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U.S. House of Representatives
Committee on Natural Resources
Washington, DC 20515

March 1, 2013

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DEMOCRATIC STAFF DIRECTOR

The Honorable Ken Salazar
Secretary
U.S. Department of the Interior
1849 C Street, N.W.
Washington, D.C. 20240

Dear Mr. Secretary:

At the beginning of this Administration, President Obama placed significant emphasis on the importance of scientific integrity in his Administration's policies and practices. In the President's March 9, 2009 Memorandum for the Heads of Executive Departments and Agencies, he stated that "[t]he public must be able to trust the science and scientific process informing public policy decisions." Additionally, on December 27, 2010, Director John P. Holdren, Assistant to the President for Science and Technology and Director of the Office of Science and Technology Policy, issued a memorandum on scientific integrity consistent with the President's memorandum. Director Holdren's memo specifically instructs agencies to develop a policy that will ensure a "culture of scientific integrity."

In January 2011, you issued a new policy to "ensure and maintain the integrity and scholarly activities used in Departmental decision making." As you are aware, the new policy intended to "ensure that the selection and retention of employees in scientific and scholarly positions . . . are based on the candidate's integrity, knowledge, credentials, and experience relevant to the responsibility of the position." A Department of the Interior presentation on the new policy states that the principles of the Department's new policy include encouraging scientists to communicate openly, and reinforce principles of whistleblower protection.¹

As discussed in the recent Majority Staff Report entitled, "Holding Interior Watchdog Accountable,"² Dr. Paul R. Houser, then Science Advisor and Scientific Integrity Officer at the Bureau of Reclamation ("Reclamation"), filed a complaint with the Department's Office of the

¹ Scientific and Scholarly Integrity Policy at Department of Interior, presentation page 5.

² Holding Interior Watchdog Accountable; Oversight of the Department of the Interior's Office of Inspector General, A Report by Majority Staff Office of Oversight and Investigations, Committee on Natural Resources, February 21, 2013.

Inspector General's ("IG") Office of Whistleblower Protection on February 8, 2012. This investigation was shut down by the IG Chief of Staff Stephen Hardgrove, even though IG staff told the Committee's majority oversight staff that they believed the matter warranted further investigation. On February 24, 2012, Dr. Houser filed with the Department an allegation of scientific and scholarly misconduct and reprisal for a disclosure concerning an allegedly biased summarization of key scientific conclusions for the Klamath River dam removal Secretarial determination process.³ In this allegation, Dr. Houser explained that the actions surrounding his dismissal from Reclamation violated Departmental Manual part 305, Departmental Science Efforts Chapter 3: Integrity of Scientific and Scholarly Activities.⁴ Dr. Houser claimed that the Department, and/or Reclamation intentionally falsified the reporting of scientific results and intentionally circumvented the Department's scientific integrity.

Specifically, he alleged that the September 21, 2011 "Summary of Key Conclusions: Draft EIS/EIR and Related Scientific/Technical Reports" intentionally distorted and generally presented a biased view of the Klamath River dam removal benefits. According to his allegation, Dr. Houser identified his specific concerns to Ms. Kira Finkler, then Bureau Deputy Commissioner for External and Intergovernmental Affairs, who told Dr. Houser "the Secretary wants to remove those dams."⁵ After identifying his concerns to Ms. Finkler, Dr. Houser stated that he faced systematic reprisal on several fronts, up to and including termination of his employment. It is troubling that Ms. Finkler, a political appointee who previously worked for Trout Unlimited, an organization that signed the Klamath Agreements aimed at removal of the dams, was in a supervisory position over the Bureau's Scientific Integrity officer in the first place. It appears, based on documents provided by the IG and discussed in the Majority Staff Report, that this potential conflict of interest and possible violation of the Department's Scientific Integrity Policy, was never investigated or questioned.

Three days after this allegation was filed, in a February 27, 2012 press release, you released a statement praising the "numerous peer-reviewed scientific and technical studies and environmental analysis" that had been conducted in conjunction with the dam-removal efforts. Additionally, this press release quoted you as saying you were "proud of the work of [your] team of experts who [had] completed more than 50 new studies and reports that are providing significant new information on the potential effects of Klamath River dam removal *as part of a transparent, science-based process*" (emphasis added).

Reports indicate that the Department's investigation of the complaint of scientific misconduct filed by Dr. Houser was contracted out to a private firm called Atkins North America ("Atkins NA") and that this report was finished in late August 2012 and was submitted to Dr. Suzette Kimball, the current Interior Department Scientific Integrity Officer for review at that time. Dr. Kimball reportedly received the final report from the review panel on September 18,

³ Dr. Houser also filed a complaint alleging wrongful termination with the United States Office of Special Counsel. Dr. Houser and the Bureau of Reclamation agreed to resolve the wrongful termination complaint in December 2013.

⁴ Department of the Interior Departmental Manual, part 305: Departmental Science Efforts, Chapter 3: Integrity of Scientific and Scholarly Activities. Effective January 28, 2011.

⁵ February 24, 2012 Allegation of Scientific and Scholarly Misconduct and Reprisal for a Disclosure Concerning the Biased Summarization of Key Scientific Conclusions for the Klamath River Dam Removal Secretarial Determination Process; prepared by Dr. Paul R. Houser.

2012. According to this timeline, nearly six months have passed since the completion of this investigation but no report has been made public.

Dr. Houser's allegations raise serious questions about whether the investigation into allegations of violations of the scientific integrity policy has been transparent, whether it is truly science-based, and/or whether political implications of the dam removal decision, and the purported desire to remove the dams are influencing the scientific integrity of the process. These questions were outlined in an April 2012 Scientific American article entitled "U.S. Science Integrity Effort Hits Troubled Water."⁶ The delay in making this report available to the public only raises further concerns about the Department's scientific integrity.

Therefore, we request the Department's cooperation in providing the following information and documents no later than March 15, 2013.

1. Complete and unredacted copies of all emails, notes, memoranda or other documents created, sent, or received by Laura D. Davis, David Hayes, Mary L. Kendall, Stephen Hardgrove, Kira Finkler, Adam Fletcher, John Bezdek, Carter Brown, Dr. Ralph Morgenweck, Michael L. Connor, David Gore, Keith Schultz, and Dr. Suzette M. Kimball from September 12, 2011 through the present concerning Dr. Paul R. Houser.
2. Copies of all documents related to Kira Finkler's ethics agreement, including the agreement itself and any recusals submitted regarding Ms. Finkler's previous work.
3. A copy of the contract under which Atkins NA (and any other third party consultant or contractor, including but not limited to RESOLVE) performed its investigation, copies of any work assignments, task orders, and requests for payment related to this investigation, and a copy of any report submitted by any third party to the Department in response to Dr. Houser's complaint of scientific misconduct.
4. Copies of any and all communications between the Department and any third party contractor, including Atkins NA and RESOLVE, related to the investigation of this complaint of scientific misconduct.
5. Copies of any notifications or memoranda prepared by Dr. Suzette M. Kimball regarding the allegations of scientific misconduct, including any notifications drafted for or sent to the subjects of the allegations.
6. Any final report of investigation, finding, or other action by the Department regarding Dr. Houser's complaint.

An attachment to this letter provides additional information about responding to the Committee's request, including definitions and instructions for compliance. Please contact

⁶ U.S. Science Integrity Effort Hits Troubled Water, Scientific American, April 3, 2012.

Machalagh Carr, Counsel, Office of Oversight and Investigations at (202) 225-2761 with any questions regarding this request, and to make arrangements for the production. Thank you for your prompt attention to this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "Doc Hastings", written in a cursive style.

Doc Hastings
Chairman

Responding to Committee Document Requests

A. Definitions

1. The term “document” means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, recorded notes, letters, notices, confirmations, receipts, checks, envelopes, presentations, pamphlets, brochures, interoffice and intra office communications, electronic mails (e-mails), notations of any type of conversation, telephone call, voice mail, phone mail, meeting or other communication, diaries, analyses, summaries, messages, correspondence, circulars, opinions, work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto), and electronic, mechanical, and electric records or representations of any kind, and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape, or otherwise.
2. The term “communication” means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether face-to-face, in a meeting, by telephone, mail, e-mail, discussions, releases, personal delivery, or otherwise.
3. The terms “and” and “or” shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this document request. The singular includes the plural. The masculine includes the feminine.
4. As used herein, “referring” or “relating” means and includes “constituting,” “pertaining,” “evidencing,” “reflecting,” “describing,” or “having anything to do with,” and in each instance, directly or indirectly. These terms mean, without limitation, any reference or relationship which either (a) provides information with respect to the subject of the inquiry, or (b) might lead to individuals who, or documents which, might possess or contain information with respect to the subject of the inquiry.

B. Instructions

1. In complying with this document request, you are required to produce all responsive documents, materials, or items that are in your possession, custody, or control, whether held by you or your past or present agents, employees, representatives, subsidiaries, affiliates, divisions, partnerships, and departments acting on your behalf. You are also required to produce documents that you have a legal right to obtain, that you have a right to copy or to which you have access, as well as documents that you have placed in the temporary possession, custody, or control of any third party. No records, documents,

date or information called for by this request shall be destroyed, modified, removed, transferred or otherwise made inaccessible to the Committee.

2. In the event that any entity, organization, or individual denoted in this document request has been, or is also known by any other name than that herein denoted, the document request shall be read also to include them under that alternative identification.
3. Each document produced shall be produced in a form that renders that document capable of being printed or copied.
4. Documents produced in response to this document request shall be produced together with copies of file labels, dividers, envelopes, or identifying markers with which they were associated when this document request was served. Documents produced to this document request shall also identify to which paragraph from the document request such documents are responsive. Moreover, please include with your response, an index identifying each record and label (preferably by bates stamping) the documents. The Committee prefers, if possible, to receive all documents in electronic format.
5. It shall not be a basis for refusal to produce documents that any other person or entity also possesses documents that are non-identical or identical copies of the same document.
6. If any of the requested information is available in machine-readable or electronic form (such as on a computer server, hard drive, CD, DVD, memory stick, or computer back-up tape), state the form in which it is available and provide sufficient detail to allow the information to be copied to a readable format. If the information requested is stored in a computer, indicate whether you have an existing program that will print the records in a readable form.
7. If compliance with the document request cannot be made in full, compliance shall be made to the extent possible and shall include a written explanation of why full compliance is not possible.
8. In the event that a document is withheld, in whole or in part, based on a claim of privilege, provide the following information concerning any such document: (a) the privilege asserted; (b) the type of document; (c) the general subject matter of the document; (d) the date, author, and any recipients; and (e) the relationship of the author and recipients to each other. Claims of privileges are considered under Committee on Natural Resources Rule 4(h) and, similar to all common-law privileges, are recognized only at the discretion of the Committee.
9. If any document responsive to this document request was, but no longer is, in your possession, custody, or control, identify the document (stating its date, author, subject

and recipients) and explain the circumstances by which the document ceased to be in your possession, custody, or control.

10. If a date or other descriptive detail set forth in this document request referring to a document is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, you should produce all documents which would be responsive as if the date or other descriptive detail were correct.
11. This request is continuing in nature and applies to any newly-discovered information. Any record, document, compilation of data or information, not produced because it has not been located or discovered by the return date, shall be produced immediately upon location or discovery subsequent thereto.
12. Production materials should be delivered to:

Committee on Natural Resources
U.S. House of Representatives
1324 Longworth House Office Building
Washington D.C. 20515