

United States Senate

SELECT COMMITTEE ON ETHICS
HART SENATE OFFICE BUILDING, ROOM 220
SECOND AND CONSTITUTION AVENUE, NE
WASHINGTON, DC 20510-6425

March 29, 2012

The Honorable David Vitter
United States Senate
Washington, DC 20510

Dear Senator Vitter:

The Select Committee on Ethics is dismissing the complaint filed by Citizens for Responsibility and Ethics in Washington (“CREW”) regarding your attempt to block Senate legislation raising Secretary Salazar’s salary \$19,600 – thereby making it on par with other Cabinet Secretaries – until he issued six new deepwater exploratory permits per month in the Gulf of Mexico. While the Committee found that there was no substantial credible evidence that you violated the law or Senate rules, it did conclude that it is inappropriate to condition support for a Secretary’s personal salary increase directly on his or her performance of a specific official act. The Committee recognizes that currently there is no clear Senate guidance addressing such conduct, and therefore, issues this letter and the accompanying guidance to the Senate community about how we will view such behavior in the future.

Pursuant to Article I, section 6, clause 2 of the Constitution (the Ineligibility Clause), then-Senator Salazar was prohibited from becoming Secretary of the Interior until a law was passed that “rolled back” any compensation increase enacted during his Senate term. Therefore, in 2008, President George W. Bush signed legislation rolling back the Secretary of the Interior’s salary so that then-Senator Salazar could be appointed to that position. His salary was eligible to be increased by \$19,600 and thereby restored to the level of other Cabinet Secretaries on January 3, 2011, the date his Senate term would have ended. This matter involves your hold on such “restoration” legislation.

On May 23, 2011, you sent a letter to Secretary Salazar informing him that “when the rate of permits issued for new deepwater exploratory wells reaches pre-moratorium levels (so 6 per month), I will end my efforts to block your salary increase.” In an accompanying press release, you commented that this was your “way of keeping the ‘boot on the neck’ of Interior until they get the job done.” Your actions to block restoration legislation appear to be unprecedented. On May 24, 2011, Secretary Salazar wrote to Senate Majority Leader Harry Reid and Republican Leader Mitch McConnell requesting that the legislation be withdrawn, and the Senate has not taken any subsequent action. Therefore, regardless of who the Secretary of the Interior is, that individual will be paid \$19,600 less than other Cabinet Secretaries unless legislation is passed that restores the salary.

While Senators have long used holds on nominations to help persuade administrations to carry out or change policies, tying an incumbent Secretary’s personal salary directly to his or her performance of a specific official act is different, places a Secretary in a precarious and potentially untenable position, and undermines a basic principle of government service. As stated in the Code of Ethics for Government Service, “public office is a public trust.” A government employee must not

be influenced by external factors when making decisions and “never accept for himself or his family, favors or benefits under circumstances which might be construed by reasonable persons as influencing the performance of his governmental duties.” Had Secretary Salazar complied with this request, it would have appeared that his decision was made because of his personal interests, and not the public interest.

This unprecedented circumstance raised a new issue about how the Committee should treat actions that tie an existing Secretary’s personal salary to his or her performance of a specific official act. As a result, later today the Committee is issuing to the Senate community the enclosed new guidance, which makes it clear that going forward such actions will be viewed by the Committee as improper conduct reflecting discredibly on the Senate.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Barbara Boxer', written in a cursive style.

Barbara Boxer
Chairman

A handwritten signature in blue ink, appearing to read 'Johnny Isakson', written in a cursive style.

Johnny Isakson
Vice Chairman

Enclosure