



United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240



JAN - 3 2008

Ms. Karen Gorman
Attorney
U.S. Office of Special Counsel, Disclosure Unit
1730 M Street, N.W., Suite 216
Washington, D.C. 20036-4505

Dear Ms. Gorman:

As requested in your September 17, 2007, e-mail, the Bureau of Reclamation has gathered additional information for you to consider regarding the Unauthorized Disposal of 25 Bureau of Reclamation Owned Buildings, OSC File No. DI-06-2427. To address your additional questions, we have contacted our Lower Colorado (LC) Regional Office in Boulder City, Nevada, and the Office of Inspector General (OIG). We have prepared the following response.

With regard to the 25 temporary residence buildings that were improperly disposed of by the Coachella Valley Water District (CVWD):

1. What is the value of the 25 buildings?

Reclamation's response: When these buildings were acquired in the 1940s, the acquisition cost was \$160,175 (see Enclosure). When the buildings were disposed of by CVWD, the value, net of depreciation, would have been \$0, assuming a useful life of 40 years.

- Our Enclosure contains some printouts from Reclamation's Facilities Information Resources Management (FIRM) data base system. These printouts are also included in the OIG Investigative Report that we sent to you in August 2007. From an accounting perspective, it is very important to note that the column titled "book value" totaling \$2.4 million in the FIRM data base does not represent the book value of these 25 buildings. This amount is a system computed amount and the column is improperly titled. This amount is computed by multiplying the acquisition costs by an inflation factor to estimate what it would cost to replace the buildings at the time the report was generated. As described above, the book value of buildings is computed by taking the acquisition cost less depreciation over the useful life of the asset, which would have been \$0.

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During Reclamation's recent inventory efforts and as part of the OIG's investigation efforts into this case, Reclamation was not able to determine the salvage value of these 25 temporary residence buildings. Because these buildings had to be moved from Federal land, and based on our experience in disposing of buildings of a similar vintage, we believe that the cost to demolish or remove the buildings would have more than exceeded the value of the buildings. In this regard, Reclamation's LC Regional Office recently paid \$1.4 million to dispose of a similar construction housing camp at the Parker Davis Dam.

2. Did CVWD pay for the buildings according to Reclamation's assessment of their value on destruction?

Reclamation's response: No; however, CVWD paid for the original costs of these buildings through their repayment contracts for the construction of the Coachella Canal and a distribution system, which included the costs of these buildings. CVWD has not paid Reclamation additional amounts since Reclamation has not made an assessment of their value at destruction, though, as noted above, when the buildings were disposed of by CVWD their value, net of depreciation, would have been \$0. Although CVWD did not obtain permission to dispose of these temporary houses, had they done so, and had Reclamation given permission, the disposal process for real property as indicated in 41 CFR Part 102-75 does not require payment for the value of the buildings from CVWD. Therefore, CVWD would only have been responsible for the cost of the demolition, which they paid for in 1987.

3. Will civil or administrative collection of amounts determined to be owed be made?

Reclamation's response: No.

4. If not, why are civil or administration recovery of amounts not planned?

Reclamation's response: After informally consulting with the Field Solicitor's Office in Boulder City, Nevada, it is not Reclamation's intent to pursue civil or administrative collection. Neither criminal prosecution nor administrative sanctions are viable due to statute of limitations issues. Reclamation is of the opinion that residual sales value of the buildings, if any, at the time demolition would have been close to zero. Therefore, we believe chances of pursuing damages or a recovery from CVWD would not be worth the litigation cost-benefit risk.

5. Is CVWD still in repayment of their construction debt, if so, such amounts could be accounted for as part of that larger contract or contracts?

Reclamation's response: CVWD has repaid their construction debt. Construction contract Ilr-781 (1934) was paid off in September 1994, and Supplemental Construction Contract Ilr-781 (1947) was paid off in November 1995. These contracts included the original construction cost of the temporary residence buildings.

6. If so, how is the value of the buildings calculated and incorporated into the other contracts or rates?

Reclamation's response: The value of these buildings has not been calculated or incorporated into any other contracts other than the original repayment contracts and CVWD has completed repayment under those contracts.

7. Can you confirm that the land is still owned by Reclamation? Is there a total loss to the government of the value of the buildings?

Reclamation's response: The title to this land is still held by Reclamation. As mentioned above, Reclamation stated there was no book value associated with these buildings. Therefore, the government did not incur a loss.

Should you have any additional questions, please contact Ms. Elizabeth Cordova-Harrison, Director, Management Services Office, at 303-445-2783.

Sincerely,



Timothy R. Petty
Deputy Assistant Secretary

Enclosure



United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240



AUG 15 2007

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

Dear Mr. Bloch:

In accordance with your February 21, 2007, request, we have completed our investigation regarding Mr. George Kalba's allegations that the Bureau of Reclamation (Reclamation) failed to protect and account for 27 federally-owned buildings and are providing a report of our findings (OSC File Nos. DI-06-2427). On March 30, 2007, Secretary Kempthorne asked the Department of the Interior's Office of Inspector General (OIG) to investigate Mr. Kalba's allegations, and delegated the responsibility for reporting the results of this case and taking any necessary actions to the Office of the Assistant Secretary for Water and Science. I am responding in accordance with the Secretary's Order No. 3272, which temporarily redelegated the functions, duties, and responsibilities of the Assistant Secretary for Water and Science to my position as Assistant Deputy Secretary (enclosed).

In your February 21, 2007, letter, you requested that our response to your office address the requirements in 5 U.S.C. 1213(d). The OIG's report of investigation and memorandum to Commissioner Johnson dated June 29, 2007, (enclosed) addressed 5 U.S.C. 1213(d)(1)-(4). The OIG's investigation determined that in January 1992, two of the 27 buildings in question were located at the Wellton Mohawk Irrigation and Drainage District (WMIDD). One of the buildings was donated to a WMIDD employee and the other was donated to a church. In each of these instances, the OIG's investigation disclosed that the disposition of these buildings was not lawful because WMIDD did not have title to the property. The OIG also found that 25 of the 27 remaining buildings were demolished during the late 1980s. These 25 buildings were temporary residences and were located at the Coachella Valley Water District (CVWD). The OIG stated that although CVWD had requested title to these buildings, permission was denied. The OIG reported that the disposition of these buildings was in violation of 18 U.S.C. 641, the Code of Federal Rules and Regulations (Titles 41 and 42), and the terms of CVWD's Operation and Management contract with Reclamation.

The OIG concluded that due to the statute of limitations, criminal prosecution was not possible and that individual administrative actions of the water district employees are not viable due to the dates of occurrence (1985-1986, and 1992). Based on this determination, the OIG made three recommendations in its June 29, 2007, memorandum. Reclamation agreed with the OIG's recommendations and submitted a formal response outlining its plan for addressing the

recommendations and correcting the issues cited in the memorandum. A copy of Reclamation's response to the OIG dated August 2, 2007, is enclosed. We believe this will satisfy the requirement in 5 U.S.C. 1213(d)(5).

In summary, I have reviewed the OIG's report of investigation, the OIG's advisory memorandum, and Reclamation's response to the OIG. Although the information Mr. Kalba provided did disclose several serious violations of law and rules, as well as mismanagement, it does not appear that the government has any criminal or administrative options available to correct these unauthorized building transfers. However, it is important to note that the actions to be taken by Reclamation in response to the OIG's June 29, 2007, memorandum will address (1) inventory property management issues required in the President's Federal Real Property Asset Management Executive Order 13327; (2) any potential health risks and potential liability associated with lead paint and asbestos in the remaining unauthorized transferred buildings; and (3) Mr. Kalba's concerns regarding the actions needed to correct Reclamation's inventory.

Should you have any questions or require any additional information, please contact Elizabeth Cordova-Harrison, Director, Management Services Office, at 303-445-2783.

Sincerely,



Kameron L. Onley
Assistant Deputy Secretary

Enclosures

cc: Inspector General
Associate Solicitor – Division of General Law
(w/o copy of incoming or encl)



THE SECRETARY OF THE INTERIOR
WASHINGTON

ORDER NO. 3272

Subject: Temporary Redlegation of Authority of the Assistant Secretary - Water and Science

Sec. 1 Purpose. The purpose of this Order is to temporarily redelegate all functions, duties, and responsibilities of the Assistant Secretary - Water and Science that are not required by statute or regulation to be performed only by the Assistant Secretary - Water and Science. It is intended to ensure uninterrupted management and execution of the duties of the Assistant Secretary - Water and Science in the interim period before a successor assumes the duties of the position under governing laws and procedures.

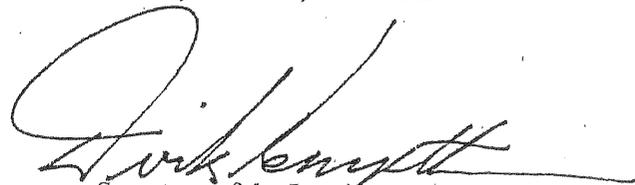
Sec. 2 Authority. This Order is issued under the authority of Section 2 of Reorganization Plan No. 3 of 1950 (64 Stat. 1262), as amended.

Sec. 3 Delegation. The authority delegated to the Assistant Secretary - Water and Science in 209 DM 5 and 109 DM 5, as well as any other applicable Departmental Manual chapters, is hereby redelegated to the Assistant Deputy Secretary (Principal Aide to the Deputy Secretary), except for those functions or duties that are required by statute or regulation to be performed only by the Assistant Secretary - Water and Science. Any functions or duties assigned by statute or regulation exclusively to the Assistant Secretary - Water and Science will be performed by me, in accordance with the Vacancies Reform Act, 5 U.S.C. §§ 3345 - 3349d.

Sec. 4 Order of Succession. The Designation of Successors for Presidentially-Appointed and Senate Confirmed Positions, signed on December 28, 2005, for positions in the Office of the Assistant Secretary - Water and Science, is hereby modified to specify that none of the positions identified therein shall be construed to be the position of "first assistant," as that term is used in the Vacancies Reform Act.

Sec. 5 Limitation. This redelegation does not supersede existing delegations of authority from the Assistant Secretary - Water and Science to subordinate officials, except that such subordinate officials will report to and receive direction from the Assistant Deputy Secretary (Principal Aide to the Deputy Secretary) for the duration of the term of this Order.

Sec. 6 Expiration Date. This Order is effective on July 13, 2007. It will automatically expire either upon the qualification of a new Assistant Secretary - Water and Science, or upon the designation of an Acting Assistant Secretary - Water and Science in accordance with the Vacancies Reform Act. In the absence of the foregoing actions, it will terminate on July 13, 2008, unless extended, modified, or revoked.


Secretary of the Interior

Date: JUL 13 2007



United States Department of the Interior

OFFICE OF INSPECTOR GENERAL
Arlington, VA 22203

JUN 29 '07 AM 10:40

Memorandum

To: Robert W. Johnson
Commissioner, Bureau of Reclamation

From: Stephen Hardgrove *[Signature]*
Assistant Inspector General, Investigations

Subject: Management Advisory of Investigative Results-
Bureau Action and Response Required

Re: Unauthorized disposal of 27 Bureau of Reclamation owned buildings,
DOI-OIG Case No. PI-PI-07-0260-I

JUN 29 2007

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7/20/10

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ADH-1-10

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This office recently conducted an investigation regarding allegations that during a mandatory inventory in 2003, 27 BOR owned buildings were discovered missing. The investigation revealed that all 27 buildings were unlawfully disposed of and improperly documented.

Our investigation found that 25 of the 27 buildings were originally built as temporary residences to house BOR employees and contractors during the construction of the All American Canal, Coachella Valley Water District (CVWD). According to witness interviews and a review of documents these buildings were demolished in or about 1985-86. CVWD neither held title to these buildings at that time nor had they paid the balance of their construction debt. The disposition of these buildings was without proper authority from the Department of Interior (DOI) as clearly stated in CVWD's operation and maintenance contract (O&M) and various correspondence between the water district and the DOI dating back to 1975. Furthermore, these buildings likely contained hazardous materials, including lead paint and asbestos at the time of their demolition, and proper disposal did not take place.

The remaining two of the 27 buildings were originally built as temporary office and barracks, respectively, at the Dateland Airbase during World War II. These building were transferred to the Wellton Mohawk Irrigation & Drainage District (WMIDD) during the construction of the Gila River Project. Some time in 1992, WMIDD, without proper written consent, donated the two buildings to private parties. Although, the individual recipients bore the cost of removal, WMIDD did not hold title to these buildings and had not paid the remainder of their construction debt. This disposition of these buildings was improper.

Additionally, we believe that these buildings also contained hazardous materials based on subsequent testing of similar existing buildings. The testing yielded positive results for the presence of lead paint and asbestos.

Our investigation also revealed that as early as 1997, these buildings had been discovered as "missing" during a BOR conducted "Reconnaissance Survey" dated January 1997. However, their disposition had never been properly documented through a report of survey. This process, once completed, allows the BOR to remove the building from the inventory databases that track assets.

Our investigation prompts the following recommendations:

- Implement a record keeping system that accurately records and tracks property inventory and disposition.
- Develop & publish guidelines or regulations to govern the disposal of other BOR property similar to these 27 buildings.
- With respect to the two (2) buildings "donated" by Wellton Mohawk Irrigation Drainage District (WMIDD), the investigation disclosed their whereabouts. One was donated to a church; the other to a WMIDD employee. The church building may be demolished soon, and the other building is being used for habitation. Interviews revealed that these buildings are likely of the type that could generate asbestos and lead contaminated waste streams if demolished. Whether or not these amounts fall within the regulation remains to be determined. BOR officials should consult both the Solicitor's Office and BOR/Departmental environmental staff: (1) to determine the status of the transfers; (2) to determine whether the building currently inhabited by a WMIDD employee or other private citizen poses any health risks; and (3) to determine whether the WMIDD's disposition of these buildings was in keeping with the requirements of the Resource Conservation and Recovery Act (RCRA), and Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA).

This matter is forwarded for your review. Upon completion of your review, please provide a written response to this office detailing any program, policy, or other changes addressing issues cited in this memorandum. If you have any questions regarding this matter, please contact me at (202) 208-5492.



United States Department of the Interior

BUREAU OF RECLAMATION

Washington, D.C. 20240



IN REPLY REFER TO:

AUG 2 2007

84-27430

ADM-1.00

ADMINISTRATIVELY CONFIDENTIAL

MEMORANDUM

To: Assistant Inspector General for Investigations
Attn: Steve Hardgrove

From: Robert W. Johnson *Robert W. Johnson*
Commissioner

Subject: Office of Inspector General (OIG) Report of Investigation Regarding the
Unauthorized Disposal of 27 Bureau of Reclamation-owned Buildings
DOI-OIG Case No. PI-PI-07-0260-I

Thank you for the opportunity to review and comment on your management advisory memorandum and your investigation report. Reclamation agrees with your recommendations. Our plan to address your recommendations and to correct the issues cited in your advisory memorandum are outlined in our response below.

OIG Recommendation 1. Implement a record keeping system that accurately records and tracks property inventory and disposition.

Reclamation's Response. Reclamation is in the process of verifying real property data and loading this information into the General Services Administration's Federal Real Property Profile (FRPP). This annual inventory process includes procedures for adding and removing items from our real property inventory. It will provide a complete inventory of all owned buildings. This process will be completed by December 2007, and upon review by the Department of the Interior's Senior Property Officer, will then be accessible by the Office of Management and Budget (OMB), which satisfies the President's Federal Real Property Asset Management Executive Order 13327, dated February 4, 2004.

OIG Recommendation 2. Develop and publish guidelines or regulations to govern the disposal of other Reclamation property similar to these 27 buildings.

Reclamation's Response. Reclamation is developing guidance and business practices for performing inventories and transferring and disposing of real property assets. This guidance will also include internal controls to ensure buildings are properly managed and safeguarded in accordance with Federal requirements including the President's Federal Real Property Asset Management Executive Order 13327 and the Department of the Interior's Manual which is currently in draft and expected to be finalized on or before December 15, 2007. Reclamation plans to provide training for employees and supervisors who have responsibility for transferring and disposing of real property assets. This training will begin in October of this year.

OIG Recommendation 3. Reclamation officials should consult both the Solicitor's Office and Reclamation/Departmental environmental staff: (1) to determine the status of the transfer, (2) to determine whether the building currently inhabited by a Wellton-Mohawk Irrigation and Drainage District (WMIDD) employee or other private citizen poses any health risk; and (3) to determine whether the WMIDD's disposition of these buildings was in keeping with the requirements of the Resource Conservation and Recovery Act and Comprehensive Environmental Response, Compensation, and Liability Act.

Reclamation's Response. (1) Reclamation issued a Quit Claim Deed (QCD) transferring title to land, works, and facilities of the Project to the WMIDD on March 26, 2007. This title transfer was the result of discharge of the WMIDD repayment obligation and pursuant to the Wellton-Mohawk Title transfer Act of June 20, 2000 (P.L. 106-221; 114 Stat. 351). The QCD, in Exhibit A-3, "Listing of Accountable Properties," includes a group of property items, Accountable Property No. 00502960, "General Property of WM HQS Camp." This collection of accountable property items listed included all buildings owned by the United States and used as part of the Project at the primary WMIDD headquarters in Wellton, Arizona, including the two subject buildings. This QCD was reviewed by the Solicitor's Office for legal adequacy prior to execution earlier this year and we recently had further discussions with the Solicitor's Office which confirms the above description of the transfer of the two buildings.

(2) Regarding the potential health risks for the transferred building, Reclamation will work with WMIDD and the Solicitor's Office to assess the situation (which may include environmental testing), and resolve any potential liability to the United States through the appropriate steps.

(3) There is no documentation that the recipients of the buildings were properly informed of the potential presence of asbestos and lead paint or the requirements involved in any demolition or disposal. WMIDD has agreed to work with Reclamation to communicate written disclosure information to the recipients and provide appropriate documentation to Reclamation that will result in compliance with applicable environmental laws and regulations.

Reclamation is also working with the Solicitor's Office and Reclamation/Departmental environmental staff to document the acceptance of this information by the parties currently in possession of the buildings. If either new owner is unwilling to retain the buildings in light of the disclosure, Reclamation will work with WMIDD and the Solicitor's Office to resolve any potential liability to the United States through the appropriate steps. Our target for completion of this action is December 31, 2007.

If you have any questions or require additional information, please contact Keith Clark, Audit Liaison Officer, at 303-445-2756.



U.S. OFFICE OF SPECIAL COUNSEL

1730 M Street, N.W., Suite 300
Washington, D.C. 20036-4505

February 21, 2007

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RECEIVED

The Special Counsel

The Honorable Dirk Kempthorne
Secretary
U.S. Department of the Interior
1849 C Street, N.W.
Washington, D.C. 20240

Re: OSC File Nos. DI-06-2427

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OFFICIAL FILE WASHINGTON		
DATE DUE 3-8-07		
Date	Initial	Code
		96-42030
	FILES	W-1125
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EXECUTIVE SECRETARIAT

Dear Mr. Secretary:

Pursuant to my responsibilities as Special Counsel, I am referring to you a whistleblower disclosure that officials at the Department of the Interior (DOI), Bureau of Reclamation (BOR), have failed to protect and account for federally owned buildings. The whistleblower, George Kalba, is a General Supply Specialist with the Bureau of Reclamation, Lower Colorado Region, Boulder City, Nevada. He disclosed that, in 2003, in the course of conducting an inventory of properties owned by BOR, he discovered that 27 buildings previously existing as improvements to real property had been removed or demolished without approval. The whistleblower alleged that the improper disposal of the buildings constitutes a violation of law, rule, or regulation, gross mismanagement, and a gross waste of funds. Accordingly, I am referring this information to you for an investigation of these allegations and a report of your findings.

The U.S. Office of Special Counsel (OSC) is authorized by law to receive disclosures of information from federal employees alleging violations of law, rule, or regulation, gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety. 5 U.S.C. § 1213(a) and (b). As Special Counsel, if I find, on the basis of the information disclosed, that there is a substantial likelihood that one of these conditions exists, I am required to advise the appropriate agency head of my findings, and the agency head is required to conduct an investigation of the allegations and prepare a report. 5 U.S.C. § 1213(c) and (g).

Specifically, Mr. Kalba disclosed that two buildings belonging to BOR, located in Wellton, Arizona, were improperly disposed of by the local utility then in possession of the real property. One building was donated to a local church, and one was given to an employee of the utility for his business use. Mr. Kalba also reported that 25 buildings located on lots owned by BOR in Riverside, California, also in use by a local utility, were demolished without approval. He disclosed that the removal and/or demolition of government buildings, without approval or compensation to the federal government, violates federal property management regulations.

I have concluded that there is a substantial likelihood that the information that Mr. Kalba provided to OSC discloses a violation of law, rule, or regulation, gross mismanagement, and a gross waste of funds. As previously stated, I am referring this

The Honorable Dirk Kempthorne

Page 2

information to you for an investigation of these allegations and a report of your findings within 60 days of your receipt of this letter. These allegations are described in greater detail in the enclosed Report of Disclosures Referred for Investigation, and attached documents provided by the whistleblower, which are incorporated herein by reference.

By law, the report must be reviewed and signed by you personally. Should you delegate your authority to review and sign the report to the Inspector General, or any other official, the delegation must be specifically stated and must include the authority to take the actions necessary under 5 U.S.C. § 1213(d)(5). Without this information, I would hasten to add that the report may be found deficient. The requirements of the report are set forth at 5 U.S.C. § 1213(c) and (d). A summary of § 1213(d) is enclosed. As a matter of policy, OSC also requires that your investigators interview the whistleblowers as part of the agency investigation whenever the whistleblowers consent to the disclosure of their names.

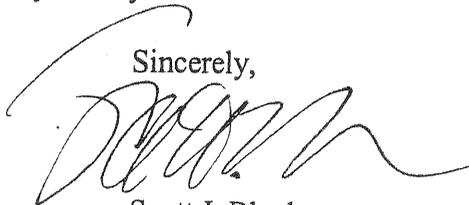
In the event it is not possible to report on the matter within the 60-day time limit under the statute, you may request in writing an extension of time not to exceed 60 days. Please be advised that an extension of time is normally not granted automatically, but only upon a showing of good cause. Accordingly, in the written request for an extension of time, please state specifically the reasons the additional time is needed. Any additional requests for an extension of time must be approved by me.

After making the determinations required by 5 U.S.C. § 1213(e)(2), copies of the report, along with any comments on the report from the whistleblower, and any comments or recommendations by this office will be sent to the President and the appropriate oversight committees in the Senate and House of Representatives. 5 U.S.C. § 1213(e)(3).

Unless classified or prohibited from release by law or by Executive Order requiring that the information be kept secret in the interest of national defense or the conduct of foreign affairs, a copy of the report and any comments will be placed in a public file in accordance with 5 U.S.C. § 1219(a).

Please refer to our file number in any correspondence on this matter. If you need further information, please contact Catherine A. McMullen, Chief, Disclosure Unit, at (202) 254-3604. I am also available for any questions you may have.

Sincerely,



Scott J. Bloch

Enclosures

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TOC: [United States Code Service: Code, Const. Rules, Conventions & Public Laws > / . . . / > SUBCHAPTER II. OFFICE OF SPECIAL COUNSEL > § 1213. Provisions relating to disclosures of violations of law, gross mismanagement, and certain other matters](#)

Citation: **5 USC 1213**

5 USCS § 1213

UNITED STATES CODE SERVICE

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*** CURRENT THROUGH P.L. 110-49, APPROVED 7/26/2007 ***

TITLE 5. GOVERNMENT ORGANIZATION AND EMPLOYEES
PART II. CIVIL SERVICE FUNCTIONS AND RESPONSIBILITIES
CHAPTER 12. MERIT SYSTEMS PROTECTION BOARD, OFFICE OF
SPECIAL COUNSEL, AND EMPLOYEE RIGHT OF ACTION
SUBCHAPTER II. OFFICE OF SPECIAL COUNSEL

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5 USCS § 1213

§ 1213. Provisions relating to disclosures of violations of law, gross mismanagement, and certain other matters

(a) This section applies with respect to--

(1) any disclosure of information by an employee, former employee, or applicant for employment which the employee, former employee or applicant reasonably believes evidences--

(A) a violation of any law, rule, or regulation; or

(B) gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety;

if such disclosure is not specifically prohibited by law and if such information is not specifically required by Executive order to be kept secret in the interest of national defense or the conduct of foreign affairs; and

(2) any disclosure by an employee, former employee, or applicant for employment to the Special Counsel or to the Inspector General of an agency or another employee designated by the head of the agency to receive such disclosures of information which the employee, former employee, or applicant reasonably believes evidences--

(A) a violation of any law, rule, or regulation; or

(B) gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety.

(b) Whenever the Special Counsel receives information of a type described in subsection (a) of this section, the Special Counsel shall review such information and, within 15 days after receiving the information, determine whether there is a substantial likelihood that the information discloses a violation of any law, rule, or regulation, or gross mismanagement, gross waste of funds, abuse of authority, or substantial and specific danger to public health and safety.

(c) (1) Subject to paragraph (2), if the Special Counsel makes a positive determination under subsection (b) of this section, the Special Counsel shall promptly transmit the information with respect to which the determination was made to the appropriate agency head and require that the agency head--

(A) conduct an investigation with respect to the information and any related matters transmitted by the Special Counsel to the agency head; and

(B) submit a written report setting forth the findings of the agency head within 60 days after the date on which the information is transmitted to the agency head or within any longer period of time

agreed to in writing by the Special Counsel.

(2) The Special Counsel may require an agency head to conduct an investigation and submit a written report under paragraph (1) only if the information was transmitted to the Special Counsel by--

(A) an employee, former employee, or applicant for employment in the agency which the information concerns; or

(B) an employee who obtained the information in connection with the performance of the employee's duties and responsibilities.

(d) Any report required under subsection (c) shall be reviewed and signed by the head of the agency and shall include--

(1) a summary of the information with respect to which the investigation was initiated;

(2) a description of the conduct of the investigation;

(3) a summary of any evidence obtained from the investigation;

(4) a listing of any violation or apparent violation of any law, rule, or regulation; and

(5) a description of any action taken or planned as a result of the investigation, such as--

(A) changes in agency rules, regulations, or practices;

(B) the restoration of any aggrieved employee;

(C) disciplinary action against any employee; and

(D) referral to the Attorney General of any evidence of a criminal violation.

(e)

(1) Any such report shall be submitted to the Special Counsel, and the Special Counsel shall transmit a copy to the complainant, except as provided under subsection (f) of this section. The complainant may submit comments to the Special Counsel on the agency report within 15 days of having received a copy of the report.

(2) Upon receipt of any report of the head of an agency required under subsection (c) of this section, the Special Counsel shall review the report and determine whether--

(A) the findings of the head of the agency appear reasonable; and

(B) the report of the agency under subsection (c)(1) of this section contains the information required under subsection (d) of this section.

(3) The Special Counsel shall transmit any agency report received pursuant to subsection (c) of this section, any comments provided by the complainant pursuant to subsection (e)(1), and any appropriate comments or recommendations by the Special Counsel to the President and the congressional committees with jurisdiction over the agency which the disclosure involves.

(4) Whenever the Special Counsel does not receive the report of the agency within the time prescribed in subsection (c)(2) of this section, the Special Counsel shall transmit a copy of the information which was transmitted to the agency head to the President and the congressional committees with jurisdiction over the agency which the disclosure involves together with a statement noting the failure of the head of the agency to file the required report.

(f) In any case in which evidence of a criminal violation obtained by an agency in an investigation under subsection (c) of this section is referred to the Attorney General--

(1) the report shall not be transmitted to the complainant; and

(2) the agency shall notify the Office of Personnel Management and the Office of Management and Budget of the referral.

(g) (1) If the Special Counsel receives information of a type described in subsection (a) from an individual other than an individual described in subparagraph (A) or (B) of subsection (c)(2), the Special Counsel may transmit the information to the head of the agency which the information concerns. The head of such agency shall, within a reasonable time after the information is transmitted, inform the Special Counsel in writing of what action has been or is being taken and when such action shall be completed. The Special Counsel shall inform the individual of the report of the agency head.

(2) If the Special Counsel receives information of a type described in subsection (a) from an individual described in subparagraph (A) or (B) of subsection (c)(2), but does not make a positive determination under subsection (b), the Special Counsel may transmit the information to the head of the agency which the information concerns, except that the information may not be transmitted to the head of the agency without the consent of the individual. The head of such agency shall,

within a reasonable time after the information is transmitted, inform the Special Counsel in writing of what action has been or is being taken and when such action will be completed. The Special Counsel shall inform the individual of the report of the agency head.

(3) If the Special Counsel does not transmit the information to the head of the agency under paragraph (2), the Special Counsel shall inform the individual of--

- (A) the reasons why the disclosure may not be further acted on under this chapter; and
- (B) other offices available for receiving disclosures, should the individual wish to pursue the matter further.

(h) The identity of any individual who makes a disclosure described in subsection (a) may not be disclosed by the Special Counsel without such individual's consent unless the Special Counsel determines that the disclosure of the individual's identity is necessary because of an imminent danger to public health or safety or imminent violation of any criminal law.

(i) Except as specifically authorized under this section, the provisions of this section shall not be considered to authorize disclosure of any information by any agency or any person which is--

- (1) specifically prohibited from disclosure by any other provision of law; or
- (2) specifically required by Executive order to be kept secret in the interest of national defense or the conduct of foreign affairs.

(j) With respect to any disclosure of information described in subsection (a) which involves foreign intelligence or counterintelligence information, if the disclosure is specifically prohibited by law or by Executive order, the Special Counsel shall transmit such information to the National Security Advisor, the Permanent Select Committee on Intelligence of the House of Representatives, and the Select Committee on Intelligence of the Senate.

⚡ History:

(Added April 10, 1989, P.L. 101-12, § 3(a)(13), 103 Stat. 21.)
(As amended Oct. 19, 1996, P.L. 104-316, Title I, § 103(a), 110 Stat. 3828; Nov. 27, 2002, P.L. 107-304, § 3, 116 Stat. 2364.)

⚡ History; Ancillary Laws and Directives:

- ⚡ 1. Effective date of section
- ⚡ 2. Amendments

⚡ 1. Effective date of section:

This section became effective 90 days after enactment, as provided by § 11 of Act April 10, 1989, P.L. 101-12, which appears as 5 USCS § 1201 note.

⚡ 2. Amendments:

1996. Act Oct. 19, 1996 (effective on enactment, as provided by § 101(e) of such Act, which appears as 2 USCS § 130c note), in subsec. (e), in paras. (3) and (4), substituted "and" for a comma after "President" and deleted ", and the Comptroller General" following "involves".

2002. Act Nov. 27, 2002, in subsec. (g), in para. (1), deleted "If the Special Counsel does not transmit the information to the head of the agency, the Special Counsel shall return any documents and other matter provided by the individual who made the disclosure." following "agency head.", and substituted para. (3) for one which read:

"(3) If the Special Counsel does not transmit the information to the head of the agency under paragraph (2), the Special Counsel shall--

"(A) return any documents and other matter provided by the individual who made the



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**REPORT OF DISCLOSURES REFERRED FOR INVESTIGATION
OSC FILE NO. DI-06-2427**

I. SUMMARY

The whistleblower, Mr. George Kalba, a General Supply Specialist with the Department of Interior (DOI), Bureau of Reclamation (BOR), Lower Colorado Region, Boulder City, Nevada, reported that in August 2003, he completed an inventory of buildings owned by BOR in the Lower Colorado Region, and specifically in the Yuma, Arizona area. He discovered that 27 BOR-owned buildings previously existing as improvements to real property had been removed or demolished without approval or compensation, by local utilities who were in possession of the buildings pursuant to Operation and Maintenance Agreements with BOR.

II. THE INFORMATION DISCLOSED

Mr. Kalba, who has consented to the release of his name, was tasked in July 2003, with performing an actual physical inventory of BOR, Lower Colorado Region, real property and buildings. He was appointed as a Traveling Survey Officer to conduct a survey of buildings and housing which were parts of the Gila Project located within the boundaries of the Wellton-Mohawk Irrigation and Drainage District. Mr. Kalba discovered that there was limited background information available, as exact dates for prior inventories had not been recorded. Mr. Kalba's inventory revealed inconsistencies in the BOR database, known as Foundation Information for Real Property Management (FIRM). In some cases Mr. Kalba was able to confirm that certain buildings listed as existing and belonging to BOR had been demolished and rebuilt, or demolished as a result of flooding and not rebuilt. Other properties had been transferred from BOR ownership, but still appeared in the FIRM database as owned by BOR. Mr. Kalba was able to identify these discrepancies and recommend corrections to the records. After conducting the inventory, he prepared a Report of Survey, YAO-03-0004, to document the inconsistencies. In two cases, however, he was unable to reconcile the discrepancies, and became concerned that buildings had been improperly removed or demolished by the local utilities holding possession.

First, Mr. Kalba identified two buildings which he described as "losses of a suspicious nature." Building 3-50-0001 and 3-50-0026, located in Wellton, Arizona, were not found during his physical inspection. Mr. Kalba obtained documentation from the local utility, Wellton-Mohawk Irrigation and Drainage District (District), stating that the two buildings had been removed from the site at no cost to the District. One building, 30-50-0001, was given to an employee of the District, known only as "Mr. Leyva," for use as an income producing property for his benefit at 28757 Pacific Avenue, Wellton, Arizona. The other, 30-50-0026, was given to a church in the town of Wellton, Arizona.

Second, incident to his inventory, Mr. Kalba identified 25 buildings located on corresponding lots in the Riverside County area of California. The houses were owned by BOR and were in possession of the Coachella Valley Water District (CVWD), a local utility. Upon inquiry, he was advised by CVWD that the properties had been demolished. CVWD could produce no documentation relating to the destruction of these buildings. Mr. Kalba could find no documentation of a title transfer or approval for the demolition of the houses. He did find documentation indicating that in 1975, CVWD requested to acquire the Riverside properties, but the request was denied. He believed that this, combined with the lack of documentation of any demolition, is evidence of the suspicious nature of the property disappearance.

The Bureau of Reclamation manages federally owned real and personal property in accordance with the Federal Property Management Regulations, codified at 41 CFR 101, along with DOI and BOR manuals and regulations. Specifically, the Utilization and Disposal of Real Property is governed by 41 CFR 101-47, which establishes the procedures and forms for reporting unused, or underused, real and related personal property to the General Services Administration (GSA) for disposal. GSA's Office of Property Disposal (OPD) regulates the disposal of real property that is no longer mission-critical to Federal agencies. Together these laws, rules, and regulations ensure accountability of federally owned property and mandate the process by which such property is handled when no longer needed by the federal government.

Mr. Kalba asserted that the gift of two properties in Wellton, Arizona, and the apparent demolition of 25 buildings in the CVWD, did not comply with any of the DOI, BOR, or other federal laws, rules, or regulations referenced above. As such, he alleged that the disposal of these properties was unlawful and represented a gross mismanagement of BOR assets, and a gross waste of funds.

Mr. Kalba reported the inventory discrepancies to his supervisors, and included reference to the Wellton properties in his Report of Survey. He also reported the discrepancies to the Office of Inspector General, who forwarded the matter to BOR management for review with no reporting requirement. He also reported this as a loss of a suspicious nature to the FBI, pursuant to the Interior Department Manual, Interior Property Management Directives (410 DM Addition to IPMD, Section 114-60 Personal Property Management, Survey Procedures) governing losses of personal property. To date, Mr. Kalba has had no contact from anyone to whom he reported his findings. In addition, he has been removed from the real property management area and reassigned to unrelated duties away from his previous office location.

III. THE SPECIAL COUNSEL'S FINDINGS

Given Mr. Kalba's apparent expertise regarding the matters he has disclosed, the detail he has provided, and his first-hand knowledge of the incidents he has described, I have concluded that there is a substantial likelihood that the information provided to OSC discloses violations of law, rule, or regulation, gross mismanagement, and a gross waste of funds.