

APPENDIX B—SUBCOMMITTEE CORRESPONDENCE

ONE HUNDRED SECOND CONGRESS

OSCAR SIKORSKI, MINNESOTA, CHAIRMAN
 JAMES P. MORROW, JR., VIRGINIA, VICE CHAIRMAN
 ELEANOR HOLMES MORTON, DISTRICT OF COLUMBIA
 CONSTANCE A. MORELLA, MARYLAND
 THOMAS J. RIDGE, PENNSYLVANIA

U.S. House of Representatives

COMMITTEE ON POST OFFICE AND CIVIL SERVICE

SUBCOMMITTEE ON THE CIVIL SERVICE

122 CANNON HOUSE OFFICE BUILDING

Washington, DC 20515-6244

TELEPHONE (202) 225-4033

October 5, 1992

The Honorable Manuel Lujan, Jr.
 Secretary
 Department of the Interior
 1849 C Street
 Washington, D.C. 20240

Dear Secretary Lujan:

The Subcommittee is in receipt of four different letters the Department sent during the weeks of June 30th and July 6, 1992. These letters are a continuation of the Department's efforts to stonewall and otherwise thwart the Subcommittee's investigation into alleged improprieties in the directed reassignment of Ms. Lorraine Mintzmyer.

In a July 2, 1992 letter from Mr. Mike Hayden, Assistant Secretary for Fish and Wildlife and Parks, Mr. Hayden responded to the Subcommittee's June 18, 1992 and June 26, 1992 letters requesting certain documents. Several of Mr. Hayden's responses are unacceptable.

The first item is of grave concern to the Subcommittee. The Subcommittee, in its July 26, 1992 letter, requested two revised Vision documents referenced in a November 14, 1990 Mary Bradford transmittal memo. The Subcommittee requested that the Department transmit the two documents within 24 hours of receipt of the Subcommittee's letter. Your Department failed to do so. In fact, the Subcommittee received a letter from Ms. Jennifer Salisbury, Deputy Assistant Secretary for Fish and Wildlife and Parks, on June 30, 1992 indicating that while the documents in question were already supplied to the Subcommittee last fall, the Department could not comply with the Subcommittee's time frame because the Department was unable to obtain the "necessary clearances."

The Subcommittee found Ms. Salisbury's response to defy both logic and common sense when it asserted that documents allegedly provided to the Subcommittee last fall could not be forwarded because of "necessary clearances." Further, when the Department did forward two other draft Vision documents, they were not the requested documents.

The first draft Vision document the Subcommittee requested had a November 1990 transmittal memo from Mary Bradford attached to it. The Department, however, did not supply the Subcommittee with

Secretary Lujan
page 2

that document. Instead, the Department supplied the Subcommittee with an annotated copy of the draft Vision document without the Bradford memo stapled to it. In addition, the copy provided by the Department had the additional markings, 8980 * #, above the notation "Annotated - Preliminary Review." The cover page of the Vision document with the Bradford memo does not have that notation. See enclosed document #122 and the cover page of the October 1990 document provided by the Department.

The second document the Subcommittee requested was a retyped Vision document referenced in the Bradford transmittal memo. The Department did not send the Subcommittee that document. Instead, the Department supplied the Subcommittee with a March 20, 1991 draft version of the Vision document, the same version the Subcommittee sent to the Department in its June 26, 1992 letter. See enclosed document #78. The Subcommittee renews its request for the following Vision document: "Scott is now reviewing this. The next step will probably be to retype and circulate in DOI for formal comment, a la wetlands action plan."

Again, the Subcommittee insists that the two draft Vision documents referenced in the Bradford transmittal memo be provided to the Subcommittee. This request should not be unduly burdensome for the Department since Ms. Salisbury's June 30, 1992 letter stated that the Department was in possession of those two documents.

The second item the Subcommittee requested was the personnel files of Mr. S. Scott Sewell, Mr. R. Thomas Weimer, Mr. John E. Schrote, and Mr. Charles E. Kay. The Subcommittee was dismayed that it did not receive the requested personnel files. Mr. Hayden indicated that those individuals did not have personnel files relating to the directed reassignment of Ms. Mintzmyer. The Subcommittee is not making a request for personnel files relating to the directed reassignment of Ms. Mintzmyer. The Subcommittee wants a copy of every document in the personnel files of Mr. Sewell, Mr. Weimer, Mr. Schrote, and Mr. Kay. In a similar request made to the Department of Agriculture (DOA), the Department responded promptly with the personnel files of certain Department of Agriculture employees. Please provide the personnel files of Mr. Sewell, Mr. Weimer, Mr. Schrote, and Mr. Kay to the Subcommittee forthwith.

The third item concerns calendar entries of an October 4, 1990 meeting. The Subcommittee is in receipt of the calendar entries from Mr. Jack Morehead and Mr. T.S. Ary regarding the October 4, 1990 Vision document meeting that took place between one or more U.S. Senators or Representatives, representatives from the Departments of Agriculture and Interior, and special interests and

Secretary Lujan
page 3

other commodity groups. The Subcommittee is displeased that these documents are only now surfacing. On September 24, 1990, the Subcommittee made a request for those documents:

10. Any documents -- including, but not limited to -- draft, annotated and final copies of memos, letters and their envelopes; staff reports; notes; hard copy print outs from computer disks and hard drives; facsimile transmissions; minutes of meetings; phone conversations; phone messages and phone logs; and any other documents sufficient to reflect all meetings between any Executive branch personnel, Department of Interior personnel and other governmental personnel outside the Department of Interior related to the effect of the "Vision" document on private sector interests.

The Subcommittee requests a full explanation as to why these documents were not included in the original document request.

The next item deals with calendar and datebook entries for several Department officials. The Subcommittee will not honor the Department's request for narrowing the scope of its request for the calendar and datebook entries for Ms. Bradford, Mr. Cables, Mr. Davis, Mr. Loach, Mr. Kay, Mr. Morehead, Mr. Parham, Director Ridenour, Mr. Schrote, Mr. Sewell, and Mr. Weimer. Numbers 3, 4 and 5 of the Subcommittee's June 18, 1992 document request letter still stand. Again, a similar request was made to the Department of Agriculture and DOA fully responded without complaint. Please provide the calendar and datebook entries for the Department officials specified in the Subcommittee's June 18, 1992 document request letter forthwith.

The final item evidencing the Department's unwillingness to cooperate with the Subcommittee were two letters written by Ms. Lisa S. Farringer, Associate Solicitor, on July 2, 1992 and July 9, 1992. Ms. Farringer indicated that the Department would not follow the attorney/client guidelines set forth by the Subcommittee. The Department is refusing to cooperate by not supplying each of the twelve witnesses the Subcommittee has requested to interview with their own attorney. As a policy matter, the Subcommittee finds it a conflict of interest to have the same Department attorney representing multiple employees. As a practical matter, the Department has over 250 attorneys at its disposal. It should not be impossible to honor this request. The Department's refusal to comply with this provision will only hamper the Subcommittee's efforts to move forward with an open hearing.

Secretary Lujan
page 4

If you have further questions, please contact Ms. Kim Japinga
of my Subcommittee staff at (202) 225-4025.

Sincerely,


CONSTANCE MORELLA
Ranking Member


GERRY SIKORSKI
Chairman

GES:kj

cc: Chairman William Clay, House Committee on Post Office and
Civil Service

Representative Benjamin Gilman, Ranking Member, House
Committee on Post Office and Civil Service

Chairman George Miller, House Committee on Interior and
Insular Affairs

Representative Don Young, Ranking Member, House Committee on
Interior and Insular Affairs



United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

AUG 24 1992

Honorable Gerry Sikorski, Chairman
Honorable Constance Morella, Ranking Member
Subcommittee on the Civil Service
Committee on Post Office and Civil Service
House of Representatives
Washington, D.C. 20515-6244

Dear Mr. Chairman and Ms. Morella:

This refers to your letter of August 6, 1992, responding to my July 2, 1992, letter dealing with issues relating to the reassignment of Ms. Lorraine Mintzmyer. You have raised questions with a number of statements made in my letter.

First, I disagree with your assessment questioning whether it is appropriate for me to respond to your inquiries concerning Ms. Mintzmyer's reassignment. Because your letter concerns equal employment opportunity (EEO) procedures, which is within my area of responsibility, I am of the view that I am the appropriate official to respond to your August 6, 1992 letter.

Of more concern to me is your failure to address the main point expressed in my July 2, 1992, letter, that your Subcommittee publicly disclosed a statement made by a witness in connection with an EEO investigation without contacting or otherwise obtaining the consent of the witness. The reference to actions by the complainant or her attorney to first disclose the witness' statement begs the question and does not address the main issue which is the action taken by your Subcommittee. Your June 26, 1992, letter clearly is a public document; you included significant portions of a sworn statement of an agency witness in that letter. There can be no doubt, therefore, that you publicly disclosed a statement made by an agency employee to an EEO investigator. Your protestation that someone else had already publicly disclosed the document loses sight of the fact that it undermines the integrity of the EEO process if Federal employees, who are witnesses in EEO proceedings, are fearful that their statements will be publicly disclosed particularly where this action is taken by the very Subcommittee that has the responsibility to protect the interests of these employees.

Your reference to a public statement made by a Departmental official on April 1, 1992, that Ms. Mintzmyer had filed a formal EEO complaint, has no relevance to the unwarranted action by your Subcommittee in disclosing an EEO investigative statement in a public document. Ms. Mintzmyer's transfer was a public issue and the subject of numerous newspaper articles for at least a six-month period prior to April 1, 1992. Therefore, there are no

confidentiality issues concerning her dispute with the Department over her reassignment. Further, once Ms. Mintzmyer filed her formal EEO complaint in September 1991, there no longer was any confidentiality requirement regarding her status as an EEO complainant.

We agree with you that the Congress has elected to exempt itself from the Freedom of Information Act and the Privacy Act and hence these laws do not apply to restrict your Subcommittee in publicly disclosing documents such as statements to EEO investigators. These laws are, however, the cornerstone of a long process to determine the types of information that should or should not be made publicly available. Under these laws it is clear that EEO witness statements are not public documents particularly during the phase of an open and active EEO investigation as is the situation with respect to this complaint. We would expect that a Congressional Committee or Subcommittee would at least give consideration to the general criteria of these laws in exercising its discretion in determining what is and what is not appropriate for public disclosure in a particular instance. It was in this vein that we made reference to the Freedom of Information Act and the Privacy Act in our prior letter.

On page 3 of your letter you have interpreted a particular Equal Employment Opportunity Commission (EEOC) regulation to conclude that only EEOC hearings are "closed" to the public and that sworn statements provided at the pre-hearing EEO investigative phase are not similarly protected. However, the very language of the regulation quoted in your letter shows you are interpreting this regulation too narrowly and out of context. The excerpt from the EEOC regulation on page 2 of your letter states: "Hearings are part of the investigative process and are thus closed to the public." The regulation clearly protects the investigative process, of which the EEOC hearing is a part, from public disclosure. To focus only on the hearing and ignore the rest of the investigative process fails to give effect to the clear wording of the regulation.

Your assertion about the "confidentiality" of witnesses' sworn statements similarly takes this word out of context and confuses the term. Certainly witnesses cannot expect total confidentiality of their statements as their statements are made available to complainants, agency representatives, agency EEO officials and the EEOC as part of the EEO process. What witnesses can expect is that their statements will not be disclosed beyond the EEO process. Your references to the sworn statements of an agency witness in a public document is tantamount to a public disclosure which is beyond any semblance of being related to the EEO process. Thus, in this context, your June 26, 1992, letter breached the confidentiality of the EEO investigative statement of an agency witness.

Section 6 of EEOC Management Directive 107 was superseded by EEOC at least with reference to the term "alleged discriminating official". This Department was so advised by EEOC by letter dated March 26, 1990. (Attachment 1). As encouraged by EEOC's letter, and as an interim measure, we developed internal guidance on the treatment of EEO materials under the FOIA and EEO procedures which was issued on June 12, 1992. (Attachment 2). We continue to follow the guidance on confidentiality referenced in the EEOC Management Directive. As indicated in the enclosed policy statement, and in accord with statutory and regulatory requirements, we do not consider witness statements to be public documents.

We trust that this responds to the questions raised in your letter of August 6, 1992.

Sincerely,



John Schrote

Assistant Secretary - Policy,
Management and Budget

Enclosures



U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Washington, D.C. 20507

MAR 26 1990

Carmen R. Maymi, Director
Office for Equal Opportunity
Office of the Secretary
U.S. Department of the Interior
18th and C Streets, N.W., Room 1324
Washington, D.C. 20240

Dear Ms. Maymi:

This responds to your letter dated March 5, 1990 requesting advice on the appropriate terminology to be used when referring to individuals identified by complainants as responsible for alleged acts of discrimination and on the rights of those individuals.

The Commission deleted the term and concept of an "alleged discriminating official" (ADO) from its regulations in November 1987 (52 F.R. 41920, October 30, 1987). The Commission's elimination of the ADO term and concept from the regulations effectively superseded Chapter 6, Section 6 of EEO-MD 107. In the supplementary information published with the 1987 revisions to 29 C.F.R. Part 1613, the Commission noted that the central purpose of the complaint processing system is to determine when discriminatory conduct has occurred and not to provide rights to those who took the actions which are alleged to be discriminatory. In the Commission's view, an individual who is named or otherwise identified as being responsible for the action which gives rise to a complaint is a witness whose participation in the complaint process should not be materially different from that of any other witness.

After the Commission's deletion of the ADO term and concept, we are aware that some federal agencies decided to use new terms for former ADOs such as "Responsible Management Official," "Responding Management Official," "Responding Official" and so forth. Accordingly, we have no strong objection to your agency using the term "Alleged Responsible Official." From a legal standpoint, however, complaints are filed against federal agencies as entities, and not against individual agency employees or officials, regardless of whether a complainant names or

otherwise identifies a person or persons as allegedly responsible for the actions which gave rise to the particular complaint. Complainants are not required and should not be encouraged to label individuals whom they believe are responsible for the alleged discrimination other than as witnesses. Assigning a new term and acronym for ADOs tends to defeat the purpose of eliminating the concept and the fact that such individuals are and should be treated as witnesses and not categorized as separate entities with implied ultimate legal responsibility.

Since complaints are filed against agencies, it is the agencies which are responsible for remedial action in the event that it is determined that the complainant has been discriminated against illegally. That is not to say, however, that agencies cannot or will not take disciplinary action, as appropriate, against individual agency employees who are determined to have discriminated illegally. That, however, is a separate determination from whether discriminatory conduct has occurred. Agencies must determine, on a case-by-case basis, whether individual employees should be disciplined for illegally discriminating in accordance with the agencies' tables of penalties for discipline. If discipline is proposed by an agency against an employee for illegal discrimination, the employee should, consistent with applicable personnel rules and regulations, be provided with whatever information and documentation is being relied upon to support the agency's proposed disciplinary action.

We have, when asked, advised federal agencies to treat all witnesses, including those formally identified as ADOs, fairly and consistently concerning their involvement in the complaint process. Generally, agencies should insure that witnesses are fully informed of the purpose and nature of a counselor's or an investigator's inquiry, should allow witnesses to respond fully to the inquiry and afford witnesses an opportunity to obtain their own representation at any stage in the complaint process if they so desire.

Again, the primary purpose of the complaint process is to determine whether prohibited discrimination has occurred and not to provide a whole separate set of rules and guidelines with respect to those agency officials named or otherwise identified as being responsible for the actions which gave rise to the allegation of discrimination. Accordingly, we expect that agencies will not retain the substance of Section 6, Chapter 6 in MD-107 as applicable internal agency guidance. This tends to defeat the purpose of eliminating the ADO concept and a separate set of "rights" for certain witnesses.

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Agencies must nonetheless insure that all witnesses are treated fairly and consistently. Accordingly, agencies are encouraged to develop their own internal guidance, in coordination with their legal counsel, on the involvement of all witnesses in the complaint process at the various stages.

I hope this information is helpful to you. If you have any questions concerning this matter, please feel free to contact Robert P. Lowell, an attorney on my staff, at (202) 663-4840.

Sincerely,

/s/ Douglas J. Bielan

Douglas J. Bielan
Director
Federal Sector Programs
Office of Program Operations



United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240



JUN 14 1992

To: Bureau and Office FOIA Officers

From: Departmental FOIA Officer
Office of Management Improvement

Subject: Disclosure of EEO Material Under the FOIA vs.
EEO Procedures

In the past, there has been some confusion concerning the release of EEO material under the FOIA. There also has been some discrepancy with regard to disclosure of information under the FOIA vs. the Department's EEO procedures. This guidance is issued to resolve this confusion.

Under EEO procedures, while an investigation is ongoing, some information is released to both the complainant and the alleged responsible official (ARO). However, once the investigation is closed, the entire EEO file is provided to the complainant. At this time, additional information may be provided to the ARO depending on the Department's final decision. For further guidance, you may wish to consult your EEO representative and/or refer to Chapter 6, Section 6, of the EEOC Complaint Processing Manual (MD-107, September 1987) which is attached.

with regard to processing requests for EEO material under the FOIA, as long as the investigation is pending, no information is released. Exemption 7(A) or other applicable exemption(s) should be invoked to withhold such information, regardless of whether the request is made by the complainant, the ARO, or another third party. After the EEO investigation has been closed, information that is responsive to an FOIA request should be analyzed on a case-by-case basis and withheld only if it (1) falls under one of the nine FOIA exemptions and sound grounds exist for invoking an exemption or (2) if disclosure is prohibited by statute or Executive order. As with other FOIA requests, the response should be coordinated with an attorney in the Solicitor's Office before it is issued.

Should you have any additional questions regarding this matter, feel free to call me, your designated FOIA attorney, or Bob Walter, Division of General Law, SOL. Bob may be reached on 202/208-6346.

Alexandra Mallus
Alexandra Mallus

Attachment

cc: Designated FOIA Attorneys



United States Department of the Interior

MINERALS MANAGEMENT SERVICE
WASHINGTON, DC 20240

AUG 12 1992

Honorable Gerry Sikorski
Chairman, Subcommittee on the Civil Service
Committee on Post Office and Civil Service
House of Representatives
Washington, D.C. 20515-6244

Dear Mr. Chairman:

This responds to the portions of your and Congresswoman Morella's June 26, 1992, letter in which you outline alleged "inconsistencies" between my sworn statement given to the National Park Service as a part of the confidential investigation of Ms. Lorraine Mintzmyer's complaint of gender and age discrimination and documents in the possession of your Subcommittee. You take issue with part of that statement.

As you know, I continue to welcome the opportunity to testify before your Subcommittee in an open forum to set the record straight about my involvement with the Vision Document and to clear up any perceived "inconsistencies" outlined in your letter. You have received my personal request for such a hearing dated February 13, 1992 (Attachment A) and you have received eleven requests from the Department on my behalf and of other Department officials to accord us the same forum Ms. Mintzmyer was given. As you have thus far chosen to refuse these requests and instead have chosen to pursue this means of communication, in the continuing spirit of cooperation I will respond to the numerous unfounded allegations in your letter. The Department has already provided separate responses to the Subcommittee regarding other issues raised in your June 26, 1992 letter. (Attachment B)

The first set of questions on pages 6-8 of your letter of June 26, 1992, focuses on my involvement in the revisions made to the Vision document. As stated in excerpts from my sworn statement, quoted in your letter, my substantive involvement with the Vision document occurred in the month of June 1991, when I suggested the Vision document should include stronger language on the clean air standards. In addition, I recommended changes to the proposed locations of public hearings. I believed most of the hearings should have taken place in the West, where the public most affected by the issues outlined in the Vision Document is located.

I had minimal involvement with the Vision document from the period of the Fall of 1990 to June 1991. Ms. Mintzmyer publicly released copies of the Vision document, signed by her Deputy, before the document had obtained National Park Service and Departmental review. Many landowners and land users were

concerned about possible implications and were uninformed on possible impacts on them. They were even more concerned that they were not allowed to comment fully on the document before it was signed.

The Wyoming Congressional delegation set up a meeting of all involved parties on October 4, 1990, in the office of Senator Alan Simpson. The Congressional representatives present were Senators Wallop and Simpson, and Congressman Craig Thomas; the attendees from the Department of the Interior were me, Principal Deputy Assistant Secretary for Fish and Wildlife and Parks, Scott Sewell, the Director of the Bureau of Land Management Cy Jamison, the Associate Director of Operations of the National Park Service, Mr. Jack Morehead who was Ms. Mintzmyer's supervisor on this issue, and the Director of the Bureau of Mines, T Ary; attendees from the Department of Agriculture included Assistant Secretary of Agriculture Mosely, and a Forest Supervisor. Also attending were a number of Wyoming landowners, land users and constituent groups.

The purpose of the October 4 meeting was simply to ask for a fair public review; the constituents believed they had been excluded from full review of the document to that time. This meeting was absolutely no different from the many meetings attended every day by members of Congress and constituents to allow an airing of public concerns on policy issues. Each of the approximately 50 people in the room was allowed to make a short statement after which the meeting adjourned. At no time was I requested to alter any document. During the meeting, I expressed the view that the document impacted the Forest Service of the Department of Agriculture more than the National Park Service. Although I acknowledged the responsibility of the National Park Service for park resources, I pointed out comments on the use of Forest Service land should be directed to the Department of Agriculture.

On the following day, a meeting took place between Ms. Mintzmyer and me at which time I expressed my disappointment over her handling of the Vision document from a procedural standpoint. I pointed out that if the document had received proper National Park Service and Departmental review before it was signed, the Congressional meeting would probably never have had to occur. I then told her what process we would follow in allowing a more full and fair airing of the issue. Mr. Sununu's name was never mentioned in my meetings with her nor was there ever any contact, even indirectly on the subject, between us. I believe that I met on the Vision document no more than three or four times with Ms. Mintzmyer and, to my knowledge, never alone.

During that period my role was to gather comments, not to revise the document. To expedite the process, I established a working group consisting of Mary Bradford, James Loach, Joseph Doddridge and Meredith Kimbro. To my knowledge, the working group met no

more than four or five times. The working group's role was twofold: (1) to review the document for policy consistency, and (2) to compile the lists of the comments received from other offices or parties. Periodically, the group informed me of their progress. To my knowledge, no comments from our office's review were ever transmitted in any way to the National Park Service or any other party out of my immediate office. It was, and continues to be, my view and that of the working group the agency with the most interest in the Vision document was the Forest Service (Department of Agriculture) and not the Department of the Interior. This is because, in addition to private property owners and state lands, the Federal lands impacted were Forest Service lands. As a result, in all candor, the Vision document was not a policy priority for me, other than to make sure the process problems with this document were corrected and full public input allowed. There were many more pressing issues at the time which required my attention, including other issues at Yellowstone such as the serious deficiency in regular maintenance on facilities and roads, concession problems, the overcrowding and commercialization of Yellowstone, the "burn" policy, and mammal management issues such as bison population control and wolf reintroduction. Recognizing these priorities, the working group acted accordingly.

Indeed, the major revisions to the document reduced the final document in size from over 60 pages to 10 pages were not made by me, the working group, or any other Department of the Interior official in Washington. Again, as to the final draft, I did express the concern that the Vision document receive appropriate internal review in accordance with our regular procedures before the document was made available to the public as a final document.

Since the Vision document was not a high policy priority and because the working group recognized its impact as being greater on the Department of Agriculture, prior to June 1991, the working group and I considered only minor editorial changes and, to my knowledge, even these were not transmitted to the National Park Service. I do not believe I personally reviewed more than one or two sections of the entire document.

As the Deputy Assistant Secretary for Fish and Wildlife and Parks from January 1990 to July 1991, with responsibility for National Park Service issues, the Vision document was clearly in my area of responsibility and I had the authority to deal with issues raised by this document. Although I could have revamped, or even cancelled, the entire document if I had chosen to, I did neither.

Taken in context, the copies of the documents you provided with your letter are consistent with my description of the Department's involvement in the Vision document during the Fall

of 1990 to June 1991. The handwritten note from Ms. Bradford, dated November 14, 1990, which is portrayed in your letter as somehow demonstrating my substantive involvement with the Vision Document prior to June 1991, is not that at all. Ms. Bradford's note responded to a request from her supervisor, the Assistant Secretary for Fish and Wildlife and Parks, to explain the status of the internal review process by the working group. Since I had tasked the working group to review the Vision document, for policy consistency, Ms. Bradford used the word "review" in a generic sense in responding to the Assistant Secretary. The Subcommittee's assertion that Ms. Bradford's note is evidence that I was engaged in extensive revisions of the Vision document takes her note completely out of context, and is contrary to the views of the author of the note. (Attachment C)

Even more surprising is the Subcommittee's reference to the June 14, 1991, memorandum from Lorraine Mintzmyer. This document shows that the revisions to the Vision document were made in the field prior to the June 7, 1991, meeting and that as a result of that meeting, quoting directly from her memorandum: "[t]he only substantive changes occur on page 4 under the air quality section ... and on page 6, where we clarify that mineral inventory will not occur in national parks. The rest of the changes are editorial in nature." (Underscoring supplied.) This document and many of the other documents in the Subcommittee's possession fully rebut the contention my office had more than only minimal involvement with the Vision document.

The computer message document (#57) attached to your letter and dated May 28, 1991, establishes it was not until this point in time that briefings were being set up for me so that I could become familiar with the Vision document. Your document reference #57 states, "NPS is trying to get their briefings set up ASAP because Scott Sewell has been their Dept contact & he'll be leaving soon." In contrast to your assertions, this computer message demonstrates I had not been briefed on the Vision document as of the date of May 28, 1991. This further rebuts the allegations in your letter that I was extensively involved in revisions to the Vision document as early as the Fall of 1990.

The Department has interviewed and obtained statements from the employees who were part of the working group tasked by me with reviewing the Vision document in the fall of 1990. This included the following individuals: Mary Bradford, Joseph Poddridge, Meredith Kimbro, and Jim Loach. The Department also interviewed Jim Parham, Jack Morehead, National Park Service Director James Ridenour and myself. While Mr. Ridenour and I are political appointees, the other individuals are career civil service employees, most with long term and distinguished careers in the National Park Service. The statements of these employees further support my statements and position. They include a total of over 130 years of career Federal service most of which is with the

National Park Service. (Attachment D)

In response to the questions on the bottom of page 8 and the top of page 9 of your letter, my memorandum of June 28, 1991, expressed my concern about the confusing language in Ms. Mintzmyer's June 14, 1991, memorandum. Specifically, I wanted to clarify I had made only one policy recommendation and I believed review outside of the National Park Service was not warranted at that time. I will be happy to testify in open hearing about any document I signed and provide witnesses, if necessary. In any case the memorandum in question was personally signed and dated by me on or about June 28, 1991 and hand-carried to the National Park Service the same day.

Your final set of questions on pages 9-11 of your letter pertain to my contacts with the Department of Agriculture. It is my recollection that I had one, and only one, meeting with Agriculture Deputy Assistant Secretary Beuter in January 1991, to discuss whether any coordination between our Washington offices on the Vision document would be necessary. This meeting lasted no more than 15 minutes. We decided no review or meetings on the substance of the issue were necessary as all review would be conducted in the field. Other than this meeting, and the October 4, 1990 meeting at the Capitol, I can recall no other contact between me and any official at the Department of Agriculture.

I would hope this letter and the attached statements prove there is little or no substance to the allegations of inconsistencies you have raised in the June 26, 1992, letter. Nevertheless, to the extent you may wish more detail I will be pleased to provide on the record sworn public testimony, the same as Ms. Mintzmyer, as I have offered in the past. I hope this clarifies any "confusion" you may have had and puts this matter to rest.

A similar letter is being sent to the Honorable Constance Morella.

Sincerely,


Scott Sewell

Enclosures



United States Department of the Interior

MINERALS MANAGEMENT SERVICE
WASHINGTON, DC 20240



AUG 12 1992

Honorable Constance Morella
Subcommittee on the Civil Service
Committee on Post Office and Civil Service
House of Representatives
Washington, D.C. 20515-6244

Dear Ms. Morella:

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As you know, I continue to welcome the opportunity to testify before your Subcommittee in an open forum to set the record straight about my involvement with the Vision Document and to clear up any perceived "inconsistencies" outlined in your letter. You have received my personal request for such a hearing dated February 13, 1992 (Attachment A) and you have received eleven requests from the Department on my behalf and of other Department officials to accord us the same forum Ms. Mintzmyer was given. As you have thus far chosen to refuse these requests and instead have chosen to pursue this means of communication, in the continuing spirit of cooperation I will respond to the numerous unfounded allegations in your letter. The Department has already provided separate responses to the Subcommittee regarding other issues raised in your June 26, 1992 letter. (Attachment B)

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concerned about possible implications and were uninformed on possible impacts on them. They were even more concerned that they were not allowed to comment fully on the document before it was signed.

The Wyoming Congressional delegation set up a meeting of all involved parties on October 4, 1990, in the office of Senator Alan Simpson. The Congressional representatives present were Senators Wallop and Simpson, and Congressman Craig Thomas; the attendees from the Department of the Interior were me, Principal Deputy Assistant Secretary for Fish and Wildlife and Parks, Scott Sewell, the Director of the Bureau of Land Management Cy Jamison, the Associate Director of Operations of the National Park Service, Mr. Jack Morehead who was Ms. Mintzmyer's supervisor on this issue, and the Director of the Bureau of Mines, T Ary; attendees from the Department of Agriculture included Assistant Secretary of Agriculture Mosely, and a Forest Supervisor. Also attending were a number of Wyoming landowners, land users and constituent groups.

The purpose of the October 4 meeting was simply to ask for a fair public review; the constituents believed they had been excluded from full review of the document to that time. This meeting was absolutely no different from the many meetings attended every day by members of Congress and constituents to allow an airing of public concerns on policy issues. Each of the approximately 50 people in the room was allowed to make a short statement after which the meeting adjourned. At no time was I requested to alter any document. During the meeting, I expressed the view that the document impacted the Forest Service of the Department of Agriculture more than the National Park Service. Although I acknowledged the responsibility of the National Park Service for park resources, I pointed out comments on the use of Forest Service land should be directed to the Department of Agriculture.

On the following day, a meeting took place between Ms. Mintzmyer and me at which time I expressed my disappointment over her handling of the Vision document from a procedural standpoint. I pointed out that if the document had received proper National Park Service and Departmental review before it was signed, the Congressional meeting would probably never have had to occur. I then told her what process we would follow in allowing a more full and fair airing of the issue. Mr. Sununu's name was never mentioned in my meetings with her nor was there ever any contact, even indirectly on the subject, between us. I believe that I met on the Vision document no more than three or four times with Ms. Mintzmyer and, to my knowledge, never alone.

During that period my role was to gather comments, not to revise the document. To expedite the process, I established a working group consisting of Mary Bradford, James Loach, Joseph Doddridge and Meredith Kimbro. To my knowledge, the working group met no

more than four or five times. The working group's role was twofold: (1) to review the document for policy consistency, and (2) to compile the lists of the comments received from other offices or parties. Periodically, the group informed me of their progress. To my knowledge, no comments from our office's review were ever transmitted in any way to the National Park Service or any other party out of my immediate office. It was, and continues to be, my view and that of the working group the agency with the most interest in the Vision document was the Forest Service (Department of Agriculture) and not the Department of the Interior. This is because, in addition to private property owners and state lands, the Federal lands impacted were Forest Service lands. As a result, in all candor, the Vision document was not a policy priority for me, other than to make sure the process problems with this document were corrected and full public input allowed. There were many more pressing issues at the time which required my attention, including other issues at Yellowstone such as the serious deficiency in regular maintenance on facilities and roads, concession problems, the overcrowding and commercialization of Yellowstone, the "burn" policy, and mammal management issues such as bison population control and wolf reintroduction. Recognizing these priorities, the working group acted accordingly.

Indeed, the major revisions to the document reduced the final document in size from over 60 pages to 10 pages were not made by me, the working group, or any other Department of the Interior official in Washington. Again, as to the final draft, I did express the concern that the Vision document receive appropriate internal review in accordance with our regular procedures before the document was made available to the public as a final document.

Since the Vision document was not a high policy priority and because the working group recognized its impact as being greater on the Department of Agriculture, prior to June 1991, the working group and I considered only minor editorial changes and, to my knowledge, even these were not transmitted to the National Park Service. I do not believe I personally reviewed more than one or two sections of the entire document.

As the Deputy Assistant Secretary for Fish and Wildlife and Parks from January 1990 to July 1991, with responsibility for National Park Service issues, the Vision document was clearly in my area of responsibility and I had the authority to deal with issues raised by this document. Although I could have revamped, or even cancelled, the entire document if I had chosen to, I did neither.

Taken in context, the copies of the documents you provided with your letter are consistent with my description of the Department's involvement in the Vision document during the Fall

of 1990 to June 1991. The handwritten note from Ms. Bradford, dated November 14, 1990, which is portrayed in your letter as somehow demonstrating my substantive involvement with the Vision Document prior to June 1991, is not that at all. Ms. Bradford's note responded to a request from her supervisor, the Assistant Secretary for Fish and Wildlife and Parks, to explain the status of the internal review process by the working group. Since I had tasked the working group to review the Vision document, for policy consistency, Ms. Bradford used the word "review" in a generic sense in responding to the Assistant Secretary. The Subcommittee's assertion that Ms. Bradford's note is evidence that I was engaged in extensive revisions of the Vision document takes her note completely out of context, and is contrary to the views of the author of the note. (Attachment: C)

Even more surprising is the Subcommittee's reference to the June 14, 1991, memorandum from Lorraine Mintzmyer. This document shows that the revisions to the Vision document were made in the field prior to the June 7, 1991, meeting and that as a result of that meeting, quoting directly from her memorandum: "[t]he only substantive changes occur on page 4 under the air quality section ... and on page 6, where we clarify that mineral inventory will not occur in national parks. The rest of the changes are editorial in nature." (Underscoring supplied.) This document and many of the other documents in the Subcommittee's possession fully rebut the contention my office had more than only minimal involvement with the Vision document.

The computer message document (#57) attached to your letter and dated May 28, 1991, establishes it was not until this point in time that briefings were being set up for me so that I could become familiar with the Vision document. Your document reference #57 states, "NPS is trying to get their briefings set up ASAP because Scott Sewell has been their Dept contact & he'll be leaving soon." In contrast to your assertions, this computer message demonstrates I had not been briefed on the Vision document as of the date of May 28, 1991. This further rebuts the allegations in your letter that I was extensively involved in revisions to the Vision document as early as the Fall of 1990.

The Department has interviewed and obtained statements from the employees who were part of the working group tasked by me with reviewing the Vision document in the fall of 1990. This included the following individuals: Mary Bradford, Joseph Doddridge, Meredith Kimbro, and Jim Loach. The Department also interviewed Jim Parham, Jack Morehead, National Park Service Director James Ridenour and myself. While Mr. Ridenour and I are political appointees, the other individuals are career civil service employees, most with long term and distinguished careers in the National Park Service. The statements of these employees further support my statements and position. They include a total of over 130 years of Federal service most of which is with the National

Park Service. (Attachment D)

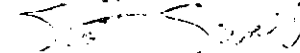
In response to the questions on the bottom of page 8 and the top of page 9 of your letter, my memorandum of June 28, 1991, expressed my concern about the confusing language in Ms. Mintzmyer's June 14, 1991, memorandum. Specifically, I wanted to clarify I had made only one policy recommendation and I believed review outside of the National Park Service was not warranted at that time. I will be happy to testify in open hearing about any document I signed and provide witnesses, if necessary. In any case the memorandum in question was personally signed and dated by me on or about June 28, 1991 and hand-carried to the National Park Service the same day.

Your final set of questions on pages 9-11 of your letter pertain to my contacts with the Department of Agriculture. It is my recollection that I had one, and only one, meeting with Agriculture Deputy Assistant Secretary Beuter in January 1991, to discuss whether any coordination between our Washington offices on the Vision document would be necessary. This meeting lasted no more than 15 minutes. We decided no review or meetings on the substance of the issue were necessary as all review would be conducted in the field. Other than this meeting, and the October 4, 1990 meeting at the Capitol, I can recall no other contact between me and any official at the Department of Agriculture.

I would hope this letter and the attached statements prove there is little or no substance to the allegations of inconsistencies you have raised in the June 26, 1992, letter. Nevertheless, to the extent you may wish more detail I will be pleased to provide on the record sworn public testimony, the same as Ms. Mintzmyer, as I have offered in the past. I hope this clarifies any "confusion" you may have had and puts this matter to rest.

A similar letter is being sent to Chairman Sikorski.

Sincerely,



Scott Sewell

Enclosures



United States Department of the Interior

MINERALS MANAGEMENT SERVICE
WASHINGTON, DC 20240

FEB 13 1992

Honorable Gerry Sikorski
Chairman, Committee on Post Office
and Civil Service
House of Representatives
Washington, D.C. 20515-6244

Dear Mr. Sikorski:

In response to your letter of February 4, 1992, thank you for the offer to meet with your staff concerning your review of the Mintzmyer case.

I certainly look forward to the opportunity to set the record straight, but I feel that since charges were made in a formal hearing, the public interest would best be served by my appearing under similar conditions.

I'm sure that you are as anxious as I am for the public to learn the full truth on this issue.

I appreciate your consideration in this matter.

Sincerely,

S. Scott Sewell

S. Scott Sewell
Director

CC: T. WEIMER
L. FARRINGER



United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

June 2, 1992

Honorable Gerry Sikorski, Chairman
Honorable Constance Morella, Ranking Member
Subcommittee on the Civil Service
Committee on Post Office and Civil Service
House of Representatives
Washington, D.C. 20515-6244

Dear Mr. Chairman and Ms. Morella:

On behalf of the Secretary and in my role as the Director of Equal Employment Opportunity for the Department of the Interior, this letter provides an interim response to your letter of June 26, 1992, for the House Subcommittee on the Civil Service. In your letter, you asked for responses to questions relating both to statements made before the Subcommittee and to other information obtained by the Subcommittee. Your letter included excerpts from a sworn statement provided to an EEO investigator by Mr. Scott Sewell. While we are making every effort to respond as soon as possible, we are unable to comment at this time.

Your letter created a rather serious breach of confidentiality, which I believe is necessary to bring to your attention. Under the Privacy Act, the Freedom of Information Act, and EEO procedures, EEO investigative files, including witness statements, are considered to be confidential, highly sensitive and not subject to public disclosure. To safeguard the integrity of the EEO process and to assure that witnesses are open and candid in their testimony, EEOC hearings, which are part of the investigative process, are closed to the public. 29 C.F.R. § 1613.218(c)(1). The EEOC has issued guidelines to Federal agencies that carefully define the responsibilities of those individuals who are involved in the complaint process. These responsibilities include maintaining the confidentiality of EEO investigative files to avoid unauthorized disclosures. See EEOC Management Directive 107, section (6).

Your letter, a public document, which includes excerpts from a confidential, sworn statement made to an EEO investigator by Mr. Sewell, undermines the EEO process. In effect, because significant portions of Mr. Sewell's sworn statement now are in the public domain, a chilling effect may harm future EEO proceedings because witnesses may be less candid in their testimony once it becomes known that Congressional Committees will obtain and publicly disclose their sworn statements. We consider this to be an unwarranted interference in the EEO process by your subcommittee that has undermined the integrity of the EEO process. We do not wish to further endanger or unduly

burden the fair resolution of this process.

With respect to your questions, the statements to which your questions are addressed are known to us only by your letter itself. Because many of the Subcommittee's questions are premised on Mr. Sewell's confidential statement, before we can determine whether it would be appropriate for us to respond to your questions, we must ourselves inquire into the specific facts underlying these statements. As you know, Mr. Sewell's participation in this process is crucial. Unfortunately, Mr. Sewell is away until July 20, 1992. Accordingly, we will review this matter as soon as possible after his return.

Sincerely,

/s/ John Schrote

John Schrote
Assistant Secretary - Policy,
Management and Budget

cc: Chairman, Committee on Post Office
and Civil Service



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, D.C. 20240



July 2, 1992

Honorable Gerry Sikorski
Chairman, Subcommittee on the Civil Service
Committee on Post Office and Civil Service
House of Representatives
Washington, D.C. 20515-6244

Dear Mr. Chairman:

Secretary Lujan has asked me to respond to your and Congresswoman Morella's joint letter of June 18, 1992, which requests additional documents relating to the directed reassignment of Ms. Lorraine Mintzmyer.

Please be assured the Department of the Interior has tried to cooperate and be as responsive as possible to each of the requests for documents. Records regarding Ms. Mintzmyer and, to a much greater degree, the Yellowstone "Vision" document are located in numerous offices in the various bureaus of the Department. The Office of Congressional and Legislative Affairs made a Departmentwide request for all documents referred to in your September 24, 1991, letter. Voluminous records were collected and all were boxed up and transmitted to the Subcommittee without any attempt to screen them. A catalogue of the specific documents actually delivered to the Subcommittee was not prepared to ensure a timely response. Unfortunately, the lack of a comprehensive catalogue now poses problems for us because we cannot tell you with certainty whether any specific document was submitted or may have been inadvertently omitted.

We would like to stress that while some of these documents either have been or will be withheld in Freedom of Information Act (FOIA) requests received since September 24, 1991, in accordance with the exemption provisions of that Act, the Department has never intentionally withheld any pertinent documents from the Subcommittee. It should be noted that several documents surfaced as a result of the Department's FOIA searches that may not have been included in the Department's response to the Subcommittee's initial request or that were dated after the original request letter. Copies are enclosed (Enclosure 1), including the September 27, 1991, letter from Mr. Steve Goldstein to Mr. Chuck Green which was referenced in your June 18, 1992, letter.

With respect to the June 18, 1992, request for documents, we have searched our files and contacted the appropriate individuals as indicated below.

-2-

1) The Subcommittee requested all personnel files of Mr. S. Scott Sewell, Mr. R. Thomas Welmer, Mr. John T. Schrote, and Mr. Charles E. Kay. We have assumed the personnel files you are seeking pertain to the directed reassignment of Ms. Mintzmyer. These individuals have verified they have no such personnel files in their possession.

2) The Subcommittee requested copies of any and all documents pertaining to an October 4, 1990, meeting attended by Mr. Sewell, Mr. TS Ary, and Mr. Jack Morehead to discuss the Yellowstone "Vision" document. While the three individuals recall a meeting of approximately that date, no substantive notes or records were retained, if, indeed, any ever existed. The only written references appear as entries in Mr. Morehead's calendar and the calendar maintained by Mr. Ary's secretary (see Enclosure 2 with the references highlighted for legibility).

3) The Subcommittee requested copies of all calendar and datebook entries and other documents reflecting scheduling activities for various time periods for Ms. Mary Bradford, Mr. Herb Cables, Mr. Jim Loach, Mr. Morehead, Mr. Jim Parham, Mr. Welmer, Mr. Schrote, Mr. Kay, Mr. Jim Ridenour, Mr. Edward Davis, and Mr. Sewell. The complete calendars are voluminous and contain personal and other irrelevant information. While we want to cooperate with the Subcommittee's investigation, we believe the request as currently drafted is overbroad and would, therefore, ask that the scope of the request be narrowed so that we can appropriately comply.

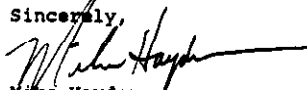
To reiterate, we are trying to the best of our ability to provide the Subcommittee all requested documents. There may have been instances, for example, when one document may have been distributed for comment and individuals from various offices may have made comments and notes on the pages of their copies for their own use or prior to providing formal comments. It is possible several such annotated copies were omitted erroneously in our response to you under the assumption that they were duplicate documents. Accordingly, we are issuing a second Departmentwide request for bureaus and offices to review their files and forward documents they may have previously overlooked or considered duplicates (Enclosure 3). To date we have not identified any such omissions; however, we will continue to search for and will forward to the Subcommittee each document submitted by July 17, 1992.

-3-

At this point I would like to address one of the concerns identified on page 11 of your June 26, 1992, letter. The Subcommittee apparently did not receive two revised versions of the Yellowstone "Vision" document referenced in a transmittal memorandum from Ms. Mary Bradford. Copies of these two annotated versions were indeed in Ms. Bradford's files, were forwarded to the Office of Congressional and Legislative Affairs, and should have been delivered to the Subcommittee. They are provided again as Enclosure 4.

If you have further questions, please contact me or Deputy Assistant Secretary Jennifer A. Salisbury at 208-5347. An identical letter has been sent to Ms. Morella.

Sincerely,



Mike Hayden
Assistant Secretary for Fish and
Wildlife and Parks

Enclosures

CC: Chairman William Clay, House Committee on Post
Office and Civil Service
Chairman George Miller, House Committee on Interior and
Insular Affairs



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, D.C. 20240



July 2, 1992

Honorable Constance Morella
Subcommittee on the Civil Service
Committee on Post Office and Civil Service
House of Representatives
Washington, D.C. 20515-6244

Dear Ms. Morella:

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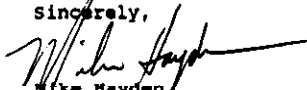
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If you have further questions, please contact me or Deputy Assistant Secretary Jennifer A. Salisbury at 208-5347. An identical letter has been sent to Chairman Sikorski.

Sincerely,



Mike Hayden
Assistant Secretary for Fish and
Wildlife and Parks

Enclosures

CC: Chairman William Clay, House Committee on Post
Office and Civil Service
Chairman George Miller, House Committee on Interior and
Insular Affairs

Statement of Mary Bradford

I, Mary Bradford, hereby make this statement to clarify issues that have been raised concerning the Yellowstone Vision document.

1. My current position is Special Assistant to the Assistant Secretary, Fish and Wildlife and Parks, detailed from the National Park Service. I have been in the Office of the Assistant Secretary, Fish and Wildlife and Parks, since December 1989 and have been a career employee of the Department of the Interior and the National Park Service since 1967.
2. One of my assignments while in the Assistant Secretary's Office was to be part of a work group that dealt with Greater Yellowstone Area issues and the document that has come to be known as the Vision document. The individuals with whom I worked on this issue were Jim Loach, Meredith Kimbro, and Joe Doddridge.
3. As a part of this process, I received a draft of the Vision document in the fall of 1990. It had been sent to the Department for review as part of the normal clearance and review process. I periodically gave hand-written notes to Scott Sewell concerning the progress of the group's work, which was merely to look at the document and try to incorporate views received from other Departmental agencies, as received from the Office of Environmental Affairs, but the product of our review was never transmitted from us to the National Park Service. Mr. Sewell was the Principal Deputy Assistant Secretary for Fish and Wildlife and Parks and was overseeing the group.
4. The Vision document had been prepared over the last several years in response to Congressional requests and was not just a management plan for Yellowstone National Park. It dealt in large part with the surrounding areas which were of primary concern of the Forest Service of the Department of Agriculture. Its genesis was the result of hearings held in the mid-80's by the National Parks Subcommittee of the House of Representatives. Officials of the previous Administration, including the National Park Service, the U.S. Forest Service, and the Bureau of Land Management, had agreed to cooperate on a plan to coordinate various Federal activities in the area, in lieu of proceeding with legislation then pending that would have expanded the boundaries of Yellowstone National Park. By 1990, many of the House committee members were no longer present and it was no longer a high profile issue in the Department, since the approval for the preparation of the document had occurred under the previous Administration and those officials had largely departed. Thus, it did not seem to be a big issue during its review.

5. Mr. Sewell's position was very broad in scope and he carried a heavy load of differing responsibilities. As a result, actual review of the Vision document was primarily the responsibility of the work group to which he had delegated the review and was only one of a number of projects that crossed his desk. The only time the issue of the Vision document seemed to be active with respect to Mr. Sewell's involvement was in the Fall of 1990 when Mr. Sewell and representatives from the National Park Service, the Bureau of Land Management, Bureau of Mines, U.S. Forest Service and others were asked to attend a meeting October 4 on the Hill with Senator Simpson and others to respond to constituent concerns about the Vision document. After that meeting, Mr. Sewell conveyed to our work group his impression that the U.S. Forest Service was the primary audience for Senator Simpson's remarks and that the concerns expressed had very little to do with the issues raised by the National Park Service, since the Park Service was not suggesting as great a change in current management practices as was the Forest Service.

6. Around that same time, our work group completed its preliminary review of the draft Vision document, and I gathered all the comments together (Departmental comments as well as our suggestions) and penciled them into a copy of the draft, standard procedure when a number of different comments are received on draft documents. Mr. Sewell was given a copy of our suggestions and notes in late Fall of 1990 but did not appear to have the time to focus on it in the ensuing months. He made no changes himself nor did he approve of any of the changes made by our working group. As a result, the comments received from various interested Departmental offices were forwarded to the Director of the Park Service without any input I was aware of from Mr. Sewell or the Assistant Secretary's staff.

7. In response to a request from another staff member of the Assistant Secretary's office, I also provided a copy of the draft Vision document, together with comments being considered, to our immediate supervisor, Assistant Secretary Constance Harriman, with a short cover note (dated November 14, 1990) explaining the status of the review process and mentioning the Simpson meeting. To my knowledge, she took no action with respect to the draft document. From the Fall of 1990 to the following June, I was unaware of any further activity by our office with respect to this issue.

8. In June 1991, Lorraine Mintzmyer was in town and called a meeting on June 7 which I attended. Also there were National Park Service Director Ridenour, Scott Sewell, Jim Loach, Dave Behler, Sandra Key and possibly others. We had just received that week a copy of a shortened version of the Vision document, much reduced from the earlier draft. At that meeting, Ms. Mintzmyer noted that the group working on the Vision document in the field had substantially changed the Vision document making

many deletions and revisions. She and Director Ridenour then went through the document for us, page by page, with some input from Mr. Behler and Ms. Key. Mr. Sewell's only substantive comment during that meeting, as I recall, was to suggest that the language relating to protecting the air quality values associated with the park be strengthened -- to tighten up the provisions dealing with the Clean Air Act. The Office of the Assistant Secretary's working group of which I was a part had minimal involvement in these changes to the Vision document. As far as I know, Mr. Sewell did not direct or request additional changes.

9. Subsequent to the meeting, a memo came in from Ms. Mintzmyer noting in several places that the revised documents reflected changes made by Mr. Sewell and others at the meeting. Mr. Sewell called me in his office and stated he thought that was an extremely unfair characterization of his role in the changes, since the Vision document was revised before it had been presented to him at that meeting. He asked me to call Ms. Mintzmyer and ask her to clarify the record on that point. I was unable to reach Ms. Mintzmyer for several days, but when I did, I told her of Mr. Sewell's concern, and she told me of her concerns. We talked a bit about the history of the issue.

10. After that conversation, I reported the results of the telephone call to Mr. Sewell. He was, as usual, busy with other matters and he had no reaction. After this point, I do not recall any further activity on this issue.

This statement is made in my official capacity and is true and correct to the best of my knowledge and belief.

Mary Bradford
Mary Bradford

7/22/92



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, D.C. 20240



STATEMENT OF MARY E. KIMBRO CONCERNING THE "YELLOWSTONE VISION DOCUMENT"

After several summer appointments in the Department, I began my full-time Government service as a career employee in the Office of the Secretary in 1972. All of my Government service has been with the Department of the Interior. I have been working with the Office of the Assistant Secretary for Fish and Wildlife and Parks since January 1989.

This statement provides my recollections of my involvement and what transpired at the time I participated in the review of the "Yellowstone Vision Document" (YVD).

While Scott Sewell was the Principal Deputy Assistant Secretary for Fish and Wildlife and Parks, the office had a National Park Service (NPS) team and a Fish and Wildlife Service team to review various materials, track issues, etc., for matters pertaining to these two bureaus. I reported directly then, as I do now, to Joe Doddridge. We are responsible primarily for budget and administration matters, and special assigned projects in the Assistant Secretary's office.

Around late summer 1990, I recall Mr. Sewell questioning Jim Loach, NPS team leader, and the rest of us about the YVD (e.g., what was it, who initiated it, how did it differ from a general management plan?) during one or two of our regular weekly team meetings dealing with NPS issues. Mr. Loach said he had heard of it, but could not be more specific about what it entailed. Mr. Sewell asked him to get a copy.

At a later team meeting, Mr. Sewell asked Joe Doddridge, Jim Loach, Mary Bradford, and me to work together and review the YVD. I first read the YVD at home and we met with Mr. Sewell to discuss the assignment. We did not discuss the approximately 75-page document in any detail; but Mr. Sewell indicated he wanted us to review it for tone and overall Departmental concerns. No deadline was given to complete the review and I received no inquiries as to the status of the review. There was certainly no sense of urgency.

Meetings of the work group were never very formal. All four "members" first met in the conference room. Joe Doddridge was called out soon after we started and, to my recollection, he was unable to devote much time to the review after that initial session. At some point we received additional YVD information to read. It is my recollection that this information consisted of some, if not all, of the concerns expressed by other bureaus. Some had suggested changes and additions, some expressed overall concerns that various Departmental missions other than those of NPS were not represented; and at least one objected to the process.

(i.e., the document went out for public comment before the Department had a chance to comment).

Again, there was no expressed urgency in completing the review. Most of the notes I made either incorporated bureau suggestions or addressed budgetary statements. The "work group" met several times (perhaps as many as six times); however, due to more pressing issues in which we were individually involved, we got together when we could, fairly spontaneously. Frequently it would be two of us with a third individual stopping in and out. We did, however, go over the document line-by-line and Mary Bradford consolidated remarks, changes, and deletions we agreed upon in one document. (I never actually saw this annotated copy until I reviewed her files for FOIA requests.) Few substantive changes were made and even if all of our recommendations had been adopted, the length of the document would have been essentially unaffected.

The last meeting I recall was what I refer to as the "close-out" meeting with Mr. Sewell, Mary Bradford, Jim Loach, and myself. The meeting was brief -- we did not go over our recommendations in detail. When asked our overall impressions, I remember commenting that the document supported NPS's goals and, if there was mission conflict, the Forest Service would be more concerned than our office. I agreed that other Departmental offices should have been allowed to comment and participate before going out for public comment. This seemed to be the general consensus of the group. When Mr. Sewell asked if we thought some directive should be issued or processes revised (in general) so that our office was aware of any potentially controversial documents in the future, we generally thought not. The Region had apparently kept the Director, NPS advised of the project. Unless judgment calls such as this one were delegated, the Assistant Secretary's office would be inundated with paper that, for the most part, would not warrant this level of review. Mr. Sewell appeared satisfied with our answers and said he would take a look at it. This was the last involvement I had with the YVD until the Subcommittee request in September 1991. At this point in time I was unaware of any coordination efforts with the Forest Service, meetings with Congressional members, or meetings involving Mr. Sewell and Lorraine Mintzmyer. In fact, I do not recall Ms. Mintzmyer's name being brought up in any of our meetings, although there were general references to "the Region" and the Greater Yellowstone Coordinating Committee. After a number of months passed without my involvement in the YVD, I discarded my files -- they were very limited and, assuming the issue was still alive, anything of substance would presumably have been included in Mary Bradford's annotated copy of the YVD.

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My only other involvement with the YVD concerns responding to several related FOIA and Congressional requests.

<u><i>M Kimbro</i></u>	<u>7-31-92</u>
Mary E. Kimbro	Date

STATEMENT OF JOSEPH E. DODDRIDGE
CONCERNING THE "YELLOWSTONE VISION DOCUMENT"

I serve as Assistant to the Assistant Secretary for Fish and Wildlife and Parks, and I have been in this position since April of 1988. Prior to my present position, I served as Assistant Director for Policy, Budget and Administration for the U.S. Fish and Wildlife Service. I have been a career employee in U.S. Government service since 1966. During my career, I have worked for the Bureau of Mines, U.S. Fish and Wildlife Service, and the Office of the Secretary.

The immediate office of the Assistant Secretary is generally organized into three distinct groups -- a Fish and Wildlife Service (FWS) team; a National Park Service (NPS) team; and the Budget and Administration (B&A) team. I supervise the B&A team. I am also responsible for a number of ongoing programmatic issues affecting both bureaus.

When Mr. Scott Sewell was Principal Deputy Assistant Secretary, with primary responsibility for the NPS, he requested that I participate in the NPS and FWS staff meetings as well as the Assistant Secretary's team meetings.

In the fall of 1990, Mr. Sewell asked that I participate in a working group with Jim Loach, Mary Bradford, and Mary ("Meredith")

Kimbro in reviewing a document called the "Yellowstone Vision" document (YVD). To my recollection, the first time I ever heard about this document or the effort to put together such a document was when it was mentioned in our staff meeting.

I participated in two meetings with the working group in analyzing and commenting on the YVD. In fact, I do not believe I sat through two complete sessions. In reviewing the document, most of the concerns pertained to the Forest Service rather than the NPS. This was due to the difference in mission between the two agencies. I also remember seeing comments from local offices of other bureaus of Interior.

To the best of my recollection, that was the full extent of my involvement with the YVD.


Joseph E. Doddridge

7-31-92
Date

STATEMENT OF JAMES PARHAM

My name is James Parham. I am the Executive Assistant to the Director of the National Park Service, a position I have held since 1990. During 1990-91 S. Scott Sewall was the Principal Deputy Assistant Secretary of the Department of the Interior for Fish and Wildlife and Parks. Part of his responsibility included oversight of the National Park Service for the Department of the Interior.

Ms. Lorraine Mintzmyer wrote a memorandum to the Director, dated June 14, 1991. In it she indicated her view of the status of the Yellowstone Vision document.

During the evening of June 28, 1991, at about 7:30 p.m., Scott Sewall came to my office. He brought with him a memorandum (delineated by the subcommittee on Civil Service as document #41), which was his response to the June 14 Mintzmyer memorandum. He signed and hand-dated the memorandum in my presence. He asked that I give it to the Director as soon as possible. The Director was not in the office at that time, so I presented it to him later that evening.

7/31/92
Date


James Parham

John E. Pratt
SOL

NEW YORK, N.Y. 10017-1000

Statement of John M. Morehead

My name is John M. (Jack) Morehead. I have worked for the National Park Service for over 36 years. From 5/89 through 6/91 I worked in the Washington Office; my title was Associate Director of Operations. My present position, since 6/91, is Regional Director, Alaska Region, Anchorage, Alaska.

I have been asked to provide information concerning my involvement in the preparation or development of the Yellowstone "Vision Document." Following is my recollection of my participation in this issue.

As Associate Director of Operations, National Park Service, in Washington in 1990, I was not directly involved with the preparation or review of the Vision Document. While I was aware that it was being prepared, it was not one of my assigned issues, so I didn't get involved in, or follow, the process closely.

The one exception occurred on 10/4/90, when I was asked by Principal Deputy Assistant Secretary Scott Sewall's office to attend a meeting with him, the Director of BLM, and representatives from the Forest Service, with the Wyoming congressional delegation about the Vision Document. I was asked to attend as Director Ridenour's representative, as that day he had an appointment at the White House.

Before going to the meeting with the delegation that day, Sandra Key briefed me on the status of the document, the background of the project, the participants involved in its preparation, and gave me a general over-view of the timing of the process. She told me of the series of public meetings that had been held. We did not discuss the contents of the draft document in detail.

The meeting with the delegation was held in the office the Minority Whip (Simpson), in the Capitol Building. In attendance from DOI and USFS, I recall:

- Scott Sewall, Principal Deputy Assistant Secretary, DOI.
- James Moseloy, Assistant Secretary, USFS.
- T. Ary, Director, Bureau of Mines.
- Gary Cargill, Forest Supervisor, USFS.
- Cy Jamison, Director, BLM.
- Myself, acting for Director, NPS.

Some Department of the Interior staff members might have been present, but most, if not all, were precluded from attending because of the small size of the room. I remember that Mary Bradford, who had accompanied Sewall, was not allowed in because the room was filled to capacity.

Senators Simpson and Wallop were there, and a member from the House, but I don't recall his name. Several congressional staffers were present. There were quite a few constituents from the special interest groups. I did not count the number.

The discussion was led by the members of the delegation. Scott Sewall responded to specific questions or criticisms directed to DOI. I was not called upon to speak at any time during the meeting. The main topic of discussion centered around the feeling by the special interest groups that they had not been allowed to participate fully enough in the preparation of the Vision Document and, when they did make comments through the public input process, their input had not been adequately reflected in the draft document.

There was recurring criticism about government "lock-up" of economic resources, and about their perception that the Park Service was attempting to extend its authority beyond the park boundaries. They referred to this as "another NPS land grab." In fact, most of the critical remarks were directed towards the NPS. In my opinion, Mr. Sewall did a particularly good job of pointing out that the NPS had a legal obligation to protect park resources that could be impacted by uses occurring outside of the park boundary. He further stated that the comments about changes proposed by the Vision Document of present uses on Forest Service land should have been directed to the Forest Service.

The delegation listened to the concerns expressed. They offered opinions frequently, asked questions, and generally expressed their concern that the groups represented should have adequate opportunity for input. I do not recall hearing any member request that the Vision Document should be re-done. To my knowledge, there were no commitments or statements made about any re-write by any of the DOI or USFS officials present.

After the meeting I made a special point to thank Sewall for his role in the discussion. I appreciated his defense of the NPS role in exterior planning efforts (I specifically used geothermal drilling as an example), and I also appreciated his pointing out that the Vision Document primarily affected the Forest Service rather than NPS.

7/31/92 
John M. Morehead

Jack Morehead

Addendum to Statement by Mary Bradford

This addendum is prepared to answer additional questions raised by the June 26, 1992, letter from Chairman Sikorski and Ranking Member Morella to the Department of the Interior. It should provide additional detail to the summary statement signed by me on 7/22/92, before the June 26 letter was made available to me. All page references below refer to the June 26 letter. Both my statement of 7/22/92 and this addendum are made to the best of my recollection of certain events that occurred over the past two years.

page 6 -- Regarding meetings following the October 4, 1990, group meeting attended by Mr. Sewell and others: Mr. Sewell met with Loach, Kimbro, Doddridge and me on October 23 and handed out a copy of a memo to him from Jonathan Deason, Office of Environmental Affairs, noting Interior bureau responses to the Forest Service on the Vision document. At the bottom of the memo copy, I noted that Mr. Sewell wanted us to go through the document, but not to deal with issues inside the park boundaries. Instead, he said the tone of the document needed to be addressed. He said to focus on DOI issues (those raised by Interior bureaus in their responses to Mr. Deason).

Mr. Sewell's direction to us prompted a series of approximately four or five informal meetings at which some or all of the four of us met to go through the document. Mr. Sewell was not present at those meetings. Although Mr. Sewell had initially spoken to us about looking at the Vision document around the middle of September, his first clear direction on what we were supposed to do occurred at the October 23 meeting mentioned above. We went through the document with an eye to incorporating both DOI comments and looking at the tone, as he recommended. All our comments were put together on one annotated version and given to him. At that point, nothing further happened to our comments, as far as I know. Mr. Sewell started to review the document, as mentioned in the November 14, 1990, note to Assistant Secretary Harriman, but never completed his review, as far as I know. He later gave a copy of the annotated version back to me, with his initial marks, unfinished, stating he had decided not to make changes since it was the Forest Service's problem. After that, I did nothing further with that document he gave me except to file it. Although Mr. Sewell initially had said he would have it retyped and circulated in the Department, to my knowledge that never happened.

page 7 -- Regarding review of the annotated Vision document: I am not aware if it was ever officially circulated to anyone but Mr. Sewell and Ms. Harriman. According to my records, the annotated version was not sent out for review beyond our immediate office. The reference to a review "a la wetlands action plan" concerned

the process of circulating a policy document in the Department ~~before~~ the program Assistant Secretary's office signed off on it, rather than after. (See the Deason memo mentioned above.) It had no further meaning beyond that procedural one.

page 8 -- Regarding my contacts with Mr. Troyer and Mr. Cargill between October 5, 1990, and June 7, 1991: Mr. Troyer, Ms. Key and I sat and talked for a while at Interior on or around October 5, I believe, after the Hill meeting. As members of the Vision team, they were in town for meetings and briefings on the Vision document. We had a general discussion about the history of the vision document and their work on it. That is the only discussion with Mr. Troyer I remember, aside from their general briefings. I do not recall any contacts with Mr. Cargill, except one -- I think he was the man whom I shook hands with briefly sometime during that week while we were waiting in a hallway.

page 9 -- Regarding my general Forest Service contacts: I called the Forest Service in November 1990, at the direction of Mr. Sewell, to find out who would be handling the clearance and review of the document for the Department of Agriculture. They gave me a name, and my contact with him was only to tell him we also had it for review. This was referred in my note to Ms. Harriman of November 14. The name of the contact was given to Mr. Sewell, but I don't know if Mr. Sewell ever talked with him. Mr. Sewell did tell Mr. Loach and me at one point that he had a meeting with someone at Agriculture (another deputy assistant secretary, I believe) regarding the Vision document. I was given no further information that I recall about any other Forest Service or Agriculture contacts by members of the Assistant Secretary's office regarding this document.

Mary B. [Signature]
8.10.92

Statement of James A. Loach prepared on August 11, 1992.

I am the Associate Regional Director, Operations, in the Midwest Region of the National Park Service (NPS). I have been employed by the NPS as a Ranger for 21 years working in positions at Battle of the Little Bighorn National Monument, Natural Bridges, Delaware Water Gap, Assateague Island, Lake Mead, Yosemite, and NPS HQ in Washington, D.C. In June 1990 I accepted an assignment as Staff Assistant with the Office of the Assistant Secretary, Fish and Wildlife and Parks, within the Department of Interior. In this position I served as a primary liaison between the Office of the Assistant Secretary and the Office of the Director of the NPS at the staff level. My function involved day to day working with Associate Directors and the Executive Assistant to the Director to facilitate communication and information between the two offices. I also served as a "troubleshooter" where necessary to assist the Associates, the Executive Assistant to the Director, or any other office in facilitating review of NPS operational issues which were either currently or likely to be Departmental concerns. I reviewed the majority of documents prepared by NPS which were under review by, or required the signature of, either the Assistant Secretary FWP or the Secretary.

The following statement is a synopsis of my involvement in the review of the Yellowstone Vision document.

During the first year that I worked for the Assistant Secretary I served as a team member on the "NPS Team." The team was responsible for NPS issues concerning the Office of the Assistant Secretary. Principal Deputy Assistant Secretary (PDAS) Scott Sewell assigned work to the team collectively and to individual members as the "lead" on various issues, generally depending upon whether they were operational, budgetary, administrative, legislative, or a combination involving more than one of the above. It was not unusual for two or more team members to be involved in the review of the same issue.

The document, "The Greater Yellowstone Area-Vision for the Future," or the Yellowstone Vision document, was treated as any number of documents or issues were treated. It was assigned to a staffer, Mary Bradford as the lead, and Joe Doddridge, Meredith Kimbro, and myself as assisting in the actual review of the "written word" of the document.

I first became aware of the "The Greater Yellowstone Area-Vision for the Future" when I attended an NPS briefing on the document which was presented to Associate Directors Morehead and Hester, and other NPS Washington Office staff, by Sandra Hellickson Key of the NPS and Jack G. Trozer of the Forest Service. Key and Trozer explained how the document would be released, the environmental compliance process that it would follow, and its significant issues. Thereafter it was raised at an NPS Team meeting and assigned to Mary Bradford as the lead. My understanding of Scott's initial concern about this document was that there was a failure by the NPS to assure Departmental review

of the document by Bureaus within the Department of Interior that might be affected by it, prior to its planned release.

Mary Bradford, Joe Doddridge, Meredith Kimbro and I reviewed the document in a series of three or four sessions over a period of weeks, perhaps a month, during which we read through the document page by page. Our objectives as I understood them were to clarify its definitions, assure other appropriate bureaus currently omitted by the document were involved as necessary in the verbiage of the document, and edit where necessary. We started our review in October 1990 and completed it sometime in November 1990, to the best of my recollection. The meetings were not a high priority to me and I agreed to meet only when my desk was quiet. My opinion is that the document needed revision. It was unnecessarily long, had terms which were difficult to define or understand, and was cumbersome.

The four of us never met with Scott Sewell as a group to review the Yellowstone Vision document or to revise or shorten the document. I never met with Scott Sewell individually to review the document. During the entire year that I worked with Scott Sewell I never heard him even mention Governor Sununu in the context of the Yellowstone Vision document or any other NPS issue.

I attended the vast majority of meetings involving PDAS Sewell and NPS issues. If an issue was of particular concern to PDAS Sewell, it would have been a rare occurrence for me to not attend a meeting on the issue. I did not attend any meetings at the Department of Agriculture concerning the Yellowstone Vision document.

It is my understanding, based upon conversations with Sandra Hellickson Key and others, that the original document we reviewed was revised to its current length and format by the group working together in the Yellowstone area. Staff from the National Park Service and the Forest Service who had been involved in the development of the original document had worked together to finalize the document.

Finally, in the June 7, 1991, meeting with PDAS Scott Sewell on the Yellowstone Vision document, Sewell suggested strengthening the Air Quality section, which was consistent with his strong stand on air quality issues at Shenandoah National Park. The June 7 meeting was not a long meeting, lasting no more than an hour. To suggest that what ultimately was released was as a result of pages of revisions and cuts coming from the Assistant Secretary's Office is incorrect. It simply did not occur.


James A. Leach

Date:  4/1992

STATEMENT OF JAMES M. RIDENOUR

My name is James M. Ridenour. I am the Director of the United States Park Service, a position I have held since 1989. As Director, I am responsible for carrying out the mission and operations of the service. I have been asked to recount my recollections of my involvement with the Yellowstone Vision Document. To the best of my recollection, I knew the document was being drafted in the Rocky Mountain Region as joint effort of the National Park Service and the United States Forest Service. The Forest Service was involved because it manages much of the land around Yellowstone National Park.

My first substantial involvement was in the Spring of 1991. At that time I met with Ms. Lorraine Mintzmyer, Gary Cargill, and Dale Robertson, Chief Forester. At the meeting, I told Ms. Mintzmyer the draft document was "on target" as to our goal of creating partnerships in the area of the park, and as to the need and desire for cooperation with our neighbors. I also said, however, the document was too long, too complex, and written with too much bureaucratic dialogue. I asked for it to be shortened so as to make it more readable for the public. I did not recommend any changes to scientific segments of the document nor did I recommend any other substantive changes.

At the close of the meeting, I asked the group to work out among themselves any differences that arose. I further said that if there were items left for discussion upon completion of their work, they should call Dale Robertson and me.

Sometime later, on May 24, 1991, we did have a conference call. I recall the participants being Ms. Mintzmyer, Gary Cargill, Sandra Key, perhaps another Forest Service staff person, Dale Robertson, and me. The group told us they had three or four items left to discuss. We discussed those items. I remember the points were fairly minor ones, and that Ms. Mintzmyer, Gary Cargill and Sandra Key did much of the "wordsmithing" to perfect the product, so it would be acceptable to both agencies.

Between the long and the short versions of the document, except as explained below, as far as I know there were no changes suggested by the Assistant Secretary's office, or the other bureaus of the Department. The only change to the document of which I am aware, suggested by anyone outside of the National Park Service and the Forest Service, was the one change suggested by Scott Sewell to strengthen the air quality provisions. In fact, I met with Mr. Sewell the end of June 1991 when he expressed to me his anger with Ms. Mintzmyer for a memorandum she had written me earlier that month. He was concerned with the implication in her memorandum to the effect that he was in charge of, and had made several changes to, the document. As I recall, he stated he had not made any significant edits and in fact had very little involvement with

the Vision document. Further, at the same time, he gave me a memorandum expressing his concern.

The reassignment of regional directors of the National Park Service was part of a review of the Senior Executive Service (SES) personnel to see how long our SES people had been in their current management positions. There was discussion in meetings with the Executive Resources Board that our management personnel who had long terms in assignment ought to have different management experiences and should bring their individual expertise to different regional offices. In particular, we discussed our regional managers because they are in high-level and critical management positions covering an entire region of the country.

While the NPS did not have a formal policy of rotation, we considered ten years a very long period of time for a top manager to be assigned to the same position. A review of the NPS records showed we had three regional directors who had been in their positions for about ten years. Ms. Mintzmyer was one of the three regional directors in this category. The next senior group had no more than six or seven years in place. The discussion of rotation came up not only in the context of NPS but we discussed the concept and its use in different companies in the private sector as well as its application to other bureaus within the Department of the Interior.

In January 1991, at a meeting of the NPS' Regional Directors in Charleston, South Carolina, we discussed the rotation concept and our view that it was important that the regional directors rotate to other assignments within NPS. I felt it was important to share our thoughts with our regional directors so that they could give consideration to this concept in their future planning.

At a May 1991 regional directors' meeting in St. Louis, I discussed the reassignments with each of the three affected regional directors including Ms. Mintzmyer. We discussed the nature of the reassignment, their new duties, and the location to which they would be reassigned.

8/12/92

DATE

James M. Ridenour

JAMES M. RIDENOUR

ONE HUNDRED SECOND CONGRESS

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U.S. House of Representatives

COMMITTEE ON POST OFFICE AND CIVIL SERVICE

SUBCOMMITTEE ON THE CIVIL SERVICE

122 CANNON HOUSE OFFICE BUILDING

Washington, DC 20515-6244

TELEPHONE (202) 225-4025

August 6, 1992

The Honorable Manuel Lujan, Jr.
 Secretary
 Department of the Interior
 1849 C Street
 Washington, D.C. 20240

Dear Secretary Lujan:

The Subcommittee is in receipt of the July 2, 1992 letter from Mr. John Schrote, Assistant Secretary, Policy Management and Budget and Director of Equal Employment Opportunity, Department of the Interior (DOI). This letter leaves no question that the Department is engaging in a concerted effort to stonewall and otherwise thwart the Subcommittee's investigation into alleged improprieties in the directed reassignment of Ms. Lorraine Mintzmyer.

First, Mr. Schrote's letter to the Subcommittee attempts to impede the Subcommittee's investigation by making unfounded and inaccurate allegations regarding the confidentiality of sworn statements taken pursuant to an Equal Employment Opportunity (EEO) complaint filed by Ms. Mintzmyer.

Before the Subcommittee addresses the Department's allegations, two points must be made clear. First, it was the Department that violated the confidentiality of Ms. Mintzmyer's EEO complaint when Mr. George Barklacy, Chief of the Office of Public Affairs for the National Park Service, stated in his official capacity on April 1, 1992 to the Associate Press that "Lorraine does in fact have a formal discrimination complaint against the Department of Interior. . . ." This statement undermined Ms. Mintzmyer's privacy by making public the fact that she had contacted a counselor to file an EEO complaint.

Second, the Subcommittee is disturbed that the Department had Mr. Schrote respond to the Subcommittee's inquiry due to his involvement in the Mintzmyer directed reassignment. As the Department is well aware, the Subcommittee has been examining the actions of the Executive Resources Board (ERB) in connection with Ms. Mintzmyer's directed reassignment. For example, Director Ridenour has described the ERB's real and direct involvement in the 10 year rule and Ms. Mintzmyer's directed reassignment. Mr. Schrote's participation on that Board brings his activities within the scope of the Subcommittee's investigation. To have Mr. Schrote

Secretary Lujan
August 6, 1992
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now tell the Subcommittee that it has no right to those sworn statements suggests that one of the targets of the investigation is trying to manage the efforts of the Subcommittee.

The following items outline the inaccuracies in Mr. Schrote's letter and provide necessary corrections:

Allegation 1: The Subcommittee's June 26, 1992 letter created a breach of confidentiality by releasing a sworn statement made by Mr. Scott Sewell, former Principal Deputy Director, Fish and Wildlife and Parks, DOI, in the course of an EEO investigation.

Truth:

The Subcommittee did not release Mr. Sewell's statement. Mr. Sewell's statement was routinely provided to the Subcommittee by Ms. Mintzmyer's attorney. In addition, Ms. Mintzmyer's attorney indicated to the Subcommittee that the sworn statements of Messrs. Sewell and Cables and Director Ridenour were released to NBC, CNN and other news organizations prior to their release to the Subcommittee.

Allegation 2: The Subcommittee has violated the Privacy Act, the Freedom of Information Act and EEO procedures.

Truth:

Privacy Act

The Privacy Act does not apply in this situation. The Privacy Act restricts the circumstances in which an agency may disclose records pertaining to an individual. In this case, the individual who can make privacy claims, Ms. Mintzmyer, released the sworn statements. Further, Ms. Mintzmyer was not even a Federal employee when she released the sworn statements to the Subcommittee.

Freedom of Information Act

The Subcommittee is perplexed by the reference to the Freedom of Information Act (FOIA). It has no relevance other than as a public relations throwaway term.

EEO Procedures

Mr. Schrote describes himself as the Director of Equal Employment Opportunity for the Department of the Interior, but he is using inapplicable regulations to buttress an untenable position. The Department asserts that Mr. Sewell's sworn statement is confidential pursuant to 29 C.F.R. section 1613.218(o)(1). Apparently the Department is under the mistaken impression that the confidentiality provisions in EEO regulations were formulated to protect against disclosure of agency officials' statements.

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The provision the Department is using to support its argument for confidentiality of agency officials' sworn statements, 29 C.F.R. section 1613.218(c)(1), states as follows:

(c) Conduct of hearing. (1) Attendance at the hearing is limited to persons determined by the Administrative Judge to have a direct connection with the complaint. Hearings are part of the investigative process and are thus closed to the public.

This rule is not applicable to the complainant's release of the sworn statements or the Subcommittee. The Subcommittee is of the understanding that Ms. Mintzmyer has not even had a hearing before an Administrative Judge. Thus, the sworn statements she released were not a part of that hearing process and 29 C.F.R. section 1613.218(c)(1) is not applicable.

29 C.F.R. section 1613.216(b)(3) sets forth the conditions for witnesses giving sworn statements during the investigative process of an EEO complaint:

(b) The Director of Equal Employment Opportunity shall arrange to furnish to the person conducting the investigation a written authorization:

(3) To require employees of the agency having any knowledge of the matter complained of to furnish testimony under oath or affirmation without a pledge of confidence. (Emphasis added.)

This section indicates that neither Mr. Sewell, Mr. Cables nor Director Ridenour have any rights of confidentiality with respect to their mandatory sworn statements. Thus, to state that the Subcommittee has violated any confidentiality on the part of the Department or has chilled the EEO process is simply wrong.

Finally, the Department referred the Subcommittee to EEOC Management Directive 107, section (6) for further support of its position. Your Director of EEO is apparently unaware that Management Directive 107 was rescinded by the EEOC in 1987. (See attached EEOC letter.) Even so, the Management Directive was not supportive of the Department's position. The Management Directive requested the agency to instruct the alleged discriminating officials and the complainant of the need to exercise discretion when handling the investigative file -- something the Subcommittee understands the Department did not do.

Secretary Lujan
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Allegation 3: A chilling effect may result now that Mr. Sewell's sworn statement is in the public domain because future agency witnesses may be less candid in their testimony.

Truth:

This allegation is without merit. As discussed above, witnesses are required by law to testify pursuant to 29 C.F.R. 1613.216(b)(2) and (3). 29 C.F.R. 1613.216(b)(2) and (3) provides for the following:

(b) The Director of Equal Employment Opportunity shall arrange to furnish to the person conducting the investigation a written authorization:

(2) To require all employees of the agency to cooperate with him in the conduct of the investigation, and

(3) To require employees of the agency having any knowledge of the matter complained of to furnish testimony under oath or affirmation without a pledge of confidence.

Thus, Mr. Sewell and all other witnesses to an EEO complaint lack the discretion to refuse to cooperate with an EEO investigator. Full cooperation is expected and demanded by law.

Allegation 4: The Department is unsure whether it is appropriate to respond to the Subcommittee's questions because many of them are premised on Mr. Sewell's sworn statement.

Truth:

As the Subcommittee previously stated, no valid confidentiality concerns regarding the release of Mr. Sewell's statements exist. There is no reason for the Department not to respond. In fact, the Department does not have a choice, it must respond to the Subcommittee's questions.

The Subcommittee expects a response to its June 26, 1992 letter forthwith. If you have further questions, please contact Ms. Kim Japings of my Subcommittee staff.

Sincerely,


CONSTANCE MORELLA
Ranking Member


GERRY SIKORSKI
Chairman

GES:kj

Secretary Lujan
August 6, 1992
page 5

cc: Mr. John Schrote, Assistant Secretary for Policy, Management
and Budget, Department of the Interior

Chairman William Clay, House Committee on Post Office and
Civil Service

Chairman George Miller, House Committee on Interior and
Insular Affairs



U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Washington, D.C. 20507

APR 11 1989

This responds to your letter of March 21, 1989 concerning the Commission's deletion of the term and concept of an "alleged discriminating official" (ADO) from its regulations in November 1987 (52 Fed. Reg. 41920, October 30, 1987).

As you correctly pointed out, the Commission's elimination of the ADO term and concept effectively superseded Chapter 5, Section 6 of EEO-MD 107. In the supplementary information published with the 1987 revisions to 29 C.F.R. Part 1613, the Commission noted that the central purpose of the complaint processing system is to determine when discriminatory conduct has occurred and not to provide rights to those who took the actions which are alleged to be discriminatory. In the Commission's view, an individual who is named or otherwise identified as being responsible for the action which gives rise to a complaint is a witness whose participation in the complaint process should not be materially different from that of any other witness.

After the Commission's deletion of the ADO term and concept, we are aware that some federal agencies decided to use new terms for ADOs such as "Responsible Management Official," "Responding Management Official," "Responding Official" and so forth. From a legal standpoint, complaints are filed against federal agencies as entities, and not against individual agency employees or officials, regardless of whether a complainant names or otherwise identifies a person or persons allegedly responsible for the actions which gave rise to the particular complaint. Complainants are not required and should not be encouraged to label individuals whom they believe are responsible for the alleged discrimination other than as witnesses. Accordingly, there is no need and the Commission discourages agencies from ascribing new terms and acronyms for former ADOs. Simply assigning a new term and acronym for ADOs tends to defeat the purpose of eliminating the concept and the fact that such individuals are and should be treated as witnesses and not categorized as separate entities with implied ultimate legal responsibility.

Since complaints are filed against agencies, it is the agencies which are responsible for remedial action in the event that it is determined that the complainant has been discriminated against illegally. That is not to say, however, that agencies cannot or will not take disciplinary action, as appropriate, against individual agency employees who are determined

to have discriminated illegally. That, however, is a separate determination from whether discriminatory conduct has occurred. Agencies must determine, on a case-by-case basis, whether individual employees should be disciplined for illegally discriminating in accordance with the agencies' tables of penalties for discipline.

If discipline is proposed by an agency against an employee for illegal discrimination, the employee should, consistent with applicable agency personnel rules and regulations, be provided with whatever information and documentation is being relied upon to support the agency's proposed disciplinary action.

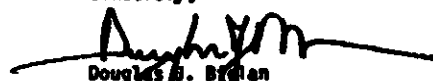
Revisions to MD 107 are currently pending. The proposed revisions are to conform the MD guidance to the regulatory changes and include the deletion of Section 6 in Chapter 6. We have, when asked, advised federal agencies to treat all witnesses, including those formally identified as ADOs, fairly and consistently concerning their involvement in the complaint process. Generally, agencies should insure that witnesses are fully informed of the nature of a counselor's or an investigator's inquiry, should allow witnesses to respond fully to the inquiry and afford witnesses an opportunity to obtain their own representation at any stage in the complaint process if they so desire. The recently-submitted proposed revisions to MD 107 do not include any other guidance on the "rights" of witnesses in the complaint process.

As stated, the primary purpose of the complaint process is to determine whether prohibited discrimination has occurred and not to provide a whole separate set of rules and guidelines with respect to those agency officials named or otherwise identified as being responsible for the actions which gave rise to the allegation of discrimination. Accordingly, we expect that agencies will not simply retain the substance of Section 6, Chapter 6 in MD-107 as applicable internal agency guidance. Again, this tends to defeat the purpose of eliminating the ADO concept and a separate set of "rights" for certain witnesses.

Agencies must nonetheless insure that all witnesses are treated fairly and consistently. Accordingly, agencies are encouraged to develop their own internal guidance, in coordination with their legal counsel, on the involvement of all witnesses in the complaint process at the various stages.

I hope this information is helpful to you. If you have any questions concerning this matter, please feel free to contact Robert P. Lowell, an attorney on my staff, at (202) 634-7833.

Sincerely,


Douglas B. Brian
Director
Federal Sector Programs
Office of Program Operations



United States Department of the Interior

Washington, D.C. 20240

July 30, 1992

OFFICE OF THE
ASSISTANT SECRETARY

Honorable Gerry Sikorski
Honorable Constance Morella
Committee on Post Office and
Civil Service
Subcommittee on the Civil Service
House of Representatives
Washington, D.C. 20515-6244

Dear Chairman Sikorski and Ms. Morella:

On July 17, 1992, we submitted several documents in response to your June 18, 1992, letter asking the Department to "check its files and submit all documents not previously supplied to the Subcommittee that are responsive to the Subcommittee's September 1991 document request". As stated in our response, not all offices had completed their files search. Since that time we have received copies of additional documents which are hereby transmitted for your review. While it may appear that numerous new documents have been located, we believe many of these are duplicates of those initially submitted by the Office of Congressional and Legislative Affairs. Not having maintained a list of documents originally transmitted, some offices decided to resubmit documents rather than risk unintentional omissions.

We request that both the enclosed documents and the documents sent on July 17, 1992, be treated with the understanding that some contain personal opinions and deliberative discussion that would not normally be released to the public under the Freedom of Information Act. While they are certainly being made available to the Subcommittee for use in its investigation, we would request that the documents not be routinely distributed in response to general inquiries.

Sincerely,

Jennifer A. Salisbury
Jennifer A. Salisbury
Deputy Assistant Secretary for
Fish and Wildlife and Parks

Enclosures



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, D.C. 20240



July 17, 1992

Honorable Gerry Sikorski
Honorable Constance Morella
Committee on Post Office and Civil Service
Subcommittee on the Civil Service
House of Representatives
Washington, D.C. 20515-6244

Dear Chairman Sikorski and Ms. Morella:

Enclosed is a copy of all documents sent to this office, as of this date, in response to your letter dated June 18, 1992, in which you asked the Department to "check its files and submit all documents not previously supplied to the Subcommittee that are responsive to the Subcommittee's September 1991 document request". Some of the documents may be duplicates of documents previously transmitted to you. There are several offices that have not yet responded to our request to search their files. We anticipate that any documents found by those offices will be submitted in the next few days. As soon as we receive them, we will forward them to you. In the event there are no additional documents, we will advise you.

Sincerely,

Jennifer A. Salisbury
Deputy Assistant Secretary for
Fish and Wildlife and Parks

Enclosures



DEPARTMENT OF AGRICULTURE
OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20250

July 10, 1992

The Honorable Gerry Sikorski
Chairman
Subcommittee on the Civil Service
Committee on Post Office and Civil Service
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

This will respond to your letter of June 18, 1992, requesting additional materials in connection with your Subcommittee's inquiry into the directed reassignments of Ms. Lorraine Mintzmyer and Mr. John Mumma.

Copies of the materials you requested are enclosed with this letter. Again, several explanations must be made with respect to these materials. Your first numbered paragraph requested copies of the personnel files for four individuals. While one of those, former Assistant Secretary James R. Moseley, is no longer employed in this Department or in the Executive Branch, we have enclosed copies of the official personnel folders for all four named individuals. As these records contain materials which substantially implicate the privacy interests of the individuals involved, we ask that you and the Subcommittee make no further release and treat these records with confidentiality.

Your second numbered paragraph requested copies of documents reflecting a meeting which took place on October 4, 1990. But for entries in calendars provided in response to the third numbered paragraph addressed below, we have located no documents referencing such meeting other than those already provided in response to the Subcommittee's earlier document requests.

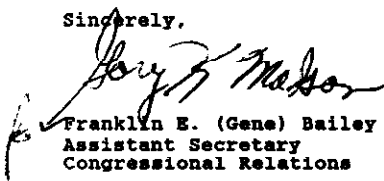
The third numbered paragraph in your letter requested copies of calendar and datebook entries for four individuals for the period September 1, 1990, through September 30, 1991. Copies of all such calendar and datebook entries are enclosed. As Deputy Assistant Secretary John Beuter did not commence employment in this Department until January 9, 1991, the calendar entries provided for Mr. Beuter begin with that date.

Finally, your fourth numbered paragraph requested copies of any and all draft and annotated versions of the Yellowstone Vision document prepared between August 1990 and September 1991 which have not already been provided to the Subcommittee. We have located only a single additional version of that document, a draft version dated August 1990, which was not supplied earlier. A copy of that draft version is enclosed with the materials supplied with this letter, and we apologize for our failure to provide a copy with our earlier responses to the Subcommittee.

Again, while many Department officials and employees have been involved in the search for and production of the enclosed documents, those principally responsible have been James Michael Kelly, Associate General Counsel (720-7219), and Ms. Stana Federighi, Forest Service legislative resource specialist (205-1470), both of whom continue to be available to respond to any additional questions the Subcommittee may have.

A similar letter, and a full set of the enclosures provided herewith, are being sent to Congresswoman Morella.

Sincerely,



Franklin E. (Gene) Bailey
Assistant Secretary
Congressional Relations

Enclosures



United States Department of the Interior

OFFICE OF THE SOLICITOR
Washington, D.C. 20240



JUL -9 1992

Honorable Gerry Sikorski
Chairman, Subcommittee on the Civil Service
Committee on Post Office and Civil Service
House of Representatives
Washington, D.C. 20515-6244

Dear Mr. Chairman:

This is in further response to your letter of June 22, 1992, in which you have identified twelve Departmental witnesses that your Subcommittee would like to interview in relation to alleged improprieties in the Department's reassignment of Lorraine Mintzmyer.

We will continue our efforts to be as cooperative as possible with the Subcommittee's request. However, as we have previously stated in numerous letters to your Subcommittee, at least ten times according to your letter of June 22, 1992, and again on July 2, 1992, the testimony of Departmental employees in this matter should be on the record and under oath, rather than through informal interviews.

As I advised Ms. Kim Japinga of the Subcommittee's staff on July 6, 1992, a number of Departmental employees have decided, because of the press of business and in the interest of fairness, that it would better serve the public interest to testify in a public session, under oath and on the record, which will contribute to a more expeditious completion of your Subcommittee's investigation. As a result, they will not be participating in the interviews suggested by the Subcommittee.

The following witnesses are in this category: Joseph Doddridge, Charles "Ed" Kay, Jim Ridenour, John Schrote, and Tom Weimer. While we have not had a specific response from Scott Sewell on this issue, because he has been out of town and unavailable, we are assuming he is also in this category based on his prior response to the Subcommittee in his letter of February 13, 1992.


The rest of the witnesses identified in your letter of June 22, 1992 (David Behler, Mary Bradford, Ed Davis, Meredith Kimbro, Jim Loach, and James Parham) have decided to be available for informal interviews. As I advised Ms. Japinga, each of these individuals has requested to be represented by an attorney from the Solicitor's Office. As stated in my letter of July 2, 1992, it is appropriate for the Solicitor's Office to represent these employees because any involvement in this matter was part of their performance of official duties.

As we previously advised, because of the unity of interests involved, we disagree that a conflict of interest will or may arise by an attorney from this Office representing more than one witness in informal interviews or in testimony before your Subcommittee. We believe this approach is the most expeditious way to provide you the information you need to complete your investigation as quickly as possible while minimizing the expenditure of this Department's time and resources.

There are three attorneys in the Solicitor's Office who have been involved in this matter and have already appeared with Departmental witnesses either before your Subcommittee or the Subcommittee's staff: Tim Elliott, Bob Moll and Bob Walter. Several witnesses who have agreed to appear for interviews have requested one of these three attorneys to represent them at the interview. This is because these individuals have dealt with these attorneys over the years, are aware of their competence and expertise, and are fully satisfied with the services they have received. Because the choice of counsel should be the decision of the employee appearing for the interview, we believe it is necessary that every effort be made to accommodate their requests.

Accordingly, as I advised Ms. Japinga, each of these employees will appear at the informal interview with one of the three attorneys identified herein.

Sincerely,


Lisa S. Farringer
Associate Solicitor
Division Of General Law



United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240
July 7, 1992



Honorable Gerry Sikorski
Chairman, Subcommittee on the Civil Service
Committee on Post Office and Civil Service
House of Representatives
Washington, D.C. 20515-6244

Dear Mr. Chairman:

You recently requested information regarding the transfer of Senior Executive Service (SES) members in the U.S. Fish and Wildlife Service (FWS). In my letter of June 23, 1992, the information you requested, with modifications, was provided.

Mr. Elliott, of the Solicitor's Office, discussed with Ms. Japinga, of your staff, the difficulty in responding to your request for information concerning employees of the FWS above the GS-11 level (number 3 of your request). Therefore, in response to number 3, my letter of June 23, 1992, contained information applicable to Service employees at the grade level 15 only. In a subsequent discussion between Mr. Elliott and Ms. Japinga, number 3 was again modified to include information concerning Service employees at the grade level 14. Accordingly, enclosed is the information pertaining to employees of the Service at the grade level 14.

Again, due to the coverage of much of the information by the Privacy Act, it is respectfully requested that you, your fellow committee members, and staff not disclose any of the enclosed information to the public or the employees concerned without first consulting with us. In addition, it would be greatly appreciated if this office could be advised of any requests you might receive for this information. In these instances, an attempt will be made by this office to accommodate the requester without compromising the private information.

A letter similar to this one and containing the same enclosure is being sent to the Honorable Constance Morella.

Sincerely,

Assistant Secretary for Fish
and Wildlife and Parks

Enclosure

LAW OFFICES OF
LAWRENCE H. SCHOENBACH
 425 PARK AVENUE
 NEW YORK, NEW YORK 10022
 TELEPHONE (212) 223-5530
 FACSIMILE (212) 421-5270

LAWRENCE H. SCHOENBACH
 PAUL J. RUSKIN *
 CARL J. HARTMANN, III **

ERICA B. POPKIN
 OF COUNSEL

* ALSO ADMITTED IN PA.
 ** ADMITTED IN U.S.V.I. AND N.M. ONLY

July 6, 1992

House Committee on Post Office and Civil Service
 Subcommittee on Civil Service
 Hon. Gerry Sikoraki, Chairperson
 Hon. Constance Morella, Ranking Member
 Attn: Kimberly Japiga, Esq.
 Cannon House Office Building
 Washington, D.C.

RE: Investigative Interview Transcripts

Dear Ms. Japiga:

I am writing in response to your request for confirmation that I provided the Subcommittee with copies of the transcripts of the investigator's interviews with Messrs. Sewell and Cables, and Director Ridenouer. These materials, which had been made available to my client without requests related to her use, were provided to NBC, CNN, other news organizations--and later to the Subcommittee. As they represent the totally self-serving, non-cross-examined statements of agency officials, we did this as a matter of routine. Materials related to the EEO process were supplied on this basis only after a representative of the agency unlawfully and retaliatory disclosed the existence and nature of my client's internal EEO action against the NPS, DOI, and the three members of the ERB involved in the directed reassignment of my client (Messrs. Weimer, Shroate, and Kay). The existence of confidentiality and privacy provisions which exist for the benefit of the Complainant seemed irrelevant at this point.

At the time of the release of this information, a period in excess of 180 days had passed from the beginning of the formal process, my client was no longer a government employee, and she was not directed, or even asked, to avoid such disclosure. If there is some difficulty with my decision to make this entirely routine material public, please let me know. I would also ask that, in light of the rampant violations of the Privacy Act and my client's EEO rights, if this issue is being raised by the agency, you please put the responsible officials in touch with this office--I would like to express my thoughts on such a cynical position at greater length.

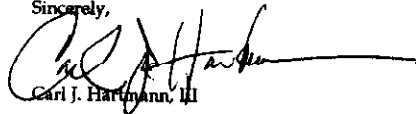
LAW OFFICES OF
LAWRENCE H. SCHOENBACH

Letter to Civil Service Subcommittee
July 6, 1992
Page 2

I know of no statute, regulation, or other procedure that creates a prohibition against the release of such information by the Complainant herself--and certainly not in the absence of any request or notification at the time of dissemination by the agency to the Complainant. I have reviewed the correspondence with Delany-Zorn (Investigators) and find nothing which even suggests this was directed. To the contrary, I have always operated in such investigations (including investigations with the NPS) as though the ADO's had to testify, and were required to do so under oath--specifically without any promises to them that their statements had any expectation of confidentiality. I do not recall the applicable regulations as to this, but I am certain that they exist. Thus, my client was the only person with a legitimate expectation of either privacy or confidentiality extant under applicable law.

Please let me know if further confirmation or discussion of this matter is necessary.

Sincerely,



Carl J. Hartmann, III

CJH:pl

cc: L. Loraine Mintzmyer
Paul J. Ruskin, Esq.



United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

JL - 2 1002

Honorable Gerry Sikorski, Chairman
Honorable Constance Morella, Ranking Member
Subcommittee on the Civil Service
Committee on Post Office and Civil Service
House of Representatives
Washington, D.C. 20515-6244

Dear Mr. Chairman and Ms. Morella:

On behalf of the Secretary and in my role as the Director of Equal Employment Opportunity for the Department of the Interior, this letter provides an interim response to your letter of June 26, 1992, for the House Subcommittee on the Civil Service. In your letter, you asked for responses to questions relating both to statements made before the Subcommittee and to other information obtained by the Subcommittee. Your letter included excerpts from a sworn statement provided to an EEO investigator by Mr. Scott Sewell. While we are making every effort to respond as soon as possible, we are unable to comment at this time.

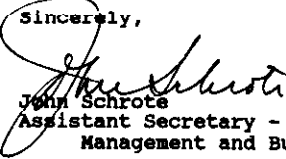
Your letter created a rather serious breach of confidentiality, which I believe is necessary to bring to your attention. Under the Privacy Act, the Freedom of Information Act, and EEO procedures, EEO investigative files, including witness statements, are considered to be confidential, highly sensitive and not subject to public disclosure. To safeguard the integrity of the EEO process and to assure that witnesses are open and candid in their testimony, EEOC hearings, which are part of the investigative process, are closed to the public. 29 C.F.R. § 1613.218(c)(1). The EEOC has issued guidelines to Federal agencies that carefully define the responsibilities of those individuals who are involved in the complaint process. These responsibilities include maintaining the confidentiality of EEO investigative files to avoid unauthorized disclosures. See EEOC Management Directive 107, section (6).

Your letter, a public document, which includes excerpts from a confidential, sworn statement made to an EEO investigator by Mr. Sewell, undermines the EEO process. In effect, because significant portions of Mr. Sewell's sworn statement now are in the public domain, a chilling effect may harm future EEO proceedings because witnesses may be less candid in their testimony once it becomes known that Congressional Committees will obtain and publicly disclose their sworn statements. We consider this to be an unwarranted interference in the EEO process by your subcommittee that has undermined the integrity of the EEO process. We do not wish to further endanger or unduly

burden the fair resolution of this process.

With respect to your questions, the statements to which your questions are addressed are known to us only by your letter itself. Because many of the Subcommittee's questions are premised on Mr. Sewell's confidential statement, before we can determine whether it would be appropriate for us to respond to your questions, we must ourselves inquire into the specific facts underlying these statements. As you know, Mr. Sewell's participation in this process is crucial. Unfortunately, Mr. Sewell is away until July 20, 1992. Accordingly, we will review this matter as soon as possible after his return.

Sincerely,



John Schrote
Assistant Secretary - Policy,
Management and Budget

cc: Chairman, Committee on Post Office
and Civil Service



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, D.C. 20240



July 2, 1992

Honorable Gerry Sikorski
Chairman, Subcommittee on the Civil Service
Committee on Post Office and Civil Service
House of Representatives
Washington, D.C. 20515-6244

Dear Mr. Chairman:

Secretary Lujan has asked me to respond to your and Congresswoman Morella's joint letter of June 18, 1992, which requests additional documents relating to the directed reassignment of Ms. Lorraine Mintzmyer.

Please be assured the Department of the Interior has tried to cooperate and be as responsive as possible to each of the requests for documents. Records regarding Ms. Mintzmyer and, to a much greater degree, the Yellowstone "Vision" document are located in numerous offices in the various bureaus of the Department. The Office of Congressional and Legislative Affairs made a Departmentwide request for all documents referred to in your September 24, 1991, letter. Voluminous records were collected and all were boxed up and transmitted to the Subcommittee without any attempt to screen them. A catalogue of the specific documents actually delivered to the Subcommittee was not prepared to ensure a timely response. Unfortunately, the lack of a comprehensive catalogue now poses problems for us because we cannot tell you with certainty whether any specific document was submitted or may have been inadvertently omitted.

We would like to stress that while some of these documents either have been or will be withheld in Freedom of Information Act (FOIA) requests received since September 24, 1991, in accordance with the exemption provisions of that Act, the Department has never intentionally withheld any pertinent documents from the Subcommittee. It should be noted that several documents surfaced as a result of the Department's FOIA searches that may not have been included in the Department's response to the Subcommittee's initial request or that were dated after the original request letter. Copies are enclosed (Enclosure 1), including the September 27, 1991, letter from Mr. Steve Goldstein to Mr. Chuck Green which was referenced in your June 18, 1992, letter.

With respect to the June 18, 1992, request for documents, we have searched our files and contacted the appropriate individuals as indicated below.

-2-

1) The Subcommittee requested all personnel files of Mr. S. Scott Sewell, Mr. R. Thomas Weimer, Mr. John E. Schrote, and Mr. Charles E. Kay. We have assumed the personnel files you are seeking pertain to the directed reassignment of Ms. Mintzayer. These individuals have verified they have no such personnel files in their possession.

2) The Subcommittee requested copies of any and all documents pertaining to an October 4, 1990, meeting attended by Mr. Sewell, Mr. TS Ary, and Mr. Jack Morehead to discuss the Yellowstone "vision" document. While the three individuals recall a meeting of approximately that date, no substantive notes or records were retained, if, indeed, any ever existed. The only written references appear as entries in Mr. Morehead's calendar and the calendar maintained by Mr. Ary's secretary (see Enclosure 2 with the references highlighted for legibility).

3) The Subcommittee requested copies of all calendar and databook entries and other documents reflecting scheduling activities for various time periods for Ms. Mary Bradford, Mr. Herb Cables, Mr. Jim Loach, Mr. Morehead, Mr. Jim Parham, Mr. Weimer, Mr. Schrote, Mr. Kay, Mr. Jim Ridenour, Mr. Edward Davis, and Mr. Sewell. The complete calendars are voluminous and contain personal and other irrelevant information. While we want to cooperate with the Subcommittee's investigation, we believe the request as currently drafted is overbroad and would, therefore, ask that the scope of the request be narrowed so that we can appropriately comply.

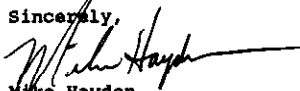
To reiterate, we are trying to the best of our ability to provide the Subcommittee all requested documents. There may have been instances, for example, when one document may have been distributed for comment and individuals from various offices may have made comments and notes on the pages of their copies for their own use or prior to providing formal comments. It is possible several such annotated copies were omitted erroneously in our response to you under the assumption that they were duplicate documents. Accordingly, we are issuing a second Departmentwide request for bureaus and offices to review their files and forward documents they may have previously overlooked or considered duplicates (Enclosure 3). To date we have not identified any such omissions; however, we will continue to search for and will forward to the Subcommittee each document submitted by July 17, 1992.

-3-

At this point I would like to address one of the concerns identified on page 11 of your June 26, 1992, letter. The Subcommittee apparently did not receive two revised versions of the Yellowstone "Vision" document referenced in a transmittal memorandum from Ms. Mary Bradford. Copies of these two annotated versions were indeed in Ms. Bradford's files, were forwarded to the Office of Congressional and Legislative Affairs, and should have been delivered to the Subcommittee. They are provided again as Enclosure 4.

If you have further questions, please contact me or Deputy Assistant Secretary Jennifer A. Salisbury at 208-5347. An identical letter has been sent to Ms. Morella.

Sincerely,


Mike Hayden
Assistant Secretary for Fish and
Wildlife and Parks

Enclosures

CC: Chairman William Clay, House Committee on Post
Office and Civil Service
Chairman George Miller, House Committee on Interior and
Insular Affairs



United States Department of the Interior

OFFICE OF THE SOLICITOR
Washington, D.C. 20240



JUL 2 1992

Honorable Gerry Sikorski
Chairman, Subcommittee on the Civil Service
Committee on Post Office and Civil Service
House of Representatives
Washington, D.C. 20515-6244

Dear Mr. Chairman:

On behalf of the Secretary, I am responding to your letter of June 22, 1992. In your letter you expressed concern over the position taken by the Department of the Interior regarding the presence of counsel during interviews earlier this year between Subcommittee investigators and Departmental employees in relation to alleged improprieties in the Department's reassignment of Lorraine Mintzmyer. Specifically, you stated that the Department is somehow preventing the Subcommittee from completing its investigation by refusing to honor what you have referred to as the Subcommittee's "attorney/client parameters." In anticipation of the next round of informal interviews sought by the Subcommittee in which the same rules regarding presence of counsel ostensibly will apply, I would like to restate the Department's strong disagreement with the Subcommittee's "attorney/client parameters."

First, it remains the position of the Department that testimony of Departmental employees in this matter should be elicited on the record and under oath, rather than through informal interviews. As we continue to advise the employees with whom interviews are sought, however, the choice to participate in the interviews rests with the individual employee.

Second, the Department and the Subcommittee appear to agree that the presence of counsel should be determined by the employee. The Department has not insisted that employees who choose to participate in the interviews have counsel present, or that such counsel must necessarily be provided by the Department. Rather, such choice is left to the individual employee. Because the employees' involvement in the reassignment matter was part of their performance of their official duties, we have determined that it would be appropriate for the Solicitor's Office to represent the employees. Accordingly, we have made available upon an employee's request an attorney from the Solicitor's Office. Please refer to the attached memorandum, which has been sent to the employees identified for interviews by the Subcommittee.

This determination is wholly consistent with the standards employed by the Department of Justice (DOJ) in determining whether a DOJ

attorney should represent a Federal employee before Congress. See 28 C.F.R. § 50.15. In the absence of any allegations of criminal violations, such as here, the interests of the employees are wholly consistent with those of the Department. The Department will not provide counsel if there is a possibility that allegations of criminal behavior will arise. The Subcommittee has not, of course, suggested that these employees have violated any specific criminal provision. Rather, the Subcommittee has alluded only to its desire, in establishing the "attorney/client parameters," to avoid a conflict of interest. Yet the Subcommittee has not identified exactly what this conflict is, how a conflict might arise, or how compliance with its guidelines would prevent a conflict from occurring. In short, the Department disagrees with the Subcommittee that such a conflict will or may arise. As the attached memorandum demonstrates, we have advised the employees of this conclusion; the ultimate decision regarding counsel rests with them.

Finally, because of this unity of interests, we can conceive of no maleficence that could occur by allowing an attorney to represent more than one of the employees participating in the interview. We strongly believe that limiting the number of attorneys involved will minimize the needless expense of time and resources and will allow the investigation to be completed more expeditiously for all concerned.

Sincerely,



Lisa S. Farringer
Associate Solicitor
Division of General Law

Attachment



United States Department of the Interior

OFFICE OF THE SOLICITOR
Washington, D.C. 20240



JUL 1 1992

Memorandum

To: Employees requested by Subcommittee on the Civil Service to participate in interviews regarding reassignment of Lorraine Mintzmyer

From: Associate Solicitor - Division of General Law

The staff of the House Committee on the Post Office and Civil Service, Subcommittee on the Civil Service, has requested informal interviews with numerous Department employees alleged to have been involved with the decision to transfer Lorraine Mintzmyer, and other related matters. (See attached June 22, 1992 letter to Secretary Lujan). It is the Department's position, as we previously advised the Subcommittee, that Departmental witnesses should provide on-the-record testimony under oath on these issues, rather than informal interviews.

The purpose of this memorandum is to address the concerns that have been raised about whether employees who choose to participate in the informal conversations requested by the Subcommittee may be accompanied by agency counsel.

Should you choose to participate in these informal discussions, the Department is prepared to provide you counsel through the Solicitor's Office if you so request. We believe providing you counsel is entirely appropriate because your involvement in this matter is based on actions taken in your capacity as an employee of the Department of the Interior. Only where the employee acts outside of the scope of his or her employment, i.e., intentionally commits an illegal act, would the interests of the Department and the employee diverge. In such a situation, it would be inappropriate for the Department to provide an employee with counsel. The Department will not represent an employee who acted illegally. Clearly, where your conduct is within the scope of your employment activity, the Department will represent you at your request, because your interest and the Department's are the same. The Department's employees should be confident that the Department will provide them legal representation when required as the result of carrying out the duties of their positions. For the Department not to provide counsel in this context could result in a chilling effect on the employees' willingness to perform their jobs fully.

The Subcommittee staff believes that the same attorney should not represent multiple employees. This assertion is without merit because this is not a situation where the interests of the

employees diverge. As the interests of the employees with respect to one another are the same, they may be represented properly by the same attorney.

If you wish to discuss these matters further, you may contact me at 208-4722 for consultation.


Lisa S. Farringer

Attachment



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, D.C. 20240



June 30, 1992

Honorable Gerry Sikorski
Honorable Constance Morella
Subcommittee on Civil Service
Committee on Post Office and Civil Service
U.S. House of Representatives
Washington, D.C. 20515

Dear Chairman Sikorski and Ms. Morella:

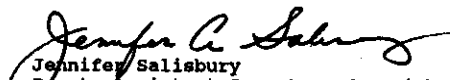
This is an interim response to your joint letter of June 26, 1992, for the House Subcommittee on the Civil Service.

In this letter you requested that certain documents, specifically the two "revised" Yellowstone Vision documents identified by Mary Bradford in a transmittal note, be forwarded to the Subcommittee 24 hours after receipt of the request.

We are unable to obtain the necessary clearances to comply in this timeframe; however, we believe we will be able to forward the requested documents by close of business Thursday, July 2.

As I mentioned to Kim Japinga in our telephone conversation today, the requested documents were, in fact, forwarded to the Office of Congressional and Legislative Affairs and, therefore, should have been among the 6,000 plus documents submitted to the Subcommittee.

Sincerely,


Jennifer Salisbury
Deputy Assistant Secretary for Fish
and Wildlife and Parks

ONE HUNDRED SECOND CONGRESS

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U.S. House of Representatives

COMMITTEE ON POST OFFICE AND CIVIL SERVICE

SUBCOMMITTEE ON THE CIVIL SERVICE

122 CANNON HOUSE OFFICE BUILDING

Washington, D.C. 20515-6244

TELEPHONE (202) 225-4025

June 26, 1992

The Honorable Manuel Lujan, Jr.
 Secretary
 Department of Interior
 1849 C Street
 Washington, D.C. 20240

Dear Secretary Lujan:

Pursuant to Rules X and XI of the House of Representatives and Rules 22(4) and 24 of the House Committee on Post Office and Civil Service, the Subcommittee on the Civil Service, Committee on Post Office and Civil Service, has the responsibility for conducting oversight activities into matters affecting the welfare of civil servants, the civil service system, and the merit systems.

As our past correspondence has indicated, the Subcommittee on the Civil Service has been conducting a legislative investigation into alleged improprieties in the directed reassignments of Ms. Lorraine Mintzmyer, former Regional Director, National Park Service, and Mr. John Mumma, former Regional Forester, Forest Service. In connection with those investigations, the Subcommittee has interviewed over 45 witnesses and reviewed thousands of documents. During that exhaustive review, the Subcommittee encountered troubling discrepancies between the public statements and testimony of leading Department of Interior and National Park Service officials and information the Subcommittee has obtained from documents and interviews.

The inconsistencies the Subcommittee uncovered involve issues critical to the allegations Ms. Mintzmyer raised in her testimony before the Subcommittee on September 24, 1991. Of particular interest are those inconsistencies involving Ms. Mintzmyer's allegations regarding Mr. Sewell's involvement in the joint National Park Service/Forest Service document, "A Framework for Coordination of National Parks and National Forests in the Greater Yellowstone Area," commonly referred to as the Vision document.

In order to fully understand the facts and events surrounding the development of the Vision document and its relationship to the questionable directed reassignment of Ms. Mintzmyer, the Subcommittee needs to clarify apparent inconsistencies between actions and statements made by Mr. Scott Sewell, then Deputy

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Assistant Secretary, Office of Fish and Wildlife and Parks,
Department of Interior, and evidence uncovered by the Subcommittee.

On March 23, 1992, Mr. Scott Sewell, current director of the Minerals Management Service at the Department of Interior, gave a sworn statement to Mr. Davis Schaff, Esq., Delany, Siegel and Zorn, in the Equal Employment Opportunity (EEO) suit filed by Ms. Lorraine Mintzmyer against Secretary Manuel Lujan, Department of Interior.

The Subcommittee has uncovered striking inconsistencies between Mr. Sewell's sworn statement to attorney Schaff and the evidence the Subcommittee has gathered. Discrepancies exist in Mr. Sewell's statements about the changes he made to the Vision document, the extent of his involvement in overseeing the revision of the document, and his contact with the Department of Agriculture regarding the document. Accordingly, the Subcommittee is submitting materials related to Mr. Sewell's sworn statement and requests a response from the Department to the corresponding questions.

The contradictions between the sworn statements of Ms. Mintzmyer and Mr. Sewell essentially revolve around three meetings. The first meeting reportedly occurred on October 4, 1990 in Senator Alan Simpson's office. In evidence obtained by the Subcommittee during its investigation, witnesses stated to Subcommittee investigators that a meeting took place on October 4, 1990 in Senator Simpson's office between one or more U.S. Senators or U.S. Representatives; representatives from the Departments of Interior (DOI) and Agriculture (DOA), including former Deputy Assistant Secretary Scott Sewell, DOI, and former Assistant Secretary James Moseley, DOA, and special interests and other commodity groups for the purpose of discussing the Vision document.

The second meeting in dispute allegedly took place on October 5, 1990. In sworn testimony before the Subcommittee, Ms. Mintzmyer stated that she was summoned to Mr. Sewell's office and Mr. Sewell told her the Vision document had to be completely rewritten.

Ms. Mintzmyer testified under oath:

[I] sat across from Mr. Sewell with my notebook and some other papers on my lap. He began a lecture on the fact that significant political contacts and pressures had been made to the White House and the Secretary regarding the Vision document by political delegations. He then stated that Mr. Sununu had personally spoken to him about this issue. He stated that Mr. Sununu told him that, from a political perspective, the existing draft of the Vision document was a disaster and must be rewritten. . . .

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Mr. Sewell made it clear that he had been delegated by the Department to retain the appearance that the document was the product of professional and scientific efforts by the agency involved but the reality would be that the document would be revised based on these political concerns, some of which he shared with me at the time.

He also made it very clear that he was upset with me personally because of the draft and that he had, therefore, taken over control of the writing and content of that document. He was emphatic as to that point, stating that I should proceed but that it was he who would ultimately control and revise all content.

In interviews with Subcommittee investigators, two other witnesses confirmed the October 5, 1990 meeting. Ms. Sandra Key, Team Leader of the Greater Yellowstone Coordinating Committee (GYCC) for the National Park Service, and Mr. Jack Troyer, Team Leader of the GYCC for the Forest Service, both told Subcommittee investigators that Ms. Mintzmyer had a meeting with Mr. Sewell on October 5, 1990. Ms. Key confirmed Ms. Mintzmyer's recollection of the meeting's events. Immediately following the October 5, 1990 meeting, Ms. Mintzmyer told Ms. Key that Mr. Sewell said the document was a political disaster and that it had to be completely rewritten. Ms. Key noted Ms. Mintzmyer was visibly distraught and that her face was "ashen." While Mr. Troyer did not know the nature of Ms. Mintzmyer's conversation with Mr. Sewell, he saw her leave Mr. Sewell's office on October 5, 1990 and he observed that Ms. Mintzmyer was not "acting like herself."

The third meeting in dispute occurred on June 7, 1991. Witnesses told Subcommittee investigators that Ms. Mintzmyer and Ms. Key briefed Mr. Sewell, Director Ridenour, Mr. Jim Loach, Ms. Mary Bradford, and Mr. David Behler regarding the status of the Vision document. In a memo summarizing that meeting, Ms. Mintzmyer noted that Mr. Sewell would check to see if further review was required within the Department of Interior; that Mr. Sewell had already received input from other agencies within DOI and it was unnecessary to repeat that step; that Mr. Sewell would contact the Department of Agriculture to communicate DOI's changes; and that the air quality standards in the document would be enhanced.

Contrary to Ms. Mintzmyer's sworn statements regarding these three meetings, Mr. Sewell has disputed Ms. Mintzmyer's assertions that he told her he would retain control of the Vision document and would revise its content. For example, Mr. Sewell testified under oath in Ms. Mintzmyer's EEO suit that the first and only change his office made to the text of the Vision document required Class I clean air quality in Yellowstone. In addition, Mr. Sewell stated

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that June 1991 was the first time he had seen the revised Vision document and that all other changes to the Vision document had taken place prior to his review of the document on June 7, 1991.

Mr. Sewell noted on pages 30 and 31 of his sworn statement the following:

The only change that came out of that June 7, 1991 meeting, there was only one change, and that was my clean air recommendation. Everything else had taken place before I ever saw the document.

So, to say, first of all, that our office had done it is not true, or to even infer that we pressured that it be changed the way it was is not true, it's a falsehood. And if I had done it, I would tell you right now because I had the authority to do it, and I could have done it over her objections if I had wanted to. All I had to do was rewrite the document and sign my name to it, and I had that authority. . . .

Further, Mr. Sewell asserted under oath that he had made only two substantive comments regarding the Vision document. The first was the previously stated change to require Class I clean air quality in Yellowstone and the second was to hold public meetings on the Vision document only in the Greater Yellowstone area states, not in states nationwide.

On pages 11 and 12 of his sworn statement, Mr. Sewell asserts,

There were two comments, and only two that I ever had to the document of [a] substantive nature. The first, Yellowstone is a Class I clean air area, and I had asked that stronger language be put in about air quality requirements, and tougher language

The second was that Ms. Mintzmyer had planned to have public relations -- public meetings on the document, public review She had planned on having them in Seattle, Washington; Chicago; New York; Atlanta; Washington, D.C.

My comment was if you want to do this, have one in Washington, if you want, but have them in Billings, Cody, Jackson Hole, where people are that live in that area that would be impacted by the document, and I think that was totally appropriate.

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Mr. Sewell continued,

So, those are the only two substantive comments I made to anyone ever about the entire document. Anyone who alleges or states otherwise has lied.

Q. [Mr. Schaff] Okay. She [Mintzmyer] stated --

A. [Mr. Sewell] Or even infers has lied.

Thus, Mr. Sewell has specifically testified that he was involved in only two limited changes to the Vision document, that his office had not made any other revisions except for the air quality revision, and that he had seen the revised document for the first time on June 7, 1991.

But the Subcommittee has uncovered evidence that suggests Mr. Sewell's office was making revisions to the document well before June 1991 and that Mr. Sewell had seen the revised document before June of 1991. Document #122 (see attached) indicates that Mr. Sewell's involvement and his office's involvement extended well past the two comments he testified to under oath. Document #122 shows that Mr. Sewell's staff was changing the Vision document in November 1990 and Mr. Sewell was personally reviewing those changes in November 1990.

Ms. Mary Bradford, then staff assistant for the Office of Fish and Wildlife and Parks, Department of Interior, wrote in a November 14, 1990 revised Vision document transmittal memo (document #122) to Constance Harriman, then Assistant Secretary for Fish and Wildlife and Parks, that changes were being made to the Vision document pursuant to Mr. Sewell's meeting with "Sens Simpson, Wallop and commodities groups." Ms. Bradford's transmittal memo also contradicts Mr. Sewell's sworn assertion that he first reviewed the revised Vision document on June 7, 1991; Ms. Bradford specifically noted on November 14, 1990 that "Scott is now reviewing this."

Ms. Bradford's revised Vision document transmittal memo is not the only document to conflict with Mr. Sewell's assertion that June 7, 1991 was the first time he made a change to the Vision document. Document #78 (see attached), a revised copy of the draft Vision document, has a notation that reads, "Annotated - Preliminary Review 10/90. Returned with Sewell changes 3/20/91." This annotation indicates that Mr. Sewell had made changes to the Vision document almost three months prior to the date he claims to have first made a change to the text of the document, in June 1991.

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In connection with these points, please respond to the following questions:

-- Where did Mr. Sewell derive his authority to alter the Vision document without utilizing the predetermined public comment process of workshops and public hearings?

-- Did Mr. Sewell have any meetings to discuss needed changes to the Vision document immediately following the October 4, 1990 group meeting?

If so,

-- With whom did Mr. Sewell meet?

-- What changes to the Vision document were made?

-- How were those changes to be implemented?

-- Did Mr. Sewell have any further meetings in the two weeks following the October 4, 1990 group meeting to discuss needed changes to the Vision document?

If so,

-- With whom did Mr. Sewell meet?

-- What changes to the Vision document were made?

-- How were those changes to be implemented?

-- What instructions relating to altering the Vision document did Mr. Sewell give to Ms. Bradford, Mr. Jim Loach, Ms. Meredith Kimbro, and Mr. Joseph Doddridge following the October 4, 1990 meeting?

-- Did Mr. Sewell discuss those changes referenced in the Bradford revised Vision document transmittal memo with anyone prior to instructing his staff members to alter the Vision document?

If so,

-- With whom did he discuss the changes?

-- What changes were proposed?

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- Who proposed each change?
- What date did these discussions take place?
- Who was responsible for implementing the changes?
- Were any proposed changes to the Vision document left out? If so, why?

If not,

- Did those changes originate with Mr. Sewell?

If yes,

- From what source did Mr. Sewell derive the authority to make those changes?

- List all of the people who reviewed the revised Vision document within the Department of Interior pursuant to Ms. Bradford's revised Vision document transmittal memo and describe the changes each person made to the document.

- What was the process for reviewing the Vision document within the Interior Department, "a la wetlands action plan"?

Mr. Sewell's denial of being in control of the Vision document or even having any contact with the document before June 7, 1991 is further disputed by a Forest Service computer message. The Subcommittee has learned from a computer message (document #57) written by Mr. Jack Troyer to Mr. Gary Cargill, Co-Chair of the GYCC for the Forest Service, on May 28, 1991, that the "NPS is trying to get their briefings set up ASAP because Scott Sewell has been their Dept contact and he'll be leaving soon. Therefore to avoid delays they want to go thru him and are getting their Dept briefings set up next week."

In light of this evidence, please answer the following questions:

- When did Mr. Sewell become the Department's contact?
- Who designated Mr. Sewell as the Department's contact?

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Mr. Troyer's assertion in document #57 that Mr. Sewell was the Interior Department's contact person for the Vision document was corroborated by additional witnesses. In statements to Subcommittee investigators, Mr. Cargill and Mr. Bob Barbee, Superintendent of Yellowstone, confirmed Mr. Sewell's involvement as the Department's contact for the Vision document.

Please respond to the following questions that document #57 raises,

-- List all of the times Mr. Sewell or any of his staff, particularly Ms. Bradford, had contact with Mr. Troyer and Mr. Cargill between October 5, 1990 through June 7, 1991.

-- List all of the times Mr. Sewell or any of his staff, particularly Ms. Bradford, had contact with Mr. Barbee regarding the Vision document between October 5, 1990 through June 7, 1991.

Finally, the Subcommittee notes that on June 14, 1991, Ms. Mintzmyer sent a memo (document #47) to the Director of the National Park Service outlining her June 7, 1991 meeting with Mr. Sewell, Director Ridenour, Ms. Key, Mr. Loach, Ms. Bradford, and Mr. Behler regarding the Vision document. The memo detailed Mr. Sewell's involvement with the document. In interviews with Subcommittee investigators, the accuracy of this memo was verified by at least one participant in the June 7, 1991 meeting.

Subsequent to Ms. Mintzmyer's memo, Mr. Sewell responded with a memo on June 28, 1991 (document #41) denying his involvement with the Vision document, claiming that it was an internal National Park Service document, and criticizing Ms. Mintzmyer's performance. Ms. Mintzmyer has stated she was not aware of the existence of this Sewell memo until it surfaced last fall in response to a reporter's Freedom of Information Act request.

The Subcommittee is troubled that Ms. Mintzmyer first became aware of this memo after she testified before the Subcommittee in September 1991. Please advise the Subcommittee of the following:

- When was Mr. Sewell's June 28, 1991 memo created?
- Why was the date handwritten and not date stamped (see document #41)?
- Who drafted the document?
- Who typed the document?
- Who saw the document prior to distribution?

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- How was the document distributed?
- Who wrote in the document's date?
- Is Mr. Sewell's signature his own handwriting?
- List all of the people who received this document and the approximate date when they received it.
- Did Mr. Sewell's office send a copy of the document to Ms. Mintzmyer?

If no,

- Why was a document critical of Ms. Mintzmyer's performance not forwarded to her?

The final inconsistency the Subcommittee observes occurs on page 15 of Mr. Sewell's sworn statement to attorney Schaff. On page 15, Mr. Sewell asserted the following:

And I guess after the fact, when I had my two comments, it was after the draft was already published at that point, and it was going through the review process.

Now I never saw the documents again. I never discussed them [the Vision document] with the director of the Park Service and I never discussed them with anyone at the Forest Service or Department of Agriculture.

While the above statement may be open to more than one interpretation, certain documents obtained by the Subcommittee and the corresponding testimony of at least one witness show that Mr. Sewell did discuss the Vision document with the Department of Agriculture. First, according to the last paragraph of the November 1990 Bradford revised Vision document transmittal memo, Mr. Sewell's office was in touch with the Department of Agriculture. Ms. Bradford states, "USDA/Forest Service pursuing concurrent review. I'm in touch with them."

In response to that paragraph, please answer the following:

- Who was Mr. Sewell or his office in touch with at the Department of Agriculture?
- How frequently did Mr. Sewell or his office contact employees at the Department of Agriculture? Give the dates and any documents related to those conversations.

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-- What action, if any, did Mr. Sewell or any individuals in the Department of Interior or the National Park Service take, based on the revised Department of Agriculture Vision documents?

-- Did Mr. Sewell or his staff review or change any Vision document drafts received from the Department of Agriculture?

Document #99 (see attached) also indicates that Mr. Sewell was in contact with the Department of Agriculture. According to document #99, Mr. Sewell and James R. Moseley, Assistant Secretary for Natural Resources and Environment, Department of Agriculture, were scheduled to meet on January 31, 1991 to discuss the "Draft Vision for the Future -- A Framework for Coordination in the Greater Yellowstone Area" document.

Please advise the Subcommittee as to the following:

-- Who initiated the planning for this meeting?

-- Was it Assistant Secretary Moseley who attend this meeting or was it Deputy Assistant Secretary Beuter?

-- Were there any other participants?

-- Where was this meeting held?

-- Was Mr. Sewell provided any briefing material for this meeting? If so, why wasn't it provided to the Subcommittee?

-- What exactly was discussed?

-- As a result of this meeting, what changes were made to the Vision document?

-- How many people did Mr. Sewell discuss this meeting with and what was the substance of these discussions?

-- On the day after this meeting (February 1, 1991) did the Forest Service present the first revised version of the draft Vision document at a meeting of Forest Service supervisors and National Park Service superintendents in Bozeman, MT?

Next, a handwritten note provided from the Department of Interior's Office of Fish and Wildlife and Parks suggests that Mr. Sewell met with John Beuter, Deputy Assistant Secretary for Natural Resources and Environment, Department of Agriculture, sometime on

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or prior to January 31, 1991 (see document #96) for the purpose of discussing the Vision document.

Finally, interviews conducted by Subcommittee investigators with Mr. Cargill revealed that Mr. Sewell met with Deputy Assistant Secretary Beuter, Department of Agriculture, to discuss the Vision document sometime between May through August, 1991.

In response to this, please answer the following questions:

- How many meetings took place between Mr. Sewell and Mr. Beuter regarding the Vision document?
- What was the exact date of each of those meetings?
- Where were the meetings held?
- What was discussed?
- What changes were made to the Vision document as a result of those meetings?
- Who else was aware of the meetings?
- List all of the people Mr. Sewell talked to regarding the meetings and what he discussed with each individual.

Now the Subcommittee wants to focus your attention on a matter that is both curious and sorely troubling. This will require your personal attention. As you know, the Subcommittee on September 24, 1991, requested of you all documents pertaining to the development of the Vision document (including all revised and annotated copies). The Subcommittee's September 24, 1991 letter specifically requested:

- 4. Any and all draft and final versions, including all copies on which annotations appear, of the Yellowstone "Vision" document reviewed by Executive branch personnel -- including, but not limited to -- Forest Service, Park Service, and White House personnel.

Now to our distress, the Subcommittee notes that Ms. Bradford's revised Vision document transmittal memo referenced at least two revised versions of the Vision document which have never been turned over to the Subcommittee. Ms. Bradford's November 14, 1990 note was stapled to one of the revised documents, it is visible in the photocopy. The second version was referenced in Ms. Bradford's revised Vision document transmittal memo: "The next step will probably be to retype and circulate in DOI for formal comment, a la wetlands action plan." The Subcommittee did not

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receive from you any revised or annotated Vision documents dating from October of 1990 through January 1991.

The fact that the Subcommittee has not received the documents referenced in the Bradford revised Vision transmittal memo raises very serious concerns about your Department's candor in this matter. Not only did these documents exist, but one clearly existed at the time the Bradford revised Vision document transmittal memo was copied and supplied to the Subcommittee. The Subcommittee views the deliberate withholding of documents requested in the course of a Congressional investigation as an extremely serious matter. Obstruction of a Congressional investigation is a violation of 18 USC 1505, Obstruction of proceedings before departments, agencies, and committees. 18 USC 1505 states in relevant part, "Whoever . . . impedes or endeavors to influence, obstruct, or impede . . . the due and proper exercise of the power of inquiry under which any inquiry or investigation is being had by either House, or any committee of either House or any joint committee of the Congress -- Shall be fined not more than \$5,000 or imprisoned not more than five years or both."

The Subcommittee has an absolute right to these documents and demands that these documents be turned over within 24 hours of receipt of this request. In addition, the Subcommittee requests responses to the following:

-- Was the Secretary informed that those documents the Bradford revised Vision document transmittal memo referenced were withheld from the Subcommittee?

-- Was anyone else, besides Mr. Hughes, responsible for turning over documents to the Subcommittee?

-- Who was responsible for making the decision to withhold the documents?

-- Were any revised or annotated Vision documents dating from October 1990 through January 1991 destroyed?

If so,

-- Why were those revised documents destroyed?

-- Who authorized the destruction of those documents?

-- Who performed the destruction?

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If not,

-- Why were those documents not supplied to the Subcommittee?

Also, in responding to the Subcommittee's request for documents, the Department of Interior failed to supply any memos, correspondence, or transmittal memos accompanying the revised Vision document drafts which were circulating between DOI and DOA from October of 1990 through January 1991.

The Subcommittee also demands that these documents be turned over within 24 hours of receipt of this request. In addition, the Subcommittee requests responses to the following:

-- were any memos, correspondence, or transmittal memos accompanying the revised Vision document drafts in circulation between the Departments of Interior and Agriculture from October of 1990 through January 1991 destroyed?

If so,

-- Why were those documents destroyed?

-- Who authorized the destruction of those documents?

-- Who performed the destruction?

If not,

-- Why were those documents not supplied to the Subcommittee?

The Subcommittee is deeply troubled by the aforementioned withholding of documents and striking inconsistencies and discrepancies between Mr. Sewell's sworn statements and the evidence gathered by the Subcommittee. The Subcommittee expects to receive the Department's complete cooperation in resolving this

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matter, and responses to outstanding questions within seven (7) days, July 3, 1992 at 5:00 p.m. If you have any further questions, please contact Ms. Kim Japinga of the Subcommittee staff (202-225-4025).

Thank you for your cooperation in this matter.

Sincerely,


CONSTANCE MORELLA
Ranking Member


GERRY SINORSKI
Chairman

GES:kj

Enclosures

cc: Secretary Madigan, Department of Agriculture

Chairman William Clay, House Committee on Post Office
and Civil Service

Chairman E de la Garza, House Committee on Agriculture

Chairman George Miller, House Committee on Interior and
Insular Affairs

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U.S. House of Representatives

COMMITTEE ON POST OFFICE AND CIVIL SERVICE

SUBCOMMITTEE ON THE CIVIL SERVICE

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Washington, DC 20515-6244

TELEPHONE (202) 225-4025

June 22, 1992

The Honorable Manuel Lujan, Jr.
 Secretary
 Department of Interior
 1849 C Street
 Washington, D.C. 20240

Dear Secretary Lujan:

Pursuant to Rules X and XI of the House of Representatives and Rules 22(4) and 24 of the House Committee on Post Office and Civil Service, the Subcommittee on the Civil Service, Committee on Post Office and Civil Service, has the responsibility for conducting oversight activities into matters affecting the welfare of civil servants, the civil service system, and the merit systems.

As our past correspondence has indicated, the Subcommittee is conducting a legislative investigation into alleged improprieties in the directed reassignment of Ms. Lorraine Mintzmyer. During the course of this investigation, Subcommittee investigators have attempted to interview key Department of Interior and National Park Service witnesses.

In anticipation of those interviews, the Subcommittee sent Governor Michael Hayden, Assistant Secretary for Fish and Wildlife and Parks, a letter outlining the attorney/client parameters for voluntary interviews with Subcommittee investigators. These guidelines were developed in accordance with House Rule XI(2)(k)(3) and were formulated in order to guard against a conflict of interest and to protect the integrity of the Subcommittee's investigation.

When interviewed, Subcommittee investigators discovered that two of the witnesses had declined to follow the Subcommittee's attorney/client parameters. In addition, a Department of Interior attorney indicated that all the rest of the employees Subcommittee investigators had scheduled to interview also would not be following the Subcommittee's attorney/client parameters.

Because these employees refused to cooperate with the reasonable provisos set forth by the Subcommittee to ensure complete truthfulness and objectivity, the interview process could

Secretary Lujan
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not proceed. And since those employees had information necessary to the investigation, the full Subcommittee was forced to convene and hold hearings in executive session to question these employees.

In the first of these executive sessions on April 29, 1992, the Subcommittee questioned a National Park Service employee in connection with the Mintzmyer investigation. At that hearing, the Subcommittee informed Mr. Tim Elliot, Deputy Associate Solicitor, Department of Interior, that unsworn, voluntary interviews with Subcommittee investigators could continue if the Department's attorneys represented the employees' interests and the same attorney did not represent multiple witnesses. The Department agreed to those conditions and Subcommittee investigators were able to interview two other witnesses with those prerequisites in effect.

The Department halted this process, however, when the Subcommittee was informed by Mr. Elliot that additional witnesses Subcommittee investigators had wanted to question all requested legal representation from the same Department of Interior attorney who had represented a previous Subcommittee witness. Again, the Subcommittee was forced on May 21, 1992 to convene an executive session.

These hearings are an unnecessary expenditure of the Subcommittee's time and resources and only serve to bog down the investigation. At the outset of this investigation, the Subcommittee clearly stated that this investigation would be conducted in a thorough, fair and bipartisan fashion. To proceed in this manner, the Subcommittee must first conduct all the interviews it deems necessary and review all relevant documents. This cannot be accomplished if the Department continues to delay the Subcommittee's interviews.

Quite frankly, the Subcommittee is perplexed by the Department's foot dragging. The Subcommittee has received at least 10 separate letters from the Department and its employees requesting an on-the-record, open hearing, yet the Department continues to stand in the way of the Subcommittee completing its investigation. Until this matter is fully and satisfactorily resolved, the Subcommittee's efforts to move forward with an open hearing will be hampered.

Before the Subcommittee is able to invite the Department to testify in an open, on the record, hearing, Subcommittee investigators need to question the following witnesses:

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Mr. David Behler
Ms. Mary Bradford
Mr. Ed Davis
Mr. Joseph Doddridge
Mr. Charles "Ed" Kay
Ms. Meredith Kimbro
Mr. Jim Loach
Mr. James Parham
Director Ridenour
Mr. James Schrote
Mr. Scott Sewell
Mr. Thomas Weimer

The attorney/client parameters for these interviews are the same as the February 1992 Hayden letter. For example, an attorney from the Department representing the above witnesses must represent the employees' interests, not the Department's interests. In addition, the same attorney may not represent multiple employees. The Department has over 250 attorneys at its disposal. Surely the Department can accommodate different attorneys for each witness. Once the Department cooperates with the Subcommittee, the Subcommittee will be able to move forward with its investigation.

Please contact Ms. Kim Japinga of the Subcommittee staff (202-225-4025) to schedule interviews with Subcommittee investigators by July 6, 1992.

Your attention to this matter is greatly appreciated.

Sincerely,


CONSTANCE MORELLA
Ranking Member


GERRY SIKORSKI
Chairman

GES:kj

cc: Chairman William Clay, House Committee on Post Office
and Civil Service
Chairman George Miller, House Committee on Interior and
Insular Affairs

ONE HUNDRED SEVENTY-FOURTH CONGRESS

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COMMITTEE ON POST OFFICE AND CIVIL SERVICE

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TELEPHONE (202) 225-4025

June 18, 1992

The Honorable Edward Madigan
 Secretary
 Department of Agriculture
 Washington, D.C. 20250

Dear Secretary Madigan:

Pursuant to Rules X and XI of the House of Representatives and Rules 22(4) and 24 of the House Committee on Post Office and Civil Service, the Subcommittee on the Civil Service, House Committee on Post Office and Civil Service, has the responsibility for conducting oversight activities into matters affecting the welfare of civil servants, the civil service system, and the merit systems.

As our past correspondence has indicated, the Subcommittee is conducting a legislative inquiry into the directed reassignments of Ms. Lorraine Mintzmyer and Mr. John Mumma. Pursuant to that inquiry, on September 24, 1991 the Subcommittee made an extensive request for documents from the Department.

The Subcommittee is currently in the process of interviewing Department of Interior and National Park Service officials in connection with Ms. Mintzmyer's directed reassignment. Part of that inquiry centers around the joint National Park Service/Forest Service document, "A Framework for Coordination of National Parks and National Forests in the Greater Yellowstone Area," commonly referred to as the Vision document. To further that inquiry, the Subcommittee requests the following additional items:

1. All personnel files of Mr. James Moseley, Mr. John Beuter, Mr. Wayne Thorton, and Mr. Brian Stout.
2. The Subcommittee understands that a meeting took place on October 4, 1990 for the purpose of discussing the Vision document. The Subcommittee further understands that Mr. James Moseley, Mr. George Leonard and Mr. Gary Cargill were present at this meeting. The Subcommittee requests any notes, minutes, preparatory documents or briefings, phone logs, phone messages, electronic mail records or printouts, and any other documents related to the October 4, 1990 meeting. Documents include, but are not limited to, draft, annotated and final copies of memos, staff reports, internal reports and external reports, letters and their envelopes,

Secretary Madigan
June 18, 1992
page 2

facsimiles, electronic mail messages or information stored in any digital or other computer form, phone logs, and other logs or record systems.

3. Provide copies of all calendar and databook entries and any other documents that would reflect scheduling activities from the time period of September 1, 1990 through September 30, 1991 for the following people: Mr. Moseley, Mr. Beuter, Mr. Leonard, and Mr. Stout.

4. Provide any and all draft and annotated versions of the document (not already supplied) from August 1990 to September 1991.

For each of the above requested documents, identify the name of the person supplying the document (custodian).

Please forward these items as they are collected and not later than July 3, 1992, by 5:00 p.m. To facilitate the resolution of any questions of adequacy of the search of these items, the Subcommittee requests the names of all people responsible for these documents.

If you have further questions, please contact Ms. Kim Japinga of the Subcommittee staff (202-225-4025). Thank you for your consideration of this matter.

Sincerely,


CONSTANCE MORELLA
Ranking Member


GERRY SIKORSKI
Chairman

GES:kj

cc: Chairman William Clay, House Committee on Post Office
and Civil Service
Chairman George Miller, House Committee on Interior and
Insular Affairs

ONE HUNDRED SECOND CONGRESS

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U.S. House of Representatives

COMMITTEE ON POST OFFICE AND CIVIL SERVICE

SUBCOMMITTEE ON THE CIVIL SERVICE

122 CANNON HOUSE OFFICE BUILDING

Washington, DC 20515-6244

TELEPHONE (202) 326-4026

June 18, 1992

The Honorable Manuel Lujan, Jr.
 Secretary
 Department of Interior
 1849 C Street
 Washington, D.C. 20240

Dear Secretary Lujan:

Pursuant to Rules X and XI of the House of Representatives and Rules 22(4) and 24 of the House Committee on Post Office and Civil Service, the Subcommittee on the Civil Service, House Committee on Post Office and Civil Service, has the responsibility for conducting oversight activities into matters affecting the welfare of civil servants, the civil service system, and the merit systems.

As you know, the Subcommittee is conducting a legislative inquiry into the directed reassignment of Ms. Lorraine Mintzmyer. Pursuant to that inquiry, on September 24, 1991 the Subcommittee made an extensive request for documents from the Department.

On April 29, 1992, Subcommittee investigators interviewed Mr. Steve Goldstein, Assistant to the Secretary and Director of the Office of Public Affairs, Department of Interior. During that interview, Mr. Goldstein provided Subcommittee investigators with a letter he wrote on September 27, 1991 to Mr. Chuck Green, Denver Post, regarding the Vision document. The Subcommittee never received this letter in response to its September 24, 1991 document request. The Subcommittee requests that the Department again check its files and submit all documents not previously supplied to the Subcommittee that are responsive to the Subcommittee's September 1991 document request.

In addition, the Subcommittee requests the following items:

1. All personnel files of Mr. S. Scott Sewell, Mr. R. Thomas Weimer, Mr. John E. Schrote and Mr. Charles E. Kay.
2. The Subcommittee understands that a meeting took place on October 4, 1990 for the purpose of discussing the Vision document. The Subcommittee further understands that Mr. Sewell, Mr. T.S. Ari, and Mr. Jack Morehead were present at this meeting. The Subcommittee requests any notes, minutes, preparatory documents or briefings, phone logs, phone messages, electronic mail records or printouts, and any other documents related to the October 4, 1990

Secretary Lujan
June 18, 1992
page 2

meeting. Documents include, but are not limited to, draft, annotated and final copies of memos, staff reports, internal reports and external reports, letters and their envelopes, facsimiles, electronic mail messages or information stored in any digital or other computer form, phone logs, and other logs or record systems.

3. Provide copies of all calendar and datebook entries and any other documents that would reflect scheduling activities from the time period of September 1, 1990 through September 1991 for the following people: Ms. Mary Bradford, Mr. Herb Cables, Mr. Jim Loach, Mr. Morehead, and Mr. Jim Parham.

4. Provide copies of all calendar and datebook entries and any other documents that would reflect scheduling activities from the time period of June 1, 1991 through April 30, 1992 for Mr. R. Thomas Weiner, Mr. John E. Schrote, Mr. Charles E. Kay, Director Ridenour, and Mr. Edward Davis.

5. Provide copies of all calendar and datebook entries and any other documents that would reflect scheduling activities from the time period of September 1, 1990 through December 31, 1991 for Mr. Sewell.

For each of the above requested documents, identify the name of the person supplying the document (custodian).

Please forward these items as they are collected and not later than July 3, 1992, by 5:00 p.m. To facilitate the resolution of any questions of adequacy of the search of these items, the Subcommittee requests the names of all people responsible for these documents.

If you have further questions, please contact Ms. Kim Japinga of the Subcommittee staff (202-225-4025). Thank you for your consideration of this matter.


CONSTANCE MORELLA
Ranking Member

Sincerely,


GERY SIKORSKI
Chairman

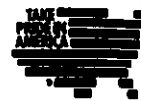
GES:kj

cc: Chairman William Clay, House Committee on Post Office
and Civil Service
Chairman George Miller, House Committee on Interior and
Insular Affairs



United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240



JUN 11 1992

To: Bureau and Office FOIA Officers

From: Departmental FOIA Officer
Office of Management Improvement

Subject: Disclosure of EEO Material Under the FOIA vs.
EEO Procedures

In the past, there has been some confusion concerning the release of EEO material under the FOIA. There also has been some discrepancy with regard to disclosure of information under the FOIA vs. the Department's EEO procedures. This guidance is issued to resolve this confusion.

Under EEO procedures, while an investigation is ongoing, some information is released to both the complainant and the alleged responsible official (ARO). However, once the investigation is closed, the entire EEO file is provided to the complainant. At this time, additional information may be provided to the ARO depending on the Department's final decision. For further guidance, you may wish to consult your EEO representative and/or refer to Chapter 6, Section 6, of the EEOC Complaint Processing Manual (MD-107, September 1987) which is attached.

With regard to processing requests for EEO material under the FOIA, as long as the investigation is pending, no information is released. Exemption 7(A) or other applicable exemption(s) should be invoked to withhold such information, regardless of whether the request is made by the complainant, the ARO, or another third party. After the EEO investigation has been closed, information that is responsive to an FOIA request should be analyzed on a case-by-case basis and withheld only if it (1) falls under one of the nine FOIA exemptions and sound grounds exist for invoking an exemption or (2) if disclosure is prohibited by statute or Executive order. As with other FOIA requests, the response should be coordinated with an attorney in the Solicitor's Office before it is issued.

Should you have any additional questions regarding this matter, feel free to call me, your designated FOIA attorney, or Bob Walter, Division of General Law, SOL. Bob may be reached on 202/208-6346.

Alexandra Mallus
Alexandra Mallus

Attachment

cc: Designated FOIA Attorneys