



**Office of Inspector General  
Office of Investigations  
U.S. Department of the Interior  
Investigative Activity Report**



<b>Case Title</b> <b>HUBBELL TRADING POST</b>	<b>Case Number</b> <b>PI-PI-07-0054-I</b>
<b>Case Location</b> <b>Ganado, Arizona</b>	<b>Related File(s)</b> <b>Report Date</b> <b>December 8, 2006</b>
<b>Report Subject</b> <b>CASE INITIATION REPORT</b>	

**BASIS OF INVESTIGATION**

This case was initially investigated by the National Park Service (NPS). A May 2004 affidavit for search warrant on the residence of Bill Malone, Manager, Hubbell Trading Post, Ganado, AZ, prepared and submitted by NPS Special Agent (SA) Clyde Yee may have contained erroneous and false information. Other allegations include the reluctance of SA Yee to pursue leads in witness interviews that may have disclosed exculpatory evidence prior to the execution of the search warrant, problems with the chain of custody regarding evidence seized during the warrant, and the conduct of the agents prior to, and during the execution of the search warrant i.e. the rough treatment of witnesses in the Navajo community and removing items from the Malone residence that had not been identified in the search warrant affidavit.

Also, on or about October 24, 2006, National Park Service (NPS) Special Agent (SA) Paul Berkowitz filed a Whistleblower Complaint with respect to NPS' investigation of the Hubbell Trading Post (HTP) in Ganado, Arizona and Bill Malone, the trader for HTP, as the target of that investigation. SA Berkowitz was assigned the HTP/Malone investigation in late 2005 and through the course of his investigation has found potential false statements by investigative agents, improper search and seizure and handling of evidence and undue influence by NPS management and affiliated organizations in a criminal investigation. The focus of this investigation is to examine the investigative agents' conduct, the partnership with a non-law enforcement entity, any pressure to reach a predetermined conclusion by the Regional Director, and NPS management oversight.

**AFFECTED DOI PROGRAM(S)**

National Park Service and Western National Parks Association (WNPA)

**POSSIBLE SUBJECT(S)**

Clyde Yee, NPS Special Agent  
Senior NPS Management:  
Steve Martin, Deputy Director  
Mike Snyder, Regional Director

<b>Reporting Official/Title</b> <b>Paul D. Okerberg, Special Agent</b>	<b>Signature</b>
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**Distribution:** Original - Case File Copy - SAC/SIU Office Copy - HQ Other:

Western National Parks Association  
Jim Babbitt, Chairman – Board of Directors

**POTENTIAL STATUTES VIOLATED**

18 USC 1001/ False Statements

**RELATED INVESTIGATION(S)**

07-IA-003

**INITIAL INVESTIGATIVE PLAN**

1. Initial meeting with NPS SA Paul Berkowitz.
2. Meet with assigned AUSA in Phoenix on case status.
3. Review NPS official case file, evidence and chain of custody in Lakewood, Colorado.
4. Review DOI-OIG's case and meet with Central Region SAC/ASAC.
5. Conduct interviews and review evidence held in Santa Fe, NM.
6. Site visit/interviews/photos at Hubbell Trading Post.
7. Interview Bill Malone, Gallup, NM.
8. Travel to Tucson for interviews at WNPA ( [REDACTED] Chairman Babbitt, staff)
9. Interview NPS case agent, assisting agents (including DOI-OIG) and NPS supervisors
10. Interviews of IMR Director Mike Snyder, Deputy Director Steve Martin, etc.
11. Prepare appropriate management advisories addressing systemic problems or legal issues.
12. Present investigative findings to U.S. Attorney for potential prosecution.
13. Prepare closing report of investigation.
14. Conduct exit conference with appropriate NPS and Departmental management.

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All redactions are 5 U.S.C. §§ (b)(6) and (b)(7)(C) unless marked otherwise

Megan  
Wallace/WDC/OIG/DOI  
05/11/2011 03:37 PM

To Sandra Evans/WDC/OIG/DOI@OIG  
cc  
bcc  
Subject Fw: Status on Hubbell Trading Post

Keyword Search Hubbell Trading Post

--- Forwarded by Megan Wallace/WDC/OIG/DOI on 05/11/2011 03:36 PM ---



Paul Okerberg/ARL/OIG/DOI  
02/27/2007 01:05 PM

To Earl Devaney/WDC/OIG/DOI@OIG, Stephen  
Hardgrove/WDC/OIG/DOI@OIG  
cc John Dupuy/WDC/OIG/DOI@OIG, Alan  
Boehm/WDC/OIG/DOI@OIG, Harry  
Humbert/WDC/OIG/DOI@OIG, David  
Bodge/WDC/OIG/DOI@OIG  
Subject Status on Hubbell Trading Post

Attached is a brief summary of HTP and an activity report that provides a chronology of work completed and remaining tasks to do.

In summary, (1) The NPS investigation was a joke - a bad joke since it ruined the reputation of Bill Malone and exposed NPS to potential civil liability.

(2) Allegations of impropriety on SA [REDACTED] have not been substantiated and (3) The cooperative agreement and relationship between NPS and WNPA will be more further revealed when e-mail history requested is received. Thus far it appears WNPA exerted and has considerable influence on NPS and in turn NPS inappropriately on the investigation. It appears WNPA dictates policy to NPS and contract specifics to NPS instead of the other way around.

WNPA has changed some of their prior statements, retained an attorney and made it clear that all of their contact was primarily with the NPS case agent, Clyde Yee and not with the NPS Intermountain regional directorate as previously stated. WNPA also appears ripe for an audit by DOI-OIG based on statements made by their former accounting firm and what was encountered by DOI-OIG Senior Auditor [REDACTED] when [REDACTED] tried to obtain records from WNPA.

Five banker boxes of documents are being reviewed and are yielding: a memo from NPS HQ Supervisor [REDACTED] wanting to put SA Yee in for an award for his outstanding investigative efforts at HTP; NPS establishing a "non-discoverable" file that contained documentation on breaches on chain of custody; contact between NPS and WNPA during the investigation. These boxes and the e-mails should prove to be significant source documents for the future interviews at NPS and WNPA.



Investigative Summary - February 26, 2007.doc February 26, 2007 Briefing - Hubbell Trading Post.doc

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United States Department of the Interior  
OFFICE OF INSPECTOR GENERAL  
Program Integrity Division  
Atlanta Field Office

**HUBBELL TRADING POST INVESTIGATIVE SUMMARY**

The Hubbell Trading Post investigation was initiated to focus on and review three areas:

- (1) Do a complete review on the investigation of Bill Malone by NPS.
- (2) An internal investigation on the conduct of SA [REDACTED]
- (3) Evaluate the relationship and cooperative agreements between NPS and Western National Parks Association (WNPA) and if undue pressure was exerted by either entity to influence a criminal investigation.

**(1) A complete review on the investigation of Bill Malone by NPS law enforcement**

The NPS investigation and oversight by management (or lack thereof) should be a case study for how not to conduct a criminal investigation. A partial list of the investigative procedural problems is listed below:

- The affidavit for the search warrant contained false information – whether it was intentional or sloppy (most likely) will hopefully be determined after interviewing SA Clyde Yee and others at NPS.
- The scope of the warrant was exceeded. The items seized do not fall under the language in the warrant nor does an actual inventory of the seized items corroborate what SA Yee claims. The AUSA [REDACTED] also disagrees with Yee's account.
- The chain of custody and integrity of evidence was initially and continually compromised. SA Yee had WNPA [REDACTED] (the original complainant) drive the seized items to Flagstaff. SA Yee did not account for cash, checks, weapons nor even an item count on the over 8,000 items that were seized. The chain of custody was repeatedly broken during storage at the Western Archeological Conservation Center (WACC) and transfers from site to site throughout the Southwest. There remains missing or unresolved items. Bill Malone was not provided an official inventory for the items seized for over two years.
- Non-law enforcement personnel were utilized and privy to investigative activity. SA Yee solicited and WNPA allowed two [REDACTED] accountants (hired by WNPA) to participate in the 18 hour search at Malone's residence. WNPA was provided regular updates on case activity and NPS regional management directed and facilitated this inappropriate relationship and violation of federal rules of procedure for criminal investigations.

- Failure to initiate or follow any investigative plan. The initial premise of theft of government funds was unsubstantiated from the beginning. A year and a half effort to prove an embezzlement cost several hundred thousand dollars and resulted in a one page summary stating no determination could be made. Essential interviews and background research were not conducted and there was a general indifference to the uniqueness of the Hubbell Trading Post National Historic Site as well as a lack of sensitivity or knowledge of the Navaho community in general. The entire case against Malone was declined for prosecution on January 4, 2007.

**(2) An internal investigation on the conduct of SA [REDACTED]**

Allegations of failure to document exculpatory information, providing false information in interview reports or any other misconduct by SA [REDACTED] has not been substantiated. The principal interview report that was in question was reviewed and SA [REDACTED] clearly denoted in the document that the information was provided to her by NPS SA Yee. A review of the entire DOI-OIG case file revealed no problems with the manner in which SA [REDACTED] assisted NPS with their case.

Neither SA [REDACTED] nor any DOI-OIG agents were present during the execution of the search warrant at Bill Malone's home on June 9, 2004. That search warrant – the false affidavit, exceeding the scope of the warrant and the repeated chain of custody breaches compromised and basically ended the entire investigation from that point forward. NPS requested DOI-OIG assistance after the warrant and SA [REDACTED] was assigned and participated when [REDACTED] other cases and detail to Program Integrity would allow. An interview with SA [REDACTED] is forthcoming.

**(3) Evaluate the relationship and cooperative agreements between NPS and WNPA and if undue pressure was exerted by either entity to influence a criminal investigation.**

The inappropriate relationship between NPS and WNPA is now the focal point of the investigation. The Chairman of WNPA until last month was Jim Babbitt, brother to Bruce Babbitt. Jim Babbitt and Bill Malone, the trader/manager at Hubbell Trading Post (HTP) had a long history of disagreements over the operation of HTP and it is alleged that there was considerable pressure by Babbitt and WNPA for NPS to pursue the investigation of Malone. Babbitt wanted his management style at HTP and his concept was not used by Malone and conflicted with the Congressional mandate that HTP remain a "living" trading post to serve the Navaho community and not just another WNPA book store.

E-mail history has been requested and is currently being downloaded for review on NPS Regional Directors Steve Martin and Mike Snyder, SAC Jim Reilly and SA Clyde Yee. An extensive interview conducted with WNPA [REDACTED] has yielded conflicting statements on the involvement of WNPA and their relationship with NPS. Regional Directors Steve Martin and Mike Snyder solicited WNPA's funding of the criminal investigation (an obvious conflict of interest) and WNPA was allegedly told by NPS their "investment" would entitle WNPA to case progress updates and they could keep the seized items from Malone's residence and sell them later to pay for any investigative costs. The e-mails should reveal more of the true relationship that existed between NPS and WNPA.

Issues and information to date:

- The cooperative agreements between NPS and WNPA, with respect to HTP, provide for only 6.5% of gross profits from the HTP Visitor Center and 6.5% of net profits from Hubbell Trading Post to be available to NPS through an Interpretative Support Account (ISA). NPS has to submit a request for consideration to WNPA for any of those funds to be available to NPS. This agreement, as in many concession agreements managed by NPS, appears to have WNPA controlling the entire agreement, the percentages involved and NPS Intermountain Region was not even keeping up with the ISA balances available to them for the 65 sites WNPA manages.
- WNPA [REDACTED] has stated [REDACTED] approached NPS with suspected forgery and embezzlement at HTP and then was solicited by NPS – to include Regional Director Steve Martin - to pay for a forensic audit and it would be a partnership and investment with NPS in conducting the criminal investigation. [REDACTED] now claims SA Yee is the cause for all of the problems from the investigation and NPS. Earlier statements included Regional Directors Steve Martin and Mike Snyder and what they promised. Jim Babbitt and [REDACTED] also made numerous public statements on the egregiousness of Malone's theft and that he had been stealing from HTP for years based on info received from NPS investigative updates, effectively tarnishing Malone's 40 years as a world-renowned trader.
- [REDACTED] had only been employed (hired by Jim Babbitt) at WNPA about six months and relied on the testimony of three HTP employees (two of which were later fired and one that has had conduct issues with Malone) for the allegations against Malone. WNPA's apparent rush to judgment in terminating Malone, while not criminal and Arizona is an "employ at will" state, mirrored the haphazard and unprofessional manner NPS showed in the criminal investigation.
- WNPA purchased land and built a multi-million dollar building in an affluent part of Tucson, Arizona in 2002. The WNPA headquarters accounting department had a multitude of its own problems and there are allegations that WNPA used Bill Malone and HTP as the source or scapegoat for some of their financial problems. DOI-OIG Auditor [REDACTED] found WNPA to be highly guarded about their records and would not or could not provide some records [REDACTED] requested. The former accounting firm for WNPA verified that WNPA did have a multitude of problems (and not just at HTP but at corporate headquarters) and never corrected lapses in internal controls at HTP even after Malone was terminated, which had been the partial basis for Malone's termination after 23 years of service.



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**PI-07-0054-I - HUBBELL TRADING POST**

**Tasks completed:**

**Week of November 15, 2006:**

Reviewed three notebooks documenting NPS investigation

**Week of November 28, 2006:**

Met with AUSA and NPS SA Paul Berkowitz on November 28, 2006 – Criminal case has been declined against subject, Bill Malone.

Prepared preliminary investigative plan that focuses on examining the agents' conduct (NPS and DOI-OIG), the partnership with a non-law enforcement entity (namely Western National Parks Association), any pressure to reach a predetermined conclusion by the Regional Director, and management oversight by both NPS and NPS Law Enforcement.

**Week of December 11, 2006:**

Traveled to Denver during the week of December 11, 2006 to review NPS case file, evidence room, seized documents, chain of custody and establish preliminary conduct with NPS Regional Director and staff. Extensive amount of documents, analysis and financial records from the search warrants are located at NPS Regional Headquarters in a "war room" dedicated to the Hubbell investigation.

██████████  
██████████ Non-responsive. Pertains to another investigation

**Week of January 8, 2007:**

Travel was conducted to Albuquerque, Santa Fe and Gallup, New Mexico during the week of January 8, 2007. Also, a site inspection of the Hubbell Trading Post and the NPS residence compound in Ganado, Arizona was completed. Investigative activity for the week concluded in Flagstaff with interviews at the U.S. Attorney Office.

On January 4, 2007, the U.S. Attorney's Office, District of Arizona, declined prosecution on Billy Gene Malone, the target of the NPS case on the Hubbell Trading Post, effectively ending a nearly three year investigation by NPS.

Interviews and investigative activity conducted during the week of January 8, 2007 include a site inspection and review of evidence at NPS in Santa Fe. An inventory of items seized during search warrants executed in Gallup, New Mexico and Bill Malone's residence and vehicle at the Hubbell Trading Post (HTP) in Ganado, Arizona were also reviewed. It was determined there are serious discrepancies in the chain of custody, the location of seized items and whether items seized fell under the scope of the warrant. Documentation was gathered for further reconciling with NPS records in Lakewood, Colorado.

An interview was conducted with former HTP superintendent, Nancy Stone, and she provided background information on HTP, the relationship with Western National Parks Association (WNPA) and what she termed, "a huge rush to judgment" and "an uncontrolled wave" by NPS and WNPA in their investigation of Bill Malone.

An interview was conducted with Bill Malone in Gallup, NM. Interview topics included HTP and NPS' association with WNPA, net worth and assets for Malone, circumstances surrounding the execution of the search warrant, current disposition of property seized from his home and storage areas, etc. Malone's net worth and home do not support NPS and their theory that Malone was a mastermind in embezzlement and theft at HTP. His responses seemed truthful and appeared to validate WNPA and NPS' rush to judgment and failure to follow both standard criminal investigative procedure and common sense. It appears Malone would have a very good case to pursue civil actions against NPS and WNPA but he made no comments that he would.

A site inspection was conducted of HTP in Ganado, AZ and the adjacent residence area where Malone had resided as HTP's trader for over 26 years. Photos were taken for the file.

Investigative activity for the week of January 8, 2007 concluded with interviews at the U.S. Attorney Office in Flagstaff, AZ. Chief of Criminal Joe Lodge and AUSA [REDACTED] were interviewed. Lodge commented that he prefers not to work with SA Clyde Yee since Yee was "less than up front" with Lodge on a NPS case they worked together.

**Week of January 12, 2007:**

Contact was established with WNPA [REDACTED] on January 12<sup>th</sup> and 15<sup>th</sup>. Scheduling conflicts will likely cause [REDACTED] interview and the interview of WNPA [REDACTED] to take place on February 7, 2007 in Tucson. Jim Babbitt, brother of former Interior Secretary Bruce Babbitt, is no longer Chairman of the Board for WNPA and will likely be scheduled at a later date for an interview in Flagstaff.

**During the week of January 22, 2007,** the following investigative activity was completed in Lakewood, Colorado:

The DOI-OIG case file on Bill Malone, former trader for the Hubbell Trading Post (HTP), was extensively reviewed. The case was closed by DOI-OIG on or about January 4, 2007 to coincide with the declination letter from the U.S. Attorney, District of Arizona to prosecute the case. The file was reviewed to help determine whether allegations made and could be substantiated that NPS SA Clyde Yee and DOI-OIG SA [REDACTED] omitted exculpatory information from their interviews during the investigation. Careful review of interview reports and corresponding agent notes in the case file did not substantiate any inappropriate conduct by SA [REDACTED]. Further review of the Malone/HTP investigation and an interview with SA [REDACTED] will be conducted but the internal case with respect to SA [REDACTED] has not yielded anything to corroborate [REDACTED] failed to document exculpatory case information.

An interview was conducted with retired NPS Region 6 Special Agent in Charge Jim Reilly. Reilly admitted to they (NPS) being in over their heads on what they viewed as a complex embezzlement, forgery and bank fraud case. He also stated that he believed the case agent, SA Clyde Yee, became overly aggressive in pursuing the case and had to issue Yee [REDACTED] on an unrelated issue but during the time Yee was still the case agent for HTP.



Reilly also admitted to prodding Yee to tell the AUSA at a meeting that the chain of custody for the evidence had been broken and Yee's reluctance to do so.

Two full days were spent at NPS Region 6 Headquarters in the HTP "war room" reviewing the extensive case binders, financial documents, seized evidence catalogs, etc. Various documents were pulled for further review and NPS case agent Clyde Yee was provided a receipt. At minimum, the review determined the search warrant affidavit was false (to be determined whether it was intentional or sloppy research); the scope of the warrant was exceeded; and the chain of custody for the approximately 8,500 seized items and boxes of financial records was broken and would have caused all the evidence to be thrown out. It was also determined that [REDACTED] for Western National Parks Association (WNPA), the original complainant and the source of the allegations against Bill Malone, participated in the search by driving the truck with "evidence" taken from Malone's home to Tucson. Also present at HTP during the execution of the warrant was WNPA Chairman of the Board Jim Babbitt and NPS Regional Director Mike Snyder. Further investigation will determine their roles and any undue influence by NPS and WNPA in a criminal investigation. WNPA also had their accountants switch from doing a financial audit at HTP to participating in the search.

Additional review in the "war room" yielded original evidence still not returned to Malone consisting of personal financial records, cash and checks totaling approximately \$10,000, etc. SA Yee has not maintained any standard evidence or property records and a bag of cash taken from Malone's home was not detailed or listed on the search warrant inventory or property chain of custody records.

An interview was conducted with [REDACTED], NPS Region 6 Assistant Regional Director for Finance and Budget. [REDACTED] explained the cooperative agreement between WNPA and NPS and stated that it was not until the HTP investigation that NPS ever reviewed their account with WNPA and the monies "available" to NPS for interpretative support costs. [REDACTED] also acknowledged WNPA [REDACTED] focus on modernizing HTP to fall under more generally accepted accounting standards, which falls polar opposite from what the Congressional record mandated in establishing the HTP National Historic Site. [REDACTED] was requested to provide the funding requests and documentation on the hundreds of thousands of dollars that was spent on a case that was declined for prosecution and all seized "evidence" returned to Malone. [REDACTED] commented, "We screwed ourselves by putting the cart before the horse" and "the whole NPS law enforcement thing is very curious, they have no real financial fraud training, were way over their heads and Malone was convicted before the investigation began".

An interview was also conducted with DOI-OIG Auditor [REDACTED] who provided forensic audit support for four to five months and issued a single page summary that the financial records at HTP and WNPA were not sufficient to make a determination as to whether a criminal case existed. [REDACTED] commented NPS created an extensive database that was worthless and it was obvious they had little to no experience in what was needed to make a successful financial fraud investigation. [REDACTED] also commented that [REDACTED] worked off of copies and originals during [REDACTED] review and came across some various denominations of money and checks that were not identified or documented in the chain of custody or property receipts. [REDACTED] felt very strongly that WNPA was less than forthcoming with information and had their own problems other than at HTP.

During the week of February 5, 2007 investigative activity continued with six interviews and two site visits in Tucson, Arizona.

An interview was conducted on February 5, 2007 with NPS Special Agent [REDACTED] domiciled in Tucson with the HIDTA task force. SA [REDACTED] provided further documentation and a statement documenting numerous problems with the chain of custody on the evidence seized from Bill Malone's residence and the Hubbell Trading Post. SA [REDACTED] had numerous issues with NPS SA Clyde Yee on his evidence handling procedures and documented them with NPS management, which were then ignored. SA [REDACTED] also provided corroboration on the failure of NPS law enforcement management to provide proper oversight or address problems with the Hubbell case when they were known.

An interview was conducted on February 6, 2007 with Steve Getzwiller in Sonoita, Arizona. Getzwiller is a trader in Native American arts and rugs and has traveled to the Hubbell Trading Post (HTP) at least once a month for over thirty five years. Getzwiller provided background information on HTP, Bill Malone, Jim Babbitt and WNPA. Getzwiller remains adamant and represents a large number of concerned citizens who feel Bill Malone was the victim of "a huge rush to judgment by NPS and WNPA" and have caused serious harm to the Navaho community and the integrity and mission of HTP.

An interview was conducted on February 7, 2007 with [REDACTED] for WNPA, who was the original complainant. [REDACTED] was very vocal during the interview about problems [REDACTED] had with NPS and stated [REDACTED] was concerned how the investigation was being conducted by SA Yee. [REDACTED] was present at the search warrant briefing and drove the evidence from Malone's residence to Flagstaff. [REDACTED] contradicted earlier statements [REDACTED] made on [REDACTED] contact with NPS Regional Directors Steve Martin and Mike Snyder during the investigation and stated [REDACTED] primary contact was with NPS law enforcement. Earlier statements made by [REDACTED] and documented discussed a much closer partnership and NPS Intermountain Region requested WNPA to fund the investigation and their funding of the investigation "to be looked upon as an investment, which would more than pay for itself when any evidence seized could then be sold". [REDACTED] was advised that an additional interview will take place after further interviews and review is conducted. [REDACTED] had no real explanation as to why within a few month's time after [REDACTED] was hired by Jim Babbitt, [REDACTED] built a case on Malone's alleged embezzlement and never contacted prior supervisors, never discussed the allegations with Malone and relied on two employees - [REDACTED]

An interview was conducted on September 8, 2007 with [REDACTED] for WNPA, and who preceded [REDACTED] by a few years at WNPA. [REDACTED] stated [REDACTED] made the decisions relative to HTP and terminating Malone, with the Board of Director's approval. [REDACTED] also related the severe problems WNPA had over the time [REDACTED] has been with WNPA (since [REDACTED] with respect to their accounting department both at HTP and WNPA corporate headquarters. [REDACTED] stated they have had a combination of high turnover, terminations and incompetence all of which came at a bad time as they had just purchased land, built a new corporate headquarters and moved into the much more expensive building in north Tucson. The alleged sharp decline in revenues at HTP was one of the main fraud indicators used to initiate the NPS investigation of Bill Malone and the validity of accounting records at WNPA are suspect.

A site inspection was conducted of WNPA and photos taken. Another site inspection was conducted at the Western Archeological Conservation Center (WACC), a multi-million dollar NPS facility in Tucson that repairs and stores sensitive or valuable artifacts for the western states and national parks. The WACC was the ultimate location for the seized evidence from Malone's residence and HTP. It was also the site where tens of thousands of dollars were wasted in cataloging and inventorying "evidence" that was all eventually returned to Mr. Malone. Time and cost sheets for the inventorying were requested as well as evidence room log-in sheets documenting NPS senior management breaking the chain of custody by entering the location where the evidence was located.

An interview was conducted on September 8, 2007 with [REDACTED] with Devries and Associates. Devries and Associates were WNPA's accounting firm and were also hired to do the forensic audit at HTP during and after the search warrant was executed at Malone's residence. [REDACTED] were asked by NPS SA Yee to attend the search warrant briefing and were two of the four individuals conducting the search warrant at Malone's residence, instead of doing an audit at HTP as they were contracted to do. [REDACTED] expressed their amazement as well as fear for their own safety to go into the residence after the two NPS agents entered with vests and guns. [REDACTED] came across an estimated thirty weapons during the 18 hour search as well as cash and jewelry. They stated they were not sure what they were doing and not real sure SA Yee did either. They stayed at the house from 6:30 AM to 10:30 PM and were overwhelmed by the task and as directed by SA Yee took property that was clearly not HTP property or under the scope of the warrant. [REDACTED] also filled out many of the chain of custody sheets and labeled items as "bag of jewelry" or "box of jewelry" with no item count, description or picture, let alone location where seized. [REDACTED] and [REDACTED] provided a lot of information and also noted that their management letters from their prior audits and inventories at HTP were largely ignored by WNPA management. After the execution of the search warrant and the termination of Trader Bill Malone, none of the recommendations [REDACTED] made to WNPA in relation to separation of duties, financial management or improved internal operational controls were initiated by WNPA.

[REDACTED] summarized her interview by stating WNPA (and NPS) rushed to judgment, did not exercise sound management at HTP and have really hurt the Navaho community (and their artisans) by not adhering to the principles upon which HTP was mandated by Congress to follow when HTP was established as a national historic site.

#### **During the week of February 15, 2007**

[REDACTED] and SAC Brian Smith were contacted to cease any further inquiry, investigation or potential administrative actions with SA Clyde Yee until the DOI-OIG investigation is complete and a report furnished to NPS.

AUSA [REDACTED] in District of Arizona was contacted and provided an update on DOI-OIG findings to date and wanted to be informed of further developments and if any of the allegations of SA Yee's misconduct during the Malone investigation could be substantiated and were criminal violations. AUSA [REDACTED] was in the process of closing their case on the NPS investigation of Malone; unsealing the search warrant; and trying to sort out subpoenas that may still be outstanding or were never returned by Yee. AUSA is to provide DOI-OIG a list or the total number of subpoenas issued, dates and who was on the 6e list and allowed to view the grand jury information to determine if that portion of the investigation was handled properly by Yee.

Twelve interview reports were reviewed, edited, signed and uploaded into CMS.

Received two large boxes of NPS case documents from NPS SA Paul Berkowitz. Berkowitz has been the case agent on the Malone/HTP investigation for the past year and was scheduled to retire from NPS on March 2, 2007. This date may be extended since NPS has not processed his retirement papers to date. The boxes of documents from Berkowitz are part of his investigative case file and will need to be reviewed and some identified as potential exhibits our report of investigation.

Received a FedEx envelope from SAC Brian Smith, Yee's supervisor. Smith and [REDACTED] attempted (unsolicited) to sort out some of the evidentiary problems identified by the DOI-OIG investigation. To be reviewed and uploaded into CMS.

Received a FedEx envelope from NPS Intermountain Region containing: The Cooperative Agreement between NPS and WNPA; The Supplemental Agreement between NPS and WNPA for WNPA to operate HTP; and the 2005 Task Force Report for the Operation of the Hubbell Trading Post National Historic Site. To be reviewed and uploaded into CMS.

Contacted DOI-OIG Computer Crimes Unit (CCU) and submitted a CCU request form for e-mails (w/ key words) of Regional Director(s) Steve Martin and Mike Snyder, SAC Jim Reilly and SA Clyde Yee. Purpose of e-mail request is determine and substantiate the exact relationship between WNPA and NPS senior management – the improper funding and conflict of interest by WNPA in a criminal investigation as the original complainants; any inappropriate communication by NPS or WNPA with respect to the evidence seized and assurances that it could be sold to cover any funding for the investigation; any direction or undue influence by NPS or WNPA with respect to a 6e covered criminal investigation, etc. The interview of WNPA [REDACTED] on February 7, 2007 conflicts with earlier statements [REDACTED] made and documented on [REDACTED] relationship with senior NPS management. Requested e-mail history from CCU should determine the veracity of [REDACTED] statements.

Continued process of writing interview reports conducted the week of February 5, 2007 and submitting for review and uploading into CMS.

**During the week of February 19, 2007:**

Holiday on February 19, Annual Leave on February 20. Remainder of week spent writing up interview reports and uploading documents into CMS. Five banker boxes of documents have now been received from various parts of NPS. The documents are from the NPS war room, NPS investigative files forwarded from NPS SA Paul Berkowitz and materials received from NPS SAC Smith and NPS Intermountain Region.

Key documents are being tagged for possible exhibits for the ROI and remaining interviews. A list of potential management advisory topics is being prepared.

The alleged misconduct and mishandling of evidence by SA Yee in the Shenandoah National Park double homicide has not been substantiated. An interview with NPS SA [REDACTED] did not corroborate the allegation. AUSA assigned to the case will be contacted. SA Yee's OPF was reviewed and his 2004 and 2005 performance appraisals are missing. Yee's 2006 performance

appraisal (which was rated [REDACTED]) was completed the day we asked for it – February 22, 2007.

Significant progress made on obtaining e-mails of Regional Directors Steve Martin and Mike Snyder, SA Yee and SAC Reilly. NPS has already received the request and is downloading the requested time frame.

Apparently touched a nerve at WNPA since their general counsel sent an eight page summary of WNPA's position on the Malone investigation. Their summary conflicts with prior statements made by NPS and WNPA. E-mails requested should help clarify the discrepancies and make the remaining interviews important to the remaining issue – the inappropriate relationship between NPS and WNPA and any undue pressure by either or both of them that added to a sloppy investigation becoming worse.

Interviewed [REDACTED] Chief Ranger, Glacier National Park on March 12, 2007. [REDACTED] assisted in the execution of the search warrant at Malone's residence and provided first hand information on the search and also expressed concern to SA Yee on what was seized.

Received three more boxes of documents from NPS on March 21, 2007. Boxes of records are being reviewed for documents pertinent to the investigation.

Interviewed [REDACTED] at NPS HQ on March 15, 2007. Inconsistencies and miscommunication were the results of those interviews and blame for the failure of the HTP investigation was directed at SA Yee and SAC Reilly.

Interviewed Kevin Fitzgerald, Deputy Superintendent, Great Smoky Mountain National Park on March 21, 2007. Fitzgerald was the original recipient of the allegations from WNPA on Bill Malone and HTP and contradicted information provided by [REDACTED]. Fitzgerald corroborated the failure of a clear line of authority and management by NPS law enforcement on HTP and in general.

#### Activity - Week of April 2, 2007

Review of NPS e-mail from SA Clyde Yee, IMR Regional Directors Steve Martin and Mike Snyder commenced. Preliminary review of e-mails may require an additional request to NPS as it appears e-mails were not provided for the key date range requested. Working with CCU on key word search of currently available e-mails.

Coordination of interviews initiated for week of April 16<sup>th</sup>.

Four potential management advisory issues have been identified:

- (1) **The mismanagement and/or misconduct of the HTP investigation by NPS field agents and the failure to provide proper management oversight during the two and a half years the case was investigated.**
- (2) **The inappropriate relationship between WNPA and NPS and the "partnership" that existed during a criminal investigation. To include the sharing of information**

(potential 6e material), breaches in chain of custody and either direct or indirect influence on a criminal investigation.

- (3) The Solicitor's Office repeated insistence on having Bill Malone sign a release from all liabilities against NPS upon receiving his seized property back. All of the property seized from Malone was to be returned per the U.S. Attorney's Office directions. NPS SA Berkowitz repeatedly informed the Solicitor's Office that he did not feel it was appropriate or legal to have Malone sign such a document in light of all the problems revealed with the search warrant affidavit, search, scope of warrant and chain of custody issues.
- (4) The cooperative agreement between WNPA and NPS for all 65 NPS sites and in particular – Hubbell Trading Post. WNPA dictates the percentages of the agreement and NPS appears to have allowed WNPA to dictate all aspects of the agreement while failing to even track the monies available to NPS through Interpretative Support Accounts (ISA) from WNPA revenues.

**\*Note:** WNPA should be considered as a potential site for a DOI-OIG discretionary audit or review based on Lakewood Audit's interaction with WNPA, their guarded behavior with respect to records and inconsistencies during interviews. In addition, their former CPA firm provided information that WNPA did not have sound accounting principles or records in place when they claimed HTP had significant revenue losses – a primary reason for the allegations brought forward by WNPA to NPS.

These are the suggested areas of concern, subject to DOI-OIG management combining, adding to, or revision of the potential management advisories.

Next week – Week of April 9, 2007:

- (1) Continue review of e-mails for Clyde Yee, Mike Snyder and Steve Martin
- (2) Pull documents for upcoming NPS interviews.
- (3) Begin draft of Report of Investigation and management advisories.
- (4) Schedule interviews for Lakewood and Flagstaff.

List of potential individuals remaining to be interviewed:

- (1) NPS SA [REDACTED] – allegations of excluding exculpatory information in [REDACTED] interview reports.
- (2) DOI-OIG SA [REDACTED] - [REDACTED] role in assisting NPS on HTP investigation. (No information or evidence has been revealed to substantiate any inappropriate conduct by SA [REDACTED] in [REDACTED] assisting NPS).

- (3) **NPS SA Clyde Yee** – NPS case agent for the HTP investigation and the focal point for the false search warrant affidavit, exceeding the scope of the warrant, the repeated breaks in the evidence chain of custody and the failure to account for cash and weapons seized during the search warrant.
- (4) [REDACTED] - NPS Intermountain Region (IMR) employee responsible for the coordination and oversight of the cooperative agreement between WNPA and NPS.
- (5) **Hal Grovert** – Assistant Regional Director at IMR for his involvement in the HTP investigation.
- (6) **Mike Snyder** – IMR Regional Director and former IMR Regional Director who was directly involved in the HTP investigation and WNPA.
- (7) **Steve Martin** – Former IMR Regional Director, NPS Deputy Director and current Superintendent at Grand Canyon for his direct involvement in the HTP investigation.
- (8) **Jim Babbitt** – Allegations that as WNPA Chairman of the Board, Babbitt used his influence with NPS to drive the WNPA / NPS investigation and termination of Bill Malone. Babbitt had documented differences of opinion with Malone on how HTP should be managed and reportedly made numerous public comments during the investigation of Malone having stolen millions of dollars at HTP.
- (9) [REDACTED] – Initial AUSA for the HTP investigation, now a federal magistrate in Flagstaff. Interview to determine what was told to SA Yee with respect to what items were seized from the Malone residence during the execution of the search warrant.
- (10) [REDACTED] – Re-interview the WNPA [REDACTED] for inconsistencies in [REDACTED] earlier interview and should the review of NPS e-mails determine a different relationship.

**Further actions to be taken:**

- (1) Continue review of NPS documents and continue the process of identifying key documents for use as exhibits in the ROI; references during future interviews; and to narrow down the universe of documents associated with an investigation that has been on-going for three years.
- (2) Review NPS e-mail and relevant documents with respect to HTP investigation and Bill Malone.
- (3) Interview NPS case agent, assisting agents (including DOI-OIG) and NPS supervisors.
- (4) Interviews of NPS IMR Director Mike Snyder, Deputy Director Steve Martin (NPS superintendent at Grand Canyon National Park) and Jim Babbitt, former WNPA Chairman of the Board.
- (5) Re-interview WNPA [REDACTED] to substantiate or determine the veracity of earlier statements made during the investigation.

(6) Draft management advisory topics for consideration and or grouping them together to ensure NPS and Departmental management address systemic problems noted during the investigation.

(7) Prepare closing report of investigation and conduct any appropriate exit briefings with senior NPS or Departmental management as directed by DOI-OIG senior staff.



All redactions are 5 U.S.C. §§ (b)(6) and (b)(7)(C)

On January 11, 2007, Bruce Burnham was interviewed by DOI-OIG Special Agent Paul D. Okerberg at Burnham's Trading Post in Sanders, AZ. Burnham was asked to review SA Berkowitz's interview report conducted on February 13, 2006. Burnham reviewed the preceding report and confirmed it accurately reflected his conversation with SA Berkowitz.

Burnham wanted to add the following information:

- Burnham stated WNPA started putting more and more restrictions on Malone being able to operate as a trader. WNPA did not want him to discount items and wanted cost plus 70%. Burnham said "WNPA was tying Malone's hands" and trying to "force" a profit by reducing inventory. Burnham added Malone used consignments at HTP to get around WNPA's restrictive management policy.
- WNPA fired Malone immediately after the allegations came out and the search warrant was conducted. Burnham said the replacement trader, Steve Pickle, came in with no transition or prior experience and never has caught on what it takes to be a successful Indian trader.
- Burnham feels WNPA has not proven they are capable of properly operating HTP and feels the only solution would be for NPS to form a trader position and then make sure the trader follows the vision the Hubbell family wanted prior to allowing NPS to buy HTP. Burnham stated Malone would still be the best person for HTP trader and HTP lost half of their customer base when he was terminated by WNPA.
- Burnham commented, "WNPA [REDACTED] is vindictive as hell" and felt [REDACTED] did not have a clue what HTP needed or what Malone had done for the community and HTP.
- Burnham had heard WNPA Chairman Jim Babbitt told people at a social function in Flagstaff that Malone had embezzled \$1.5 million.
- Burnham said Babbitt was at the center of a controversial issue in his role as a director for the Museum of Northern Arizona (MNA). Babbitt had brought in an appraiser for some Native American artifacts and sold them to the appraiser for \$190,000 and it turned out the artifacts were actually worth over \$1 million dollars and sold for that. MNA lost their accreditation as a result and are still trying to regain their credibility from the scandal.
- Burnham said Babbitt is a very good historian but "ran the Babbitt Family trading posts into the ground." Burnham had strong ideas about traders and trading posts but they were obviously not good ideas since Malone had been very successful and Babbitt had to close his trading posts.

- Burnham said Dorothy Hubbell had a vision of what HTP was to remain after being purchased by NPS. Burnham stated he and most anybody else that really knows HTP, the Navajo, and what the Hubbell Family wanted know Malone was keeping that vision.
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