United States Department of the Interior
OFFICE OF THE SECRETARY
Washington, DC 20240

TAKE PRIDE IN AMERICA

MAY 2 8 2008

The Honorable Scott J. Bloch
Special Counsel
U.S. Office of Special Counsel
1730 M Street, NW, Suite 300
Washington, D.C. 20036-4505

Dear Mr. Bloch:

By letter dated February 5, 2008, to Secretary of the Interior Dirk Kempthorne, you referred for investigation a whistleblower disclosure alleging that employees of the Bureau of Land Management (BLM) in Bakersfield, California, were directed to report their time worked using sub-activity codes and program elements that did not accurately reflect the work they performed.

By letter dated March 14, 2008, Secretary Kempthorne advised you that he had delegated this matter to me as Assistant Secretary with administrative jurisdiction and oversight over the BLM. This delegation included the authority necessary to investigate and to take appropriate responsive actions in this matter in accordance with the provisions found in 5 USC 1213(d)(5). Finally, Secretary Kempthorne's letter requested an extension of time until May 13, 2008, to complete the investigation, report the findings and recommendations, and to take any actions taken based on my review.

To ensure that this matter was investigated by an autonomous entity and by individuals who are unconnected with the administration or operation of the Bureau of Land Management, and who have no supervisory authority over its employees, I requested the Human Resources office of the Minerals Management Service investigate this matter and prepare a written report summarizing the results of the investigation and any recommendations. The Minerals Management Service's Human Resources Office has concluded its investigation and prepared and filed its report with me.

According to the report, no evidence exists to support the allegation that BLM officials directed the employee to miscode program elements into QuickTime, BLM's electronic time keeping system, or to report time to subactivity codes and program elements that did not reflect the work he performed. The report goes on to point out that the employee believed that spreadsheets he and others received depicting where time should be recorded implied a direction to misreport times to subactivity codes and program elements that were not consistent with work performed. The investigation disclosed that the spreadsheets are distributed to employees from the BLM's budget office, and are intended to be a guide to inform employees as to where their annual workload measures are budgeted. To correct this, the report recommends that management ensure that

employees understand that these spreadsheets are distributed as guides and should not be interpreted as direction about how time is to be coded. The report also recommends that management in the Bakersfield Field Office, with assistance from budget staff, conduct an annual employee awareness session detailing the office's budget and the methodology for funding office expenditures.

I concur with these findings and recommendations and have requested that written guidance accompany the distribution of these funding spreadsheets clearly explaining the intended use of the spreadsheets and reiterating that the coding of time must be in accordance with all applicable laws, rules, and regulations.

I believe the steps we have taken to investigate this matter, and the steps that will be taken to implement the report's recommendations, effectively address the allegations in the referral. If you have any questions or comments, please do not hesitate to call me at 202-208-6734.

Sincerely,

C. Stephen Allred
Assistant Secretary
Land and Minerals Management

cc: Chief of Staff
Director, Minerals Management Service
Director, Bureau of Land Management
Inspector General
Associate Solicitor, Division of General Law

Investigative Report

On the U.S. Office of Special Counsel Whistleblower Disclosure Concerning Officials at the Bureau of Land Management - Bakersfield Field Office (OSC File No. DI-08-0145)

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Results in Brief

In February 2008, the U.S. Office of Special Counsel referred for investigation a whistleblower disclosure concerning officials at the Bureau of Land Management (BLM) to the Secretary of the U.S. Department of the Interior (Secretary). The Secretary forwarded the referral to the Department's Minerals Management Service (MMS) for investigation where the Human Resources Officer and a Finance Division Senior Accountant conducted an investigation into the allegations.

The complainant, Gregg Wilkerson, is employed by BLM as a Senior Mining Geologist and is the team lead for the Solid Minerals Team in the Bakersfield Field Office, Bakersfield, California. Mr. Wilkerson alleged that local management officials at BLM directed employees to:

1) Miscode program elements and subactivity codes into the QuickTime computer system.

2) Report their time worked using subactivity codes and program elements that did not accurately reflect the work they performed.

The whistleblower also alleged that these misrepresentations constituted a violation of law, rule or regulation and gross mismanagement.

The MMS investigation team conducted interviews of current BLM employees in the local and state offices. They also reviewed timesheet data, BLM guidance, appropriation documentation, and documents tracking FY08 workload.

The investigation revealed that time recorded in BLM's time and attendance system may indicate that time entered during the final six months of a fiscal year is being posted to projects not directly benefiting from the time expended; however, no tangible evidence existed to support the allegation made by Mr. Greg Wilkerson.

Background

Mr. Wilkerson disclosed to the U.S. Special Counsel that employees at the Bakersfield Field Office were instructed to input inaccurate subactivity codes and program elements into the QuickTime computer system for several years. QuickTime is BLM's time and attendance system, which is used to track accumulated personnel costs as a product of time charged to activities. Mr. Wilkerson claims that inaccurate reporting generally occurs in the second half of the fiscal year. At the start of the fiscal year, when subactivity budget accounts are fully available, employees are able to accurately report the work they have done. However, as certain categories of funds, or sub-activities, are used up, employees are told to enter their time under subactivity codes where funds are still available even though the codes do not directly reflect the work that was performed. Mr. Wilkerson further disclosed that when a subactivity code is entered into QuickTime, a program element that corresponds to that subactivity must be entered as well or QuickTime will not accept the transaction. Because QuickTime does not permit every

program element to be associated with each subactivity code, employees at times have to enter both an incorrect subactivity and program element to enter their labor activities in the system.

In addition, Mr. Wilkerson disclosed that as the fiscal year continues and certain programs' funds are depleted, employees receive a spreadsheet directing them how to allocate their hours worked into QuickTime. Management periodically updates the spreadsheets to more efficiently utilize remaining monies, ignoring the purpose for which the funding had been allocated and the type of work that was being done.

Details of Investigation

Interviews

The MMS employees traveled to BLM's Bakersfield Field Office, Bakersfield, California and interviewed the following current BLM, Bakersfield Field Office employees:

- Gregg Wilkerson – Geologist
- Tim Smith – Field Office Manager
- John Skibinski – Associate Field Manager
- Gabe Garcia – Assistant Field Manager, Minerals
- Joann Nunn – Program Analyst

No statements made by the interviewees during the individual interview process supported the allegation that BLM management directed employees to miscode their timesheets and charge time to projects which the employee did not perform work. Mr. Wilkerson, the whistleblower, stated during his interview that he had never been directly ordered to record time to a project that he did not work on during a pay period but said it was implied because of the spreadsheets he received depicting where his time should be recorded. During the interview, Mr. Wilkerson also made the following statements:

1) He has never had a supervisor adjust a timesheet after he submitted it.
2) He has never been instructed to change a timesheet after it was submitted.
3) He has never had a supervisor refuse to process a timesheet that he had submitted.
4) He has never attempted to submit a timesheet outside of the parameters specified on the spreadsheet when one was in existence. He said that spreadsheets depicting where his time is to be charged are only distributed during the last half of the fiscal year.
5) He was not always aware of the program receiving the benefits from his work performed.

Furthermore, all of the interviewees that were in supervisory roles stated that they never told employees to charge time to a project on which the employee did not perform work. They stated that the spreadsheets distributed to employees from the budget office are to be used as a guide to inform the employees where their annual workload measures are budgeted. The interviews also revealed that time is charged to the project that actually benefits from the work performed and that employees do not always understand the connection between the work they are performing and the project that is the beneficiary of the said work.

The MMS team interviewed Mr. Rob Nauert, the Budget Chief of the BLM California State Office's Branch of Fiscal and Business Services over the telephone. Mr. Nauert stated that he is not aware of any situation where employees have been directed to charge their time to projects that they had not performed work. He also stated that the annual guidance distributed by the BLM State Director to California Field Offices specifically directs proper use of timesheet coding.

Mr. Tim Moore and Mr. Andy Suppiger from California's Hollister and Redding Field Offices, respectively, were interviewed via the telephone during this investigation. Mr. Moore is the President and Mr. Suppiger is the Secretary/Treasurer of Lodge # 2152 of the National Federation of Federal Employees. Although both said that they have heard employees say they were told to code their timesheets to projects on which they did not perform work, they have not seen any documentation that supported those claims.

In summary, there was no evidence provided during the interviews of the above individuals that supported the allegations that BLM management directed employees to miscode program elements and subactivity codes into the QuickTime computer system and report their time worked using subactivity codes and program elements that did not accurately reflect the work they performed.

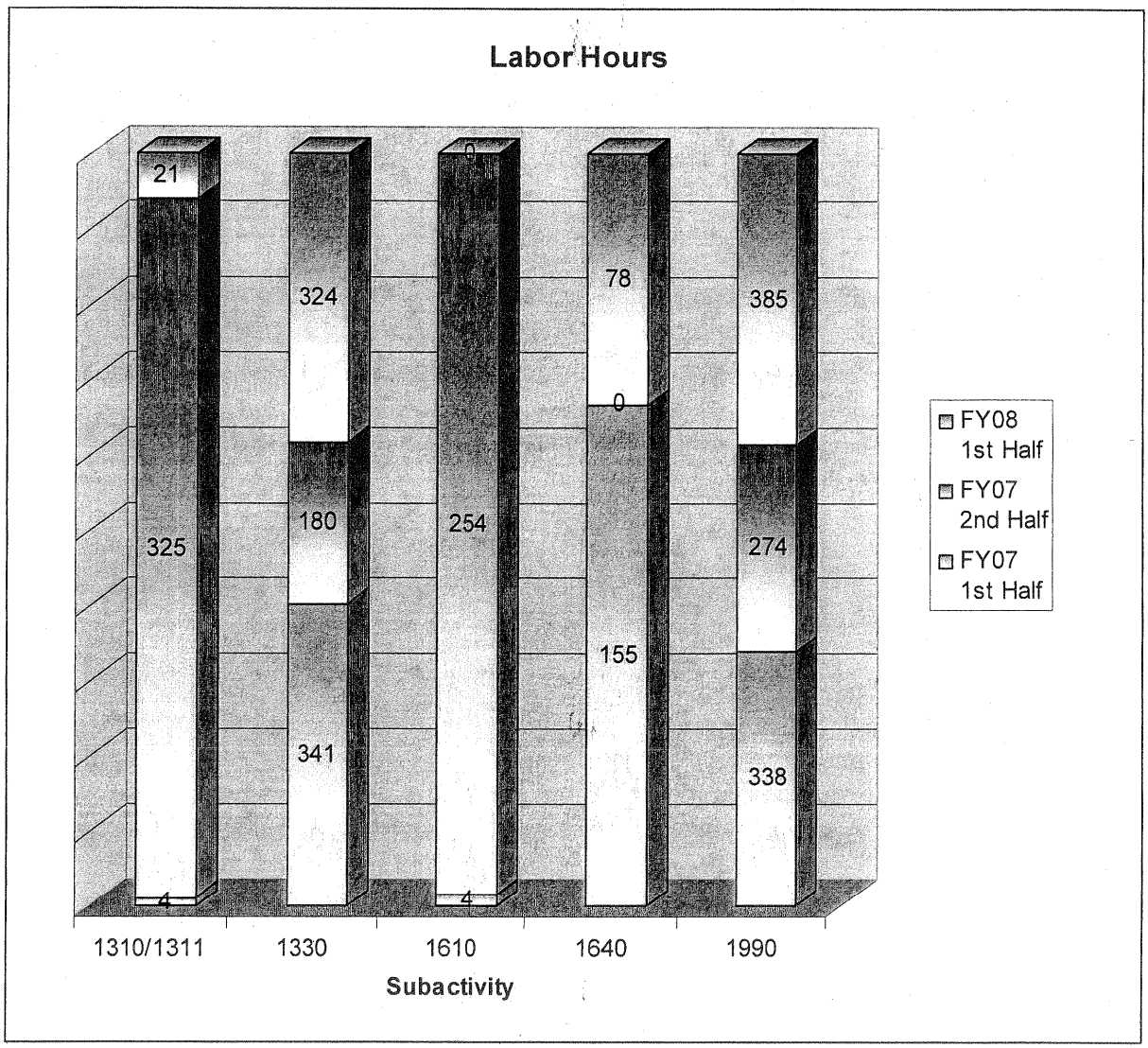
Documentation

During the investigation, the MMS employees examined the following supporting documentation:

- Mr. Wilkerson's timesheet data for fiscal years 2007 and 2008
- BLM's Instruction Memorandums for fiscal years 2006, 2007, and 2008 which addresses (1) coding of labor and operational costs; (2) centrally funded initiatives; (3) annual work plans; and (4) performance and cost management review and funding allocation process for planning target allocations, and budgeting process
- BLM's California State Office Instructional Memorandum No. CA-2008-15 which addresses the Annual Work Plan for fiscal year 2008 and includes instructions on cost coding integrity
- The Assistant Field Manager's cumulative Workload Measures tracking report that is used to track employees work performed for the current fiscal year

We examined Mr. Wilkerson's direct labor data for the period October 1, 2006 through March 15, 2008 and totaled the number of hours charged to each subactivity within the period. Because Mr. Wilkerson alleged that during the first part of a year time is properly charged to the projects where work is being performed and during the second part of the year they are required to inaccurately record their labor hours, we broke the period under review into three segments, i.e. the first half of FY2007, the second half of FY2007, and the first half of FY2008. There was no indication that the Program Elements and Subactivities to which Mr. Wilkerson charged his hours were out of the ordinary for his position as a geologist; however it appears that a variance between the hours charged to specific subactivities during the first part of FY2007 and FY2008 and those charged during the second half of FY2007 occurs. We compared the direct labor hours

recorded in the five major subactivities used by Mr. Wilkerson for the three time segments and the data is displayed in the following Labor Hours chart.



The total hours charged to subactivities 1330, 1640, and 1990 during the three segmented time periods appear to be consistent with no noticeable peaks in time charged during a specific period. However, it appears that total hours charged to subactivities 1310/1311 and 1610 are skewed in that only 4 and 21 hours were charged during the first six months of FY2007 and FY2008, respectively; whereas, 325 hours were charge during the last six months of FY2007. The same pattern holds true for subactivity 1610. Although it appears that the labor hours recorded support the allegation made by Mr. Wilkerson, he could not provide any documented evidence to show that he did not actually perform work that benefited subactivities 1310/1311 and 1610 during the second six months of FY2007.

We reviewed BLM's written guidance for the past three years and no where was it written that BLM management encourages or instructs employees to record their time to any subactivity

other than the one representing the project on which they were performing work. In fact, all guidance issued by BLM states that employee time should be coded to accurately reflect their work performance.

We reviewed the cumulative Workload Measures Report for Minerals through March, 2008 maintained by the Assistant Field Manager for Minerals, Mr. Wilkerson's immediate supervisor. This document lists all projects scheduled for FY2008, who is assigned to the project, the program element and subactivity assigned to the project, the FY08 target workload measures, and the actual workload measures completed to date. It appears that the information contained in this report supports the labor hours currently being recorded by Mr. Wilkerson.

Findings and Recommendations

There is no tangible evidence that supports the allegations against BLM officials in that they directed employees to miscode program elements and subactivity codes into the QuickTime computer system, report their time worked using subactivity codes and program elements that did not accurately reflect the work they performed, and that these misrepresentations constituted a violation of law, rule or regulation and gross mismanagement.

We recommend that BLM management ensure that employees understand that the spreadsheets depicting their breakdown of their workload measures budgeted hours are being distributed as guides and should not be construed as definitive instructions on how the employee records their direct labor hours. In addition, we recommend that the Bakersfield Field Office management with assistance from their fiscal staff conduct an annual all employee awareness session detailing their office budget and the methodology for funding office expenses.

United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, D.C. 20240

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January 30, 2009

VIA FACSIMILE AND U.S. MAIL

Ms. Catherine A. McMullen, Chief
U.S. Office of Special Counsel
1730 M Street, N.W. Suite 300
Washington, DC 20036-4505

Re: OSC File No. D1-08-0145

Dear Ms. McMullen:

Pursuant to your request for supplemental information in connection with the above-referenced matter, I am pleased to enclose the Department's responses to the questions that were sent to me and Arthur Gary via e-mail on November 12, 2008. Under the Department's standing succession order, I have been delegated the non-exclusive authorities and duties of the Assistant Secretary, Land and Minerals Management.

I greatly appreciate your accommodating our requests for additional time to prepare our responses. The questions you presented required the investigators to review their research into this matter, including returning to the Bureau of Land Management's (BLM's) Bakersfield Office by one investigator to obtain the additional information necessary to provide complete and fully responsive answers. I believe this additional time was well spent as the enclosed responses reflect attention to detail and a sincere effort to be as responsive as possible to the questions you raised.

Based upon the information obtained in response to the questions you presented, I feel that the conclusions and recommendations contained in the original Investigative Report remain sound.

I am supplementing the responses to your questions with additional information that reflects the high level of attention the BLM has given this matter. Upon completion of the original investigation, C. Stephen Allred, who at that time was Assistant Secretary for Land and Minerals Management, issued a memorandum to James Caswell, then Director of the BLM. In his memorandum, Assistant Secretary Allred forwarded a copy of the Investigative Report stating, "I concur with these findings and recommendations and request that written guidance accompany the distribution of these funding spreadsheets which clearly explains the intended use of the spreadsheet, and reiterates that the coding of time must be in accordance with all applicable laws, rules, and regulations." A copy of that memorandum is enclosed for your reference.

Subsequently, on June 12, 2008, Director Caswell issued a memorandum to BLM California State Director Michael Pool directing that certain follow up actions be taken. Specifically, the memorandum directs that, as part of the budget planning process, the California State Office take appropriate actions to explain the intended use of the spreadsheets, and reiterate that the coding of time must be done in accordance with applicable laws, rules, and regulations. The memorandum also directs that, in conjunction with the issuance of its annual work plan, Bakersfield Field Office management conduct an employee awareness session to ensure that employees understand the organization's budget and allocation methodology. A copy of the memorandum is enclosed for your reference.

I have been advised that the following actions have been taken in response to Director Caswell's June 12th memorandum:

- The State Office issued budget and planning guidance to the field reiterating the importance of cost coding integrity and reinforcing the process for planning for appropriate labor and operations and the tools available for budget execution, as well as offering assistance in implementing the process and using these tools.

- The Bakersfield Field Office provided training sessions in August of 2008 (2 hours each) on the budget process, funding allocations for labor and operations, appropriate use of the labor tracking sheet, and the transition to the new Financial and Business Management System.

In the event you have any questions, please do not hesitate to call me at (202) 208-7214.

Very truly yours,

Richard T. Cardinale

cc: Arthur E. Gary, Esquire
Associate Solicitor
Division of General Law

Investigative Report
(Supplemental)

On the U.S. Office of Special Counsel
Whistleblower Disclosure Concerning Officials at the
Bureau of Land Management - Bakersfield Field Office
(OSC File No. DI-08-0145)

1. The May 28, 2008, report stated that "no evidence exists to support the allegation that BLM officials directed the employee to miscode program elements into QuickTime, BLM's electronic time keeping system, or to report time to subactivity codes and program elements that did not reflect the work he performed." In the Special Counsel's February 5, 2008, referral letter to Secretary Kempthorne, our office specifically referenced a spreadsheet containing employee names and subactivity codes on which there was handwriting that instructed, "Effective PP08, these hrs should be used when entering your time worked. JN 3/27/2007" A copy of this spreadsheet was enclosed with our referral letter. Mr. Wilkerson contends that the handwriting was that of Program Analyst Joanne Nunn, and that this handwritten message (message) was an explicit instruction for him to miscode his time worked.

   a. <u>Why was this issue not addressed in either the May 28, 2008 report or the investigative report?</u>

      This issue was addressed in the Investigative Report under the "Interviews" paragraph. The report specifically states that "Mr. Wilkerson stated during his interview that he had never been directly ordered to record time to a project that he did not work on during a pay period but said it was implied because of the spreadsheets he received depicting where his time should be recorded." We interpreted Mr. Wilkerson's response to our interview question to mean that he may have perceived that his time should have been recorded in QuickTime in accordance with the hours appearing on the spreadsheet, which is different than the claim he made to the Office of Special Counsel, which was that he was instructed to miscode his timesheet.

   b. <u>Whose handwriting was on the spreadsheet?</u>

      Joann Nunn, Bakersfield Field Office's Program Analyst, confirmed to us that it is her handwriting at the top of the spreadsheet; however, she does not recall making the annotation.

   c. <u>What was this message meant to convey?</u>

      Ms. Nunn stated during her interview that she prepared the spreadsheet and distributed it to the four Division Managers for informational purposes. She explained that the spreadsheet was intended to show the managers the remaining fiscal year 2007 (FY2007) projected labor hour balances by employee and subactivity code. Although Ms. Nunn said that she does not recall making the annotation at the top of the spreadsheet dated 3/27/07, she said that the annotation indicates to her that she was informing the Division Managers that the remaining projected labor hour balances portrayed on the spreadsheet were as of the beginning of pay period eight (PP08). Based on our discussion with Ms. Nunn, this spreadsheet was not intended to be distributed to the employees and definitely was not to be interpreted as a direct order to employees to miscode their time in QuickTime.

Ms. Nunn is a Non-Supervisory Program Analyst, GS-11 and is not in the supervisory chain of Mr. Wilkerson or any other employee in the Bakersfield BLM Office. BLM employees in Bakersfield take direction from their immediate supervisor.

d. <u>How did you determine what this message was meant to convey?</u>

We determined that this message was not a direct order or instructions to employees to miscode their time in QuickTime. We made this determination based on the following:

- *We asked Ms. Nunn during a second interview conducted on January 13, 2009 what the message on top of the 3/27/07 spreadsheet was meant to convey. Ms. Nunn stated that she prepares two worksheets during the fiscal year. She said she prepares the first one at the beginning of the fiscal year after the four Division Managers have determined how they are going to execute their budget. Based on our discussion with Ms. Nunn, the Bakersfield managers receive their budget amounts and projects from the BLM California State Office. According to Ms. Nunn, the managers then meet with their staff and determine the estimated labor hours needed to accomplish the assigned projects, as well as the projects' subactivity code that will be used to record the labor hours. The managers supply Ms. Nunn the data for each employee and she produces a spreadsheet showing the projected hours by employee and subactivity code for the fiscal year. Ms. Nunn then said she prepares the second spreadsheet at mid-year, which contains the projected labor hour balances for the rest of the fiscal year by employee and subactivity codes. When we interviewed Mr. Wilkerson's supervisor, we asked him what he does when the funding for a project was consumed and the project had not been completed. He stated that when he received his budget at the beginning of a fiscal year he estimated the number of labor hours required to complete that year's assigned projects and to which employee those hours would be allocated. However, he said that sometimes a project used more hours than anticipated and as the end of the fiscal year approached, there was not enough funding to complete the project. He said that when this occurred, he directed the employee to work on other outstanding projects or he temporarily reassigned the employee to another project where funding was available. He said once the project was again funded, either in the current year or in the new fiscal year, work on the project resumed. Ms. Nunn said that although she does not recall writing the annotation on the spreadsheet, it appears to her that the message was informing the managers that the remaining projected labor hour balances portrayed on the spreadsheet were as of the beginning of PP08.*
- *When we interviewed Mr. Wilkerson on March 26, 2008, we asked him if he had ever been directly ordered to record time to a project that he did not work on during a pay period. Mr. Wilkerson answered "No" to that*

question. His response to that interview question directly contradicted the statement he made to the Office of Special Counsel (OSC) when he said that the message "was an explicit instruction for him to miscode his time worked". We asked Mr. Wilkerson during the same interview whether he addressed this issue with his supervisor and he stated that he did not. We also asked Mr. Wilkerson if he had ever coded hours into QuickTime and then had someone direct him to change the coding of those hours. He said that no one had ever directed him to change coding that had already been entered into QuickTime.

- *We asked Mr. Wilkerson who gave him a copy of the 3/27/07 spreadsheet and he replied that he did not know who gave him the copy of the spreadsheet. He said that he came into work one morning and found it on the corner of his desk; he did not see who placed it there and assumed that it was either his supervisor or Joann Nunn.*
- *Mr. Wilkerson's supervisor, Gabe Garcia, conveyed on several occasions that all employees were to enter project codes in QuickTime for work they had performed.*
- *Mr. Wilkerson stated that when entering his time into QuickTime for the pay periods occurring after the spreadsheet had been distributed, he only entered hours under the subactivity codes that were allocated to him on the spreadsheet. We asked him during our interview whether he felt he had performed work on a project that had a different subactivity code than one that was allocated to him on the spreadsheet and he stated that he had. We then asked whether he ever attempted to enter his hours associated with those projects into QuickTime charging the subactivity codes that were assigned to those projects instead of the subactivity codes depicted on the spreadsheet. He stated that he had never attempted to enter hours into QuickTime that were not allocated to him on the spreadsheet. By never challenging the recording of hours under the subactivities allocated to him on the spreadsheet, Mr. Wilkerson could not validate that he was directed to record inaccurate hours into QuickTime. There is no evidence indicating that Mr. Wilkerson would have been directed to change his QuickTime entry had he entered hours other than those on the worksheet.*
- *We were unable to interview Ms. Patty Gradek who was Mr. Wilkerson's supervisor during most of FY2007 and retired in July 2007. However, we interviewed her replacement, Mr. Gabe Garcia who became the supervisor of the Minerals Division in September 2007. We also interviewed Mr. Stephen Larson who supervises the Resources Division; Tim Smith, Field Office Manager; and John Skibinski, Associate Field Office Manager. All of these supervisory personnel and Ms. Nunn said that the spreadsheet was distributed as a guide to Division Managers and was not meant to direct employees to miscode their time.*

e. Was the author of the statement interviewed? *Yes*

f. <u>If not, why not?</u> *N/A*

g. <u>What did the author say regarding the intended meaning of the message?</u>

As noted above, the author was Ms. Joann Nunn, Bakersfield Field Office's Program Analyst. Ms. Nunn said that she always prepares two informational spreadsheets, one at the onset of the fiscal year to record the projected labor hours by employee and subactivity codes and one at mid-year which contains the projected labor hour balances for the rest of the fiscal year by employee and subactivity codes. She said that the message would not have been meant for anything other than informing the Division Managers of their remaining labor hour balances.

h. <u>How many people received this spreadsheet containing the author's message?</u>

Ms. Nunn said that she sent the spreadsheet only to the four Division Managers. She said that her standard operating procedure is that if anything is distributed to individuals on a list, she puts a check mark by or a circle around the person's name to which she is sending the correspondence. Since no non-supervisory employees' names were checked or circled, then no non-supervisory personnel listed on the spreadsheet were sent a copy. Her normal distribution of those spreadsheets is to the four Division Managers and she places a copy into their office inbox. Each employee has an inbox which is open and anyone could have access to it.

i. <u>How did other recipients of this spreadsheet interpret the message's meaning?</u>

We interviewed three of the four Division Managers having a copy of this spreadsheet and none of them interpreted the message as either a direct order or as an explicit instruction to miscode their time in QuickTime. All of the supervisors stated that they do not instruct their employees to miscode their time in QuickTime but stress that their employees are to record their time in QuickTime based on the project on which they were working.

We randomly selected ten additional employees from the Bakersfield Field Office to review labor hours and have addressed those findings in Question 2. We attempted to interview these ten individuals about whether they have seen or received a spreadsheet depicting projected labor hours and how they viewed the meaning of those spreadsheets, if applicable. Of the ten employees, we were able to interview eight; two were unavailable to be interviewed because one was on extended sick leave and one was in the field. All eight of the employees interviewed said that they received a copy of the spreadsheet in FY2007 and all of them stated that they received it from their direct supervisor. None of them remembered seeing a written annotation on the top of any spreadsheet that they received.

Of the eight employees interviewed, seven said that they viewed the spreadsheet as a guide and one stated that he viewed the spreadsheet as a directive. However, the individual who said that he viewed the spreadsheet as a directive also stated that he received the spreadsheet in the last month or so at the end of the fiscal year and that he was usually coding his time to Fire so he was only using one subactivity code during the time that he had the spreadsheet in his possession. According to all employees interviewed including Ms. Nunn, the preparer of the spreadsheet, spreadsheets are prepared twice a year, once at the beginning of the fiscal year and once at mid-year. We could not determine from the interview why this employee interpreted the spreadsheet as a directive when he received it in the last month or so of the fiscal year when he was usually charging his time to only one subactivity code at that time. When we asked, the employee did not elaborate on what made him feel as if the spreadsheet was a directive.

j. Did the other recipients follow the message's meaning, as they interpreted it?

The seven employees that viewed the spreadsheet as a guide stated that they do not remember seeing a message written at the top of a spreadsheet. However, we asked them if they were ever instructed to enter hours into QuickTime in accordance with the hours on the spreadsheet. All interviewees said "No" to the follow-up question.

k. If not, why not? *N/A*

l. How many other spreadsheets contained similar instructions?

Ms. Nunn checked her files and did not find any other spreadsheets with similar messages.

m. How does consideration of this message affect the report's specific finding that no evidence exists to support the allegation that employees were directed to miscode program elements or subactivity codes?

Based on our interviews with the author of the message, Ms. Joann Nunn, supervisors, and other non-supervisory personnel, we have determined that the message at the top of the spreadsheet was meant to convey an informational message to the intended recipients of the report who we have determined to be the Divisional Managers. Also as a result of these interviews, our report's specific finding that no evidence exists to support the allegation that employees were directed to miscode program elements or subactivity codes remains unchanged.

n. How does consideration of this message affect the reports' overall findings?

The report's overall finding as well as the recommendations remain unchanged.

2. The investigative report noted that Mr. Wilkerson's recorded labor hours appeared to support his allegation, but he was unable to provide documented evidence to show that he did not perform work that benefitted the subactivity codes he reported.
   a. <u>What type of information did the investigators contemplate Mr. Wilkerson could provide to show that the work he performed did not benefit the subactivity codes or program elements he reported?</u>

      We expected Mr. Wilkerson to have reports, e-mails, proof of studies performed, analysis review documentation, or any other work-related documents created, analyzed, or reviewed during the pay periods in question that would have required different program elements and subactivity codes be entered into QuickTime than those actually entered into the system for the period. These would have shown us that Mr. Wilkerson was actually performing work in other subactivities than those recorded in QuickTime.

      On three occasions during the interview process, we asked Mr. Wilkerson to provide any evidence to support his allegation that he was working on different projects requiring different accounting than what he recorded in QuickTime. He did not do so. Since Mr. Wilkerson failed to produce any documentation to prove that he was working on projects that would have been charged to different subactivities than those recorded in QuickTime, we found that his allegations that he was directed to 1) miscode program elements and subactivity codes in QuickTime and 2) report his time worked using subactivity codes and program elements that did not accurately reflect the work performed was unsupported and unfounded.

   b. <u>Is this type of information required to be retained by employees in Mr. Wilkerson's position?</u>

      We found no standard operating procedures existing in BLM regarding this issue. We would expect any employee to be able to support the time they entered into an official timekeeping system, if so requested. We would expect them to be able to produce documentation to support the work they performed during any pay period(s) by:
      - *reviewing the content of their incoming and outgoing e-mails,*
      - *reviewing any reports (including drafts) that they had written or received to review from others during the time period in question,*
      - *reviewing any analysis performed or reviewing analysis received from others requiring their input, or*
      - *reviewing other job-specific documentation retained in their files.*

      Our expectation was not that Mr. Wilkerson would be able to account for 100% of his recorded time. However, we expected Mr. Wilkerson to provide adequate documentation to show that the hours/subactivities to which he charged his time in QuickTime during FY2007 pay periods 08 through 21were inaccurate relative to the work actually performed. We expected Mr.

Wilkerson to provide samples of the work he performed during the periods in question showing that he was actually working on projects other than those that were being charged in QuickTime. We interviewed Mr. Wilkerson on three separate occasions and asked him for documentation to support his allegation that he was working on other projects than to what he was charging his time. Each time he was unable to produce any evidence to support his allegations.

c. How many other employees' hours recorded were examined for patterns similar to Mr. Wilkerson's?

Since Mr. Wilkerson claimed that he was instructed to enter the hours from the spreadsheet into QuickTime whether or not the project he was working on fell under the subactivity showing on the spreadsheet, we reviewed ten additional employees' labor hours to see if their hours appearing on the spreadsheet correlated with their actual labor hours. We chose our sample by randomly selecting ten employees from those listed on the 3/27/07 spreadsheet. We obtained the employees' actual labor hours for the pay periods 200708 through 200721 from Ms. Nunn. These pay periods corresponded to the same periods as the projected labor hours depicted on the 3/27/07 spreadsheet as well as to the labor hours that were reviewed for Mr. Wilkerson.

d. What were the results of these examinations?

We scheduled the actual labor hours by employee, pay period, and by subactivity code for each pay period. We also scheduled the projected remaining labor hour balances from the spreadsheet by employee and subactivity code. We then totaled each set of data by employee and subactivity for the entire period. For each employee/subactivity combination, we subtracted the actual labor hours entered into QuickTime from the projected hours depicted on the spreadsheet to determine the differences. If an employee was using the spreadsheet as the basis for entering their labor hours, we would expect to see small differences between the two sets of data. If an employee was entering their time into QuickTime using another method as the basis for determining the subactivity to which to charge their time such as entering in the subactivity based on the project on which was actually receiving the benefit, it would be expected that the differences in hours between what was projected and the actual would be larger or inconsistent.

When we analyzed the differences between the hours projected on the spreadsheet by subactivity and what was actually recorded by each employee, we found that the actual hours entered into QuickTime varied sufficiently enough that we concluded they were recording their actual labor hours into QuickTime, and not simply copying from the spreadsheet. We have enclosed our analytical spreadsheet to further disclose our analysis.

When comparing Mr. Wilkerson's actual labor hours to the projected hours, we found that his variances were small, which indicated that the hours he recorded were highly similar to the estimates in the spreadsheet. This varies substantially from the hours recorded by the other employees sampled.

e. <u>If none were examined, why were they not examined?</u>

N/A.

3. In his comments, Mr. Wilkerson claimed that he was told during his interview that BLM management told investigators that miscoding is necessary to avoid laying off personnel.
   a. Who were the investigators that interviewed Mr. Wilkerson?

      Jim Burckman, SES Human Resources Officer with over 30 years of Federal service. He has held supervisory HR positions at field, regional, and headquarters organizations. Robin Robinson, Senior Staff Accountant, Minerals Management Service. Mrs. Robinson has been with the Minerals Management Service (MMS) since 2002 serving as the lead on implementing OMB's Circular A-123, Appendix A Management's Responsibility For Internal Controls Over Financial Reporting as well as performing internal reviews. Prior to coming to MMS, Mrs. Robinson was an auditor with the Office of Surface Mining and Reclamation for fourteen years.

   b. To what extent was the propriety or impropriety of miscoding the program elements or subactivity codes discussed during Mr. Wilkerson's interview?

      BLM management never made the statement to us that miscoding time was used to avoid laying off personnel. We did not discuss the propriety or impropriety of miscoding the program elements or subactivity codes with Mr. Wilkerson during his interview. BLM Bakersfield Management stated that they have continually stressed to employees that everyone is to enter the appropriate codes for the worked performed on their timesheet every pay period.

   c. Was a recording of this interview made? *No*

   d. Was a transcript of the interview taken? *No*

Comparison of Hours Depicted on Spreadsheet versus Actual Hours (PPD 200708 - 200721)

	Employee #1						
Subactivity	**1220**	**1050**	**1652**	**1020**	**1150**	**1653**	
Spreadsheet	348	348	174	0	174	174	
Actual	97	821	322	85	0	0	
SS - Actual	251	(473)	(148)	(85)	174	174	

	Employee #2						
Subactivity	**1310**	**1020**	**2821**	**1050**	**1220**	**1430**	**1610**
Spreadsheet	174	348	0	174	0	174	348
Actual	625	373	514	41	21	21	0
SS - Actual	(451)	(25)	(514)	133	(21)	153	348

	Employee #3					
Subactivity	**1310**	**1330**	**1610**	**1640**	**1990**	**9641**
Spreadsheet	348	348	174	0	348	0
Actual	428	296	79	18	104	322
SS - Actual	(80)	52	95	(18)	244	(322)

	Employee #4			
Subactivity	**1310**	**1330**	**1610**	**9641**
Spreadsheet	870	0	174	174
Actual	1070	78	93	88
SS - Actual	(200)	(78)	81	86

	Employee #5		
Subactivity	**1310**	**1220**	**9641**
Spreadsheet	870	0	348
Actual	1058	24	341
SS - Actual	(188)	(24)	7

	Employee #6						
Subactivity	**1020**	**1150**	**1210**	**1220**	**1330**	**1652**	**2810/2821**
Spreadsheet	174	174	348	174	174	0	174
Actual	107	270	587	252	0	9	26
SS - Actual	67	(96)	(239)	(78)	174	(9)	148

	Employee #7					
Subactivity	**1020**	**1060**	**1150**	**1210**	**1610**	**2822**
Spreadsheet	348	0	174	0	348	0
Actual	362	14	230	93	453	9
SS - Actual	(14)	(14)	(56)	(93)	(105)	(9)

	Employee #8		
Subactivity	**1430**	**1610**	**5102**
Spreadsheet	1044	174	0
Actual	725	281	48
SS - Actual	319	(107)	(48)

Comparison of Hours Depicted on Spreadsheet versus Actual Hours (PPD 200708 - 200721)

	Employee #9							
Subactivity	**1220**	**1610**	**1651**	**1652**	**1770**			
Spreadsheet	696	174	174	174	0			
Actual	381	199	15	482	214			
SS - Actual	315	(25)	159	(308)	(214)			
	Employee #10							
Subactivity	**1310**	**1610**	**1920**	**2810**	**2821**			
Spreadsheet	522	522	0	174	0			
Actual	711	62	72	254	149			
SS - Actual	(189)	460	(72)	(80)	(149)			
	Greg Wilkerson							
Subactivity	**1220**	**1310**	**1330**	**1610**	**1640**	**1990**		
Spreadsheet	0	348	174	348	0	348		
Actual	2	353	196	279	4	351		
SS - Actual	(2)	(5)	(22)	69	(4)	(3)		

MEMORANDUM

To: James Caswell, Director
Bureau of Land Management

From: C. Stephen Allred, Assistant Secretary
Land and Minerals Management

Re: Report of Investigation
Whistleblower Disclosure

Date: May 13, 2008

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Secretary Kempthorne received a letter dated February 5, 2008, from the Office of the Special Counsel apprising him of a whistleblower disclosure filed by an employee of the BLM who works in the Bakersfield California Field Office. By letter dated March 14, 2008, the Secretary responded to the Special Counsel's letter, indicating that he had delegated the authority to investigate and take appropriate responsive actions in this matter to me. You may recall that I informed you that a whistleblower disclosure had been received, and that I planned to ask for an investigation and report concerning the matter. At my request, the Human Resources Office of the Minerals Management Service was tasked to investigate this matter and to prepare a report. The Minerals Management Service has concluded its investigation and forwarded its report to me. A copy of the Investigative Report is enclosed for your reference.

While the investigation revealed no evidence to support the allegation that BLM management directed employees to code their time improperly, it revealed that confusion exists as a result of spreadsheets furnished the BLM California State Budget Office. The employee who filed the disclosure believed that the spreadsheets he and others received depicting where time should be recorded implied a direction to misreport times to subactivity codes and program elements that were not consistent with work performed.

The investigation disclosed that the spreadsheets are intended to serve as a guide to inform employees as to where their annual workload measures are budgeted. To correct any possible misinterpretation as to their intended use, the report recommends that management ensure that employees understand that these spreadsheets are distributed as guides and should not be interpreted as direction about how time is to be coded. The report also recommends that management in the Bakersfield Field Office, with assistance from budget staff, conduct an annual employee awareness session detailing the office's budget and the methodology for funding office expenditures.

I concur with these findings and recommendations and request that written guidance accompany the distribution of these funding spreadsheets which clearly explains the intended use of the spreadsheets, and reiterates that the coding of time must be in accordance with all applicable laws, rules, and regulations.

If you have any questions about this matter, please feel free to contact me.

United States Department of the Interior

BUREAU OF LAND MANAGEMENT
Washington, D.C. 20240
http://www.blm.gov

TAKE PRIDE IN AMERICA

MEMORANDUM

JUN 12 2008

To: Michael Pool, State Director, California

From: James Caswell
Director

Re: Response to Report of Investigation of Whistleblower Disclosure

This memorandum provides you with the results of the investigation concerning a whistleblower disclosure filed by an employee in BLM's Bakersfield California Field Office. The investigation and report that was completed revealed no evidence to support the allegation that BLM management directed employees to code their time improperly. Rather, the report found that there was some confusion as a result of spreadsheets furnished by the BLM California State Budget Office.

The report included two recommendations to ensure that the budget processes are clear and that employees do not misinterpret the intended use of the spreadsheets provided as part of Fiscal Year planning. I have reviewed these recommendations request the California State Office to take the following actions:

1) Ensure that employees understand that the spreadsheets depicting their breakdown of their workload measures budgeted hours are being distributed as guides and should not be construed as definitive instructions on how employees record direct labor hours.

   Response: As part of the Budget Planning process, the State Office will take appropriate actions in their budget and planning guidance to explain the intended use of the spreadsheets, and reiterate that time coding must be done in accordance with applicable laws, rules and regulations.

2) Ensure that the Bakersfield Field Office management with assistance from their fiscal staff conducts an all employee awareness session detailing the office budget and methodology for funding office expenses.

   Response: In conjunction with issuing the annual work plan, the Bakersfield Field Office management will conduct an employee awareness session to ensure that employees understand the organization's budget and allocation methodology.

If you have any questions in this matter, please do not hesitate to contact me.

cc. C. Stephen Allred, Assistant Secretary Land and Minerals Management