

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

January 24, 2022

The Honorable Mark Greenblatt
Inspector General
U.S. Department of the Interior
1849 C Street, N.W.
Washington, D.C. 20240

Dear Inspector General Greenblatt,

Transparency and accountability in government are critically dependent on effective ethics programs and the fostering of ethical cultures within federal agencies. In fact, the Code of Federal Regulations requires agency heads to ensure such activities.¹ We are concerned, however, that the Department of the Interior (DOI) is failing to meet those requirements. Specifically, the actions of several DOI political appointees and the Department's inadequate responses to Congress raise doubts about DOI leadership's commitment to federal ethics regulations and the additional requirements implemented by Executive Order 13989.

Despite numerous congressional inquiries spanning nearly a year, DOI repeatedly fails to produce adequate responses to concerns about Department employees who face potential conflicts of interest.² DOI's refusal to cooperate with congressional oversight related to ethics

¹ 5 C.F.R. §2638.107.

² See Letter from Rep. Bruce Westerman, Ranking Member, H. Comm. on Nat. Res., Rep. Paul Gosar, Ranking Member, Subcomm. on Oversight and Investigations, H. Comm. on Nat. Res., and Rep. Lauren Boebert, to Ms. Elizabeth Klein, Senior Counselor to the Sec'y, U.S. Dep't of the Interior and Ms. Heather Gottry, Dir. and Designated Agency Ethics Official, Departmental Ethics Office, U.S. Dep't of the Interior (June 3, 2021) (on file with Comm.); Letter from Rep. Bruce Westerman, Ranking Member, H. Comm. on Nat. Res. and Rep. Paul Gosar, Ranking Member, Subcomm. on Oversight and Investigations, H. Comm. on Nat. Res., to Ms. Nada Culver, Dep'y Dir., Policy and Programs, Bureau of Land Mgmt., U.S. Dep't of the Interior and Heather Gottry, Dir. and Designated Agency Ethics Official, Departmental Ethics Office, U.S. Dep't of the Interior (June 15, 2021) (on file with Comm.); Letter from Rep. Bruce Westerman, Ranking Member, H. Comm. on Nat. Res., Rep. Paul Gosar, Ranking Member, Subcomm. on Oversight and Investigations, H. Comm. on Nat. Res., and Rep. Lauren Boebert, to Ms. Elizabeth Klein, Senior Counselor to the Sec'y, U.S. Dep't of the Interior and Ms. Heather Gottry, Dir. and Designated Agency Ethics Official, Departmental Ethics Office, U.S. Dep't of the Interior (June 22, 2021) (on file with Comm.); Letter from Rep. Bruce Westerman, Ranking Member, H. Comm. on Nat. Res. and Rep. Paul Gosar, Ranking Member, Subcomm. on Oversight and Investigations, H. Comm. on Nat. Res., to Hon. Tommy Beaudreau, Deputy Sec'y, U.S. Dep't of the Interior and Ms. Heather Gottry, Dir. and Designated Agency Ethics Official, Departmental Ethics Office, U.S. Dep't of the Interior (June 28, 2021) (on file with Comm.); Letter from Rep. Bruce Westerman, Ranking Member, H. Comm. on Nat. Res. and Rep. Paul Gosar, Ranking Member, Subcomm. on Oversight and Investigations, H. Comm. on Nat. Res., to Mr. Daniel Cordalis, Deputy Solicitor, Water Resources, U.S. Dep't of the Interior and Ms. Heather Gottry, Dir. and Designated Agency Ethics Official, Departmental Ethics

compliance prompts questions about the efficacy and efficiency of the Departmental Ethics Office (DEO). Therefore, to evaluate best practices, efficiency, and effectiveness, I respectfully request that the Office of Inspector General (OIG) audit the DEO. The audit should review the DEO's programs and operations, particularly, but not limited to, the process through which DOI's political appointees in the Biden Administration receive ethics guidance, recusal obligations, screening arrangements, and ethics waivers.

Last week, the media reported allegations of Elizabeth Klein, Senior Counselor to the Secretary, failing to comply with federal ethics standards and President Biden's Ethics Pledge.³ The DEO is tasked with promoting an ethical workplace to provide the public confidence in the agency's decisions.⁴ The DEO, however, is not responsible for investigating noncompliance with ethics requirements.⁵ The DEO's limited mission scope illustrates the necessity of OIG action, and the importance of not only auditing the DEO's operations, but also investigating individual political appointees whose actions may constitute unethical behavior.

Not only did the complaint highlight Ms. Klein's potential violation of ethics standards, but it also raises significant concerns about the DEO's decision-making processes.⁶ Disconcertingly, the complaint asserted that Ms. Klein did not disclose all of her prior relationships and former clients to the DEO.⁷ Ms. Klein subsequently participated in policy decisions impacting those undisclosed relationships, raising doubts about her impartiality.⁸ The complaint also noted the peculiarity of Ms. Klein's former clients being removed from her recusal list, only to be relisted on subsequent ethics guidance.⁹

Office, U.S. Dep't of the Interior (July 20, 2021) (on file with Comm.); Letter from Rep. Bruce Westerman, Ranking Member, H. Comm. on Nat. Res., to Hon. Tracy Stone-Manning, Dir., Bureau of Land Mgmt., U.S. Dep't of the Interior and Ms. Heather Gottry, Dir. and Designated Agency Ethics Official, Departmental Ethics Office, U.S. Dep't of the Interior (Jan. 20, 2022) (on file with Comm.); Letter from Rep. Bruce Westerman, Ranking Member, H. Comm. on Nat. Res., to Ms. Rose Petoskey, Senior Counselor to the Ass't Sec'y, Bureau of Indian Affairs, U.S. Dep't of the Interior and Ms. Heather Gottry, Dir. and Designated Agency Ethics Official, Departmental Ethics Office, U.S. Dep't of the Interior (Jan. 19, 2022) (on file with Comm.); Letter from Rep. Bruce Westerman, Ranking Member, H. Comm. on Nat. Res., to Ms. Stephanie Sfiridis, Senior Counselor to the Ass't Sec'y, Bureau of Indian Affairs, U.S. Dep't of the Interior and Ms. Heather Gottry, Dir. and Designated Agency Ethics Official, Departmental Ethics Office, U.S. Dep't of the Interior (Jan. 19, 2022) (on file with Comm.).

³ Andrew Kerr, *Senior Biden Official Likely Violated Federal Ethics Law, Watchdogs Charge*, WASHINGTON EXAMINER, Jan. 18, 2022, <https://www.washingtonexaminer.com/policy/energy-environment/senior-biden-official-likely-violated-federal-ethics-law-watchdogs-charge>.

⁴ *Departmental Ethics Office*, U.S. DEP'T OF THE INTERIOR, <https://www.doi.gov/ethics/about>.

⁵ *Id.*

⁶ Request for Investigation from Michael Chamberlain, Dir., Protect the Public's Trust, to Hon. Mark L. Greenblatt, Inspector General, U.S. Dep't of the Interior (Jan. 18, 2022) *available at* <https://www.protectpublictrust.org/wp-content/uploads/2022/01/Klein-IG-Complaint.pdf>.

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

The ethics training Ms. Klein received directed her “to diligently screen and decline meeting requests and other communications from a former employer or client.”¹⁰ The DEO clearly depends on DOI employees to operate within the guidance they are issued. These allegations cast serious doubts about Ms. Klein’s ability to appropriately recuse herself. I support calls for the OIG to determine if Ms. Klein provided the DEO with a complete account of her former clients, and to assess whether she acted within ethical parameters.

This is not the first time, however, Ms. Klein’s ethics agreement has received scrutiny. On June 10, 2021, DOI produced to the Committee on Natural Resources (Committee) Ms. Klein’s Ethics Guidance on Recusal Obligations memorandum as well as her Ethics Recusal and Screening Arrangement¹¹ in partial response to my June 3, 2021, letter.¹² Notably, Ms. Klein’s Ethics Recusal and Screening Arrangement is dated June 5, 2021, just two days after my June 3, 2021, letter. Moreover, the timing of finalizing Ms. Klein’s ethics documents is further questionable given that the Designated Agency Ethics Official and Director of the DEO e-mailed Ms. Klein on April 8, 2021 that her final ethics materials would be available “shortly.”¹³

Emails released under the Freedom of Information Act raise further questions about the creation of ethics agreements at DOI. They reveal that not only was “non-standard language” included in Section 2 of Ms. Klein’s ethics agreement, DOI asked for Ms. Klein’s input on that language.¹⁴ This decision sparked criticism from government watchdog groups, questioning why the Biden Administration is altering long-standing interpretations of ethics regulations in favor of a more political appointee-friendly approach.¹⁵ These revelations raise questions about why DEO did not obtain a complete list of Ms. Klein’s former clients, the process for evaluating DOI employees’ previous employment, and the creation of recusal lists.

The specific allegations of Ms. Klein’s failure to comply with ethical obligations compound concerns caused by DOI’s unresponsiveness to congressional oversight requests.

¹⁰ Letter from Heather Gottry, Dir. and Designated Agency Ethics Official, Departmental Ethics Office, U.S. Dep’t of the Interior to Rep. Bruce Westerman, Ranking Member, H. Comm. on Nat. Res. (Aug. 20, 2021) (on file with Comm.).

¹¹ E-mail from Office of Congressional and Legislative Affairs, U.S. Dep’t of the Interior to H. Comm. on Nat. Res. Minority Staff (June 10, 2021, 18:28 EST) (on file with Comm.).

¹² Letter from Rep. Bruce Westerman, Ranking Member, H. Comm. on Nat. Res., Rep. Paul Gosar, Ranking Member, Subcomm. on Oversight and Investigations, H. Comm. on Nat. Res., and Rep. Lauren Boebert to Ms. Elizabeth Klein, Senior Counselor to the Sec’y, U.S. Dep’t of the Interior and Ms. Heather Gottry, Dir. and Designated Agency Ethics Official, Departmental Ethics Office, U.S. Dep’t of the Interior (June 3, 2021) (on file with Comm.).

¹³ Email from Heather Gottry to Elizabeth Klein (Apr. 8, 2021 10:26 a.m.) (“We will be sending you final ethics materials shortly and will make sure that the reviewers of any meetings of events for you have the needed information.”) *available at* https://govoversight.org/wp-content/uploads/2021/08/SOL-2021-003887-From-Gracia-Hardin-Responsive_-281pp_1st-Release_Redacted.pdf.

¹⁴ Email from Heather Gottry to Elizabeth Klein (Feb. 12, 2021 6:02 p.m.) *available at* https://govoversight.org/wp-content/uploads/2021/08/SOL-2021-003887-From-Gracia-Hardin-Responsive_-281pp_1st-Release_Redacted.pdf.

¹⁵ *Records Obtained by Watchdog Energy Policy Advocates Show Top Interior Lawyer Sought Ethics Waiver Pertaining to Work Performed for Bloomberg Activist Group*, GOV’T ACCOUNTABILITY & OVERSIGHT, <https://govoversight.org/records-obtained-by-watchdog-energy-policy-advocates-show-top-interior-lawyer-sought-ethics-waiver-pertaining-to-work-performed-for-bloomberg-activist-group/> (last visited Jan. 7, 2022).

Answers to questions regarding adherence to ethical standards should be readily available. In contrast to this expectation, DOI has yet to fully respond to any of the inquiries related to political appointees' compliance with ethics standards. The most delinquent responses are 228 days overdue, with 46 of 56 request items remaining outstanding.¹⁶

DOI's meager responses, however, raise similar concerns about DEO's drafting of ethics agreements and political appointees' adherence to those standards. The documents provided to the Committee illustrate a trend of political appointees failing to provide the DEO with complete accounting of required information.

For example, iterations of ethics guidance for Nada Culver, Deputy Director of Policy and Programs at the Bureau and Land Management contain discrepancies surrounding her former employers. Ms. Culver signed President Biden's Ethics Pledge on March 1, 2021, agreeing to operate within its ethical constraints, including the two-year prohibition on participating "in any particular matter involving specific parties that is directly and substantially related to [her] former employer."¹⁷ In this context, "former employer" includes any employer two years prior to the date of an individual's appointment.¹⁸ The Wilderness Society, however, did not appear as a former employer in Ms. Culver's ethics guidance until July 27, 2021,¹⁹ despite Ms. Culver's employment there until June 2019. Therefore, for more than three months, Ms. Culver operated under incomplete ethical constraints. The DEO lists former employers based on the information provided to them,²⁰ and it remains unclear why Ms. Culver was unable to provide a complete accounting of her former employers. Ms. Culver's case casts additional doubts on a DOI political appointee already the subject of an OIG investigation.²¹

Additionally, documents produced in response to my inquiries about the ethical compliance of Daniel Cordalis, Deputy Solicitor for Water Resources, raise similar concerns. Mr. Cordalis signed President Biden's Ethics Pledge on February 22, 2021,²² yet the Yurok Tribe

¹⁶ *Supra* note 2.

¹⁷ Ethics Pledge, Nada Culver (Mar. 1, 2021) (on file with Comm.).

¹⁸ Ethics Memorandum from Heather C. Gottry, Dir., Departmental Ethics Office & Designated Agency Ethics Official, Dep't of the Interior and Monica L. Garcia, Dep'y Dir. for Ethics Law & Policy, Departmental Ethics Office & Alternate Designated Agency Ethics Official, Dep't of the Interior to Nada W. Culver, Senior Advisor to the Sec'y, Dep't of the Interior (Mar. 11, 2021) (on file with Comm.) at 6.

¹⁹ *See* Ethics Memorandum from Heather C. Gottry, Dir., Departmental Ethics Office & Designated Agency Ethics Official, Dep't of the Interior and Monica L. Garcia, Dep'y Dir. for Ethics Law & Policy, Departmental Ethics Office & Alternate Designated Agency Ethics Official, Dep't of the Interior to Nada W. Culver, Dep'y Dir. of Policy and Programs, Bureau of Land Mgmt., Dep't of the Interior (July 27, 2021) (on file with Comm.) at 8, *but see* Ethics Memorandum from Heather C. Gottry, Dir., Departmental Ethics Office & Designated Agency Ethics Official, Dep't of the Interior and Monica L. Garcia, Dep'y Dir. for Ethics Law & Policy, Departmental Ethics Office & Alternate Designated Agency Ethics Official, Dep't of the Interior to Nada W. Culver, Senior Advisor to the Sec'y, Dep't of the Interior (Mar. 11, 2021) (on file with Comm.) at 6.

²⁰ *Supra* note 18.

²¹ Press Release, PROTECT THE PUBLIC'S TRUST, *Update: PPT Complaint Sparks IG Investigation* (Sept. 1, 2021), <https://www.protectpublictrust.org/update-ppt-complaint-sparks-ig-investigation/>.

²² Ethics Pledge, Daniel Cordalis (Feb. 22, 2021) (on file with Comm.).

did not appear as a former client in his ethics guidance until September 10, 2021.²³ Therefore, for nearly seven months the DEO may not have been provided the appropriate information to accurately provide ethics guidance to Mr. Cordalis. Interestingly, this change occurred after my July 20, 2021, inquiry into Mr. Cordalis' ethics compliance, as well as a complaint alleging his violation of ethics obligations.²⁴

DOI's unresponsiveness creates the perception that the Department is hiding information from the public. Coupled with the appointment of controversial figures, like Tracy Stone-Manning,²⁵ an alleged tree spiking collaborator, the public's trust in DOI is put at risk. To ensure the implementation of an effective ethics program at DOI, we urge the OIG to audit the DEO and examine the following questions:

1. What is DEO's process for creating ethics compliance materials, including but not limited to, Ethics Guidance on Recusal Obligations and Ethics Recusal and Screening Arrangements?
2. Are ethics agreements for political appointees being created in a timely manner?
3. How does the DEO collect information from political appointees?
4. Does the DEO have procedures in place to verify the information provided to them by political appointees?
5. Are political appointees complying with their ethical obligations?

From the scant information provided by DOI and the complaints filed against individual DOI political appointees, I strongly urge the OIG to examine the DEO's operations.

²³ See Ethics Memorandum from Heather C. Gottry, Dir., Departmental Ethics Office & Designated Agency Ethics Official, Dep't of the Interior and Monica L. Garcia, Dep'y Dir. for Ethics Law & Policy, Departmental Ethics Office & Alternate Designated Agency Ethics Official, Dep't of the Interior to Daniel Cordalis, Dep'y Solicitor for Water Resources, Dep't of the Interior (Sept. 10, 2021) *but see* Ethics Memorandum from Heather C. Gottry, Dir., Departmental Ethics Office & Designated Agency Ethics Official, Dep't of the Interior and Monica L. Garcia, Dep'y Dir. for Ethics Law & Policy, Departmental Ethics Office & Alternate Designated Agency Ethics Official, Dep't of the Interior to Daniel Cordalis, Dep'y Solicitor for Water Resources, Dep't of the Interior (Feb.26, 2021); Ethics Memorandum from Heather C. Gottry, Dir., Departmental Ethics Office & Designated Agency Ethics Official, Dep't of the Interior and Monica L. Garcia, Dep'y Dir. for Ethics Law & Policy, Departmental Ethics Office & Alternate Designated Agency Ethics Official, Dep't of the Interior to Daniel Cordalis, Dep'y Solicitor for Water Resources, Dep't of the Interior (Aug. 20, 2021) (on file with Comm.).

²⁴ See Letter from Rep. Bruce Westerman, Ranking Member, H. Comm. on Nat. Res. and Rep. Paul Gosar, Ranking Member, Subcomm. on Oversight and Investigations, H. Comm. on Nat. Res. to Mr. Daniel Cordalis, Deputy Solicitor, Water Resources, U.S. Dep't of the Interior and Ms. Heather Gottry, Dir. and Designated Agency Ethics Official, Departmental Ethics Office, U.S. Dep't of the Interior (July 20, 2021) (on file with Comm.); Press Release, PROTECT THE PUBLIC'S TRUST, *Watchdog Questions Whether Haaland's Top Water Attorney May Have Committed "Egregious" Violation of Federal Law* (July 20, 2021), <https://www.protectpublictrust.org/watchdog-questions-whether-haaland-s-top-water-attorney-may-have-committed-egregious-violation-of-federal-law/>.

²⁵ See, e.g., Letter from Rep. Bruce Westerman, Ranking Member, H. Comm. on Nat. Res. et al., to The Hon. Joseph R. Biden, Jr., President, United States of America (July 28, 2021) (on file with Comm.).

Inspector General Greenblatt

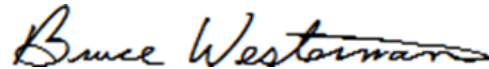
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Please contact the Natural Resources Minority staff at HNRR.Oversight@mail.house.gov with any questions about this request.

Thank you for your prompt attention to these matters and I look forward to the outcome of your audit.

Sincerely,

A handwritten signature in black ink that reads "Bruce Westerman". The signature is written in a cursive style with a long, sweeping underline.

Bruce Westerman
Ranking Member
Committee on Natural Resources