnel practices as defined by 5 U.S.C. § 2302 (b) **(Attachment 4)**. [redacted] On July 5, 2005, Trinidad advised [redacted] to work within the EEO unless it appeared that the retaliation could be directly attributed to [redacted] disclosure to the OSC or the OIG.

On July 28, 2005, the OIG Special Agent in Charge, Western Region, referred [redacted] complaint to BLM Director Kathleen Clarke for "action as deemed appropriate" with a "response required" **(Attachment 5)**. Based on this referral, between July 2005 and January 2006, BLM conducted separate inquires into the procurement irregularities identified by [redacted] and allegations of a hostile work environment **(Attachments 6 & 7)**.

On October 13, 2005, [redacted] Internal Affairs, BLM OLES, submitted a memorandum to the OIG Special Agent in Charge, Western Region, with the findings of the inquiry into procurement concerns at the Redding Field Office **(Attachment 8)**. [redacted] wrote that while there were no apparent violations of federal regulations or other misconduct that would warrant further investigation, their inquiry identified a need for improved management controls and a clarification of procurement policies. The OIG Special Agent in Charge and Assistant Special Agent in Charge reviewed BLM's investigative findings and were satisfied with their conclusions and corrective actions.

On January 12, 2006, [redacted] reported the results of the administrative investigation into [redacted] allegations of a hostile work environment, in a memorandum to the Deputy Assistant Inspector General for Program Integrity **(Attachment 9)**. [redacted] concluded that the actions of management personnel at the Redding field Office did not rise to the level of a hostile work environment.

[redacted] Ex. 7A

SUBJECT

None

DISPOSITION

No further action is anticipated.

ATTACHMENTS

1. Letter from [redacted] to Senator Feinstein, August 5, 2005
2. Investigative Activity Report, Interview of Associate OIG Richard S. Trinidad, December 6, 2005
3. Chronology prepared by Trinidad
4 Prohibited Personnel Practices
5. Referral Letter, July 28, 2005
6. Review of French Fire Emergency Stabilization Fund Expenditures, September 26, 2005
7. Administrative Inquiry – Redding Field Office, September 16, 2006
8. Memorandum to the OIG Special Agent in Charge, Western Region, October 13, 2005
9. Memorandum to the Deputy Assistant Inspector General for Program Integrity, January 12, 2006

All redactions are 5 U.S.C. §§ 552(b)(6) and (b)(7)(C) of the FOIA.

Office of Inspector General
Office of Investigations
U.S. Department of the Interior

Report of Investigation

Case Title	**Case Number**
ST PAUL, MN CASINO TASK FORCE	**OI-MN-06-0107-I**
	Related File(s)
Case Location	**Report Date**
St. Paul, MN	**August 28, 2006**

Report Subject
Closing ROI

SYNOPSIS

In October 2005, the Minnesota Alcohol and Gaming Commission (AGC), St. Paul MN, initiated a proactive task force to identify and investigate criminal activity within the Indian casinos in Minnesota. The task force is comprised of law enforcement officials from the Federal Bureau of Investigation (FBI), the Internal Revenue Service (IRS), the Minnesota Bureau of Criminal Apprehension (BCA), the US Postal Inspection Service, the Minnesota Department of Revenue and the US Department of the Interior OIG. The task force was intended to identify money laundering and corruption within Minnesota casinos.

This effort has not revealed any criminal allegations that fall within the purview of this office. This investigation is terminated with the submission of this report.

DETAILS

In October 2005, AGC invited this office, along with several other federal agencies to participate in a proactive investigation. Between October 2005 and August 2006, Agents from this office and other participating agencies evaluated a database of individuals conducting large transactions at tribal casinos throughout the state and compared it with existing criminal investigation and criminal intelligence folders in an effort to identify criminal activity. To date, no allegations within the investigative purview of this office have been identified.

On August 28, 2006, the Special Agent in Charge, this office, determined to terminate this effort based upon the likelihood that any investigation initiated as a result of this analysis would not fall within the investigative purview of this office.

SUBJECT(S)/DEFENDANT(S)

None.

DISPOSITION

Reporting Official/Title	**Signature**	**Date**
[redacted]/Special Agent		
Approving Official/Title	**Signature**	**Date**
Neil Smith/Special Agent-in-Charge		

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This investigation is closed. No further investigative activity is anticipated.

ATTACHMENTS

None.

All redactions are 5 U.S.C. §§ 552(b)(6) and (b)(7)(C) of the FOIA.

Office of Inspector General
Office of Investigations
U.S. Department of the Interior

Report of Investigation

Case Title	Case Number
Apache Business Committee - Apache Tribe of Oklahoma	OI-OK-06-0115-I Related File(s)
Case Location Tulsa, OK	**Report Date** April 4, 2006
Report Subject Closing Report	

SYNOPSIS

This investigation was initiated on December 23, 2005, based on a complaint made by [redacted] a member of the Apache Tribe of Oklahoma, Anadarko, OK. In [redacted] complaint, [redacted] alleged that certain tribal members altered financial records to cover misuse of tribal and federal funds. [redacted] also alleged that members of the Apache Business Committee (ABC) interfered with the [redacted], a group of individual tribal land owners, to conduct its own business concerning the sale of individual Indian trust lands to gaming investors.

As part of our investigation, we examined various records and interviewed officials with the Bureau of Indian Affairs (BIA), U.S. Department of the Interior (DOI), and the National Indian Gaming Commission (NIGC). We also interviewed [redacted] regarding [redacted] complaint and examined records [redacted] provided during our investigation.

Our investigation determined that [redacted] complaint was based on hearsay. Although [redacted] made numerous allegations that ABC members were involved in political corruption and embezzlement from tribal activities, [redacted] was unable to provide sufficient evidence to substantiate these allegations. Our review of documents provided by [redacted] involving tribal activities with casino investors did not disclose that [redacted] allegations had merit, or that any other related criminal activities occurred.

The investigation did, however, identify numerous compliance issues the tribe was experiencing in administering its BIA-funded programs. The tribe was also two years delinquent in submitting annual Single Audit reports to the BIA. As a result of these findings, BIA has begun to scrutinize the tribe's BIA-funded programs closely. This investigation will be closed.

Reporting Official/Title [redacted] Special Agent	S[redacted]
Approving Official/Title Jack L. Rohmer, Special Agent in Charge	Signa[redacted]

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DETAILS

Background

On October 4, 2005, [redacted] prepared a letter to U. S. Senator Tom A. Coburn – Oklahoma, containing a litany of complaints involving the Apache Tribe of Oklahoma. In [redacted] complaint, [redacted] alleged the Apache Tribe altered financial records to cover misuse of tribal and government funds, and the ABC interfered with the [redacted] concerning the sale of individual Indian trust lands to gaming investors **(Exhibit 1)**.

On October 6, 2005, Sen. Coburn's office issued a letter to [redacted] BIA, Office of Congressional Affairs, Washington, DC, requesting that the BIA look into [redacted] complaints **(Exhibit 2)**.

On November 30, 2005, Daisy West, Acting Director, BIA, Washington, DC, endorsed a letter responding to Senator Coburn concerning the activities of the ABC. West's letter explained that the issues raised by [redacted] relate to a tribal gaining proposition set forth by the ABC. [redacted] The ABC, in turn, needed [redacted] land as the site for the proposed gaming facility. The [redacted] however, would rather conduct its own negotiations with investors than have the ABC act on their behalf. West's letter also informed Senator Coburn that BIA forwarded correspondence to the DOI - Office of Inspector General (OIG) for response concerning [redacted] charges of tribal mismanagement of federal funds. On December 14, 2005, the OIG received this referral from the BIA **(Exhibit 3)**.

On December 14, 2005, Sen. Coburn's office provided a letter to [redacted] responding to [redacted] original complaint. Attached to Coburn's letter was a copy of the BIA response letter dated November 30, 2005. Coburn's letter indicated that his office was closing its case based on BIA's response **(Exhibit 4)**.

Complainant Interview

On January 13, 2006, [redacted] was interviewed concerning the allegations raised in [redacted] letter to Senator Coburn, and specifically [redacted] allegation that the ABC misspent tribal funds and federal funds allocated by the BIA and was altering financial records to cover their misuse of these funds. [redacted] acknowledged [redacted] wrote the letter to Senator Coburn. [redacted] however, did not provide information substantiating [redacted] allegations concerning misapplication of tribal or federal funds at the Apache Tribe. In addition, [redacted] did not provide any information substantiating other related criminal activity by ABC members, although [redacted] made numerous allegations that ABC members were involved in political corruption and embezzlement from tribal activities. The information provided by [redacted] was apparently based on hearsay and rumors within the tribe **(Exhibit 5)**.

At the conclusion of [redacted] interview, [redacted] provided an assortment of copied documents, including ABC resolutions, correspondence with casino development companies and copies of bank records for an Apache Gaming Account. A subsequent review of these documents provided no additional evidence substantiating [redacted] allegations, or any other related criminal activity by ABC committee members or gaming investors **(Exhibit 6)**.

On February 24, 2006, [redacted] provided copies of three new complaint letters that [redacted] wrote and addressed to U.S. Senator John McCain – Arizona, Chairman, Senate Committee on Indian Affairs, Washington, DC;

the Assistant Secretary of the Interior – Indian Affairs, Washington, DC; and [redacted] Southern Plains Regional Office, BIA, Anadarko, OK. The three letters were dated February 20, 2006, February 23, 2006 and February 15, 2006, respectively. The complaints raised by [redacted] in these letters involved the same allegations that [redacted] made in [redacted] original complaint letter to Senator Coburn.

[redacted] letters contained complaints that the BIA, Southern Plains Regional Office, Anadarko, OK, was usurping the Apache Tribe's sovereignty by allowing corrupt Apache tribal leadership to continue to exploit their official positions for their personal benefit. More specifically, [redacted] expressed [redacted] dissatisfaction with [redacted] and [redacted] Southern Plains Regional Office, BIA, Anadarko, OK for undermining the Apache Tribe's efforts to remove certain ABC members from office without success **(Exhibit 7)**.

NIGC Coordination

On February 8, 2006, [redacted] Investigator, NIGC, Tulsa, OK, provided information relating to similar complaints that NIGC received from [redacted] during an interview conducted on January 4, 2006. [redacted] stated [redacted] provided essentially the same information to [redacted] that [redacted] provided to OIG. [redacted] alleged to [redacted] that ABC members [redacted] were corrupt, and were accepting money from two casino development firms, Noram and Lakes Entertainment. [redacted] informed [redacted] that the tribe was attempting to recall [redacted] and that the BIA was interfering in that process. [redacted] was not able to substantiate [redacted] allegations based on the information [redacted] provided.

[redacted] conducted an additional interview on January 9, 2006 with [redacted] Apache Tribe, who informed [redacted] that ABC members were misspending pre-development funds provided to the tribe by developer [redacted]. In addition, [redacted] told [redacted] that three ABC members, [redacted] were writing checks to themselves. [redacted] told [redacted] that tribal checks were bouncing and that BIA [redacted] informed [redacted] that federal program funds were being depleted. [redacted] told [redacted] that the ABC was moving funds from the program accounts to the general fund and were depleting these funds **(Exhibit 8)**.

BIA Coordination

On March 22, 2006, [redacted], [redacted] BIA, Southern Plains Regional Office, Anadarko, OK, stated BIA had recently completed a program review of the Apache Tribe's BIA-funded programs that identified several administrative and programmatic issues. As a result, [redacted] office placed the tribe into a high risk status, and will be scrutinizing the tribe's BIA-funded programs more closely. [redacted] office provided a copy of its program review. A review of this report did not disclose any issues of a criminal nature. In addition, [redacted] reported that the Apache Tribe was two years delinquent in completing its annually required Single Audits, pursuant to OMB Circular A-133, Audits of States, Local Governments and Non-Profit Organizations. The last audit report the BIA has received from the tribe was for FY-2002, and nothing has been provided by the tribe for FY-2003 or FY-2004 **(Exhibit 9)**.

On March 23, 2006, [redacted], BIA, Anadarko Agency Office, Anadarko, OK, stated [redacted] had no specific knowledge of misapplication of funds involving the Apache Tribe. However, [redacted] was aware of [redacted] allegations because [redacted] attended an Inter-Tribal Monitoring Association (ITMA) public meeting on March 21-22, 2006 at the Comanche Tribal Complex, Anadarko, OK, in which

[redacted] was present. At this meeting, [redacted] made public statements alleging that ABC members were corrupt and that the tribe's casino developers set up covert bank accounts to pay off ABC members.

[redacted] reported that in late 2005, [redacted] met with [redacted] Apache Tribe, who came to [redacted] office with a number of copied documents and was complaining of Apache tribal corruption. [redacted] noted that [redacted] concerns and documents were related to casino development with the tribe (i.e. financial records, contracts, resolutions), and did not pertain to federal programs. [redacted] did not take an official interest in these documents since they had no impact on any BIA funded programs. [redacted] denied [redacted] ever told [redacted] that the Apache Tribe's program funds were being depleted **(Exhibit 10).**

[redacted] provided documents [redacted] received from [redacted] A subsequent review of these documents did not substantiate [redacted] or [redacted] allegations, and did not substantiate any other related criminal activity by ABC members or gaming investors **(Exhibit 11).**

SUBJECT(S)/DEFENDANT(S)

1. [redacted] Apache Business Committee
2. [redacted] Apache Business Committee
3. [redacted], Apache Business Committee

DISPOSITION

On March 29, 2006, OIG special agents met with [redacted] Internal Revenue Service, Office of Indian Tribal Governments, Oklahoma City, OK, to review copied records OIG received during the course of this investigation. [redacted] was provided with copies of all documents obtained from [redacted] BIA and NIGC. [redacted] was provided these documents for examination for Title 26 and Title 31 tax and monetary reporting compliance for the Apache Tribe, its officers and third parties. [redacted] agreed to notify OIG if additional evidence is developed substantiating criminal or fraudulent activity.

No criminal misconduct was substantiated and no referral to the U.S. Attorney's Office was made.

EXHIBITS

1. Copy of Letter from [redacted] to Sen. Tom Coburn, dated October 4, 2005
2. Copy of Letter from Sen. Tom Coburn to BIA, dated October 6, 2005
3. Copy of Letter from BIA to Sen. Tom Coburn, dated November 30, 2005
4. Copy of Letter from Sen. Tom Coburn to [redacted] dated December 14, 2005
5. IAR - Interview of [redacted] Apache Tribe, dated January 13, 2006
6. IAR - Review of Documents Provided by [redacted], dated March 28, 2006
7. IAR- Copy of Letter from [redacted] dated February 22, 2006
8. IAR - Interview of [redacted], Investigator, NIGC, dated February 8, 2006
9. IAR - Interview of [redacted] BIA, dated March 22, 2006
10. IAR - Interview of [redacted] BIA, dated March 23, 2006
11. IAR - Receipt of Documents from [redacted], BIA, dated March 28, 2006

All redactions are 5 U.S.C. §§ 552(b)(6) and (b)(7)(C) of the FOIA.

Office of Inspector General
Program Integrity Division
U.S. Department of the Interior

Report of Investigation

Case Title	Case Number
MMS – Natural Gas Royalties	PI-06-0158-I
Case Location	**Report Date**
Washington DC	March 1, 2006
Report Subject	
Investigation Closing	

DETAILS

On January 23, 2006, the *New York Times* published an article entitled, "As Profits Soar, Companies Pay U.S. Less for Gas Rights." This article alleged that Department of the Interior's Minerals Management Service (DOI-MMS) was failing to collect all the royalties due from private companies in relation to federal natural gas leases. After reviewing the allegations in the article, and receiving an inquiry from Senator Charles E. Schumer to the Inspector General requesting an investigation be conducted into the matter, Special Agent [redacted] and Investigator [redacted] interviewed MMS Deputy Director Walter Cruickshank. Cruickshank provided several explanations as to why the *New York Times* article was inaccurate in its allegations against MMS. He further explained several reasons for the apparent discrepancy in royalties reported by MMS in relationship to the earnings being reported by companies to their shareholders.

After further discussion between Senator Schumer's office and MMS, it was determined that an investigation was not warranted, but rather this matter would be best addressed by the audit division of DOI's Office of Inspector General (OIG).

SUBJECT(S)

Minerals Management Service

DISPOSITION

This matter has been referred to the audit division of the DOI-OIG.

Reporting Official/Title [redacted] Senior Special Agent	**Signature** [redacted]
Approving Official/Title Scott Culver, DAIG-Program Integrity	**Signature** [redacted]

Distribution: Original – Case File Copy - SAC/SIU Office Copy – HQ Other:

All redactions are 5 U.S.C. §§ 552(b)(6) and (b)(7)(C) of the FOIA.

Office of Inspector General
Office of Investigations
U.S. Department of the Interior

Report of Investigation

Case Title	Case Number
U.S. FISH & WILDLIFE SERVICE - ATLANTA REGIONAL OFFICE	OI-GA-06-0202-I **Related File(s)**
Case Location Atlanta, GA	**Report Date** **December 22, 2006**
Report Subject ROI-Final	

SYNOPSIS

On March 17, 2006 the U.S. Department of Interior, Office of Inspector General (DOI/OIG) initiated an investigation into allegations of violations of veteran's preference hiring rules by the US Fish and Wildlife Service (USFWS), Southeast Region (SER). The case was initiated based on a referral from the Office of Personnel Management (OPM) sent to DOI/OIG on January 17, 2006. In the referral, OPM alleges during an audit conducted April 11-22, 2005 they found five cases of willful violations of veteran's preference regulations by USFWS, SER. After conducting an investigation into the circumstances of the five cases of alleged willful violations of veteran's preference rules, DOI/OIG found that although there were instances of improper hiring practices, there was no willful intent to bypass eligible veterans for positions within USFWS, SER.

DETAILS

Case 1

In their report to DOI/OIG, OPM alleges that a veteran preference eligible, [redacted], was erroneously removed from consideration for a position as an Office Automation Clerk, GS-04 in the USFWS, SER Ft. Benning, GA field office. After removing [redacted] from consideration, OPM alleged USFWS, SER was able to hire a non-veteran from the certification list. After questioning [redacted] OPM accepted [redacted] statement as fact that USFWS, SER had not attempted to contact [redacted] to offer [redacted] the position. During an interview with [redacted] Ft. Benning field office, [redacted] provided agents documentation and a statement describing [redacted] attempts to contact [redacted] and offer [redacted] the questioned position **(Attachment 1)**. [redacted] Supervisor, mailed an Official Notice (OF-5) to [redacted] on 9/09/04 notifying [redacted] was being considered for the Office Automation Clerk position and [redacted] should respond, if interested, by 9/20/04 **(Attachment 2)**. [redacted] did not get a response from [redacted] In addition, [redacted] called [redacted] twice to inquire if [redacted] was still interested in the position. [redacted] left messages for [redacted] to return [redacted] call; but, [redacted] got no response. [redacted]

Reporting Official/Title	Signature	Date
Special Agent [redacted]		December 22, 2006
Approving Official/Title	**Signature**	**Date**
Andres Castro, ASAC		December 22, 2006

Distribution: Original – Case File Copy - SAC/SIU Office Copy – HQ Other:

confirmed [redacted] was the author of the handwritten notation on the OF-5 indicating that [redacted] tried to contact [redacted] on 10/1/04 and 10/04/04, but [redacted] never heard from [redacted] [redacted] also offered that [redacted] first selection for the position was [redacted], another veteran on the certification list. [redacted] declined the position and [redacted] moved to hire [redacted]. [redacted] confirmed this in a separate interview **(Attachment 3)**. All of the other applicants on the certificate list, with the exception of [redacted] declined. After the unsuccessful attempts to contact [redacted] selected [redacted] for the position.

[redacted] started working for the USFWS, SER, Ft. Benning field office in March 2005. [redacted] said [redacted] was not employed by Fish and Wildlife Service (FWS) prior to March 2005. [redacted] nor anyone else in the Ft. Benning office knew [redacted] prior to [redacted] employment. In an interview with [redacted] confirmed that [redacted] knew no one in the USFWS, SER or the Ft. Benning office prior to [redacted] selection **(Attachment 4)**. [redacted] offered that no one pressured or encouraged [redacted] to select [redacted] [redacted] selected [redacted] based on [redacted] qualifications. Shortly after [redacted] appointment, [redacted] was notified by the USFWS, SER that [redacted] appointment was illegal and that [redacted] had to be terminated. [redacted] found this very distasteful and successfully lobbied to allow [redacted] to keep [redacted] job until [redacted] reported in November 2005. [redacted] described [redacted] as an excellent employee and an asset to [redacted] office. [redacted] was terminated November 2005. [redacted] worked as an Office Automation Clerk in the Ft. Benning field office approximately two and a half months. [redacted] characterized [redacted] performance as marginal. [redacted] commuted from [redacted] and was often late for work. [redacted] was also counseled for using the government computer for personal use. [redacted] believes [redacted] never really committed to the position. After approximately two and a half months, [redacted] resigned.

In this case it is apparent the USFWS, SER and [redacted] exercised due diligence in attempting to hire an eligible veteran for the vacancy in the Ft. Benning office. No one in the USFWS, SER or the Ft. Benning knew [redacted] prior to [redacted] selection and as such there would be no reason to attempt to circumvent veteran's preference guidelines to hire [redacted] [redacted] and USFWS, SER provided adequate documentary proof indicating they made multiple attempts to contact [redacted] which resulted in no response from [redacted] Further, [redacted] attempted to offer the position to another veteran, [redacted], prior to [redacted] and [redacted] OPM should not have required the USFWS, SER to terminate [redacted] Ultimately, a valued employee was terminated based on a preliminary OPM finding that had no basis in fact and was based solely on [redacted] statement that [redacted] had not been contacted. The evidence shows [redacted] was contacted and failed to reply until contacted by OPM.

Case 2:

In their report to DOI/OIG, OPM asserts veteran's preference was circumvented when the Cookeville, TN USFWS, SER office announced a USFWS, SER biologist position at the GS-9/11 level. This announcement was cancelled and subsequently re-advertised simultaneously under two different announcements; one announcement was for a full time GS-11 Biologist, the second was for a part time GS-11 Biologist. A non-veteran was selected from the part time certificate and within five months converted to full-time status. OPM asserts USFWS, SER published the two announcements in order to circumvent veteran's preference rules in order to reach a non-veteran on the part time certification. DOI/OIG's investigation does not support OPM's assertion.

DOI/OIG agents interviewed [redacted] at the U. S. Fish and Wildlife Service office in Cookeville, Tennessee regarding the vacancy announcements **(Attachment 5)**. [redacted] explained that the vacancy in question came about in 2002 when [redacted] the ultimate selectee, [redacted]

[redacted] died [redacted]. [redacted] was a USFWS Biologist in the Cookeville office at the time of [redacted] death. [redacted] had been a USFWS Biologist in the Cookeville office for approximately three years prior to [redacted] death. [redacted] When [redacted] received the results of the initial vacancy announcement; they both felt there were no qualified applicants on the certification list. The Cookeville office needed someone who could hit the ground running with little or no direct supervision as there was no one to train the selectee in the particulars of the position. [redacted] immediate supervisors in the regional office in Atlanta agreed to allow [redacted] to cancel the announcement and re-advertise the position at the GS-11 level in order to hopefully draw a more qualified applicant pool.

Prior to re-announcing the position, questions concerning the Cookeville office budget arose. [redacted] was unsure if [redacted] office budget would be able to support a full-time biologist. Also, the Cookeville office lost a portion of its territory due to an office opening in Western Tennessee. With this loss of territory, [redacted] were concerned that there may be an insufficient workload to support another full-time biologist in their office. [redacted] decided, with the concurrence of the regional office, to publish two announcements; one for a full-time biologist and one for a part-time biologist. [redacted] hoped that by the time the selection was made, a clearer picture of [redacted] office budget and work load would allow [redacted] to make a better decision as to whether to hire a full-time or part-time position. The two vacancies were announced in April, 2003.

Upon receiving the certification lists for the two vacancy announcements, [redacted] reviewed the eligible candidates. [redacted] felt that the two veteran candidates on the full-time certification list did not have the relevant work experience to allow them to hit the ground running in the position. Neither had relevant experience dealing with the specific type of USFWS permit application procedures needed to do the job. This was a very specific requirement of the position and [redacted] believed that for the selectee to be immediately productive, he or she needed this specific type of experience. Also, the budget situation for the Cookeville office had yet to be resolved and [redacted] felt that [redacted] needed to hire a part-time individual. Upon discussing the available candidates with [redacted], the regional human resource officer and [redacted] supervisors, [redacted] selected [redacted] for the position. [redacted] had direct and relevant experience in the USFWS permit process as a private contractor. [redacted] was well known for [redacted] knowledge and experience in this area and [redacted] believed [redacted] was the most qualified candidate for the position. [redacted] admits it was difficult not to take into consideration the situation regarding the death of [redacted] [redacted] was an exceptional USFWS employee and the situation regarding [redacted] death and [redacted] However, [redacted] and [redacted] agreed beforehand that ultimately they must select the best candidate for the position. After close consideration of all applicants, [redacted] agreed [redacted] was the best qualified applicant. [redacted] was assured by the regional human resource office that [redacted] could select from either certification list. [redacted] offered [redacted] discussed the position and [redacted] selection with [redacted] Human Resource manager and [redacted] program supervisor, both in the Atlanta Regional office.

Approximately six months after [redacted] was selected for the position, [redacted] determined the Cookeville budget and workload would support a full time individual in the position for which [redacted] was hired. [redacted] made a request through the regional office to convert [redacted] position to full-time. The request was approved and [redacted] position was converted to full-time. [redacted] agrees that the way the positions were announced, coupled with the situation regarding [redacted] death looks suspicious. [redacted] has been counseled by USFWS, SER Human Resources to not ever publish two vacancy announcements for the same position. [redacted] is also aware that if a veteran is on a certification list, that person must be selected.

Regarding [redacted] selection, [redacted] believes [redacted] selected the best person for the job and has no regrets in hiring [redacted] other than having to answer for [redacted] decision to both OPM and DOI-OIG. [redacted] provided the agents with copies of emails wherein [redacted] discussed the circumstances of [redacted] hiring with USFWS, SER officials (**Attachment 6**). These emails substantially concur with the information [redacted] provided.

In this case, it is apparent [redacted] and USFWS, SER erred in announcing two simultaneous vacancies when only one position was in fact available. Also, since there were eligible veteran candidates on the full-time certificate, one should have been chosen to fill the position. However, there is no evidence to support OPM's assertion that [redacted] and USFWS, SER announced the two positions simultaneously in order to deliberately circumvent veteran's preference rules. [redacted] explanation of [redacted] selection for the Biologist position in the Cookeville office seems reasonable given the circumstances. [redacted] assistant, [redacted] corroborates [redacted] version of events as well (**Attachment 7**). Also, given the level of communication between [redacted] and the USFWS, SER Human Resources office in Atlanta, it is apparent [redacted] didn't make [redacted] hiring decision in a vacuum. [redacted] sought and received guidance from [redacted] regional human resources office every step in the process.

Case 3:

OPM alleges USFWS, SER manipulated a veteran's eligibility score after failing to select the individual on an initial announcement; subsequently re-advertising the position and having a subject-matter expert score only the veteran for the position. [redacted] for the USFWS, SER Ecological Service Field Office, Daphne, Alabama was interviewed regarding this vacancy announcement.

[redacted] was the selecting official for the questioned biologist position in 2004. In [redacted] interview, [redacted] recalled [redacted] being ranked at the top of the available applicants (**Attachment 8**). [redacted] offered that prior to this vacancy announcement, [redacted] had previously applied for, was selected and accepted a similar position in the Daphne office. After [redacted] initial selection and subsequent acceptance, [redacted] was unable to establish any communication with [redacted]. [redacted] failed to report to work for the position, made no attempt to contact [redacted] and failed to respond to several attempts at contact by [redacted] ultimately selected another applicant for the position. When [redacted] name appeared at the top of the selection list for the subsequent position, [redacted] contacted the Human Resources office for the Southeast Region and asked for guidance regarding [redacted]. [redacted] did feel [redacted] displayed a poor aptitude for communication and coordination based on [redacted] earlier actions. [redacted] requested authority to select another applicant on the selection list. [redacted] was given the approval by the Human Resources office to bypass [redacted] and select a different applicant. [redacted] selected [redacted] for the biologist position. [redacted] was unaware a second announcement was issued for the questioned vacancy. Nor was [redacted] aware that [redacted] application was screened by a different individual than screened all the other applicants. [redacted] did not know [redacted] prior to [redacted] selection as a biologist for the Daphne office. [redacted] believes [redacted] was the best qualified applicant for the position. [redacted] had specific experience in the area of biology needed in the Daphne office. [redacted] has been an exceptional employee and has received several employee awards based on [redacted] performance.

After the OPM report was sent to USFWS, SER, [redacted] was offered and accepted a position in the Daphne office (**Attachment 9**). [redacted] described [redacted] job performance as not satisfactory for the position for which [redacted] was hired. [redacted] was given the opportunity to have [redacted] job description re-written to

more closely match [redacted] abilities without downgrading [redacted] GS pay level. [redacted] chose to resign from the USFWS, SER and is no longer an employee.

[redacted] USFWS, SER Ecological Service Field Office in Daphne, was also interviewed regarding this vacancy (**Attachment 10**). [redacted] is now retired from the USFWS, SER. [redacted] recalled initially selecting [redacted] for a position in the Daphne office prior to [redacted] consideration for the questioned vacancy in 2004. [redacted] corroborated [redacted] version of events relating to [redacted] acceptance of the first position and subsequent failure to report to the Daphne office. [redacted] recalled discussing this with [redacted] when [redacted] name again came up for consideration for the 2004 vacancy. [redacted] recalled advising [redacted] to select someone other than [redacted] based on [redacted] previous actions and lack of communication after [redacted] initial selection.

According to [redacted] it was ultimately [redacted] decision whom to hire. [redacted] concurred with [redacted] decision to bypass [redacted] based on [redacted] previous actions and recommended [redacted] selection, [redacted] to the regional human resources office. Prior to [redacted] selection, [redacted] did not know [redacted]. [redacted] had never met [redacted] nor had [redacted] had any conversations with [redacted]

The evidence in this case shows that [redacted] was definitely bypassed for the questioned Biologist position. Interviews with the current and former supervisors reflect a solid basis for making the decision to bypass [redacted] based on [redacted] failure to report to work and to respond to [redacted] attempts at contact after [redacted] was selected for the first position. [redacted] subsequent resignation after being offered a position based on OPM's findings seems to validate [redacted] and [redacted] decision to bypass [redacted] for the questioned position. There was no prior relationship between the individual selected ahead of [redacted] and either of the hiring officials in this case; and as such there appears no motive to bypass [redacted] in order to reach this individual on the certification list. The only error USFWS, SER made was in re-advertising the position to bypass [redacted] instead of using [redacted] prior conduct as a valid justification to select someone else for the position.

Case 4:

OPM alleges that an eligible veteran who was a leading candidate on a certification lists for a GS-9/11 biologist vacancy was discouraged from accepting the position when contacted by agency officials. OPM alleges the veteran candidate was informed the position would be filled at the GS-9 level and no mention was made of a possibility of promotion to GS-11 within a few months. The veteran declined the position and the individuals hired from the vacancy certificate were promoted to GS-11 within a few months.

[redacted] in the Vero Beach USFWS office, was interviewed regarding the questioned vacancy announcement and subsequent hiring actions (**Attachment 11**). [redacted] recalls [redacted] name on the certification list from the October, 2004 vacancy announcement. [redacted] was instructed by [redacted] supervisor, [redacted], to contact [redacted] to inquire if [redacted] was interested in the position at a GS-9 grade level. [redacted] contacted [redacted] as instructed and informed [redacted] the position would be filled at the GS-9 level and inquired if [redacted] was interested in the position. [redacted] informed [redacted] that [redacted] was not interested in the GS-9 position as [redacted] was already a GS-11 with [redacted] current agency. [redacted] followed up the conversation with an email declining consideration for the GS-9 biologist position (**Attachment 12**). [redacted] did not ask if [redacted] salary would be matched at the GS-9 level, nor did [redacted] offer this information. [redacted] did not offer any information regarding salary to

[redacted]. [redacted] does not believe [redacted] discouraged [redacted] from accepting the biologist position. [redacted] was not instructed to discourage [redacted] from accepting the position by [redacted] or anyone else in the Vero Beach office. [redacted] had no conversations with anyone in the Vero Beach office wherein pre-selections were discussed for the biologist positions. [redacted] has no knowledge that anyone in the hiring process intentionally discouraged [redacted] from accepting the biologist position or that there was a plan to hire existing USFWS, SER personnel for the positions. [redacted] has no knowledge of any personal relationship between any of the selectees and the hiring officials in the Vero Beach office.

[redacted] [redacted] USFWS, [redacted] Vero Beach office, was also interviewed regarding this hiring action (**Attachment 13**). [redacted] vaguely recalls [redacted] name as a candidate for a position in the Vero Beach office but does not recall any specifics about [redacted] or the position in question. [redacted] did not contact any prospective job candidates [redacted] to inquire as to their interest in positions. [redacted] explained that during a three year period, during which time this vacancy occurred, [redacted] office had a large increase in personnel. The Vero Beach office went from a staff of approximately twenty five to approximately one-hundred. This was due to legislation passed intended to assist in the Everglades Restoration Project. [redacted] administrative personnel were instructed to contact all individuals qualified on each certification list for each vacancy and inquire as to their interest in the positions. [redacted] offered [redacted] doubted the administrative staff would get into much detail as to salary matching if someone was already a government employee at a higher GS level than what was being offered. They would most likely be asked if they were interested in the position at the announced grade level. If they replied in the negative, the administrative person would simply move on to the next person on the certification list. [redacted] estimates [redacted] office conducted approximately five hundred personnel actions in this three year period.

[redacted] has no knowledge of anyone in [redacted] office intentionally bypassing [redacted] or anyone else in order to reach others on a certification list. [redacted] emphasized [redacted] office was attempting to hire a large number of people and often they would hire all qualified candidates on a certification list that accepted an offer. [redacted] reiterated that with the large number of individuals the Vero Beach office was hiring at the time, it would make no sense to attempt to discourage a qualified individual from accepting a position.

The evidence in this case indicates that [redacted] was given an equal opportunity to accept the position in question. [redacted] asserts the administrative assistant in the Vero Beach office did not explain to [redacted] the salary matching possibilities or the potential for a raise to GS-11 after only a few months; hence [redacted] felt discouraged from accepting the position. The statements from [redacted] and [redacted] make it evident that the Vero Beach office was simply not in the habit of discussing all the different salary possibilities with their vacancy candidates. This does not rise to the level of discouragement. There is no other evidence that would indicate veteran's preference rules were violated. After OPM's report the USFWS, SER re-contacted [redacted] and offered [redacted] a position at the GS-11 level. [redacted] accepted and is currently a USFWS, SER employee at the Yazoo National Wildlife Refuge.

Case 5:

OPM asserts a veteran candidate, [redacted], was discouraged from accepting an announced position in the USFWS, SER, Pocosin Lakes office. After the veteran declined the position, the Pocosin office was allegedly able to select a current USFWS, SER non-veteran employee for the position. [redacted] was interviewed regarding the circumstances surrounding the vacancy (**Attachment 14**). [redacted] applied for the position of USFWS, SER Office Automation Clerk in early 2004. [redacted] was contacted by phone at some point after that and asked to come in to the Pocosin Lakes offices to interview for the position. At

that time, [redacted] asked the USFWS, SER representative if the position would ever become permanent or if the position was likely to go away. [redacted] was told the position was temporary and would more than likely go away and not be converted to a permanent position. [redacted] did say [redacted] felt as though the USFWS, SER representative discouraged [redacted] from interviewing for the position. [redacted] informed the USFWS, SER representative that [redacted] was not interested in a temporary position and declined the interview. [redacted] could not recall who [redacted] spoke to regarding the interview. At some point shortly after this telephone conversation; [redacted] was not sure how long after, [redacted] was contacted by another representative from USFWS, SER requesting [redacted] to write a letter to the agency formally withdrawing [redacted] name from consideration for the position. [redacted] complied and addressed the letter to [redacted] Pocosin Lakes National Wildlife Refuge, Columbia, NC (**Attachment 15**).

[redacted] was also interviewed regarding the vacancy (**Attachment 16**). [redacted] was the hiring official for the position. [redacted] called all qualified applicants that were on the certification list to ensure they understood the details of the position. With all applicants, [redacted] discussed the job description, job duties, duty location, hours per week and the term aspect of the position. [redacted] informed all applicants that the position was for a specified term and that [redacted] was unsure if the position would ever be made permanent. [redacted] recalls [redacted] asking if the position would ever be made permanent. [redacted] told [redacted] the same thing [redacted] told the other applicants. [redacted] was unsure if the position would be made permanent in light of the uncertainty of the USFWS, SER budget at that time. [redacted] offered the position is a term position to this day. [redacted] was adamant that [redacted] in no way deliberately circumvented the veteran's preference rules to hire [redacted], the ultimate selectee. [redacted] offered [redacted] was hired under the veteran's preference rules and would be the last person to circumvent the hiring rules for veterans. [redacted] is a US Marine Corps veteran and strongly supports veteran hiring.

After speaking with [redacted] about the position, [redacted] expressed an interest in the position and [redacted] selected [redacted]. [redacted] informed [redacted] supervisor, [redacted], that [redacted] had selected [redacted] for the position and together they initiated the paperwork to hire [redacted]. [redacted] recalled this was on a Thursday or Friday. That following Monday or Tuesday, [redacted] called [redacted] back and informed [redacted] had changed [redacted] mind over the weekend. [redacted] decided it would not be in [redacted] best interest to leave a full time position, which [redacted] had, and accept a term position with the USFWS, SER. [redacted] requested [redacted] send a letter stating [redacted] reasons for declining the position. [redacted] complied and [redacted] received [redacted] declination letter. At that time, [redacted] moved to the next qualified person on the certification list. That person was [redacted]. [redacted] accepted the position.

[redacted] was interview in order to corroborate [redacted] version of events surrounding the questioned vacancy (**Attachment 17**). [redacted] is the [redacted] at the Pocosin Lakes National Wildlife Refuge. [redacted] recalled the vacancy announcement for an Office Automation Clerk in early 2004. [redacted] recalled [redacted], the [redacted], informing [redacted] of [redacted] selection of [redacted]. [redacted] initiated hiring procedures for [redacted]. Within a couple days, [redacted] informed [redacted] that [redacted] had decided not to take the position. [redacted] recalled [redacted] decision to decline the position was based on the fact the position was a term position and [redacted] did not want to leave a permanent position for a term position. [redacted] informed [redacted] was selecting [redacted] for the position. [redacted] concurred with [redacted] selection.

There is no substantiating evidence to indicate [redacted] or anyone else within the USFWS, SER intentionally discouraged [redacted] from accepting the questioned position. At best this is a case of differing perspectives on the part of [redacted] and [redacted] concerning their conversation regarding the

position. The bottom line is that [redacted] was offered the position and was not provided any inaccurate or untrue information pertaining to the position.

SUBJECT(S)/DEFENDANT(S)

N/A

DISPOSITION

This investigation revealed no evidence to suggest USFWS, SER or any of its employees willfully circumvented veteran's preference rules to intentionally bypass eligible veterans. In each case, there were mitigating and extenuating circumstances that effected the hiring decisions. None of which were aimed at intentionally bypassing veterans. Since receiving the OPM audit, USFWS, SER has taken extensive measures to ensure its managers are trained and knowledgeable of OPM's hiring rules and regulations. In each questioned case of violations of veterans' preference rules, USFWS, SER Southeast Region complied fully with OPM's audit and recommendations. USFWS, SER corrected the hiring mistakes and offered all veterans who were not selected current positions. In fact, upon completing OPM's required corrective actions, USFWS, SER received a highly commendatory letter from OPM stating in part "*You have admirably and diligently taken action on all of the required and recommended actions identified in our report, including correcting and closing out all of the individual case listings; developing standard operating procedures for all major staffing processes; developing and implementing a training program which incorporates training in merit system principles, the pledge to applicants, and prohibited personnel actions*" (**Attachment 18**). In light of the findings of this investigation and USFWS, SER's corrective actions, DOI/OIG finds no further actions on the part of USFWS, SER are required.

ATTACHMENTS

1. Interview of [redacted], Ft. Benning field office.
2. OF-5 mailed to [redacted] from USFWS, SER.
3. Interview of [redacted]
4. Interview of [redacted]
5. Interview [redacted] at the U. S. Fish and Wildlife Service (US F&WS) office, Cookeville, Tennessee
6. Correspondence from [redacted] to USFWS, SER officials in Atlanta regarding [redacted] hiring.
7. Interview of [redacted].
8. Interview of [redacted] for the USFWS, SER Ecological Service Field Office, Daphne, Alabama.
9. Hiring documentation regarding [redacted].
10. Interview of [redacted] USFWS, SER Ecological Service Field Office in Daphne, Alabama.
11. Interview of [redacted], [redacted] Vero Beach USFWS, SER office.
12. [redacted] email to USFWS, SER declining consideration for appointment.
13. Interview of [redacted], [redacted] USFWS, [redacted] Vero Beach USFWS, SER office.
14. Interview of [redacted].
15. [redacted] declination letter sent to [redacted] USFWS, SER.

16. Interview of [redacted], [redacted], Pocosin Lakes National Wildlife Refuge, Columbia, North Carolina.
17. Interview of [redacted], Pocosin Lakes National Wildlife Refuge.
18. OPM's final letter to USFWS, SER, Southeast Region.

All redactions are 5 U.S.C. §§ 552(b)(6) and (b)(7)(C) of the FOIA.

Office of Inspector General
Program Integrity Division
U.S. Department of the Interior

Report of Investigation

Case Title	Case Number
National Park Foundation	PI-06-0474-I Related File(s)
Case Location	**Report Date**
Washington, DC	October 6, 2006
Report Subject	
Report of Investigation	

SYNOPSIS:

This investigation was initiated based on an anonymous complaint from a former employee of the National Park Foundation (NPF) alleging that [redacted] of the NPF, used NPF travel funds ostensibly to meet with prospective donors but instead visited [redacted] private business interests.

We found that the NPF does not receive Federal appropriations and operates solely on private donations. According to the Chief Financial Officer (CFO) of the NPF, [redacted] travel is in line with [redacted] duties and responsibilities [redacted].

DETAILS:

The Department of the Interior's Office of Inspector General received an anonymous complaint on its hotline on August 14, 2006, alleging travel improprieties involving [redacted] NPF. The NPF, chartered by Congress, functions as a connection between the American people and their National Parks by raising private funds, making grants, creating partnerships, and increasing public awareness [redacted]. The funds raised aid in conservation, preservation, and education efforts.

The complainant alleges that [redacted] has conducted extensive travel paid for by the NPF to meet with donor prospects. The complainant believes that the donors are somewhat suspicious since the NPF staff has been "kept in the dark" regarding preparatory work before [redacted] trips and after action reports upon [redacted] return. It is alleged by the complainant that [redacted] has many private business interests and feels that visits to them are the reason for [redacted] travel.

[redacted]

Reporting Official/Title	Signatu
[redacted], Special Agent	[redacted]
Approving Official/Title	**Signatu**
Alan Boehm, Director, Program Integrity	

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[redacted]. Regarding the allegation that [redacted] has not involved the NPF staff in planning and after action meetings involving the solicitation of prospective donors, [redacted] said that normally the staff is involved in large event planning and preparation regarding potential donors **(attachment 1)**. [redacted] handles the smaller events and one-on-one meetings by [redacted].

[redacted]. [redacted] related that all of [redacted] travel is paid through their organization **(attachment 2)**. [redacted] said [redacted] travels extensively to solicit private donations for the NPF. [redacted], in [redacted] capacity as [redacted], stated NPF operates solely on private funds without the benefit of Federal appropriations **(attachment 3, 4)**.

SUBJECT(S):

[redacted] National Park Foundation, Washington, D.C.

DISPOSITION:

The investigation is concluded with the submission of this report. No further action is necessary.

ATTACHMENTS:

1. Investigative Activity Report, interview of [redacted], dated September 7, 2006.
2. Investigative Activity Report, interview of [redacted], dated September 7, 2006.
3. Document titled, "National Park Philanthropy."
4. Letter from [redacted] to [redacted], dated August 15, 2006.

All redactions are 5 U.S.C. §§ 552(b)(6) and (b)(7)(C) of the FOIA.

Office of Inspector General
Program Integrity Division
U.S. Department of the Interior

Report of Investigation

Case Title	Case Number PI-07-0020-I
CA VALLEY MIWOK TRB	Related File(s)
Case Location	**Report Date**
Washington, DC	January 10, 2007
Report Subject	
Final Report	

SYNOPSIS

This preliminary investigation was initiated based upon a request from [redacted] Office of Native American and Insular Affairs, Committee on Resources, U.S. House of Representatives, that the Department of the Interior (DOI), Office of Inspector General (OIG) investigate allegations that the Bureau of Indian Affairs (BIA) and the U.S. Attorney's Office have attempted to terminate the government of the California Valley Miwok Tribe (CVMT or Tribe) and expand the membership of the Tribe in violation of tribal sovereignty.

The allegations center on internal leadership issues within the Tribe and BIA's refusal to recognize the Tribe as an organized entity. CVMT appealed a federal trial court decision dismissing its complaint against BIA over these issues. This appeal has resulted in court-ordered mediation between CVMT and BIA over the leadership and organizational issues in dispute, which are the core of the initial allegations. The investigation into these allegations has been closed due to the ongoing litigation and court-ordered mediation process. Our investigation did not reveal any involvement of the U.S. Attorney's Office in this matter other than representing BIA in the litigation.

DETAILS

On October 23, 2006, Alan Boehm, Director, OIG Program Integrity Division, Stephen Hardgrove, Assistant Inspector General for Investigations, and [redacted] Associate Inspector General for External Affairs, met with [redacted] to discuss allegations that officials from BIA and the U.S. Attorney's Office were interfering with the governing body established by CVMT members and were attempting to expand the membership of the Tribe in violation of tribal sovereignty.

[redacted] provided OIG officials with a binder and three CDs containing information about the Tribe's ongoing organizational dispute with BIA and its internal leadership dispute between [redacted], who was most recently recognized as Tribal chairperson, and [redacted], the original Tribal chairperson

Reporting Official/Title	Signa[redacted]
[redacted]/Investigator	
Approving Official/Title	**Signa[redacted]**
Alan Boehm, Director, Program Integrity	

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who challenged [redacted] leadership of the Tribe. [redacted] received the binder from [redacted] a Republican lobbyist with The Da Vinci Group [redacted] alleged that the officials were "in cahoots" with [redacted] attempt to remove [redacted] from a leadership position and take over the Tribe because of both action and inaction of BIA officials on Tribal issues (**Attachment 1**). OIG subsequently decided to conduct a preliminary inquiry into the CVMT to determine if there was any substance to the allegations.

Congress enacted the Federally Recognized Indian Tribe List Act in 1994, which listed the Tribe under its former name of Sheep Ranch Rancheria of Miwok Indians. The Tribe officially changed its name to CVMT in June 2001. Federal Register notices have listed the Tribe as a federally recognized tribe under its current and former names for a number of years.

The information contained in the binder and on the CDs was reviewed and analyzed (**Attachment 2**). An analysis of this information revealed that the dispute between the Tribe and BIA centers around BIA's continued refusal to recognize the Tribe as an organized entity. None of the documents provided by [redacted] indicated any direct involvement of the U.S. Attorney's office. Attorneys from the Department of Justice (DOJ) have defended DOI and BIA in a number of lawsuits brought by [redacted] against the Department.

Documents provided by [redacted] through [redacted] indicate that [redacted], and BIA officials from the Central California Agency (CCA) and Washington headquarters offices have had a number of meetings and conversations and traded correspondence where tribal organization was discussed. CCA officials have reportedly tried to get the Tribe to officially organize under the 1934 Indian Reorganization Act (IRA) on a number of occasions and have attempted to assist Tribal officials in these efforts since 1998. [redacted] have submitted different versions of Tribal constitutions to CCA officials on various occasions in attempts to have CCA officials recognize the Tribe as an organized entity. CCA officials rejected the Tribe's efforts each time because, in their opinion, the constitution and organization of the Tribe did not comply with provisions of the IRA.

The documents also indicate that [redacted] received conflicting information from CCA officials in [redacted] quest for CCA to recognize the Tribe as an organized entity. During depositions filed in connection with one lawsuit [redacted] filed against BIA, CCA officials reportedly acknowledged that the Tribe was not required to organize pursuant to the IRA and was free to organize under its own internal requirements. CCA officials, however, continued to reject it as an organized entity due to concerns the officials had over [redacted] failure to include [redacted], and others in the Tribal organization process. In some instances, there has not been any apparent action on the part of CCA officials to accept, reject, or otherwise respond to the Tribe's submissions or requests by [redacted] for information and assistance.

Further complicating matters is the dispute between [redacted] over the leadership of the Tribe. Documents indicate that [redacted] had originally been the leader of the Tribe in 1998 when [redacted] enrolled [redacted] and several of [redacted] family members into the Tribe. [redacted] was elected as chairperson after [redacted] allegedly resigned in April 1999.

In late 1999, [redacted] alleged that the change of leadership in the Tribe had resulted from "fraud or misconduct." [redacted] further alleged that [redacted] did not resign as chairman and had only given [redacted] the authority to act as the Tribe's delegate. [redacted] stated that [redacted] was unaware of [redacted] being named as chairperson until November 1999 when some of [redacted] associates discovered [redacted] had been replaced.

At the suggestion of [redacted], [redacted] initiated a complaint with the CVMT Tribal council about [redacted] removal as tribal chairman. Tribal officials provided [redacted] with a 30-day period to present the council with [redacted] evidence; however, [redacted] failed to respond as instructed. In March 2000, Tribal officials passed a resolution that [redacted] had waived [redacted] right to contest [redacted] resignation as Tribal chairman by failing to respond during the required period.

In July 2001, [redacted] and several of [redacted] family members sued [redacted] and [redacted] family members in the U.S. District Court for the Eastern District of California challenging their membership and leadership of the Tribe. The District Court subsequently dismissed the suit for lack of jurisdiction because the plaintiffs had not exhausted their administrative appeals through the Tribe.

In May 2003, [redacted] wrote a letter to CCA [redacted] requesting information that [redacted] needed in order to file an appeal with BIA. [redacted] "affirmed" that [redacted] was the "rightful chairperson" of the Tribe and alleged that [redacted] purported signature on the April 1999 resignation letter was a forgery. [redacted] wrote [redacted] a second letter in June 2003 requesting the information once again. [redacted] also wrote to [redacted], later that month complaining that [redacted] had failed to respond to [redacted] formal requests for information. In August 2003, [redacted] wrote [redacted], Acting Director of the BIA Sacramento Regional Office, complaining that [redacted] attempts to communicate with [redacted] and [redacted] had been unsuccessful. The documents provided by [redacted] do not contain any responses from [redacted] or [redacted] to [redacted] requests.

Both the [redacted] and [redacted] factions have attempted to develop a casino. In October 2003, [redacted] wrote a letter to former Attorney General John Ashcroft alleging that [redacted] and others had conspired with each other to develop a casino once [redacted], who was incarcerated [redacted], was released from prison. [redacted] further alleged that [redacted] had portrayed [redacted] as CVMT chairman in order to make the casino development deal and that once [redacted] was released, began to make false accusations to BIA regarding the legitimacy of the current Tribal council.

In February 2005, Michael Olsen, Principle Deputy Assistant Secretary – Indian Affairs, dismissed an administrative appeal filed by [redacted] challenging BIA's recognition of [redacted] as Tribal chairman. [redacted] dismissed the appeal stating that [redacted] claim was moot due to a March 2004 ruling that BIA did not recognize [redacted] as chairperson because the Tribe was not formally organized; the appeal raised issues not raised at lower levels of the administrative process; and, [redacted] had failed to pursue administrative remedies with BIA for nearly 18 months, which ultimately barred the appeal on timeliness issues.

CCA officials eventually questioned [redacted] leadership and management of the Tribe and reportedly altered the terms of its Public Law 93-638 contracts with the Tribe. The Tribe became a "contracting tribe" pursuant to the Indian Self Determination Act (Public Law 93-638) on September 30, 1999, and attained Mature Contract Status in January 2004. In July 2005, CCA suspended the Tribe's federal contract due to its concerns. One month later, CCA reportedly reversed itself and modified the existing contract. In April 2006, CCA [redacted] sent [redacted] copies of the fully executed contract modifications indicating the Tribe had mature status.

Because of the inability to resolve the leadership issues with [redacted], the Tribe disenrolled [redacted] in August 2005. [redacted] reportedly hired [redacted] to represent [redacted] and investigate [redacted] interests in the Tribe.
[redacted]

[redacted]. [redacted] became associated with [redacted] through [redacted] business associates in their efforts to develop a casino for the Tribe.

On April 10, 2006, [redacted] sent [redacted] a letter "petitioning" BIA for recognition of the Tribe's organization under [redacted] leadership and requesting that BIA confirm or reject the "petition." [redacted] stated that the documents [redacted] provided with [redacted] letter made it clear that [redacted] was the leader of the Tribe through [redacted] inherent traditional authority. The documents provided by [redacted] do not contain any response from [redacted].

[redacted] stated that [redacted] hired a private investigator to find out information about [redacted]. The private investigator apparently recorded an interview with [redacted], contained on a CD provided by [redacted], in which [redacted] allegedly told [redacted] about [redacted] efforts to assist [redacted] in [redacted] quest to regain control of the Tribe. [redacted] also reportedly told the private investigator about efforts to have BIA recognize the Tribe as an organized entity, which would eventually lead to the development of a casino deal for the Tribe.

The CD contained recordings of the [redacted] conversation labeled as Parts 2, 3 and 4. There is no recording for a Part 1. Both parties on the recordings are not identified. The authenticity of these recordings, and the means of which they were obtained, have not been determined. The recording was apparently made in a public setting and is hard to understand in many instances. The allegations made regarding [redacted] comments could not be substantiated. *(**Agents Note:** California statutes require that both parties to a conversation consent to being recorded. There is no record or indication of that consent in the material provided to [redacted] by [redacted].)*

According to [redacted], Attorney Advisor, [redacted], Office of the Solicitor (SOL), who is working on current litigation issues between CVMT and the Department, [redacted] primary motivation in assisting [redacted] is probably money that the Tribe may collect through a future casino development deal. [redacted] is not involved in current litigation **(Attachment 3)**.

[redacted] is the SOL attorney assisting DOJ with CVMT's appeal of the dismissal of its lawsuit filed against BIA in the U.S. District Court for the District of Columbia. In that lawsuit, CVMT argued that the Tribe had the "inherent authority" to adopt governing documents outside of IRA regulations and that the Tribe had "lawfully organized pursuant to its inherent sovereign authority," which are essentially the same issues that [redacted] presented to [redacted]. The trial court subsequently dismissed the CVMT suit, stating that the Tribe's claim of government interference in the internal affairs of the Tribe was erroneous **(Attachment 4)**. CVMT subsequently filed an appeal of the trial court decision in the U.S. Court of Appeals for the District of Columbia Circuit on June 16, 2006.

The Court of Appeals ordered CVMT and BIA to enter into mediation with the goal of settling the case as part of the appeals process. [redacted] has been included in the mediation process in the interest of concluding [redacted] issues with the organization and leadership of the Tribe. If the parties do not come to a successful resolution of the complaint, the appeal will go forward. Successful mediation will result in CVMT dismissing its appeal. According to [redacted], if BIA wins the appeal, the trial court's decision will be upheld and the issue will go back to "square one." [redacted] believes that [redacted] and [redacted] will ultimately come to an agreement with BIA and that leadership and organizational issues in dispute will be resolved without further litigation. The mediation process should take approximately 6 months to complete.

[redacted], who is familiar with the Tribe's recent history, acknowledged that CVMT is a federally recognized tribe. The organization issue came up in 2004 when [redacted] submitted a revised constitution.

BIA reviewed the proposed constitution and determined that it was not a valid document. The organization issue had not come up before because BIA had made an assumption that the Tribe was organized, even though that was not technically correct. BIA subsequently treated the Tribe as if its government was unorganized.

BIA's involvement, and the focus of the current mediation, centers on the organization of the Tribe. Despite BIA policy not to get involved in internal tribal leadership disputes, [redacted] stated that BIA will get involved in tribal internal matters when it cannot determine what the legitimate government is or when it cannot determine if federal funds given to the Tribe are being used for the benefit of all tribal members. BIA objected to CVMT's proposed constitution because it only identified a limited number of Tribal members (five) as members of the Tribe, and those members were the only ones who voted for its ratification. The constitution only identified [redacted]. Based on information in its possession, BIA believes that the Tribe's proposed constitution was not inclusive of all potential members of the Tribe and that there are a number of [redacted] that should be included as Tribal members. As a result, the Tribe, at BIA's demand, is placing advertisements in local newspapers alerting readers to the fact that the tribe is reorganizing and that people have an opportunity to join the tribe. The criteria for tribal membership have yet to be determined. As part of the mediation plan mandated by the court, mediators have proposed that [redacted] come to an agreement on membership criteria, even though [redacted] is not an official party to the case.

While BIA can take steps to assist the Tribe with government organizational issues, it cannot settle a leadership dispute. Once the Tribe is formerly organized, it can select its own leaders. BIA is not concerned with who is elected as chairperson as long as the election process is fair. CCA officials have developed a team from outside the agency to assist the Tribe with the proposed reorganization.

[redacted] did not believe that BIA has showed any favoritism towards either the [redacted] factions. However, [redacted] noted that CCA had acted "without authority" against [redacted] in the past. CCA officials looked at an issue involving the Tribe, tried to determine if it was fair or not, and then attempted to correct what they perceived as wrong. [redacted] believed that CCA actions were not legal in some cases. For example, CVMT receives several hundred thousand dollars from the Public Law 93-638 contracts it manages. CCA cut off funding from the Tribe's contracts without proper procedures or a basis for their actions. [redacted] characterized CCA actions more as "ineptitude" rather than favoritism. BIA headquarters staff and SOL have always been able to get CCA to correct these acts when the issues became known to them.

[redacted] commented that there was lots of "bad blood" between [redacted] and CCA officials that centered on a lack-of-trust issue. [redacted] stated that CCA officials did not trust [redacted] and thought [redacted] was mismanaging Tribal affairs. CCA officials conducted a technical audit of CVMT's Public Law 93-638 contracts and did not discover any major irregularities; however, CCA did discover some fundamental problems in the way that [redacted] was operating the tribal government and questioned what [redacted] was doing with the funds provided to the Tribe.

In contrast to [redacted] comments, [redacted] BIA Tribal Government Services, questioned why BIA was involved in the CVMT organizational and leadership dispute when it had not gotten involved in similar disputes with other tribes **(Attachment 5)**. [redacted] stated that SOL is trying to force the Tribe to organize under IRA requirements by obtaining Secretarial approval of its constitution; however, years ago SOL said that the Tribe could be organized as an IRA tribe without a constitution as required under the IRA. [redacted] commented that other tribes have rejected the IRA and operate as

unorganized tribes. [redacted] believes that SOL concerns over the limited number of Tribal members that voted for the constitution are not valid.

[redacted] believes that BIA's requirement that the Tribe advertise for members, as part of the organization process, is a violation of Tribal sovereignty. [redacted] believes that enrollment is a tribal issue and questioned the authority BIA had to make that demand. [redacted] believes that that BIA has overstepped its authority over CVMT tribal matters and there would not be this level of BIA involvement if CVMT was located in another state. [redacted] noted that BIA is creating a tribal government in this case, which it would not do under an acknowledgement application.

[redacted] also noted that [redacted] has a contentious relationship with CCA, which resulted in a request for oversight from another BIA office. [redacted] commented that former CCA officials did not like [redacted] and that they had "ego issues" over [redacted] unwillingness to comply with their directives because of "all the hoops" [redacted] was made to go through. Although the relationship was contentious, [redacted] noted that BIA had entered into various Public Law 93-638 contracts with [redacted] as chairperson similar to previous contracts BIA had with [redacted].

[redacted] believes that [redacted] protest of [redacted] removal as Tribal chairperson is too late and that [redacted] should have initiated the protest when [redacted] was named as vice chairperson. BIA, however, has taken [redacted] protest of [redacted] removal as chairperson and [redacted] disenrollment from the Tribe seriously. [redacted] also believes that the best solution in this case would be for BIA to let the Tribe resolve its leadership issues by itself rather than potentially causing a "nationwide" rule to be made through the pending court action that would infringe on tribal sovereignty in the future.

The organizational and leadership dispute has also affected the Tribe's receipt of funds due to it under State of California Revenue Sharing Trust Fund (CRSTF) regulations. CRSTF gaming regulations provide each non-gaming tribe with a share of proceeds earned by tribes with casinos. Because CVMT did not have its own casino, the Tribe's share of these funds amounted to approximately $1 million annually. [redacted] stated that the California Gambling Control Commission is placing funds owed to the Tribe in escrow pending resolution of the ongoing leadership dispute.

SUBJECTS

[redacted], Office of Native American and Insular Affairs, Committee on Resources, U.S. House of Representatives, Washington, D.C.

[redacted], Attorney Advisor, [redacted] Office of the Solicitor, Washington, D.C.

[redacted] Tribal Government Services, Bureau of Indian Affairs, Washington, D.C.

DISPOSITION

This investigation has been closed due to the ongoing litigation and court-ordered mediation between CVMT and the Department over the organizational and leadership issues described in the initial complaint. [redacted] has been advised of OIG's decision to terminate the investigation and that a letter

explaining this decision had been sent to former Congressman Richard Pombo, who was chairman of the Committee on Resources at the time the complaint was made **(Attachment 6)**.

ATTACHMENTS

1. Investigative Activity Report, interview of [redacted] dated December 12, 2006
2. Investigative Activity Report, review and analysis of information contained in binder and on CDs dated December 8, 2006
3. Investigative Activity Report, interview of [redacted] dated December 5, 2006
4. Copy of Memorandum order, *California Valley Miwok Tribe v. USA, et al.*, U.S. District Court for the District of Columbia (Civil Action No. 05-0739 (JR))
5. Investigative Activity Report, interview of [redacted] dated December 5, 2006
6. Copy of letter to former Congressman Richard Pombo dated December 6, 2006