

STATEMENT OF DIRK KEMPTHORNE
SECRETARY
U.S. DEPARTMENT OF THE INTERIOR
BEFORE THE COMMITTEE ON NATURAL RESOURCES
U.S. HOUSE OF REPRESENTATIVES
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Mr. Chairman and Members of the Committee, let me begin by saying that I deeply regret the reason for this hearing. I find the conduct of the small group of long-term career employees described in the reports issued by the Inspector General's Office inexcusable. I am outraged that the public's trust, an important and necessary part of public service, has been abused. I am outraged that the ethics laws and regulations applicable to Department of the Interior personnel have been violated. I am dismayed that these activities could negatively reflect on the vast numbers of outstanding public servants that work in both the MMS and the Department. I know that Assistant Secretary Steve Allred and MMS Director Randall Luthi, both of whom are here with me today, share these feelings.

Background

When I accepted the President's nomination to be the Secretary of the Interior, I made clear during both my confirmation hearing in May 2006 and my first days at Interior that I expect the employees at the Department to conduct themselves in accordance with the highest standards of ethical behavior. You can, therefore, appreciate my disgust when I read the three reports released by the Department's Inspector General, Earl Devaney.

The first focused on three employees in the Minerals Revenue Management (MRM) Division of MMS who were found to have circumvented the laws regarding conflicts of interest, post-employment restrictions, and Federal acquisition requirements. All three of these 20-year employees have left government service; two have pled guilty to charges brought by the Department of Justice as a result of this investigation and await sentencing.

The second report focused on the inappropriate and inexcusable behavior of one employee, the head of the MMS's Royalty-in-Kind (RIK) Program. The details of this report are profoundly disturbing. This employee left government service prior to completion of the Inspector General's investigation.

The third report focuses on the improprieties of some employees in the RIK Program between January 2002 and July 2006. Within hours of being informed by the Inspector General of specific names and his preliminary findings in December 2006, the decision was made to transfer a number of these employees out of the RIK Program.

Immediate and Long-Term Actions

In the memo conveying the reports, the Inspector General affirmed my frustration with the length of time it has taken to receive these investigative reports. I have regular meetings with the Inspector General. At these meetings over the last 2 years we have discussed the necessity of awaiting completion of these reports before taking any disciplinary actions.

The Inspector General has assured me that he believes the behavior described in these reports no longer exists in these programs.

When I received the reports, I took immediate action. Within hours of receiving the Inspector General's final reports, Assistant Secretary Allred and Director Luthi initiated procedures to determine appropriate disciplinary action.

We will follow the letter of the law. All employees are long-term career employees and must be afforded due process. I can assure the Committee that this process will be completed as swiftly as possible, and we will examine the full spectrum of disciplinary actions, including termination.

I have an outstanding leadership team, including those responsible for Land and Minerals Management. Steve Allred, the Assistant Secretary, was confirmed on September 30, 2006. Randall Luthi, the MMS Director, was appointed on July 23, 2007. On January 20, 2008, a new RIK program manager was appointed. In June 2008, Director Luthi chose a new Associate Director for the Minerals Revenue Management Program, under which the Royalty in Kind program is located. This individual came from outside the Minerals Revenue Management program.

Though these particular problems occurred in the past, I have also decided that the Department should expand its Ethics Office by placing an Attorney-Adviser in Denver, Colorado. This Attorney-Adviser will provide oversight and technical assistance to the Ethics Counselors of the Department's bureaus to ensure that each of the bureaus' ethics programs is in compliance with all applicable ethics laws, executive orders, and regulations. Given the extensive Departmental presence in the Denver area and the Rocky Mountain Region, this individual will provide invaluable ethics support and program oversight.

The Inspector General recommended four actions. We are undertaking all four actions. We have initiated appropriate administrative corrective actions. We have enhanced our ethics program and oversight capacity in Denver where the RIK Program operates. We are crafting a code of conduct. We have implemented organizational changes.

The Inspector General pointed out that the reporting hierarchy of the RIK Program bypassed the Deputy Associate Director in Denver where the program is located. Instead, the RIK Program management reported directly to the Associate Director for MRM in Washington, D.C., 1500 miles away. MMS Director Luthi has changed this reporting structure.

Affirming a Culture of Conscience

I am committed to an ethical culture at the Department. I hope that the Inspector General would agree that we have undertaken efforts to promote a culture of conscience throughout the Department. In fact, at my first all-employee meeting on the second day of my tenure, I emphasized ethics compliance. I appointed a new Designated Agency Ethics Official, Melinda Loftin, who has decades of experience in government ethics. I also expanded the Department's trained ethics staff and initiated implementation of a set of best practices, compiled by the Office of Government Ethics at my request.

In 2007 I was invited by Inspector General Devaney to address all of the Inspectors General at their annual meeting. I was also invited by Ric Cusick, Director of the Office of Government Ethics, to address 600 Federal Ethics Officers at their annual meeting that same year.

Through these actions, we are affirming a culture of conscience. We developed a DVD where I discuss ethics standards at the workplace. We have published an ethics guide for new employees. Just last week, the Office of Government Ethics recognized this new guide by awarding the Department a 2008 Education and Communication Award. The award recognized that the Department demonstrated “a strong commitment to ethics education and communication; created a stronger ethical culture as a result of these efforts; and utilized model practices to encourage understanding and awareness of ethical behaviors.”

The Department’s Deputy Secretary, Lynn Scarlett, working with a team of Interior employees, developed our core values statement, “Stewardship for America with Integrity and Excellence,” which we place on name badges, published materials, and our website. Because we are all only human, our efforts can’t guarantee that everyone is immune from activities like those under discussion. But we have set a standard of excellence. My entire leadership team embraces this standard. I will tell you that the vast majority of the Department’s workers are excellent employees.

In March 2007, I appointed a new, independent subcommittee of the Royalty Policy Committee, the Subcommittee on Royalty Management, charging it to conduct a full and candid assessment of the Department’s mineral revenue management system. This seven-member panel was co-chaired by former U.S. Senators Bob Kerrey and Jake Garn, and some very talented and knowledgeable people worked with them. I asked Senators Garn and Kerrey to look at everything. They were given a free hand to scrutinize all key processes, from production

accountability and royalty collections to audits, compliance and enforcement. All issues were on the table for consideration.

In January 2008, Senators Kerrey and Garn gave me their report, which states that “[t]he Subcommittee members unanimously agree that MMS is the Federal agency best suited to fulfill the stewardship responsibilities for Federal and Indian leases. This includes the RIK Program, which has grown under MMS’s management from a small pilot to a major component of the royalty management program.” The report also identified a number of needed improvements to the program. We have begun implementation of many recommendations provided by the Subcommittee.

Program and Personnel Value

Though my entire leadership team and I are offended by the misconduct of these employees, the issue arises whether their actions should call into question the merits of the entire RIK Program. Several studies of the RIK Program indicate it is a valuable tool that can result in increased revenue, reduced administrative costs for MMS, reduced incidence of valuation disagreements, and earlier receipt of royalty revenues.

Moreover, MMS overall has consistently received a clean audit opinion from the Inspector General’s contracted independent auditing firm as part of its Chief Financial Officers audit. In 2005, an independent CPA firm issued MRM a clean opinion regarding MRM audit functions, with no material weaknesses and no reportable conditions. In fact, just two weeks ago, we were informed that MMS will once again receive a clean audit opinion for audits from 2005 through

May 31, 2008. Assistant Secretary Allred and Director Luthi can provide further facts and answer any questions that you may have on the various audits and reviews that MMS has completed.

Finally, Mr. Chairman, let me say something about the good that MMS employees are doing. With back-to-back hurricanes this season, members of an expanded MMS Hurricane Response Team have worked non-stop since late August. Some of these individuals have lost or received major damage to their homes; many left their families and homes in New Orleans, reporting to work in Houston in order to assist in restoring oil and gas production.

I cannot help but feel a great sense of irony these past few days as we have been dealing with the preparation for and impacts of the hurricanes in the Gulf of Mexico. One hour I am discussing huge storms, acts of nature, passing through the Gulf and the heroic efforts by MMS, including meeting environmental and safety standards, to deal with these storms. The next hour, I'm discussing an ethics storm, the result of ethics failures by a handful of employees. Both of these storms demand our attention. One shows the good that agency staff can do; one does not. I know, as I am sure you do, Mr. Chairman, that the actions of those discussed in these reports are not indicative of the quality of employees within the MMS or the Department of the Interior as a whole. The vast majority of MMS employees are at their duty stations doing excellent work every working hour of every day. They deserve our commendation.

Conclusion

I am committed to ensuring that the Department's employees carry out their activities with the utmost integrity. As the Inspector General states in his reports, "99.9 percent of DOI employees are hard-working, ethical and well-intentioned." I share that view and trust that the actions of these few do not serve to tarnish the hard work by the vast majority of our employees and the ethical and diligent way in which they carry out their work. The abuse of the public trust in this instance is tragic. I assure you that we are taking swift and appropriate actions to restore this important trust.

Mr. Chairman, this concludes my statement.