

What does it take to bring down a U.S. Forest Service whistleblower? At last count, about sixty federal employees, including more than a dozen attorneys, several hundred pages of documents, two years of unrelenting pressure and untold taxpayer-financed work hours. That's according to the raft of documents Forest Service Employees for Environmental Ethics received regarding the agency's campaign to terminate Glen Ith, a wildlife biologist on the Tongass National Forest who spoke out about errors and illegalities in the way the agency was preparing timber sales.

Included on the coast-to-coast takedown roster are lawyers from the U.S. Department of Justice, the Office of General Counsel and the Office of Special Counsel; human resources administrators; an ethics officer; a special investigator; agency personnel in Washington, D.C.; and employees on the Tongass National Forest, from the forest supervisor on down.

Bringing such artillery to bear on a relatively low-level termination case is "way out of normal," says Melissa Baumann, secretary-treasurer of the National Federation of Federal Employees Forest Service Council, the union that represents U.S. Forest Service workers. "I've never seen attorneys involved prior to a [termination] appeal," says Baumann, who is also on the national grievance committee. "It's not illegal to be a whistleblower."

But then, Ith's case had been unusual all along.

Ith had been with the agency for twenty-five years when he died unexpectedly last March from an undiagnosed heart condition at age forty-eight. When he died, he was on his eighth month of paid administrative leave while waiting for the agency to decide whether or not to fire him for misconduct. Ith, who was convinced the agency was retaliating against him for whistleblowing, vigorously rebutted the charges. He would not live to know the outcome.

Using the Freedom of Information Act, FSEEE obtained more than 350 pages of material pertaining to Ith and his "misconduct" case. Although the Forest Service withheld several hundred pages of critical documents, citing attorney-client communication and other exemptions, the



remaining e-mails, memos, letters and reports—plus the subject lines on the missing documents—provide a glimpse into the depth and breadth of what appears to be an orchestrated effort to discredit, then get rid of, an employee who spoke up for what he thought was right.

No agency employees who were interviewed for this story agreed to have their name or position used, for fear of reprisal. A few refused to talk at all, for the same reason. But others wanted to express their confusion and lingering outrage at the treatment of a co-worker whom they described as unfailingly honest and dedicated.

"I can't see him fabricating something," said one employee, who described Ith as both thorough and meticulous. "He wasn't a vindictive person. If he brought something up, it was for a valid point."

"From a distance, the circumstances are very troubling," said another employee. "Glen was very positive about his work. He had strong convictions for wildlife. He wasn't somebody who would trash-talk the Forest Service when you were out in the field with him. It's hard not to believe he didn't have a strong case for the way he felt."

Anatomy of a TAKEDOWN



Glen Ith

Glen Ith sued the U.S. Forest Service to stop illegal road building in the Tongass National Forest.

GUILTY BEFORE CHARGED

Ith was an effective whistleblower. He won the two administrative appeals he filed against timber sales (see “Glen Ith Timeline”), and a federal judge sided with him and FSEEE in his 2006 federal lawsuit against the Forest Service over illegal road building on the Tongass.

Petersburg environmentalist Becky Knight believes Ith was retaliated against for confronting the timber-first mentality that has ruled the administration of the Tongass National Forest for decades. “On the Tongass, if you don’t toe the timber line, you are completely castigated,” she said. Others say he made the fatal mistake of going public with his differences with the agency. That he was successful, both administratively and in the courts, they say, likely riled some of those he worked with, or for.

“No one really likes that,” one employee said. “It kind of ruffles everyone’s feathers. It’s like the family secret that someone lets out. People wonder, ‘What are you trying to gain out of this?’”

The 1989 Whistleblower Protection Act protects federal employees who disclose information they believe shows “a violation of any law, rule or regulation.” But, in examining how the campaign against Ith unfolded, it is hard not to conclude that he was retaliated against for doing just that. E-mail subject lines show that the agency was trolling to find evidence that Ith was guilty of ethics violations months before either of the alleged misconduct actions he was ultimately charged with took place.

By Alice Tallmadge



Glen Ith Timeline

1982

Ith graduates from Utah State University with a degree in wildlife science. He volunteers on a trail crew in the Tongass National Forest, where he works part time for several years.

1988

Ith is hired as a seasonal forestry technician on the Tongass.

1988–2000

Ith is awarded a total of \$3,850 for exemplary work on various forestry projects, including a \$1,000 award “for high quality public service during a human power shortage.” In 2000, Ith is nominated for the agency’s **You Make a Difference Award** for his help with a kids’ fishing derby.

2001

Ith is hired as a wildlife biologist and is assigned to the interdisciplinary team for the Scott Peak Project.

2002

Ith becomes team leader for the project.

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During 2005, Ith commented on the Overlook and Scott Peak timber sales. Early in 2006, he appealed both sales. Both appeals were later upheld. On March 29, 2006, as a result of discovering road construction on the Overlook sale area the previous summer, Ith and FSEEE filed a federal suit against the Forest Service, charging the agency with illegal road building on four different timber sale sites.

Filing the lawsuit caught the attention of Forest Service higher-ups. But even prior to that, documents show the agency had begun looking into possible ethics violations—likely prompted by Ith’s public comments on the timber sales—and amassing job performance complaints. Late in January 2006, Karlene Hale, a human resources specialist with the Forest Service, wrote Ith’s supervisor, Chris Savage, an e-mail with the subject line, “Developments with Mr. Glen Ith (discusses concerns related to ethics issues).” On February 6, Petersburg District Ranger Patricia Grantham sent an e-mail to Savage and Hale “discussing advice provided by Karlene re: Giving letter of reprimand to Glen.” A February 13 e-mail from Tongass Forest Supervisor Forrest Cole references a draft letter of reprimand to Ith that was “not signed—not delivered.”

Once Ith filed his federal lawsuit, e-mails flew back and forth in earnest. The agency withheld the content of many of these e-mails, but the subject lines suggest Ith would suffer consequences for going to the courts. On April 3, Tim Obst, a Department of Agriculture attorney with the Office of General Counsel, sent Hale and others an e-mail with the subject “helpful Govt. Ethics Reg.” The next day, Joy Thomas, in the agency’s Washington Office, chimed in: “Nationally Precedent Setting Ethics/ER Issue – briefing for OGC [Office of General Counsel] on Glen Ith issue and request for OGC advice.” Included in that e-mail was a copy of Ith’s lawsuit against the agency.

On April 10, a conference call was held on “FSEEE and Ith” and an e-mail from Thomas refers to a phone message from Forest Service ethics advisor, Lori Delgado, and “discussion of direction to proceed with case.” That same day, Ith was notified that he was being detailed, or given a different job assignment. He was moved from the Regional Office in Petersburg across town to the Supervisor’s Office, and he was assigned the task of studying migratory birds.

Grantham informed employees of the change via an e-mail. “In the interest of keeping you informed about my

Fuzzy on the Concept

THE 1989 WHISTLEBLOWER

Protection Act forbids employers from taking a “personnel action” against an employee who speaks out because he or she believes an employer is “in violation of any law, rule or regulation.” The U.S. Forest Service makes sure its employees are aware of the law by requiring them to take an annual online training on whistleblowing—what it is and how to avoid taking action that could be construed as retaliatory.

But some individuals involved in Ith’s case seemed unclear about what the law covers. Four months after Ith was detailed, his supervisor, Chris Savage, surfed

the Internet to “learn more about Whistle-Blower [sic] protections and such.” In an e-mail exchange regarding ethical guidelines for U.S. Department of Agriculture employees, Petersburg Deputy District Ranger Patty Grantham wrote, “I realize that there probably is opinion out there that says the provisions of the Whistleblower Act trump all of this stuff, but I wanted to make sure this was on the table along with the elements Chris shared.”

More than one Forest Service employee familiar with Ith’s case expressed consternation over his superiors’ apparent disregard for the agency’s whistleblower guidelines. “You would think that there wouldn’t

be blatant retaliation. Yet, the circumstances lead one to wonder,” said one employee. “They are a little troubling.” In the agency, firing is rare, he said, and usually occurs in cases where there’s been grievous misbehavior, “such as someone stealing property or something of that magnitude.”

“Why make us do all this [the trainings] when the higher-ups are not going to abide by it?” asked another. “Obviously [what they did] was retaliation for his being a whistleblower. They were frustrated that Glen won, but they couldn’t really pin anything on him. They wanted to get rid of him at whatever cost. And they did.”

latest adventures in advance of what you'll hear in the news, as of yesterday, PRD [Petersburg Ranger District] wildlife biologist Glen Ith began a detail to the SO [Supervisor's Office] working on wildlife issues related to the Forest Plan amendment," she wrote. "The action was taken to protect both the interest of the government and Glen, to avoid exposure to sensitive litigation-related discussions or work products. It has support all the way to the Department and OGC/DOJ [Department of Justice.]"

While Ith studied birds, agency attorneys and others continued to dig. On May 8, Obst weighed in again via e-mail to Hale, Cole and Deputy Forest Supervisor Olleke Rappe-Daniels: "subject: Ethics Issue Research." The same day, Roy Morris, a branch chief in the Washington Office of Human Capital Management, also wrote Hale: "some things to consider (includes legal research on misuse of position)."

Then, unwittingly, Ith delivered himself right into the agency's hands.

In late May, Ith approved and signed an FSEEE fundraising appeal for his federal suit against the agency. The appeal—in which he made it clear he was acting as a private citizen—was sent to FSEEE members in early June and posted on the FSEEE website. News about the posting traveled with the speed of a brushfire. The Forest Service was confident it had finally caught Ith in an ethics violation it thought would stand up to scrutiny—violating a federal regulation on fundraising activities. "Is it just me or does this raise a whole new set of ethics questions?" Grantham wrote in an e-mail.

E-mails now zoomed through cyberspace. By the end of June, the Forest Service had appointed Carol Kittson, a Forest Service employee relations specialist, to investigate Ith's alleged misconduct. On June 27, Delgado wrote an e-mail requesting assistance from the Office of the Inspector General. The next day, Mary Ann Young, an acting deputy regional forester, sent an e-mail with the subject "Fw: Ith (designation of Personnel Misconduct Investigator—and *pending administrative leave decision for Mr. Ith* [italics added]," to Cole and others.

CLOSING IN

Documents obtained by FSEEE show that his supervisors and others began expressing dissatisfaction with Ith's job performance at about the same time he began making public comments on timber sales. The complaints include frustration over how long it took him to complete tasks, the quality of his work and in some instances concern about his behavior in meetings. A February 2006 note from his team leader, for instance, cites his confusing presentations and "rude and aggressive" behavior towards "people who disagree with his points of view." But except for a 2005 Letter of Expectations, none of these issues resulted in official action. In fact, several days after the February 2006 complaint was submitted, Ith's supervisor rated him "successful in all his performance elements" in an annual review. The reprimand letter written by

2004

Ith makes public comments on the Couverden timber sale in the Juneau Ranger District, disputing the agency's wildlife analysis. Ith finds draft letters of reprimand in his personnel file along with a copy of his Couverden comments. He requests an Alternative Dispute Resolution process with his supervisor.

2005

MAY—Ith and his supervisor complete the ADR process. Ith is given a Letter of Expectations taking away a number of his wildlife duties. Ith is taken off the Scott Peak team, which he requested.

JUNE—Ith testifies at a subsistence hearing on the Overlook timber sale.

AUGUST—Ith discovers roads being reconstructed on the Overlook sale, which is yet to be approved.

2006

JANUARY—Ith and FSEEE appeal the Overlook timber sale.

MARCH—Ith appeals the Scott Peak Project.

MARCH 13—Tongass Forest Supervisor Forrest Cole withdraws his approval of the Overlook timber sale.

MARCH 29—Ith and FSEEE file a federal lawsuit over illegal road building on the Tongass.

Rappe-Daniels accused Ith of conduct so unpardonable “that the lack of prior discipline does not overcome the seriousness of the misconduct and its impact on the service.... I see no potential for rehabilitation in your case.”

Cole was never sent, “on the advice of the WO [Washington Office],” according to a handwritten note. Before Ith was detailed in April 2006, he was disciplined once in his twenty-plus years with the agency: In 1995 he was suspended for three days without pay for not wearing a hard hat on a work assignment.

Kittson interviewed eight agency employees, including Ith, over two days in July 2006. She later interviewed two contractors and a state employee. Most of the interviewees expressed some degree of dissatisfaction with Ith’s work. But in the Forest Service, it is faster and easier to terminate someone for misconduct than it is for performance issues, and Kittson probed for possible ethics violations. She asked whether people thought Ith used information obtained through his employment, or that was not available to the public, to develop his comments on timber sales, or if he had manipulated any professional work for his benefit.

Nowhere to Turn

DESPITE EXISTING LAWS, WHISTLEBLOWERS

who believe they are being retaliated against don’t have a lot of support in today’s political climate. The U.S. Office of Special Counsel was set up as an independent agency to protect federal whistleblowers from reprisals, but its effectiveness has been curtailed by political maneuverings. This past May, the FBI seized computers and documents from Scott Bloch, the head of the agency and a 2003 Bush appointee, who is being investigated on charges he retaliated against his own employees when they complained they were transferred because they disagreed with his policies.

In the last few years, the Office of Special Counsel dismissed 600 cases in which civil servants reported waste, fraud and abuse. According to news reports, the officials considered the cases “either insignificant or said they had been previously investigated.” Had Ith’s case continued, it might have met a similar fate.

The judicial route has become somewhat of a dead-end as well. A 2006 ruling by the U.S. Supreme Court restricted the rights of federal whistleblowers who take their case to court. Free speech protections, the court ruled, do not apply to federal employees who expose actions related to their duties as employees.

Kittson grilled Ith at about when and how he took photos of the road building at Overlook and about his relationship with FSEEE and the fundraising appeal.

In March 2007, Ith was informed that Kittson wanted to interview him a second time. This time Kittson focused on the draft wildlife resource report Ith had written and submitted as part of the planning record for the Scott Peak project. Ith’s report had been replaced in the final document by an edited version that came to conclusions less favorable to wildlife. Ith later provided a copy of the original report to Larry Edwards, a member of Greenpeace. Ith explained to Kittson the circumstances under which he provided a copy of the report to Edwards, and his belief that it was a public document. Alaska Fish and Game biologist Rich Lowell later supported Ith’s position. Nevertheless, the Forest Service considered the report to be an internal document, and therefore confidential. Fourteen months after inaugurating its ethics investigation into Ith, the Forest Service was confident it had found a second offense to pin on the agency veteran: “Employees are not to use or allow the improper use of nonpublic information to further a private interest, either their own or another’s.”

Agency minds were made up. An April 2 e-mail from Melvin Shibuya, an employee relations specialist, to Ron Walkow of the Office of General Counsel, references “Proposed Removal Action – Ith.” A May e-mail from Shibuya refers to a draft letter “of a proposed adverse action.” On the afternoon of July 20, Ith was presented with a proposed termination letter signed by Rappe-Daniels, citing his improper conduct and spelling out the two “grievous” ethics violations: Ith’s signing of the FSEEE fundraising letter and giving a copy of his draft wildlife report to Edwards. A law enforcement officer stood by as Ith removed his personal belongings from his cubicle and gave up his key card.

THE WHISTLE STOPS

In the letter, Rappe-Daniels accused Ith of conduct so unpardonable “that the lack of prior discipline does not overcome the seriousness of the misconduct and its impact on the service.... I see no potential for rehabilitation in your case.” She asserted that the release of the resource report was the reason Ith was detailed in April 2006. “So serious was your act of indiscretion that you were detailed from your position with the Tongass National Forest and placed in another position to restrict access to sensitive information and minimize the damage of your failing to protect ‘inside’ information from unauthorized use,” she wrote.

In fact, Ith didn't give Edwards the report until late December 2006 or in January 2007, several months *after* Ith was detailed. Ith said to FSEEE in December 2007 that the agency told him the reason he was detailed was his federal lawsuit.

After clearing out his office, Ith was placed on paid administrative leave. He rebutted the charges against him, explaining that the resource report was "prepared for public comment," that it was part of his formal [i.e., public] appeal process "as to which you [the Forest Service] raised no concern about impropriety," and that another state agency had also made the report available to the public. He said that, as a private citizen, he had a right to sign the fundraising appeal. "I sought funds for a public interest lawsuit for which I would be entitled to no remuneration personally and have received no personal gain," he wrote. He asked the Office of Special Counsel, the independent agency set up to investigate whistleblower retaliation complaints, to investigate. In August he filed a second federal lawsuit against his employer, this time challenging the agency's dismissal of his second Scott Peak appeal.


Ith languished for months in bureaucratic limbo while Forest Service administrators and government attorneys continued to exchange e-mails, seemingly trying to find a way to terminate Ith that wouldn't result in more publicity or further legal action. At some point, someone hit on a plan: eliminate Ith's job, and he goes, too.

In late February 2008, Ith discovered that his position as a wildlife biologist was eliminated as part of widespread downsizing on the Tongass. His only options were to apply for a position elsewhere in the agency, or resign. His last communication with the agency, via his attorney, was almost a plea.

"With such a termination letter hanging over Mr. Ith's head, it would be utterly futile for Mr. Ith to seek placement anywhere else within the Forest Service," wrote attorney John Phillips in a February 27 letter to District Ranger Savage. "It is readily apparent that the Forest Service has embarked on a strategy of 'terminating Mr. Ith without actually terminating him,' in the vague hope that he would disappear and the Forest Service will not create an appealable event."

The letter turned out to be uncannily prophetic. Ith did disappear, dying of sudden cardiac arrest four days later, devastating his family and sending shock waves throughout the small community of Petersburg and the agency he had once been so proud to work for. On hearing of his death, the Office of Special Counsel dropped its investigation.

"Glen was one of most quality individuals I've ever met," said Doug Blanc, one of Ith's former supervisors who is no longer with the agency. "He was a stand-up guy. That's what he did—he stood up. And it's unbelievable to me, what he went through."

Tongass Forest Supervisor Cole declined to comment for this story citing the pending Scott Peak lawsuit, in which Marketa Ith, Glen's wife, is now the plaintiff. Rappe-Daniels, now retired, did not return phone calls requesting comment. 

APRIL 10—Ith is detailed to a different office and his job duties are changed.

APRIL 14—Scott Peak project appeal is upheld based on cumulative effects.

JUNE—Ith, as a private citizen, signs a fundraising appeal that is sent to FSEEE members.

JULY 10—Ith is told he is the subject of a formal misconduct investigation.

JULY 13—A special investigator interviews Ith and several other agency employees.

DECEMBER—U.S. District Court Judge John Sedgwick rules for Ith and FSEEE in their lawsuit regarding illegal road building.

2007

MARCH—Ith is interviewed a second time by the special investigator.

JULY—Ith is presented with a proposed termination letter, and he rebuts the charges. He is placed on paid administrative leave.

AUGUST—Ith files a federal suit on the Scott Peak project.

2008

FEBRUARY—Ith learns his wildlife biologist position is being downsized.