

Congress of the United States
House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

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October 6, 2017

The Honorable Ryan Zinke
Secretary
U.S. Department of the Interior
1849 C Street, N.W.
Washington, D.C. 20240

Dear Mr. Secretary:

I am writing to request documents relating to the reassignment of numerous Senior Executive Service (SES) employees and career civil servants within the Department of the Interior, including Joel Clement, one of the Department's foremost policy experts on climate change. Mr. Clement resigned this week after one of your top deputies reassigned him to a position for which he had no professional expertise in alleged retaliation for blowing the whistle on activities within the Department. I am concerned that many additional senior employees may be receiving similar treatment.

**Warnings Against Disloyalty and Threats to Use
Reassignments to Reduce the Workforce**

Over the past several months, you have reportedly threatened to use personnel reassignments to move individuals who are disloyal to the Trump Administration and to shrink the Department's workforce.

According to media reports, you claimed in a speech to the National Petroleum Council that you believe a significant number of career employees in the Department are disloyal. You reportedly stated, "I got 30 percent of the crew that's not loyal to the flag." You compared your "experience taking over Interior to capturing a pirate ship where 'only the captain and the first mate row over' to take the vessel." You "promised a 'huge' change by restructuring staff positions" and explained that you "wanted to ensure Interior officials accelerated federal permitting for drilling and mining activities on federal land."¹

In June, you submitted testimony to the Senate Subcommittee on Interior, Environment, and Related Agencies explaining that President Trump has "launched a government-wide effort

¹ *Zinke Says a Third of Interior's Staff is Disloyal to Trump and Promises "Huge" Changes*, Washington Post (Sept. 26, 2017) (online at www.washingtonpost.com/news/energy-environment/wp/2017/09/26/zinke-says-a-third-of-interiors-staff-is-disloyal-to-trump-and-promises-huge-changes/?tid=a_inl&utm_term=.5b8d40860da1).

to create a leaner, more efficient, and more responsive government.” You testified that the President proposed budget cuts in 2018 to “lower priority programs,” and you explained that for the Department of the Interior, this “represents an estimated reduction of roughly 4,000 full time equivalent staff from 2017.” You stated that “the Department will rely on a combination of attrition, reassignments, and separation incentives,” and “attrition rates and acceptance of separation incentives will determine the need for further action to reduce staffing.”²

Just days before your testimony, you reportedly reassigned as many as 50 SES employees without providing a clear rationale.³ A memo provided to the employees stated: “Rotation of SES provides an opportunity to improve talent development, mission delivery and collaboration.”⁴ A Department spokesperson stated: “Personnel moves are being conducted to better serve the taxpayer and the Department’s operations through matching Senior Executive skill sets with mission and operational requirements.”⁵

However, your reassignments appear to do exactly the opposite. The use of personnel reassignments to punish employees you believe are not “loyal” or to try to drive employees to leave the Department could constitute prohibited personnel practices that violate the merit systems protections set forth in 5 U.S.C. §2301.

SES Employee Claims His Reassignment Was Retaliation for Blowing the Whistle

Joel Clement, a member of the career SES, was hired as the Director of the Office of Policy Analysis in 2011 and served in that position until June 15, 2017, when he was notified by one of your deputies that he was being reassigned.⁶ Mr. Clement served as the Department’s lead policy expert on Arctic issues and climate change and worked “to help Alaska Native communities in danger of being washed into the sea.”⁷

² Statement of Ryan Zinke, Secretary of the Interior, *Hearing on the 2018 President’s Budget Request*, Senate Subcommittee on Interior, Environment and Related Agencies (June 21, 2017) (online at www.appropriations.senate.gov/imo/media/doc/062117-Zinke-Testimony.pdf).

³ *Zinke Moving Dozens of Senior Interior Department Officials in Shake-up*, Washington Post (June 16, 2017) (online at www.washingtonpost.com/politics/zinke-moving-dozens-of-senior-interior-officials-in-shake-up/2017/06/16/11801d3a-5295-11e7-b064-828ba60fbb98_story.html?utm_term=.ad25df8ac0e1).

⁴ Memorandum from James Cason, Associate Deputy Secretary, Department of the Interior, to Joel Clement, Director, Office of Policy Analysis, Office of the Secretary, Department of the Interior (June 15, 2017).

⁵ *Zinke Moving Dozens of Senior Interior Department Officials in Shake-up*, Washington Post (June 16, 2017) (online at www.washingtonpost.com/politics/zinke-moving-dozens-of-senior-interior-officials-in-shake-up/2017/06/16/11801d3a-5295-11e7-b064-828ba60fbb98_story.html?utm_term=.ad25df8ac0e1).

⁶ *I’m a Scientist. I’m Blowing the Whistle on the Trump Administration*, Washington Post (July 19, 2017) (online at www.washingtonpost.com/opinions/im-a-scientist-the-trump-administration-reassigned-me-for-speaking-up-about-climate-change/2017/07/19/389b8dce-6b12-11e7-9c15-177740635e83_story.html?utm_term=.08c133dcfd4).

⁷ Complaint of Possible Prohibited Personnel Practice or Other Prohibited Activity, Joel Clement (Form OSC-11) (July 19, 2017) (online at <https://tinyurl.com/WHAClement>).

Your office transferred Mr. Clement to the Office of Natural Resources Revenue (ONRR), which collects and verifies revenue from oil and gas leases. Regarding this reassignment, Mr. Clement reported:

I have no training in auditing and have never worked on such revenues. I met with my new boss and he confirmed ONRR has no need for an employee with my knowledge and experience. I was reassigned to a position with a job title, but no duties. I believe I was reassigned to this position so I would be unable to work on mitigating the danger to Native Alaskan communities, to punish me for my past such efforts, and to push me to quit.⁸

Under 5 U.S.C. §3395, a member of the career SES may be reassigned only to another SES position “in the same agency for which the appointee is qualified.” In this case, Mr. Clement appeared to be unqualified for a job managing royalties collected by the federal government for fossil fuel leases.

Mr. Clement believes his reassignment was in retaliation for disclosures he made to George D. Banks, the Special Assistant to the President for International Energy and Environment, about the risks to human health in Alaska Native communities created by the effects of climate change. On April 21, 2017, approximately two months before he was reassigned, Mr. Clement sent an email warning Mr. Banks of “the importance of building resilience for these communities,” which are “imminently threatened.”⁹

Mr. Banks previously served as the Executive Vice President of the American Council for Capital Formation, a pro-business lobbying group.¹⁰ Mr. Banks registered to lobby for the Council in 2015 and 2016 on “Tax, Environment, and Regulatory Issues.”¹¹ Despite his previous lobbying activity, it does not appear that Mr. Banks has been granted a waiver under Executive Order 13770, which President Trump issued on January 28, 2017, to prohibit former lobbyists who enter the Administration from participating “in any particular matter” on which the individual lobbied.¹² For example, Mr. Banks’ portfolio includes such policy issues as whether

⁸ *Id.*

⁹ *Id.*

¹⁰ The White House, *White House National Economic Council Director Announces Senior Staff Appointments* (Feb. 27, 2017) (online at www.whitehouse.gov/the-press-office/2017/02/27/white-house-national-economic-council-director-announces-senior-staff) (last accessed Oct. 6, 2017).

¹¹ American Council for Capital Formation, *Lobbying Report, Q4 (10/1-12/31) (2015)* (online at www.soprweb.senate.gov/index.cfm?event=getFilingDetails&filingID=CD62DEAE-82F3-4B54-A38B-03E6C8829E21&filingTypeID=78); American Council for Capital Formation, *Lobbying Report, Q1 (1/1-3/31) (2016)* (online at www.soprweb.senate.gov/index.cfm?event=getFilingDetails&filingID=CC626C97-78EB-4D7F-94F6-0A183AEC7495&filingTypeID=51).

¹² Exec. Order No. 13770, *Ethics Commitments by Executive Branch Appointees* (Jan. 28, 2017) (online at www.whitehouse.gov/the-press-office/2017/01/28/executive-order-ethics-commitments-executive-branch-appointees). See also Office of Government Ethics, *Certain Agency Records Received in Response to OGE’s Data Call for Waivers and Authorizations* (June 7, 2012) (online at www.oge.gov/web/OGE.nsf/0/67460009B646BBF88525813800566276/%24FILE/Certain%20agency%20records%20recd%20in%20response%20to%20PA-17-02.pdf).

the United States should withdraw from the Paris climate accord.¹³

Mr. Banks has also publicly expressed his opinion about the need for agency leadership to be “loyal” to President Trump. He published an editorial in *Real Clear Energy* on December 9, 2016, writing, “Trump needs loyal foot soldiers leading his agencies to implement his bold vision.”¹⁴

This week, Mr. Clement finally resigned from his position with the Department, writing to you:

You have disrespected the career staff of the Department by questioning their loyalty and you have played fast and loose with government regulations to score points with your political base at the expense of American health and safety. Secretary Zinke, your agenda profoundly undermines the DOI mission and betrays the American people.¹⁵

Request for Documents and Information

The reassignments of Mr. Clement and the other Department employees raise serious concerns about whether they are being retaliated against in violation of the law and whether the Department is using taxpayer funds to carry out its missions appropriately.

It is a violation of the Whistleblower Protection Act to reassign employees in retaliation for protected disclosures that they reasonably believe are evidence of substantial and specific dangers to public health or safety.¹⁶

For these reasons, I request that you produce, by October 19, 2017, the following documents and information:

1. all documents and communications regarding or relating to the reassignment or proposed reassignment of any career SES employee or civil service employee that has been considered or has occurred since January 20, 2017;
2. all documents and communications regarding or relating to the costs associated with the reassignment or proposed reassignment of any career SES employee or

¹³ *Trump's Team is Split Over the Paris Agreement*, Scientific American (Apr. 18, 2017) (online at www.scientificamerican.com/article/trumps-team-is-split-over-the-paris-agreement/); *How Trump Left the Paris Climate Deal*, The Hill (June 1, 2017) (online at www.thehill.com/policy/energy-environment/336015-how-trump-left-the-paris-climate-deal).

¹⁴ George David Banks, *Trump Shouldn't Trade Energy Cabinet Slot for Senate Seat*, RealClear Energy (Dec. 9, 2016) (online at www.realclearenergy.org/articles/2016/12/09/trump_shouldnt_trade_energy_cabinet_slot_for_senate_seat_110139.html).

¹⁵ *Climate Policy Whistleblower Resigns*, E&E News (Oct. 4, 2017) (online at www.eenews.net/eenewspn/2017/10/04/stories/1060062627).

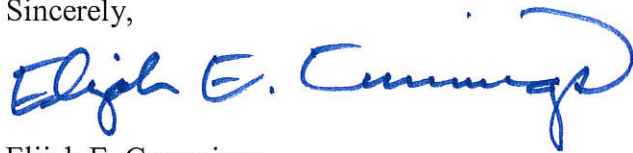
¹⁶ 5 U.S.C. § 2302(b)(8).

civil service employee that has been considered or has occurred since January 20, 2017; and

3. all documents and communications regarding or relating to how the reassignment or proposed reassignment of any career SES employee or civil service employee that has been considered or has occurred since January 20, 2017, will better serve taxpayer interests and the Department's operations by matching employee skill sets with mission and operational requirements.

Please contact Lucinda Lessley of the Democratic Committee staff at (202) 225-5051 if you have any questions. Thank you for your cooperation with this request.

Sincerely,



Elijah E. Cummings
Ranking Member

cc: The Honorable Trey Gowdy, Chairman