



OFFICE OF
INSPECTOR GENERAL
U.S. DEPARTMENT OF THE INTERIOR

Memorandum

DEC 09 2010

To: Secretary Salazar

From: Mary L. Kendall
Acting Inspector General

Subject: Report of Investigation – Royal Dutch Shell
Case No. PI-PI-08-0264-I

The Office of Inspector General concluded an investigation based on a complaint that Royal Dutch Shell (Shell) received preferential treatment during the awarding of oil shale Research, Development, and Demonstration (RDD) leases in 2005 and 2006 by the Bureau of Land Management (BLM). Since former Secretary Gale Norton subsequently secured employment with Shell, we expanded our investigation to consider her involvement in the RDD process.

We found that Norton was very interested in the RDD program during her tenure as Secretary, but we did not find evidence to conclusively determine that Norton violated conflict-of-interest laws, either pre- or post-employment with Shell.

We discovered that BLM appeared to give preferential treatment to Shell in two specific issues regarding these leases. We found that two of Shell's bid proposals included acreage amounts in excess of the allowable amount specified in the *Federal Register* notice, and that someone in BLM changed the amount to comply with the requirements. BLM did not disqualify Shell's bids. We also found that Shell submitted three bids, while other prospective bidders were allowed to submit only one bid. Shell was awarded leases on all three bids. No other company received more than one lease.

We did not find evidence that Shell committed any criminal violation, but we did discover that someone in BLM provided Shell with information, which allowed Shell to submit a complete bid document on the same day that the *Federal Register* notice soliciting applications for leases was published. The next bid that BLM received came in 82 days later.

We provide this report to you for whatever action you deem appropriate. If you have any questions, please do not hesitate to contact me at 202-208-5745.



Investigative Report of Royal Dutch Shell

Report Date: December 9, 2010

This report contains information that has been redacted pursuant to 5 U.S.C. §§ 552 (b)(6) and (b)(7)(C) of the Freedom of Information Act. Supporting documentation for this report may be obtained by sending a written request to the OIG Freedom of Information Office.

SYNOPSIS

The Office of Inspector General (OIG), U.S. Department of the Interior (DOI), initiated this investigation based on allegations that Royal Dutch Shell (Shell) received “insider information,” among other irregularities, during the Bureau of Land Management’s (BLM) 2005-2006 awarding of leases to research and develop oil shale. We issued an interim report on this matter in January 2009 that was referred to the U.S. Office of Government Ethics (OGE) and the U.S. Department of Justice.

Our investigation identified irregularities in the oil shale leasing process that benefited Shell and disadvantaged other applicants. Shell submitted three bids, while other applicants could only submit one bid; Shell received advance information regarding the leases; and someone changed two of Shell’s bids so that they complied with lease requirements.

As a result of our interim report, OGE opined that former DOI Secretary Gale Norton played a significant role in BLM’s oil shale program while Secretary and noted that the former Secretary’s participation in the program should subject her to the “lifetime ban on communicating with the federal government regarding the program.” The investigation further substantiated that on two separate occasions, subsequent to leaving DOI, but prior to being hired as general counsel in Shell’s oil shale division, Norton failed to fully describe her role in the leasing program to DOI ethics officials.

Finally, we found that Norton, subsequent to taking a job with Shell, contacted the Department of Defense, directly, and BLM, indirectly, concerning oil shale issues.

We presented this investigation to the Department of Justice, which declined criminal prosecution.

DETAILS OF INVESTIGATION

We initiated this investigation on April 7, 2008, based on allegations made by a Utah entrepreneur. The entrepreneur said numerous irregularities occurred during the Bureau of Land Management’s (BLM) evaluation of applications for oil shale Research, Development, and Demonstration (RDD) leases on BLM lands in Utah, Wyoming, and Colorado. As a result of these irregularities, the entrepreneur said, Shell received three of the six RDD leases ultimately awarded by BLM, as well as preference rights to thousands of additional valuable oil shale acres.

We initially focused our investigation on the allegations that irregularities occurred in the RDD leasing process and whether or not these irregularities allowed Shell to receive half of the leases. The entrepreneur alleged that:

- Shell submitted two RDD applications on June 9, 2005, the day the *Federal Register* notice soliciting applications was published, and the very first day that BLM began accepting applications. The entrepreneur stated that this could not have occurred without Shell having “inside information.” *Agent’s Note: We determined that Shell actually*

submitted only one RDD application on June 9, 2005. The other two applications were submitted later.

- Shell submitted a total of three RDD applications, while other companies understood they were only allowed to submit one.
- Shell submitted two applications that selected preference right acreage areas that exceeded the maximum amount of 5,120 acres identified in the June 2005 *Federal Register* notice. As a result, BLM should have disqualified these two applications. Instead, these applications were accepted and selected to receive leases. Someone altered these same two Shell applications to reflect the proper acreage amount.
- By receiving three of the six RDD leases, Shell gained a preference right of up to approximately 15,000 additional BLM acres, thereby giving Shell access to a considerable amount of Federal oil shale with significant potential value.
- After the RDD award process concluded, several DOI officials, including former Secretary Gale Norton, left DOI to work for Shell. The entrepreneur stated that it was not a coincidence that Norton went to work for Shell after overseeing the process through which the company was awarded three of the six RDD leases.

We determined that some of the entrepreneur's allegations were correct, and that BLM actions at least appeared to give Shell preferential treatment. Shell submitted three bids, all of which were successful, while other companies were told by BLM employees that they could only submit one bid. Also, two of Shell's bids did in fact exceed the maximum acreage amount, and BLM employees changed those amounts so they would comply with the *Federal Register* notice. We further determined that someone in BLM provided Shell with advance information.

We expanded our investigation into allegations that former Secretary Gale Norton had been significantly involved in the oil shale leasing program, and subsequently gained employment with Shell. Our investigation includes:

- Secretary Norton's role in the RDD process, and whether this role rose to the level of personal and substantial participation;
- Secretary Norton's statements to DOI ethics officials concerning her role in the RDD process and the accuracy and completeness of those statements;
- The timing and nature of Secretary Norton's employment negotiations with Shell and whether they occurred during the period of her participation in the RDD process; and
- Contacts that the former Secretary may have had with Federal entities concerning oil shale matters after she left DOI, either directly or through third parties.

We discussed each of these issues in our interim report. Pertinent portions of the interim report have been incorporated into this report. We developed additional information since the issuance of the January 2009 interim report that is also included in this report. Former Secretary Norton declined to be interviewed regarding our investigation.

I. Secretary Norton's Role in the RDD Process

We interviewed Dr. Abraham Haspel, former Assistant Deputy Secretary, DOI, who said Norton viewed oil shale from the "big picture" perspective. According to Haspel, Norton was "pushing

oil shale big time,” in part because it was what the White House wanted and in part because she felt it had the potential to be a significant energy resource. Haspel explained that Norton and her staff viewed oil shale as a “game changer,” meaning if it could be developed and produced, it would have a significant, positive impact on the Nation’s energy position. “She seized on oil shale as an opportunity” to better the Nation, said Haspel.

We also interviewed Kit Kimball, former Director, Office of External and Intergovernmental Affairs, DOI, who explained that Norton and her staff “didn’t totally trust the BLM.” In addition, Kimball stated that Norton knew Shell was ready to move forward with their oil shale development efforts and felt very strongly that they needed a BLM oil shale leasing program to do so. “She knew Shell wanted to get going,” said Kimball. As a result, Kimball explained, both Norton and David Bernhardt, her counselor, felt they needed to be involved to make sure BLM’s oil shale leasing program moved forward in an appropriate way.

When we interviewed an attorney from the Office of the Solicitor (SOL), DOI, who worked extensively on the RDD program, he noted that DOI Chief of Staff Brian Waidmann had at one time worked for a U.S. senator from Colorado. He also noted that Bernhardt grew up not far from the area of the proposed RDD leases in Colorado, and Norton had at one time served as Colorado’s Attorney General. They were all familiar with oil shale issues and “very interested in this concept.” The SOL attorney stated that Norton, Bernhardt, and Waidmann each wanted to be involved in oil shale matters because they understood the sensitivity of oil shale development in Colorado.

Meetings and Briefings on Oil Shale

We identified 12 instances where Norton attended meetings or was briefed on oil shale in 2005 and 2006.

1. Meeting: March 2, 2005, with the CEO and Vice President of Shell

Attendees

Shell: CEO and Vice President

DOI: Secretary Norton, Kit Kimball, Scott Stewart

On March 1, 2005, Stewart, Associate Director, DOI Office of External and Intergovernmental Affairs, sent an email to Steve Hargrave, Chief, Internal Security, Security Services Branch, DOI. Stewart wrote that Norton would be meeting the next day with the CEO of Shell, and a Shell Vice President. Stewart asked if Hargrave could “expedite” the Shell officials “into the building with as little impediment as possible.” When we interviewed Hargrave, he recalled meeting Stewart and the Shell officials at the DOI building entrance on March 2, 2005.

A review of documents obtained from Shell suggests that oil shale was discussed at this meeting. In an email dated May 2, 2005, a Shell employee wrote that “Secretary Gale Norton’s Office called today... [and] stated that previously [Shell CEO] extended an offer to Secretary Norton to visit [Shell’s oil shale research site]. Is the offer still good and if so, the Secretary need [sic] a paper with information on the site in her hands beforehand. The timing for June might be good

for her.” Later that same day, another Shell employee wrote in an email that the Secretary’s potential visit was “a huge opportunity.”

2. Meeting: March 30, 2005, with Executive Director of Exploration and Production in London

Attendees

Shell: Executive Director of Exploration and Production, Royal Dutch Shell

DOI: Secretary Norton

A review of Secretary Norton’s calendar and our interview of Johnnie Burton, former Director, Minerals Management Service (MMS), DOI, disclosed that on March 30, 2005, Secretary Norton attended a conference in London. The Executive Director of Exploration and Production, Royal Dutch Shell, also attended.

The review of Shell emails disclosed that on March 31, 2005, the Executive Director of Exploration and Production, Royal Dutch Shell, advised several Shell employees that “[a]t dinner last night [he] had the chance of prolonged conversation with Gale Norton ... and [he] raised ICP [Shell’s In-Situ Conversion Process, which is Shell’s primary oil shale development technique].” He wrote:

She was already a little aware that we had some plans there in Colorado and was interested – and given her role, and the fact that she is a long time Colorado resident, and given the imminent watershed decision we have to make, I gently probed her view as to the feasibility of being able to proceed in due course with larger scale projects (i.e. needing power generation, upgrading, multiple wells etc [sic]). I tried to give a flavour [sic] of some of the challenges. I found her most constructive and helpful – and generally pretty positive – and would think she could be a formidable ally for us if we can get her really behind this project. I promised to follow up with a letter to her enclosing some additional information.

Two weeks later, on April 15, 2005, the CEO, Unconventional Resources (UR) of Shell, sent an email to various Shell employees in which he wrote:

A while back, [the Executive Director of Exploration and Production, Royal Dutch Shell,] had a chance meeting with Sec. Norton at some dinner in Europe, I believe. He chatted about SURE [Shell Exploration and Production Company Unconventional Resource Energy] and the ICP technology a bit. There will be a major decision made on SURE in July relative to the extent of further expenditures on the technology in Colorado. [He] would, personally, like to get a sense of the Secretary’s ... appetite for and support of the initiatives in the oil shale sector. Accordingly, he would like to meet with her sometime in the next two months ... Early next week I will draft a note for [him] to the Sec. (for his review) as a follow up to the dinner. In that note he will express a desire to further discuss Shell’s oil shale efforts.

On June 23, 2005, the Office of the Executive Secretariat, which administers the Secretary’s incoming and outgoing correspondence, received a document addressed to Secretary Norton

from [the Executive Director of Exploration and Production, Royal Dutch Shell]. The document was a copy of the April 12, 2005 testimony that [the CEO, UR,] provided to the Senate Energy and Natural Resources Committee regarding oil shale. The copy contained a handwritten note stating, “Dear Secretary Norton, I have highlighted the parts of the testimony which I thought would most interest you. [Executive Director of Exploration and Production, Royal Dutch Shell]”. One section highlighted by the Shell Executive Director of Exploration and Production stated:

Key to the early development of oil shale technology is early access to appropriate Federal oil shale deposits to allow for pilot field tests to be carried out. The leasing of tracts of federal land to encourage research and development is an essential next step.

He continued to mark sections of the testimony related to Shell’s technology and oil shale interest, including a paragraph on the recommendations directed to DOI. The paragraph marked for the Secretary’s attention stated:

Shell believes that the Secretary of the Interior should develop a commercial oil shale leasing program on an expedited basis. We support the BLM’s proposed R&D leasing program as a small but important first step in the right direction. BLM should be urged to finalize and implement that program on an expedited basis.

Emails obtained from Shell indicate that the company did initiate the process to schedule a meeting between the Executive Director of Exploration and Production, Royal Dutch Shell, and Secretary Norton, but we could not determine if the meeting occurred.

3. Meeting: April 13, 2005, with DOI Staff

Attendees

DOI: Secretary Norton, David Bernhardt, Kathleen Clarke, Chad Calvert, Brian Waidmann, Abraham Haspel, SOL attorney, and a BLM senior advisor

On April 13, 2005, less than 2 months before BLM issued the *Federal Register* notice soliciting RDD applications, Norton attended a 1-hour briefing at DOI on oil shale.

The BLM senior advisor said he led this April 13, 2005 briefing and prepared the documents used during the briefing.

The SOL attorney said the April 13, 2005 briefing was one of only two or three meetings he had with the Secretary. He said that during the previous meetings, she was “very professional and very friendly,” but that he was particularly impressed during this meeting because Norton “took lots of notes” and seemed to “feel a responsibility for resolving the issues that were holding up the process.” According to the SOL attorney, the Secretary also asked good questions.

The BLM senior advisor told us that during this briefing, Norton asked him how much energy had to be used to produce oil shale in relation to the energy available from the finished product. He recalled he told Norton he did not know the answer to her question but would research it.

The BLM senior advisor said he found the answer, and approximately 1 month after the first meeting, he provided the information to the Secretary at a second briefing. He recalled telling Norton the energy ratio was approximately one-to-one but that oil shale technology was in its infancy stage and evolving. He said that based upon this second briefing, Norton concluded that if industry believed it could produce oil shale, then DOI should allow companies to do it. He said Norton subsequently gave BLM authorization to proceed with the RDD program.

On April 14, 2005, the BLM senior advisor emailed a number of BLM employees concerning a planned conference call on oil shale. He wrote, "This teleconference is prompted by a direct request from the Secretary of the Interior."

On April 22, 2005, the BLM senior advisor provided a copy of the final draft of the proposed *Federal Register* notice soliciting RDD applications to several BLM employees by email. He wrote, "Please, let me hear from you by Monday, 4/25/05. The Secretary wants this out as quickly as possible."

4. Meeting: June 23, 2005, at Shell's Mahogany Site in Colorado

Attendees

Shell: CEO, UR; Senior Washington Counsel; Manager of Regulatory Affairs, UR
DOI: Secretary Norton, David Bernhardt

On May 5, 2005, a Shell employee sent an email to the CEO, UR, and others at Shell in which he wrote, "I have attached and pasted the text below of a draft invitation letter ... to Secretary Norton asking her to visit the Mahogany facilities, [Shell's private oil shale test site]. Secretary Norton's office asked me to draft such a letter for their files since the Secretary very much wants to take a tour. They wanted some detail in the letter to help justify the trip."

One day later, a Vice President responded to a Shell employee in an email in which he wrote, "As we discussed last evening, I am meeting later today with David Barnhardt [sic] in the Secretary's office to discuss other matters relating to SURE ... I will discuss with him the need for this letter."

On June 23, 2005, Norton did participate in a tour of Shell's oil shale Mahogany Research Project, located on land Shell owns in Colorado. According to Norton's itinerary for that day, she and Bernhardt met at approximately 11 a.m. in Rifle, CO, with several Shell representatives and then drove 90 minutes to the Mahogany site. According to the itinerary, Norton and Bernhardt were to spend another 90 minutes at Mahogany, where they planned a tour and a briefing on Shell's oil shale technology.

The CEO, UR, described this event in an email to a Shell executive 6 days later. He wrote:

We had the pleasure of Secretary Norton's company for 3 hours last Thursday, June 23 ... Mr. Bernhardt assured us that the Secretary's keen interest in the SURE process was the only reason that we were getting that amount of time with her. We had the Secretary's full attention. She asked probing questions and took notes.

The CEO, UR, also wrote that, during the drive to the Mahogany site, he provided the Secretary with an overview of Shell's oil shale technology, and he described their "commercial ambitions." He identified six items on Shell's "ask" list that he apparently discussed with the Secretary, including Shell's desire for immediate access to their nominated RDD acreage and their interest in seeing DOI support legislation concerning oil shale acreage limitations. He stated that the Secretary told him that DOI would work with Shell to ensure that the RDD program would not delay Shell's work. In closing, he wrote:

Secretary Norton was very much intrigued with the process. She very much wants to see us succeed and definitely sees us as a unique serious player ... All in all a good visit. We have much work in continuing to cultivate Interior as an ally. Having said that, our work to date appears to have been remarkably successful.

On June 28, 2005, a Shell attorney emailed several Shell employees and wrote, "Sec. Norton and Deputy Chief of Staff David Bernhardt had a very productive briefing and tour of our oil shale project led by the CEO, UR, on June 23."

5. Meeting: October 6, 2005, with ExxonMobil

Attendees

ExxonMobil: Vice President of the Americas, Washington Representative

DOI: Secretary Norton, David Bernhardt, Rebecca Watson, Scott Stewart

A former Vice President of the Americas for ExxonMobil was interviewed and stated he met with Secretary Norton in the fall of 2005 about the RDD leases. According to him, this meeting concerned oil shale and a related issue concerning natcholite, a mineral co-mingled with oil shale in Colorado.

We also interviewed a former Washington Representative, ExxonMobil Corporation, who said that she was asked to schedule a meeting with Norton for the ExxonMobil Vice President of the Americas in the fall of 2005. The primary purpose of this meeting was to discuss ExxonMobil's request for DOI acreage for oil shale exploration and research. The meeting with Norton was scheduled for early October 2005.

The Washington Representative, ExxonMobil, said she attended a "pre-meeting" on October 4, 2005, with Scott Stewart and David Bernhardt. The pre-meeting was held because it was "very important" for Stewart and DOI to understand the nature of ExxonMobil's request to meet with Norton. She said there was a concern by DOI about the appearance of ExxonMobil meeting with Norton while their request for an oil shale lease was being considered. DOI wanted to be "very, very sure" that ExxonMobil did not intend to discuss the status of their lease application during this meeting or attempt to influence the decisions being made about the application.

Agent's Note: We did not identify any evidence to suggest that Stewart, Bernhardt, or others raised similar "appearance" concerns relative to Norton's visit with Shell employees and her tour of Shell's Mahogany oil shale research site 4 months earlier.

At the conclusion of this pre-meeting, ExxonMobil employees decided to discuss several issues with Norton, including DOI's multi-mineral development requirements concerning all energy development, and not just oil shale; ExxonMobil's energy outlook through 2030; and the effect of Hurricanes Katrina and Rita. The Washington Representative, ExxonMobil, acknowledged that the meeting scheduling form she submitted to DOI did indicate that the sole purpose of the meeting was to discuss the multi-mineral leasing issue. After the pre-meeting with Stewart and Bernhardt, the agenda "developed into" broader subject areas. She described the topics other than the multi-mineral leasing issue as being "introductory, chit-chat kind of topics" and "breaking the ice kind of stuff." She said in any type of meeting between high-level officials there is always introductory conversation.

The meeting with Secretary Norton was held as scheduled approximately 1 week after the October 4, 2005 pre-meeting. The Washington Representative, ExxonMobil, recalled the meeting lasted approximately 20 minutes. They discussed everything that had previously been agreed upon in the pre-meeting.

On October 13, 2005, the Washington Representative, ExxonMobil, wrote an email saying that during the meeting, they discussed "a broad range of access topics," including issues involving the impact that recent hurricanes had on ExxonMobil's operations, as well as a pipeline in Alaska. She also wrote:

While we expected a broad discussion of our nacholite and Federal Register issue, Bernhardt asked some specific questions that brought the discussion into a greater level of detail ... Norton and Watson thanked us for the meeting, which they said was very useful.

We identified two internal DOI emails that appear to concern this meeting with ExxonMobil. First, on September 29, 2005, a Scheduling Assistant, Office of Scheduling and Advance, Office of the Secretary, emailed a Special Executive Assistant on Norton's staff. The Scheduling Assistant asked if Norton had met with Shell regarding oil shale since May of 2005. In the second email, sent on October 4, 2005, the Scheduling Assistant emailed the Special Executive Assistant regarding the upcoming meeting with ExxonMobil. The Scheduling Assistant wrote, "[P]lease change [the] title of [the] meeting from 'Exxon - Oil Shale' to 'Exxon - General Energy.' This is a change needed b/c of ethics."

We contacted the former Scheduling Assistant regarding these emails, but she declined to be interviewed.

We asked Shayla Simmons, who served as DOI's Designated Agency Ethics Official between 2001 and 2006, about this email. Simmons said, "I can say, I think pretty definitively, if I had concerns about a meeting I wouldn't say that the way to solve it is to change the name of the meeting."

6. Testimony: October 27, 2005 Congressional Hearing

In an October 19, 2005 email, BLM's Legislative Affairs and Correspondence Group advised

Ted Murphy and others at BLM that Secretary Norton would be testifying before the Senate Energy and Natural Resources Committee on energy production on public lands on October 27, 2005. The Legislative Affairs and Correspondence Group requested briefing papers on oil shale be provided in preparation for this testimony.

According to the schedule of the U.S. Senate Committee on Energy and Natural Resources, Secretary Norton did testify at a full committee hearing concerning hurricane recovery efforts and energy policy on October 27, 2005. A review of Norton's prepared testimony disclosed that it contained information on oil shale. Specifically, it noted that BLM had received 20 RDD lease applications, and that the agency intended to award leases in 2006. The testimony also discussed the potential significance of oil shale related to the Nation's energy picture.

7. Meeting: November 15, 2005, with DOI Staff

Attendees

DOI: Secretary Norton, David Bernhardt, Kathleen Clarke, Johnnie Burton, Selma Sierra, Bob Anderson, Ted Murphy, BLM senior advisor

In a November 14, 2005 email regarding a meeting with Secretary Norton that was to be held the following day, Chad Calvert, Deputy Assistant Secretary for Land and Minerals Management, DOI, advised Tom Lonnie and others at BLM that the Secretary "is interested to get an overview of the project nominations received and the criteria that BLM will use to review them. She also would like timelines to find out if there is any place to squeeze it down."

On November 16, 2005, Ted Murphy authored an email to the BLM senior advisor and others at BLM about this meeting with the Secretary. Murphy wrote:

- Secretary very interested and will be engaged in the Oil Shale Leasing and Development process [sic]
- Need to ensure that the review process that we follow is solid. The financial capability of the applicant is primary concern, evaluating and rating to sustain any potential appeal or questioning.
- Sec [sic] uncomfortable with not approving an application if EA does not support a [Finding of No Significant Impact]. The timing and forthcoming regulations and leasing program were discussed, as well as discretion to deny or select were also discussed. Specifically, "did the FRN calling for nominations indicate that we would deny if the proposed process required and [sic] EIS?"
- Are there any endangered species in the areas proposed?
- How far reaching is the Programmatic EIS, in years?
- How do we plan on involving the local governments to assure that we consider their concerns and they are addressed. [sic]
- How do we plan to lease oil shale? Royalty rate, diligence, etc.
- Has any thought been given to a National Strategic Plan for Leasing oil shale?
- Any thoughts on pulling companies together to discuss development technology and concepts?
- Need to begin Public Relations campaign, focus on HR.

- Community involvement during programmatic. [sic]
- Who will be the end users of the products produced, do we need to do outreach?
- Air quality and Water Quality issues, be well prepared.
- Is an EPA coordinator needed for programmatic and Leasing [sic] program?

Murphy also wrote that the Secretary thanked the participants for the briefing and requested no immediate feedback.

We interviewed Murphy and Bob Anderson about this meeting. Murphy recalled that he and the senior advisor attended this meeting, and that they briefed Norton on the applications they felt should move forward in the RDD process. Concerning this selection process, Murphy stated, “Ultimately those application decisions were made by the Secretary. Bottom line was the Secretary was advised.” He explained that Norton did not make a decision or give any approvals of the applications that would move forward at the time of this briefing. He said that instead, she later made the decision to approve BLM’s recommendations. Murphy also said he was “sure” that during this briefing, Norton was told the number of applications that had been submitted, including the fact that Shell submitted three applications.

When we interviewed Anderson, he recalled that Secretary Norton was “very high” on the oil shale program and was very attentive and asked many questions about it during this meeting. Anderson recalled that the meeting, which lasted about an hour, was held in Norton’s conference room, and a number of persons were in attendance, perhaps including Waidmann and Bernhardt.

8. Briefing: November 18, 2005

When we interviewed Abraham Haspel, we showed him a document dated November 18, 2005, titled “Briefing for the Secretary.” The subject of the briefing was “Oil Shale – Background, Status and Timelines.” After reviewing it, Haspel explained that Norton received a briefing book every evening that contained informational materials regarding meetings and other events she was scheduled to attend the following day. The book contained written briefings on each event or relevant topics and background on the people she would be meeting. Given its format, Haspel thought this particular document looked like the type that would be part of that briefing book. Haspel said it was “likely” that Norton saw this document.

9. Briefing: December 13, 2005

On Friday, December 16, 2005, Jim Hughes of BLM sent an email to Chad Calvert with the subject, “Oil Shale,” saying, “I gave the Secretary and Brian [Waidmann] packages Tuesday evening ... I am trying to get a decision on the R&D projects. It will be [an Assistant Secretary for Land and Minerals Management] final signature so I have made it clear with our BLM staff we are consulting with the Secretary only. Both David [Bernhardt] and you had indicated she wants to see this stuff ...”

When we interviewed Murphy and asked about the packages, he stated that based on the timing of this email, the “packages” would “have to be” the list of finalists. Murphy said he thought the BLM senior advisor prepared these packages. According to Murphy, word eventually made its

way back to Murphy, through Tom Lonnie of BLM, that Norton had approved the finalists.

10. Meeting: December 22, 2005, with DOI Staff

Attendees

DOI: Secretary Norton, David Bernhardt, Jim Hughes, BLM senior advisor, perhaps others

A review of Secretary Norton's schedule disclosed that on December 22, 2005, Norton met with Burton, Bernhardt, Hughes, and the BLM senior advisor concerning oil shale.

On December 23, 2005, Mitchell Leverette, BLM's Deputy Chief of the Solid Minerals Branch, wrote an email to Murphy and others titled, "Secretary's Oil Shale briefing." Leverette wrote:

The Oil Shale briefing for the Secretary went well ...

The secretary had many questions. It seems as though they are concentrating on the amount of area/acreage [that] would be disturbed if the eight leases are granted. Additionally, there appeared to be some confusion between what is going on with the commercial leasing program versus the RD&D leasing initiative. I think we straightened that out for her...

The Secretary did state that she would like to meet with BLM before any scoping meetings occur. She would like to weigh in on what we should be covering in our scoping. We made her aware of the timeframe for the first scoping meetings, so there will probably have to be a meeting with her in the first week in January.

Agent's Note: "Scoping" refers to the process wherein BLM obtains local opinions on impacts of resource development. The collected opinions are incorporated into the Programmatic Environmental Impact Statement (PEIS).

A former BLM Team Lead for Oil Shale stated he attended a briefing given to Secretary Norton in approximately December 2005. The purpose of the briefing was to describe the current status of the RDD leases and provide other relevant information for Secretary Norton, he said. During the briefing, the list of RDD applicants was discussed, he said, as was the fact that it had been narrowed to eight finalists, including Shell, which had three applications in the final group. He said Secretary Norton did not provide any feedback or other comments to the group and simply thanked them for the presentation.

An SOL attorney said he had some recollection of this meeting, during which the decision was made that eight applications would be selected to move forward in the process. He stated that the Secretary's office was "consulted and they blessed the decision to make awards."

11. Meeting: February 27, 2006, with BLM Staff in Phoenix

Attendees

DOI: Secretary Norton, Sally Wisely, Gene Terland, Kathleen Clarke

We interviewed Sally Wisely of BLM, who stated that she talked with Norton about the RDD process while in Phoenix for an unrelated meeting. Wisely did not recall the date of the meeting but thought it was in early 2006. She said that after the meeting, BLM Director Clarke approached her and Gene Terland, another BLM employee, and said Norton wanted to talk to them about oil shale. She said they proceeded to a room where she, Terland, and Clarke met with Norton. Wisely said Clarke encouraged her and Terland to share their views and concerns about oil shale with Norton.

Wisely said she and Terland informed Norton about a number of issues they believed needed to be addressed about oil shale. As an example, Wisely said she told the Secretary she believed BLM needed to determine how oil shale fit with oil and gas since all three resources could be found in the same location. Norton, Wisely said, was very engaged in the conversation, asked some very good questions, and was clearly listening to them. She said the discussion lasted approximately 30 minutes to 1 hour and went well because Norton was very interested in the topic.

12. Briefing: March 1, 2006

On March 1, 2006, Secretary Norton attended a briefing with Energy Secretary Samuel Bodman. A review of her prepared remarks for that meeting indicate that Norton told Secretary Bodman that DOI had an active RDD program, that eight proposals had been selected to move forward in the process, and that DOI was developing a commercial oil shale leasing program.

Decisions on Oil Shale

Norton appears to have also made several decisions concerning the RDD leasing process.

On September 7, 2004, an Interdisciplinary Review Team member emailed the BLM senior advisor, Oil Shale, and asked him if the *Federal Register* notice soliciting comments on the potential RDD program had gone out. In response, the BLM senior advisor wrote, "...the Office of the Secretary is holding the Notice on the belief that the Notice needs more work, because the rental fee of \$1.00/per acre is too low and gives the appearance of 'a give away' ... So we are waiting [for] an official directive from the department leadership."

In a subsequent email, the former Team Lead for Oil Shale of BLM asked the BLM senior advisor, "...where does it say that rental for the RDD has been waived..." In response, the senior advisor wrote, "It was a decision made by the Secretary ... The decision was made at a briefing ... Tom [Lonnie] ... Bernhardt, and other immediate staff to the Secretary were in attendance."

When the BLM senior advisor was interviewed, he said that during one of the two briefings he attended with the Secretary on oil shale, he advised her that BLM could waive the rental fee for 5

years of the 10-year RDD leases and also waive royalty requirements for the RDD leases. He said that Norton asked if the waivers were consistent with the law, and the SOL attorney who provided legal advice to BLM during the RDD process, told her they were. According to the BLM senior advisor, Norton then decided that BLM should proceed with the rental fee waivers.

Determination from the U.S. Office of Government Ethics (OGE)

We referred our January 29, 2009 interim report to OGE. In a March 10, 2009 response memorandum to the OIG, OGE wrote, “It is apparent from the report that Secretary Norton participated personally and substantially in the BLM Oil Shale Leasing program (18 U.S.C. § 207(a)(1)),” and that “[t]he program was a particular matter involving particular parties at the time she did so.” Pertinent portions of the interim report have been incorporated into this report.

II. Ethics Briefings and Statements to DOI Ethics Officials

First Ethics Contact: Shayla Simmons

A review of Norton’s DOI ethics file disclosed that on March 13, 2006, about 2 weeks before Norton left the Department, Shayla Simmons, who served as DOI’s Designated Agency Ethics Official between 2001 and 2006, issued a memorandum to Norton titled “Post Employment Advice.” In this memorandum, Simmons discussed various ethics requirements affecting Norton, including 18 U.S.C. § 207(a)(1), “Lifetime Restriction.”¹ Simmons wrote:

This restriction prohibits a former employee from serving as another person’s representative to the Government on a case, contractual matter, or other similar application or proceeding in which he or she participated personally and substantially while a Government employee.

Simmons also discussed 18 U.S.C. § 207(a)(2), the “Two-year restriction that applies to former managers and supervisors. Simmons wrote:

A two-year restriction prohibits former employees from serving as another person’s representative before the Government on a case, contractual matter, or other similar application or proceeding which was under his or her management authority in the last year of government service. We discussed that as Secretary, all particular matters being worked on in the Department and its bureaus would fall into this category.

¹Subsection (a)(1) of 207 provides as follows:

(1) Permanent restrictions on representation on particular matters.— Any person who is an officer or employee (including any special Government employee) of the executive branch of the United States (including any independent agency of the United States), or of the District of Columbia, and who, after the termination of his or her service or employment with the United States or the District of Columbia, knowingly makes, with the intent to influence, any communication to or appearance before any officer or employee of any department, agency, court, or court-martial of the United States or the District of Columbia, on behalf of any other person (except the United States or the District of Columbia) in connection with a particular matter—
(A) in which the United States or the District of Columbia is a party or has a direct and substantial interest,
(B) in which the person participated personally and substantially as such officer or employee, and
(C) which involved a specific party or specific parties at the time of such participation, shall be punished as provided in section 216 of this title.

Simmons also wrote:

For both the lifetime and two-year restrictions, if you are ever in doubt as to whether a matter was under your official responsibility, whether it was pending during your last year of service, whether it was one in which you were personally and substantially involved, or whether the United States still has an interest in the matter, please consult with my office for guidance.

When we interviewed Simmons, she said that prior to providing this memorandum to Norton, she met with the Secretary to provide a post-employment briefing. Simmons stated, "I went and briefed her verbally about what all the restrictions were and when they would apply." Simmons thought this briefing took place in Norton's office and that Brian Waidmann attended. Simmons said she subsequently provided the March 13, 2006 ethics memorandum, which she thought she personally handed to Norton, so Norton would have something to refer to if she had questions in the future.

On June 2, 2006, approximately 2 months after leaving DOI, Secretary Norton sent an email to Simmons. Norton asked Simmons if there were prohibitions against her contacting other departments or the White House because she was "interviewing for a job that might involve such contact." In an email response 3 days later, Simmons wrote that pursuant to 18 U.S.C. § 207(a)(1), Norton was subject to a lifetime restriction relative to "specific party particular matters" with which Norton was personally and substantially involved while at DOI.

Simmons said she thought Norton was asking if there was anything beyond what Simmons had already discussed with her, both verbally and then in writing, in March 2006. Simmons used this email to reiterate everything that she had previously told Norton about post-employment restrictions, including the "lifetime ban."

On June 6, 2006, Norton sent a second email to Simmons. Norton asked Simmons if she could "pose a few semi-hypotheticals." Norton then described her role in the RDD process:

I was briefed on the initial rounds of decisionmaking [sic] on research and development leases for oil shale. The ranking of applicants was done in a numerical manner by DOI and state experts. The original applicant pool was narrowed down, and the finalists underwent more in-depth review. That's where things stood when I left the department. I don't know if final leases have been issued.

Although this may not be the case, let's assume I would be permanently barred from coming back and asking Interior to cancel or issue one of these leases, or challenging the leasing decisions in court. Let's also assume the one-year cooling off period has expired.

Norton then went on to ask three specific questions concerning her possible future activities, as follows:

1. Would the prohibition extend to, e.g., contacting [the Environmental Protection Agency] about an air quality permit for the facility to be built on the lease?

2. Would the prohibition prevent contacting [the U.S. Fish and Wildlife Service, DOI] about an endangered species affecting construction plans (but not affecting the issuance of the lease itself)?
3. Would it affect representing the company 2 or 3 years from now on getting a future lease (i.e., a full development lease for which the leasing process does not yet even exist yet?)

Agent's Note: During her November 15, 2005 meeting on oil shale at DOI, Norton raised these same issues regarding the RDD leases. She advised Ted Murphy and others that air quality was an issue that BLM should be concerned about, and she asked if there were any endangered species in the RDD lease areas. In addition, the "hypotheticals" Norton raised in her email to Simmons appear to very specifically describe potential work she could be doing for Shell as it related to its RDD leases. Whether Shell is the company Norton is referring to in the third question, seen above, is unknown.

In closing, Norton wrote, "I don't yet have any prospective clients on oil shale, but it is the biggest energy issue in Colorado right now, so the answer affects the areas in which I might try to focus law firm practice."

In an email response the next day, Simmons wrote:

I think the permanent ban might not apply based on your description of how you were involved in this issue while Secretary ... [I]f we assume you are covered by the permanent ban, I think the work with EPA would not be part of that because it would be a different matter from the original lease, unless the obtaining of air quality permits are specifically directed in the lease terms, and obtaining such permits are conditions of the lease. If this latter situation is true, then one might think that seeking an air quality permit would be part of the same particular matter involving that specific party.

When interviewed, Simmons stated that when she wrote that the permanent ban might not apply, she was specifically addressing the question regarding contacting the EPA, and she was not implying that the permanent ban did not exist. Simmons also stated that in her email she specifically pointed Norton to an OGE opinion that contained a very broad description of the permanent ban. Simmons said by pointing that out and suggesting that Norton read it, she thought Norton might respond with more detailed questions about her situation, but that did not occur.

Simmons further stated that in her response to Norton she asked the former Secretary if she was briefed during the RDD applicant selection process and if she was asked to set any direction for the process. Simmons asked these questions because they related to the issue of "personal and substantial" participation. Norton never responded to the questions raised by Simmons.

Simmons said she provided an ethical opinion to Norton without first receiving a response to her own questions because she "[wanted] to give [Norton] the benefit of [her] thinking in the current moment, in the current state of facts as she listed them. If she came back and qualified it in any way, I would revisit what I told her." Simmons said if Norton had provided her with additional

or different information, her opinion might have been different. Simmons also said the information she provided to Norton was not a formal ethics opinion. Simmons stated, “She’s a lawyer. She can read [18 U.S.C. § 207] as well or better than I, and ‘personal and substantial involvement,’ right there, front and center.”

Second Ethics Contact: Melinda Loftin

In late 2006 or early 2007, Secretary Norton participated in both a face-to-face meeting and a telephone discussion with Melinda Loftin, who succeeded Simmons as the Designated Agency Ethics Official.

We interviewed Loftin, who stated she met with former Secretary Norton at Norton’s request. The meeting between Loftin and Norton took place in late January or early February 2007 in Loftin’s office at DOI. This meeting occurred after it was publicly announced that Norton would be joining Shell. Loftin recalled that Norton said she was planning on working for Shell, and she therefore wanted to know about “things that could be considered under particular matters [and] personal and substantial involvement,” which would result in a “permanent ban” on representations by Norton before the Government. Norton wanted to get an understanding of the restrictions that applied to her representation of Shell, and in particular her representation on oil shale issues, Loftin said.

After reviewing the handwritten notes she took during this meeting, Loftin said her notes indicate that Norton told her:

- She was involved in the discussions that took place relative to starting the oil shale program at DOI;
- She was not involved in the *Federal Register* notice process, and instead this issue was “probably” managed by BLM;
- She was involved in “overall discussions, but not these particular matters,” which would have been handled by BLM;
- A BLM group reviewed the RDD applications and decided on the selectees. She was not involved in this process and did not help establish the selection criteria. She was briefed on the findings of this review group but that the briefing was only “informational and not decisional;”
- She was not giving approvals during this process;
- She and David Bernhardt toured a Shell oil shale facility on private land in Colorado;
- Twenty RDD applications were received by BLM, and six or eight applications were selected as finalists. Shell, Chevron, and a third company were selected to receive leases; and
- BLM awarded the leases after she left DOI.

We asked Loftin if Norton told her how many total briefings she attended on this matter, and Loftin said Norton only discussed the briefing on the findings of the application review group. “That’s the only one she talked about,” Loftin said. Loftin told us that based on Norton’s statements, she understood that Norton participated in only one briefing from BLM on the RDD leases.

According to Loftin, Norton told her that David Bernhardt was involved in the oil shale process as well, and he “would have a better understanding of how she was involved.” Loftin said Norton wanted her to talk to Bernhardt about Norton’s involvement in oil shale. Loftin said she spoke to Bernhardt within 1 week of meeting with Norton because she wanted to know his “thoughts” on whether Norton’s involvement in oil shale matters reached the level to where she was involved “personally and substantially on a particular matter involving specific parties.” In response, Bernhardt told her that Norton’s involvement did not reach this level. Instead, she said, Bernhardt told her that BLM managed the RDD process.

Loftin concluded that based on Norton’s own statements, which Bernhardt substantiated, Norton was not personally and substantially involved in the RDD leasing process. Loftin said she was “sure” that at some point during their discussion, she told Norton that she could represent Shell before DOI but that the representation would potentially be subject to the three restrictions (the 1-year cooling off period, the 2-year ban, and the lifetime ban), which were designed to prohibit former employees from using their influence.

Loftin said that she did not make any specific decisions, or give any specific advice, on what she felt Norton could or could not do for Shell. Rather, Loftin said she and Norton were simply “having a discussion.” The intent was to have further discussions as the need arose to discuss specific topics, she said. Loftin said she felt that Norton left the meeting not with specific guidance on these topics but instead with “clarity” on Loftin’s positions on them.

According to Loftin, a second meeting with Norton took place by telephone on February 1, 2007. Two Shell Attorneys in Colorado and Loftin’s Deputy also participated in this call, she said. Loftin said she was certain this telephone meeting occurred after her in-person meeting with Norton.

While reviewing notes dated February 1, 2007, that she took during this telephone meeting, Loftin stated that during this call, she discussed with the two Shell Attorneys how she had explained the different ethics requirements to Norton during their face-to-face meeting. This would have included a discussion of the 1-year cooling off period, the 2-year ban, and the lifetime ban, she said. Loftin said she probably referred to her notes from their first meeting during this discussion.

The fact that Norton attended only one BLM briefing on the RDD leases was also discussed, she said. Loftin said she reiterated during the call that since this meeting with BLM was an informational meeting and not a decisional one, it appeared as though the 2-year ban was applicable. Loftin did not recall providing any advice to Norton during this telephone discussion and stated that this was also a “general” discussion.

We interviewed the Alternate Agency Ethics Official, DOI Ethics Office, who recalled Loftin asked her to participate in a telephone call with former Secretary Norton and one or more Shell officials. She said that during the call, Norton stated her work for Shell would involve oil shale, but she did not describe the specific work she would be doing or how it would involve oil shale. She said it was her impression, based on statements made during the telephone conversation, that Norton was new to her position at Shell.

The Alternate Agency Ethics Official stated that during this call, Loftin provided the standard post-employment information that would have been applicable to Norton. This included a summary of the post-employment restrictions and a discussion of 18 U.S.C. § 207, including a “reminder” concerning 18 U.S.C. § 207(c), which applied to senior officials such as Norton. She said none of the opinions provided by Loftin seemed unusual or out of the ordinary, and they were consistent with her understanding of the law. She stated there was no specific discussion about any particular activities or work in which Norton was participating. The discussion was general and involved the law as a whole and not how it applied to any particular situation in which Norton was, or planned to be, involved.

Loftin said none of her discussions with Norton were “detailed,” primarily because at the time of these discussions, Norton did not know exactly what kind of work she would be doing for Shell. The investigation revealed that by the time Loftin and Norton met, it had been publicly announced that Norton would be joining Shell as General Counsel to “provide and coordinate legal services” for SURE, which was testing and developing oil shale technology.

A November 2006 “Job Description” obtained during the investigation from Shell identified the specific duties of SURE’s General Counsel, some of which are identified as follows:

- Shares responsibility and as appropriate takes a leading role for representing the SURE group and ultimately the Shell Group in negotiations, discussions and other dealings with third parties, including the U.S. federal, state and municipal governmental and regulatory authorities;
- Shares responsibility for monitoring and pro-actively responding to legislative and regulatory issues and developments that affect SURE activities in the U.S. and elsewhere;
- Represent[s] or advise[s] the SURE and the Shell Group in dealing with all manner of governmental agencies, authorities and representatives, both US [sic] and internationally;
- Advise[s] on the strategic direction of SURE and the Shell Group as they relate to SURE;
- Responsible for the legal aspects of land acquisition and lease negotiations, site permitting...for potential SURE future commercial projects in the United States;
- Promotes a favourable [sic] image of the SURE Group and the Shell Group by maintaining effective external relationships with senior levels of government.

III. Secretary Norton’s Employment Negotiations with Shell

We interviewed Rebecca Watson, who served as the Assistant Secretary for Land and Minerals Management at DOI between 2001 and October 2005. Watson stated that in 2005, Secretary Norton knew she was leaving DOI and was seeking “face time” with companies that might be interested in her background for employment purposes.

Agent’s Note: Watson’s statements are supported by published reports that indicate Secretary Norton planned to leave DOI prior to September 2005 but remained with the Department in order to manage matters related to Hurricanes Katrina and Rita. Secretary Norton’s last day in office was March 31, 2006.

Watson said Kit Kimball, Director, Office of External and Intergovernmental Affairs, told her she set up meetings with prospective employers for Secretary Norton. Watson said she did not know if Secretary Norton knew Kimball was doing this, but Kimball was “fond” of Norton and wanted her to be successful after she left DOI.

Kimball said she knew the Secretary really did not want to go back to private law practice after leaving DOI. Kimball recalled asking Secretary Norton at some time, perhaps in 2006, what she wanted to do after leaving DOI. Kimball said she was very surprised to hear Norton say she wanted to run her own recreation company.

Kimball said that as a friend to Norton, she felt she should do what she could to help her secure employment after leaving DOI. She was also concerned Norton’s reputation was damaged by the Jack Abramoff lobbying and corruption scandal, and she would have difficulty obtaining a job. She did not know if Norton was similarly concerned, and Norton never discussed this with her. Kimball thought Norton believed onlookers viewed her as impartial, fair, and thoughtful, and these qualities would help her secure employment after leaving DOI. Kimball felt the job search may not be as easy as the Secretary thought it would be.

When Kimball asked Norton directly if there was anything she could do to help in her job search, Norton told her that if she thought of any specific employment opportunities she should let her know about them. Kimball thought she may have prepared a list of job opportunities for Norton but did not recall with certainty. Kimball was not concerned about ethical considerations in this regard because she was certain Norton would comply with these requirements. Kimball never scheduled meetings with prospective employers for Norton. Kimball said she may have scheduled a meeting with someone Norton eventually talked to about employment, but that was never the intent of the meeting. Kimball said, “You don’t go to work usually for people you’ve never heard of or met.”

Our investigation also identified a number of other contacts Norton had with Shell not involving oil shale. For example, Norton met with Shell officials in July 2005. Then again in November 2005, she attended a reception with a former Shell employee. We did not develop specific evidence to indicate that she discussed her potential employment with Shell during either of these contacts. Instead, Norton appears to have first considered employment with Shell in June 2006 as evidenced by her email to Simmons discussing oil shale. Actual discussions with Shell do not appear to begin until late July 2006.

A review of documents obtained from Shell revealed that on August 14, 2006, a Vice President emailed another Shell employee about Norton. In this email, the Vice President wrote, “After Gail [sic] Norton and I visited a few weeks ago, she followed up orally with an expression of interest in pursuing a career with Shell. I told her that I had passed on to you an email summarizing her and my discussions ... Yesterday she sent me a follow up email expressing strong interest in chatting [sic] with you ...” The Shell employee wrote that he would be “pleased to meet with her.”

On August 31, 2006, Norton emailed her resume to a Shell employee. The Shell employee forwarded it to another Shell employee the next day.

This Shell employee emailed a number of persons at Shell on September 1, 2006. He wrote:

Secretary Norton served Pres. Bush as Secretary of the Interior ... and remained until earlier this year. During her tenure Shell had considerable interactions with her ...

During this time she got to know Shell through a number of other Shell employees and executives. There has been universal agreement that her skills and abilities were helpful to Shell...

Six months out of office, the Secretary is now considering her next career steps and has inquired as to possible opportunities at Shell, esp. in the SURE organization ...

She could be a most interesting addition to our Legal Dept., initially working in SURE. She could also be a contender for senior legal roles, including U.S. General Counsel."

On November 14, 2006, a Shell employee emailed several Shell employees, writing, "Gale has given a verbal acceptance to the offer as stated ... We will arrange to move her from Washington, DC to Denver as part of our normal US relocation."

Norton emailed another Shell employee 2 weeks later stating, "I look forward to receiving [a] letter this week to formalize my joining Shell." Shell received Norton's signed acceptance letter 3 days later.

Other documents obtained during the investigation substantiate the chain of events as outlined by these emails. For example, on January 4, 2007, Norton was deposed in a matter related to the Federal tribal acknowledgment process. In that deposition, she stated she was not currently employed but would be "starting January 15th as General Counsel for Shell Unconventional Resources Energy in Denver." She also stated she had been offered the job within the last "six weeks or so."

The review of Shell documents confirmed that Norton assumed her position as Associate General Counsel for SURE on January 15, 2007.

IV. Post-Employment Contact With Federal Government

The review of documents from Shell identified a November 29, 2006 email from one Shell employee to another Shell employee. He wrote, "[I was] just informed that SURE has hired Sec. Norton as their general counsel ... I hope we too can tap her for DOI issues."

We identified two instances in 2008 where Norton had contact, either directly or indirectly, with Federal officials regarding oil shale issues.

First Contact

In June 2008, the former Secretary contacted Keith E. Eastin, Assistant Secretary of the Army for Installations and Environment, and Paul Bollinger, one of Eastin's deputies, concerning

legislation affecting oil shale development. Eastin referred Norton to Bollinger. Bollinger “offered to be helpful in the future.”

Second Contact

Scott Stewart, Associate Director, DOI Office of External and Intergovernmental Affairs, left DOI on June 7, 2006, to take a job with Shell’s Unconventional Resources Division, where he began working on July 10, 2006.

When we interviewed an attorney from SOL, he recalled that the former DOI Associate Solicitor for Mineral Resources would get calls from Scott Stewart after Stewart left DOI and went to work for Shell. He said the DOI Associate Solicitor for Mineral Resources’ last day at DOI was August 1, 2008, after which he went to work for the Department of Defense. The SOL attorney stated that as the Associate Solicitor for Mineral Resources was leaving DOI, he asked him to return a call that Stewart had made to him.

The SOL Attorney said he talked to Stewart on or about the week of August 4, 2008, and said both he and another SOL Attorney who worked under him, telephoned Stewart in response to Stewart’s call to the Associate Solicitor for Mineral Resources. During this discussion, Stewart “represent[ed] that he’s working for the former Secretary at Shell.” Stewart then went on to tell the SOL attorney that “Gale Norton wanted to know” whether or not DOI would accept comments on the economic analysis portion of the Environmental Impact Statement for the commercial oil shale leasing regulations, even though DOI had not solicited comments. “They wanted to know whether or not [comments] would be unwelcome or welcome,” he said. The SOL attorney and his associate advised Stewart that if there were errors in either the environmental assessment or the economic analysis that DOI would want to know about them.

We interviewed the second SOL Attorney who stated that he did remember participating in this call. He could not recall the details of the call but did remember the issue concerned whether or not DOI was accepting comments. He said this would have involved the EA for the commercial regulations and the accompanying economic analysis. He said an SOL Attorney probably asked him to participate in the call because he had been working directly on the oil shale commercial regulations and associated Environmental Impact Statement, as well as on the RDD EAs, and it made sense for him to participate. The second SOL Attorney did not recall if Stewart referenced Norton during this discussion.

SUBJECT(S)

Gale A. Norton, former Secretary of the U.S. Department of the Interior, 2001 – March 31, 2006.

DISPOSITION

We provided the results of our investigation to the U.S. Department of Justice, which declined criminal prosecution.