



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

JAN 20 2016

INSPECTOR GENERAL

The Honorable Rob Bishop, Chairman  
Committee on Natural Resources  
U.S. House of Representatives  
Washington, D.C. 20515

The Honorable Louis Gohmert, Chairman  
Subcommittee on Oversight and Investigations  
Committee on Natural Resources  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Chairman Bishop and Chairman Gohmert:

You wrote to me on December 18, 2015, with several questions regarding the Environmental Protection Agency's (EPA's) actions in the aftermath of the Gold King Mine Release and potential impact of those actions on the work of the Office of Inspector General (OIG). In particular, you noted the memoranda from Carolyn Copper, Assistant Inspector General for Program Evaluation within the OIG, of August 17, 2015, and November 4, 2015, notifying the EPA of the OIG's plans to review matters involving the Gold King Mine release. Those memorandums set forth an anticipated scope for the OIG review, while noting that the scope may change as the review proceeds. Much of the work described was program evaluation, not investigative work, although the OIG planned to and did do certain investigative work as well. Nevertheless, it is important to distinguish between those two review methodologies and the authorities applicable to each. We address the questions in your December 18 letter below.

**1. Is it the OIG's policy to request the EPA to forgo interviewing witnesses who are central to an ongoing OIG investigation?**

Under its law enforcement authority, specific to any potential charge related to either interference or obstruction in an ongoing criminal investigation, the OIG Office of Investigations (OI) exercises the authority in 18 U.S.C. §1510 and §1512(b)(3). Section 1510 proscribes interference with "the communication of information relating to a violation of any criminal statute of the United States . . ." to a (federal) criminal investigator; 18 U.S.C. §1512(b)(3) proscribes interference with "the communication to a (Federal) law enforcement officer . . . of information relating to the commission or possible commission of a Federal offense."

In addition, in all matters, but particularly in administrative investigations, OI relies upon EPA employees to adhere to EPA Order 6500, which includes a requirement that all EPA employees cooperate with OIG audits/investigations and that all EPA employees not impede the OIG in its audits/investigations. However, those are general rules. There is no separate or stand-alone policy or procedure applicable to OIG authority that specifically prohibits the EPA from interviewing witnesses central to any ongoing OIG investigation.

While there is no policy, procedure or authority to mandate it, OI commonly makes an oral request in a given case to EPA personnel not to interview or solicit any investigative information

from EPA employees who are the subject of a criminal investigation. In administrative investigations, OI sometimes but not always issues similar requests to EPA personnel, particularly if there is a potential for uncovering criminal activity in what is initially an administrative investigation. OIG did not issue any such requests to the August 2015 EPA internal review team regarding not interviewing or soliciting information from EPA employees because the OIG understood the EPA's internal review team was only "assess[ing]...the events and potential factors contributing to the blowout...." (see internal review team final report, August 24, 2015)

**2. Did the OIG ever request that EPA hold its internal review in abeyance?**

The OIG was aware of the August 2015 internal review and did not request that the EPA hold its internal review in abeyance.

**3. Did the EPA notify the OIG of its plans to conduct an interview with Mr. Way and Mr. Griswold on December 2, 2015? If so, when and by whom was such notification provided?**

The EPA did not notify the OIG of its plans to conduct an interview with Mr. Way and Mr. Griswold on December 2, 2015.

**4. The EPA Office of General Counsel briefed the original EPA Internal Review team on guidelines in August 2015. Is the OIG aware of any guidelines or briefings provided to the Addendum team by the EPA's Office of General Counsel concerning the December 2, 2015 interview? If so, did the OIG and/or the OIG's Office of Counsel concur with any such direction?**

The OIG is not aware of any guidelines or briefings provided to the addendum team by the EPA's Office of General Counsel concerning the December 2, 2015, interview.

We appreciate your interest in our work. If you have additional questions regarding the Gold King Mine situation and OIG's work in that regard, please contact Counsel to the Inspector General Alan S. Larsen at (202) 566-0990.

Sincerely,



Arthur A. Elkins Jr.

cc: The Honorable Raul Grijalva, Ranking Member, Committee on Natural Resources  
The Honorable Debbie Dingell, Ranking Member, Subcommittee on Oversight and Investigations