

TO: Gita N. Ramaswamy, USDA SIO
Kay Simmons, USDA-ARD SIO

FROM: Dr. Jonathan Lundgren

RE: Complaint of Violations of USDA Scientific Integrity Policy

DATE: September 12, 2014

I am making this formal complaint as specified in Section 6 of the USDA Scientific Integrity Policy Handbook. This complaint specifies the Scientific Integrity Policy provisions which have been violated, names the responsible officials, lists witnesses, describes the violations and requests appropriate relief.

I. Authority: Sections of USDA Scientific Integrity Policy (DR 1074-001) Violated:

A. Culture of Scientific Integrity

1. Pursuant to the Presidential Memorandum on Scientific Integrity dated March 9, 2009, and complying with applicable statutes, regulations, trade agreements, and/or international protocols, Executive Orders, or Presidential Memoranda, the policy of the Department is to:

a. Promote a culture of scientific integrity....

2. CODE OF SCIENTIFIC ETHICS

• I will not willfully hinder the research of others...

B. Honest Communication about Scientific Findings

e. Support scientific integrity in the communication of scientific findings and products, including to:

(1) Encourage...USDA scientists to participate in communications with the media regarding their scientific findings...

(2) Ensure that scientists may communicate their findings without political interference or inappropriate influence, while at the same time complying with USDA policies and procedures for planning and conducting scientific activities, reporting scientific findings, and reviewing and releasing scientific products.

C. Participation in Peer Review

f. Encourage USDA scientists, engineers, and analysts to interact with the broader scientific community, in a manner that is consistent with Federal rules of ethics, job responsibilities, and existing agency policies, including:

(1) Encouraging publication of research findings in peer-reviewed, professional, or scholarly journals...

II. Officials Guilty of Scientific Integrity Violations

A. Officials Who Improperly Interfered, Harassed or Retaliated

1. Sharon Papiernik, Supervisory Research Soil Scientist, North Central Agricultural Research Laboratory, USDA-ARS
2. Mickey McGuire, Assistant Area Director, Northern Plains Area, USDA-ARS
3. Larry Chandler, Area Director, Western Business Center, USDA-ARS

B. Witnesses to Behavior Described Herein

In addition to those individuals named in the specifications contained in Section IV (below), the following persons can verify the matters discussed below:

[REDACTED]

III. Scientific Integrity Activities Which Triggered Reprisal

Two recent activities explicitly sanctioned by the USDA Scientific Integrity Policy have triggered an official campaign of harassment, hindrance and retaliation:

A. Approved Media Interviews Regarding Research Papers Focused on RNAi and Neonicotinoids (Neonics)

Both in the US and abroad I am considered an expert on the risk assessments of pesticides and genetically modified crops+. RNAi is a new form of genetically modified crops quickly approaching commercialization. With a coauthor, I published an article that appeared in the peer reviewed journal *Bioscience* in 2013 that discusses some of the risks that this technology poses to non-target organisms. In 2011, I published a peer-reviewed manuscript in *Journal of Pest Science* that documented a lack of efficacy of neonicotinoid insecticidal seed treatments in soybeans and the adverse effects of these toxins to non-target predators. Although both of these

papers were heavily scrutinized by line management and National Program Staff of the USDA-ARS, all of this work was published with ARS approval.

On December 20th 2013, I was interviewed by NPR Harvest Public Media about risks of RNAi. I spoke with the reporter about the *Bioscience* article.

Following ARS Policies and Procedures, I informed Larry Chandler about a press interview that I did with the *Boulder Weekly* about risks of RNAi (March 27, 2014), which he identified as a sensitive issue in December. The same week, a newspaper article came out in the *Minneapolis Star Tribune* presenting an interview with me about neonicotinoid risks to non-target species.

B. Service as an External Peer Reviewer on Neonicotinoid Insecticides

In March, I served as an external reviewer for a report that was prepared by the Center for Food Safety (CFS) (“Heavy Costs”, http://www.centerforfoodsafety.org/files/neonic-efficacy_digital_29226.pdf). This report was critical of the overuse of these insecticides, and cited scientific literature and expert commentary (of which I was one) to support claims that neonicotinoids had questionable economic value for farmers. I was listed as an external reviewer of that report due to my expertise on this topic. The report was released in late March 2014.

IV. Improper Reprisal, Interference and Hindrance

Within one week of these late-March press interviews and the release of the CFS study, improper reprisal, interference and hindrance of my research and career began in earnest. The following actions were taken in connection with the activities listed above which are specifically encouraged or protected by the USDA Scientific Integrity Policy:

A. Restraint on Further Media Contact

The December NPR interview was publicized nationally, and ARS information staff used social media to disseminate their interpretation of my responses to questions during the interview; their interpretations not 100% accurate. Larry Chandler and Sharon Papiernik explained that somebody in the agency hierarchy had seen the tweet and questioned why I was being allowed to criticize the regulation of this technology. I explained that I was simply talking about the agency approved *Bioscience* article, and he urged me not to speak to the press anymore, and said I should get approval from line management and information staff before any more press conversations.

On April 10th, 2014, I contacted the director of information technology who related to me a rumor that Secretary Vilsack wanted to run for President, and therefore did not want to public disruption in the agency. While I was not strictly forbidden from further media contact on these subjects, it would be appreciated if I ceased media interactions on these topics.

B. “Misconduct” Investigation

On April 2nd, 2014, Sharon Papiernik came into my office and told me that there were allegations of misconduct against me, and that she was not at liberty to discuss the matter any further or what the allegations were. Human Resources would be contacting me.

This initiated five months of a wide-ranging and needlessly disruptive “investigation” which was utter hell for me and my laboratory group. The process overlooked both USDA-ARS and Federal Policies and Procedures [see Attachment I], coerced and intimidated me and my laboratory group, led to their physical, mental and emotional illness, disrupted research plans and derailed my career trajectory.

Given the timing and unspecific but insistent nature of this investigation, it is clear that the motivation for it is associated with my talking to the press about pesticide risks.

C. Research Disruption

Five of my eight term employees have had their employment threatened, hampered, or were dismissed unexpectedly since March 2014. I have never had problems of this nature or to this extent as I have since talking with the press in late March. See Attachment II for details of these actions.

D. Professional Interference

After late March, it appeared that most formerly routine approval from management was either denied or made needlessly complicated, sending a clear signal that I was in official disfavor:

Specification 1.

On March 24th, Sharon Papiernik came into my office about a weed management proposal I was trying to submit. She informed me that she questioned my ability to conduct the research and the validity of the budget. The irony is that this proposal had been submitted in 2013 with no objections at all, and the budget had not changed. She allowed the proposal to be submitted a couple of days after she raised this initial objection, but by this time the stress of having the proposal blocked had occurred.

On April 14th, I received an e-mail from Dr. Chandler regarding the proposal. One of the Co-PIs at a university hadn't gotten his paperwork done on time, although my colleague gave me approval to submit the proposal. Chandler explained that this was my mistake, and that I would have to retract the proposal until all of the paperwork could be completed. Then I be able to resubmit the proposal. I was on travel at the time, and he knew how difficult and disruptive this would be. Ultimately, I spoke with the colleague, who cleared things up and was shocked that I would have to retract the proposal over such a small oversight. The proposal went in. These events were designed to add unnecessary stress to an already time-consuming and stressful procedure (submitting a grant that will be blocked takes a lot of time and effort from the PI). Threatening the risk of soliciting funding to support and protect my supervisees is understandably traumatic.

Specification 2.

At our unit, our ARS e-mail accounts are not able to be checked remotely except on an ARS-approved laptop computer. I began using a gmail account as a way to be reached during the October 2013 furlough and during travel because it is so transportable (I can check in on my phone). This is a common practice for professional scientists. Larry Chandler insisted on April 14th that I abandon this gmail account, always making sure that I have access to my ARS

account, even when travelling. I would repeatedly receive recurring grief for several months over using a gmail account to occasionally conduct non-sensitive government business.

Specification 3.

In early 2014, I was invited to keynote at the Colombian Entomological Society annual meeting in Cali Colombia, and they offered to pay my travel costs for July. After reviewing the documentation that I provided to support my travel request, on April 25 Dr. Mickey McGuire told me that the Colombia travel was going to be denied because it looked like I requested the Colombians to cover my travel, instead of letting them offer it to me. I explained that this was not the case, but he told me that unless I could find an existing e-mail that explained to the Colombians that I cannot attend because I don't have travel funding, that the travel would be denied. Even if the Colombians offered me a new letter of invitation. He was accusing me of breaking the ethics rules of the agency.

After an hour or two of going through my e-mail boxes, I found the missing e-mail, and he was forced to approve the travel. This added hassle and strife to what should be a routine request to do my job.

Specification 4.

On March 7, 2014, my leadership in risk assessment of RNAi-based pesticides, I was invited to give a presentation on the non-target effects of RNAi-based pesticides to the European Food Safety Authority. I got the paperwork in to the secretary to enter in to the system on March 9th. The trip required 5 travel days (2 to get there, 2 workshop days, and 1 to get home). I also wanted to take 4 days of annual leave associated with the trip. I would leave for Belgium June 2, and would arrive home June 12. I rarely take vacations, and my wife and I were going to take a few days off and tour a bit after the meeting.

EFSA wanted to book the travel (all expenses paid during the meeting) by the end of March, so I gave them these dates. Management dragged their feet and did not get the travel entered into the system until April 20th (or thereabouts), and Mickey McGuire (Assistant Area Director) got back to me on April 25th to tell me that I had to come home on the 10th, contending that I would be taking too much annual leave.

On May 5th, I explained the travel fiasco, and offered to use Leave Without Pay on those last few days. Mr. McGuire said that I put them in a difficult position, but that he would let it go this time as long as I never did it again.

He also said that this was a very sensitive research topic and that I was not allowed to express any opinions on the matter- just data. He said that the slides from my presentation would have to be approved by approximately 7-8 administrators, none of whom have any expertise with risks of RNAi. Therefore, my presentation would have to be completed 7 days in advance of the meeting; a few days before the deadline he advanced the deadline to 10 days before the meeting. In nearly 10 years with the agency, I ever been required to have my slides approved before a meeting. The stress and added work associated with trying figure out how to navigate their unpredictable hurdles makes going on travel to talk about my research a burden. I have never previously been denied travel for such reasons.

Specification 5.

As ARS scientists, we have to plan our research for review every 5 years. On June 16th, National Program Staff removed my research objective pertaining to risk assessment of pesticides. It was explained that I would still be able to work on this topic, but that it would not be declared in the project plan.

This was a subtle but effective way for National Program Staff to prevent or punish scientists for doing undeclared research on sensitive topics. In the prior 10 years, I had never previously experienced rewriting of CRIS objectives by program staff to specifically exclude my ability to work on risk assessment of pesticides.

Specification 6.

On August 28th, I received an e-mail from Sharon Papiernik chastising me for “accepting” the NAPPC (North American Pollinator Protection Campaign) check for \$1000 travel funds to attend their annual meeting back in March (they mailed it to me unsolicited. I did not “accept” anything). She instructed me to send the check back, request permission to travel, and then have them reissue the check, if approved. This adds stress to the situation, additional time for both NAPPC and my schedules, and makes me and USDA-ARS look extremely unprofessional.

Added Consequence of Cumulative Low-Level Harassment

Apart from the personal stress, these actions negatively affected my career trajectory. On April 18th, I stepped down as Lead Scientist of the NP304 (pest management) CRIS project for our facility. This position was influential to my career and future promotion as well as influential in shaping the direction of research at the laboratory. It was a difficult decision, but I could not accept the impending additional workload with the tremendous pressures I was receiving from HR/PALS and line management over the misconduct and reprimand, all while managing one of the most successful research programs in the Agency. I cited “personal reasons” for why I stepped down.

D. Letter of Reprimand

Within one week of speaking to the press in late March (see above), steps were initiated to put a letter of reprimand on my personnel record for 2 years. I was reprimanded for not following instructions and having my personal computer connected to the internet at work in violation of an IT policy that they decided to start enforcing.

Significantly, only a few months prior, many of my employees were required to have their personal computers connected to the internet at work. At the time, I did not dispute this reprimand because I vainly hoped that if I keep my head down, that the increasing aggression would dissipate.

The unwillingness of line management to recognize that there is a problem with computer access and then discuss the problem rationally suggests that this reprimand is motivated by other factors; the close occurrence to my management-prohibited interactions with the press on pesticide risks strongly indicates the real motivation for the reprimand. As detailed in

Attachment III, the reprimand was unwarranted, inconsistent with widespread agency practice and obviously intended to harass.

On the same day I was issued the reprimand, I was told about the misconduct investigation.

E. Conduct Unbecoming Charge—Proposed Suspension

After more than 3 weeks into this investigation, I was officially informed I was its sole subject, and that the topic of the investigation was inappropriate comments made in the workplace.

Most of the examples were from more than 8 months prior and had been self-corrected; no one had complained to me or anyone in my research group that jokes within my research group were offensive in any way. It was normal behavior for my laboratory (10 years running) and every other lab group in the building. Management decided suddenly that jocular humor among friends in the workplace was classified as misconduct and that I alone should be suspended for prior offenses.

The charge now pending against me is “Conduct Unbecoming a Federal Employee”, and I am specifically accused of “Displaying discourteous conduct or disrespect to a coworker, another federal employee, or a member of the public when acting in an official capacity.” My responses to the five cited instances (see Attachment IV), and letters of support from my laboratory group (see Attachment V), clearly show that my actions are not an example of the specifically cited prohibited activity.

Significantly, the recent reprimand was used as the basis for stiffening the penalty for this latest proposed discipline to a seven-day suspension without pay. My annual performance appraisals have consistently been “Superior” and “Outstanding”, and these are the first personnel actions that I have ever received in 9.5 years of service.

Conclusion

Since late March, I have been subjected to a sudden but escalating pattern of impediments and disruption of my scientific work, restraints on my ability to communicate with scientific colleagues, as well as the media and a growing professional toll that is making further scientific work in ARS untenable.

This abrupt onset of actions undoubtedly appears to have been prompted by the scientific activities that are supposed to be specifically safeguarded and encouraged under the USDA Scientific Integrity Policy.

V. Relief

To remedy the above-described breaches in the USDA Scientific integrity Policy, I request that:

1. My record be cleared of all references to the prior reprimand and the pending seven-day suspension and that any other negative references inserted in my personnel file.
2. The responsible officials be appropriately disciplined for these violations of USDA policy.

3. Remove these responsible officials from my chain-of-command. Alternately, transfer myself, my research team, and all of my extramural agreements to a mutually agreed upon university program. If this latter option is selected, the transfer would be made under the terms of an Intergovernmental Personnel Agreement for the maximum four year period.

4. I receive 250 hours of personal leave (or the cash equivalent) to compensate for the amount of overtime I have had to put into handling/responding to the harassing tactics detailed above.