



United States Department of the Interior  
U.S. Geological Survey

12201 Sunrise Valley Drive  
Reston, VA 20192

DATE: March 5<sup>th</sup>, 2021

TO: Eveline Emmenegger, Research Microbiologist, Western Fisheries Research Center

FROM: Paul F. Wagner, Deputy Associate Director for Ecosystems

**PAUL  
WAGNER** Digitally signed by  
PAUL WAGNER  
Date: 2021.03.05  
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SUBJECT: Notice of Decision Separation

On January 29, 2020, your supervisor, Maureen Purcell, Supervisory Research Microbiologist, issued you a letter proposing to separate you from your position of Research Microbiologist, GS-0403-12, with the U.S. Geological Survey, Western Fisheries Research Center (WFRC) and the Federal service based on your unacceptable performance in Critical Element 4 of your Employee Performance Appraisal Plan (EPAP) during the opportunity period to demonstrate acceptable performance. This action is in accordance with 5 U.S.C., Chapter 43, Part III, Chapter C; 5 C.F.R. Part 432, Subpart D; the U.S. Department of the Interior Manual at 370 D.M. 430; and the U.S. Department of the Interior's Performance Appraisal Handbook.

In the proposed notice, you were advised that the deciding official for this action would be Marijke van Heeswijk, Acting Regional Director, Northwest-Pacific Islands Region, and that you had 7 calendar days to submit your response to the proposed action or to request an extension. On January 30, 2020, you requested a 21-day extension. By email dated February 3, 2020, Ms. van Heeswijk notified you that your request for an extension of 21 days was approved and that any response you wanted to make, either orally, in writing, or both, was to be submitted by close of business on February 24, 2020. On February 24, 2020, your written response was submitted to her via email. You did not request to make an oral reply.

On March 19, 2020, the Agency was contacted by the Office of Special Counsel (OSC) regarding a complaint you filed with them. On or about March 25, 2020, the OSC requested that any decision on this action be stayed pending their investigation. The Agency agreed to stay issuing a decision. The parties engaged in mediation in October 2020 with no resolution being reached.

On November 20, 2020 your representatives, Jeff Ruch and Paula Dinerstein, Public Employees for Environmental Responsibility (PEER), were notified that I had been named as the new deciding official for this action due to the retirement of Ms. van Heeswijk. They were advised that if you wanted to submit an updated written and/or oral response, that you could do so no later than December 4, 2020.

On November 20, 2020, Ms. Dinerstein submitted an updated written response to me and requested an opportunity to also respond orally. On November 25, 2020, I emailed Ms. Dinerstein advising that I was available for an oral response meeting on November 30 or December 2-4, 2020. Ms. Dinerstein responded requesting that the oral response meeting be scheduled shortly after January 4, 2021 due to your request to use your “use or lose” leave and your representatives’ schedule over the holidays. I agreed. On December 30, 2020, Ms. Dinerstein requested that the oral response meeting be scheduled for January 21, 2021 and I agreed.

On January 19, 2021, your representative, Mr. Ruch, requested that the oral response meeting be re-scheduled for February 4, 2021 due to Ms. Dinerstein having a personal family emergency. I denied this request for an additional extension of time to hold the oral response meeting. The oral response meeting was held on January 21, 2021 with you, Mr. Ruch, and me.

In reaching my decision, I have carefully considered the information contained in the proposed notice, the materials relied upon to propose the action, your position description, your written responses, and your oral response. Based on my review, I find that the reason for the proposed separation is sustained and warrants your separation.

### **Background History**

On December 7, 2018, you were issued your FY 2019 EPAP which established the critical elements and performance standards for the rating period ending on September 30, 2019.

Critical Element 4 was defined as “Science Communicated: Prepare and submit for publication manuscripts and reports of high quality for dissemination to partners, customers, peer scientists, and other users. Performance is measured, for those factors that are in the employee’s control, by the quality and the scientific impact of the research findings; by the number of reports, articles, etc., produced; the accuracy and clarity of the research products; the extent of revisions required by supervisory, peer, and Bureau reviews; and meeting deadlines.”

The Fully Successful performance standard stated: “In addition to the Benchmark standards, all of the following measurable criteria apply:

1. Employee routinely makes one or more significant research contributions. Significance is evaluated by the scientific impact, fundamental importance, scope and applicability of the research and is typically demonstrated by lead or senior authorship of journal articles or peer reviewed USGS reports.
2. Submits to a journal or USGS science series one first/senior author publication.
3. Publicizes research findings, and the derived research products, typically by making at least one scientific presentation at a professional conference or agency meeting (provided funds are available for travel); OR produces one outreach product. Abstract submissions are routinely submitted in advance of deadlines.
4. Journal articles, reports, posters, web sites, data releases, software, outreach materials, and other products are routinely of high quality and are completed in a timely manner and

according to USGS Fundamental Science Practices (FSP), DOI, Section, and Center policies and procedures.

5. An annual summary of scientific achievements, information transfer, and outreach activities is provided to the Supervisor no later than September 1st prior to the end of each fiscal year.”

The Department of the Interior Benchmark Non-Supervisory Performance Standards for Fully Successful states: “The employee demonstrates good, sound performance that meets organizational goals. All critical activities are generally completed in a timely manner and supervisor is kept informed of work issues, alterations, and status. The employee effectively applies technical skills and organizational knowledge to get the job done. The employee successfully carries out regular duties while also handling any difficult special assignments. The employee plans and performs work according to organizational priorities and schedules. The employee communicates clearly and effectively.”

On October 16, 2019, you were issued a Notice of Unacceptable Performance and Opportunity to Demonstrate Acceptable Performance (NODAP) letter. This letter advised that your performance in Critical Element 4 had been determined to be at an unacceptable level because you failed to submit at least one paper during the rating period as required at the Fully Successful level. The NODAP clearly advised you of the performance improvement expectations during the opportunity period and clearly explained the potential consequences of not raising your performance to an acceptable level. The NODAP began on October 16, 2019 and ended on November 20, 2019.

Following the completion of the NODAP, your supervisor evaluated the draft manuscript that you submitted and determined it did not meet the requirements established for fully successful performance. Therefore, on January 29, 2020, she proposed your non-disciplinary separation for unacceptable performance in accordance with 5 U.S.C., Chapter 43, Part III, Chapter C; 5 C.F.R. Part 431, Subpart D; the U.S. Department of the Interior Manual at 370 D.M. 430; and the U.S. Department of the Interior’s Performance Appraisal Handbook.

Beginning January 30, 2020, you were placed in a non-duty paid status pending the issuance of my decision.

### **Summary of Written and Oral Responses**

Your initial written response, which was dated February 24, 2019 [sic], was submitted to Ms. van Heeswijk. In this response, you alleged the proposal was a pretext and that the basis for your proposed separation is without merit because: (A) the new performance plan was not aligned with your real job duties and the change in your performance plan was not justified; (B) the NODAP was a pretext and set you up to fail; (C) the basis for separation of service cannot withstand scrutiny because you met the established expectations; and (D) the peer reviews were converted from collegial to a punitive process.

The updated written response submitted to me on November 20, 2020 alleged that there was a second article which was submitted to a scientific journal by a Canadian collaborator for which you were the last author. This article, which was related by topic to the draft manuscript you prepared during the opportunity period, referenced a formal presentation/abstract that you had given at an international conference in 2017. And because this article had gone through an internal USGS reviewer and been approved and had also been given policy review approval by the USGS Bureau Approving Official in 2020, you claim this is an indication that the performance-based separation action is pretextual in nature.

During your oral reply meeting, Mr. Ruch alleged that the proposed separation was a violation of the whistleblower protection act based on your protected disclosures and therefore, the action was unjustified on its merits. He alleged that your supervisor, Dr. Purcell, was annoyed by your complaints and began a “campaign of revenge” to pursue a personnel action against you. You outlined your employment history with the Center and argued that the other internal reviewers’ positive comments were ignored. You alleged that Dr. Purcell “cherry-picked” and distorted the comments that she did receive to find your manuscript substandard. You did, however, concede that your manuscript could use edits and polish. Mr. Ruch requested that the action be rescinded.

### **Discussion**

Regarding your allegation that the new performance plan was not aligned with your real job duties and the change in your performance plan was not justified, I find this to be unsupported. In reviewing the supporting materials pertaining to the establishment of the FY2019 EPAP, I find that the changes that Dr. Purcell made to the FY2019 EPAP were reasonable and consistent with the Research Grade Evaluation (RGE) standards for a GS-12 Research Microbiologist. Your position description (PD) describes non-research duties as consuming 10% of time; therefore, I find the research focus of your performance plan to be in line with your position description. I also note that in FY2018, during her first full performance year as your supervisor, Dr. Purcell wanted to implement similar changes to your EPAP to bring it into alignment with the duties of an RGE scientist. However, she agreed not to do so when you expressed discomfort with those changes, which demonstrated her reasonable consideration of you and provided you with a full year to be prepared for the changes to be made for the 2019 rating period.

I also find that the communication by Dr. Purcell during the development of the new performance plan was reasonably cordial and professional. Your input on her draft performance plan requested significant, not minor, changes that would have been much less consistent with the primary responsibilities of an RGE scientist and were more in line with the work you preferred to do. She considered your input into the performance standards and addressed, point by point, what changes she would agree to and which changes she would not agree to. The changes made by Dr. Purcell to your FY2019 EPAP do not appear punitive or retaliatory to me. Rather, I find that Ms. Purcell’s communication with you in response to your proposed changes provided clarity and shared an understanding of authorship; her responses were thoughtful and fair; and her tone was both respectful and supportive. And I find the “that’s the way we did it before” style argument to be neither robust nor persuasive in your assertions that Dr. Purcell’s actions were unreasonable, unfair, retaliatory, or otherwise inappropriate.

I have determined that the FY 2019 EPAP that Dr. Purcell put in place for you was both appropriate and consistent with your duties as described in the PD. You and Dr. Purcell signed the FY 2019 EPAP on December 7, 2018, which indicates you were on notice of what the expectations were to achieve a Fully Successful performance rating.

The EPAP that you signed on December 7, 2018 established the performance standards and elements for you, including to produce one first/senior author publication as described in the EPAP. This requirement was also discussed with you during your mid-year review on April 24, 2019. Therefore, I find that you were clearly on notice of the fundamental standard of fully successful performance and that you had the better part of a year to work towards completing the manuscript.

I do not find that Dr. Purcell postponed advising you on any performance issues as you alleged in your response. Rather, her assessment of your performance during the rating period was dependent on you providing her with updates.

You also alleged that the NODAP was a pretext and set you up to fail. There is no question that you did not meet the fully successful performance requirement for Critical Element 4 because you failed to submit one manuscript during the rating period. As a result, your performance was appropriately determined to be at an unacceptable level, and you were properly afforded a reasonable opportunity period to demonstrate your ability to perform at a successful level.

Dr. Purcell issued you the notice of an opportunity period on October 16, 2019. The opportunity period was from October 16, 2019 – November 20, 2019, which took into consideration your previously approved annual leave requests and a holiday. You may have felt that the opportunity period was too short, but it was a reasonable period given that you had all of the data available to you and you confirmed that you had all of the raw data and analysis software in hand during the October 25, 2019 weekly progress meeting. Dr. Purcell met with you weekly during the opportunity period, with a third-party present, and appears to have engaged in productive discussions and made helpful suggestions to you. I would also note that during at least two of the weekly progress meetings during the opportunity period, Dr. Purcell advised you that if you were sick that she would approve leave and that time taken as sick leave would not be counted against the timeline for completing the assigned task which was a reasonable and supportive conclusion.

You raised an issue of software availability and the task of providing metadata as examples of her setting you up for failure. I am not convinced that software availability compromised your ability to complete the task to produce a draft manuscript that met the quality and completeness expectations outlined in the NODAP. In the first weekly progress review meeting held on October 25, 2019, you confirmed you had the analysis software. You indicated you purchased the PRISM software in April 2019, and that it was installed on your laptop on September 24, 2019 and October 22, 2019. Therefore, you had the software available to you during the NODAP period in order to perform the fairly common statistical analysis needed for your work. Additionally, you were able to perform statistical analysis on two of the datasets which indicates that you had the resources and the ability to use the software. As for the metadata task, this is a normal part of the science process. I find no basis to your allegation that the metadata task was

an attempt to set you up for failure. While this task may be time-consuming and frustrating, there were clearly significant issues with the quality of the manuscript you produced and I find no reason to conclude that a delay caused by the metadata task was the basis for these quality issues.

Also raised as examples of Dr. Purcell's using the opportunity period to set you up for failure were the assignment of additional administrative duties to participate in a safety day; asking for clarification of your work on other critical elements; and altering the parameters used to assess the quality and completeness of the required draft manuscript. The assignment of other administrative duties is a normal job responsibility of all employees. Neither the participation in a one-day, Bureau wide mandatory safety day or the completion of a safety hazard analysis should have prevented you from the completion of the assigned task. It is also logical that employees will be evaluated on all critical elements so having to provide feedback on other critical elements was not unreasonable. Finally, it is unclear what parameters you are alleging were altered near the end of the opportunity period. I do note that it was not unreasonable nor was it a circumvention of the process for Dr. Purcell to disallow you to select your own reviewers since this task was part of an opportunity period and therefore different than the normal peer review process.

I do not find anything in Dr. Purcell's behavior to indicate that she designed the opportunity period to set you up for failure. Instead, I find that her behavior was supportive, constructive, and collegial leading up to and throughout the opportunity period.

You claim that the basis for separation of service cannot withstand scrutiny because you met the established expectations based on seven main points. You did meet the deadline established in the opportunity period as you submitted your draft manuscript on November 20, 2019. However, your draft manuscript did not meet the expectations to be of sufficient quality to be submitted to a journal for peer review.

Your first main point was that the comparison draft manuscripts from the four other GS-12 scientists was not a valid methodology for evaluating the quality of your work because they were not in the same field as you. I disagree. The comparison papers were used to show quality meeting a suite of factors or standards that are used for all manuscript reviews. The papers did not need to be specific to viral studies in fish to provide a fair and useful comparison. In performing her review of the four comparison manuscripts and your manuscript, Dr. Purcell used the USGS peer review checklist and noted the following:

Of the 49 elements for review on the peer review checklist, Dr. Purcell found:

Your draft manuscript: 12 elements needing minor improvement and 23 needing major work

Klymus draft manuscript: 1 element needing minor improvement and 0 needing major work

Lorch draft manuscript: 1 element needing minor improvement and 0 needing major work

von Biela draft manuscript: 3 elements needing minor improvement and 0 needing major work

Wiens draft manuscript: 0 elements needing minor improvement and 0 needing major work

The review of your draft manuscript strongly supports the conclusion that it did not meet the required quality standard required.

Your second main point was that the data and statistical analysis were complete and appropriate for the draft manuscript. Dr. Purcell and the external reviewer concluded that your draft was not of sufficient quality because it contained significant problems in experimental design, statistical analysis or lack thereof, and did not draw meaningful conclusions based on data collected and analyses performed. In the notice of proposed separation, Dr. Purcell noted that your manuscript did not include statistical testing of datasets #3, #4, #5, #6, #7, and #8 to evaluate study hypotheses. She determined that these 6 datasets were summarized into figures and the results section reports trends based only on your visual inspection of the figures and raw data. Yet, she was able to perform statistical analysis on datasets #5, #6, #7, and #8 and after doing so, determined that your conclusions must be revised. This is an important finding which was not addressed in your responses.

The third main point was that Dr. Purcell's claim that you "did not consult with her or raise concerns regarding the analysis for these datasets" is false. During the weekly progress meetings, it appears from the notes of these meetings that there was communication regarding statistical analyses and that Dr. Purcell was consistently responsive to any issues related to data and data analysis and a variety of statistical questions such as 1 way or 2 way ANOVAs versus general linear models, post-hoc tests, and data transformations, etc. She made repeated constructive suggestions regarding statistical testing and was consistently trying to keep the weekly progress meetings focused on the required task in order to help you improve your performance. However, it remains that you did not perform statistical analysis on 6 of the 8 datasets and instead drew conclusions based only on your visual inspection of the figures and raw data. Because Dr. Purcell was able to perform the statistical analysis on 4 of these datasets and was able to conclude that your results needed to be revised, I find no basis to disbelieve her claim that you did not raise any concerns to her regarding these 6 datasets during the weekly meetings.

Your fourth point was that her charges about complexity and length are unsupported. In determining that Dr. Purcell's criticism about the length of your manuscript was supported, I did not rely on the observation that it [your manuscript] "...was 1.8x longer than manuscripts from four other GS-12 scientists" Instead, I reviewed the USGS peer review checklist which was completed by Dr. Purcell for your manuscript. This checklist includes questions such as "are the figures and appendixes used effectively?" and "Are all columns of/in data tables relevant and necessary?" These questions, in my opinion, address the complexity and length issue. For your manuscript, both of these factors were rated as needing major work. I also considered the review by the subject matter expert who found that your discussion was "quite long" and restated the results "to an unnecessary degree", while also delving "...into topics not addressed by the work done by the authors." This strongly supports that, despite the amount of information presented, the manuscript did not clearly and concisely convey and discuss the results.

Additionally, you referenced that Dr. Purcell complained that the discussion section was “quite long” but that she reviewed each topic included in this section with you at the third progress meeting and stated that it “sounds like all components of the manuscript are coming together nicely.” I don’t see any inconsistency here. The descriptions of the components given by you to Dr. Purcell were not of the final product. Rather, it was the submitted full text that was assessed as too long, complicated, and not written in a concise manner.

Finally, the external reviewer also expressed that the discussion was “quite long” and sometimes restated the results “to an unnecessary degree.” More concerning to him, however, was that the discussion delved “...into topics that are not addressed by the work done...”. All of this taken together, in my opinion, supports that the manuscript was longer than it needed to be or should have been.

The fifth point was that you take issue with is Dr. Purcell’s finding that you did not clearly articulate the need for the scientific research. You cited two places in your draft where you believe you articulated the reason for the research and that Dr. Purcell did not provide any suggestions on how she wanted you to further elaborate on the need for the study. I reviewed the language you referred to and find that they are statements of general, and maybe interesting facts, but nowhere do you make a statement of the need for scientific research. For example, you point to the statement from your manuscript that “The need for renewable and sustainable aquaculture of many ornamental species will increase as more restrictions are placed on the collection of aquatic species from the wild.” This might be factually correct, but you leave it to the reader to conclude that because this is true, your research is needed. Nowhere do you make a clearly articulated statement of the need for the research itself. As for your claim that Dr. Purcell didn’t provide any suggestion on how she wanted you to further elaborate on the need for your study, I find that this irrelevant. Dr. Purcell met her responsibility to you by pointing out the need to clearly state the need for the research. It was your responsibility to edit the manuscript and include sufficient text to that end.

Your sixth and seventh points relate to the internal and external peer reviews. You argue that Dr. Purcell’s failure to rely on the internal reviewers, which provided positive feedback, is significant. I disagree with your assumption. As evidenced by her December 16, 2019 supervisory review document, Dr. Purcell did review the internal reviewers’ feedback and included them on the list of documents and guidance she reviewed during her evaluation of your performance during the NODAP. The internal review comments were also included in the materials that were relied upon in proposing this action that were provided to you and to me as the deciding official. Because they were part of the materials relied upon to support the proposed action, I have also reviewed them. While there were positive comments from the internal reviewers, the reviewers do not state that the draft is of publishable quality in its reviewed form and at least one appears to have reviewed for typographical and grammatical errors rather than for statistical rigor or conclusions. I do, however, find it significant that, without supervisory permission, you solicited these internal reviews. According to the weekly progress meeting review notes from November 15 and a follow up email sent to you on November 15, you were advised by Dr. Purcell that you should only send your draft manuscript to her for internal review because this was part of the NODAP process, and not a normal internal



review, and that she would review your manuscript as well as coordinate an independent, and thereby objective, external review.

As for the external reviewer, you asserted that he was biased, and his comments were misplaced. I find no evidence to support your assertion that he was biased against you. I also find no evidence of your assertion that Dr. Purcell “signaled” to him about her desired outcome by asking him the follow up question of “if this was his employee would he allow submission to the journal?” This question, in my opinion, is a request for clarification of his expert determination on whether or not the draft is publishable in the form that it was reviewed and had she not asked, she may have drawn erroneous conclusions which could have been unfair to either you or the reviewer himself. I find that this was appropriate and consistent with fair treatment by Dr. Purcell. Finally, I also cannot conclude that his comments were misplaced. Ultimately, his review was based on the draft manuscript presented to him for review and his conclusions were that there were significant issues with the draft, to the point that he would not approve it for submission in its current form.

I find no basis to support your assertion that the action cannot withstand scrutiny because you met the established expectations for fully successful performance.

You also asserted that Dr. Purcell converted the peer review process from a collegial process to a punitive process when she concluded that your manuscript did not meet expectations but the other reviewers all agreed that it was well-written, complete, and publishable with some revisions. You say that had Dr. Purcell provided constructive feedback and followed the USGS peer review process, you would have made the minor edits and been able to submit it for publication. However, I find that the required revisions to your draft manuscript were more than minor and that Dr. Purcell did provide constructive feedback throughout the opportunity period and was consistent in her attempts to provide constructive feedback and clear directions.

Finally, in your updated written response in November 2020, you allege that a collaborator was able to publish a related article with reference to a formal presentation/abstract you had given at an international conference in 2017. And because this second article received USGS internal review and BAO policy review approval, that was an indication that the proposed action was pretextual. I disagree. I cannot reach the conclusion that the manuscript you submitted at the end of the opportunity period was of sufficient quality to be publishable or satisfied the performance expectations based on the fact that someone else wrote a related paper that was able to get approval for journal submission. You point to the fact that this second article received a policy review and I find this be a decidedly specious argument. Policy reviews are conducted to determine if a manuscript makes inappropriate policy statements. It is not a review of the relevance of the science, the soundness of the results and conclusions, or the publication worthiness of the document. It is a perfunctory check to see that the work stays within the boundaries of science and doesn’t stray into policy. To suggest or imply that this policy review of a separate article not written primarily by you is somehow meaningful to assessing the technical merits of the article that you did write is a red herring. Again, the matter at hand is the article that you were the primary author of, that you submitted as part of your NODAP and that was reviewed by Dr. Purcell and an external subject matter expert and was found to be of insufficient quality.

I found no evidence of harassing behavior directed at you by Dr. Purcell or that this action was taken against you because you made protected disclosures. Instead, I find that Dr. Purcell was consistently considerate and helpful and seems to have acted significantly in support of you. She maintained ethical behavior throughout this process and find no evidence that she created a “profoundly hostile” work environment for you. The tone of Dr. Purcell’s emails and the notes from the third party who participated in the weekly progress meetings do not support your claim that she was a “passive-aggressive” supervisor, but rather that her pattern of behavior was to be helpful and provide constructive suggestions for improvement. She provided you a reasonable period of time to demonstrate your ability to perform at a fully successful level; the expectations were reasonable and did not set a higher bar; the expectations were clearly communicated to you; and she provided reasonable guidance before and during the opportunity period.

Because Dr. Purcell determined that you did not improve your performance during the opportunity period to at least a Fully Successful level as required, she proposed to remove you from your current position as a Research Microbiologist, GS-0403-12, and federal service. While reassignment was considered, no vacant funded position was available, so removal was the appropriate penalty.

### **Conclusion**

Based on careful review and consideration of the evidence provided to me and as outlined above, I find that Dr. Purcell acted appropriately and within her authority when she determined that your FY 2019 performance was unacceptable. Dr. Purcell provided you with an opportunity to improve your performance, but you failed to meet the required performance standards. I also find that Dr. Purcell’s proposal to remove you from your current position and from federal service as a result of your unacceptable performance is supported and appropriate.

Your separation is effective March 5, 2021

Removal for unacceptable performance is considered an involuntary separation. As such, you may be eligible for an immediate discontinued service retirement as provided by statute and regulation. Please contact Benefit Specialist, Jessica Hatch, 303-236-9565 or [jhatch@usgs.gov](mailto:jhatch@usgs.gov) if you would like more information about a discontinued service retirement or how to apply for it, if interested. If eligible for a discontinued service retirement, an employee must apply within 30 calendar days after being separated.

### **Employee Rights and Procedures**

You have the right to appeal this Decision to the Merit Systems Protection Board (MSPB). An appeal to the MSPB must be filed no later than the effective date of the action being appealed, or 30 days after the date of the appellant's receipt of the agency's decision, whichever is later. If a party does not submit an appeal within the time set by statute, regulation, or order of a judge, it will be dismissed as untimely filed unless a good reason for the delay is shown. The judge will provide the party an opportunity to show why the appeal should not be dismissed as untimely.

Your appeal must be in writing and give reasons for contesting the action, together with a copy of the notice of proposed action, the agency decision being appealed and, if available, the SF-50 or similar notice of personnel action. No other attachments should be included with the appeal. A copy of the appeal form may be found at <http://www.mspb.gov/appeals/forms.htm> or you may submit an appeal via the internet at <https://e-appeal.mspb.gov/>. A copy of the MSPB's regulations concerning appeals is available at <http://www.mspb.gov>. If you would like a paper copy of the MSPB's regulations concerning appeals, or if you have any questions, please contact Shari Walters, Employee Relations Specialist, at (303) 236-9571.

Your appeal should be addressed to:

Merit Systems Protection Board  
Western Regional Office  
1301 Clay Street, Suite 1380N  
Oakland, CA 94612-5271  
Phone: (510) 273-7022  
Fax: (510) 273-7136  
Email: [WesternRegionalOffice@mspb.gov](mailto:WesternRegionalOffice@mspb.gov)

If you decide to file an appeal with the MSPB, you should notify the Board that the Agency contact official for the purpose of your appeal is:

General Law  
U.S. Department of the Interior  
Office of the Solicitor  
1849 C Street NW, MS 6456  
Washington, DC 20240  
Email: [sol-ellu@sol.doi.gov](mailto:sol-ellu@sol.doi.gov)

Your copy of Standard Form 50, Notification of Personnel Action, documenting this decision in your electronic Official Personnel Folder (eOPF) will be forwarded to you separately.

You may seek corrective action before the Office of Special Counsel, [www.osc.gov](http://www.osc.gov). However, if you do so, your appeal will be limited to whether the Agency took one or more covered personnel actions against you in retaliation for making protected whistleblowing disclosures. You will be forgoing the right to otherwise challenge this removal.

If you believe that you have been unlawfully discriminated against, you may contact an EEO counselor within 45 days of the effective date of this action to file a complaint of discrimination. Please note that in accordance with 29 CFR §1614.302 you may not initially file both a mixed case EEO complaint and an MSPB appeal on the same matter. Whichever is filed first shall be considered an election to proceed in that forum.

### **Receipt Acknowledgement**

You are requested to sign and date the acknowledgement copy of this memorandum as evidence that you have received it. Your signature does not mean that you agree or disagree with the

contents of this memorandum and by signing you will not forfeit any of the rights mentioned. However, your failure to sign will not void the contents of this memorandum.

Receipt Acknowledged: \_\_\_\_\_ Date: \_\_\_\_\_