



# PEER

PUBLIC EMPLOYEES FOR ENVIRONMENTAL RESPONSIBILITY

962 Wayne Ave • Suite 610 • Silver Spring, MD 20910

**To: Scientific Integrity Task Force  
White House Office of Science and Technology Policy**

**From: Public Employees for Environmental Responsibility (PEER)**

**Subject: Intolerable Success of a Scientific Integrity Policy – Department of the Interior**

**Date: June 8, 2021**

**Summary:** Just days before Christmas 2014, the Department of Interior substantially weakened its Scientific Integrity Policy. It undertook this action without any notice to the public that it was contemplating any such action. These changes took immediate effect and were accompanied by a disingenuous press release that Interior had actually “strengthened” its Scientific Integrity Policy.<sup>1</sup>

This total rewrite followed two cases in which Scientific Integrity Complaints from the U.S. Fish & Wildlife Service (FWS) were found to have merit following an investigation.

Interior’s thoroughgoing revision of the Policy implemented changes that were all tilted in one direction, making it harder to bring and pursue charges of misconduct while blurring lines of accountability for what happens when scientific misconduct is proven. In short, this rewrite appeared designed to prevent a repeat of these two “successes.”

By that measure, these changes have succeeded, as in the following years no significant case of scientific misconduct has been upheld under the revised Policy, and none involving a manager or political appointee.<sup>2</sup>

**Background:** In the period since the U.S. Department of the Interior adopted its Scientific Integrity Policy in February 2011, through December 2014, a total of 27 complaints of scientific misconduct have been filed and resolved. Almost every one of those complaints was rejected out of hand as not even meriting an investigation and only two were upheld following investigation by a Review Team.

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<sup>1</sup> Interior Department Announces Strengthened Scientific Integrity Policy for Employees and Contractors | U.S. Department of the Interior (December 17, 2014; [doi.gov](http://doi.gov))

<sup>2</sup> See [Closed Scientific Integrity Cases | U.S. Department of the Interior \(doi.gov\)](http://Closed Scientific Integrity Cases | U.S. Department of the Interior (doi.gov)). DOI reports a total of 37 complaints resolved in the period between 2015 and 2021; of those 34 were found to have no merit. Two of the cases found to have merit involved plagiarism, one by a USGS volunteer.

The two cases involved –

### **Alteration of Habitat Designation and Keystone XL Oil Pipeline**

The American burying beetle (ABB), a critically endangered species, has seen its range dwindle from 35 states to the plains of South Dakota, Arkansas, Nebraska and Oklahoma – areas in the proposed path for the \$5.3 billion Keystone XL oil pipeline. Based on complaints from FWS scientists, two specially convened Scientific Integrity Review Panels found two “high-level” officials guilty of scientific misconduct. The managers overrode their scientific experts to adopt an inaccurate map based upon a flawed model that significantly shrank the range of an endangered species.<sup>3</sup> The managers not only retaliated against scientists who voiced objections but rushed into publication of a bogus scientific journal article to cover their tracks.<sup>4</sup>

### **Aiding a Polluter**

In this case, senior FWS officials improperly compromised scientists’ attempts to document pollution damage to aquatic wildlife. The March 15, 2013 Scientific Integrity Review Report concerns effluent from a pharmaceutical manufacturer (Kelco, Inc.) into Oklahoma’s Deep Fork River, one-half mile upstream of a national wildlife refuge.<sup>5</sup> In September 2011, FWS scientists discovered a mussel kill near the company’s discharge pipe, the site of an even larger mussel kill six years earlier which resulted in a state prosecution and a pollution control consent order.

To document whether a new violation had occurred, FWS scientists and state officials operating under the national Natural Resource Damage Assessment and Restoration program placed live mussels in monitoring cages at distances of 5, 100 and 150 feet from Kelco’s outflow pipe. Once Kelco learned of the monitoring cage so close to its waste outlet, the company protested to Dixie Porter, supervisor of the FWS Oklahoma Ecological Services field office in Tulsa, Oklahoma. Acting contrary to the advice of her own scientists and the explicit request of state officials, Ms. Porter ordered the monitoring cage moved from 5 feet to 30 feet away from the outflow. This potentially compromised an anti-pollution enforcement investigation. The report also faulted Ms. Porter for falsely claiming that her decision to move the cage was based upon advice of an Interior Department solicitor.

### **Managers Not Punished**

Despite these findings, FWS did not punish the managers found responsible. In July 2013, acting Interior Inspector General Mary Kendall issued an extraordinary Management Advisory to Secretary Sally Jewel that FWS had yet to take “any formal and permanent action against the

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<sup>3</sup> [https://www.peer.org/wp-content/uploads/attachments/2\\_6\\_14\\_03\\_SIRP\\_Summary\\_Report.pdf](https://www.peer.org/wp-content/uploads/attachments/2_6_14_03_SIRP_Summary_Report.pdf)

<sup>4</sup> [https://www.peer.org/wp-content/uploads/attachments/2\\_6\\_14\\_Supplemental\\_report\\_summary.pdf](https://www.peer.org/wp-content/uploads/attachments/2_6_14_Supplemental_report_summary.pdf)

<sup>5</sup> [https://www.peer.org/wp-content/uploads/attachments/4\\_21\\_14\\_Report\\_Summary.pdf](https://www.peer.org/wp-content/uploads/attachments/4_21_14_Report_Summary.pdf)

offending supervisors” but, to the contrary, “recent actions appear to have elevated their status.”<sup>6</sup> The two supervisors, Porter and Luke Bell, were not formally removed from their positions but detailed to prestigious new assignments. Mr. Bell has since resigned to take a position in the oil and gas industry. Ms. Porter eventually transferred to another federal agency with no formal action taken against her. Ms. Porter was reportedly a friend of FWS Director Dan Ashe.

### **Whistleblowers Hit with Suspensions**

Meanwhile, the three whistleblowing scientists were hit with a slew of disciplinary actions, totaling ten suspensions among them. These actions had been ordered by Ms. Porter. On behalf of the scientists, PEER filed whistleblower complaints with the U.S. Office of Special Counsel. These suspensions were all ultimately withdrawn under terms of settlement agreements that may not otherwise be disclosed.

Interior’s Scientific Integrity Officer, Mr. Richard Coleman took no action in the matter.

### **Interior’s Scientific Integrity Policy Gutted**

The December 2014 Interior Scientific Integrity rule revisions which took immediate effect:

1. Make it more unlikely that even these two egregious cases could have moved forward;
2. Further cloud lines of accountability making it far less likely that agency managers distorting or suppressing scientific work will be held to account; and
3. Enshroud scientific integrity reviews in secrecy, preventing independent analysis of the facts while moving away from using the scientific process and toward reliance upon a defensive, legalistic thicket in which official misconduct can escape public scrutiny.

In short, these latest Interior revised scientific rules significantly weaken – not strengthen – safeguards against politicizing science. At the same time, they turn the enforcement and review process from an already daunting gauntlet into something more closely resembling a bureaucratic shell game.

The brief press statement issued by Interior Secretary Sally Jewell contended the revisions “strengthened” agency protections against political manipulation of science and reflected “lessons learned over the past three years.” Yet all of the changes tilt in one direction, making it harder to bring and pursue charges of misconduct while blurring lines of accountability for what happens when scientific misconduct is proven, including –

- Cutting the definition of scientific misconduct back to plagiarism, fraud and fabrication. Political alteration of science is moved to a nebulous new category called “loss of

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<sup>6</sup> [INTERIOR: FWS director ignored supervisors' misconduct toward whistle-blowers -- IG -- Thursday, August 1, 2013 -- www.eenews.net](http://www.eenews.net)

scientific integrity” that is judged in comparison to “accepted practice” rather than accuracy.

- Allowing political appointees to censor releases of scientific information or reports for non-technical reasons using undefined “classification standards.”<sup>7</sup>
- Forbidding scientific reviewers from recommending “any specific personnel actions or other corrective measures.” Moreover, any adverse finding must be vetted by agency lawyers in the Solicitors Office; and
- Allowing agency heads to handpick who oversees investigations.<sup>8</sup>

The thrust of the revision moves away from reliance upon the scientific process and the judgment of disinterested scientists toward a defensive, legalistic thicket in which official misconduct can escape public scrutiny because all proceedings are supposed to be handled confidentially.

Given that a key purpose of the rules is to restore public confidence in Interior’s scientific integrity, it is inexplicable that Department officials did not put these changes out for public comment before adopting them. Moreover, the many major changes are buried in text that required a line-by-line comparison to detect – a comparison Interior declined to provide.

#### **Charge to The Scientific Integrity Task Force:**

Under President Biden’s January 27, 2021 Memorandum on Restoring Trust in Government Through Scientific Integrity and Evidence-Based Policymaking<sup>9</sup>, the Scientific Integrity Task Force is supposed to, as part of its “initial 120-day review of existing scientific-integrity policies” –

- Complete a report on “whether existing Federal scientific-integrity policies prevent improper political interference in the conduct of scientific research and the collection of scientific or technological data; prevent the suppression or distortion of scientific or technological findings, data, information”, and
- Identify “effective policies that protect scientific independence during clearance and review, and that avoid improper political interference in research or data collection; effective approaches for handling any disagreements about scientific methods and conclusions.”

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<sup>7</sup> DOI DM § 3.4 A5

<sup>8</sup> See provision by provision break down of the changes [https://www.peer.org/wp-content/uploads/attachments/12\\_23\\_14\\_Analysis%20New Interior Scientific Integrity Provisions.pdf](https://www.peer.org/wp-content/uploads/attachments/12_23_14_Analysis%20New%20Interior%20Scientific%20Integrity%20Provisions.pdf)

<sup>9</sup> <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/27/memorandum-on-restoring-trust-in-government-through-scientific-integrity-and-evidence-based-policymaking/>

PEER is submitting this analysis of the metamorphosis of Interior's Scientific Integrity Policy to aid in the completion of these assignments. We hope that the Task Force process will result in the adoption of policies that meet the purposes first outlined in President Obama's Presidential Memorandum of March 9, 2009 on Scientific Integrity.<sup>10</sup>

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<sup>10</sup> [https://www.peer.org/wp-content/uploads/attachments/09\\_12\\_05\\_obama\\_science\\_integrity\\_memo.pdf](https://www.peer.org/wp-content/uploads/attachments/09_12_05_obama_science_integrity_memo.pdf)