

This document serves as Mr. Dan Patterson's supplement to information disclosed to the U.S. Office of Special Counsel on pages 4-6 of OSC Form-14. Below is a detailed narrative document pertaining to illegalities and wrongdoing related to the management of the Bureau of Land Management (BLM)'s Nevada State Office and the Battle Mountain District Office. Mr. Patterson is currently employed as an Environmental Protection Specialist, GS-11, at the Tonopah Field Office of the BLM Battle Mountain District in Tonopah, NV, a position he has held since September 2015.

The wrongdoing alleged by Mr. Patterson falls into three OSC-qualifying categories: 1) violation of any law, rule, or regulation, 2) gross mismanagement, and 3) abuse of authority. Several disclosures overlap two or more categories. Mr. Patterson has personal knowledge or documentary evidence of all of the following acts and omissions. Much documentary evidence is currently unavailable, as Mr. Patterson has been placed on involuntary leave following a disciplinary action and has had access to his BLM computer, files, and official documentation restricted by the leadership of the Battle Mountain District.

I. Introduction and Background:

Doug Furtado, Battle Mountain District Manager, is well known for fast tracking mining and oil/gas drilling projects, exercising political discretion with regard to enforcement, and disregarding administrative and legal hang-ups to approving new private uses of public lands. As an Environmental Protection Specialist, Mr. Patterson's professional responsibilities are in conflict with the objectives of District Manager Furtado. Mr. Patterson has on multiple occasions identified ongoing violations of law by regulated persons within Furtado's jurisdiction, legal obstacles to approval of projects favored by Furtado, and ongoing threats to the environment of the Battle Mountain District of southern Nevada posed by Furtado's management style.

Because he has been incapable for the last four years in persuading his superiors in the BLM to comply with applicable laws and regulations, this disclosure of eleven instances of violations of law, gross mismanagement, and abuse of authority is submitted to the Office of Special Counsel. This disclosure, and Patterson's previous attempts to persuade his superiors to enforce the law against entities favored by his superiors, has placed him at personal professional risk for the benefit of the public good and the effective enforcement of the nation's resource management laws. This disclosure is more than disagreement with the decisions of his superiors, but stems from a sincere belief that the laws of the United States are being disregarded for the professional expediency of his superiors and the benefit of private parties, and that a culture of lawlessness has been engendered in the Battle Mountain District of the BLM. These are not merely probable breaches of law by private persons, but a pervasive pattern of lawlessness which BLM has taken affirmative steps to further and encourage. The actions and forbearances of BLM staff disclosed herein were not properly scrutinized or monitored, and legally required evaluations and approvals were viewed as empty formalities to be evaded if possible.

The disclosures below individually identify laws and regulations which have been violated with the assistance of the Battle Mountain District. They also demonstrate ongoing abuse of authority by District Manager Furtado. Abuse of authority is an "arbitrary or capricious exercise of power by a federal official or employee that . . . results in personal gain or advantage to himself or to preferred other persons." *D'Elia v. Department of the Treasury*, 60 M.S.P.R. 226, 232 (1993) (finding an abuse of authority where an official approves timesheets known to be falsified for the convenience of a favored party). Unlike gross mismanagement, there is no modifier for the severity of the abuse of authority, and it "does not incorporate a *de minimis* standard." *Embree v. Dep't of the Treasury*, 70 M.S.P.R. 79, 85 (M.S.P.B. March 19, 1996).

Gross mismanagement "means a management action or inaction that creates a substantial risk of significant adverse impact on the agency's ability to accomplish its mission." *Id.* It requires "an element of blatancy" such as pervasive or ongoing refusal to enforce the law after repeat attempts to correct the management decision. *Id.* The gross mismanagement does not need to be established "by irrefragable proof." *White v. Dep't of the Air Force*, 391 F.3d 1377, 1381 (Fed. Cir. 2004). The errors by the agency must be so severe "that a conclusion the agency erred is not debatable among reasonable people." *Id.*, at 1382. For a dispute over policy, "'gross mismanagement' requires that a claimed agency error in the adoption of, or continued adherence to, a policy be a matter that is not debatable among reasonable people." *Id.* These standards apply where a government employee discloses information that is closely related to the employee's day-to-day responsibilities, such that structuring a remedy to the situation revealed in the disclosure could foreseeably affect the whistleblower. *See Marano v. Dep't of Justice*, 2 F.3d 1137, 1142 (Fed. Cir. 1993).

Because Patterson's internal disputes have already resulted in professional marginalization, a sustained five day suspension as a disciplinary action, and removal from the decision-making chain for matters under his purview as an Environmental Protection Specialist, any remedy to the disclosures herein must come from an external source such as the Office of Special Counsel, the agency's Inspector General, to whom this complaint is being submitted as well, or a congressional oversight committee, which Patterson and undersigned counsel verbally disclosed these matters to in a phone call on September 25, 2019.

II. Disclosures

1. New open pit gold mine in Esmeralda County NV, 'Gemfield Project'

The "Gemfield Project," an open pit gold mine to be operated by Gemfield Resources and located in the Battle Mountain District is a project favored by District Manager Doug Furtado. On Monday, September 16, 2019, the company announced that it had received a final Environmental Impact Statement (EIS) required by the National Environmental Policy Act (NEPA), 42 U.S.C. §§ 4321 *et seq.*, and other required state and federal

permits to begin operations.¹ The mine is projected to create a “toxic pit lake” in which an open pit mine which digs below the water table refills with groundwater, carrying toxic materials back up to the surface when the water leaches through. That lake is almost impossible to clean up and is extremely hazardous to wildlife, and particularly migratory birds. One such toxic lake in Montana, the Berkeley pit, has been slowly filling with water since it ceased operating in 1982 and in one event in fall 2016 killed 3,000 migratory Canadian geese by poisoning.² It is also the largest Superfund site in the country.

The generally accepted solution to prevent the formation of toxic pit lakes is to backfill the mine with loose rock and piping in water to prevent groundwater from leaching through and carrying along toxic substances to the surface. The company, Gemfield, was known to be opposed to the backfill alternative because of the expense of closing the mine. When the expert BLM Mining Engineer raised the possibility of seriously considering the backfill alternative as a preferred approach, Doug Furtado removed him from the team considering the EIS and completed it without input from a BLM mining engineer. The Final EIS ultimately considered three alternatives: constructing the mine as planned without a backfill, reducing the size of the mine, or a partial backfill after the mine completed operations in ten years.³ The BLM did not consider six alternatives at all, including the complete backfill alternative.⁴ District Manager Furtado ultimately pressed for the company’s preferred alternative to be selected, which it was over internal objection. At the time that the final EIS was approved, the office’s Environmental Protection Specialist, Dan Patterson, had been placed on administrative leave. Furtado’s acts were an arbitrary exercise of official power that resulted in personal gain or advantage to a favored party and meet the threshold for “abuse of authority.” To the extent that they also involved violations of NEPA by making final EIS decisions after removing the qualified mining engineer and environmental protection specialist, they are also a violation of law and form part of a pattern of gross mismanagement when considered in conjunction with the other wrongdoing in this disclosure.

2. Ongoing violations of NEPA and use of retroactive analysis

NEPA requires agencies to “integrate the NEPA process with other planning at the earliest possible time.” 40 C.F.R. § 1501.2. This ensures that agencies conduct NEPA analysis “before any irreversible and ir retrievable commitment of resources” is made. *Conner v. Burford*, 848 F.2d 1441, 1446 (9th Cir. 1998). When an agency prepares an EA

¹ Cecilia Jamasmie, *Waterton’s Gemfield Resources kicks off construction of gold mine in Nevada*, MINING.COM (September 16, 2019), <https://www.mining.com/watertons-gemfield-resources-to-start-construction-of-gold-mine-in-nevada/>.

² Associated Press, *At least 3,000 geese killed by toxic water from former Montana copper mine*, THE GUARDIAN (Jan. 23, 2017), <https://www.theguardian.com/us-news/2017/jan/23/geese-die-montana-toxic-mine-epa>.

³ See Final Environmental Impact Statement DOI-BLM-NV-B020-2018-0052-EIS (June 2019), https://eplanning.blm.gov/epl-front-office/projects/nepa/113574/174865/212377/20190610_Gemfield_FEIS_508.pdf.

⁴ *Id.* at 2-25.

only after committing to a course of action, it does so “too late in the decision-making process.” *Metcalf v. Daley*, 214 F.3d 1135, 1143 (9th Cir. 2000).

Patterson has witnessed and objected to a pattern of “retroactive NEPA” review, in which the Battle Mountain Field Office, at the direction of Furtado, has intentionally ignored environmental analysis requirements of NEPA, and in some instances created NEPA documentation including categorical exclusions and “determinations of NEPA adequacy” after committing to a course of action. The office does not solicit public input or provide notice as required by the statute when it conducts such unlawful activities. While NEPA documentation from the office has been the subject of litigation⁵ for certain oil and gas lease sales in 2017, similar sales have been and are being conducted quarterly without conducting NEPA analyses for those sales.

Staff recommendations on how to minimize or mitigate environmental impacts and better comply with NEPA are universally disregarded by Furtado, who views NEPA compliance as an unnecessary burden and a distraction from his objective of approving as many new mining, oil, and gas permits as possible. Professionals whose duties involve environmental protection and compliance have been sidelined and regularly have duties and assignments changed to prevent them from applying their expertise because they might derail preordained mining and other extractive activities which have significant environmental impacts. This is a willful violation of law, an abuse of authority to grant advantage to favored interests, and cumulative evidence of gross mismanagement by DM Furtado.

Patterson has personal knowledge of this misconduct however his access to documentary evidence has been restricted due to his placement on administrative leave.

3. Violation of the Resource Management Plan and Habitat Destruction in the Monte Cristo Range

The Tonopah Resource Management Plan (RMP) implementing the Federal Land Policy and Management Act (FLPMA), 43 U.S.C. §§ 1701–1787, prohibits road building in essential habitat areas for bighorn sheep.⁶ Mining companies can use cross country travel or existing roads but cannot bulldoze new roads in protected areas. The Monte Cristo Range is documented essential habitat to bighorn sheep, however Tonopah management at the direction of Doug Furtado has regularly ignored requirements that roadbuilding not

⁵ See, e.g., *Center for Biological Diversity v. U.S. Bureau of Land Management*, 3:17-cv-00553 (D. Nev., 2019)

⁶ “management actions will include 1) prohibiting construction of new roads to communication site facilities; 2) limiting vehicle use to existing roads and trails; 3) prohibiting off-highway vehicle events within one-quarter mile of Specie Spring; 4) restricting, between February 1 and May 15, activities in lambing areas which might be disturbing to bighorn-sheep (17,480 acres); and 5) prohibiting land uses that are incompatible with bighorn sheep lambing areas at Stonewall Falls and Little Meadows.” BLM Battle Mountain District, TONOPAH RMP & RECORD OF DECISION at 8 (1997), available at <https://eplanning.blm.gov/epl-front-office/eplanning/planAndProjectSite.do?methodName=renderDefaultPlanOrProjectSite&projectId=77957>.

be permitted, and substantial roadbuilding in bighorn essential habitat areas has been allowed. These desert areas are extremely slow to recover and fragile.

While some RMPs are ambiguous or offer guidance about what kinds of roads can be built after certain considerations are made about the construction, this RMP contains a flat ban on road construction in essential bighorn habitat. When Patterson raised this point to his management he was ignored. This is a willful violation of law, an abuse of authority to grant advantage to favored interests, and cumulative evidence of gross mismanagement by DM Furtado.

Patterson has personal knowledge of this misconduct however his access to documentary evidence has been restricted due to his placement on administrative leave.

4. Illegal segmentation of the Silver Peak Range mining project, trespass, and disregard for threat to endemic species

Silver Peak Range has a project developing called the Rhyolite Ridge Lithium-Boron Project.⁷ The company has filed a series of Mining Notices which have few regulatory requirements for approval. Notices are meant to apply for “exploration” only, stay under 5 acres each, and allow no more than 1000 tons of ore for “testing” purposes.

Under the Mining Law of 1872, 30 U.S.C. § 21 *et seq.*, a mining company must submit Mining Plans of Operations (MPOs) to the Bureau of Land Management before engaging in mining operations on its claims if those operations are greater than a casual use that would disturb more than five acres of land. 43 C.F.R. §§ 3809.11, 3809.21. "Casual use" means activities ordinarily resulting in no or negligible disturbance of the public lands or resources, such as collection of mineral specimens using hand tools. 43 C.F.R. § § 3809.5.

A complete Mining Notice must be submitted 15 calendar days before commencement of exploration causing surface disturbance of 5 acres or less of public lands on which reclamation has not been completed (§3809.21(a)). Exploration means creating a surface disturbance greater than casual use that includes sampling, drilling, or developing surface or underground workings to evaluate the type, extent, quantity, or quality of mineral values present. Exploration does not include activities where material is extracted for commercial use or sale. 43 C.F.R. § 3809.5.

Notices cannot be used to “segment a project area by filing a series of notices for the purpose of avoiding filing a plan of operations.” 43 C.F.R. § 3809.21(b). The general rule of practice followed by the Tonopah Field Office to prevent unlawful segmentation is that a new notice must be at least a mile away from any previous notice. This unwritten “rule” is too small a distance in the open desert landscape to ensure regulatory compliance and protection of the environment. When Patterson has raised segmentation concerns regarding this project, he has been ignored by management. The same project

⁷ See <https://www.ioneer.com/rhyolite-ridge/overview>

has also involved unlawful use of retroactive NEPA review by the field office. *See* Disclosure 2.

The area affected by this project question is also home to [Tiehm's Buckwheat](#), an endemic species found in only one roughly 10 acre area which is only known by a handful of botanists, BLM Tonopah staff, and mine employees. When an ecologist employed by the Center for Biological Diversity, Patrick Donnelly, asked Tonopah Field Office management for information about this project, DM Furtado assumed that Patterson must have been the source of Donnelly's knowledge of the plant due to Patterson's information because he cares about the destruction of plant species and previously worked for CBD. This is the presumed cause of a five-day suspension which preceded Patterson's placement on administrative leave which has continued since mid-September. action against him.

Development of this project would likely cause the destruction of Tiehm's Buckwheat due to its small habitat. Because this consideration may prevent or delay the mining project, DM Furtado has attempted to minimize knowledge of its existence so that the action can be taken without complying with applicable environmental laws protecting endangered or threatened species. These actions and omissions amount to willful violation of law, an abuse of authority to grant advantage to favored interests, and cumulative evidence of gross mismanagement by DM Furtado.

Patterson has personal knowledge of this misconduct however his access to documentary evidence has been restricted due to his placement on administrative leave.

5. Avoidance of federal recordkeeping requirements

Staff in Tonopah and across Nevada have been told by managerial staff at the Field Office, District, and State level to avoid the creation of written records in violation of the Federal Records Act (FRA), a collection of statutes that governs the creation, management, and disposal of federal records. *See generally* 44 U.S.C. §§ 2101, *et seq.*; §§ 2901, *et seq.*; §§ 3101, *et seq.*; and §§ 3301, *et seq.* Among other things, the FRA ensures the “[a]ccurate and complete documentation of the policies and transactions of the Federal Government.” 44 U.S.C. § 2902. The BLM has a duty to “make and preserve records containing adequate and proper documentation of the organization, functions, policies, decisions, procedures, and essential transactions of the agency and designed to furnish the information necessary to protect the legal and financial rights of the Government and of persons directly affected by the agency’s activities.” 44 U.S.C. § 3101. This duty has been enforced by regulations promulgated by the National Archives and Records Administration (NARA), which require, *inter alia*, “the creation and maintenance of records that . . . [m]ake possible a proper scrutiny by the Congress or other duly authorized agencies of the Government;” document “all substantive decisions and commitments reached orally (person-to-person, by telecommunications, or in conference) or electronically;” and “[d]ocument important board, committee, or staff meetings.” 36 C.F.R. § 1222.22(c)–(f).

BLM Nevada State Director Jon Raby, District Manager Doug Furtado, and Tonopah Field Office Manager Perry Wickham have all repeatedly instructed BLM staff, including Patterson, to avoid the creation of written records whenever possible. Official business concerning oil and gas leasing, mining, and land management is discussed on conference calls which are not memorialized in writing, and management officials have told staff that to facilitate staff “communications” they should try to act more like a “family” and have more conversations take place face to face. Some reminder of this unwritten policy is made in almost every official meeting.

No formal notes or minutes are likely kept of this instruction, an audio recording exists of Wickham aggressively refusing to memorialize potentially retaliatory personnel decisions regarding Patterson’s work schedule and duties. Wickham’s anger at Patterson’s request that Wickham memorialize personnel decisions in writing and other matters discussed in the recording are sufficiently disruptive to the office environment that another employee intervenes to ask Wickham to calm down and move their conversation to a vacant conference room.

These actions and omissions amount to willful violation of law and regulations, an abuse of authority to obtain personal advantage by eliminating or concealing evidence of widespread wrongdoing, and cumulative evidence of gross mismanagement by DM Furtado, Office Manager Wickham, and State Director Raby.

6. Use of “courtesy letters” to indefinitely delay reclamation of expired mining exploration sites

A complete Mining Notice must be submitted 15 calendar days before commencement of exploration causing surface disturbance of 5 acres or less of public lands on which reclamation has not been completed. 43 C.F.R. §3809.21(a); *see also* Disclosure 4, *supra*. Exploration means creating a surface disturbance greater than casual use that includes sampling, drilling, or developing surface or underground workings to evaluate the type, extent, quantity, or quality of mineral values present. Exploration does not include activities where material is extracted for commercial use or sale. 43 C.F.R. § 3809.5.

Notices expire after two years. 43 C.F.R. § 3809.332. BLM regulations permit a party to extend a notice if it notifies BLM in writing “on or before the expiration date and meet the financial guarantee requirements of § 3809.503.” 43 C.F.R. § 3809.333. The BLM Surface Management Handbook states that “[a]ny information required for a complete Notice, according to 43 CFR 3809.301(b), that has changed or was never provided in the original filing must be included in the extension notification. Further, the operator must provide a revised RCE based upon the proposed operations.” BLM, SURFACE MANAGEMENT HANDBOOK § 3.4.2.1.⁸ BLM policy requires that a notice which has submitted an extension letter must be reviewed by the District/Field Manager to verify that sufficient information has been provided and issue a written determination. *Id.*, at § 3.4.2.2. Where an operator is not in compliance with any regulatory requirement, “the

⁸ available at <https://www.blm.gov/sites/blm.gov/files/H-3809-1.pdf>.

responsible BLM office **will** notify the operator of this noncompliance and any corrective actions necessary.” *Id.* (emphasis added).

When a Notice expires, “the BLM must inspect the site, notify the operator of any outstanding reclamation requirements, and ensure all required reclamation has been completed. The District/Field Office must not close the case file until the operator has completed all reclamation obligations, or in situations where the operator fails to reclaim the operation, the BLM completes the reclamation.” *Id.* at § 3.5.2. Reclamation requires an operator to undertake certain measures, including, *inter alia*:

- (B) Measures to control erosion, landslides, and water runoff;
- (C) Measures to isolate, remove, or control toxic materials;
- (D) Reshaping the area disturbed, application of the topsoil, and revegetation of disturbed areas, where reasonably practicable; and
- (E) Rehabilitation of fisheries and wildlife habitat.

43 C.F.R. § 3809.420(b)(3). These processes are expensive and can exceed in cost any benefit which is received by conducting permitted operations.

Patterson has personal knowledge of an ongoing practice in the Tonopah Field Office by which BLM encourages mining companies to perpetually extend Notices without complying with reclamation requirements. There are as many as 100 Notices which have expired without being closed due to unfinished reclamation currently pending in the Tonopah Field Office. To prevent this number from growing, the Field Office has a practice of sending 'courtesy letters' to mining companies asking if they would like to extend their notice without condition. This practice has resulted in the proliferation of “ghost projects” across the Battle Mountain Region on which no reclamation has been done and none is planned because they are officially “active” despite a lack of mining or exploration. If a notice is extended then the office never has to close it by sending a ‘Notice Expired-Reclamation Required’ letter.

There is nothing in Part 3809 regulations authorizing this kind of practice which, on its face, violates the policies of the SURFACE MANAGEMENT HANDBOOK and applicable statutes. This “courtesy” is not extended to persons or entities other than mining companies: municipalities and tribes are the only entities who have laws enforced against them.

Staff from the House Committee on Natural Resources were particularly interested in this practice and inquired how further evidence concerning this practice could be obtained. Patterson responded that BLM tracks inspection actions using a mechanism called "widgets" that track office performance. BLM should be able to query the minerals database called “LR2000” to check the number of permitted projects and how many were inspected and how often, and what determinations were made.

These actions and omissions amount to willful violation of law and regulations, an abuse of authority to obtain advantage for favored entities by selectively enforcing or permitting

violations of the law, and cumulative evidence of gross mismanagement by DM Furtado, Office Manager Wickham, and State Director Raby.

7. Non-enforcement against Nye County

The Battle Mountain District covers two large Nevada counties: Esmeralda and Nye. While Esmeralda County is generally compliant with the law, Nye County, which was the original home of the Sagebrush Rebellion,⁹ regularly flaunts the law, exceeds 5 acre surface disturbance limits on free use mineral materials pits, and extracts materials for *e.g.* roadbuilding projects. Nothing is done to enforce the laws which county and municipal officials routinely flout. Patterson has repeatedly attempted to persuade Battle Mountain management that they have an obligation to evenly enforce the law and bring the county into compliance with 43 C.F.R. Part 3600 regulations but has been denied and told to drop the issue. It is believed that no new enforcement actions have been taken against Nye County despite a long history of lawlessness.

In addition to the likely recalcitrance of Nye County officials to comply with the law, this management decision is in keeping with a pattern of conduct stemming from the Nevada BLM to the White House. The current acting director of BLM, William Perry Pendley, is a supporter of the Sagebrush Rebellion¹⁰ and a conservative lawyer who has spent decades campaigning against federal land protection.¹¹ Additionally, the White House chief of staff Mick Mulvaney stated at a Republican fundraiser event in South Carolina in August that the administration's restructuring effort to move BLM headquarters from Washington, DC to Colorado, among other relocations, was done as a "wonderful way" to force federal employees who are otherwise "nearly impossible to fire" out of their jobs.¹² This open hostility to federal authority by the managers and executives of federal agencies is a signal to regional managers and employees that the only way to advance a career in government is to abuse one's authority by protecting favored interests and only prosecuting enemies of the President and the Republican Party.

These actions and omissions amount to willful violation of law and regulations, an abuse of authority to obtain advantage for favored entities by selectively enforcing or permitting violations of the law, and cumulative evidence of gross mismanagement by DM Furtado, Office Manager Wickham, and State Director Raby.

⁹ County officials followed and some continue to follow a belief system which denies the validity of the federal government's ownership of federal lands, the authority of federal officials and federal law, and has led to numerous armed confrontations throughout the last 50 years. *See generally* John Craig, 'Sagebrush' Revolt Will Be Won Without Bloodshed Nye County, Nev., *Commissioner Addresses Colville Crowd About Local Control Of Federal Lands*, SPOKESMAN-REVIEW (Mar. 29, 1995), <https://www.spokesman.com/stories/1995/mar/29/sagebrush-revolt-will-be-won-without-bloodshed/>.

¹⁰ His personal Twitter profile is @Sagebrush_Rebel. https://twitter.com/Sagebrush_Rebel

¹¹ See Chris D'Angelo, *Backdoor Appointment At Interior Adds To Fears Of A Public Land Sell-off*, HUFFINGTON POST (Aug. 7, 2019), https://www.huffpost.com/entry/william-perry-pendley-federal-land_n_5d427083e4b0acb57fc7324e.

¹² Eric Katz, *Mulvaney: Relocating Offices is a 'Wonderful Way' to Shed Federal Employees*, GOVERNMENT EXECUTIVE (Aug. 5, 2019), <https://www.govexec.com/workforce/2019/08/mulvaney-relocating-offices-wonderful-way-shed-federal-employees/158932/>.

8. Diversion of qualified personnel from conducting inspections of cyanide mining operations and refusal to train inspectors

BLM inspects cyanide and acid leachate-based mining operations, including gold mines, at least four times annually. 43 C.F.R. § 3809.600(b). There is one mining engineer in the Tonopah Field Office qualified to inspect cyanide mining operations in the Battle Mountain District. That person was tasked to permitting and preparation of NEPA documentation and taken off of performing their inspections. Patterson, who lacks expertise in cyanide mine inspection but has skills in conducting NEPA analysis, was told to perform the mine inspections instead. When Patterson protested that he was unqualified to conduct those inspections, his managers refused to provide him training and ordered him to go to the sites and perform knowingly deficient inspections. They told him that the inspections themselves did not matter and that they were only a *pro forma* exercise to demonstrate compliance on paper. Patterson was ordered to “just show your face and make a report so we can document that you were there.” Even with Dan performing quick and *pro forma* “inspections” the Battle Mountain District is still unable to complete a substantial number of the required quarterly inspections of cyanide leachate mining operations in the District.

The reassignment of singularly qualified personnel away from their areas of expertise to rush through NEPA paperwork to approve as many new mining operations as fast as possible amounts to a willful violation of law and regulation, an abuse of authority to obtain advantage for favored entities by diminishing the quality and number of safety inspections of dangerous cyanide mines, and is cumulative evidence of gross mismanagement by DM Furtado, Office Manager Wickham, and State Director Raby.

Patterson has personal knowledge of this misconduct however his access to documentary evidence has been restricted due to his placement on administrative leave.

9. Non-enforcement against the “Five Jokers” occupied mining claims

Five Jokers is a mining claim located on BLM public lands in the Kawich Range in Nye County. For many years, instead of mining the claim, five politically and economically influential persons have established vacation homes on federal property in the mountains covered by the claim. Ordinarily one can file or maintain a claim if they pay the annual fee and register it with the county. These claims are being treated as hunting cabins and vacation hangouts at high elevation, which makes them good summer getaways, but they are not being used for mineral development or exploration. The Battle Mountain District management and line employees are all aware of this and it is treated as a running joke in the office that the Five Jokers claim has been abused for so long without any enforcement action taken. This conversion of federal land is reminiscent of the old practice of “patenting” or private acquisition of federal land which has been outlawed since the mid 1990s.

For a person to “occupy public lands under the mining laws for more than 14 calendar days in any 90-day period” near a current or formerly occupied mine site, a person’s occupancy must:

- (a) Be reasonably incident;
- (b) Constitute substantially regular work;
- (c) Be reasonably calculated to lead to the extraction and beneficiation of minerals;
- (d) Involve observable on-the-ground activity that BLM may verify under § 3715.7; and
- (e) Use appropriate equipment that is presently operable, subject to the need for reasonable assembly, maintenance, repair or fabrication of replacement parts.

43 C.F.R. 3715.2. No plans currently exist to take any enforcement action against this unlawful and hostile occupation of federal property. It is unknown whether there is an explicit agreement with the Five Jokers occupants, or whether there is any relation with BLM employees, however for reasons unknown every attempt to bring an enforcement action by BLM staff is terminated in the planning stages.

These actions and omissions amount to willful violation of law and regulations, an abuse of authority to obtain advantage for favored entities by selectively enforcing or permitting violations of the law, and cumulative evidence of gross mismanagement by DM Furtado, Office Manager Wickham, and State Director Raby.

Patterson has personal knowledge of this misconduct however his access to documentary evidence has been restricted due to his placement on administrative leave.

10. Clayton Valley Lithium Mine construction on areas not covered by permit, Ablemarle Corp., Silver Peak NV.

The Ablemarle Corporation operates a mine outside of Silver Peak, Nevada on BLM lands, the Clayton Valley Lithium Mine. The company constructed a large south evaporation pond in recent years occupying approximately 1,000 acres outside of the area encompassed in their Plan of Operations boundary. Management of the Battle Mountain District has been aware of this new construction for several years, and has not taken an enforcement action, attempted to modify the Plan of Operations, considered or sought further compensation for the federal government for the occupation of its property, or prepared any of the NEPA review which would be necessary to approve such an expansion. The District is aware that this is a problem but has not determined how to resolve it yet. There is also not a reclamation plan as required by a Plan of Operations for the new large evaporation pool. Patterson believes that the District is preparing NEPA documentation to be retroactively applied to justify the expansion, but there is no question that the District will ultimately allow and wrongfully justify the expanded mining operation.

The Ablemarle Corporation has also trespassed onto public lands near Angel Island, a formation just south of Silverpeak Rd., along the east side of the mine boundary, pictured below.



The trespass of approximately 10 acres has removed more than 10,000 tons of mineral materials without a modified Plan of Operations or Notice as required by the mining laws. Both BLM management and the company are aware that this is a problem and may have communicated orally or in writing, however no official action has been taken to require reclamation, payment for removed minerals, or enforce any other requirements. In a third trespass, the company mined mineral materials near the SW boundary of the Plan of Operations, removing another 10,000 tons or more of mineral materials. Similarly, no those BLM managers who are aware have not taken any steps to bring the company into compliance, enforce the law, or require any reclamation or payment for the converted minerals.

These actions and omissions amount to willful violation of law and regulations, an abuse of authority to obtain advantage for favored entities by selectively enforcing or permitting violations of the law, and cumulative evidence of gross mismanagement by DM Furtado, Office Manager Wickham, and State Director Raby.

Patterson has personal knowledge of this misconduct however his access to documentary evidence has been restricted due to his placement on administrative leave.

III. Conclusion

In sum, it is clear that the actions and forbearances of the Battle Mountain District of the Bureau of Land Management are not authorized by any federal statute or other authority,

are in contravention of law, and have been taken for the improper benefit of favored private parties. The BLM has not achieved, or even attempted to achieve, the purported objective of the statutes it is entrusted to enforce, but instead has abused its authority and enforcement discretion to benefit favored parties and avoid politically difficult enforcement actions which may jeopardize the careers of senior district officials. These improper acts and omissions have engendered a culture of lawlessness endorsed by local BLM officials who have turned the Tonopah Field Office into a clearinghouse for federal permits which has conducted a firesale of the mineral and environmental wealth of Nevada to those lucky or powerful enough to benefit from their largesse. These actions amount to violations of law and regulations, gross mismanagement, and abuse of authority.

While documentary evidence is not currently available for all of the claimed misconduct, Patterson possesses first-hand or second-hand knowledge of all of the above as well as allegations of additional misconduct which have been made to him by other BLM employees or private citizens. Further materials will be provided via supplemental disclosures to support an initial determination by investigators to pursue these matters.

BLM has proposed a new 14-day suspension against Patterson for inappropriate office conduct which will be answered by Patterson's legal counsel. That proposed disciplinary action was taken at least in part as retaliation for the perception by BLM management that Patterson disclosed certain facts about the above disclosures, in particular the belief that Patterson may have disclosed the threat to Tiehm's Buckwheat included in Disclosure #4 to an ecologist working with the Center for Biological Diversity, at which Patterson was previously employed. Documentation is currently possessed by Patterson which demonstrates that Office Manager Wickham verbally confirmed that the belief that Patterson was involved a request by the Center for Biological Diversity for documents pertaining to Tiehm's Buckwheat which was causing problems for the Tonopah Field Office. Because whistleblower retaliation may be an affirmative defense to that proposal, and further retaliation is likely being contemplated by the BLM for this disclosure and Patterson's other whistleblower activities, it is requested that this disclosure is treated as urgent and resolved on an expedited basis.

Respectfully Submitted,

Oct. 4, 2019



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