



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

Alleged Ethics Violations, DOI, DC

This is a revised version of the report prepared for public release.



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REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

We investigated allegations that Laura Daniel-Davis, then-Principal Deputy Assistant Secretary for Land and Minerals Management at the U.S. Department of the Interior (DOI),¹ did not comply with the ethics regulation regarding personal and business relationships, 5 C.F.R. § 2635.502 (section 502), or the Ethics Pledge under Executive Order 13989. Specifically, we investigated whether Daniel-Davis improperly participated in particular matters involving her former employer, the National Wildlife Federation (NWF), when she (1) attended a May 10, 2021 meeting discussing litigation in the Arctic region or (2) signed letters suspending DOI oil and gas leasing activities in the Arctic National Wildlife Refuge in Alaska under the Coastal Plain Program.

We did not substantiate the allegations. Section 502 and the Ethics Pledge restricted Daniel-Davis' participation in particular matters involving specific parties in which her former employer, NWF, was a party or represented a party. We found that NWF was not a party, and it did not represent a party, with respect to any matters discussed at the May 10, 2021 meeting. Moreover, NWF was not a party to any of the leases suspended as a result of DOI's decisions regarding the Coastal Plain Program. We therefore concluded that Daniel-Davis' participation in those particular matters was not restricted or prohibited by section 502 or the Ethics Pledge.

We are providing this report to the Secretary of the Interior for any action deemed appropriate.

II. RESULTS OF INVESTIGATION

A. Facts

1. Daniel-Davis' Pre-Government Employment with the National Wildlife Federation

From February 2018 until January 2021, Daniel-Davis was the Chief of Policy and Advocacy for NWF. In that role, Daniel-Davis advocated for NWF's positions on national policy issues, including increasing forest restoration funding and strengthening conservation provisions in Federal legislation. In August 2020, NWF joined other environmental groups as a co-plaintiff in a lawsuit naming DOI as a defendant. The lawsuit, titled *Gwich'in Steering Committee v. U.S. Dep't of the Interior*, sought to stop oil and gas leasing under the Coastal Plain Program (*Gwich'in* litigation).² Daniel-Davis told us that she was not involved with the *Gwich'in* litigation during her employment with NWF, explaining that there was a separate litigation committee at NWF that handled the litigation, in which she was not involved.

2. Daniel-Davis' Federal Ethics Guidance

On January 20, 2021, Daniel-Davis was appointed Senior Advisor to the Secretary of the Interior (Secretary). On January 21, 2021, the Departmental Ethics Office (DEO) provided Daniel-Davis with a

¹ Laura Daniel-Davis is currently the Acting Deputy Secretary for the U.S. Department of the Interior.

² Case No. 3:20-cv-00204-SLG (D. Alaska, filed Aug. 24, 2020).

summary of steps regarding various ethics-related matters that she was required to take after joining DOI. These steps included signing and complying with the Ethics Pledge and receiving guidance from the DEO on her ethics obligations. The DEO's advice included a reminder that relevant Federal regulations, namely section 502 of the Standards of Ethical Conduct for Employees of the Executive Branch, required Daniel-Davis to consider the appearance of her participation in certain official matters before participating in those matters.³

On January 24, 2021, Daniel-Davis signed the Ethics Pledge.⁴ On January 25, 2021, DEO officials provided interim ethics guidance to Daniel-Davis for her review. The DEO updated this guidance on February 12, 2021. In the updated interim guidance, the DEO identified NWF as a former employer for purposes of the Ethics Pledge and told Daniel-Davis that she had a "covered relationship" with NWF for purposes of section 502.⁵ With respect to the Ethics Pledge, the DEO's guidance advised that Daniel-Davis could not participate in "particular matters involving specific parties"⁶ in which NWF was a party or represented a party for a period of two years from the date of her appointment. With respect to section 502, the DEO advised that Daniel-Davis was required to assess whether a reasonable person with knowledge of the relevant facts might question her impartiality before she participated in particular matters involving specific parties in which NWF was a party or represented a party. If, after conducting this assessment, Daniel-Davis concluded that a reasonable person could question her impartiality, she "may not participate in the matter unless [she had] informed the DEO of the appearance problem and received written authorization from the DEO to participate in the matter."

3. *Suspension of the Coastal Plain Program and Resulting Stay of the Gwich'in Litigation*

On January 20, 2021, President Biden issued Executive Order 13990, which directed the Secretary to impose a temporary moratorium on DOI's issuance of leases under the Coastal Plain Program, including the leases at issue in the *Gwich'in* litigation.⁷ The Executive Order also directed the Secretary to "review the program and, as appropriate and consistent with applicable law, conduct a new, comprehensive analysis of the potential environmental impacts" of the Coastal Plain Program.⁸

On January 28, 2021, DOI filed a notice with the court in the *Gwich'in* litigation advising that the President had issued an Executive Order directing the Secretary to take action related to the Coastal Plain Program, which was the subject of the *Gwich'in* litigation.⁹ On February 9, 2021, DOI filed a

³ Section 502 requires an employee to consider the appearance of her participation in a "particular matter involving specific parties" and refrain from participating in those matters where the employee "knows that a person with whom [s]he has a covered relationship is or represents a party to such matter, and where [she] determines that the circumstances would cause a reasonable person with knowledge of the relevant facts to question [her] impartiality in the matter." 5 C.F.R. § 2635.502(a).

⁴ *Ethics Commitments by Executive Branch Personnel*, Exec. Order No. 13989, 86 Fed. Reg. 7029 (Jan. 25, 2021).

⁵ The interim guidance explained that Daniel-Davis had a "covered relationship"—i.e., a relationship that would trigger application of section 502 where the entity is a party or represents a party to a specific party matter—with NWF specifically, but also, more generally, with prospective employers or business partners, relatives with whom she had close personal relationships, employers of certain relatives, certain former employers or clients, and organizations in which she is an active participant.

⁶ As described in more detail below, a "particular matter involving specific parties" is more limited in scope than a particular matter affecting a broad class of persons. It instead involves specific, isolatable transactions between specific parties, such as contracts or grants.

⁷ See *Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis*, Exec. Order No. 13990, 86 Fed. Reg. 7037, 7039-40 (Jan. 25, 2021).

⁸ *Id.* at 7040.

⁹ *Gwich'in v. DOI*, Notice of Exec. Order, ECF No. 71 (D. Alaska, Jan. 28, 2021).

motion seeking to stay the *Gwich'in* litigation “so that new Administration officials may evaluate the litigation and determine whether and how the Executive Order and the policy direction described therein may impact the government’s position in this case.”¹⁰ On February 12, 2021, the court granted DOI’s motion to stay proceedings in the *Gwich'in* litigation.¹¹

On February 22, 2021, Daniel-Davis was appointed DOI Principal Deputy Assistant Secretary for Land and Minerals Management. In this role, Daniel-Davis’ responsibilities included overseeing DOI programs associated with onshore and offshore mineral management and coordinating DOI policy related to these areas.

4. *Daniel-Davis’ Participation in Coastal Plain Program Matters*

a. *The May 10, 2021 Meeting*

On May 6, 2021, Daniel-Davis’ executive assistant invited several DOI senior officials to a meeting scheduled for May 10, 2021, titled “Arctic Litigation Update.” On May 10, 2021, Daniel-Davis attended the meeting, along with then Chief of Staff to the Secretary Larry Roberts, DOI Solicitor Robert Anderson, Bureau of Land Management (BLM) Principal Deputy Director Nada Culver, and Assistant Secretary for Fish and Wildlife and Parks Shannon Estenoz. During the meeting, these officials discussed the implementation of Executive Order 13990; they also discussed one specific oil drilling project to which NWF was not a party and did not represent a party. The meeting also involved discussion of two separate lawsuits: one that challenged BLM’s decision to open formerly protected areas in Alaska to new oil and gas leasing, exploration, and development; and another that alleged DOI violated Federal environmental protection laws in approving the oil drilling project mentioned above. NWF was not a party, nor did it represent a party, in either lawsuit discussed at the meeting.

Daniel-Davis told us that the May 10, 2021 meeting involved discussion of DOI’s review of the Coastal Plain Program pursuant to Executive Order 13990. Daniel-Davis also stated that she did not recall the *Gwich'in* litigation being discussed at the meeting. We reviewed Daniel-Davis’ handwritten notes that she took during the meeting, which were consistent with her statements, as they contained no notes related to or referencing the *Gwich'in* litigation.

We also interviewed several DOI officials who attended the May 10, 2021 meeting, none of whom recalled the *Gwich'in* litigation being discussed at the meeting. DOI Solicitor Robert Anderson specifically stated that the *Gwich'in* litigation would not have been discussed at the meeting because the litigation was stayed by the court pending a review of the oil and gas leases and potential administrative action. Solicitor Anderson’s contemporaneous meeting notes recounted that the meeting discussion concerned DOI’s environmental review of the Coastal Plain Program and did not address the *Gwich'in* litigation. Principal Deputy Director Culver and Assistant Secretary Estenoz also each stated that they did not recall discussing the *Gwich'in* litigation at this meeting.

b. *DOI’s June 1, 2021 Suspension of the Coastal Plain Program Oil and Gas Leases*

In response to Executive Order 13990, on June 1, 2021, the Secretary issued a Secretarial Order that directed “a temporary halt on all Department activities related to the [Coastal Plain] Program” due to

¹⁰ *Id.*, Mot. to Stay Proceedings, ECF No. 74 (D. Alaska, Feb. 9, 2021).

¹¹ *See id.*, Order Granting Defendants’ Unopposed Motion to Stay Proceedings, ECF No. 75 (D. Alaska, Feb. 12, 2021). As of the date of this report, the stay of proceedings in the Coastal Plain litigation continues, with DOI filing periodic status reports to inform the court of its progress conducting a new environmental review of the Coastal Plain Program.

“multiple legal deficiencies in the underlying record supporting the [Coastal Plain] leases.”¹² The Secretarial Order specifically directed the Assistant Secretary for Land and Minerals Management to “take appropriate action with respect to existing leases in light of the direction provided” in the Order.¹³ That same day, at the direction of the Secretary and Solicitor, Daniel-Davis signed letters addressed to nine Coastal Plain oil and gas leaseholders suspending their Coastal Plain Program leases pending completion of a new environmental analysis of the Coastal Plain Program. NWF was not a party to any Coastal Plain oil or gas lease and did not represent a party to such a lease. Therefore, it did not receive one of these letters.

B. Analysis

We determined that Daniel-Davis’ conduct was not restricted or prohibited by section 502 or the Ethics Pledge because she did not participate in any particular matter involving specific parties in which NWF was a party or represented a party. Specifically, we did not find evidence that the *Gwich’in* litigation was discussed during the May 10, 2021 meeting, nor did we find that NWF was a party or represented a party to any suspended Coastal Plain lease. Therefore, neither section 502 nor the Ethics Pledge prohibited Daniel-Davis’ participation in those matters.

1. Section 502 and the Ethics Pledge Restrict Participation in Particular Matters Involving Specific Parties

Section 502 requires an employee to consider his or her participation in a “particular matter involving specific parties” where an entity with whom the employee has a “covered relationship” is or represents a party.¹⁴ Section 502 provides that a “covered relationship” exists between a Federal employee and “[a]ny person for whom the employee has, within the last year, served as officer, director, trustee, general partner, agent, attorney, consultant, contractor, or employee.”¹⁵ Thus, for purposes of section 502, Daniel-Davis had a “covered relationship” with NWF and was restricted from participating in specific party matters in which NWF was a party or represented a party for one year from the date she ended her employment with NWF.

The Ethics Pledge contains a similar prohibition, stating that an appointee “will not for a period of 2 years from the date of [the appointee’s] appointment participate in any particular matter involving specific parties that is directly and substantially related to [the appointee’s] former employer or former clients, including regulations and contracts.”¹⁶ The Ethics Pledge goes on to explain that “[d]irectly and substantially related to my former employer or former clients’ shall mean matters in which the appointee’s former employer or a former client is a party or represents a party.”¹⁷ Thus, for purposes of the Ethics Pledge, Daniel-Davis could not participate in any specific party matters in which NWF was a party or represented a party for two years from the date of her appointment.

In sum, and as applicable here, both section 502 and the Ethics Pledge restricted or prohibited Daniel-Davis’ participation in particular matters only in circumstances where (1) the particular matter

¹² See U.S. Sec’y of the Interior, *Comprehensive Analysis and Temporary Halt on all Activities in the Arctic National Wildlife Refuge Relating to the Coastal Plain Oil and Gas Leasing Program*, Secretarial Order No. 3401 (June 1, 2021).

¹³ *Id.* § 5(c).

¹⁴ 5 C.F.R. § 2635.502(a).

¹⁵ *Id.* § 2635.502(b)(1)(iv).

¹⁶ Exec. Order No. 13989 of Jan. 20, 2021, 86 Fed. Reg. 7029 (2021) at § 1, ¶ 2.

¹⁷ *Id.* at § 2(m).

involved specific parties, and (2) the employee’s former employer—NWF—either was a party or represented a party in that specific party matter.

The term “particular matter involving specific parties” refers to “a specific proceeding affecting the legal rights of the parties or an isolatable transaction or related set of transactions between identified parties, such as a specific contract, grant, license, product approval application, enforcement action, administrative adjudication, or court case.”¹⁸ Examples of particular matters involving specific parties may “include contracts, grants, licenses, product approval applications, investigations, and litigation” among other matters taken with regard to, or on behalf of, a party.¹⁹ This term “reflects a deliberate effort [by the Office of Government Ethics (OGE)] to impose a more limited ban and to narrow the circumstances in which the ban is to operate,” and “does not cover particular matters of general applicability, such as rulemaking, legislation, or policy-making of general applicability.”²⁰ Accordingly, OGE has declined to extend the prohibitions of section 502 to particular matters beyond those involving the immediate and specific parties to those matters themselves; a party’s interest in or relation to a specific party matter is not enough to make a person a party to that matter for purposes of section 502.²¹ We apply OGE’s analysis of section 502 to the relevant provision of the Ethics Pledge as well, because it restricts participation in particular matters involving specific parties in which the appointee’s former employer is a party or represents a party,²² just as does section 502.

2. *Daniel-Davis’ Participation in Particular Matters Was Not Restricted Under Section 502 or the Ethics Pledge*

We investigated two particular matters involving specific parties in which Daniel-Davis participated: the May 10, 2021 meeting, and the June 1, 2021 suspensions of the Coastal Plain oil and gas leases. In both instances, we found that NWF was not a party, nor did it represent a party, in any of the particular matters involving specific parties under consideration. We therefore concluded that Daniel-Davis’ participation was not restricted or prohibited under either section 502 or the Ethics Pledge.

a. *The May 10, 2021 Meeting*

Whether Daniel-Davis’ participation in the May 10, 2021 meeting was prohibited depends on whether any particular matters involving specific parties were discussed at the meeting, and if they were, whether NWF was a party, or represented a party, in any of those matters. We found that, while specific party matters were discussed at the May 10, 2021 meeting, NWF neither was a party nor represented a party in any of the matters discussed. Specifically, the evidence showed that the May 10, 2021 meeting involved discussion of the implementation of Executive Order 13990, an oil drilling project, and two lawsuits—neither of which was the *Gwich’in* litigation. Further, there was no evidence that NWF was a party or that it represented a party in any of these matters.

The *Gwich’in* litigation is a specific party matter in which NWF is a party. However, we found no evidence that this litigation was discussed at the May 10, 2021 meeting. Daniel-Davis stated she did

¹⁸ 5 C.F.R. § 2641.201(h)(1). *See also* Exec. Order No. 13989 of Jan. 20, 2021, 86 Fed. Reg. 7029 (2021) at § 2(j) (referencing the definition at 5 C.F.R. § 2641.201(h) for purposes of the Ethics Pledge).

¹⁹ Memorandum from Robert I. Cusick, Director, OGE to Designated Agency Ethics Officials, “*Particular Matter Involving Specific Parties*,” “*Particular Matter*,” and “*Matter*,” DO-06-029, at 4 (Oct. 4, 2006).

²⁰ *Id.* at 3-4 (internal quotation omitted).

²¹ *See* Letter from Stephen D. Potts, Director, OGE to a Departmental Acting Assistant Secretary, 94 x 10(1) (Mar. 30, 1994); Letter from Stephen D. Potts, Director, OGE to a Designated Agency Ethics Official, 95 x 5, at 4-5 (May 22, 1995).

²² Exec. Order No. 13989 of Jan. 20, 2021, 86 Fed. Reg. 7029 (2021) at § 1, ¶ 2; § 2(m).

not recall discussing the *Gwich'in* litigation at the meeting, and none of the other DOI senior officials in attendance recalled discussing the *Gwich'in* litigation at the meeting either. In addition, the Solicitor stated that the litigation would not have been discussed at the meeting because the litigation had been stayed by the court pending further action by DOI. Moreover, both Daniel-Davis' and the Solicitor's contemporaneous notes from the meeting corroborated the senior officials' recollection that the litigation was not discussed at the meeting.

Because we found no evidence showing that Daniel-Davis participated in a particular matter involving specific parties in which her former employer, NWF, was a party or represented a party at the May 10, 2021 meeting, we concluded that her participation was not restricted or prohibited by either section 502 or the Ethics Pledge.

b. June 1, 2021 Suspension of the Coastal Plain Program Leases

Similar to the above, whether Daniel-Davis' participation in the suspension of the Coastal Plain Program leases was prohibited depends on whether the suspensions involved a particular matter involving specific parties and, if so, whether NWF was a party, or represented a party, in any of those matters. We determined that the individual leases were specific party matters, but that NWF was not a party, nor did it represent a party, to any of the leases.

With respect to Daniel-Davis' participation in the suspension of the Coastal Plain Program leases, we determined that the specific party matters were the nine individual leases. This is because the individual leases were isolatable transactions between identified parties, which are the type of specific interactions covered by the definition of "particular matters involving specific parties."²³ The evidence showed that NWF was not a party, nor did it represent a party, to any of these leases. We therefore concluded that Daniel-Davis' participation in the suspension of those leases was not restricted or prohibited by either section 502 or the Ethics Pledge.

NWF was a party to the *Gwich'in* litigation and the plaintiffs in the *Gwich'in* litigation—including NWF—advocated for the suspension of the Coastal Plain leases as relief in the *Gwich'in* litigation. It does not follow, however, that Daniel-Davis' participation in suspension of the oil and gas leases implicates section 502 or the Ethics Pledge. OGE has made clear that section 502 is to be narrowly construed and that employees will be obligated to comply with section 502's restrictions only "when the person with whom the employee has a covered relationship is a party or represents a party to" the particular matter involving specific parties.²⁴ Where, as here, a person has an interest in the outcome of a particular matter but is not actually a party nor does the person represent a party to the particular matter, OGE has found that the restrictions of section 502 do not apply.

Two OGE letters in particular illustrate the limited application of section 502 to immediate parties and representatives of parties only. First, in a Letter to a Departmental Acting Assistant Secretary dated March 30, 1994, OGE found that a Government attorney was not obligated to comply with section 502 with respect to his participation in litigation against a corporation even though the person with whom the attorney had a covered relationship—his brother—was employed by a competitor of the corporation and was a member of an association who was a party to the proceedings. In that matter, OGE stated that "[i]t does not follow" that the attorney was restricted by section 502 simply because

²³ See Memorandum from Robert I. Cusick, Director, OGE to Designated Agency Ethics Officials, "*Particular Matter Involving Specific Parties*," "*Particular Matter*," and "*Matter*," DO-06-029, at 3–4 (Oct. 4, 2006).

²⁴ See Letter from Stephen D. Potts, Director, OGE to a Departmental Acting Assistant Secretary, 94 x 10(1), at 2 (Mar. 30, 1994).

he had a covered relationship with someone who had “any connection with that matter.”²⁵ Instead, OGE explained that “an employee has an obligation to apply the procedures in section 2635.502 only when the person with whom the employee has a covered relationship is a party or represents a party to a particular matter involving specific parties.”²⁶ Second, in a Letter to a Designated Agency Ethics Official dated May 22, 1995, OGE examined whether two officials’ participation in an investigation triggered the requirements of section 502 where the investigation could possibly result in a consent order that “may serve as the precedent or model for the [separate] investigation of the company represented by the . . . officials’ previous employer.”²⁷ OGE’s analysis did not consider those possible future effects on the officials’ previous employer enough to trigger application of section 502. Instead, OGE found that section 502 was not triggered because “the company represented by the officials’ previous employer [was] not a party to [the] investigation.”²⁸

In light of the above guidance, we determined that it is not enough to trigger application of section 502 where an employee has a covered relationship, even with someone who has an interest in the outcome of a specific party matter, if that person with whom the employee has a covered relationship is not a party to, or a representative of a party to, the particular matter in question. An alternative conclusion would force employees to consider all possible consequences of specific party matters in order to determine all potentially interested entities and thus, whether there were any restrictions or prohibitions on their participation. Neither the plain language of section 502 or the Ethics Pledge requires such a broad, consequences-oriented analysis, and OGE guidance suggests that this is not the case.²⁹

Accordingly, we determined that the fact that NWF had an interest in terminating the Coastal Plain Program oil and gas leases did not make it a party to the leases suspended by DOI, which is what is required for section 502 or the Ethics Pledge to apply to Daniel-Davis’ conduct here.

III. CONCLUSION

We concluded that Daniel-Davis did not participate in any particular matters involving specific parties in which her former employer, NWF, was a party or represented a party. Therefore, we did not substantiate the allegations that she failed to comply with section 502 or the Ethics Pledge.

IV. SUBJECT

Laura Daniel-Davis, Acting Deputy Secretary, U.S. Department of the Interior.

V. DISPOSITION

We are providing this report to the Secretary of the Interior for any action deemed appropriate.

²⁵ *Id.*

²⁶ *Id.*

²⁷ Letter from Stephen D. Potts, Director, OGE to a Designated Agency Ethics Official, 95 x 5, at 4 (May 22, 1995).

²⁸ *Id.* at 5.

²⁹ As noted above, because the pertinent language of the Ethics Pledge is interpreted to be identical to that of section 502, we determined that OGE’s guidance is equally applicable to our interpretation of the Ethics Pledge in this case.



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