

FOIA Marker

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Counsel's Office, White House

Flood, Emmet

Stack:	Row:	Sect.:	Shelf:	Pos.:	FRC ID:	Location or Hollinger ID:	NARA Number:	OA Number:
W	19	24	11	1	33957	46711	11326	12628

Folder Title:

OSC (Office of Special Counsel) - AG M

Withdrawn/Redacted Material

The George W. Bush Library

DOCUMENT NO.	FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
001	Letter	OSC File No. HA-07-1741 - To: Laurence Soybel - From: Eric Fygi	3	09/26/2008	P6/b6; b7c;
002	Letter	[Letter] - To: Clay Johnson - From: Scott Bloch	3	08/27/2008	P6/b6;
003	Email	OSC Update - To: Emmet Flood - From: Kenneth Lee	2	09/08/2008	P5;
004	Letter	Your File No. HA-07-1741 - To: Jason Weidenfeld - From: Kent Talbert	2	09/19/2008	P6/b6; b7c;
005	Letter	Your File No. HA-07-1741 - To: Jason Weidenfeld - From: Kent Talbert	2	09/30/2008	P6/b6; b7c;
006	Email	RE: Correspondence from Kent Talbert - To: Kent Talbert - From: Jason Weidenfeld	1	09/30/2008	P6/b6; b7c;

COLLECTION TITLE:

Counsel's Office, White House

SERIES:

Flood, Emmet

FOLDER TITLE:

OSC (Office of Special Counsel) - AG M

FRC ID:

33957

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
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- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

Deed of Gift Restrictions

- A. Closed by Executive Order 13526 governing access to national security information.
- B. Closed by statute or by the agency which originated the document.
- C. Closed in accordance with restrictions contained in donor's deed of gift.

Freedom of Information Act - [5 U.S.C. 552(b)]

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Records Not Subject to FOIA

Court Sealed - The document is withheld under a court seal and is not subject to the Freedom of Information Act.

Withdrawn/Redacted Material

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DOCUMENT NO.	FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
007	Email	Re: Follow-up to Your Response to My Letter... - To: Kent Talbert, et al. - From: Jason Weidenfeld	1	09/30/2008	P6/b6; b7c;

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Ker Lee

Cori Yates

730-7925 (202)

deForest, Alicia

From: deForest, Alicia
Sent: Friday, September 26, 2008 6:37 PM
To: 'chad.bungard@mspb.gov'
Subject: OSC Investigation

Attachments: MSPB.PDF



MSPB.PDF (131
KB)

Please see the attached letter with attachments.



Department of Energy
Washington, DC 20585

September 26, 2008

Mr. Brandon Chad Bungard
General Counsel
Merit Systems Protection Board
1615 M Street, NW
Washington, DC 20418

Re: Subpoenas Issued by the Office of Special Counsel

Dear Mr. Bungard:

Earlier this week four Department of Energy employees were issued subpoenas by the Office of Special Counsel (OSC) in connection with its investigation into, among other topics, "political briefings given by the White House Office of Political Affairs." Ordinarily we would have anticipated being able to arrive at a mutually satisfactory resolution to an OSC request to interview DOE employees; however, since recent events have yet to reveal such an approach, I am providing you with a copy of our response to the OSC subpoenas should the OSC seek authorization from the MSPB to seek enforcement of the subpoenas without meaningful consideration of the concerns we have brought to the OSC's attention.

Sincerely,

A handwritten signature in black ink, appearing to read "Eric J. Fygi".

Eric J. Fygi
Deputy General Counsel

Enclosure



Withdrawal Marker

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FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
Letter	OSC File No. HA-07-1741 - To: Laurence Soybel - From: Eric Fygi	3	09/26/2008	P6/b6; b7c;

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33957

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FOIA ID and Segment:

2014-0210-F

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U.S. OFFICE OF SPECIAL COUNSEL
1730 M Street, N.W., Suite 218
Washington, D.C. 20036-4505

FACSIMILE COVER SHEET

TO:

Name: The Honorable Frederick Fielding	
Title: White House Counsel	
Organization: Executive Office to the President	
Office / Location: 1600 Pennsylvania Ave, NW	
Telephone: (202) 456-2632	Fax: (202) 456-6279

FROM:

Name: Jacqueline Felton-Wilson	
Organization: U.S. Office of Special Counsel	
Office / Location: Washington	
Telephone: (202) 254-3611	Fax: 202 653-5161

Date: August 27, 2008	Number of pages, including this cover sheet: 4
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Message:

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The George W. Bush Library

FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
Email	OSC Update - To: Emmet Flood - From: Kenneth Lee	2	09/08/2008	P5;

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The Special Counsel



U.S. OFFICE OF SPECIAL COUNSEL

1730 M Street, N.W., Suite 218
Washington, D.C. 20036-4505

FACSIMILE COVER SHEET

TO:

Name: The Honorable Fred Fielding	
Title: Counsel to the President	
Organization: The White House	
Office / Location: Washington, D.C.	
Telephone: (202) 456-2632	Fax: (202) 456-6279

FROM:

Name: Scott J. Bloch	
Organization: Office of Special Counsel	
Office / Location: Washington, D.C.	
Telephone: (202) 254-3601	Fax: (202) 653-5151

Date: August 28, 2008	Number of pages, including this cover sheet: 5
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Message: Original and enclosures to follow by Federal Express delivery
--

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U.S. OFFICE OF SPECIAL COUNSEL
1710 M Street, N.W., Suite 300
Washington, D.C. 20036-4505

The Special Counsel

August 28, 2008

The Honorable Fred F. Fielding
Counsel to the President
The White House
Washington, D.C. 20500

Re: OSC File No. DI-07-2724

Dear Mr. Fielding:

I am transmitting the enclosed letter to the President concerning the above-referenced case regarding the pumping equipment in New Orleans. If I may provide more information concerning this matter, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Scott J. Bloch".

Scott J. Bloch

Enclosures

**U.S. OFFICE OF SPECIAL COUNSEL**1130 M Street, N.W., Suite 300
Washington, D.C. 20036-4505www.osc.gov

The Special Counsel

August 28, 2008

The President
The White House
Washington, D.C. 20500Re: OSC File No. DI-07-2724

Dear Mr. President:

On August 4, 2008, I informed you by letter that the report to me regarding the New Orleans flood protection system submitted by the Department of Defense (DoD) did not appear to be reasonable within the meaning of 5 U.S.C. § 1213(e)(3). In 2007, U.S. Army Corps of Engineers (USACE) civil engineer Maria E. Garzino disclosed serious allegations to my office concerning the pumping equipment manufactured and installed in New Orleans by a contractor, Moving Water Industries, and the related lack of proper government oversight and contract management.¹ In sum, Ms. Garzino alleged that the pumping equipment was defective and largely untested.

On May 14, 2008, in response to my September 21, 2007, referral, then DoD Inspector General Claude M. Kicklighter substantiated several of Ms. Garzino's allegations. However, the DoD report concluded that "... these deficiencies were performance-related shortcomings that did not rise to the level of a serious violation of law or regulation, abuse of authority or gross mismanagement. Nor did they result in a gross waste of funds or a danger to public health or safety."

As you know, after reviewing the report, I informed you, the Honorable Carl Levin, Chairman of the Senate Committee on the Armed Services, the Honorable Ike Skelton, Chairman of the House Armed Services Committee, and the Honorable Gordon S. Heddell, Acting DoD Inspector General, that the agency report appeared superficial and dismissive. In Ms. Garzino's substantial and detailed comments, she concluded that the DoD report was devoid of engineering and mathematical interpretation with severely flawed and erroneous conclusions representing, in her words, a "whitewash."

On August 8, 2008, shortly after receiving my letter, Acting Inspector General Heddell notified me that he strongly agreed "... that every effort must be made to assure the citizens of New Orleans that pumps designed for flood protection will perform as specified during hurricanes." Consequently, Acting Inspector General Heddell directed his office to determine

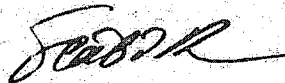
¹ Ms. Garzino has worked as a DoD employee for approximately 17 years, including ten years as a USACE engineer. From March 2006 to September 2006, Ms. Garzino was detailed to USACE New Orleans District, and served as Team Leader of Pumping Systems Installation.

The Special Counsel
The President
Page 2

whether the pumps were, in fact, adequately tested and to evaluate the likelihood that the pumps could be vulnerable to failure in the event of a hurricane. A copy of Acting Inspector General Heddell's letter is enclosed for your review.

I am encouraged by the prompt response of Acting Inspector General Heddell to engage his organization to ensure that the pumps will perform when needed in order to provide flood protection to the people of New Orleans. Given that Hurricane Gustav is presenting a threat to the Gulf Coast, it is imperative that DoD continue to take steps to ensure the public health and safety of the citizens of New Orleans. Therefore, as a result of DoD's encouraging response, I have reopened the above-referenced case. Acting Inspector General Heddell has pledged to keep me informed regarding his progress and to provide me with the results of his agency findings. In turn, I am determined to provide ongoing oversight of DoD's progress and findings, and will continue to keep you and members of Congress informed about these important safety and management issues.

Respectfully,



Scott J. Bloch

Enclosure



INSPECTOR GENERAL
DEPARTMENT OF DEFENSE
400 ARMY NAVY DRIVE
ARLINGTON, VIRGINIA 22202-4704

The Honorable Scott J. Bloch
Special Counsel, U.S. Office of Special Counsel
1730 M. Street, N.W., Suite 300
Washington, D.C. 20036-4505

AUG 8 2008

Re: OSC File No. DI-07-2724

Dear Mr. Bloch:

Thank you for sharing with me your letter of August 4, 2008, to the President in regard to the Department of Defense Inspector General (DoD IG) report of May 14, 2008. I strongly agree that every effort must be made to assure the citizens of New Orleans that pumps designed for flood protection will perform as specified during hurricanes.

Having recently been designated as the Acting Inspector General for the Department of Defense, I have carefully reviewed the history of this issue. Based upon my review, and the need for public confidence in New Orleans' flood protection system, I have concluded that an outside opinion is warranted.

Accordingly, I have directed that my office immediately begin the process to secure a contractual arrangement with a professional engineering company to determine whether the pumps in question were, in fact, adequately tested; and to evaluate the likelihood that the pumps could be vulnerable to failure in the event of a hurricane.

I will keep you advised regarding my progress and will provide you the results of the findings. If you have any questions, please contact me at (703) 604-8300.

Sincerely,

A handwritten signature in cursive script that reads "Gordon H. Heddell".

Gordon H. Heddell
Acting



U.S. OFFICE OF SPECIAL COUNSEL
1730 M Street, N.W., Suite 218
Washington, D.C. 20036-4505
202-254-3600

August 27, 2008

The Honorable Fred F. Fielding
White House Counsel
Executive Office of the President
1600 Pennsylvania Avenue, NW
Washington, DC 20500

Re: OSC File No. HA-07-1741

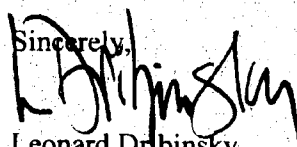
Dear Mr. Fielding:

Thank you for your continuing cooperation and assistance with the United States Office of Special Counsel's (OSC) ongoing investigations into the White House Office of Political Affairs (OPA). As you know, OSC currently is investigating allegations that several individuals currently and formerly employed by the OPA violated the Hatch Act, 5 U.S.C. §§ 7321-7326, by engaging in activity related to certain presentations given to political appointees throughout the federal government. OSC also is investigating whether individuals employed or holding office in the White House properly reimbursed the federal government for political trips taken on Air Force One.

As part of the latter investigation, OSC requested that the White House identify each and every instance where any individual employed or holding office in OPA traveled on Air Force One between November 1, 2003 and November 8, 2004. The White House Counsel's Office identified numerous mixed travel trips where OPA employees traveled on Air Force One. Additionally, OSC was allowed to review Air Force One mixed travel trip records to ensure the federal government was properly reimbursed for the political costs incurred.

After reviewing the mixed travel trip records, the Special Counsel requested that the White House identify, and provide documentation concerning, each and every political trip where any White House employee traveled on Air Force One between November 1, 2003 and November 8, 2004. It is our understanding that the former Deputy Special Counsel made numerous attempts to review those records and also to suggest resolution of this matter, to no avail. After consideration of your previous responses, the Special Counsel requests an assurance from your office that the White House has made reasonable efforts to review all political trips and found no evidence that the federal government was not properly reimbursed for the appropriate political costs incurred.

Thank you for your continued assistance and cooperation. Please do not hesitate to contact me at (202) 254-3678 if you have any questions or concerns about this request.

Sincerely,

Leonard Drbinsky
Senior Associate Special Counsel

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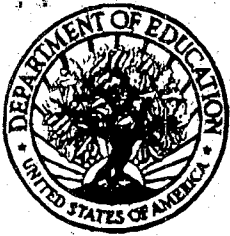
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United States Department of Education Office of the General Counsel

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Facsimile: (202) 205-2689

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Comments: _____

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U.S. OFFICE OF SPECIAL COUNSEL
1730 M Street, N.W., Suite 218
Washington, D.C. 20036-4505
202-254-3600

August 27, 2008

The Honorable Fred F. Fielding
White House Counsel
Executive Office of the President
1600 Pennsylvania Avenue, NW
Washington, DC 20500

Re: OSC File No. HA-07-1741

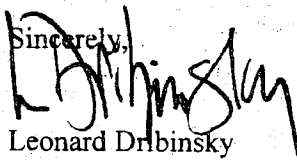
Dear Mr. Fielding:

Thank you for your continuing cooperation and assistance with the United States Office of Special Counsel's (OSC) ongoing investigations into the White House Office of Political Affairs (OPA). As you know, OSC currently is investigating allegations that several individuals currently and formerly employed by the OPA violated the Hatch Act, 5 U.S.C. §§ 7321-7326, by engaging in activity related to certain presentations given to political appointees throughout the federal government. OSC also is investigating whether individuals employed or holding office in the White House properly reimbursed the federal government for political trips taken on Air Force One.

As part of the latter investigation, OSC requested that the White House identify each and every instance where any individual employed or holding office in OPA traveled on Air Force One between November 1, 2003 and November 8, 2004. The White House Counsel's Office identified numerous mixed travel trips where OPA employees traveled on Air Force One. Additionally, OSC was allowed to review Air Force One mixed travel trip records to ensure the federal government was properly reimbursed for the political costs incurred.

After reviewing the mixed travel trip records, the Special Counsel requested that the White House identify, and provide documentation concerning, each and every political trip where any White House employee traveled on Air Force One between November 1, 2003 and November 8, 2004. It is our understanding that the former Deputy Special Counsel made numerous attempts to review those records and also to suggest resolution of this matter, to no avail. After consideration of your previous responses, the Special Counsel requests an assurance from your office that the White House has made reasonable efforts to review all political trips and found no evidence that the federal government was not properly reimbursed for the appropriate political costs incurred.

Thank you for your continued assistance and cooperation. Please do not hesitate to contact me at (202) 254-3678 if you have any questions or concerns about this request.

Sincerely,

Leonard Drbinsky
Senior Associate Special Counsel

Withdrawal Marker

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FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
Letter	Your File No. HA-07-1741 - To: Jason Weidenfeld - From: Kent Talbert	2	09/30/2008	P6/b6; b7c;

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COLLECTION:

Counsel's Office, White House

SERIES:

Flood, Emmet

FOLDER TITLE:

OSC (Office of Special Counsel) - AG M

FRC ID:

33957

OA Num.:

12628

NARA Num.:

11326

FOIA ID and Segment:

2014-0210-F

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advise between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

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- b(1) National security classified information [(b)(1) of the FOIA]
- b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
- b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
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- b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

Records Not Subject to FOIA

Court Sealed - The document is withheld under a court seal and is not subject to the Freedom of Information Act.

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FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
Email	RE: Correspondence from Kent Talbert - To: Kent Talbert - From: Jason Weidenfeld	1	09/30/2008	P6/b6; b7c;

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