



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, DC 20240

DEC 21 2012

Mr. Jeff Ruch
Executive Director
Public Employees for Environmental
Responsibility
2000 P Street, NW
Suite 240
Washington, D.C. 20036

Re: Complaint of Scientific and Scholarly Misconduct
Filed on Behalf of Dr. Charles Monnett, BOEM

Dear Mr. Ruch:

Per the complaint filed by PEER on behalf of Dr. Charles Monnett, I am providing the following responses.

Background

This complaint is filed under the Department of the Interior's (DOI) scientific integrity policy *Integrity of Scientific and Scholarly Activities* by Public Employees for Environmental Responsibility (PEER) on behalf of Dr. Charles Monnett of the Bureau of Ocean Energy Management (BOEM). The DOI policy (305 DM 3) became effective on January 28, 2011, and provides the opportunity for scientific integrity complaints to be filed by persons employed by DOI as well as the American public.

The Deputy Secretary is responsible for the overall leadership of the DOI scientific integrity program, for ensuring Departmental compliance with the scientific integrity policy and for designating a senior career person with scientific and/or scholarly credentials as the Departmental Scientific Integrity Officer (DSIO) (Section 3.6.A(1), A(2) and A(3)). The DSIO is responsible for implementation of the policy (Section 3.6.C (3)) under the guidance of the Deputy Secretary. This complaint is filed against the BOEM Director and other bureau executives and managers as well as the Office of the Inspector General (IG). Since the Director of BOEM is a "bureau head," the DSIO is charged with conducting a review of these allegations (Section 3.8 B).

The complaint was filed on July 28, 2011, amended on September 19, 2011, and additional information provided, at the request of the DSIO, on April 13, 2012. The complaint alleges that:

“A. BOEM officials have interfered with Dr. Monnett’s scientific work and are preventing him from functioning as a scientist, in violation of DOI policies specified below.

B. The OIG has been and is continuing to conduct investigations into allegations of scientific misconduct as defined by the DOI Scientific Integrity policies in violation of the exclusive complaint process specified in those policies.”

Relationship of Office of the Inspector General and 305 DM 3

For purposes of conducting an inquiry into the scientific misconduct allegations made against “IG Special Agent Eric May and his chain-of-command” by PEER on behalf of Dr. Charles Monnet, I must first determine whether 305 DM 3 applies to the IG Special Agent and his organizational hierarchy.

I must consider the legislation that established the Inspector General because it describes the relationship of the IG and the Secretary. The scientific integrity policy is a creation of the Secretary of the Interior and applies to DOI employees who ultimately report to him/her. The IG has a special relationship with the Secretary that, by law, creates an organizational distance between them. This special relationship is detailed in 5 U.S.C. App. Sec. 3 (a), Inspector General Act of 1978, and explains the IG is appointed by the President and confirmed by the Senate. More importantly, Section 3 gives the IG freedom to initiate, carry out or complete any audit or investigation the IG wishes, and neither the Secretary nor anyone next in rank to the Secretary may prevent or prohibit IG investigations. While the IG is under the “general supervision” of the Secretary or Deputy Secretary, for purposes of investigations the IG has the autonomy needed to be outside the influence of the Secretary. As a result, it is my conclusion that the activities of the IG Special Agents and their hierarchy, as it relates to investigations, are beyond the reach of the DOI scientific integrity policy.

Complaint Processing

The complaint filed by PEER on behalf of Dr. Monnett also indicates the belief that the scientific integrity policy of the DOI is the *exclusive* process for handling scientific misconduct issues (April 13, 2012 letter). However, scientific integrity issues are not exempt from investigation by the IG. The Inspector General Act of 1978 gives the IG broad authority to identify and pursue investigations. Indeed, the scientific integrity policy states that scientific misconduct allegations received under 305 DM 3 should be referred to the IG in cases of waste, fraud or abuse. If the IG wishes to investigate an allegation of scientific misconduct, the scientific integrity officers’ role is to provide any technical support to the IG that might be requested. Indeed, the DOI IG developed a strategic plan for 2011-2016 (Office of Inspector General, U.S. Department of the Interior, Strategic Plan 2011-2016, 12 pages) that describes the mission, goals, objectives and strategies for the 5-year period. The Plan identifies “targeted issue areas for investigations and audits in fiscal year 2011”. Included in the targeted issue areas is scientific integrity. Thus, the

pursuit of scientific integrity allegations may occur under the authority of the IG, the authority of the Scientific Integrity Officers, or a combination thereof.

I. Specific Allegations of Scientific Misconduct

“A. BOEM officials have interfered with Dr. Monnett’s scientific work and are preventing him from functioning as a scientist in violation of DOI policies specified below.”

Allegation 1: “From July 18, 2011 until On (sic) August 26, 2011, BOEM suspended Dr. Monnett during which time the agency forbade him from conducting any scientific work, contacting colleagues or entering BOEM premises under threat of disciplinary action.”

Response: (Note: Dr. Monnett alleges that he was *suspended* during the period from July 18, 2011 until August 26, 2011. However, the July 18, 2011, memo from the Deputy Regional Director included as Attachment 1 to Dr. Monnett’s complaint, actually placed Dr. Monnett on *administrative leave*.) As stated in the IG report and confirmed by my interviews with BOEM staff, Dr. Monnett was placed on administrative leave as a result of an investigation into Dr. Monnett’s contracting activities. Based on the information received from the IG, Director Bromwich ordered that Dr. Monnett be placed on administrative leave so that the Bureau would be protected from any future potential contracting irregularities involving Dr. Monnett.

In order to determine whether Director Bromwich’s actions fell within the category of Scientific and Scholarly Misconduct, I must determine whether his actions meet the criteria listed in 3.5.M. In this instance, I find that Director Bromwich was not engaged in proposing, performing, reviewing or reporting scientific and scholarly activities. Rather, his action related to concern for proper contracting procedures. Contracting actions such as awards of contracts or cooperative agreements are not inherently “scientific or scholarly” activities. Thus I find that Director Bromwich’s actions do not meet these criteria for Scientific and Scholarly Misconduct.

However, the scientific integrity policy also contains a broader definition of Scientific and Scholarly Misconduct. Misconduct also includes “(a) intentionally circumventing policy that ensures the integrity of science and scholarship, and (b) actions that compromise scientific and scholarly integrity.” I believe the goal of these two definitions is to allow the scientific integrity policy to cover actions taken in other contexts when such actions amounted to pretexts for interfering with Scientific and Scholarly Activities. Such actions would, in fact, be pretextual instances of Scientific and Scholarly Misconduct. These criteria must be read together with 3.5.M(3), which requires a “significant departure from accepted practices”, intent, and a “preponderance of evidence.”

In reviewing actions under 3.5.M(1) and (2) to determine whether they were pretextual, it is important to note that the intent criteria in 3.5.M(3)(b) functions as a restriction on the ability to find scientific and scholarly misconduct in the evaluation of the complaint. Without these restrictions, it could be argued that any administrative or personnel action that *affects* scientific activities also *compromises* it, in violation of the policy. That is not the case. An action, if it compromises scientific and scholarly activities, must be done intentionally, knowingly, or recklessly with the purpose of compromising scientific and scholarly integrity.

Mr. Bromwich's actions did not appear to intentionally circumvent this policy. Did he intend his actions to *compromise* scientific and scholarly activities?

I have not found any information that Director Bromwich's actions in this instance were motivated by any intent other than concern for following appropriate contracting procedures in BOEM. As a result, I do not find that further fact finding by a Scientific Integrity Review Panel is required on this issue.

Allegation 2: "When BOEM rescinded the suspension, Dr. Monnett was not allowed to go back to his previous work and was thus barred from continuing the important research in which he was engaged. Instead, he was moved to a different division of BOEM and given a completely unrelated assignment lacking any scientific components. The complexity of the new assignment is much less than the original assignment, thus he has been constructively demoted."

Response: Dr. Monnett alleges that he was constructively demoted when he was reassigned to a different division in BOEM-Alaska because, in his opinion, the new work lacked a scientific component and was less complex. BOEM management chose to reassign Dr. Monnett to a position where he was not required to use a Contract Officer's Representative (COR) certification. Under DOI personnel rules, management has the right to assign work to an employee. The transfer of Dr. Monnett to another organizational unit within BOEM-Alaska resulted in an increase in work for those employees who assumed his COR duties. However, I cannot find that Dr. Monnett's transfer was a pretext for interfering or compromising scientific and scholarly activity. His transfer occurred while the contracting issues were still being investigated (they were not finally resolved until the IG's report was released in June, 2012). I did not find a preponderance of evidence that the transfer of Dr. Monnett compromised the scientific and scholarly integrity of the research he had been responsible for, nor did Dr. Monnett's reassignment result in outside interference to the scientific process itself in these activities. Therefore, I do not find that further fact finding by a Scientific Integrity Review Panel is required on this issue.

Allegation 3: "The refusal to restore Dr. Monnett to his previous duties sidelines him during a critical phase of his scientific research projects. This has damaged the research and has diminished his prestige in the scientific community. This removal of duties also violates core Department of Interior (DOI) policies on Integrity of Scientific and Scholarly Activities (Part 305; Chapter 3 DOI Manual), including BOEM intentionally hindered the scientific and scholarly activities of Dr. Monnett, in violation of 3.7.A(6);"

Response: Dr. Monnett was transferred from COR responsibilities due to concerns over alleged contracting irregularities as discussed previously. Therefore, I cannot find that the transfer was completed as a pretext to affect scientific and scholarly activity. Rather, Dr. Monnett's transfer occurred after the alleged contracting irregularities were identified and prior to the release of the IG report. To the degree that Dr. Monnett's study planning and contracting activities were not complete when he was transferred the situation would have left others to complete the critical work of getting the studies underway. My interviews with BOEM supervisory personnel indicated that Dr. Monnett's workload was successfully transferred to qualified BOEM scientists

in Alaska. Was the transfer of Dr. Monnett done to “intentionally hinder” his “scientific and scholarly activities”? Even if Dr. Monnett’s removal as a COR and transfer to another BOEM organizational entity did result in an effect on the scientific or scholarly work, the effect was not created knowingly, intentionally, or recklessly because the issues identified by the IG related to Dr. Monnett’s alleged contracting issues were not resolved at the time of his transfer. The IG investigation into alleged contracting irregularities placed BOEM management in a position where they had to react to the allegations to protect the integrity of the contracting process. I cannot find a preponderance of evidence that Dr. Monnett’s transfer was done for any other reason besides concern for contracting issues. Therefore, I do not find that further fact finding by an SIRP is required on this issue.

Allegation 4: “BOEM intentionally hindered the scientific and scholarly activities of Dr. Monnett, in violation of § 3.7.A(6).”

Response: Sections 3.7.A, 3.7.B, and 3.7.C of the DOI scientific integrity policy contain the Code of Conduct for all persons covered by the policy. Based on interviews with senior managers, it appears that BOEM management in Alaska suspected that Dr. Monnett was releasing internal information to parties outside of the federal government that was pre-decisional and pertinent to certain lawsuits BOEM was defending itself against. BOEM managers reported that Dr. Monnett’s email was searched and they found unauthorized emails sent from his email address. At this point, although BOEM managers could have taken action against Dr. Monnett, they did not. Instead, BOEM managers brought this information to the IG and the IG began the initial stages of the investigation of Dr. Monnett’s activities. The IG’s findings entitled *Investigative Report of Charles Monnett*, completed at the end of June, 2012, indicate that they found evidence of the unauthorized release of U.S. government documents to outside parties (page 5 of the Report). It was during the course of this investigation that the IG found the alleged contracting irregularities on the part of Dr. Monnett. BOEM only took action against Dr. Monnett when the alleged contracting irregularities were found, which was months after the initial email disclosures were found. The IG’s findings supported the concerns identified by BOEM management regarding Dr. Monnett’s release of information deemed pre-decisional and pertinent to certain lawsuits. Since BOEM could have taken disciplinary action when the emails were found but didn’t the treatment of Dr. Monnett is quite cautious. I do not find further fact finding by an SIRP is required on this issue.

Allegation 5: “BOEM decision-makers engaged in “coercive manipulation” and other activities which have negatively affected “the planning, conduct, reporting, or application” of Dr. Monnett’s extensive scientific activities, in violation of 3.7.C(1);”

Response: Section 3.7 C (1) of the DOI scientific integrity policy is one of three elements of the Code of Scientific and Scholarly Conduct for decision makers. This element of the Code reads “I will do my best to support the scientific and scholarly activities of others and will not engage in dishonesty, fraud, misrepresentation, coercive manipulation, censorship, or other misconduct that alters the content, veracity, or meaning or that may affect the planning, conduct, reporting, or application of scientific and scholarly activities.” Specifically, Dr. Monnett accuses BOEM decision makers of “coercive manipulation and other activities” that negatively affected his scientific activities. This allegation is based upon BOEM’s transfer of Dr. Monnett to different

duties than he had performed while a COR and Dr. Monnett's view that his transfer took him away from scientific research projects at a critical juncture, damaged the research, diminished his prestige and, violated 3.7.C(1) as a result.

The IG investigation began when a confidential complainant expressed concern to the IG about their suspicions that Dr. Monnett was sharing pre-decisional information with parties outside of the Department. In addition, the complainant identified scientific issues related to the data upon which a note published in the journal *Polar Biology* was based. Dr. Monnett's scientific activities were disrupted by the IG investigation but those disruptions were a result of a standard investigation by the IG. You have not identified, nor have I found, a preponderance of evidence that the investigation itself was "misconduct." Since the investigation does not rise to the level of misconduct and the activities of the IG are beyond the reach of the scientific integrity policy, any effect on the scientific and scholarly activities is secondary and does not violate the Code of Conduct.

Dr. Monnett questions the ability of the IG to investigate scientific issues when the investigators are not trained scientists. As discussed above, the IG is not subject to the scientific integrity policy. The IG's investigation initially focused on the alleged release of pre-decisional information and concerns about a scientific note published in a scientific journal. Alleged contracting irregularities were found later, and they were the reason Dr. Monnett was placed on administrative leave and reassigned. While there are indications of friction between Dr. Monnett and certain members of BOEM management, no action was taken to change Dr. Monnett's work assignments. No changes in his work assignments occurred until after the IG found alleged contracting irregularities and brought them to the attention of BOEM management. Therefore, I do not find further fact finding by an SIRP is required on this issue.

Allegation 6: "BOEM facilitated "outside interference" with Dr. Monnett's scientific work (§ 3.5 L)."

Response: Section 3.5 L in the DOI scientific integrity policy is a definition for Scientific and Scholarly Integrity and within the definition the term "outside interference" is used. I have interpreted "outside interference" in this case to refer to the IG investigation of Dr. Monnett. However, I provided an explanation earlier in this document for my conclusion that the IG is not subject to this policy. As a result, the IG cannot be viewed as "outside interference" since they are conducting their investigational duties under the federal legislation that created the IG. Therefore, I do not find further fact finding by an SIRP is required on this issue.

Allegation 7: "In addition, DOI rules provide that the subject will be informed of the allegation and "will be protected" through the inquiry (§ 3.8 D). That rule has also been broken with respect to Dr. Monnett."

Response: Section 3.8 D (d) reads "Throughout the inquiry and fact finding, confidentiality must be maintained and identities of the subject of the allegation and person submitting the allegation will be protected." Dr. Monnett alleges that this "rule" was broken with respect to him. The DOI policy provides for the protection of such confidentiality when it is within the power of DOI to do so. Dr. Monnett's allegations are puzzling because when his scientific integrity allegations

were filed with the DOI on July 28, 2011, by his representative, PEER, it appears that the allegations were also loaded onto the PEER website. The allegations filed on behalf of Dr. Monnett contained his name, the allegations he was making and the names of the people he accused of committing scientific misconduct. As a result, DOI could not ensure confidentiality because Dr. Monnett had revealed all of this information via his representatives. Therefore, I do not find further fact finding by an SIRP is required on this issue.

II. Specific Allegations of Scientific Misconduct

“B. The OIG has been and is continuing to conduct investigations into allegations of scientific misconduct as defined by DOI Scientific Integrity policies in violation of the exclusive complaint process specified in those policies.”

- “These rules do not contain a grandfather clause exempting ongoing investigations.”
- Dr. Monnett was first interviewed by the OIG on February 23, 2011, weeks after the effective date of the DOI Scientific Integrity policies.”
- “New phase of the investigation opened in the summer of 2011, months after the effective date of the DOI Scientific Integrity policies.”
- “OIG investigation is continuing to this date.”

Response to Specific Allegations of Scientific Misconduct

The section of this document entitled Relationship of Office of the Inspector General and 305 DM 3, describes the rationale for my finding that the IG is not subject to 305 DM 3. All of the specific allegations made in II, above, involve the IG and the relationship of the IG and the scientific integrity policy. I have not provided a bullet by bullet response as a result.

Sincerely,



Ralph O. Morgenweck
DOI Scientific Integrity Officer