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31

HIGH VISIBILITY CASES (December 2007)

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(b) (6)

Concerns unrelated
individuals

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(b) (6)

unrelated
individuals

ITH, Glenn (Wildlife Biologist, GS-486-9, Tongass National Forest. Date initiated: 7/20/07)

ACTION: Proposed adverse action (removal).

ISSUE: Whether administrative action can/should be taken on a whistleblower for misconduct unrelated to the whistleblowing.

May/June 06: Employee approves article in FSEEE pleading for funds for lawsuit against the FS, in apparent violation of the regulations prohibiting fundraising. Employee elected not to discuss disclosure of information to FSEEE and fundraising to any management official of the Petersburg Ranger District, Tongass National Forest, or the Region.

IMPORTANCE: The employee went public on a matter involving an alleged illegal road construction without clearing NEPA requirements. Employee went to Forest Service Employee for Environmental Ethics (FSEEE) who took the matter went to court and an injunction was apparently granted, staying further development.

STATUS:

- 3/26/07: Draft of proposed removal sent to Region for comment. Once the draft passes initial muster, it will be sent to WO and OGC and probably Gary Gilbert, as well, for comment.
- 4/2/07: Draft sent to OGC and Gary Gilbert for response.
- 4/9/07: Telephonic meeting with OGC/GG. Talked with Ron Walkow and associate. FedEx'd casfile to OGC today. Due to scheduling conflict, GG unable to participate.
- 5/1/07: Draft continues to be reviewed by OGC (Ron Walkow/Tami Trost).
- 5/31/07: OGC to give review by 6/4/07.
- 6/5/07: OGC to give review by 6/7/07.
- 7/20/07: Proposed adverse action served on employee.
- 7/27/07: Employee responds to reply.
- 9/7/07: Sent draft of notice to Deciding official for review.

- 9/19/07: Sent draft of decision notice to OGC for review
- 9/25/07: OGC returns draft, seeking Douglas discussion in decision notice.
- 10/6/07: Sent OGC revised decision notice for approval.
- 10/23/07: OGC says review to be completed by 10/26
- 10/28/07: D.O. says he has new information that will strengthen the case.
- 10/29/07: OGC wants to look at this new information.
- 10/31/07: D.O. is warned against considering the new information in decision-making.
- 12/7/07: D.O. receives new information and sends to OGC for review and comment.
- Deciding official prepared to move forward with decision. However, employee has filed whistleblower complaint, alleging proposed AA is in retaliation for protected activity. OSC is asking if we're receptive to mediation. R10 is. Agency wants employee off the agency rolls and is willing to drop AA proceedings in favor of a resignation. [NOTE: Employee should be removed from the agency, not reassigned to another R/S/A, since the misconduct of releasing deliberative material strikes at the very heart of his employment.]

THIRD-PARTY CASES

(b)(6) Unrelated
Individuals