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THE WHITE HOUSE

WASHINGTON

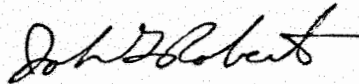
February 21, 1985

Dear Mr. O'Connor:

Thank you for your letter of February 15 to Counsel to the President Fred F. Fielding, transmitting a letter to the President. The letter to the President was submitted pursuant to 5 U.S.C. § 1206(b)(5), and concerned a report of the Secretary of Agriculture on allegations of violation of law and regulation, mismanagement and waste of funds by a United States Forest Service employee. You stated in your letter to the President that you have reviewed the Secretary's report and found that his findings appear reasonable and complete in accordance with 5 U.S.C. § 1206(b)(4).

Thank you for advising us of your actions in this matter.

Sincerely,



John G. Roberts
Associate Counsel to the President

The Honorable K. William O'Connor
Special Counsel, U.S. Merit Systems
Protection Board
1120 Vermont Avenue, N.W., Suite 1100
Washington, D.C. 20005

PE001

**WHITE HOUSE
CORRESPONDENCE TRACKING WORKSHEET**

- ☐ O - OUTGOING
☐ H - INTERNAL
☐ I - INCOMING
 Date Correspondence Received (YY/MM/DD) 1 / 1

R - JR

Name of Correspondent: K. William O'Connor

☐ MI Mail Report User Codes: (A) _____ (B) _____ (C) _____

Subject: OSC File # 10-4-71182 re: employee of the Forest Service in Klamath River, California

ROUTE TO:

ACTION

DISPOSITION

Office/Agency (Staff Name)	Action Code	Tracking Date YY/MM/DD	Type of Response	Code	Completion Date YY/MM/DD
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	Referral Note:				
<u>CUAT 18</u>	<u>R</u>	<u>85102120</u>		<u>S</u>	<u>85103102</u>
	Referral Note:				
		<u>1 / 1</u>			<u>1 / 1</u>
	Referral Note:				
		<u>1 / 1</u>			<u>1 / 1</u>
	Referral Note:				
		<u>1 / 1</u>			<u>1 / 1</u>
	Referral Note:				

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 Code = "A"
 Completion Date = Date of Outgoing

Comments: _____

Keep this worksheet attached to the original incoming letter.
 Send all routing updates to Central Reference (Room 75, OEOB).
 Always return completed correspondence record to Central Files.
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OFFICE OF THE SPECIAL COUNSEL
U.S. Merit Systems Protection Board

296092CU



February 15, 1985

1120 Vermont Avenue, N.W. Suite 1100
Washington, D.C. 20005

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

Re: OSC File No. 10-4-71182

Dear Mr. Fielding

Pursuant to 5 U.S.C. sec. 1206(b)(5) and 5 C.F.R. sec. 1252.2(f), I am sending the enclosed letter and report to the President.

If I may provide more information concerning this matter, please let me know.

With respect,

A handwritten signature in black ink, appearing to read "K. William O'Connor", is written over the typed name.

K. William O'Connor

KWO'C:DJD/paj

Enclosures

- (1) Letter & report
- (2) Copies of letters to
The Honorable George Bush &
The Honorable Thomas P. O'Neill, Jr.

OFFICE OF THE SPECIAL COUNSEL
U.S. Merit Systems Protection Board



February 15, 1985

1120 Vermont Avenue, N.W. Suite 1100
Washington, D.C. 20005

The Honorable Ronald W. Reagan
The President of the United States
The White House
Washington, D.C. 20500

Dear Mr. President:

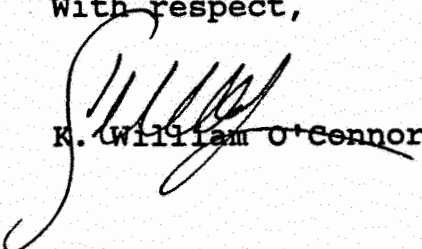
In accordance with 5 U.S.C. sec. 1206(b)(5) and 5 C.F.R. sec. 1252.2(f), I am transmitting a copy of a report of the Secretary of Agriculture, submitted to me pursuant to 5 U.S.C. sec. 1206(b)(4). The report sets forth the findings and conclusions of the Secretary's investigation into allegations of a violation of law and regulation, mismanagement and a waste of funds by an employee of the Klamath National Forest, U.S. Forest Service, Klamath River, California, referred to him pursuant to 5 U.S.C. sec. 1206(b)(3).

The investigation, conducted by an agent of the Office of Inspector General, USDA, substantiated the employee's involvement in falsified time and attendance reporting; negligent contract enforcement; a conflict of interest violation; and misuse of a government vehicle. The matter was referred to the U.S. Attorney by the Department of Agriculture for a determination as to whether prosecution is warranted. The employee was removed from all contracting officer representative responsibilities, and appropriate adverse action is contemplated by the agency, after receipt of the decision of the U.S. Attorney. Finally, action was taken to inform all employees of the agency's conflict of interest regulations.

As required by 5 U.S.C. sec. 1206(b)(6), I have reviewed the Secretary's report for reasonableness and conformity to the requirements of 5 U.S.C. sec. 1206(b)(4).

I find that the Secretary's findings appear reasonable and complete in accordance with 5 U.S.C. sec. 1206(b)(4).

With respect,


K. William O'Connor

KWO'C:WAS/paj

Enclosure

THE WHITE HOUSE

WASHINGTON

February 28, 1985

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: Congressman Dymally Correspondence
Concerning MSPB Special Counsel

Congressman Dymally (D-CA), Chairman of the House Subcommittee on Postal Personnel and Modernization, has written the President to protest the prosecution of three presidents of Federal employee unions for violations of the Hatch Act. The three are and have been for several years on unpaid leave from their Federal jobs. K. William O'Connor, Special Counsel of the Merit Systems Protection Board (MSPB), has concluded that the union presidents violated the Hatch Act through their political activities during the recent national election. He gave them until February 26 to resign or retire, or face prosecution. None of the three resigned or retired, and charges were filed before the MSPB on February 26. The case is pending before the Board.

Congressman Dymally requests the President "to halt the actions threatened against the three union presidents." In fashioning a reply to Dymally, it is important to recognize that the President legally could do what he requests. The Special Counsel, while clearly independent of the MSPB, is not independent of the President, and is fully subject to Presidential control, extending up to removal at will. It is true that the pertinent statute specifies that the Special Counsel serves for a term of five years and may be removed by the President "only for inefficiency, neglect of duty, or malfeasance in office." 5 U.S.C. § 1204. The Office of Legal Counsel, however, has determined that the Special Counsel -- as distinct from the MSPB itself -- performs largely executive functions (enforcement of the laws), and that Congress may not restrict the President's power to remove him. 2 O.L.C. Ops. 120 (1978). Accordingly, the attached draft reply does not forswear Presidential responsibility for the actions of the Special Counsel. Rather, it states that interference by the President would be inappropriate given the fact that a prosecution is pending -- the same reply that would be given with respect to a case brought by a U.S. Attorney. The distinction will probably be lost on Congressman Dymally who, in any event, would be the first to scream about Presidential interference in any other MSPB case.

THE WHITE HOUSE

WASHINGTON

February 28, 1985

Dear Mr. Dymally:

This is written in response to your letter of February 25 to the President. In that letter you requested that the President take action to halt the prosecution of three Federal employees by the Special Counsel of the Merit Systems Protection Board for alleged violations of the Hatch Act.

The Special Counsel is specifically authorized by statute to investigate and prosecute allegations of political activity prohibited by the Hatch Act. 5 U.S.C. § 1206. It is my understanding that complaints against the three individuals referred to in your letter were filed by the Special Counsel on February 26. Those complaints are now pending before the Merit Systems Protection Board, as provided by statute. Any employee subject to a final order of the Board imposing disciplinary action may obtain judicial review of the order. In short, the statutory procedure for handling cases of this sort has been invoked, and it would be inappropriate for the President to interfere with such pending prosecutions.

Sincerely,

Orig. signed by FFF

Fred F. Fielding
Counsel to the President

The Honorable Mervyn M. Dymally
Chairman, Subcommittee on Postal
Personnel and Modernization
Committee on Post Office and Civil
Service
United States House of Representatives
Washington, D.C. 20515

FFF:JGR:aea 2/28/85
bcc: FFFfielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

February 28, 1985

Dear Mr. Dymally:

This is written in response to your letter of February 25 to the President. In that letter you requested that the President take action to halt the prosecution of three Federal employees by the Special Counsel of the Merit Systems Protection Board for alleged violations of the Hatch Act.

The Special Counsel is specifically authorized by statute to investigate and prosecute allegations of political activity prohibited by the Hatch Act. 5 U.S.C. § 1206. It is my understanding that complaints against the three individuals referred to in your letter were filed by the Special Counsel on February 26. Those complaints are now pending before the Merit Systems Protection Board, as provided by statute. Any employee subject to a final order of the Board imposing disciplinary action may obtain judicial review of the order. In short, the statutory procedure for handling cases of this sort has been invoked, and it would be inappropriate for the President to interfere with such pending prosecutions.

Sincerely,

Fred F. Fielding
Counsel to the President

The Honorable Mervyn M. Dymally
Chairman, Subcommittee on Postal
Personnel and Modernization
Committee on Post Office and Civil
Service
United States House of Representatives
Washington, D.C. 20515

FFF:JGR:aea 2/28/85
bcc: FFFielding/JGRoberts/Subj/Chron

**WHITE HOUSE
CORRESPONDENCE TRACKING WORKSHEET**

FL002

☐ **O - OUTGOING**

☐ **H - INTERNAL**

☐ **I - INCOMING**

Date Correspondence Received (YY/MM/DD) 1 / 1

Name of Correspondent: Douglas A. Riggs

☐ **MI Mail Report**

User Codes: (A) _____ (B) _____ (C) _____

Subject: Letter from Congressman Dymally

ROUTE TO:

ACTION

DISPOSITION

Office/Agency	(Staff Name)	Action Code	Tracking Date YY/MM/DD	Type of Response	Code	Completion Date YY/MM/DD
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<u>CUAT/8</u>		Referral Note:	<u>DD 85102126</u>		<u>S</u>	<u>85103108</u>
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		Referral Note:	<u>1 / 1</u>			<u>1 / 1</u>
		Referral Note:	<u>1 / 1</u>			<u>1 / 1</u>

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297354 *CH*

THE WHITE HOUSE
WASHINGTON

February 26, 1985

MEMORANDUM FOR: Dick Hauser

FROM: DOUGLAS A. RIGGS
Special Assistant to the President
for Public Liaison

SUBJECT: Letter from Congressman
Dymally

Though the envelope specified me,
I am forwarding the letter to
Legal Counsel for disposition.

House of Representatives

Committee on Post Office and Civil Service

Washington, D.C. 20515

TELEPHONE (202) 225-4054

February 25, 1985

Honorable Ronald Reagan
President of the United States
The White House
Washington, D.C. 20500 Attention: Mr. Douglas Riggs

Dear Mr. President:

I must express to you my strong objections to recent actions taken by Mr. K. William O'Connor, Special Counsel, Merit Systems Protection Board, against three presidents of unions which represent Federal and Postal employees. I am referring to letters sent by the Special Counsel to Mr. Moe Biller, Mr. Vincent Sombrotto, and Mr. Kenneth Blaylock, threatening them with prosecution for violations of the Hatch Act unless they resign their positions by February 26th.

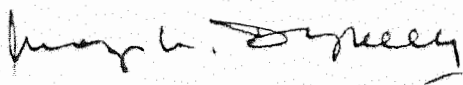
As you are aware, the three above-named gentlemen represent well over one million Federal and Postal employees. They have all been on unpaid leave of absence from government employment for a minimum of fourteen years. In their respective capacities as union presidents, they have a responsibility to represent the interests of their members and to keep their members informed on actions of the Executive and Legislative branches which affect them.

It is clear that this type of official duty does not fall within the potential abuses of government service which the Hatch Act was intended to prevent. On the contrary, the Hatch Act was intended to preserve the objectivity of government employees by protecting them from political solicitations and intimidation from higher government officials. Therefore, the actions of the Special Counsel against Mr. Biller, Mr. Sombrotto, and Mr. Blaylock, calls into question his ability to properly carry out the responsibilities vested in the Office of the Special Counsel under the Civil Service Reform Act of 1978. I recently referred to Mr. O'Connor a case brought to my attention which involves alleged prohibited personnel actions against a former Navy employee. This case was given a cursory review and summarily dismissed by Mr. O'Connor. In light of this, the priorities of the Special Counsel must be carefully scrutinized.

Honorable Ronald Reagan
February 25, 1985
Page two

It is fundamental to our democratic system that individuals be allowed to speak out against policies of their elected officials with which they disagree, without fear of intimidation and retaliatory measures. I respectfully call upon you to review the activities of the Office of the Special Counsel and to halt the actions threatened against the three union presidents.

Sincerely,

A handwritten signature in dark ink, appearing to read "Mervyn M. Dymally", written in a cursive style.

MERVYN M. DYMALLY
Chairman
Subcommittee on Postal Personnel
and Modernization

THE WHITE HOUSE

WASHINGTON

April 19, 1985

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*
SUBJECT: OSC File # 10-4-71418 with Regard
to the Red River Army Depot

As required by 5 U.S.C. § 1206(b)(5), the Special Counsel of the Merit Systems Protection Board has forwarded to the President a report submitted to the Special Counsel by the Secretary of the Army on a whistleblower's allegations. A former employee at the Red River Army Depot in Texarkana, Texas alleged false reporting of turbidity (water clarity) readings; the Secretary's report indicates that the allegations were largely untrue. Certain technical problems, which have since been corrected, did result in estimated rather than actual readings on weekends for one month. The Special Counsel advises, pursuant to 5 U.S.C. § 1206(b)(6), that he has reviewed the Secretary's report and finds it reasonable and complete.

No further action is required; our practice has been to send the Special Counsel a barebones acknowledgment of his transmittal. A draft is attached.

Attachment

THE WHITE HOUSE

WASHINGTON

April 19, 1985

Dear Mr. O'Connor:

Thank you for your letter of April 12, transmitting a letter to the President. The letter to the President was submitted pursuant to 5 U.S.C. § 1206(b)(5), and concerned a report of the Secretary of the Army on allegations by a former employee of false reporting of turbidity readings at the Red River Army Depot in Texarkana, Texas. You stated in your letter to the President that you have reviewed the Secretary's report and found that his findings appear reasonable and complete in accordance with 5 U.S.C. § 1206(b)(4).

Thank you for advising us of your actions in this matter.

Sincerely,

Orig. signed by FFF

Fred F. Fielding
Counsel to the President

The Honorable K. William O'Connor
Special Counsel, U.S. Merit Systems
Protection Board
1120 Vermont Avenue, N.W., Suite 1100
Washington, D.C. 20005

FFF:JGR:aea 4/19/85
bcc: FFFfielding
JGRoberts
Subj
Chron

THE WHITE HOUSE

WASHINGTON

April 19, 1985

Dear Mr. O'Connor:

Thank you for your letter of April 12, transmitting a letter to the President. The letter to the President was submitted pursuant to 5 U.S.C. § 1206(b)(5), and concerned a report of the Secretary of the Army on allegations by a former employee of false reporting of turbidity readings at the Red River Army Depot in Texarkana, Texas. You stated in your letter to the President that you have reviewed the Secretary's report and found that his findings appear reasonable and complete in accordance with 5 U.S.C. § 1206(b)(4).

Thank you for advising us of your actions in this matter.

Sincerely,

Fred F. Fielding
Counsel to the President

The Honorable K. William O'Connor
Special Counsel, U.S. Merit Systems
Protection Board
1120 Vermont Avenue, N.W., Suite 1100
Washington, D.C. 20005

FFF:JGR:aea 4/19/85
bcc: FFFielding
JGRoberts
Subj
Chron

310831

ID #

CU

**WHITE HOUSE
CORRESPONDENCE TRACKING WORKSHEET**

☐ O - OUTGOING☐ H - INTERNAL☐ I - INCOMINGDate Correspondence
Received (YY/MM/DD) 1 1Name of Correspondent: William O'Connor☐ MI Mail Report

User Codes: (A) _____ (B) _____ (C) _____

Subject: OSC file # 10-4-71418 with regard to the
Red River Army Depot**ROUTE TO:****ACTION****DISPOSITION**

Office/Agency (Staff Name)	Action Code	Tracking Date YY/MM/DD	Type of Response	Code	Completion Date YY/MM/DD
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<u>CUAT 18</u>	<u>D</u>	<u>85104117</u>	<u>PY1</u>		<u>85104127</u>
	Referral Note:				
		<u>1 1</u>			<u>1 1</u>
	Referral Note:				
		<u>1 1</u>			<u>1 1</u>
	Referral Note:				
		<u>1 1</u>			<u>1 1</u>
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OFFICE OF THE SPECIAL COUNSEL
U.S. Merit Systems Protection Board

310831 *cu*



The Special Counsel

1120 Vermont Avenue, N.W., Suite 1100
Washington, D.C. 20005

April 12, 1985

The Honorable Fred F. Fielding
Counsel to the President
The White House
Washington, D.C. 20200

Re: OSC File No. 10-4-71418

Dear Mr. Fielding:

Pursuant to 5 U.S.C. § 1206(b)(5) and 5 C.F.R. § 1252.2(f), I am sending the enclosed letter and report to the President.

If I may provide more information concerning this matter, please let me know.

With respect,

[Signature]
William O'Connor

KWO'C:DJD/sm

Enclosures

- (1) Letter & report
- (2) Copies of letters to
The Honorable George Bush &
The Honorable Thomas P. O'Neill, Jr.

OFFICE OF THE SPECIAL COUNSEL
U.S. Merit Systems Protection Board



The Special Counsel

1120 Vermont Avenue, N.W., Suite 1100
Washington, D.C. 20005

April 12, 1985

The Honorable Ronald W. Reagan
The President of the United States
Washington, D.C. 20500

Dear Mr. President:

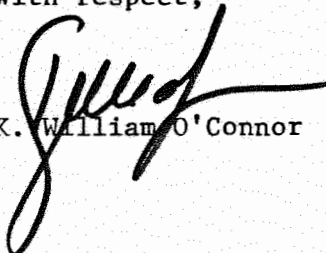
In accordance with 5 U.S.C. § 1206(b)(5) and 5 C.F.R. § 1252.2(f), I am transmitting a copy of a report of the Secretary of the Army, submitted to me pursuant to 5 U.S.C. § 1206(b)(4). The report sets forth the findings and conclusions of the Secretary's investigation into allegations of false reports of daily turbidity readings, unavailable or non-working turbidity meters and unacceptably high turbidity readings taken when meters became available at the Red River Army Depot, Texarkana, Texas. I had transmitted these allegations to the Secretary on January 15, 1985, pursuant to 5 U.S.C. § 1206(b)(3) & (4).

The investigation found that working turbidity meters have been in use since 1978, except for a period in February 1984, which was reported to the Texas Department of Health. When only one meter was available in January 1984, a supervisor took readings during the week but extrapolated and estimated for weekend readings when he was not present at the worksite.

The Department of the Army revised the procedures for turbidity testing, provided for water plant supervision 24 hours per day and 7 days per week and reprimanded the supervisor who reported extrapolated test results.

As required by 5 U.S.C. § 1206(b)(6), I have reviewed the Secretary's report and find that the findings appear reasonable and complete in accordance with the requirements of 5 U.S.C. § 1206(b)(4).

With respect,


K. William O'Connor

KWO'C:DJD/sm
Enclosure