



OFFICE OF
INSPECTOR GENERAL
U.S. DEPARTMENT OF THE INTERIOR

Former Secretary Did Not Comply With Ethical Obligations and Duty of Candor

This is a revised version of the report prepared for public release.



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REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

We investigated allegations that former Secretary of the U.S. Department of the Interior (DOI) Ryan Zinke continued to be involved in a land development project in his hometown of Whitefish, MT, after he was appointed as Secretary of the Interior and that his continued involvement posed a potential conflict of interest with his official duties.

The allegations centered around the Secretary's ongoing involvement with the Great Northern Veterans Peace Park Foundation (GNVPP or Foundation) that Secretary Zinke and others had established in 2007 and from which Secretary Zinke represented that he had resigned upon appointment as Secretary of the Interior. According to the allegations, Secretary Zinke and his wife were in negotiations with private developers regarding the use of the Foundation's land for a commercial development project known as 95 Karrow. One of the developers and primary investors in the 95 Karrow project was a senior executive of the Halliburton Company who allegedly stood to benefit from Secretary Zinke's official actions. The allegations also stated that Secretary Zinke may have used Federal resources and his position as Secretary of the Interior for personal financial gain and that other DOI staff may have actively tried to conceal the Secretary's involvement.

Secretary Zinke, his wife, and the 95 Karrow project developers, through their attorneys, declined our requests for an interview, but we issued Inspector General subpoenas to the developers for emails and text messages related to the project. The emails and text messages the developers produced showed that Secretary Zinke continued to be involved in Foundation matters while he was Secretary of the Interior, even after resigning from the Foundation and committing in required documentation to relevant Federal officials that he would no longer manage or provide services to the Foundation. Specifically, the communications showed that Secretary Zinke repeatedly communicated with the developers of the 95 Karrow project and negotiated with them on behalf of the Foundation by discussing the use of Foundation property for the project, specific design aspects of the project, and the development of a microbrewery on the property.

In light of these communications, we found that Secretary Zinke failed to abide by his ethics obligations in which he committed not to manage or provide any other services to the Foundation after his appointment as Secretary of the Interior. We also found that Secretary Zinke did not comply with his duty of candor when questioned by the DOI's then Designated Agency Ethics Official (DAEO) about his continued involvement in Foundation matters, including the 95 Karrow project. In addition, we found that Secretary Zinke misused his official position in violation of Federal regulations by directing his subordinates to assist him with matters related to

the Foundation and the 95 Karrow project. We did not find, however, that Secretary Zinke's staff tried to conceal the Secretary's involvement in Foundation matters or the 95 Karrow project.

In addition, we did not substantiate the allegation that Secretary Zinke violated Federal conflict of interest laws. Specifically, because we did not find that Secretary Zinke participated in any *official* matters involving the Foundation or the 95 Karrow project, we did not conclude that he violated 18 U.S.C. § 208, the Federal criminal conflict of interest statute, or that he violated his obligation to recuse from all official matters involving the Foundation for 2 years after his resignation from the Foundation. We also did not find that Secretary Zinke took any official action to specifically benefit the Halliburton Company.

We referred our findings to the U.S. Department of Justice (DOJ), which declined prosecution of this matter in the summer of 2021.

We are providing this report to the current Secretary of the Interior for any action deemed appropriate.

II. BACKGROUND

A. The Great Northern Veterans Peace Park Foundation

Ryan Zinke was raised in Whitefish, MT. He and his wife maintain a residence there.

Montana Secretary of State records show that the Great Northern Veterans Peace Park Foundation was established on August 15, 2007, in Whitefish, MT. The Foundation, a Montana domestic 501(c)(3) nonprofit corporation, was formed to provide a sledding park for children and community open space in a setting that recognized the contributions of the veterans and railroad. Foundation Federal tax records for 2014 through 2016 listed Ryan Zinke as the Foundation's president; Secretary Zinke's wife was listed as a member of the Foundation. In 2008, BNSF Railway donated 4.892 acres of land in Whitefish to the Foundation to establish the park.

Ryan Zinke was the Foundation president until he formally resigned from that position in March 2017 upon his confirmation as Secretary of the Interior. An annual report filed with the Montana Secretary of State on April 14, 2017, stated that Secretary Zinke's wife was the Foundation president, and Ryan Zinke was listed both as a "director" and "other officer." An amended report filed with the Montana Secretary of State on June 19, 2018, showed that Ryan Zinke no longer held these positions.

B. The 95 Karrow Project

According to Montana Secretary of State records, 95 Karrow, LLC, was established as a Montana limited liability corporation on September 19, 2017. Members of the LLC included private individuals and corporate entities. The evidence obtained in our investigation established that the primary members who managed the 95 Karrow project were private individuals, whom for purposes of this report we have termed Developer 1, Developer 2, and Developer 3. News

reports stated that the project, located adjacent to Foundation property, was established to create a mixed-use development consisting of a hotel, microbrewery, restaurant, and other businesses.

We did not find evidence that Secretary Zinke or any of his family members had any direct role or involvement in 95 Karrow, LLC, or the underlying entities forming that corporation.

C. The Foundation's Letter of Intent With the 95 Karrow Project

On September 25, 2017, Secretary Zinke sent a letter of intent (LOI), dated September 21, 2017, to the developers of the 95 Karrow project on behalf of the Foundation. The LOI appears to have been signed by the Foundation President, Secretary Zinke's wife. The LOI "verif[ied] that it [was] the intent of the GNVPP Foundation to concur with the general design of" the 95 Karrow project and its use of Foundation land for a parking lot. The proposed 95 Karrow project included the parking lot, a microbrewery, fencing, and other supporting elements. The LOI stated that final approval of specific terms and conditions were subject to Foundation board review and concurrence pending approval of the project by the City of Whitefish.¹ On November 11, 2018, Secretary Zinke's wife withdrew the LOI, which had the effect of withdrawing the Foundation's consent to use its property for a parking lot.

III. RESULTS OF INVESTIGATION

We investigated allegations regarding Secretary Zinke's involvement in and use of taxpayer resources to advance the 95 Karrow development project in his hometown of Whitefish, MT.

We specifically investigated whether Secretary Zinke had a continuing role in Foundation matters while he was Secretary of the Interior. We also examined his actions and communications with the developers of the 95 Karrow project following his resignation from the Foundation. We likewise investigated Secretary Zinke's statements to the DOI's DAEO, who interviewed the Secretary about his involvement in the project and his potential use of DOI resources, including his staff, to assist him in conducting his personal business related to the Foundation.

Secretary Zinke, his wife, and the 95 Karrow project developers, through their attorneys, declined our requests for an interview in this matter.²

The Appendix includes a timeline reflecting the events we discuss in this report.

¹ According to a news report, the 95 Karrow project was expected to receive Whitefish City Council approval later that month.

² Because we do not have testimonial subpoena authority, we could not compel the testimony of any of these individuals. Although agency employees are generally required to speak with us, Ryan Zinke had already resigned as Secretary of the Interior at the time we contacted him directly regarding this matter (his resignation was effective as of January 2, 2019).

A. Facts

1. Secretary Zinke Committed to Resigning From the Foundation and No Longer Being Involved in Foundation Matters

On January 10, 2017, Ryan Zinke, who had been nominated to be Secretary of the Interior, submitted his preconfirmation ethics agreement to the DAEO in which he stated, “Upon confirmation, I will resign from my position with Great Northern Veterans Peace Park Foundation.”

On March 1, 2017, Ryan Zinke was confirmed as Secretary of the Interior. On March 2, 2017, Secretary Zinke met with the DAEO at the time³ and the DAEO’s deputy in his first meeting as Secretary to discuss his Federal ethics obligations as a new political appointee.

On March 6, 2017, 5 days after his confirmation as Secretary of the Interior, Secretary Zinke resigned from his position as Foundation president. In his resignation letter to the Foundation, Secretary Zinke wrote, “During my appointment to the position of Secretary of the United States Department of the Interior, I will not manage or provide any other services to Great Northern Veterans Peace Park Foundation.”

On May 19, 2017, Secretary Zinke submitted a memorandum to senior DOI officials, including the Deputy Secretary, the Solicitor, Assistant Secretaries, Bureau Directors, the Chief of Staff, and the DAEO, regarding his ethics recusals (hereinafter “recusal memorandum”), which referenced and attached his January 10, 2017 ethics agreement. With respect to the Foundation, the recusal memorandum stated, in part, “I resigned from my position with Great Northern Veterans Peace Park Foundation. For a period of 1 year after my resignation, I will not participate personally and substantially in any particular matter involving specific parties in which I know this entity is a party or represents a party, unless I am first authorized to participate, pursuant to 5 C.F.R. § 2635.502(d).”⁴

This language reiterated the obligation set forth in Secretary Zinke’s January 10, 2017 ethics agreement.⁵

³ This DAEO left the position in 2017. All other references to the DAEO refer to the DAEO’s successor.

⁴ Secretary Zinke’s May 19, 2017 recusal memorandum was issued after Secretary Zinke signed the Trump administration ethics pledge, which was issued January 28, 2017, and generally extended the 1-year prohibition on participation in specific party matters to 2 years. Secretary Zinke’s recusal memorandum also acknowledged the extended recusal period: “I have signed the Ethics Pledge (Executive Order (EO) 13770). Accordingly, I will not participate personally and substantially, for 2 years after my appointment, in any particular matter involving specific parties in which a former employer or client of mine is or represents a party, if I served that employer or client during the 2 years prior to my appointment, unless first authorized to participate, pursuant to section 3 of EO 13770. This additional, extended prohibition applies to Great Northern Veterans Peace Park Foundation.”

⁵ Secretary Zinke’s January 10, 2017 ethics agreement contained essentially the same language, stating “[u]pon confirmation, I will resign from my position with Great Northern Veterans Peace Park Foundation. For a period of 1 year after my resignation, I will not participate personally and substantially in any particular matter involving specific parties in which I know this entity is a party or represents a party, unless I am first authorized to participate, pursuant to 5 C.F.R. § 2635.502(d).”

The recusal memorandum also included several resignation letters, including a copy of the resignation letter Secretary Zinke submitted to the Foundation on March 6, 2017, in which he said that he would not “manage or provide any other services” to the Foundation.

On May 19, 2017, Secretary Zinke sent copies of his recusal memorandum, ethics agreement, and resignation letters to the Director of the U.S. Office of Government Ethics (OGE) as required by regulation.⁶ The letter to the OGE specifically stated, “As evidence of compliance with my ethics agreement, I submit my attached ethics recusal and resignation letters.”

2. *Secretary Zinke Continued To Communicate and Negotiate With the Developers of the 95 Karrow Project on Behalf of the Foundation*

We obtained approximately 64 emails and text messages dated August 21, 2017, through July 30, 2018, in which Secretary Zinke communicated directly with the developers about the 95 Karrow project.⁷ These communications, examples of which are set forth below, show that Secretary Zinke played an extensive, direct, and substantive role in representing the Foundation during negotiations with the 95 Karrow project developers. Many of these communications contained substantive discussions about specific design issues related to the 95 Karrow project, including the developer’s proposed use of the Foundation property for a parking lot and Secretary Zinke’s apparent interest in operating a microbrewery onsite.

In addition, various emails and text messages referred to telephone calls (potentially up to five calls) between Secretary Zinke and the developers that related to negotiations; there was also at least one in-person meeting, which occurred on August 3, 2017, in the Secretary’s office in the Stewart Lee Udall Department of Interior Building in Washington, DC. The evidence established that, after the meeting, Secretary Zinke provided the developers with a personal tour of the Lincoln Memorial and then ate dinner with them at a local restaurant. The evidence further established that, at a minimum, the developers presented Secretary Zinke with a plan for the parking lot—which was a significant point of negotiation for the parties—at some point during their trip to Washington, DC.

⁶ See 5 C.F.R. § 2634.804(a)(1) (“For ethics agreements of nominees to positions requiring the advice and consent of the Senate, evidence of any action taken to comply with the terms of such ethics agreements must be submitted to the designated agency ethics official. The designated agency ethics official will promptly notify the Office of Government Ethics and the Senate confirmation committee of actions taken to comply with the ethics agreement.”) According to the DAEO with whom we spoke, presidentially appointed, Senate-confirmed officials were required to resign from outside positions to ensure that they did not have potential or actual conflicts of interest with outside entities and to ensure that they do not violate section 2635.502 of the Standards of Ethical Conduct, which requires Federal employees to consider the appearance of their official actions.

⁷ We found no evidence establishing that Secretary Zinke used his official DOI email or cellphone in these communications.

a. *Examples of Secretary Zinke’s Communications Regarding the 95 Karrow Project While He Was Secretary of the Interior*

The following emails show communications in which Secretary Zinke discussed, negotiated, and directed specific design aspects of the 95 Karrow project with Developer 1 and others while he was Secretary of the Interior:⁸

- On August 13, 2017, in an email to a City of Whitefish planning official, Secretary Zinke wrote, “I am working with the [developers of the 95 Karrow project] to accommodate parking on the north east side.”
- On September 18, 2017, Secretary Zinke emailed Developer 1 his input on various specific design aspects of the 95 Karrow project (see Figure 1). Secretary Zinke’s email attached a handwritten diagram reflecting the design aspects discussed in his email to Developer 1 (see Figure 2).

⁸ The text of the emails quoted below has not been edited to correct spelling or grammar errors. Secretary Zinke’s personal email address and the email addresses of the private individuals who exchanged emails with him and between themselves have been redacted to protect their privacy.

Figure 1: Secretary Zinke Emailed Developer 1 on September 18, 2017

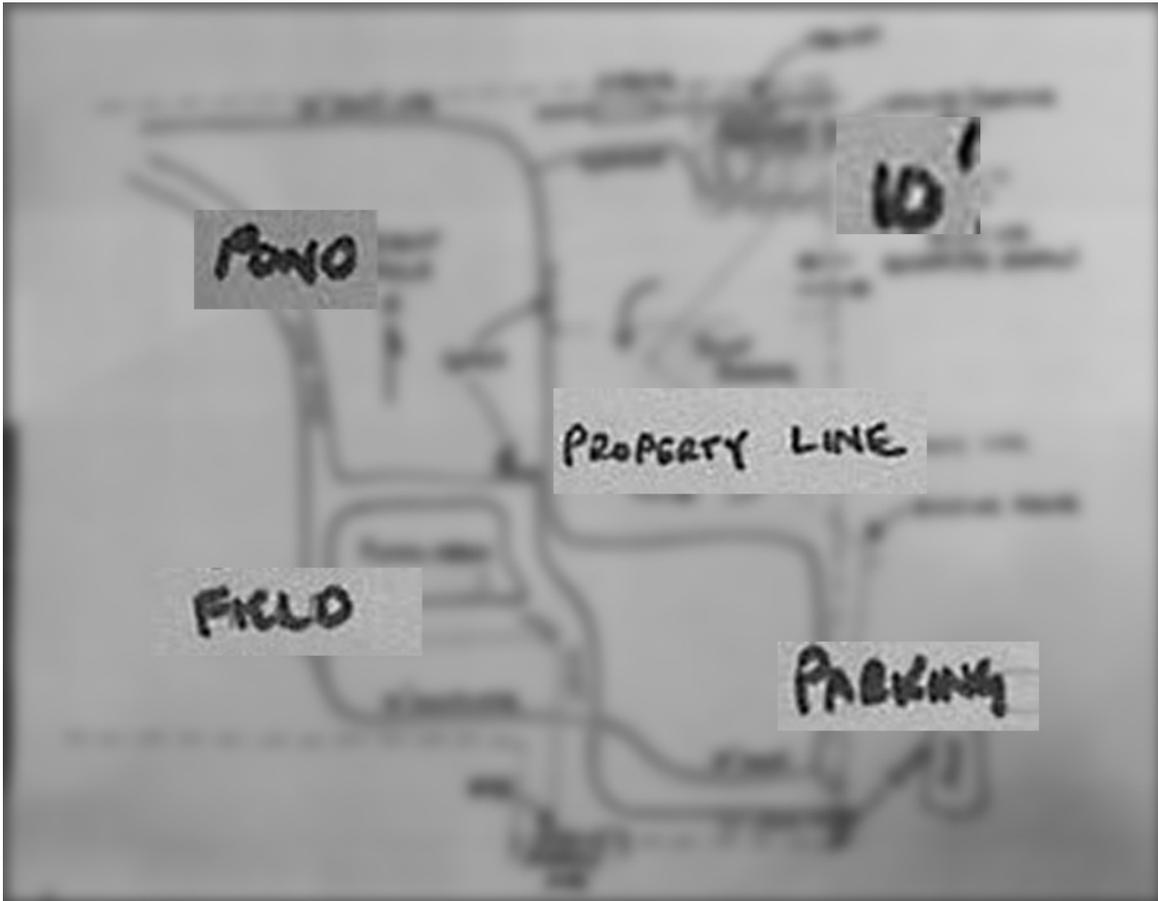
Message

From: [Ryan Zinke]
Sent: 9/18/2017 3:59:10AM
To: [Developer 1]
subject: RE:95 Karrow
Attachments: image002.jpg; image004.jpg; 20170916_162201 . jpg;20170915_184801.jpg

[Developer 1], attached is an updated draft proposal and an earlier survey that shows the boundary and current encroachment. The proposal provides:

1. [REDACTED] that provides access from [REDACTED] [REDACTED]. Trail would be daylight use only. Trail is sufficient for for bike, golfcart, and jogging. Other roads are gated and used for approved events only.
2. A [REDACTED] that has a [REDACTED] access. [REDACTED] within the designated lot has been removed for additional parking spaces. The parking lot extends [REDACTED]. The foundation would assume [REDACTED] [REDACTED]. We assume that your project would require snow storage which could be accomodated within the event field.
3. [REDACTED] consistent with same City of Whitefish [REDACTED]. Access would be gated per Para 1.
4. Per our discussion, sufficient utility access (power, water, sewer) would be provided to [REDACTED] [REDACTED] does not apply to the exclusive agreement.
5. Maintaining the safety and appearance of the park's wooded and picnic areas, future gardens, sledding hills, pond, and other grounds is a park foundation priority and remains the [REDACTED].
6. The foundation is happy to partner with you on the proposed project as we believe the successful completion is in the best interest of the foundation, the City of Whitefish, and the community. Wife is scheduled to be in Whitefish in the first week of November and will be available for a detailed ground walk through etc.

Figure 2: Secretary Zinke Attached a Handwritten Diagram to the September 18, 2017 Email Sent to Developer 1*



* This image has been modified for public release

- On September 20, 2017, Developer 1 emailed Secretary Zinke’s personal email account stating, “Ryan - here is a draft plan for your review prior to our discussion tomorrow afternoon. We look forward to discussing this with you.”
- On September 21, 2017, Secretary Zinke responded to Developer 1’s September 20, 2017 email, stating:

[Developer 1]. The proposed parking lot as drawn is a non starter. When you first presented the parking lot in dc it was acceptable given that the park would maintain current access and adjust the boundary for a brewery to remedy the current encroachment. The parking lot on the last two versions have greatly expanded the scope. The foundation is willing to provide parking as we submitted twice which is greater than our initial discussion but retains the integrity of the woods and park objectives. Z

- On September 21, 2017, Secretary Zinke responded to Developer 1’s September 21, 2017 email (see Figure 3).

Figure 3: Secretary Zinke Responded to Developer 1’s September 21, 2017 Email

From: [Ryan Zinke]
To: [Developer 1]
Date: 9/21/2017 11:58:41 PM
Subject: RE: FW: 95 Karrow Rev 5
Importance: 1
Attachments: image002.jpg

Glad we worked it out. I will work to get you an loi [Letter of Intent] tomorrow.
Minor adjustments include:

1. Oversized vehicle parking to be located [REDACTED] and trees adjacent to [REDACTED] parking lot. Access is through event gate and marked oversized vehicle parking area.
- 2 [REDACTED] bike path parallels [REDACTED] down to bottom of hill and connects to path around pond.
3. Gated entrance road from [REDACTED] remains in present location but material is [REDACTED].

All the best, z

Sent from my Verizon Wireless 4G LTE smartphone

- On September 22, 2017, Developer 1 emailed Developer 3 stating, “Talk with Zinke went well. He is on board. All smoothed out.”
- On September 22, 2017, Secretary Zinke emailed Developer 1 and Developer 2 asking “if you have time today pls indicate” a fence line in specific locations along the boundary lines and identify the location for oversized vehicle parking. He also wrote, “I will attached it to the LOI [Letter of Intent] as an enclosure. Z”.
- On September 25, 2017, Secretary Zinke sent Developer 1 an email with two attachments (see Figures 4, 5, and 6).

Figure 4: Secretary Zinke Emailed Developer 1 on September 25, 2017

From: [Ryan Zinke]
To: [Developer 1]
Date: 9/25/2017 7:26:52 PM
Subject: Fwd: Peace Park Documents
Importance: 1
Attachments: [Untitled] (7).pdf
[Untitled] (8).pdf

[Developer 1]. Attached for your records. My schedule has me in wf in beginning of november. It would be s good idea to walk the property. All the best, z

Sent from my Verizon Wireless 4G LTE smartphone

Figure 5: First of Two Documents Secretary Zinke Attached to His September 25, 2017 Email to Developer 1

September 21, 2017

Great Northern Veterans Peace Park (GNVPP) Foundation
409 West 2nd Street
Whitefish MT 59937

SUBJ: Letter of Intent regarding GNVPP Foundation approval of 95 Karrow Project

This letter is to verify that it is the intent of the GNVPP Foundation to concur with the general design of the parking, micro-brewery, multiple use path, fence, and other supporting elements of the 95 Karrow project on GNVPP Foundation property as annotated in enclosure (1).

Final approval of specific terms and conditions are subject to GNVPP Foundation board review and concurrence pending City of Whitefish project approval.

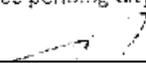


Figure 6: Second of Two Documents Secretary Zinke Attached to His September 25, 2017 Email to Developer 1*



* This image has been modified for public release

- On September 26, 2017, Secretary Zinke emailed Developer 1 (see Figure 7).⁹

⁹ Secretary Zinke's September 26 email appears to reference the email he sent to Developer 1 the previous day. The multiuse trail mentioned in this email is shown in red and the fence in black in Figure 6.

Figure 7: Zinke Emailed Developer 1 on September 26, 2017

From: [Ryan Zinke]
To: [Developer 1]
Date: 9/26/2017 7:18:12 PM
Subject: Re: Fwd: Peace Park Documents
Importance: 1

I added a multiuse trail and fence to the map. I think it would be a liability not to have [REDACTED]. Multiuse path makes sense [REDACTED]. Z

Sent from my Verizon Wireless 4G LTE smartphone

b. Communications Between the Developers About Secretary Zinke's Apparent Desire To Build or Operate a Microbrewery

In emails and text messages sent during the late summer and early fall of 2017, the developers of the 95 Karrow project recounted instances in which Secretary Zinke was involved in discussions with them about a microbrewery in conjunction with that project. More specifically, the developers repeatedly described actions that led them to believe that Secretary Zinke was asking for several concessions related to the microbrewery and using this issue to advance his position in the negotiations. Examples of these communications are included below.

- On September 17, 2017, Developer 1 emailed Developer 3 stating:

[Developer 3] - on quick review, he [Zinke] is asking us to transfer . . . [a] corner of land (and all utilities) to the Peace Park for the brewery, (which I am assume he still thinks he can spot zone on county property). He is also asking for an exclusive right to produce alcohol on 95 Karrow and the Peace Park. In essence, he is leveraging the parking and snow storage for the Brewery lot and legal access to his site. In my opinion this is a big ask.

- On September 18, 2017, Developer 1 emailed Developer 3 stating:

But, maybe not. If we can get by the county/city thing in some way, get him his brewery site, and he is able to pay for the development and maintenance of the park at a standard we impose and all agree upon, it might be a path through this, without burdening 95 Karrow with a Common Area Agreement including the park. We need to think through this. He has obviously done his homework on our parking requirements and needs.

- On September 18, 2017, Developer 3 emailed Developer 1 stating, "Seems to me that if he wants the lot for brewery he needs to give us more parking".

c. The Developers' Communication With Secretary Zinke's Wife Regarding the 95 Karrow Project

Communications obtained from the developers showed that Secretary Zinke provided his wife's email address to Developer 1 on April 17, 2018, more than 1 year after he resigned as Foundation president.¹⁰ The only evidence we found of communications between Secretary Zinke's wife and the developers from July 25, 2017, through November 12, 2018, was a November 12, 2018 email from Developer 1 to Developer 3 informing Developer 3 that Secretary Zinke's wife had contacted Developer 1 the day before to tell him that she was rescinding the LOI agreeing to the use of Foundation property for the 95 Karrow project.

None of the emails or text messages that we obtained during our investigation showed that Secretary Zinke forwarded a communication to his wife or otherwise included her in the communication. Because neither Secretary Zinke nor his wife consented to a voluntary interview, we could not ask them directly about their respective involvement in the 95 Karrow project or about Secretary Zinke's role with respect to the Foundation overall.

3. Secretary Zinke Discussed With Developer 1 How To Respond to a News Organization's Inquiries About His Involvement With the Foundation and the 95 Karrow Project

In April 2018, a reporter from a news organization contacted Developer 1 inquiring about Secretary Zinke's role and involvement in the 95 Karrow project. Between April 2018 and July 2018, Secretary Zinke and Developer 1, as well as Developer 1 and Developer 3, exchanged emails and text messages regarding the Secretary's involvement with the Foundation and the 95 Karrow project. Specifically, Secretary Zinke exchanged approximately 37 text messages with Developer 1 in which they discussed how to respond to the news organization's inquiries. Examples of these communications from April 2018 are included below.

- Secretary Zinke sent Developer 1 a text message reiterating his earlier statement to Developer 1. Secretary Zinke wrote, "Thanks for the call. Just want to keep this on the tracks. [My wife] is the board president and I no longer make any decisions."
- Developer 1 and Developer 3 exchanged emails in which Developer 1 related the substance of a telephone call he had with Secretary Zinke. Developer 1 wrote, "The message is [Secretary Zinke's wife] is, was, and will be the voice and the decision maker on the Veterans Peace Park plans."
- Secretary Zinke wrote Developer 1, "[The news organization] is not our friend. Zinke has resigned from the park and has turned all decisions over to the board. We are working with the board in the best interest of the community that we love."
- Secretary Zinke wrote Developer 1, in part, "I resigned from the board. Decisions are [my wife's] as president and the board. Z".

¹⁰ Because we did not have access to Secretary Zinke's wife's emails and we could not interview any of the principals in this matter, we were unable to determine if Secretary Zinke or his wife provided her email address to the developers earlier than this.

4. *The News Organization Published Articles About Secretary Zinke's Involvement With the 95 Karrow Project*

In June 2018, the news organization published an article reporting that the Foundation had entered into an LOI with the developers of the 95 Karrow project to allow the developers to use Foundation property for a parking lot. The authors wrote that while Secretary Zinke did not respond to their questions, he did tell them that he had resigned as the Foundation president and as a board member when he became the DOI Secretary.

The news organization published a second article that reported on Secretary Zinke's discussions with the developers of the 95 Karrow project. In this article, the author wrote that Secretary Zinke acknowledged meeting with the developers in his DOI office on August 3, 2017, but said that Secretary Zinke's involvement was limited to providing background on the Foundation and the Foundation's land. The author further wrote that Secretary Zinke said that he resigned from the Foundation's board after he joined the DOI and that his wife now directed the Foundation board. The author also reported that Secretary Zinke previously told the news organization that he had no involvement in the park's business.

5. *Secretary Zinke Denied Any Substantive Involvement in Foundation Matters and the 95 Karrow Project When Interviewed by the DAEO*

After seeing the first news article, the DAEO interviewed Secretary Zinke in July 2018, about the Secretary's involvement in Foundation matters. In this capacity, the DAEO had an affirmative obligation to identify potential or actual conflicts of interest and to provide guidance to the Secretary on his compliance with his ethical obligations.

The DAEO created a Memorandum for Record (MFR) after the interview to memorialize their conversation. In the MFR, the DAEO wrote about interviewing Secretary Zinke because of familiarity with the Secretary's recusal documents and concerns about whether "there was any substance to the allegations made in the article." The MFR also said the DAEO explained to Secretary Zinke that the DOI Ethics Office "had an affirmative responsibility to follow-up on the allegations" in the news article that "might impact his [Zinke's] reporting requirements on his Public Financial Disclosure Report (OGE 278) and his obligations under the Ethics Agreement the Secretary signed on January 10, 2017." According to the MFR, Secretary Zinke responded "that he understood and that he would answer any questions [the DAEO] asked." Moreover, the DAEO told us that Secretary Zinke requested and was given the opportunity to review the MFR before it was finalized and that the only changes Secretary Zinke requested were minor grammatical edits along with the addition of language related to the design of the 95 Karrow project compared to a City of Whitefish corridor study.¹¹

¹¹ In June 2015, the City of Whitefish published its Highway 93 West Corridor Plan that described plans for the development of an area within Whitefish. This plan recommended that the land encompassing the 95 Karrow project be developed as a mixed-use project involving residential and commercial units and included the potential for a microbrewery.

The table below presents Secretary Zinke’s responses to the DAEO’s questions as memorialized by the DAEO in the MFR (see Figure 8).¹²

Figure 8: Secretary Zinke’s Responses During His Interview With the DAEO

DAEO Question	Secretary Zinke’s Response
The DAEO asked Secretary Zinke how much time, if any, the Secretary spent on work or activities related to the Foundation since his resignation in March 2017.	“In my private capacity, I helped [my wife] with the taxes. De Minimis. We filed the taxes in April 2017. I resigned as President and a board member from the GNVPP twice in writing and once during a board meeting in February.”
The DAEO asked Secretary Zinke to explain the circumstances behind his meeting with three developers of the 95 Karrow project on August 3, 2017.	[Developers 1, 3, and 4] were in Washington and wanted to meet with him on a purely social basis and they arranged to meet in his office at the DOI. The Secretary was firm on the point that only social matters were discussed. The Secretary stated, “We had a short discussion on TR Roosevelt’s philosophy on the American Conservation Ethic and the art collection in the office. We later went on a tour of the Lincoln Monument.”
The DAEO asked Secretary Zinke to explain the circumstances behind his meeting with three developers of the 95 Karrow project on August 3, 2017.	Later in the evening, after the meeting in the Secretary’s office and after the tour, the four men went to a restaurant in Washington, DC, and had dinner together for approximately 90 minutes. While at dinner, the issue of the Foundation was raised. The Secretary and [Developers 1, 3, and 4] discussed the Foundation’s mission and background of its property for approximately 30 minutes. The Secretary stated that, “At the outset, I made it clear that I had resigned from the board and no longer represent GNVPP in any capacity. I would be glad to discuss the background of the park and previous planning efforts, but ongoing park business was no longer my business.”

¹² The excerpts included here as Secretary Zinke’s responses reproduce the language from the MFR and do not, for example, correct spelling or other errors. The names of the developers, however, have been redacted to protect their privacy, and we have noted those entries in brackets. The DAEO’s notes included quotations from the Secretary, and we have likewise included quotation marks to reflect those particular entries.

DAEO Question**Secretary Zinke's Response**

The Secretary further stated that Developer 1 had attempted to contact him regarding the GNVPP project at other times, both before and after the August 3, 2017 meeting, and each time he confirmed that [Developer 1] understood that he no longer could speak for the GNVPP and any proposal or negotiation involving the GNVPP would have to be referred to Secretary Zinke's wife. He said that contact was infrequent and information he provided was in the context of providing the recommendations of the previous City of Whitefish Corridor Study, personal experience with the City of Whitefish planning process, and public hearing comments. The Secretary reiterated: "All information relevant to future planning efforts I referred to [my wife]."

The DAEO asked Secretary Zinke if he provided input or feedback on the design of the parking area, microbrewery, multiuse path, fence, and other supporting elements of the 95 Karrow project on Foundation property or the LOI.

"Any and all information provided was based upon the recommendations of the City of Whitefish Highway 93 Corridor study and earlier neighborhood listening sessions. I had unique knowledge based on my experience as a member of the City of Whitefish Highway 93 Corridor Study, former President and founder of the GNVPP, and kid who grew up in the neighborhood. I provided background on the Parks mission, trail systems, parking lots, previous initiatives to adjust property boundaries to remedy encroachment issues, and historical access. At no time did I represent GNVPP in any capacity and specifically stated that any proposal would have to be submitted to [my wife] and voted on by the board for approval."

"I simply provided unique background information that was consistent with previous public planning efforts and shared my history with the property. At all times I made it clear that I no longer represented the GNVPP in any capacity and any specific proposal would have to be forwarded to [my wife] for board consideration."

Secretary Zinke's Statement About the Microbrewery

The DAEO wrote that at the conclusion of the interview, Secretary Zinke spontaneously addressed his alleged involvement in the development of a microbrewery.

"The letter of intent mentions a micro-brewery. The micro-brewery is located on the development property adjacent to the shared parking lot. A micro-brewery is an authorized use per the City of Whitefish Corridor Study on the development property owned by 9[5] Karrow LLC. Neither the park nor [my wife] or I have any financial interest or involvement in the building or operation of the micro-brewery or any other facility within the 9[5] Karrow development."

When we asked the DAEO about the interview with Secretary Zinke, we provided the DAEO with copies of emails, including those between Secretary Zinke and the developers discussed above. The DAEO expressed the belief that the emails showed Secretary Zinke had participated in negotiations with the developers about the 95 Karrow project, and that the Secretary had “misrepresented” the facts to the DAEO about his participation. The DAEO told us that Secretary Zinke’s statements were “very disappointing . . . and very concerning” because the DAEO had made it clear to the Secretary that the Secretary had to tell the truth for the DOI Ethics Office to determine if there was an ethics violation and whether there were ongoing violations.

6. Secretary Zinke’s Use of His Position in Foundation Matters and the 95 Karrow Project

Although one of the developers was a senior executive with the Halliburton Company at the time, we did not find evidence that Halliburton or any of its affiliated companies were involved in the 95 Karrow project. Similarly, we did not find evidence that Secretary Zinke did anything in his official capacity to specifically benefit Halliburton or the developer, or that he used Federal resources and his position as Secretary of the Interior for personal financial gain.

7. Secretary Zinke’s Use of Government Resources Related to Foundation Matters and the 95 Karrow Project

The evidence showed that Secretary Zinke had his staff arrange an office and dinner meeting with the developers of the 95 Karrow project on August 3, 2017. The evidence also established that in one instance in September 2017, Secretary Zinke forwarded emails sent to him from the 95 Karrow project developers to his executive and special assistants, along with 95 Karrow project documents; his staff exchanged an email in which they stated that they would print the materials for him. We did not find evidence that Secretary Zinke’s staff actively tried to conceal his involvement in Foundation matters or the 95 Karrow project.

We did not find evidence that Secretary Zinke used his official email or Government cellphone to discuss Foundation matters or the 95 Karrow project. Instead, the evidence showed that he used his personal cellphone and email for those communications.¹³

B. Analysis

We evaluated whether Secretary Zinke violated his ethics obligations with respect to his activities involving the Foundation and the 95 Karrow project developers. We also examined whether Secretary Zinke violated his duty of candor when he answered questions posed by the DAEO in July 2018 regarding these topics.

¹³ Based on an earlier congressional request, we examined whether Secretary Zinke’s overall use of his private email account to conduct official business complied with the Federal Records Act (44 U.S.C. § 3101 *et seq.*). We determined that it did not. Specifically, during the time he was Secretary of the Interior, we identified 122 emails in which Secretary Zinke used his personal email to send or receive communications related to official business and failed to either copy his official email or forward the email to his or his assistant’s official email to be archived. We briefed these findings to agency officials and to congressional staff in late summer 2020. We note that our analysis was not limited to the topics set forth in this report.

As discussed in detail below, we concluded that Secretary Zinke violated his ethics obligations as set forth in his ethics agreement, recusal memorandum, and accompanying documents by continuing to be involved in Foundation matters while he was Secretary of the Interior. We also concluded that he violated his duty of candor when he knowingly provided materially incorrect, incomplete, and misleading answers to the DAEO when the DAEO questioned him in July 2018 about his role in ongoing Foundation matters and the 95 Karrow project.

We separately analyzed Secretary Zinke’s conduct under the Standards of Ethical Conduct for Employees of the Executive Branch (Standards of Ethical Conduct), 5 C.F.R. part 2635. We found that Secretary Zinke misused his official position when he directed his subordinates to perform activities related to the 95 Karrow project and its developers on their official duty time that were not related to their official duties. We did not, however, find evidence to substantiate the allegation that Secretary Zinke’s staff tried to conceal Secretary Zinke’s involvement in Foundation matters or the 95 Karrow project.

Finally, while we found that Secretary Zinke violated his ethics commitments to stop his involvement with the Foundation, we did not find that Secretary Zinke violated the Federal criminal conflict of interest statute, 18 U.S.C. § 208, or his obligation to recuse from official matters involving the Foundation as set forth in his ethics agreement and recusal memorandum.

1. Secretary Zinke Failed To Abide by His Ethics Obligations

Although Secretary Zinke resigned as the Foundation president upon his confirmation as Secretary, the evidence showed that he continued to act on behalf of the Foundation by engaging with the 95 Karrow project developers while serving as Secretary of the Interior.

As described above, Secretary Zinke submitted copies of his recusal memorandum, ethics agreement, and resignation letters to numerous senior executive officials, including the DOI Deputy Secretary, Solicitor, DAEO, and the head of the OGE. More specifically, the ethics agreement was a required component of the confirmation process,¹⁴ and the accompanying resignation letters were offered as mandatory “evidence of compliance with” the ethics agreement. Through these documents, Secretary Zinke committed not only to “resign from [his] position” as Foundation president but further represented that during his appointment as Secretary of the Interior, he would “not manage or provide any other services to Great Northern Veterans Peace Park Foundation.”

OGE guidance provides that ethics agreements are “binding” rather than aspirational and that it is “inconsistent with the very nature of an ethics agreement to suggest that its terms are not binding.”¹⁵ If an official appointed by the President and confirmed by the Senate does not comply with the substantive terms of the ethics agreement, the OGE may take action, including

¹⁴ See 5 C.F.R. § 2634.804(a)(1).

¹⁵ OGE DAEOgram DO-01-013, at 3 (Mar. 28, 2001), [https://www2.oge.gov/Web/OGE.nsf/0/824CCF2BC5970AA8852585BA005BED7A/\\$FILE/DO-01-013.pdf](https://www2.oge.gov/Web/OGE.nsf/0/824CCF2BC5970AA8852585BA005BED7A/$FILE/DO-01-013.pdf); see also OGE *Guide to Drafting Ethics Agreements for PAS Nominees* at § 1.1.0 (Sept. 2014), [https://www.oge.gov/Web/OGE.nsf/Resources/2014+PAS+Nominee+Ethics+Agreement+Guide+\(MS+Word\)](https://www.oge.gov/Web/OGE.nsf/Resources/2014+PAS+Nominee+Ethics+Agreement+Guide+(MS+Word)).

declining to certify the official's public financial disclosure report or communicating to the White House the official's failure to comply with the ethics agreement.¹⁶

Here, Secretary Zinke had repeated, ongoing substantive negotiations with the developers by text and email messages, as well as phone and in-person meetings, regarding the Foundation's involvement in the 95 Karrow project even after his formal resignation from the Foundation and while he was Secretary of the Interior. As the evidence showed, between August 21, 2017, and July 30, 2018, Secretary Zinke engaged in substantive discussions with Developer 1 about the use of Foundation property in the 95 Karrow project as well as specific project design features.

In particular, the evidence that we obtained reflected that Secretary Zinke exchanged at least 64 emails and text messages and engaged in multiple phone calls in which he represented the Foundation in negotiations related to the 95 Karrow project; in addition, we identified evidence that these topics were discussed during at least one in-person meeting between Secretary Zinke and the project developers. These communications included specific discussions about the use of Foundation property for the construction and maintenance of a parking lot, multiuse trail, utility access, picnic and garden areas, and the construction of a proposed microbrewery and corresponding right to manufacture and produce alcoholic products on both Foundation and 95 Karrow property. For example, on September 18, 2017, Secretary Zinke emailed Developer 1 "an updated draft proposal" showing the property boundaries and providing design input on the 95 Karrow project, including suggestions for a multiuse trail, a joint parking lot, and a microbrewery.

On September 21, 2017, Secretary Zinke emailed Developer 1 that the parking lot as proposed was "a non starter." In a later email on September 21, Secretary Zinke told Developer 1 that he was glad they "worked it out" and discussed plans to provide Developer 1 with an LOI the next day detailing "[m]inor adjustments" to the planned use for the property, including adjustments to the parking lot, bike path, and gated entrance. Other emails throughout September 2017 show that Secretary Zinke was substantially engaged with the developers regarding the planned use of the Foundation's property with respect to the 95 Karrow project.

Notably, Secretary Zinke's communications and the related exchanges among the developers established that he was not simply a passthrough for information to and from the Foundation; to the contrary, several of his own messages make clear that he personally acted for or represented the Foundation in connection with the negotiations. For instance, on September 26, 2017, Secretary Zinke emailed Developer 1 stating, "I added a multiuse trail and fence to the map." In another exchange, Secretary Zinke and Developer 1 discussed scheduling a telephone call "to discuss the planning documents for GNVPP and 95 Karrow" with Developers 1 and 2; Secretary Zinke offered times that he would be available, and Developer 1 ultimately sent a "draft plan for your review prior to our discussion tomorrow." Secretary Zinke responded by stating that "[t]he proposed parking lot as drawn is a non starter. When you first presented the parking lot in dc it was acceptable. . . . The parking lot on the last two versions have greatly expanded the scope." In

¹⁶ See OGE Program Advisory PA-19-06, at 2 (May 16, 2019), [https://www.oge.gov/Web/OGE.nsf/OGE%20Advisories/C24EDF301A6DFADD852585BA005BEC1D/\\$FILE/PA-19-06.pdf?open](https://www.oge.gov/Web/OGE.nsf/OGE%20Advisories/C24EDF301A6DFADD852585BA005BEC1D/$FILE/PA-19-06.pdf?open), cited in OGE Program Advisory PA-19-09, at 2 (July 19, 2019).

another email, Secretary Zinke said, “Glad we worked it out” and detailed the “minor adjustments” to the plan.

All of these communications conflicted with Secretary Zinke’s commitment that he would no longer act as Foundation president or “manage or provide any other services” to the Foundation. His extensive representation of the Foundation in these negotiations fell squarely within any reasonable interpretation of providing services to the Foundation. We therefore concluded that Secretary Zinke did not abide by his ethics obligations while Secretary of the Interior.

2. *Secretary Zinke Did Not Comply With His Duty of Candor When He Spoke to the DAEO*

We found that Secretary Zinke knowingly provided materially incorrect, incomplete, and misleading answers to the DAEO when he was questioned about his role in ongoing Foundation matters and the 95 Karrow project in July 2018. The evidence we reviewed included numerous emails and text messages Secretary Zinke exchanged with the 95 Karrow project developers in the fall of 2017. We compared these materials to the information contained in the MFR the DAEO prepared approximately 1 month after completing the interview with Secretary Zinke based on the DAEO’s contemporaneous notes. We concluded that this documentary evidence either contradicted Secretary Zinke’s statements to the DAEO or established that Secretary Zinke’s statements were incomplete and misleading. We also found that Secretary Zinke knowingly made these statements. We therefore concluded that Secretary Zinke violated his duty of candor when he spoke to the DAEO in his official capacity in July 2018.

a. *Legal Standard*

The Merit System Principles, which govern the management of executive branch employees, state that “[a]ll employees should maintain high standards of integrity, conduct, and concern for the public interest.”¹⁷ With regard to lack of candor, the Merit Systems Protection Board¹⁸ has established that Federal employees have a duty to be honest and candid in their dealings with their agency, and their failure to do so may constitute a lack of candor.¹⁹ Employees can be disciplined, up to and including removal, for a lack of candor.²⁰

Lack of candor includes an employee’s duty to be forthcoming in responses about all facts and information in his or her possession.²¹ Lack of candor requires proof that: (1) the employee gave

¹⁷ 5 U.S.C. § 2301(b)(4). While we recognize that presidentially appointed, Senate-confirmed officials are not “employees” for purposes of the Merit System Principles, Merit Systems Protection Board opinions provide persuasive authority establishing the obligation for *all* Federal employees, regardless of position, to be candid and truthful when participating in an official inquiry.

¹⁸ The Merit Systems Protection Board is an independent, quasi-judicial agency in the Executive branch whose mission is to “[p]rotect the Merit System Principles and promote an effective Federal workforce free of Prohibited Personnel Practices.” U.S. Merit Systems Protection Board, About MSPB, <https://www.mspb.gov/about/about.htm> (last visited Nov. 2, 2021).

¹⁹ *Ludlum v. Dep’t of Justice*, 87 MSPR 56, 68 (2000) (sustaining agency’s lack of candor charge and stating that “an agency has a right to expect its workers to be honest, trustworthy, and candid”), *aff’d*, 278 F.3d 1280 (Fed. Cir. 2002).

²⁰ *Jackson v. Dep’t of the Army*, 99 MSPR 604 (2005) (holding that administrative judge erred in mitigating penalty of removal to two-grade demotion and sustaining agency’s removal actions for conspiring to falsify results and lack of candor).

²¹ *Frederick v. Justice*, 52 MSPR 126, 133 (1991).

incorrect or incomplete information and (2) that he did so knowingly.²² Lack of candor “is a broader and more flexible concept” than falsification and does not require proof of an affirmative misrepresentation or an intent to deceive.²³ Instead, lack of candor “may involve a failure to disclose something that, in the circumstances, should have been disclosed in order to make the given statement accurate and complete.”²⁴ Although we did not identify case law specifically analyzing this duty in the context of statements to agency ethics officials, courts in analogous circumstances have emphasized the importance of speaking truthfully with such officials because doing so enables them to provide accurate and useful ethical guidance. Indeed, in one decision, the U.S. Court of Appeals for the District of Columbia Circuit affirmed a conviction predicated on a false statement to an agency ethics official.²⁵ Finally, while Merit System Principles do not directly apply to presidentially appointed, Senate-confirmed (PAS) officials, we are hard pressed to conclude that PAS officials do not have at least as high a duty as career employees to be candid in their official duties.²⁶

b. Secretary Zinke’s Statements to the DAEO Were Material

To be “material,” a statement must influence, or have the potential to influence, official agency actions or activities.²⁷ We found that the information Secretary Zinke provided or failed to disclose during his interview with the DAEO was material to the DAEO’s inquiry into the Secretary’s alleged continued involvement with the Foundation and the 95 Karrow project.

The DAEO told us that Secretary Zinke’s statements denying his substantial involvement in Foundation matters were “very concerning,” because the DAEO had made it clear to the Secretary that he had to tell the truth so the DAEO could determine if there was an ethics violation and if there were ongoing violations. That is, the primary purpose of the DAEO’s questions to Secretary Zinke was to determine whether the allegations reported by the news organization about the Secretary’s involvement with the Foundation and the 95 Karrow project were true so that he could provide the Secretary with appropriate ethics advice or notify the White House or the OGE as necessary. Indeed, because a PAS official like Secretary Zinke may not unilaterally rescind a commitment in an ethics agreement without OGE approval,²⁸ a DAEO

²² *Fagnoli v. Commerce*, 123 MSPR 330, 338 (2016).

²³ *Ludlum v. Justice*, 278 F.3d 1280, 1284-85 (Fed. Cir. 2002).

²⁴ *Id.*

²⁵ *United States v. Safavian*, 649 F.3d 688 (D.C. Cir. 2011), *aff’g* *United States v. Safavian*, 644 F. Supp. 2d 1 (D.D.C. 2009).

²⁶ See explanation of Merit Systems Protection Board jurisdiction, <https://www.mspb.gov/appeals/jurisdiction.htm> (last visited Jan. 14, 2022).

²⁷ *Safavian*, 644 F. Supp. 2d at 10.

²⁸ 5 C.F.R. § 2634.803(a)(4); see also OGE *Guide to Drafting Ethics Agreements for PAS Nominees* at 4 (Sept. 2014), [https://www.oge.gov/web/oge.nsf/0/214AEDFB31761A73852585B6005A06D5/\\$FILE/Ethics%20Agreement%20Guide_2014.docx](https://www.oge.gov/web/oge.nsf/0/214AEDFB31761A73852585B6005A06D5/$FILE/Ethics%20Agreement%20Guide_2014.docx) (“[T]he PAS nominee may not rescind a commitment in an ethics agreement, such as an agreement to divest an asset, without first obtaining OGE’s approval.”).

who became aware that Secretary Zinke failed to comply with the commitments made in his ethics agreement would have had reason to notify the OGE of these issues.²⁹

Therefore, the DAEO asked Secretary Zinke about the amount of time he spent on Foundation activities since his resignation as Foundation president and confirmation as Secretary of the Interior; a meeting he allegedly had with the 95 Karrow project developers on August 3, 2017; and Secretary Zinke's involvement with several substantive aspects of the 95 Karrow project, including the development of a microbrewery. Secretary Zinke provided answers to the DAEO's questions: namely, that his involvement was minimal; that the meeting with the developers on August 3 was purely social; and that he merely provided background information and did not represent the Foundation in any capacity.

This information went to the heart of the DAEO's inquiry and led us to conclude that Secretary Zinke's answers to the DAEO's questions were material.³⁰

c. Secretary Zinke's Statements to the DAEO Were Incorrect and Incomplete

We also concluded that Secretary Zinke made incorrect and incomplete statements to the DAEO in July 2018 regarding his ongoing involvement with the Foundation, including the amount and substance of his engagement with the 95 Karrow project developers.

In drawing these conclusions, we relied primarily on the discrepancies between the information in the DAEO's MFR and the contemporaneous, documentary evidence that we reviewed. We found the DAEO and the memorialization of the conversation with Secretary Zinke to be credible and have treated the MFR as an accurate depiction of that conversation. We based this credibility finding on several considerations. In an interview with the OIG, the DAEO recounted taking careful notes when speaking with Secretary Zinke and stopping the interview several times to confirm that the notes were correct. The DAEO then used those notes to write the MFR—a document prepared in the ordinary course of business—less than 1 month after the interview.³¹ In addition, the DAEO stated that Secretary Zinke was given the opportunity to review the memorandum and made no substantive changes, a fact that tends to weigh in favor of the MFR's accuracy. Moreover, given the reported statements by Secretary Zinke in the news article identifying his own resignation from the Foundation and describing his wife's

²⁹ See OGE Program Advisory PA-19-09 at 1 (July 19, 2019), [https://www.oge.gov/Web/oge.nsf/Legal%20Docs/722D570B813BCF65852585BA005BEC1A/\\$FILE/PA%20on%20EA%20revisions%20\(FINAL\).pdf?open](https://www.oge.gov/Web/oge.nsf/Legal%20Docs/722D570B813BCF65852585BA005BEC1A/$FILE/PA%20on%20EA%20revisions%20(FINAL).pdf?open) (“If an agency ethics official believes that a modification to the substantive terms of a PAS official's ethics agreement is necessary after confirmation, the ethics official must contact OGE to discuss the matter before agreeing to any revision with the PAS official.”).

³⁰ See *Safavian*, 644 F. Supp. 2d at 10 (rejecting Rule 29 motion contending that false statement to an ethics officer was immaterial as a matter of law pursuant to 18 U.S.C. 1001; emphasizing that the ethics opinion based on the information that the defendant provided was “prepared and issued in the course of the . . . ethics officer's official duties, and a reasonable jury could have found that the defendant's statements significantly influenced the action and activity of preparing and issuing the ethics opinion”).

³¹ The DAEO stated that, as was this official's usual practice, the DAEO destroyed those notes after preparing the MFR because that memorandum was the official record of their conversation.

engagement on the project,³² we found that Secretary Zinke had a reason to misrepresent his continued involvement in Foundation matters and the 95 Karrow project in particular because that role was contrary to his ethics obligations. We were also persuaded that the DAEO's description of Secretary Zinke's statements in the MFR was accurate because the statements were consistent with the communications in which Secretary Zinke told the developers how he would respond to the news organization's reporter and what he wanted them to share when discussing their proposed responses to the reporter.

i. Secretary Zinke Made Inaccurate and Incomplete Statements When He Discussed His Involvement With Foundation-Related Matters

During the July 2018 interview, the DAEO asked Secretary Zinke how much time he had spent working on Foundation-related matters since resigning from the Foundation in March 2017. Secretary Zinke stated that his involvement was minimal and limited to helping his wife with the Foundation's taxes. Secretary Zinke also stated that he did not represent the Foundation in any capacity and that he provided only background information as needed.

These statements were not accurate because the evidence consistently showed that Secretary Zinke had extensive and in-depth involvement with the 95 Karrow project developers regarding Foundation matters in the months after he resigned as Foundation president and from its board.

We note initially that Secretary Zinke exchanged approximately 64 emails and text messages with the 95 Karrow project developers on behalf of the Foundation between August 21, 2017, and November 12, 2018, all of which occurred after he became Secretary of the Interior in March 2017 and before the DAEO interviewed him in July 2018. In contrast, the evidence that we obtained showed that the developers had only one communication with Secretary Zinke's wife, the named Foundation president, during this same time.

More importantly, these communications constituted substantive negotiations in which Secretary Zinke actively represented the Foundation in discussions regarding the use, design, and development of the Foundation's land as it related to the 95 Karrow project. For example, in a September 18, 2017 email sent to Developer 1 and set forth in full above, Secretary Zinke included a handwritten drawing and "draft proposal" in which he attached an "updated draft proposal" that provided for a "multiuse trail through the park," and a "joint use parking lot." In his email, Secretary Zinke told Developer 1 that "[m]aintaining the safety and appearance of the park's wooded and picnic areas," among other features, was a "foundation priority." Secretary Zinke's email also said that "[t]he foundation [wa]s happy to partner with [Developer 1] on the proposed project as we believe the successful completion is in the best interest of the foundation, the City of Whitefish, and the community."

³² In particular, Secretary Zinke was reported to have said that he had resigned as the Foundation president and as a board member and that the project developers had been in contact with his wife regarding expanding the parking requirements on park property. He said he knew the developers had provided a concept but that the developers had not submitted, nor had the Foundation agreed to, any formal proposals or documents. While we have no independent knowledge of what Secretary Zinke said to the news organization's reporter, we are not aware of any forum in which Secretary Zinke claimed the news organization misquoted him or misrepresented his statements in that article.

Other communications between Secretary Zinke and the developers continued throughout September, including discussions of where to place a fence line and multiuse trail, and negotiations over the size of the proposed parking lot, which Secretary Zinke told the developers was a “non starter” as proposed. Secretary Zinke again stated on behalf of the Foundation that “[t]he foundation is willing to provide parking as we submitted twice which is greater than our initial discussion but retains the integrity of the woods and park objectives.” After some of these design issues had been worked out, Secretary Zinke committed in a September 21, 2017 email to provide the developers with an LOI, which was apparently signed by Secretary Zinke’s wife, “to verify that it [was] the intent of the GNVPP Foundation to concur with the general design of the parking, micro-brewery, multiple use path, fence, and other supporting elements of the 95 Karrow project on GNVPP Foundation property.” Shortly thereafter, in a September 22, 2017 email, Secretary Zinke asked the developers to “indicate a fence line” and location of oversized vehicle parking. Four days later, on September 26, he emailed Developer 1 stating that he “added a multiuse trail and fence to the map.” He also opined on certain other substantive features.

We also note that the communications between Secretary Zinke and the developers referred to substantive telephone calls about the Foundation and its projects. Most notably, on September 20, 2017, Developer 1 sent a “draft plan for your review prior to our discussion tomorrow afternoon,” and 2 days later, Developer 1 emailed Developer 3 commenting that the “[t]alk with Zinke went well. He is on board. All smoothed out.”

We found only one example in these communications in which Secretary Zinke made even indirect reference to his wife’s substantive involvement in the Foundation. In particular, in his September 18, 2017 email, Secretary Zinke said that his wife would be in Whitefish the first week in November and “available for a detailed ground walk through.” Besides this comment, however, we found no contemporaneous, substantive evidence of Secretary Zinke’s wife’s activities with respect to the Foundation. Moreover, the only communication we found between July 25, 2018, through November 12, 2018, referring to Secretary Zinke’s wife was an email between Developer 1 and Developer 3 stating that Secretary Zinke’s wife had contacted him the day before to rescind the LOI. Even if Secretary Zinke’s wife had some active role in the Foundation’s activities that was not reflected in the materials provided by the developers, the evidence we reviewed made clear that Secretary Zinke was also actively participating in Foundation activities. We therefore concluded that, in contrast to his representations to the DAEO, Secretary Zinke’s involvement was not minimal and was not limited to assisting with the Foundation’s taxes. Even if he worked with others, such as the board or his wife,³³ his own

³³ For example, in one email dated September 8, 2017, Secretary Zinke referred to the need to have the board approve the proposed LOI. In that same email, though, he stated that “I will send you a rough drawing today” and that “[a] letter of intent may be a better vehicle as some conveyances and easements would have to be surveyed and completed.” These and other similar communications confirm that Secretary Zinke was more than merely a conduit for information.

communications and those of the developers establish that he was representing the Foundation in connection with their discussion.³⁴

ii. Secretary Zinke Made Inaccurate and Incomplete Statements When He Described His Involvement With the 95 Karrow Project

The DAEO asked Secretary Zinke specifically about his involvement with the 95 Karrow project, including whether he provided input or feedback on the design of the parking lot, microbrewery, and other elements of the project. Secretary Zinke stated that he merely provided “background information” on the project that was based on “the recommendations of the City of Whitefish Highway 93 Corridor study and earlier neighborhood listening sessions” and was consistent with “previous public planning,” and that he shared his “history with the property.” He also stated that “[a]t no time did I represent GNVPP in any capacity and specifically stated that any proposal would have to be submitted to [my wife] and voted on by the board for approval.”

These statements were not accurate because, as summarized above, the documentary evidence that we reviewed established Secretary Zinke’s ongoing engagement on these matters, including details of the 95 Karrow project. As the emails and text messages from September 2017 show, Secretary Zinke was deeply involved in the design of and planned property use for the 95 Karrow project, including the size of the proposed parking lot, a proposed multiuse trail through the park, maintenance of a current easement, and discussions regarding boundaries, fences, and maintaining the safety and appearance of the park’s wooded and picnic areas. As discussed above, multiple emails we reviewed showed Secretary Zinke making statements and representations on behalf of the Foundation, and, in a September 21, 2017 email, Secretary Zinke promised Developer 1 that he would provide the LOI, which verified “the intent of the GNVPP Foundation to concur with the general design” of the 95 Karrow project on Foundation property.

We also note that, in an August 10, 2017 email to a Whitefish planning official, Secretary Zinke specifically stated that he was “working with” the developers to “accommodate parking on the north east side.”

³⁴ The same analysis applies to a variety of statements that Secretary Zinke made to the DAEO in connection with inquiries regarding the August 3, 2017 meeting with the developers. He told the DAEO that they met on a “purely social basis” at the DOI and that he discussed the Foundation’s mission and background with the developers for approximately 30 minutes during dinner at a Washington, DC restaurant. We have no independent evidence of what was discussed at this meeting. However, according to the DAEO’s memorandum, Secretary Zinke went on to say that he repeatedly told the developers that “he would be glad to discuss the background of the park and previous planning efforts, but ongoing park business was no longer [his] business”; that Developer 1 “had attempted to contact him regarding the [Foundation] project at other times, both before and after the August 3, 2017 meeting”; and that each time “[Secretary Zinke] confirmed that [Developer 1] understood that [Secretary Zinke] no longer could speak for the [Foundation] and any proposal or negotiation involving the [Foundation] would have to be referred to [Secretary Zinke’s wife].” He also said that his contact with Developer 1 was “infrequent.” For all the reasons that we summarize above, we find these statements to be inaccurate. We also note that in his September 21, 2017 email, Secretary Zinke referred to the parking lot for the Foundation, stating that “[w]hen you first presented the parking lot in dc it was acceptable given that the park would maintain current access and adjust the boundary for a brewery.” (Emphasis added.) This lends support to the conclusion that the meeting in August was not purely social.

iii. Secretary Zinke Made Inaccurate and Incomplete Statements When He Spoke About His Involvement With the Microbrewery

In the course of the discussion with the DAEO, Secretary Zinke volunteered that the Foundation's LOI mentioned a microbrewery, which was contemplated as part of the 95 Karrow project, but stated that neither the park, Secretary Zinke, nor his wife had "any financial interest or involvement in the building or operation of the micro-brewery or any other facility within the 95 Karrow development."

We concluded that this statement was inaccurate based on a series of emails in September 2017 among the developers. Developer 1 emailed Developer 3 that Secretary Zinke was "asking for an exclusive right to produce alcohol on 95 Karrow and the Peace Park. . . . he is leveraging the parking and snow storage of the Brewery lot and legal access to his site. In my opinion this is a big ask." He went on to say that Zinke had "done his homework" on the developers' needs and also stated that "if we can get by the county/city thing in some way, get him his brewery site, and he is able to pay for the development and maintenance of the park at a standard we impose and all agree upon, it might be a path through this." These communications establish that Secretary Zinke was, notwithstanding his representation to the DAEO, involved in a whole range of activities associated with the development of the brewery and its relationship with the Foundation.³⁵

d. Secretary Zinke Knowingly Made These Statements

We also concluded that Secretary Zinke knew that the statements described above were inaccurate or incomplete when he made them in July 2018. We drew these conclusions in large part based on the content and extent of the documentary evidence that we reviewed. We note at the outset that the emails and text messages exchanged between Secretary Zinke and the developers are internally consistent and that the parties do not express disagreement with each other regarding their portrayal of events or their involvement in the activities.

With respect to knowing falsity, we rely primarily on the sheer amount of detail in the communications between Secretary Zinke and the developers. We believe that the level and extent of Secretary Zinke's engagement with the developers on issues pertaining to the Foundation generally and the 95 Karrow project in particular make it unlikely that he would have forgotten or misconstrued his role. The emails and other communications were not casual exchanges but rather were in-depth discussions about particular aspects of the project, the Foundation, and how the two intersected. We also note that, as summarized previously, Secretary Zinke described his personal role in great detail, stating, for example, that "I will work to get you an loi tomorrow" and that "I added a multiuse trail and fence to the map." Particularly in a situation where Secretary Zinke, his wife, and the developers declined to speak with us, the evidence belies any suggestion that Secretary Zinke may have forgotten such detailed interaction.

³⁵ We acknowledge that Secretary Zinke was not included on these emails, but given his decision not to speak with us, we are inclined to take the representations in the documents on their face.

We further note that the large number of text messages and communications about the appropriate response to the news organization’s inquiry undercut any suggestion that these misstatements were inadvertent. Taken as a whole, these communications were closely focused on the need to convey a very specific message—namely, that Secretary Zinke had a limited role with respect to the Foundation. Moreover, conveying this message was clearly in Secretary Zinke’s interests given his earlier commitment that he would not “manage” or “provide any other services” to the Foundation.³⁶ We view it as highly unlikely that, during his interview with the DAEO, Secretary Zinke had forgotten his earlier, detailed activities in negotiations on behalf of the Foundation given his close attention to this matter only a few weeks before the interview.

We also find that communications among the developers tend to establish that Secretary Zinke’s statements were knowingly inaccurate and incomplete. Most notably, in a series of exchanges in September 2017, Developer 1 stated that Secretary Zinke was “leveraging the parking and snow storage for the Brewery lot and legal access to his site. In my opinion this is a big ask.” Developer 1 followed up the next day stating that “[h]e has obviously done his homework on our parking requirements and needs.” Finally, on September 18, 2017, Developer 3 responded by saying it “seems to me that if he wants the lot for brewery he needs to give us more parking.” This information again suggests a detailed understanding of the development issues at hand, as well as, in the developers’ minds, Secretary Zinke’s efforts to negotiate a better deal. Standing alone—as they must given Secretary Zinke’s decision not to speak with us—these communications reinforce our conclusion that Secretary Zinke was fully engaged in these projects such that it strains credulity that he forgot or misspoke when he met with the DAEO.³⁷

3. Secretary Zinke Misused His Official Position When He Directed His Subordinates To Perform Duties Related to the 95 Karrow Project

Subpart G of the Standards of Ethical Conduct contains provisions related to the proper use of official time, authority, and resources, and generally prohibits their use for private gain or other nonofficial purposes.³⁸ Most relevant here is 5 C.F.R. § 2635.705(b), which states that “[a]n employee shall not encourage, direct, coerce, or request a subordinate to use official time to perform activities other than those required in the performance of official duties or authorized in accordance with law or regulation.” Example 1 to this subsection is instructive and states that “[a]n employee of [an executive agency] may not ask his secretary to type his personal correspondence during duty hours. Further, directing or coercing a subordinate to perform such

³⁶ The communications also tend, yet again, to establish the falsity of the later statements to the DAEO. We found no communications or references to communications in which Secretary Zinke’s wife played any role in managing the messaging to the news organization’s reporter.

³⁷ We note the DAEO reviewed (i) the emails and text messages discussed above between Secretary Zinke, Developer 1, Developer 2, and Developer 3 discussing the Foundation property; (ii) several emails written by Zinke’s staff regarding his meeting with Developer 1, Developer 3, and Developer 4 in August 2017; and (iii) emails and text messages between Developer 1, Developer 2, and Developer 3 about Zinke’s involvement in the 95 Karrow project. Although not dispositive, we find it notable that, after review of these communications, the DAEO described concluding that Secretary Zinke had participated in negotiations about the development of the 95 Karrow project and that the Secretary had misrepresented the facts about that participation. The DAEO expressed the belief that Secretary Zinke “misrepresented things to me.”

³⁸ 5 C.F.R. part 2635, subpart G; *see also* 5 C.F.R. § 2635.101 (setting forth the basic obligations of public service including that Federal employees “shall not use public office for private gain” and “shall protect and conserve Federal property and shall not use it for other than authorized purposes”). As previously stated, the Standards of Ethical Conduct apply to PAS officials like Secretary Zinke.

activities during nonduty hours constitutes an improper use of public office for private gain in violation of § 2635.702(a).”

Here, the evidence showed that Secretary Zinke directed his staff to arrange the office and dinner meetings with the developers of the 95 Karrow project. In particular, the evidence established that Secretary Zinke’s executive assistants arranged for him to meet with several of the 95 Karrow project developers in Secretary Zinke’s office on August 3, 2017, and then arranged dinner for the group, as well as for the Secretary’s security detail after the tour. The evidence also showed that in September 2017, Secretary Zinke forwarded emails sent to him from the 95 Karrow project developers, including in one instance, 95 Karrow project documents, to his executive assistants.³⁹ All of these activities occurred during the subordinates’ normal duty hours.

The office and dinner meetings with the 95 Karrow project developers and the emails and documents related to the 95 Karrow project were not related to Secretary Zinke’s official duties with the DOI and were personal in nature. We therefore concluded that the Secretary’s use of his staff to set up the office and dinner meetings and print documents related to the 95 Karrow project violated the prohibition against using a subordinate’s official time for activities that are not required by or related to their official duties.⁴⁰

We also found that, in directing his subordinates to perform duties related to his personal business dealings, Secretary Zinke misused his public office for private gain in violation of 5 C.F.R. § 2635.702. The regulation generally prohibits Federal officials from using their public office for their own private gain or for the private gain of friends, relatives, or persons with whom the employee is affiliated in a nongovernmental capacity, including nonprofit organizations of which the employee is an officer or member, and persons with whom the employee has or seeks business relations. While we did not find that Secretary Zinke did anything in his official capacity to directly benefit the developers of the 95 Karrow project or Halliburton,⁴¹ we did find that Secretary Zinke’s use of his position to direct his subordinates to

³⁹ Although we found no written communications in which Secretary Zinke explicitly directed his staff to do so, we infer that the reason for forwarding the documents was the expectation that they print them out for the Secretary’s use in responding to the developers with his proposed changes to the plan. (His staff did, in fact, respond by printing them.)

⁴⁰ There is some ambiguity as to whether the activities discussed in this section also fall within the Standards of Ethical Conduct’s prohibition on the use of Government property for other than authorized purposes, 5 C.F.R. § 2635.704. The DOI’s “Limited Personal Use of Government Office Equipment and Library Collections” policy, 410 *Departmental Manual 2*, provides a limited personal use exception so long as the use is not related to a “commercial gain activity.” The DOI’s policy defines “commercial gain activity” as “any activity involving or relating to buying, selling, advertising, soliciting, leasing, or exchanging products or services for an employee’s personal financial profit or gain.” Because the Foundation is a nonprofit organization and we did not obtain evidence that the 95 Karrow project would financially benefit Secretary Zinke (or his other family members) personally, we could not conclude that the activity at issue constituted a “commercial gain activity.” However, if it did, Secretary Zinke’s use of Government resources in directing his subordinates to print out documents related to the 95 Karrow project would also violate 5 C.F.R. § 2635.704.

⁴¹ Although one of the developers was a senior executive with the Halliburton Company at the time, we did not find evidence that Halliburton or any of its affiliated companies were involved in the 95 Karrow project or that Secretary Zinke participated in any particular Government matter in which Halliburton was a party that directly benefited Halliburton.

schedule a meeting with the developers and print out documents related to the 95 Karrow project was a misuse of his public office for private gain.⁴²

While we did find that Secretary Zinke's use of his subordinates' time was improper, we did not find evidence to substantiate the allegation that Secretary Zinke's staff tried to conceal his involvement in Foundation matters or the 95 Karrow project.⁴³

4. *The Evidence Did Not Show That Secretary Zinke Violated Federal Criminal Conflict of Interest Laws*

Because we did not find that Secretary Zinke participated in any *official* matter involving the Foundation or the 95 Karrow project, we did not substantiate the allegation that he violated 18 U.S.C. § 208, the Federal criminal conflict of interest statute. For the same reason, we did not find that Secretary Zinke violated the obligation set forth in his ethics agreement and recusal memorandum requiring him to recuse from official matters involving the Foundation for 2 years after he resigned as Foundation president.

Under 18 U.S.C. § 208(a), which is cited in both Secretary Zinke's ethics agreement and recusal memorandum,⁴⁴ Secretary Zinke was prohibited from participating "personally and substantially as a Government officer or employee" in any particular matter in which, to his knowledge, he or a person whose financial interests are imputed to him, has a financial interest that would be directly and predictably affected by the matter unless he first obtained a waiver or qualified for a regulatory exemption. Similarly, pursuant to the recusal obligation set forth in his recusal memorandum, Secretary Zinke was prohibited for 2 years after his appointment from participating "personally and substantially in any particular matter involving specific parties" in which he knew that the Foundation was a party or represented a party, unless he received advance authorization to participate.⁴⁵ In both instances, "particular matter" refers to a particular *Government* matter, not matters of a personal or private nature.⁴⁶

The above Federal conflict of interest prohibition and recusal obligation apply only to Federal Government matters in which the official is acting in his official capacity. Here, the evidence

⁴² We recognize that one of the examples to 5 C.F.R. § 2635.705(b), quoted above, states that such direction during an employee's *nonduty hours* constitutes an improper use of public office for private gain in violation of 5 C.F.R. § 2635.702(a). This language does not preclude a finding of a violation of section 2635.702 here, where Secretary Zinke used his official position to induce his subordinates to perform activities related to his outside business activities during their normal duty hours.

⁴³ We also considered whether Secretary Zinke's conduct violated 5 C.F.R. § 2635.702, use of public office for private gain, by virtue of using his official position for his or his wife's personal benefit. In particular, we considered whether inviting the developers to his office and giving them a tour of the Lincoln Memorial was improper. We acknowledge that, in most circumstances, the Secretary's decision to bring guests into his office or to visit a monument would not be issues on which the OIG would opine. Given that we have concluded that Secretary Zinke's underlying conduct with at least some of these guests contradicted his ethics agreement, however, we attempted to assess whether these actions might raise concerns that he was attempting to use the trappings of his office to improve what the developers themselves termed "negotiations." In the end, though, we do not have sufficient information about the nature of the discussions in Secretary Zinke's office or during the tour of the Lincoln Memorial to conclude that there was either a misuse of office or the appearance of a misuse of office.

⁴⁴ See Ethics Agreement at 1 and Recusal Memorandum at 1.

⁴⁵ See Recusal Memorandum at 2.

⁴⁶ See 5 C.F.R. § 2635.402(b)(3) (definition and examples therein); 5 C.F.R. § 2637.102(a)(7) (making clear definition involves a particular *Government* matter).

showed that the matter in question—the use of Foundation land for the development of the 95 Karrow project—was not a Federal Government matter, and that Secretary Zinke was acting in his private capacity when communicating with the 95 Karrow project developers. The evidence did not support a finding that the Foundation or developers of the 95 Karrow project, collectively or individually, were involved in official matters before the DOI or sought Secretary Zinke’s assistance as Secretary of the Interior. We therefore did not substantiate the allegation that Secretary Zinke violated 18 U.S.C. § 208 or his duty to recuse from all official matters related to the Foundation.

IV. CONCLUSION

In sum, we concluded that Secretary Zinke did not comply with his ethics obligations as set forth in his ethics agreement, recusal memorandum, and accompanying documents, all of which were provided to senior level executive officials at the DOI and the OGE as a required part of the confirmation process. We also concluded that Secretary Zinke did not comply with his duty of candor when he knowingly provided incorrect, incomplete, and misleading answers to the DAEO in July 2018 about his continued involvement with the Foundation and the 95 Karrow project. We also found that Secretary Zinke violated the Standards of Ethical Conduct when he misused his official position to direct his subordinates to perform activities that were not related to the performance of their official duties during normal duty hours.

We did not find evidence to substantiate the allegation that Secretary Zinke’s staff tried to conceal his involvement in Foundation matters or the 95 Karrow project, nor did we find that Secretary Zinke violated 18 U.S.C. § 208 or his obligation to recuse from participating in certain official Government matters.

V. SUBJECT

Ryan Zinke, former Secretary of the U.S. Department of the Interior

VI. DISPOSITION

We referred this matter to the DOJ. The DOJ declined criminal prosecution in the summer of 2021. We are providing this report to the current Secretary of the Interior for any action deemed appropriate.

Appendix: Timeline of Events

2007

August 15

Ryan Zinke and his wife establish the Great Northern Veterans Peace Park Foundation (Foundation).

2008

January 23

The Foundation acquires approximately 5 acres of land in Whitefish, MT.

2017

January 10

Zinke, as nominee for Secretary of the Interior, commits in writing to resign from his position as Foundation president. In his preconfirmation ethics agreement sent to the DOI Ethics Office, Zinke wrote, "Upon confirmation, I will resign from my position with Great Northern Veterans Peace Park Foundation."

March 1

Secretary Zinke is confirmed as Secretary of the Interior.

Five days after his confirmation as Secretary of the Interior, Secretary Zinke resigns from his position as president of the Foundation, stating in his letter:

During my appointment to the position of Secretary of the United States Department of the Interior, I will not manage or provide any other services to Great Northern Veterans Peace Park Foundation.

March 6

Secretary Zinke's wife becomes Foundation president.

Secretary Zinke submits a memorandum to senior U.S. Department of the Interior (DOI) officials, including the Deputy Secretary, the Solicitor, Assistant Secretaries, Bureau Directors, the Chief of Staff, and the DAEO, regarding his ethics recusals, which referenced and attached his January 10, 2017 ethics agreement. With respect to the Foundation, the recusal memorandum states, in part:

I resigned from my position with Great Northern Veterans Peace Park Foundation. For a period of 1 year after my resignation, I will not participate personally and substantially in any particular matter involving specific parties in which I know this entity is a party or represents a party, unless I am first authorized to participate, pursuant to 5 C.F.R. § 2635.502(d).

May 19

Secretary Zinke sends copies of his recusal memorandum, ethics agreement, and resignation letters to the Director of the U.S. Office of Government Ethics (OGE) as required by regulation. The letter to the OGE specifically states, "As evidence of compliance with my ethics agreement, I submit my attached ethics recusal and resignation letters."

May 19

July 25 – August 2	Secretary Zinke’s staff exchange emails with Developer 3’s executive assistant to schedule a meeting between the Secretary and the developers of the 95 Karrow project.
August 3	Secretary Zinke meets with three developers of the 95 Karrow project in his DOI office, takes them on a tour of the Lincoln Memorial, and goes to dinner with them.
September 7 – September 26	Secretary Zinke exchanges emails with the developers in which they discuss various aspects of the 95 Karrow project. These emails include the exchange of site plans and drawings reflecting proposed designs for the 95 Karrow project, discussions regarding the use of Foundation property for the 95 Karrow project and the exchange of a signed letter of intent, and communications regarding the development of a microbrewery on the property.
2018	
April 17	Secretary Zinke provides his wife’s email address to Developer 1.
April 21 – May 22	Secretary Zinke and Developer 1 exchange text messages discussing how to respond to a news organization’s reporter inquiring about the 95 Karrow project.
June	The news organization publishes an article reporting Secretary Zinke’s involvement with the developers of the 95 Karrow project.
June	The news organization publishes a second article reporting that Secretary Zinke acknowledged meeting with the developers of the 95 Karrow project in his DOI office but told the news organization that he had limited his involvement to providing background on the Foundation and the land it owned, that he had resigned from the Foundation’s board, and that his wife now directed the board.
July	The DAEO interviews Secretary Zinke about the information contained in the first news article.
November 11	Secretary Zinke’s wife contacts Developer 1 rescinding the Foundation’s letter of intent.
2019	
January 2	Secretary Zinke resigns as Secretary of the Interior.

