



PROTECT the PUBLIC'S TRUST

VIA ELECTRONIC MAIL

September 13, 2022

TO: The Honorable Mark Greenblatt
Inspector General
U.S. Department of the Interior
1849 C St., N.W.
Washington, D.C. 20240

Ms. Heather Gottry
Designated Agency Ethics Official
U.S. Department of the Interior
1849 C St., N.W.
Washington, D.C. 20240

The Honorable Emory A. Rounds, III
Director
U.S. Office of Government Ethics
1201 New York Ave., N.W.
Suite 500
Washington, D.C. 2005

**Re: Request for Investigation into Apparent Conflict of Interest Violation by
Principal Deputy Assistant Secretary-Land and Minerals Management
Laura Daniel-Davis**

Dear Mr. Greenblatt,

Protect the Public's Trust (PPT) is a nonpartisan organization dedicated to promoting ethics in government and restoring the public's trust in government officials. Toward this end, we are submitting this complaint based on public records obtained by PPT raising questions of whether Laura Daniel-Davis has effectively "switched sides" in the effort to advance the litigation objectives of her former employer.

We respectfully request that you investigate whether Principal Deputy Assistant Secretary for Land and Minerals Management Laura Daniel-Davis violated federal conflict of interest regulations, as well as her obligations under the Biden Administration Ethics Pledge, by participating in particular matters relating to the suspension of activities related to the Coastal Plain Oil and Gas Leasing Program.

Documents obtained by PPT show that Ms. Daniel-Davis participated personally and substantially in decisions relating to the suspension of activities related to the Coastal



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Plain Oil and Gas Lease Program. Ms. Daniel-Davis' former employer was a party to a lawsuit challenging the Coastal Plain National Environmental Policy Act ("NEPA") analysis, including on grounds similar to those adopted by the Department in suspending activities related to the Coastal Plain program. At minimum, this connection creates a reasonable appearance of impropriety. At worst, it suggests that Ms. Daniel-Davis may have participated personally and substantially in a particular matter in which her former employer was an interested party.

This warrants immediate investigation to determine whether Ms. Daniel-Davis improperly participated in a particular matter involving her former employer.

I. Background

Ms. Daniel-Davis is currently, and at all relevant times was, the Principal Deputy Assistant Secretary for Land and Minerals Management at the Department of the Interior.¹ Upon joining the Department, on January 24, 2021, Ms. Daniel-Davis signed the Biden Administration Ethics Pledge.²

Prior to her current tenure at the Department of the Interior, Ms. Daniel-Davis was employed by the National Wildlife Federation from at least January 30, 2018 through the time she joined the Department.³ As a result, Ms. Daniel-Davis had a "covered relationship" with the National Wildlife Federation, as described in her Ethics Agreement.

On August 17, 2020, Secretary Bernhardt signed the Record of Decision ("ROD") for the Coastal Plain Oil and Gas Leasing Program (Coastal Plain or ANWR). One week later, on August 24, 2020, several environmental groups, including the National Wildlife Federation, filed a complaint challenging the Coastal Plains ROD and underlying NEPA review.⁴ Among other things, this Complaint sought to invalidate the ROD and

¹ See *Laura Daniel-Davis*, U.S. Department of the Interior (Accessed Aug. 16, 2022), <https://www.doi.gov/laura-daniel-davis>; *President Biden Announces Five Key Nominations*, The White House (June 18, 2021), <https://www.whitehouse.gov/briefing-room/statements-releases/2021/06/18/president-biden-announces-five-key-nominations-2/>.

² However, her "Ethics Guidance on Recusal Agreement" was not finalized and signed until nearly eleven months later on December 29, 2021, raising concerns that necessary guidance was not issued in a timely manner. The document can be found at: <https://protectpublictrust.org/wp-content/uploads/2022/09/LDD-12.29.21-Ethics-Guidance.pdf>.

³ See *supra* note 1.; see also Miles Grant, *Leading Conservationist Joins National Wildlife Federation*, National Wildlife Federation (Jan. 30, 2018), <https://www.nwf.org/Home/Latest-News/Press-Releases/2018/01-30-17-Leading-Conservationist-Joins-NWF>.

⁴ See Complaint, *Gwich'in Steering Committee, et al. v. Haaland, et al.*, Case No. 3:20-cv-00204-SLG (D. Alaska Aug. 24, 2020).



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underlying NEPA analysis, and to vacate decisions to lease and leases predicated on the ROD and underlying NEPA analysis. This case remains open today.⁵

Beginning days after the new Administration began in January 2021, Ms. Daniel-Davis actively engaged with Department staff regarding the permitting of seismic activity in the Coastal Plain of the Arctic National Wildlife Refuge (ANWR) and inserted herself as a key decision-maker on all currently planned activities involving the Arctic Refuge/Coastal Plain.⁶ She also continued to be involved in requests by the Kaktovik Inupiat Corporation (KIC) to advance their seismic permit and request a 2022 application.⁷ Seismic exploration by the KIC was specifically referenced and opposed in the *Gwich'in Steering Committee* Complaint.

Records released in response to OS 21-4059 show Ms. Daniel-Davis organized a meeting held on May 10, 2021, titled “Meeting re: Arctic Litigation Update.”⁸

On June 1, 2021, Secretary Haaland issued Secretary’s Order 3401, which identified “deficiencies” in the NEPA analysis supporting the Coastal Plains ROD, directed a “temporary halt on all Department activities related to the Program in the Arctic Refuge, and directed the Department to conduct a new, comprehensive environmental analysis to “correct the identified legal deficiencies.” Several of the “deficiencies” identified are very similar to those alleged in the *Gwich'in Steering Committee* Complaint.

Secretary’s Order 3401 assigned implementation authority to the Assistant Secretary for Land and Minerals Management and the Principal Deputy Assistant Secretary for Land and Minerals Management.⁹ Ms. Daniel-Davis was (and is) the Principal Deputy Assistant Secretary and was nominated to be the Assistant Secretary shortly thereafter.¹⁰

Also on June 1, 2021, Ms. Daniel-Davis issued letters suspending all nine leases issued under the Coastal Plains program, prohibiting lease operations on the lease, tolling the terms of the leases, and suspending lease rentals.¹¹ Several legal arguments in these

⁵ See, e.g., Order, *Gwich'in Steering Committee, et al. v. Haaland, et al.*, Case No. 3:20-cv-00204-SLG (D. Alaska Jul. 12, 2020) (directing that a further status report be filed with the court on November 30, 2022).

⁶ See Email chain regarding “*Secretarial Order 3395/Follow-up*,” (Jan. 25, 2021), found at: https://protectpublictrust.org/wp-content/uploads/2022/09/FW_-Secretarial-Order-3395_Follow-up-LDD-Redacted.pdf.

⁷ See Email chain titled, “Marsh Creek East Seismic Program Application Extension Request,” (March 1, 2021), found at: <https://protectpublictrust.org/wp-content/uploads/2022/09/Email-Re-2020-Marsh-Creek-East-Seismic-LDD.pdf>.

⁸ See Freedom of Information Act Response OS 21-4059, released to PPT on Jan. 25, 2022 at 407.

⁹ See Secretary’s Order 3401 at § 5(c).

¹⁰ See *President Biden Announces Five Key Nominations*, The White House (June 18, 2021), <https://www.whitehouse.gov/briefing-room/statements-releases/2021/06/18/president-biden-announces-five-key-nominations-2/>.

¹¹ See Joint Status Report and Defendants’ Unopposed Motion to Extend Stay at 3, *Gwich'in Steering Committee, et al. v. Haaland, et al.*, Case No. 3:20-cv-00204-SLG (D. Alaska June 11, 2021).



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letters are similar to those raised in the litigation efforts of her former employer seeking the same result.

Later, on August 4, 2021, Ms. Daniel-Davis, in her capacity as Principal Deputy Assistant Secretary, signed a federal register notice to prepare a supplemental environmental impact statement for the Coastal Plains Oil and Gas Program.¹²

II. The Law

Federal conflict of interest regulations state:

Where an employee knows that a particular matter involving specific parties is likely to have a direct and predictable effect on the financial interest of a member of his household, or knows that a person with whom he has a covered relationship is or represents a party to such matter, and where the employee determines that the circumstances would cause a reasonable person with knowledge of the relevant facts to question his impartiality in the matter, the employee should not participate in the matter unless he has informed the agency designee of the appearance problem and received authorization from the agency designee in accordance with paragraph (d) of this section.¹³

For purposes of this regulation, the term “covered relationship” includes “Any person for whom the employee has, within the last year, served as officer, director, trustee, general partner, agent, attorney, consultant, contractor or employee.”¹⁴

The term “particular matter involving specific parties” means “any judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, investigation, charge, accusation, arrest or other particular matter involving a specific party or parties in which the United States is a party or has a direct and substantial interest.”¹⁵

In addition, the Biden Administration Ethics Pledge provides: “I will not for a period of 2 years from the date of my appointment participate in any particular matter involving

¹² Bureau of Land Management, *Notice of Intent To Prepare a Supplemental Environmental Impact Statement for the Coastal Plain Oil and Gas Leasing Program, Alaska*, 86 Fed. Reg. 41989 (Aug. 4, 2021).

¹³ 5 C.F.R. § 2635.502(a).

¹⁴ 5 C.F.R. § 2635.502(b)(1)(iv).

¹⁵ 5 C.F.R. § 2637.102(a)(7); *see also* 5 C.F.R. § 2635.502(b)(3) (“Particular matter involving specific parties has the meaning set forth in § 2637.102(a)(7) of this chapter.”).



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specific parties that is directly and substantially related to my former employer or former clients, including regulations and contracts.”¹⁶

III. Analysis

There is reason to believe Ms. Davis-Daniels may have violated both her duties under the federal conflict of interest regulations and her commitments under the Biden Administration Ethics Pledge.

a. Federal Conflict of Interest Regulations

There is reason to believe Ms. Daniel-Davis may have violated the federal conflict of interest regulations.

As noted in her Ethics Agreement with the Department, Ms. Daniel-Davis has a covered relationship with the National Wildlife Federation by virtue of having served as an employee of the National Wildlife Federation within the past year prior to Secretary’s Order 3401 and the Federal Register notice seeking comment on a supplemental environmental impact statement for Coastal Plains.

The National Wildlife Federation is a party to a lawsuit against the Department concerning the Coastal Plains ROD and leasing decisions. The lawsuit is a particular matter involving specific parties.

A FOIA release to PPT raises questions about whether Ms. Daniel-Davis was personally involved in the party matter involving her former employer. Records released in response to OS 21-4059 show Ms. Daniel-Davis organizing a meeting held on May 10, 2021, titled “Meeting re: Arctic Litigation Update.”¹⁷ While the title of the meeting may appear to leave room for interpretation, in commonly understood Department parlance, “Arctic litigation” would most likely refer to litigation involving the oil and gas program

¹⁶ Executive Office of the President, *Executive Order 13989: Ethics Commitments by Executive Branch Personnel*, 86 Fed. Reg. 7029 (Jan. 25, 2021); *see also* 5 C.F.R. § 2641.201(h) (defining particular matters involving specific parties for purposes of the Biden Administration Ethics Pledge).

¹⁷ Notably, another senior official whose former employers were involved in Arctic litigation was also a required attendee and may require similar scrutiny for potential ethics violations. In particular, Nada Culver was a required attendee. Ms. Culver’s former employer, the National Audubon Society, was a leading plaintiff in Arctic litigation seeking to stop or cancel the Coastal Plain leases. *See Complaint, National Audubon Society, et al. v. Haaland*, Case No. 3:20-cv-00205-SLG (D. Alaska Aug. 24, 2020). The Wilderness Society, another former employer of Ms. Culver, was also involved in similar litigation efforts. *See supra n. 4*. Coincidentally, the precise action sought in Ms. Culver’s former employer’s lawsuit was achieved three weeks later in Ms. Daniel-Davis’ letter to lease holders. Notably, Ms. Culver is listed as a main point of contact for any follow up questions lease holders may have. In the event this meeting pertained to litigation involving a party matter other than Coastal Plain, Ms. Culver’s former employers were involved in litigation on a range of other issues including NPRA IAP, Willow Project, Izembek Land Exchange, and Ambler Road.



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in the Coastal Plain. This meeting alone raises questions regarding whether Ms. Daniel-Davis participated personally and substantially in discussions relating to Coastal Plain litigation, including the case brought by her former employer.

It is established that Ms. Daniel-Davis participated personally and substantially in the decision to suspend operations on the Coastal Plain upon entering the Department in January 2021 and the decision to halt all activity on the previously approved KIC seismic permit.¹⁸ It is also clear that Ms. Daniel-Davis developed and signed the lease suspension letters suspending all nine leases issued under the Coastal Plains program, prohibiting lease operations on the lease, tolling the terms of the leases, and suspending lease rentals. And Ms. Daniel-Davis signed the Federal Register Notice of Intent to prepare a supplemental environmental impact statement for the Coastal Plain.

Ms. Daniel-Davis' actions suspending leases and lease operations pursuant to the Coastal Plains ROD had a direct and predictable effect on litigation concerning the Coastal Plains ROD. To wit, the parties to the litigation cited Ms. Daniel-Davis' actions as one of the reasons to respectively support or take no position on the Department's request for a stay in the lawsuit, noting that "Consistent with Order 3401, on June 1, 2021, Laura Daniel-Davis, Principal Deputy Assistant Secretary for Land and Minerals Management, issued letters suspending all nine leases under the Program effective that same day, prohibiting any lease operations on the leases, tolling the terms of the leases and suspending lease rentals."¹⁹

To the extent that Ms. Daniel-Davis' actions suspending the leases were said to be taken in response to directives in Secretary's Order 3401, the timing and content of the Order and the lease suspension letters imply personal and substantial involvement by Ms. Daniel-Davis' in drafting relevant portions of Secretary's Order 3401. Documents such as the lease suspension letters are not whipped up on a whim but typically involve a rigorous composition and editing process involving the official under whose signature they are issued. It is highly unlikely these letters would have been available for release at this time if Ms. Daniel-Davis had no foreknowledge of Secretary's Order 3401. The alleged deficiencies in the Order closely track the legal arguments raised by her former employer and both the Order and suspension letters were dated the same day (June 1), reducing further the likelihood that Ms. Daniel-Davis was merely carrying out orders from her superior.

Finally, the circumstances could cause a reasonable person to question Ms. Daniel-Davis' impartiality on this matter. The Department took substantially similar action to the relief requested by Ms. Daniel-Davis' former employer. Ms. Daniel-Davis was a senior employee of the National Wildlife Federation at the time it filed the complaint seeking to

¹⁸ See footnotes 6-7 *supra*.

¹⁹ Joint Status Report and Defendants' Unopposed Motion to Extend Stay, *Gwich'in Steering Committee, et al. v. Haaland, et al.*, Case No. 3:20-cv-00204-SLG (D. Alaska June 11, 2021).



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invalidate the lease sales and enjoin seismic activity from proceeding. And Ms. Daniel-Davis cited arguments that were similar to those advanced by her former employer in the lease suspension letters.

There is no indication on the record that Ms. Daniel-Davis received authorization to participate in this matter from a designated agency official.

Accordingly, there is reason to believe that Ms. Daniel-Davis may have violated federal conflict of interest regulations.

b. The Biden Administration Ethics Pledge

There is reason to believe Ms. Daniel-Davis may have violated the terms of the Biden Administration Ethics Pledge.

As noted, Ms. Daniel-Davis was employed by the National Wildlife Federation within the past two years. Moreover, as noted above, the National Wildlife Federation's litigation is a particular matter involving specific parties.

Note, in general, the term "particular matter involving specific parties" does not include "[l]egislation or rulemaking of general applicability and the formulation of general policies, standards or objectives, or other matters of general applicability."²⁰ However, the Biden Administration Ethics Pledge evinces an intent to be broader, specifically noting that restrictions on matters involving former employers extends to "regulations," which otherwise would be considered matters of general applicability. Thus, even if Ms. Daniel-Davis' participation did not involve a particular matter involving specific parties for purposes of federal conflict of interest regulations (it appears that it does), it might for purposes of the Biden Administration Ethics Pledge.

Thus, there is reason to believe Ms. Daniel-Davis may have violated the Biden Administration Ethics Pledge.

IV. Conclusion

Oil and gas exploration on the Coastal Plain of Alaska has been one of the most controversial energy policy issues dating back to the 1980's. It has been fiercely opposed by environmental and conservation organizations, including one that Ms. Daniel-Davis worked at for several years as the Chief of Policy and Advocacy. Since Congress granted authorization of an oil and gas program to be established by the BLM, Ms. Daniel-Davis' former employer has been a vocal opponent every step of the way. In fact, it was one of the lead plaintiffs seeking to enjoin and subsequently suspend the lease sales conducted at the tail end of the Trump Administration in January 2021.

²⁰ 5 C.F.R. § 2641.201(h)(1).



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Yet within months of working at the Department, Ms. Daniel-Davis exercised her official authority to achieve the precise outcome sought in court by her former employer. To boot, she used nearly the same legal arguments in explaining the basis for the Department's actions. In private practice, this is akin to switching sides and is a clear violation of professional conduct. In the federal government, the public expects our civil servants will uphold similar levels of integrity and impartiality.

It is extremely difficult to view these facts and be convinced that Ms. Daniel-Davis has acted consistent with her ethics obligations or demonstrated a concern for the public's trust. In the event Ms. Daniel-Davis' actions are characterized as involvement in a separate particular matter not implicated in her ethics obligations, we request a written copy of such an opinion for it would serve as a marked departure from past guidance given to Department officials.

In the event that an investigation is not undertaken, we sincerely believe it would send a signal that certain presidential administrations or political appointees are above the law and able to operate under less burdensome ethics obligations. This would be a great disservice to the American people and the thousands of career employees at DOI who demonstrate great integrity every day.

For the foregoing reasons, we respectfully request that you investigate whether Principal Deputy Assistant Secretary Laura Daniel-Davis violated federal conflict of interest regulations and/or her commitments under the Biden Administration Ethics Pledge.

Sincerely,

Michael Chamberlain
Director
Protect the Public's Trust