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# United States Senate

COMMITTEE ON  
ENERGY AND NATURAL RESOURCES

WASHINGTON, DC 20510-6150

ENERGY.SENATE.GOV

April 19, 2007

Inspector General Earl E. Devaney  
U.S. Interior Department  
1849 C St. NW  
Washington, D.C. 20240

Dear Inspector General Devaney:

As you know, the Senate Energy and Natural Resources Committee is responsible for oversight of mineral leasing activities on public lands, as well as the agencies responsible for regulating these activities. As such, we have appreciated your efforts to date to examine issues at the Department of Interior related to administration of federal royalty collection programs. We write to request that you include in your continuing investigation of these matters a review of the adequacy of the Department's existing conflict of interest rules as they pertain to the Minerals Management Service (MMS), as well as an assessment of their implementation at MMS.

We were disturbed to recently learn of an instance in which MMS employees appear to operate their own private firm, focused on consulting for the minerals industry—even as their government duties may include assisting in the collection of federal royalties. In particular, we are aware of a recently-deactivated website that describes “a privately owned and operated company who’s [sic] purpose is to supply the minerals industry with expertise in mineral resource assessment, financial and economic analysis, mineral database design, and data collection techniques.” The site lists as company employees individuals who appear to simultaneously hold jobs at MMS, and engage in other consulting business within the industry.

We are aware that Executive Branch ethics laws (5 U.S.C. 2635, subpart H; 43 U.S.C. 31(a)) and MMS's own conflict of interest policy (MMS Service Manual 370.735) provide some opportunity for outside employment for Interior Department personnel. But at the same time, we are aware of numerous reports from your office in recent years that have detailed serious flaws in the design and implementation of the Department of Interior's ethics program, and “an unfortunate culture of inequity and ineffectiveness” widely perceived by career employees. We take seriously your observation, repeated in recent Congressional testimony, that when it comes to conflicts of interest, “mere appearances..will erode the public trust. Once eroded, that trust is difficult--if not impossible—to win back.”

We are pleased that Secretary Kempthorne has assured this Committee of his intention to create a culture of accountability at the Department, and last fall appointed a new Designated Agency Ethics Official as part of this effort. However positive these steps, they are nevertheless taking place against the tarnish of recent controversies involving high-level Interior officials, ongoing investigations, whistleblower lawsuits, and the long pattern of IG recommendations for reform that have previously been ignored. As such, we believe a review of MMS' implementation of conflict of interest rules would assist us in measuring the Department's progress.


In particular, we request that you include the following matters in your office's ongoing review of MMS:

- A determination of the facts behind the particular instance in which it appears some MMS employees have entered into arrangements with industry through a private consulting firm advertised via the Internet (relevant web pages enclosed). Were these arrangements approved by the Department under existing ethics rules? If so, did the Department properly consider the potential appearance of any conflicts of interest?
- How prevalent are arrangements in which MMS employees hold jobs outside federal service, within the oil, gas or mining industries? Are these arrangements made at a rate comparable to other branches of the Department of Interior? Are existing ethics rules implemented in a manner sufficient to curb any appearances of conflict at MMS? Within the Department of Interior in general?
- In a 2004 report of investigation [PI-SI-02-0053-I], the OIG articulated a number of recommendations for improving the functions of the Interior Office of Ethics, and implementation of its recusal policy in cases of conflict of interest. Please assess whether any improvements made at the Departmental level subsequent to that report are evident in MMS's implementation of its own ethics and conflict of interest rules.

Again, we appreciate the work of you and your staff to date, in overseeing matters at the Department of Interior. Thank you for your assistance. If you have any questions, please call Angela Becker-Dippmann on the Energy Committee staff at (202) 224-5269, or John Cheves in the Wyden office at (202) 224-1119.

Sincerely,

  
Jeff Bingaman  
Chairman

  
Ron Wyden  
Chairman  
Subcommittee on Public  
Lands and Forests