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CHIEF OF STAFF

**U.S. House of Representatives**  
**Committee on Natural Resources**  
**Washington, DC 20515**

March 14, 2013

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DEMOCRATIC STAFF DIRECTOR

The Honorable Kenneth Salazar  
Secretary  
U.S. Department of the Interior  
1849 C Street NW  
Washington DC 20240

Dear Secretary Salazar:

It is paramount that the American people have confidence that the Department of the Interior (“Department”) officials who manage federal lands and resources on their behalf are acting with the highest of ethical standards. Since last year, the Committee on Natural Resources (“Committee”) has been conducting oversight of how political appointees and senior career officials within the Department are complying with federal ethics and conflict of interest laws.<sup>1</sup>

Staff from the Department’s Ethics Office, which is housed within the Solicitor’s Office, briefed the Committee’s Majority oversight staff in September 2012 on the operations and activities of the Department’s ethics program, including interactions with and the process for referrals to the Department’s Office of Inspector General (“IG”) for formal investigation. In a September 25, 2012 letter to you, the Committee requested copies of any referrals or memoranda sent from the Ethics Office to the IG since January 1, 2009 concerning alleged violations of federal ethics laws and regulations. The Department did not provide the documents, as requested. Instead, officials with the Ethics Office and the Office of Congressional and Legislative Affairs responded orally to Majority oversight staff that only eight ethics cases had been referred to the IG for further investigation since January 2009. According to this information, only one of these cases involved a senior career official, and none involved a political appointee.

Several recent news articles, however, have raised serious questions about whether the Department and the IG are, in fact, aggressively pursuing allegations of wrongdoing and whether current and former senior Obama Administration officials are being held accountable for complying with federal ethics and conflict of interest laws.

<sup>1</sup> See generally, 18 U.S.C. §§ 201-209 and 5 U.S.C. app. 4, §§ 101-111; see also, generally 5 C.F.R. part 2635.

For example, as described in the recent Majority Staff Report about the IG,<sup>2</sup> the *Los Angeles Times* reported last year that Counselor to the Secretary Steve Black has been instructed to recuse himself from matters involving NextEra Energy, a developer of solar and wind energy projects, due to a romantic relationship Mr. Black was reported to have had with a former renewable energy advisor to the Governor of California currently working as a lobbyist for the company.<sup>3</sup> Among the projects NextEra is developing are the 250 mw Genesis Solar Energy Project and the 750 mw McCoy Solar Energy Project on federal land managed by the Bureau of Land Management (“BLM”) near Blythe, California. Mr. Black leads the Department’s Renewable Energy Policy Group, a group of federal and state officials established by Secretarial order in 2009 to coordinate review and processing of renewable energy projects in California, and serves as a senior advisor in the Obama Administration on renewable energy issues. The *Los Angeles Times* article also states Mr. Black discussed the relationship with the lobbyist with the Department’s Ethics Office in the fall of 2011 and was later told to recuse himself, but it does not state when the relationship began, when the recusal became effective, or what steps have been taken to ensure Mr. Black’s actions have not violated federal ethics laws. Information received from the Department and the IG indicate the IG has not received any formal referral from the Department’s Ethics Office and does not otherwise appear to have conducted any review or investigation of Mr. Black’s actions involving NextEra to determine whether a violation of federal ethics and conflict of interest laws occurred in connection with his work on renewable energy issues for the Department. On March 13, 2013, the Department approved the final record of decision in support of NextEra’s McCoy Solar Energy Project.

In addition, the *Las Vegas Review-Journal* has reported that a consulting firm co-owned by the former Director of BLM, Bob Abbey, stands to gain \$528,000 in fees for helping to arrange the sale of federal land from BLM to a private developer on behalf of the city of Henderson, Nevada.<sup>4</sup> According to the account described in the newspaper, Mr. Abbey took a leave of absence from the firm when he joined the Obama Administration in 2009 but, while serving as BLM Director in 2011, he agreed to assist a partner in his former firm in dealing with BLM to arrange the land sale. In the weeks after Mr. Abbey’s retirement in May 2012, BLM accepted the developer’s bid of \$10.5 million for the purchase of 480 acres. Mr. Abbey rejoined his former colleagues as a named partner in August 2012. He has denied any wrongdoing and told the newspaper that he would be consulting with the Department’s ethics officials about his ability to accept a portion of the fee. According to the newspaper, the IG is looking into Mr. Abbey’s actions.

In another example, Assistant Secretary for Insular Affairs Tony Babauta recently resigned his Presidential appointment amid news stories that he had been placed on

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<sup>2</sup> Holding Interior Watchdog Accountable; Oversight of the Department of the Interior’s Office of Inspector General, A Report by Majority Staff Office of Oversight and Investigations, Committee on Natural Resources, February 21, 2013.

<sup>3</sup> “Energy advisor asked to recuse himself,” by Julie Cart, *Los Angeles Times*, published on March 17, 2012.

<sup>4</sup> “Ex-BLM land chief named in land deal,” by Alan Snel, *Las Vegas Review-Journal*, published February 14, 2013.

administrative leave pending a review by the IG into questions about his travel and role in awarding grants.<sup>5</sup>

In order to better understand the operations and activities of the Department's Ethics Office and to help ensure that senior Department officials and political appointees are being held accountable for complying with federal ethics laws, it is requested that you provide the following information and documents by the close of business on April 4, 2013:

- 1) Copies of all documents related to training provided by the Ethics Office for career senior executive service officials and political appointees since January 20, 2009, including copies of briefing slides, agendas for training classes, conference materials, guidance, and memoranda.
- 2) Senior career officials and political appointees are required to file a public financial disclosure form, also known as an Office of Government Ethics Form 278, that is intended to help the official and the Ethics Office identify potential conflicts of interest. Please provide copies of all Form 278s submitted since January 20, 2009 for the following positions:
  - a. The Secretary, Deputy Secretary, Chief of Staff, Deputy Chief of Staff, Counselor(s) to the Secretary, and all other political appointees within the Secretary's Office and the Deputy Secretary's Office, including any non-career senior executive service positions;
  - b. All Assistant Secretary and Deputy Assistant Secretary positions, as well as any political appointees who serve (or have served) as a Chief of Staff, Counselor, or Senior Advisor to such positions; and
  - c. All Director, Deputy Director, and any other political appointee positions for the National Park Service, the Fish and Wildlife Service, the Office of Surface Mining Reclamation and Enforcement, the Geological Survey, the Bureau of Land Management, the Bureau of Indian Affairs, the Solicitor's Office, the Bureau of Ocean Energy Management, and the Bureau of Safety and Environmental Regulation, as well as the former Minerals Management Service and the former Bureau of Ocean Energy Management, Regulation, and Enforcement, as well as any political appointees who serve (or have served) as Chief of Staff, Counselor, or Senior Advisor to such positions.
- 3) The Department should have on file copies of ethics agreements for any employees who have a conflict of interest or other basis for recusal. Please provide copies of all ethics agreements submitted since January 20, 2009 for the following positions:
  - a. The Secretary, Deputy Secretary, Chief of Staff, Deputy Chief of Staff, Counselor(s) to the Secretary, and all other political appointees within the Secretary's Office and the Deputy Secretary's Office, including any non-career senior executive service positions;

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<sup>5</sup> "Obama appointee Tony Babauta resigns from DOI," by Emily Heil, *Washington Post*, published January 29, 2013.

- b. All Assistant Secretary and Deputy Assistant Secretary positions, as well as any political appointees who serve (or have served) as a Chief of Staff, Counselor, or Senior Advisor to such positions; and
  - c. All Director, Deputy Director, and any other political appointee positions for the National Park Service, the Fish and Wildlife Service, the Office of Surface Mining Reclamation and Enforcement, the Geological Survey, the Bureau of Land Management, the Bureau of Indian Affairs, the Solicitor's Office, the Bureau of Ocean Energy Management, and the Bureau of Safety and Environmental Regulation, as well as the former Minerals Management Service and the former Bureau of Ocean Energy Management, Regulation, and Enforcement, as well as any political appointees who serve (or have served) as a Chief of Staff, Counselor, or Senior Advisor to such positions.
- 4) As the *Los Angeles Times* article describes, Mr. Black informed the Ethics Office of the potential conflict of interest in 2011 and subsequently was instructed to recuse himself from matters involving NextEra Energy due to a romantic relationship with one of the company's lobbyists. Please provide all emails or other documents created by, sent to, or otherwise in the possession of Mr. Black concerning:
- a. NextEra's McCoy and Genesis Solar Energy Projects;
  - b. Communications with Manal Yamout;
  - c. Communications involving the Solicitor's Office, the Ethics Office, and the Office of Inspector General related to a potential conflict of interest or recusal.
- 5) As described in the *Las Vegas Review-Journal*, Mr. Abbey has denied any wrongdoing in connection with the land deal and has indicated he would be seeking guidance from the Department related to the involvement of a consulting firm he currently co-owns in arranging for the sale of federal land near Henderson, Nevada. Please provide copies of all documents concerning:
- a. Any guidance or ethics advice provided by the Department to Mr. Abbey related to this land sale or his involvement in the consulting firm Abbey, Stubbs & Ford LLC; and
  - b. All communications with the consulting firm Abbey, Stubbs & Ford LLC, the consulting firm Robcyn LLC, or former BLM official Mike Ford that have been sent to, from, or are otherwise in the custody or control of Mr. Abbey, Edward Farquhar, Sylvia Baca, Mary Katherine Ishee, Marcilynn Burke, and Neil Kornze.

Enclosed are definitions and instructions for complying with this request. Please have your staff contact Byron Brown, Senior Counsel for Oversight, at 225-2761 with any questions about this letter and to arrange for delivery of the requested information and documents.

Sincerely,



Doc Hastings  
Chairman

## Responding to Committee Document Requests

### A. Definitions

1. The term “document” means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, recorded notes, letters, notices, confirmations, receipts, checks, envelopes, presentations, pamphlets, brochures, interoffice and intra office communications, electronic mails (e-mails), notations of any type of conversation, telephone call, voice mail, phone mail, meeting or other communication, diaries, analyses, summaries, messages, correspondence, circulars, opinions, work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto), and electronic, mechanical, and electric records or representations of any kind, and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape, or otherwise.
2. The term “communication” means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether face-to-face, in a meeting, by telephone, mail, e-mail, discussions, releases, personal delivery, or otherwise.
3. The terms “and” and “or” shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this document request. The singular includes the plural. The masculine includes the feminine.
4. As used herein, “referring” or “relating” means and includes “constituting,” “pertaining,” “evidencing,” “reflecting,” “describing,” or “having anything to do with,” and in each instance, directly or indirectly. These terms mean, without limitation, any reference or relationship which either (a) provides information with respect to the subject of the inquiry, or (b) might lead to individuals who, or documents which, might possess or contain information with respect to the subject of the inquiry.

### B. Instructions

1. In complying with this document request, you are required to produce all responsive documents, materials, or items that are in your possession, custody, or control, whether held by you or your past or present agents, employees, representatives, subsidiaries, affiliates, divisions, partnerships, and departments acting on your behalf. You are also

required to produce documents that you have a legal right to obtain, that you have a right to copy or to which you have access, as well as documents that you have placed in the temporary possession, custody, or control of any third party. No records, documents, data or information called for by this request shall be destroyed, modified, removed, transferred or otherwise made inaccessible to the Committee.

2. In the event that any entity, organization, or individual denoted in this document request has been, or is also known by any other name than that herein denoted, the document request shall be read also to include them under that alternative identification.
3. Each document produced shall be produced in a form that renders that document capable of being printed or copied.
4. Documents produced in response to this document request shall be produced together with copies of file labels, dividers, envelopes, or identifying markers with which they were associated when this document request was served. Documents produced to this document request shall also identify to which paragraph from the document request such documents are responsive. Moreover, please include with your response, an index identifying each record and label (preferably by bates stamping) the documents. The Committee prefers, if possible, to receive all documents in electronic format.
5. It shall not be a basis for refusal to produce documents that any other person or entity also possesses documents that are non-identical or identical copies of the same document.
6. If any of the requested information is available in machine-readable or electronic form (such as on a computer server, hard drive, CD, DVD, memory stick, or computer back-up tape), state the form in which it is available and provide sufficient detail to allow the information to be copied to a readable format. If the information requested is stored in a computer, indicate whether you have an existing program that will print the records in a readable form.
7. If compliance with the document request cannot be made in full, compliance shall be made to the extent possible and shall include a written explanation of why full compliance is not possible.
8. In the event that a document is withheld, in whole or in part, based on a claim of privilege, provide the following information concerning any such document: (a) the privilege asserted; (b) the type of document; (c) the general subject matter of the document; (d) the date, author, and any recipients; and (e) the relationship of the author and recipients to each other. Claims of privileges are considered under Committee on Natural Resources Rule 4(h) and, similar to all common-law privileges, are recognized only at the discretion of the Committee.

9. If any document responsive to this document request was, but no longer is, in your possession, custody, or control, identify the document (stating its date, author, subject and recipients) and explain the circumstances by which the document ceased to be in your possession, custody, or control.
10. If a date or other descriptive detail set forth in this document request referring to a document is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, you should produce all documents which would be responsive as if the date or other descriptive detail were correct.
11. This request is continuing in nature and applies to any newly-discovered information. Any record, document, compilation of data or information, not produced because it has not been located or discovered by the return date, shall be produced immediately upon location or discovery subsequent thereto.
12. Production materials should be delivered to:

Committee on Natural Resources  
U.S. House of Representatives  
1324 Longworth House Office Building  
Washington D.C. 20515