



U.S. OFFICE OF SPECIAL COUNSEL

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

The Special Counsel

July 30, 2013

The President
The White House
Washington, D.C. 20500

Re: OSC File No. DI-12-1820

Dear Mr. President:

Pursuant to 5 U.S.C. § 1213(e)(3), enclosed please find an agency report based on a disclosure made by a whistleblower formerly employed at the Department of the Interior (DOI), U.S. Geological Survey (USGS), Central Energy Resources Science Center (Center), Denver, Colorado, alleging that employees engaged in conduct that may constitute violations of law, rule, or regulation. Sheri L. Mills, who consented to the release of her name, was an Administrative Technician at the Center. Ms. Mills disclosed that her former supervisor, Administrative Officer Nancy Williams, improperly required Ms. Mills to access the USGS Quicktime system using Ms. Williams' username and password to certify employees' time and attendance from 2006 through 2012, in violation of USGS rules.

DOI substantiated Ms. Mills' allegations. As a result, the Center immediately changed its timekeeping procedures and established a new timekeeping policy. In addition, the Center employees responsible for accessing the Quicktime system received training on their roles and responsibilities and administrative action was taken regarding a Center employee who was involved in the wrongdoing. I have determined that the report contains all of the information required by statute and that the findings of the agency head appear reasonable.

Ms. Mills' allegations were referred to the Honorable Kenneth L. Salazar, then-Secretary of DOI, to conduct an investigation pursuant to 5 U.S.C. § 1213(c) and (d). The investigation of the matter was delegated to USGS. On January 25, 2013, the Secretary submitted the agency report to this office. On March 26, 2013, Ms. Mills provided comments on the report pursuant to 5 U.S.C. § 1213(e)(1). As required by law, 5 U.S.C. § 1213(e)(3), I am now transmitting the report and Ms. Mills' comments to you.¹

¹ The 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 and safety. 5 U.S.C. § 1213(a) and (b). OSC does not have the authority to investigate a whistleblower's disclosure; rather, if the Special Counsel determines that there is a substantial likelihood that one of the aforementioned conditions exists, she is required to advise the appropriate agency head of her determination, and the agency head is required to conduct an investigation of the allegations and submit a written report. 5 U.S.C. § 1213(c) and (g).

In its investigation, USGS substantiated Ms. Mills' allegation and concluded that employees failed to maintain proper control over the use of Ms. Williams' Quicktime username and password, which violated USGS Manual 644.8, Time and Attendance Accounting, Paragraph 6, Responsibilities, Sub-paragraph A(6). This provision states that employees will protect their passwords for automated time and attendance systems to ensure security within the system and prohibits the sharing of user IDs and passwords. In addition, the USGS found that employees did not safeguard the password associated with Ms. Williams' username, which was a violation of USGS Manual 644.8, Time and Attendance Accounting, Paragraph 6, Responsibilities. USGS employees also violated agency rules that require data to be protected against unauthorized disclosure and that computer users ensure that passwords are held in strict confidence and properly safeguarded from unauthorized access and use. See USGS Manual 600.5, Information Systems Security – General Requirements, Paragraph 4, Policy, and Paragraph 6, Responsibilities. Violations of the regulations and policies shall result in appropriate administrative, disciplinary or legal action against the violators. *Id* at Paragraph 4.

As a result of the investigation, the Center changed its timekeeping procedures and terminated the practice of timekeepers serving as both the validating official/timekeeper and certifying official. A new time and attendance policy was established in accordance with USGS Manual 344.8, to reflect this change. Pursuant to the manual, employees are required to enter their own time and attendance into the Quicktime system. Timekeepers act as validating officials and supervisors act as certifying officials. In addition, Ms. Williams created a new password and was directed not to share that password with anyone else. Furthermore, all Center employees received in person, hands-on training on the Quicktime system. Timekeepers and Certifiers were also provided training on their roles and responsibilities. The training was completed and all employees were operating under the new procedure as of April 6, 2013.

Dr. Randall Updike, Regional Director of the Southwest Region, determined that a verbal counseling was the appropriate administrative action to address the involvement of Christopher Potter, Supervisory Geologist/Team Chief Scientist and Center Director, in this situation.² Mr. Potter was counseled on May 15, 2013 in conjunction with his performance progress review. Ms. Williams retired effective December 31, 2012, prior to the issuance of the agency's report. Therefore, no administrative action was taken against her.

In her comments, Ms. Mills expressed her belief that Mr. Potter and Ms. Williams were disingenuous in their responses. In particular, Ms. Mills asserted that there were occasions when Mr. Potter and Ms. Williams stated that they "did not know" or "remember" in response to

Upon receipt, the Special Counsel reviews the agency report to determine whether it contains all of the information required by statute and that the findings of the head of the agency appear to be reasonable. 5 U.S.C. § 1213(e)(2). The Special Counsel will determine that the agency's investigative findings and conclusions appear reasonable if they are credible, consistent, and complete based upon the facts in the disclosure, the agency report, and the comments offered by the whistleblower under 5 U.S.C. § 1213(e)(1).

² Mr. Potter was the first-line supervisor for Ms. Williams and the second-line supervisor for Ms. Mills.

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questions in order to avoid being found culpable. Furthermore, Ms. Mills asserted that Mr. Potter made a number of errors concerning the dates on which she met with him and the topics that were discussed. She also maintained that these violations and the poor work environment at the office could have been avoided if they had promptly and appropriately responded to her concerns.

I have reviewed the original disclosure, the agency report, and Ms. Mills' comments. Based on that review, I have determined that the agency report contains all of the information required by statute and that the findings of the agency head appear reasonable.

As required by 5 U.S.C. § 1213(e)(3), I have sent copies of the unredacted report and Ms. Mills' comments to the Chairman and Ranking Member of the Senate Committee on Energy and Natural Resources and the Chairman and Ranking Member of the House Committee on Natural Resources. I have also filed a copy of the redacted report and Ms. Mills' comments in our public file, which is now available online at www.osc.gov. The redacted report identifies DOI employees, other than Ms. Mills and Ms. Williams, and other individuals by title.³ OSC has now closed this file.

Respectfully,



Carolyn N. Lerner

Enclosures

³ DOI provided OSC with a redacted report, which substituted titles for the names of DOI employees and other individuals referenced therein. DOI cited the Freedom of Information Act (FOIA) (5 U.S.C. § 552) as the basis for these revisions to the report produced in response to 5 U.S.C. § 1213. OSC objects to DOI's use of FOIA to remove the names of these individuals on the basis that the application of FOIA in this manner is overly broad.