



THE SECRETARY OF THE INTERIOR
WASHINGTON

JUL 26 2004

Mr. Scott J. Bloch
Special Counsel
U.S. Office of Special Counsel
1730 M Street, NW, Suite 300
Washington, D.C. 20036-4504

Re: OSC File No. DI-04-0916

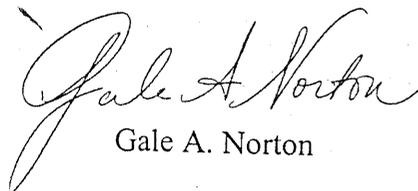
Dear Mr. Bloch:

As a follow-up to our letter on April 12, 2004, we are enclosing an investigative report concerning Deborah P. Miller, Administrative Officer, Northern California Area Office, Bureau of Reclamation, Shasta Lake, California. The report addresses and dismisses allegations that Ms. Miller abused her position of authority by allowing the Shasta Wonderland Elite Athletic Team running club to hold an event on Reclamation property during a period of heightened security.

The matter was previously submitted to the Department of the Interior, Office of Inspector General, and was referred to Reclamation for their review and action. Though the inquiry determined that Ms. Miller did not violate any regulations, it did uncover concerns related to permit issuances and procedures for addressing heightened security. Based on these findings, Reclamation is reviewing, and if necessary will modify its permit procedures to ensure that security and the recovery of administrative costs are taken into account (see enclosure).

We take matters of alleged abuse of authority very seriously and appreciate you bringing this matter to our attention. If you have any questions, please contact Assistant Inspector General David A. Montoya at 202-208-6752 or Special Agent Linda A. Moon at 202-208-5319.

Sincerely,


Gale A. Norton

Enclosure

cc: John W. Keys, III, Commissioner, Bureau of Reclamation
David A. Montoya, Assistant Inspector General
Department of the Interior
Sue Ellen Wooldridge, Solicitor, Department of the Interior



United States Department of the Interior

OFFICE OF INSPECTOR GENERAL
Washington, DC 20240

JUN - 3 2004

Memorandum

To: Faye Iudicello
Director, Office of Executive Secretariat
and Regulatory Affairs

From: David A. Montoya *David A. Montoya*
Assistant Inspector General for Investigations

Subject: Office of Special Counsel Referral Regarding
Deborah Miller, Administrative Officer, Bureau of Reclamation

On March 19, 2004, the Office of Special Counsel (OSC) provided information to our office concerning Deborah P. Miller, Administrative Officer, Northern California Area Office, Bureau of Reclamation (BOR), Shasta Lake, CA. Ms. Miller allegedly abused her position of authority by allowing the Shasta Wonderland Elite Athletic Team running club to hold an event on BOR property during a period of heightened security.

This matter was previously submitted to our Hotline Office on January 6, 2004 and was referred to BOR for their review and action. The inquiry determined that Ms. Miller did not violate any regulations. However, it did uncover concerns related to permit issuances as well as procedures for addressing heightened security. Based on these findings, BOR is reviewing permit procedures associated with security and the recovery of administrative costs (see attached).

OSC requires that agencies comply with 5 U.S.C. Sec. 1313(d) by having responses to certain inquiries reviewed and signed by the Secretary. Therefore, we are referring this information to your office for subsequent response to OSC.

If you need further assistance or clarification of the OSC requirements, please contact Catherine A. McMullen of the Disclosure Unit at (202) 653-6005. If I can be of further assistance, please contact me at (202) 208-6752.

Attachment



United States Department of the Interior

BUREAU OF RECLAMATION

PO Box 25007

Denver, Colorado 80225-0007

IN REPLY REFER TO:

D-7400
ADM-1.00

MAY 04 2004

MEMORANDUM

To: Office of Inspector General
Western Region Investigations
Attention: David W. Brown

From: Elizabeth Cordova-Harrison *Elizabeth Cordova-Harrison*
Director, Management Services Office

Subject: Miller, Deborah, DOI-OIG Case No. OI-CA-04-0203-R

The Mid-Pacific Regional Office has conducted a review of the subject matter referred to our office on February 11, 2004.

Based upon the findings, Reclamation concluded that Ms. Miller did not violate any regulation or engage in any illegal practice. However, we did find areas of concern related to the issuance of use permits in general and specifically, how security is addressed during periods of heightened security. The Bureau of Reclamation will review our use permit procedures with respect to security issues and if administrative costs are being recovered. The summary of findings is included in the attached memorandum.

If you have any questions or concerns, please contact Tom Lab, Audit Liaison Officer, at 303-445-3436.

Attachment

INVESTIGATIVE REPORT
MILLER, DEBORAH, DOI-OIG, CASE NO. OI-CA-04-0203-R

A review of the subject complaint was conducted in the Regional Office Human Resources Office by Joni Ward, Human Resources Specialist. The results of that review are detailed below.

ALLEGATION:

It was alleged to the Office of the Inspector General that Deborah Miller, Administrative Officer, Bureau of Reclamation, Northern California Area Office (BOR-NCAO) organized a running marathon for the Shasta Wonderland Elite Athletic Team (S.W.E.A.T) Running Club. The complainant alleged that Ms. Miller used her position of authority with BOR-NCAO to allow the S.W.E.A.T Running Club, of which she is an active member, to hold an event on Reclamation property during heightened security, and authorized the expenditure of Federal Government resources in the form of utilities and employee overtime to serve event purposes, which was held on a Federal Holiday, January 1, 2004.

FINDINGS:

A special use permit was issued to the Shasta Wonderland Elite Athletic Team (SWEAT) on November 28, 2003. The use permit was signed by Mr. Donald Bultema as the Chief, Water and Lands Division. This special use permit was issued to S.W.E.A.T based on their written request dated October 20, 2003 to use the facilities at Shasta Dam for their marathon run scheduled for January 1, 2004. It should be noted that the S.W.E.A.T has requested and been granted authorization to utilize the Shasta Dam facilities on January 1st of 2002, 2003 and 2004 for their marathon.

For each of the listed years the special use permit has been granted to S.W.E.A.T, the use permit was approved by someone other than Deborah Miller. Each of the use permits have been properly executed under existing regulations.

The use permit issued on November 28, 2003, specifically authorized S.W.E.A.T to enter upon Reclamation's Shasta Dam right-of-way for the purpose of conducting the Redding Marathon which included approximately 125 marathoners, and 150 half marathoners.

The marathon was scheduled for January 1, 2004 at 9:15 a.m. and was scheduled to commence at Shasta Dam Visitor Center, cross Shasta Dam, continue downstream along the rail trail to Keswick Dam and finish at Caldwell Park. The half marathon commenced at the beginning of the rail trail and continued downstream to Redding. S.W.E.A.T did propose an alternate route in the event more stringent Homeland Security measures were implemented. The proposed alternative route would have begun at Caldwell Park, run up river to the start of the rail trail, turn around and run back along the rail trail with use of Middle Creek and Rock Creek Roads.

The alternative route was not run on January 1, 2004, even though Homeland Security had increased the security level to "orange" on December 22, 2003, due to heightened security concerns and the heavy holiday travel season.

A review of the procedures in place at the NCAO indicated that once special use permits are issued they are not routinely reexamined prior to the event date in order to determine if security considerations require changes to the permit. In the case of this use permit, on January 1, 2004 the increased security rating was not taken into account prior to the marathon being run.

A review of the time and attendance records for January 1, 2004, revealed that one Reclamation employee was working overtime in support of the marathoners' activities. This employee was responsible to open and staff the Visitor Center in support of the marathon. The employee worked 3 hours of holiday worked. The employee who worked was a GS-5 Reclamation Guide. The employee was under Ms. Miller's authority. The overtime authorization was signed by Ms. Miller on January 2, 2004 the day after the event was held.

AUTHORITIES:

The Office of Management and Budget Circular No. A-25 establishes Federal policy regarding fees assessed for Government services and for sale of use of Government goods or resources. It provides information on the scope and types of activities subject to user charges and on the basis upon which user charges are to be set. Finally, it provides guidance for agency implementation of charges and the disposition of collections. It indicates that all costs incurred in providing services shall be recovered and includes a process for determining the procedures to be employed in recovering the costs.

CFR Title 43, part 429.4 states that other agencies or non-profit organization will be required to reimburse Reclamation for all administrative costs which are deemed to be excessive to normal costs for granting similar rights-of-use requests.

A review of Departmental Manual 101 DM 2 revealed that the Area Manager for the NCAO has authority for direct operational responsibility for accomplishing assigned missions and ensuring that activities under his authority are being performed in accordance with established laws, regulations, and policies.

Reclamation Manual LND 08-01 provides for land use authorizations and defines such things as permits and administrative fees. Administrative fees are defined as fees which are used to compensate Reclamation as funding for administrative costs of processing, analyzing, issuing, monitoring, and terminating use authorizations on Reclamation lands.

Regional Letter No. 93-16 issued November 22, 1993, subject: "Delegation of Authority for Receiving, Processing, and Granting Consents, Permits, Licenses, and Leases -

Delegation of Authority to Enter into Concession Contracts (Land Management) is the source document which authorizes the issuance of special use permits.

CONCLUSION:

The allegation against Ms. Miller is not validated upon review of the records. Although Ms. Miller did authorize the overtime for the January 1, 2004 event, she was merely following established policy. Since the established policy is to allow use permits to be issued for events, Ms. Miller followed those procedures. It should be noted however, that Ms. Miller's involvement with the running club infers that the group may have special accesses that they would otherwise not be aware to request were it not for Ms. Miller's position with Reclamation.

The security issue was key to the event held on January 1, 2004, since management failed to redirect the marathon to the proposed alternative location as suggested by the marathon group. It is clear that procedures were not in place to ensure that if security levels were increased that appropriate adjustments are made in the access to the facilities.

RECOMMENDATIONS:

1. A procedure should be implemented immediately which requires daily review of all project activities including use permits to ensure that any security changes are being taken into account prior to start of events.
2. A review should be conducted to ensure that special use permits for use of Reclamation land by other organizations be reviewed to determine if that continued use is in the best interest of the Federal Government.
3. Determine if the administrative costs currently being incurred such as overtime and utility costs are in the best interest of the Government. Although in this particular instance the amount of administrative costs was limited, the regulations indicate that all costs are to be recovered which is not currently the practice.
4. A review should be conducted within the Mid-Pacific Region to determine if the current policy of permitting uses of facilities without seeking costs recovery is within established regulations. The current policy in place at NCAO does not require cost recovery when the costs are not excessive. It appears that the current procedures in place at NCAO related to use permit cost recovery is outside the regulatory guidance.
5. The overtime authorization was signed after the overtime was worked. A procedure needs to be established to ensure that all planned and scheduled overtime is authorized in advance as required by regulation.

If you have any questions regarding this information, please contact me at: (916) 978-5493.