

May a Federal Scientist Speak to a Reporter without Fear of Discipline? Travails of a Microbiologist – A Chronology

Request to Interview

On Fri., March 24, 2023

Dear Miel Corbett,

I'm a freelance science journalist currently working with Nature's careers section on a podcast about freedom and safety in science. For this piece, I am speaking with researchers about the lack of protections for scientific whistleblowers, and the challenges this can pose.

With this in mind, I was hoping to speak with Evi Emmenegger on this topic. I will be identifying Evi as an employee/scientist of the USGS, and I note that this is not interview involving personnel issues.

Can I confirm that USGS has no objections to this interview?

Many thanks in advance.

All the best,
Adam Levy

Response

On Fri, 24 Mar 2023 at 18:10, Corbett, Miel R <mcorbett@usgs.gov> wrote:
Good morning, Adam,

Thanks for reaching out. The decision to participate in the podcast rests with Evi (cc:d here) as she would be participating in her personal capacity as a private individual, taking all Ethical considerations into account.

Thanks,
Miel

Miel Corbett (she/her)
Western Communications Chief
U.S. Geological Survey, Portland OR
c: (503)-320-3411

From: Adam Levy <adamallevy@googlemail.com>
Sent: Monday, March 27, 2023 8:33 AM
To: Corbett, Miel R <mcorbett@usgs.gov>
Cc: Emmenegger, Eveline J <eemmenegger@usgs.gov>
Subject: Re: [EXTERNAL] Nature podcast interview with Evi Emmenegger

Dear Miel,

I'm just chasing up quickly on my former request.

All the best,
Adam

On Fri, 24 Mar 2023 at 18:15, Adam Levy <adamallevy@googlemail.com> wrote:
Dear Miel,

Thanks a lot for your response. I've already reached out to Evi who has expressed interest in taking part. Can I just explicitly confirm that on your part there are no objections and we're good to go?

Adam

From: "Corbett, Miel R" <mcorbett@usgs.gov>
Date: Monday, March 27, 2023 at 9:22 AM
To: Adam Levy <adamallevy@googlemail.com>
Cc: "Emmenegger, Eveline J" <eemmenegger@usgs.gov>
Subject: Re: [EXTERNAL] Nature podcast interview with Evi Emmenegger

Hi Adam,

Again, the decision to participate in the podcast rests with Evi as she would be participating in her personal capacity as a private individual, taking all Ethical considerations into account.

Thanks,
Miel

From: Emmenegger, Eveline J <eemmenegger@usgs.gov>
Sent: Tuesday, March 28, 2023 9:38 AM
To: Corbett, Miel R <mcorbett@usgs.gov>
Cc: Reagan, Rachel E <rreagan@usgs.gov>; Becker, Debra A <dabecker@usgs.gov>; Sobieszczyk, Steven <ssobie@usgs.gov>; Janney, Eric <ecjanney@usgs.gov>; Schmidt, Michael W <mwschmidt@usgs.gov>; Hershberger, Paul K <phershberger@usgs.gov>; Evi <akswisster@gmail.com>
Subject: Nature podcast interview with Evi Emmenegger

Hi Miel,

I asked the reporter, Adam Levy, if he could provide overview topics on what he plans on asking me. Here's what he sent:

- What your work involves
- The concerns that you raised
- How you felt that raising these concerns was handled, and the effect this had on you
- How you feel about protections for whistleblowers in the U.S. and whether this has shifted under President Biden
- What your hopes for the future of such protections would entail

I've copied the USGS-WFRC folks (Reagan, Becker, & Sobieszczyk) that are involved with press/media requests, my two immediate supervisors (Janney & Schmidt), and my Section Chief (Paul Hershberger), so they are also aware of the interview request.

Adam Levy's inquiries are not of personal nature or related to activities when I'm a private individual. Do I have permission from the USGS to freely interact and respond based on my experience/knowledge to any press questions?

I will clearly state that my responses do not represent the USGS nor that I'm speaking in any official capacity. I'll also schedule the interview during non-work time or on the weekend.

Thanks, Evi

Evi Emmenegger
Research Microbiologist
Aquatic BSL-3 Lab Manager
US Dept. of the Interior/USGS
Western Fisheries Research Center
6505 NE 65th Street
Seattle, WA 98115
206-526-2276

USGS Media Policy

From: "Corbett, Miel R" <mcorbett@usgs.gov>

Date: Tuesday, March 28, 2023 at 11:26 AM

To: "Emmenegger, Eveline J" <eemmenegger@usgs.gov>

Cc: "Reagan, Rachel E" <rreagan@usgs.gov>, "Becker, Debra A" <dabecker@usgs.gov>, "Janney, Eric" <ecjanney@usgs.gov>, "Schmidt, Michael W" <mwschmidt@usgs.gov>, "Hershberger, Paul K" <phershberger@usgs.gov>

Subject: Re: Nature podcast interview with Evi Emmenegger

Hi Evi,

The USGS media [policy](#) clearly identifies employees may speak to the media if they choose. Public communications made by employees in their personal capacity must conform to ethics laws and regulations, including the Standards of Conduct set forth in 5 CFR Part 2635 and the Hatch Act. (Sec 15 has more information.)

[500.5 - News Release and Media Relations Policy | U.S.](#)

[Geological Survey](#)

U.S. GEOLOGICAL SURVEY DIRECTIVE SURVEY MANUAL CHAPTER – PROGRAM SERIES

www.usgs.gov

Also, Steve has a new position and is no longer providing support to your office. While we are sad to have lost him on this team, we are excited for his new opportunity.

Thanks,

Miel

Miel Corbett (she/her)
Western Communications Chief
U.S. Geological Survey, Portland OR
c: (503)-320-3411

From: Emmenegger, Eveline J <eemmenegger@usgs.gov>
Sent: Tuesday, March 28, 2023 12:06 PM
To: Corbett, Miel R <mcorbett@usgs.gov>
Cc: Reagan, Rachel E <rreagan@usgs.gov>; Becker, Debra A <dabecker@usgs.gov>; Janney, Eric <ecjanney@usgs.gov>; Schmidt, Michael W <mwschmidt@usgs.gov>; Hershberger, Paul K <phershberger@usgs.gov>
Subject: Re: Nature podcast interview with Evi Emmenegger

Hi Miel,

I looked at the USGS Policy 500.5 and here are some highlights:
Under Objectives for ensuring the Scientist understands what to do it states that you need to:
B. Convey what constitutes an official expression of USGS science, policy, or opinion, and what differentiates speaking in an official capacity from speaking in a **personal capacity**;
C. Provide procedures by which USGS scientists may speak to the media and the public about scientific matters based on their official work and areas of expertise;

"Under 14 (Talking to the News Media) :: Employees may not speak to the media on matters involving USGS budget, **personnel issues**, or Bureau or Departmental policy or positions in any capacity without specific authorization from OCAP."

For this the reporter has already indicated that he will ask what happened to me as a whistle blower (removed, fired, reinstated), which has already been publicly disclosed numerous times and there was interim ruling from the Administrative judge. So I going to assume this will be brought up briefly.

You told me to look at section 15, which is about **Public Communication in a Personal Capacity**). The topics (i.e. "listing the concerns that I raised") as part of my whistleblower disclosures are part of the scientific work I do at the center.

I'm just trying to make sure I'm following all the rules. So again given the topics that reporter described which do not fall under "personal capacity" can I still proceed with the interview?

Thanks, Evi

From: "Corbett, Miel R" <mcorbett@usgs.gov>
Date: Wednesday, March 29, 2023 at 8:55 AM
To: "Emmenegger, Eveline J" <eemmenegger@usgs.gov>
Subject: Re: Nature podcast interview with Evi Emmenegger

The media policy clarifies how USGS scientists may interact with the media, in their official or personal capacities. Official public communication is when an employee speaks in their official

capacity on behalf of the agency; personal public communication is when communications are not made by the employee on behalf of the USGS.

Because this case is ongoing and involves a personnel issue, per standard practice, the USGS will not respond to the media officially. That does not limit your ability to speak to the media in a personal capacity; doing so falls under Section 15 of the media policy. Per the policy, the entirety of your interview is in your personal capacity.

If you are concerned you cannot speak to the questions in your personal capacity, the decision on how to proceed rests with you. However, we strongly advise you seek ethics guidance to ensure you conform to ethics rules and regulations.

Thanks,
Miel

Miel Corbett (she/her)
Western Communications Chief
U.S. Geological Survey, Portland OR
c: (503)-320-3411

Seeking Ethics Guidance

From: Emmenegger, Eveline J <emmenegger@usgs.gov>
Sent: Wednesday, March 29, 2023 10:10 PM
To: DOI_Ethics <DOI_Ethics@sol.doi.gov>
Cc: Evi <akswisster@gmail.com>; Jeff Ruch <jruch@peer.org>
Subject: Ethics Guidance re Nature podcast interview with Evi Emmenegger

Hello DOI Ethics Office,

I received a request to participate in a podcast with a Nature Magazine reporter about the “lack of protections for scientific whistleblowers, and the challenges this can pose.” The topics that will be covered are listed below, which are not related to my personal activities as a private individual.

I will clearly state that my responses do not represent the USGS nor that I’m speaking in any official capacity, which should adhere to all the ethics rules. I’ll also schedule the interview during non-work time or on the weekend.

I was hoping you could tell me that I can proceed with the interview request.

Thanks, Evi

Evi Emmenegger
Research Microbiologist
Aquatic BSL-3 Lab Manager
US Dept. of the Interior/USGS
Western Fisheries Research Center
6505 NE 65th Street
Seattle, WA 98115
206-526-2276

From: DOI_Ethics <DOI_Ethics@sol.doi.gov>
Date: Thursday, March 30, 2023 at 5:17 AM
To: SOL-Ethics Office USGS <EthicsOfficeUSGS@sol.doi.gov>, "Emmenegger, Eveline J" <eemmenegger@usgs.gov>
Cc: "Rofrano, Christian A" <christian.rofrano@sol.doi.gov>
Subject: Fw: Ethics Guidance re Nature podcast interview with Evi Emmenegger

Good Morning Evi,

As you are employed by USGS, your email is being forwarded to the USGS ethics inbox. The USGS Deputy Ethics Counselor or one of her staff will be in touch shortly to provide assistance.

From: SOL-Ethics Office USGS <EthicsOfficeUSGS@sol.doi.gov>
Date: Thursday, March 30, 2023 at 9:04 AM
To: "Emmenegger, Eveline J" <eemmenegger@usgs.gov>
Cc: "Baumgartner, Nancy H" <nancy.baumgartner@sol.doi.gov>
Subject: Re: Ethics Guidance re Nature podcast interview with Evi Emmenegger

Hi Evi -

Please give me a call so we can discuss your upcoming Nature podcast interview. I can be reached by Teams or on my office phone (703-283-4217)

Thanks,

Nancy

=====
Nancy Baumgartner
USGS Deputy Ethics Counselor
nancy.baumgartner@sol.doi.gov

=====
Department of the Interior, Departmental Ethics Office
USGS Ethics Team
12201 Sunrise Valley Drive, Mail Stop 603
Reston, VA 20192
ethicsofficeUSGS@sol.doi.gov
USGS Ethics Team website: www.usgs.gov/ethics
Main line (703) 648-7439

From: Emmenegger, Eveline J <eemmenegger@usgs.gov>
Sent: Thursday, March 30, 2023 9:30 AM
To: SOL-Ethics Office USGS <EthicsOfficeUSGS@sol.doi.gov>; Baumgartner, Nancy H <nancy.baumgartner@sol.doi.gov>
Cc: Evi <akswisster@gmail.com>; Jeff Ruch <jruch@peer.org>
Subject: Re: Ethics Guidance re Nature podcast interview with Evi Emmenegger

Hi Nancy,

I really appreciate you responding. Given that all has occurred regarding my whistleblower situation (my removal, firing, & reinstatement, etc.). I would prefer that all our communications be in writing, so that it is clear to everyone what I'm allowed to speak about for the Nature Magazine interview. I'm trying to adhere to all the ethics rules and don't want to be fearful of disciplinary actions, which I've already been threatened once with since my return. The reporter has listed the topics and some questions he's going to ask, so if you could tell me if there are any specific ethically restrictions that prevent me speaking about them openly to the reporter based on my experiences and knowledge, please let me know.

Thanks, Evi

Official Approval Required

From: SOL-Ethics Office USGS <EthicsOfficeUSGS@sol.doi.gov>

Sent: Thursday, March 30, 2023 10:05 AM

To: Emmenegger, Eveline J <eemmenegger@usgs.gov>

Cc: Evi <akswisster@gmail.com>; Jeff Ruch <jruch@peer.org>; Baumgartner, Nancy H <nancy.baumgartner@sol.doi.gov>

Subject: Re: Ethics Guidance re Nature podcast interview with Evi Emmenegger

Hi Evi -

I understand.

The Office of Communication and Publication (OCAP) has explained to you that:

Because this case is ongoing and involves a personnel issue, per standard practice, the USGS will not respond to the media officially. That does not limit your ability to speak to the media in a personal capacity; doing so falls under Section 15 of the media policy. Per the policy, the entirety of your interview is in your personal capacity.

Since you will be engaging in the interview in your personal capacity, you should submit a DI-7010 (Request for Ethics approval to engage in outside work or activity). Here is a link to the form, instructions and FAQs. <https://www.doi.gov/ethics/forms/outside-work-activities> At USGS, employees must request Ethics approval for outside work or activities when they are related to either an employee's job duties or the USGS mission.

You should route your DI-7010 form through your supervisor for their recommendation regarding my approval (or disapproval) of your outside activity and then to our USGS Ethics Team mailbox <ethicsofficeUSGS@sol.doi.gov> with a cc: to my mailbox <nancy.baumgartner@sol.doi.gov>.

Once I receive your completed DI-7010 form, I will be able to provide you written ethics guidance.

Thanks,

Nancy

=====
Nancy Baumgartner
USGS Deputy Ethics Counselor

=====
Department of the Interior, Departmental Ethics Office
USGS Ethics Team
12201 Sunrise Valley Drive, Mail Stop 603
Reston, VA 20192
ethicsofficeUSGS@sol.doi.gov
USGS Ethics Team website: www.usgs.gov/ethics
Main line (703) 648-7439

Integrity is our mission.

Customer service matters to us. Please take our short survey, [click here](#).

From: Emmenegger, Eveline J <eemmenegger@usgs.gov>
Sent: Friday, March 31, 2023 8:49 AM
To: SOL-Ethics Office USGS <EthicsOfficeUSGS@sol.doi.gov>
Cc: Evi <akswisster@gmail.com>; Jeff Ruch <jruch@peer.org>; Baumgartner, Nancy H <nancy.baumgartner@sol.doi.gov>; Janney, Eric <ecjanney@usgs.gov>; Hershberger, Paul K <phershberger@usgs.gov>; Schmidt, Michael W <mwschmidt@usgs.gov>; Reagan, Rachel E <rreagan@usgs.gov>; Corbett, Miel R <mcorbett@usgs.gov>; Becker, Debra A <dabecker@usgs.gov>
Subject: Re: Ethics Guidance re Nature podcast interview with Evi Emmenegger

Morning Nancy,

I filled out the DI-7010 form, Request for Ethics Approval to Engage in Outside Employment and Activities, and sent it off to my immediate supervisor and Section Chief. I'm a bit confused on needing to fill out this form because I wasn't told I needed to submit this form for my previous interview requests with reporters from Bloomberg News, VICE news, The Hill, Nature Magazine, or Science Magazine etc. that were on the same subject matter. Also none of the other researchers at my Center have had to do this for the press interviews they've participated in.

Thanks, Evi

From: Baumgartner, Nancy H <nancy.baumgartner@sol.doi.gov>
Sent: Friday, March 31, 2023 9:52 AM
To: Emmenegger, Eveline J <eemmenegger@usgs.gov>
Cc: Evi <akswisster@gmail.com>; Jeff Ruch <jruch@peer.org>; Janney, Eric <ecjanney@usgs.gov>; Hershberger, Paul K <phershberger@usgs.gov>; Schmidt, Michael W

<mwschmidt@usgs.gov>; Reagan, Rachel E <rreagan@usgs.gov>; Corbett, Miel R <mcorbett@usgs.gov>; Becker, Debra A <dabecker@usgs.gov>
Subject: Re: Ethics Guidance re Nature podcast interview with Evi Emmenegger

Hi Evi -

You have contacted the Ethics Office for guidance. The DI-7010 form is how we obtain information about proposed outside activities undertaken in a personal capacity so that we can provide tailored ethics guidance.

I asked if you could give me a call so we could discuss your upcoming Nature podcast interview and you replied that you would prefer that all our communications be in writing, which is why I emailed you the DI-7010 form.

Our office wasn't contacted for ethics guidance in any of the other situations you reference in your email and I don't have knowledge about them.

Thanks,

Nancy

=====
Nancy H. Baumgartner
Deputy Ethics Counselor / U.S. Geological Survey (USGS)
Departmental Ethics Office / Office of the Solicitor
U.S. Department of the Interior
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Office: (703) 648-7474
nancy.baumgartner@sol.doi.gov

Visit us online at: www.usgs.gov/ethics
Main line: (703) 648-7439 / Main mailbox: ethicsofficeUSGS@sol.doi.gov
Integrity is our mission.

From: Emmenegger, Eveline J <eemmenegger@usgs.gov>
Sent: Friday, March 31, 2023 10:18 AM
To: Baumgartner, Nancy H <nancy.baumgartner@sol.doi.gov>
Cc: Evi <akswisster@gmail.com>; Jeff Ruch <jruch@peer.org>; Janney, Eric <ecjanney@usgs.gov>; Hershberger, Paul K <phershberger@usgs.gov>; Schmidt, Michael W <mwschmidt@usgs.gov>; Reagan, Rachel E <rreagan@usgs.gov>; Corbett, Miel R <mcorbett@usgs.gov>; Becker, Debra A <dabecker@usgs.gov>
Subject: Re: Ethics Guidance re Nature podcast interview with Evi Emmenegger

Hi Nancy,
I think I understand now, that in order for you to provide written advice there has to be DI-070 form. Appreciate the clarification.

And on my end, I didn't have any ethical concerns about this interview request, but because Miel stated "we strongly advise you seek ethics guidance" was the reason I reached out to DOI/USGS Ethics group.

I just wanted a clear go-ahead to proceed like I had for previous interview requests after I informed the DOI/USGS.

Appreciate the quick response, Evi

Seeking Approval from Chain-of-Command

From: "Janney, Eric" <ecjanney@usgs.gov>

Date: Friday, March 31, 2023 at 1:04 PM

To: "Emmenegger, Eveline J" <eemmenegger@usgs.gov>

Subject: Re: Ethics Guidance re Nature podcast interview with Evi Emmenegger

Hey Evi,

Did you still want to proceed with the D1-7010?

Eric Janney
Deputy Center Director
USGS, Western Fisheries Research Center
Office: (541) 273-8689 x202
Cell: (541) 281-8727

From: Emmenegger, Eveline J <eemmenegger@usgs.gov>

Sent: Friday, March 31, 2023 1:49 PM

To: Janney, Eric <ecjanney@usgs.gov>

Cc: : Evi <akswisster@gmail.com>; Jeff Ruch <jruch@peer.org>; Hershberger, Paul K <phershberger@usgs.gov>; Schmidt, Michael W <mwschmidt@usgs.gov>; Reagan, Rachel E <rreagan@usgs.gov>; Corbett, Miel R <mcorbett@usgs.gov>; Becker, Debra A <dabecker@usgs.gov>; Baumgartner, Nancy H <nancy.baumgartner@sol.doi.gov>

Subject: Re: Ethics Guidance re Nature podcast interview with Evi Emmenegger

Hi Eric,

Because the USGS said "we strongly advise you seek ethics guidance", thus I must submit the DI-7010 form to receive written ethic advice/hints from Nancy for the specific topics the reporter is going to ask me. So yes as my immediate supervisor please complete the DI-7010 form (approve or disapprove), because it seems prudent that I follow what the USGS media/communication office suggested. This hopefully will prevent any reprisals, because I'm really trying to adhere to all the requirements when speaking with the press.

Thanks, Evi

From: Emmenegger, Eveline J <eemmenegger@usgs.gov>
Sent: Tuesday, April 4, 2023 8:57 AM
To: Janney, Eric <ecjanney@usgs.gov>
Subject: Ethics Guidance re Nature podcast interview with Evi Emmenegger

Hi Eric,

Just following up on the ethics form (DI-7010) processing status?

Thanks, evi

From: "Janney, Eric" <ecjanney@usgs.gov>
Date: Wednesday, April 5, 2023 at 1:32 PM
To: "Emmenegger, Eveline J" <eemmenegger@usgs.gov>
Cc: "Baumgartner, Nancy H" <nancy.baumgartner@sol.doi.gov>
Subject: Re: Ethics Guidance re Nature podcast interview with Evi Emmenegger

Evi,

Here is the DI-7010 with my signature that will allow you to initiate consultation with an ethics official. However, I do not have the authority to either recommend or not recommend your request for outside activity (i.e., media interview). Your doing so falls under Section 15 of USGS's News Release and Media Relations Policy. Per the policy, [500.5 - News Release and Media Relations Policy | U.S. Geological Survey \(usgs.gov\)](#), USGS employees are free to speak to the media in a personal capacity as members of the public, in accordance with their constitutional and legal rights and freedoms. Public communications made by employees in their personal capacity must conform to ethics laws and regulations, including the Standards of Conduct set forth in 5 CFR Part 2635 and the Hatch Act. As a USGS employee, however, it is your responsibility to understand that the limitations that apply and are detailed in Section 15 of the Media Relations policy are adhered to.

Thanks,

Eric Janney
Deputy Center Director
USGS, Western Fisheries Research Center
Office: (541) 273-8689 x202
Cell: (541) 281-8727

Awaiting Ethics Guidance

From: Emmenegger, Eveline J <eemmenegger@usgs.gov>
Sent: Thursday, April 6, 2023 8:24 AM
To: SOL-Ethics Office USGS <EthicsOfficeUSGS@sol.doi.gov>; Baumgartner, Nancy H <nancy.baumgartner@sol.doi.gov>
Cc: Janney, Eric <ecjanney@usgs.gov>; Hershberger, Paul K <phershberger@usgs.gov>; Reagan, Rachel E <rreagan@usgs.gov>; Becker, Debra A <dabecker@usgs.gov>; Evi

<akswisster@gmail.com>; Jeff Ruch <jruch@peer.org>

Subject: Ethics Guidance re Nature podcast interview with Evi Emmenegger

Hello USGS Ethics team (and Nancy),

My supervisor has signed the DI-7010 form allowing me to initiate consultation with an ethics official (See attached). Would appreciate any written specific guidance/hints on the topics the reporter wishes to cover for the interview.

Thanks, Evi

Evi Emmenegger
Research Microbiologist
Aquatic BSL-3 Lab Manager
US Dept. of the Interior/USGS
Western Fisheries Research Center
6505 NE 65th Street
Seattle, WA 98115
206-526-2276

From: Baumgartner, Nancy H <nancy.baumgartner@sol.doi.gov>

Sent: Friday, April 7, 2023 6:28 PM

To: Emmenegger, Eveline J <eemmenegger@usgs.gov>

Cc: Janney, Eric <ecjanney@usgs.gov>; Hershberger, Paul K <phershberger@usgs.gov>; Reagan, Rachel E <rreagan@usgs.gov>; Becker, Debra A <dabecker@usgs.gov>; Evi <akswisster@gmail.com>; Jeff Ruch <jruch@peer.org>; SOL-Ethics Office USGS <EthicsOfficeUSGS@sol.doi.gov>

Subject: Acknowledgement of receipt of DI-7010 - Emmenegger

Hi Evi -

I have received your DI-7010 and will provide you ethics guidance next week. If I have any questions, I'll email you.

Thanks,

Nancy

=====
*Nancy H. Baumgartner
Deputy Ethics Counselor / U.S. Geological Survey (USGS)
Departmental Ethics Office / Office of the Solicitor
U.S. Department of the Interior
Room 5B318 / USGS National Center
Office: (703) 648-7474
nancy.baumgartner@sol.doi.gov*

Visit us online at: www.usgs.gov/ethics

Main line: (703) 648-7439 / Main mailbox: ethicsofficeUSGS@sol.doi.gov

From: Baumgartner, Nancy H <nancy.baumgartner@sol.doi.gov>
Sent: Monday, April 10, 2023 12:06 PM
To: Emmenegger, Eveline J <emmenegger@usgs.gov>
Cc: Janney, Eric <ecjanney@usgs.gov>; Hershberger, Paul K <phershberger@usgs.gov>; Reagan, Rachel E <rreagan@usgs.gov>; Becker, Debra A <dabecker@usgs.gov>; Evi <akswisster@gmail.com>; Jeff Ruch <jruch@peer.org>
Subject: Re: Need Position Description for Evi Emmenegger

Hi Evi -

The DI-7010 you sent me on 4/6/2023 references your Position Description, but it wasn't attached email. Please send me your Position Description.

Thanks,

Nancy

=====
Nancy H. Baumgartner
Deputy Ethics Counselor / U.S. Geological Survey (USGS)
Departmental Ethics Office / Office of the Solicitor
U.S. Department of the Interior
Room 5B318 / USGS National Center
Office: (703) 648-7474
nancy.baumgartner@sol.doi.gov

From: Emmenegger, Eveline J <emmenegger@usgs.gov>
Sent: Monday, April 10, 2023 12:23 PM
To: Baumgartner, Nancy H <nancy.baumgartner@sol.doi.gov>
Cc: Janney, Eric <ecjanney@usgs.gov>; Hershberger, Paul K <phershberger@usgs.gov>; Reagan, Rachel E <rreagan@usgs.gov>; Becker, Debra A <dabecker@usgs.gov>; Evi <akswisster@gmail.com>; Jeff Ruch <jruch@peer.org>
Subject: Re: Need Position Description for Evi Emmenegger

Hi Nancy,

It was attached in an earlier email along with DI-7010 to Janney, but it looks like it wasn't forwarded along later. Sorry about that. The full 2016 position description is attached.

Thanks, Evi

From: Emmenegger, Eveline J <emmenegger@usgs.gov>
Sent: Thursday, April 13, 2023 3:34 PM
To: Baumgartner, Nancy H <nancy.baumgartner@sol.doi.gov>
Cc: Janney, Eric <ecjanney@usgs.gov>; Schmidt, Michael W <mwschmidt@usgs.gov>;

Hershberger, Paul K <phershberger@usgs.gov>; Reagan, Rachel E <rreagan@usgs.gov>;
Becker, Debra A <dabecker@usgs.gov>; Jeff Ruch <jruch@peer.org>; Evi
<akswisster@gmail.com>

Subject: Ethics Guidance re Nature podcast interview with Evi Emmenegger

Hi Nancy,

Following up on the ethics guidance/hints you were providing me this week for the upcoming Nature interview. I was hoping to review the ethics information over the weekend.

Thanks, Evi

From: Emmenegger, Eveline J <eemmenegger@usgs.gov>

Sent: Monday, April 17, 2023 8:56 AM

To: Baumgartner, Nancy H <nancy.baumgartner@sol.doi.gov>

Cc: Janney, Eric <ecjanney@usgs.gov>; Schmidt, Michael W <mwschmidt@usgs.gov>;
Hershberger, Paul K <phershberger@usgs.gov>; Reagan, Rachel E <rreagan@usgs.gov>;
Becker, Debra A <dabecker@usgs.gov>; Jeff Ruch <jruch@peer.org>; Evi
<akswisster@gmail.com>

Subject: Re: Ethics Guidance re Nature podcast interview with Evi Emmenegger

Morning Nancy,

Just wanted to let you know that my podcast interview is tomorrow, so if you are still planning on providing me with some ethics guidance on the topics that reporter is covering, I would need this information by COB today. Again I am going to state that my responses do not represent the USGS nor that I'm speaking in any official capacity.

Thanks, Evi

From: Baumgartner, Nancy H <nancy.baumgartner@sol.doi.gov>

Sent: Monday, April 17, 2023 9:11 AM

To: Emmenegger, Eveline J <eemmenegger@usgs.gov>

Cc: Janney, Eric <ecjanney@usgs.gov>; Schmidt, Michael W <mwschmidt@usgs.gov>;
Hershberger, Paul K <phershberger@usgs.gov>; Reagan, Rachel E <rreagan@usgs.gov>;
Becker, Debra A <dabecker@usgs.gov>; Jeff Ruch <jruch@peer.org>; Evi
<akswisster@gmail.com>

Subject: Re: Ethics Guidance re Nature podcast interview with Evi Emmenegger

Hi Evi -

I appreciate you letting me know your podcast interview is scheduled for tomorrow. I will provide you ethics guidance by COB today.

Thanks,

Nancy

From: Baumgartner, Nancy H <nancy.baumgartner@sol.doi.gov>
Sent: Monday, April 17, 2023 2:10 PM
To: Emmenegger, Eveline J <eemmenegger@usgs.gov>
Cc: Janney, Eric <ecjanney@usgs.gov>; Schmidt, Michael W <mwschmidt@usgs.gov>; Hershberger, Paul K <phershberger@usgs.gov>; Reagan, Rachel E <rreagan@usgs.gov>; Becker, Debra A <dabecker@usgs.gov>; Jeff Ruch <jruch@peer.org>; Evi <akswisster@gmail.com>
Subject: Re: Ethics Guidance re Nature podcast interview with Evi Emmenegger

Hi Evi -

You have explained you will be interviewed on April 18, 2023 in your personal capacity by a reporter, Adam Levy, from the entity Nature.com for a future podcast. You will not receive any compensation for the interview. The interview subject title will be "Freedom and safety in science" and will address:

- What your work involves
- The concerns that you raised
- How you felt that raising these concerns was handled, and the effect this had on you
- How you feel about protections for whistleblowers in the U.S. and whether this has shifted under President Biden
- What your hopes for the future of such protections would entail

The Departmental Ethics Office has no ethics objections with you participating in your personal capacity in the proposed interview with Nature.com under the facts as described above and in the DI-7010 form you provided to this office for review. Please note that ethics officials used the DI-7010 form you provided to gather the necessary facts to provide you with this guidance, but have determined that the approvals in the form are not required under the Department's regulations as your participating in the interview is not an outside employment or activity requiring advance approval.

While we have no ethics objections to your personal capacity interview, we recommend a disclaimer to ensure that it is clear that you are participating in the interview in your personal capacity and caution that you should be mindful of the following general ethics guidance below. We also recommend establishing "ground rules" prior to the interview that you cannot answer any questions on behalf of the Department of the Interior, the U.S. Geological Survey, or the U.S. Government.

1. **Use of Official Title/Position** – Under the ethics rules, you cannot use or permit the use of your Government position or title or any authority associated with your public office in a manner that could reasonably be construed to imply that the U.S. Department of the Interior, the U.S. Geological Survey (USGS), or the U.S. Government generally sanctions or endorses your personal activities or those of another. 5 C.F.R. § 2635.702(b). Since this is a personal activity, you may not use or permit the use of your official title in connection with your participation in this interview. However, you may include or permit the inclusion of your official title or position only as part of a biographical summary that refers to several of your other credentials provided that your official title or position is given no more prominence than other significant biographical details. 5 C.F.R. § 2635.807(b). Therefore, for example, you can mention that you are a USGS employee so long as you mention two or three other items about yourself, such as

where you received your education and other organizations where you have been employed, etc.

Additionally, we are also recommending that the following disclaimer be stated during the podcast interview and placed at the bottom of any Nature.com transcript of the interview or article based on the interview:

“The views expressed by Evi Emmenegger in this interview belong to her and do not represent the views of the U.S. Department of the Interior, the U.S. Geological Survey, or United States Government.”

2. **Use of Government Resources and Time** – The ethics rules require Federal employees to use their official time in an honest effort to perform official duties and state that federal employees have a duty to protect and conserve Government property and not use Government property for other than authorized purposes. 5 C.F.R. §§ 2635.704, 2635.705(a). That means all personal activities, including this interview, must take place outside of your official duty hours or while on authorized leave. Therefore, you should either be off duty or on authorized leave while participating in this interview with Nature.com. In addition, you may not use your official Government computer, phone, or other equipment to conduct the interview. Lastly, you should only communicate with Nature.com using your personal email address (as opposed to your government email), since you will be participating in this interview in your personal capacity.
3. **Endorsement** – Under the ethics rules, Federal employees also may not use their official Government position or title or any authority associated with their public office to endorse any product, service, or enterprise. 5 C.F.R. § 2635.702(c). Accordingly, during this interview, you should frame your responses in a manner that could not be interpreted as your official support or the USGS’s support or endorsement of any product, service, or enterprise, including non-profit organizations.
4. **Nonpublic Information** – Because you are a Federal employee, you may not discuss any nonpublic information you have gained by reason of your Federal position. 5 C.F.R. § 2635.703. Nonpublic information is information that: (1) is exempt from disclosure by statute, Executive order or regulation; (2) is designated as confidential or classified; or (3) has not been disseminated to the general public and is not authorized to be made available to the public upon request.
5. **Partisan Political Activity** – The Hatch Act is the law that regulates the political activity of Federal employees and “political activity” is defined as “an activity directed toward the success or failure of a political party, candidate for partisan political office, or partisan political group.” 5 C.F.R. § 734.101. The Hatch Act prohibits Federal employees from engaging in political activity while on duty, in a Federal building, wearing a uniform or insignia, or in a Federal vehicle. 5 C.F.R. § 734.306(a). Additionally, the Hatch Act contains certain prohibitions that apply even while off duty and off premises and those restrictions include: (1) using your official title or authority for the purpose of affecting the result of an election, and (2) soliciting, accepting, or receiving political contributions from any person. 5 C.F.R. §§ 734.302 & 734.303.

Because you will be providing the interview in your personal capacity and you are a lesser restricted employee for purposes of the Hatch Act, you may provide your personal opinion

during the interview regarding "How you feel about protections for whistleblowers in the U.S. and whether this has shifted under President Biden" so long as the interview takes place outside of duty hours, not in a Federal workplace, while you are on annual leave or in a non-duty capacity, and your response does not otherwise violate the restriction soliciting political contributions.

Additional information and guidance regarding the Hatch Act is available at the Office of Special Counsel website <https://osc.gov/Services/Pages/HatchAct.aspx>

In conclusion, you may participate in the upcoming interview in your personal (not official) capacity, and you must clearly explain that your responses to the interview questions do not represent the views of the Department of the Interior, the U.S. Geological Survey, or the U.S. Government. Please let me know if we can be of further assistance. Finally, if any of the information described above changes, please let me know and I'd be happy to provide revised guidance, as appropriate.

Thanks,

Nancy

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Integrity is our mission.

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