



U.S. OFFICE OF SPECIAL COUNSEL
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The Special Counsel

July 1, 2025

The President
The White House
Washington, D.C. 20050

Re: OSC File Nos. DI-24-000641 and DI-24-000656

Dear Mr. President:

I am forwarding to you reports transmitted to the Office of Special Counsel (OSC) by the U.S. Department of Labor (DOL) in response to the Special Counsel's referral of a disclosure of wrongdoing at the Mine Safety and Health Administration (MSHA), Vacaville, California. OSC has reviewed the disclosure, agency reports, and whistleblower comments, and in accordance with 5 U.S.C. § 1213(e), I have determined the reports contain the information required by statute and the findings appear reasonable.¹ Nevertheless, OSC is troubled by the agency's lack of response to the findings on inspections and the agency's representations to Congress. As summarized below, the agency substantiated the allegations.

The whistleblowers, [REDACTED], an Assistant District Manager in the Vacaville, California District Office, and [REDACTED], a Supervisory Special Investigator in the same office, who consented to the release of their names, disclosed that MSHA failed to inspect—and wrongfully treats as “abandoned”—active mines in Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands (the Pacific Territories). Specifically, the whistleblowers disclosed that MSHA officials falsely designated mines in the Pacific Territories as “abandoned” in the MSHA Standardized Information System (MSIS) despite evidence of ongoing and active operations in the mines and, further, failed to conduct required periodic inspections of mines in the Pacific Territories under Section 103 of the Federal Mine Safety & Health Act of 1977 (the Mine Act).²

The agency substantiated the allegations. The Mine Act requires that authorized representatives of the U.S. Secretary of Labor inspect each underground mine in its entirety at least four times a year and each surface mine in its entirety at least two times a year. These inspections

¹ The whistleblowers' allegations were referred to then-Acting Labor Secretary Julie A. Su for investigation pursuant to 5 U.S.C. § 1213(c) and (d). DOL's Office of Inspector General (OIG) conducted the investigation.

² 30 U.S.C. § 801(a) et seq., *available at* <https://codes.findlaw.com/us/title-30-mineral-lands-and-mining/30-usc-sect-801>.

are required to determine if imminent danger exists and to verify compliance with mandated health and safety standards.³ The investigation found that the Pacific Territory mines (51 mines in total) have not been inspected since 2016, despite being in “new mine” status from 2016 until 2023. In December 2023, the Acting District Manager of the Vacaville District, [REDACTED], directed [REDACTED] to change the Pacific Territory mines’ status to “abandoned,” even though these mines reported working hours for miners. When [REDACTED] refused, the Acting Assistant District Manager for the Vacaville District, [REDACTED], changed the MSIS statuses to “abandoned” himself.

In connection with the investigation, the DOL OIG released an Alert Memorandum dated November 12, 2024 to the mining community entitled “Urgent Concerns for Miner Safety and Health in At Least Three U.S. Territories: MSHA Has Never Conducted Mandatory Inspections and Conducted Inappropriate Oversight of Mines in the Pacific Territories.” The report finds that MSHA has: (1) failed to sufficiently identify its own jurisdiction; (2) never conducted mandatory mine inspections in at least three U.S. territories where mining continues to occur; and (3) engaged in improper and misleading actions, such as changing mine statuses rather than reporting the issues that prevented the mandatory inspections. The OIG Alert Memorandum also states that MSHA has inaccurately reported to Congress a 100 percent completion rate of mandatory mine inspections since at least FY 2023.

Although the agency outlined its compliance with and/or plans to implement the OIG’s recommendations in its supplemental report, OSC is troubled by two aspects of its response. First, that the agency does not plan to begin inspections of the Pacific Territory mines until FY 2027, and second, that the agency does not plan to correct inaccurate compliance numbers it has reported to Congress. Notably, since the findings of the investigation were published in 2024, MSHA has not conducted any inspections in the Pacific Territories, stating only that “MSHA will do its best” to do so, but that “standing up an MSHA presence in these areas will take some time.” MSHA’s assertion ascribing its inability to inspect the Pacific Territories mines until 2027 to a lack of funding does not appear reasonable. Congress uses MSHA public data, which the report acknowledges is intentionally erroneous, when considering Congressional appropriations and budgetary decisions with taxpayer funds. Had MSHA accurately reported that its mandatory inspection percentage was less than 100 percent, which reflects that it has been unable to inspect all active mines as required, the agency would have been able to use the information to support a budget request that would enable MSHA to conduct mandatory inspections and protect the Pacific Territories miners. Indeed, the investigation’s review of Congressional Budget Justifications from FY 2014 through FY 2025 found only two relevant mentions of the need for funding to address mines located in the Pacific Territories. MSHA acknowledged in its supplemental report to OSC that in most years since the inception of the Mine Act in 1977, the agency fell below 100 percent of mandatory inspections, but did not indicate that it will amend the inaccurate 100 percent completion rate repeatedly reported to Congress. MSHA’s continued failure to inspect the Pacific Territory mines and its lack of

³ *Id.* at § 813(a).

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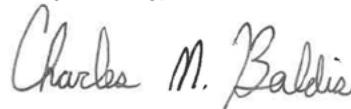
transparency to Congress do not appear reasonable, and OSC strongly encourages MSHA to rectify these deficiencies.

In his comments, [REDACTED] expressed disappointment with the agency's response to the investigative findings and doubt about its commitment to integrity and accountability. [REDACTED] encourages MSHA to implement all eleven recommendations in the OIG's alert memorandum, and notes that though the agency states some have been completed, the Council of Inspectors General on Integrity and Efficiency's recommendation tracking website states that all eleven recommendations are still "open."⁴ He further expressed disappointment in the agency's leadership ethics and control environment. [REDACTED] did not comment on the reports.

I thank the whistleblowers for bringing these allegations to OSC. The Mine Act states, "Congress declares that...the first priority and concern of all in the coal or other mining industry must be the health and safety of its most precious resource—the miner." MSHA's continued failure to inspect the Pacific Territories and its lack of transparency to Congress is inconsistent with MSHA's mission to prevent death, illness, and injury from mining and promote safe and healthful workplaces for all miners under MSHA jurisdiction. Given the significance of these fully substantiated disclosures that may help ensure the safety of miners in the Pacific Territories, OSC recommends that the DOL recognize the whistleblowers' contributions and issue monetary awards.

As required by 5 U.S.C. § 1213(e)(3), I have sent a copy of this letter, the agency reports, and whistleblower comments to the Chairs and Ranking Members of the Senate Committee on Energy and Natural Resources, the House Committee on Energy and Commerce, and the House Committee on Natural Resources. I have also filed redacted copies of these documents and the letter referring the matter to the Secretary in OSC's public file, which is available online at www.osc.gov. This matter is now closed.

Respectfully,



Charles N. Baldis
*Senior Counsel and Designee
of Acting Special Counsel Jamieson Greer*

Enclosures

⁴ Alert Memorandum: Urgent Concerns for Miner Safety and Health in At Least Three U.S. Territories: MSHA Has Never Conducted Mandatory Inspections and Conducted Inappropriate Oversight of Mines in the Pacific Territories, U.S. Dep't of Lab., Off. of Inspector Gen., Report No. 05-25-002-06-001 (Nov. 12, 2024), available at <https://www.oversight.gov/reports/audit/alert-memorandum-urgent-concerns-miner-safety-and-health-least-three-us-territories-1>.