



# United States Department of the Interior

OFFICE OF THE SECRETARY  
Washington, D.C. 20240

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Memorandum

To: Kevin Wilson, Attorney  
Office of Special Counsel, Disclosure Unit

From: George T. Skibine  
Acting Principal Deputy Assistant Secretary – Indian Affairs

Subject: Office Special Counsel (OSC) File No. DI-09-0597

2009 SEP -2 AM 10:24

This memorandum is in response to your request for additional information regarding the subject OSC case pertaining to Bureau of Indian Affairs' Mescalero Agency. The whistleblower's information forwarded to your office that Mr. Walker, Bureau of Indian Affairs, Southwest Regional Director announced that Mr. Kirgan would be returning to the Mescalero Agency in early August 2009 in a supervisory capacity is partially incorrect. Mr. Walker has transferred Mr. Kirgan back to Mescalero Agency, Forestry Division, but to a lower graded non-supervisory position in the Timber Sales section. The position was changed to a non-supervisory position to ensure that none of the employees who were affected by the prior incident would be under his supervision. Mr. Kirgan's transfer was granted based on his request for a compassionate reassignment back to the Mescalero Agency in June 2009 after the death of his father. The tribal council also passed a resolution based on a request from Mr. Kirgan's mother, requesting his reassignment so he could provide assistance to her. Mrs. Kirgan lost her mother, a daughter, and her husband in the last year. She also is not in good health.

It is true that original response to the subject OSC referral stated that Mr. Walker lost confidence in Mr. Kirgan's ability to manage at the Mescalero Agency and that a large part of Mr. Kirgan's ineffectiveness was caused by external pressures from the Mescalero Tribe. It is also true that Mr. Kirgan's uncle, Carleton Naiche-Palmer, is the President of the Mescalero Apache Tribe and his father and cousin were tribal council members. However, BIA has mitigated these prior issues by 1) reducing Mr. Kirgan in grade; 2) placing him in a non-supervisory position that will not require him to make any decision concerning the tribe and/or supervise other employees; and 3) reassigning him to a new position where he no longer will deal with the fire management issues that were the subject of the complaint and investigations. Also, Mr. Kirgan's father and cousin are no longer tribal council members, as they were defeated in their reelection attempts as council members and his father has since passed away.

In summary, Mr. Kirgan's reinstatement was neither a quid pro quo deal nor a response to any threats or other promises. The decision was based on the fact that Mr. Kirgan's mother

had suffered the loss of three family members and wanted her son close to her to assist her with her health. It was the right thing to do and the compassionate thing to do, particularly following the mitigation that BIA employed. If you have any further questions or needs additional information, please contact me at (202) 208-7163.