

July 21, 2010

Bob Abbey
Director
U.S. Bureau of Land Management
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Email: Director@blm.gov

Ken Salazar
Secretary of Interior
Department of Interior
1849 C Street NW
Washington D.C. 20240

Re: Steve Henke, former BLM Farmington Field Office Manager, Hired as President of New Mexico Oil and Gas Association

Dear Director Abbey and Secretary Salazar:

We are writing to express serious concerns over recent news that Steve Henke—the former Field Manager of the Bureau of Land Management’s (BLM’s) Farmington Field Office in New Mexico—has been hired as President of the New Mexico Oil and Gas Association (NMOGA), the state’s leading oil and gas lobby group (*see* July 15, 2010 news article, http://www.daily-times.com/ci_15520693). The timing raises the question of when Mr. Henke became a serious candidate for the NMOGA job, when the NMOGA job was first offered to Mr. Henke, and whether the NMOGA job influenced Mr. Henke’s official duties at the BLM.

The move, which occurred less than one month after officially leaving his Field Manager position in June and apparently in response to pressure related to an Inspector General report regarding questionable conduct involving Mr. Henke, raises legitimate questions over whether Mr. Henke’s decision-making during his tenure with the BLM was objective, unbiased, and not tainted by oil and gas industry influence. Furthermore, Mr. Henke’s hiring as President of NMOGA raises significant concerns regarding current and future interactions with the BLM in New Mexico in his new capacity as an oil and gas industry advocate and lobbyist.

Mr. Henke’s official position, and his role in litigation and settlement discussions over the past year on the Farmington Field Office Resource Management Plan (the case was ultimately settled while the appeal was pending to the Tenth Circuit Court of Appeals), indicates that he is in possession of considerable proprietary or inside information on natural gas, much of which has been held as confidential and privileged and withheld from disclosure – and could potentially benefit his current employer at the expense of taxpayers and the American people (who, after all, are the actual owners of our public lands and resources). Considering that NMOGA’s leading industry members had intervened in the case and the fact that Mr. Henke’s application to NMOGA occurred as Settlement discussions were being conducted in good faith raises questions as to whether Mr. Henke was representing BLM or NMOGA in the settlement discussions.

First, we request that the Department of Interior restrict Mr. Henke, in his position as President of NMOGA, from deliberations and/or interaction with New Mexico State BLM and its New Mexico Field Offices, as well as any other office within the BLM that may be appropriate, for two years. **Second**, we call on you to immediately initiate an investigation into whether the oil and gas industry unduly or improperly influenced Mr. Henke and decisions related to oil and gas development during his tenure as Farmington Field Office Manager. **Third**, we request that affirmative action be taken to address the fact that Mr. Henke's duties with NMOGA will almost certainly involve government information for which the BLM either has or will assert privilege against disclosure under Exemptions 4 or 5 of the Freedom of Information Act. **Fourth**, we demand an independent ethics review and opinion on Mr. Henke's new position – not conducted by BLM employees.

Restrictions on BLM employees moving into the private sector are well established by 18 U.S. Code Subsection 207. Post employment restrictions are covered in the ethics training BLM employees undertake annually. 18 U.S.C 207(a)(2) regards a two-year restriction on particular matters involving a specific party or parties where the matters were under your official responsibility:

Prohibits all former Government employees from knowingly making, with the intent to influence, any communication to or appearance before an employee of any department, agency or court of the United States on behalf of any other person (except the United States) in connection with a particular matter involving a specific party or parties when the employee knows or reasonably should know that the matter was actually pending under his or her official responsibility during their last year of Government service.

Mr. Henke's move to NMOGA should necessarily prohibit interaction with the BLM. The oil and gas leasing, exploration and development programs and policies advocated by NMOGA and its lobbyists are reliant on oil and gas policy and planning documents/guidance that Mr. Henke was involved in formulating and implementing while ostensibly working for BLM. In addition, given that there has been an Inspector General investigation regarding Mr. Henke, it appears even more appropriate to ensure Mr. Henke and the BLM are kept beyond arms length. However, arms length limitations appear impossible given the prominent role of BLM-managed public lands and minerals in New Mexico's oil and gas industry.

Our request for an investigation into Mr. Henke's past decision-making is bolstered by the fact that during his tenure as Field Manager, the Farmington Field Office underwent one of the most extreme increases in oil and gas drilling experienced by any BLM office in the nation. After overseeing the revision of the Farmington Resource Management Plan, which authorized the drilling of more than 10,000 oil and gas wells, Mr. Henke subsequently approved the development of more than 3,800 additional oil and gas wells, most of which were approved with little to no environmental analysis. The result has been mounting adverse impacts to air quality, water quality, wildlife, and cultural values in the region. The Farmington Field Office was specifically criticized by the Government Accountability Office (GAO) in 2009 for inappropriately excluding oil and gas drilling decisions from environmental analysis (*see www.gao.gov/new.items/d09872.pdf*) while fast-tracking natural gas development.

We cannot help but view Mr. Henke's sudden hiring by NMOGA as an example of the cozy relationship between industry and government officials that Interior Secretary Salazar has committed to confronting. Certainly, Mr. Henke's move creates the perception that he was ethically conflicted during some, or all, of his tenure. In light of the purported circumstances surrounding his departure from BLM, this perception appears reinforced by additional circumstances which should be verified/refuted by a thorough DOI investigation. His move severely undermines public trust that his prior service was sound and based on public interest and also appears contradictory to DOI ethics standards, including considering how Mr. Henke was an applicant for the NMOGA job while still BLM Farmington Field Manager. Without a

doubt, Mr. Henke's new position as head lobbyist for NMOGA places him squarely in ethical conflict with BLM staff and personnel that he worked with, and/or supervised, for many years.

We urge you to help restore the public trust that has been eroded in the BLM Farmington Field Office. Immediate action to protect BLM public resources is urgently needed. We ask that DOI follow through to take measures to uphold BLM multiple use missions in a more proactive manner.

An independent investigation into Mr. Henke's decisions regarding oil and gas development – and the propriety of his new position, as well as appropriate restrictions on his work for his new employer – will confirm whether or not Mr. Henke's tenure at BLM was tainted by undue influence from the oil and gas industry. Restrictions on Mr. Henke's interactions with the New Mexico BLM and the Farmington Field Office will assure that Mr. Henke's past service with the BLM is not used to unduly influence his former associates and colleagues at BLM on behalf of NMOGA and NMOGA's industry membership.

Please respond in writing. Thank you for your attention to this significant development.

Sincerely,

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