



U.S. OFFICE OF SPECIAL COUNSEL
1730 M Street, N.W., Suite 300
Washington, D.C. 20036-4505

The Special Counsel

September 2, 2025

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

Re: OSC File Nos. DI-24-000838 and DI-24-000870

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), Arlington, Virginia.¹ The whistleblowers chose to remain confidential. OSC has reviewed the disclosure, agency reports, and whistleblower comments, and, in accordance with 5 U.S.C. § 1213(e), I have determined that the reports contain the information required by statute and the findings appear reasonable. However, it remains unclear whether DOL's actions with regard to discipline are satisfactory. The following is a summary of the allegations, the agency findings, and the whistleblower comments in response.

Confidential Whistleblower 1 disclosed that the continuous personal dust monitors (CPDMs),² which all coal miners are required to wear, are unsafe and that the agency has failed to properly investigate the safety issues associated with CPDMs, including a fire that took place on August 27, 2021. Confidential Whistleblowers 1 and 2 disclosed that MSHA's Deputy Assistant Secretary Patricia Silvey owns stock in Thermo Fisher Scientific (Thermo Fisher), the sole manufacturer of CPDMs, that she led the 2014 MSHA rulemaking effort that resulted in the requirement that coal miners use CPDMs, and that she provided access to Thermo Fisher representatives beyond that provided to other vendors.

The agency's investigation substantiated that Ms. Silvey owns stock in Thermo Fisher. The investigators reviewed Ms. Silvey's Executive Branch Personnel Public Financial

¹ The whistleblower's 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), Office of Special Investigations conducted the investigation. This matter was originally referred pursuant to 5 U.S.C. § 1213(g)(2).

² CPDMs benefit miners because they provide near real time measurements of dust exposure, enabling miners to take immediate action to mitigate risks and comply with regulations.

Disclosure Reports (OGE Form 278e) from 2020 through 2023, which all reflected that she owned stock in Thermo Fisher valued between \$15,001 and \$50,000. The investigators discovered that the DOL Ethics Office issued Ms. Silvey a standard advisory letter dated November 29, 2023, stating they had “identified assets or interests owned by you and/or your spouse, or dependent child that may create potential conflicts of interest for you.” Despite this notice, Ms. Silvey did not respond to this letter or otherwise recuse herself from matters affecting Thermo Fisher. Indeed, Ms. Silvey did not request any ethics guidance related to her stock ownership in Thermo Fisher until she was notified of OSC’s referral and received a congressional inquiry in 2024. Subsequently, on April 12, 2024, Ms. Silvey submitted a letter of recusal in matters affecting Thermo Fisher.

DOL detailed Ms. Silvey to a position outside of MSHA while it conducted a review of allegations related to her stock ownership along with other pending matters. At the conclusion of its review, and in lieu of initiating any personnel actions, DOL entered into a settlement agreement with Ms. Silvey whereby she will retire from DOL by the end of 2025. DOL did not provide any further information regarding the settlement agreement or its terms. I note that early retirement in lieu of any personnel actions by the agency appears to be a generous outcome given the findings of the investigation.

The reports did not find that the use of CPDMs poses a safety hazard to miners. In particular, the reports detailed the agency’s internal investigation into the August 27, 2021 fire, which determined that the flame ignited in the battery pack of the CPDM. The reports explained that when a piece of equipment catches on fire, MSHA is often not able to determine the cause because critical evidence is burned and therefore destroyed. Here, the investigation found that: (i) the data downloaded from the subject CPDM showed no alarms or indicators of a malfunction leading up to the fire; (ii) the subject CPDM did not show any unusual trends or irregularities when compared to other CPDMs; (iii) the fire at issue did not meet MSHA’s definition of an accident; and (iv) there was no evidence of similar fires or other occurrences with the CPDM. Based on these findings, MSHA did not determine that CPDMs pose a hazard to miners or should be considered unsafe and did not substantiate this allegation.

Confidential Whistleblower 1 did not comment on the reports. Confidential Whistleblower 2 is concerned by Ms. Silvey’s failure to exercise a high degree of ethical care as the highest career official at MSHA. Confidential Whistleblower 2 further expressed disappointment that the reports did not discuss any concrete disciplinary action taken against Ms. Silvey after substantiation of the allegation that her ownership of Thermo Fisher is unethical given her position.

I thank the whistleblowers for bringing these allegations to OSC. 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 Chairmen and Ranking Members of the Senate Committee on Energy and

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Natural Resources, the House Committee on Energy and Commerce, and the House Committee on Natural Resources. OSC has also filed redacted copies of these documents and the redacted referral letter in OSC's public file, which is available online at www.osc.gov. This matter is now closed.

Respectfully,

A handwritten signature in dark ink that reads "Charles M. Baldis". The signature is written in a cursive style with a large, stylized "C" and "B".

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

Enclosures