



United States Department of the Interior

BUREAU OF OCEAN ENERGY MANAGEMENT
WASHINGTON, DC 20240-0001

SEP 27 2012

Memorandum

To: Charles W. Monnett, Ph.D.
Wildlife Biologist

From: Walter D. Cruickshank
Deputy Director

Subject: Reprimand

This is to officially reprimand you for improper release of Government documents. Details are provided below. This reprimand is issued in accordance with Part 370 of Departmental Manual Chapter 752. A copy will be filed in your electronic official personnel folder (eOPF) for 2 years. If you do not commit another act of misconduct during the 2-year period, this reprimand will be removed from your eOPF and destroyed. However, if you commit another act of misconduct during this period, this reprimand may be used to enhance the penalty for the subsequent misconduct. This reprimand may be removed from your eOPF earlier than the 2-year period if I determine that your improved conduct warrants such an action.

Background

On June 26, 2012, the Office of the Inspector General transmitted to BOEM its Report of Investigation (Report of Investigation – Charles Monnett, Case No. OI-CA-10-036-1; hereinafter referred to as OIG Report) concerning allegations against you, with direction to take appropriate action. The OIG Report contained findings that you made improper disclosures of internal, deliberative government documents to a non-government entity. While there were other findings made by the OIG in its report regarding your conduct, I have decided not to take action regarding those findings.

Charge: Improper release of government documents

Specification 1: February 8, 2007. Improper Release of Government Email

On February 8, 2007, you made an improper release of a government document. You forwarded a government email message with the subject, "Shell EP EA Review," to Robert Suydam with the Department of Wildlife Management, North Slope Borough (a unit of local government in Alaska). The original email message, with the subject "Shell EP EA Review," was dated February 7, 2007, from you to Warren Horowitz (a bureau employee) and contained your comments on the agency's environmental document regarding Shell Offshore, Inc.'s exploration plan for leases the company held in the

Beaufort Sea. You sent this email prior to the agency decision on the plan. Further, the North Slope Borough received your email message prior to providing its comments on the exploration plan to the agency and prior to the Borough filing litigation in May 2007 against the Department of the Interior on the exploration plan.

Specification 2: April 5, 2007, Improper Release of Internal Weekly Report

On April 5, 2007, you made an improper release of an internal government document. You forwarded an email message with the subject, "Weekly report," to Robert Suydam of the North Slope Borough and to Rick Steiner, who at the time was a professor at the University of Alaska and has since served on the Board of Public Employees for Environmental Responsibility (PEER). The email included the "Leasing and Environment Weekly Report, Prepared April 4, 2007."

Specification 3: January 4, 2008, Improper Release of Government Email

On January 4, 2008, you made an improper release of a government document. You forwarded a government email message to Rick Steiner at the University of Alaska. The email message, with the subject line of "Sale 202 Fish and Polar Bear effects sections," was dated July 12, 2006, and sent from Jeff Childs to James Wilder, both of whom were bureau employees at the time. The email message discussed bureau management officials' edits of Mr. Child's oil spill assessments and significance thresholds for the Beaufort Sea Lease Sale 202 Environmental Assessment. At the time you released this document the agency was in litigation with environmental organizations concerning that lease sale.

Specification 4: January 15, 2008, Improper Release of Government Email

On January 15, 2008, you made an improper release of a government document. You forwarded a government email message to Rick Steiner at the University of Alaska. The subject email message contained a string of messages between bureau employees, including one from Paul Stang, the MMS Alaska Regional Supervisor for Leasing and Environment, to Jeff Walker, the MMS Alaska Regional Supervisor for Field Operations, on July 26, 2004, regarding internal communication/procedural disputes surrounding the potential Liberty II project in the Beaufort Sea in relation to the Endangered Species Act and Essential Fish Habitat.

Specification 5: January 31, 2008, Improper Release of Government Email

On January 31, 2008, you made an improper release of a government document to Rick Steiner at the University of Alaska. The subject email message was dated January 31, 2008, sent to all employees of the Minerals Management Service, Alaska OCS Region from Jeffery Loman, Deputy Regional Director, regarding discussing the PEER press releases and associated email messages with anyone outside the organization. On February 4, 2008, PEER posted the directive on their website. The bureau's Information Technology (IT) staff was contacted by Jeffery Loman to

determine who in the agency released the email message outside the agency. The IT staff was able to determine that you released the email message. Mr. Loman's email message was sent on Thursday, January 31, 2008, at 10:49 a.m. and you released it to Rick Steiner on January 31, 2008, at 12:12 p.m.

According to the OIG report, the Solicitor's Office determined that you released deliberative and pre-decisional e-mails that were exempt from release under the Freedom of Information Act, leading that office to send a letter to PEER requesting that it stop the improper release and publication of the e-mails and return them to the agency. These emails, in part, were cited by the U.S Court of Appeals for the Ninth Circuit in making decisions to vacate BOEM's approval of the Shell exploration plan.¹

In determining the penalty to impose, I have taken into consideration several factors. First, I consider your misconduct very serious. You released pre-decisional documents that were used by plaintiffs in litigation against the Department and that were referenced in the court decision. At the time of that you engaged in this misconduct, you used your prominent government position in the Environmental Sciences section of the Alaska Region, as a senior scientist entrusted with managing tens of millions of dollars worth of contracts and having significant contact with the public and the scientific community, to gain access to internal agency emails which you then forwarded to outside parties some of which ended up being used in litigation against the government. You were on notice that this conduct was inappropriate as all employees are required to take annual training that specifies employee responsibilities for safeguarding government information². In fact, at least one of the emails which you forwarded to outside parties contained explicit instruction from a supervisor not to share the email. Accordingly, you were well aware that your actions were inappropriate. I believe that a reprimand for this misconduct is consistent with the Department's Table of Penalties.

After considering the foregoing, I have determined that a reprimand is the appropriate penalty to impose to impress upon you the seriousness of your misconduct and to put you on notice that such conduct will not be tolerated or condoned. You should be aware that any further misconduct on your part may lead to more severe discipline up to and including removal from federal service.

Your Rights

You may file either an informal or a formal grievance regarding this reprimand in accordance with the Administrative Grievance Procedure, Part 370 Departmental Manual 771 (370 DM 771), dated September 5, 2007. Your grievance, if you file one, must be filed within fifteen (15) calendar days of the date you receive this reprimand. The 370 DM 771 can be found at http://elips.doi.gov/app_dm/index.cfm?fuseaction=home

If you file an informal grievance, a copy must be provided to Diane Smith, Senior Employee Relations Advisor, at the Bureau of Safety and Environmental Enforcement

¹ *Alaska Wilderness League, et al v. Kempthorne, et al*, No.07-72183, Opinion, (Ninth Cir., Nov. 20, 2008)

² Federal Information Systems Security Awareness, and Privacy and Records Management Training

(BSEE), Human Resources Division, 381 Elden Street, Mail Stop 2400, Herndon, Virginia 20170-4817. If you file a formal grievance the Administrative Grievance Form (DI 7600) must be directed to the specialist named above. If you have any question about the grievance procedure, you can contact Ms. Smith at 703-787-1453.

Employee Assistance Program

This agency has available for all employees' use an Employee Assistance Program (EAP), EAP Consultants, Inc. The EAP is available to assist employees with personal problems that may be contributing factors when conduct or performance problems arise. This program can provide you with confidential counseling and assistance for a wide variety of everyday problems. You can reach the EAP program 24 hours a day, seven days a week, by calling 1-800-869-0276, or securely request services directly at their website www.eapconsultants.com (use password interioreap). If you choose to take advantage of this program, you may initially do so on official time if you are otherwise in a duty status, subject to appropriate supervisory notification and approval. If you prefer, you may also use approved leave to visit the EAP.

If you have any questions about the procedures applicable to this action, you may contact Ms. Smith at 703-787-1453.

Please sign your name and date below to acknowledge receipt of this memorandum. Signing does not constitute agreement with the contents.

Charles Nounet 28 Sept 2012