



Investigative Report of Charles Monnett

Report Date: September 28, 2012

This report contains information that has been redacted pursuant to 5 U.S.C. §§ 552 (b)(6) and (b)(7)(C) of the Freedom of Information Act. Supporting documentation for this report may be obtained by sending a written request to the OIG Freedom of Information Office.

SYNOPSIS

On March 30, 2010, the Office of Inspector General (OIG) initiated an investigation of allegations made by a confidential complainant against U.S. Department of the Interior (DOI) employees Charles Monnett, Ph.D., and Jeffrey Gleason, Ph.D., of the Bureau of Ocean Energy Management (BOEM; formerly the Minerals Management Service, or MMS). The complainant, a DOI employee, alleged that Monnett wrongfully released U.S. Government records to an outside party, revealing BOEM's internal deliberative process in its approval of a 2007 exploratory drilling plan created by the energy company Shell. The complainant also alleged that Monnett and Gleason intentionally omitted or used false data in their published manuscript from their work as BOEM scientists, titled "Observations of Mortality Associated with Extended Open-Water Swimming by Polar Bears in the Alaskan Beaufort Sea." The complainant also alleged that Monnett and Gleason intended to manipulate data to meet a personal agenda, including influencing the U.S. Fish and Wildlife Service's (FWS) decision to list the polar bear under the Endangered Species Act (ESA).

We found that Monnett made unauthorized disclosures of Government emails to a non-Government entity. Regarding the falsification of data allegations, we found that Monnett and Gleason used an incomplete database as their primary source of information to write their manuscript, made conflicting statements to investigators regarding the writing and editing of their manuscript, and engaged in questionable extrapolation of data by "deliberately" (using Monnett's word) understating data in the manuscript. In addition, the manuscript was included as a reference to FWS' Final Rule to list the polar bear as a threatened species under the ESA; FWS employees involved in the development of the rule said, however, that the manuscript had little or no impact on their final decision in the listing.

In addition to the specific allegations presented to OIG, during the course of the investigation we identified several apparent irregularities in the procurement process regarding Monnett's handling of a MMS sole-source contract. After reviewing the contract file and interviewing procurement staff responsible for administering the contract, we determined that Monnett's overall handling of the contract did not comply with Federal procurement policy. Some of Monnett's actions related to the development of the contract were condoned by the procurement personnel who were in place at MMS during that time. Current procurement personnel interviewed by OIG as part of this investigation, however, considered Monnett's communications with the sole-source vendor following the issuance of the Request for Proposal as entirely inappropriate.

Evidence in this case was presented to the U.S. Attorney for the District of Alaska and was declined for criminal prosecution. We are referring this report to Tommy P. Beaudreau, Director of BOEM, for any action deemed appropriate.

BACKGROUND

Bowhead Whale Aerial Survey Project

Between 1987 and 2007, the Bureau of Ocean Energy Management (BOEM)¹ managed and funded the Bowhead Whale Aerial Survey Project (BWASP) in the Alaska Outer Continental Shelf region.² The goal of the BWASP was to evaluate and document the distribution and habitat use of bowhead whales in the Beaufort Sea during the fall migration period. Since 2007, the National Oceanic and Atmospheric Administration, National Marine Fisheries Service, and National Marine Mammal Laboratory have conducted the BWASP with BOEM support through an interagency agreement.

From 1987 to 2007, the BWASP was composed of BOEM scientists and agency personnel who performed aerial flights using fixed-wing aircraft.³ BWASP surveys typically occurred between late August and early October. All bowhead and beluga whales observed were recorded, along with incidental sightings of other marine mammals. Daily BWASP flight patterns were based on sets of unique transect grids computer-generated for each survey block. This data gave the pilots the beginning and end points or a line in the sky (transect) for each pilot to follow. The pilots would enter the flight coordinates for each transect into the navigation system. The selection of the survey blocks to be flown on a given day was nonrandom and based primarily on criteria such as reported or observed weather conditions over the study area and the level of offshore oil industry activity in various areas.

BWASP observers included the pilot and copilot, a primary observer, an occasional secondary observer-visitor, a data recorder-observer, and a team leader. The primary observer's field of vision was through a bubble window that included the trackline, an imaginary line directly below the aircraft to the horizon. The occasional secondary observer-visitor was stationed at a flat window near the tail of the aircraft. The data recorder-observer was stationed on the starboard, or right, side of the aircraft. Also on the starboard side were the team leader and the copilot. Each observer was issued a handheld clinometer, which is a tool used for measuring angles of slope, elevation, or depression of an object. The observers used their clinometers to measure the angle of inclination, or slope, for each sighting. Observers and pilots were linked to common communication systems.

BWASP teams used a portable laptop aboard the aircraft to store and analyze flight and observation data. The computer system was connected to a local global positioning system with external aircraft antenna. A custom moving map program developed by BOEM project personnel permitted surveyors to view the aircraft's line of travel in real time. Project personnel also developed a software program that allowed for data entry of marine mammal sightings using

¹ On October 1, 2011, the Bureau of Ocean Energy Management, Regulation and Enforcement (BOEMRE), formerly the Minerals Management Service (MMS), was replaced by the Bureau of Ocean Energy Management (BOEM) and the Bureau of Safety and Environmental Enforcement (BSEE) as part of a major reorganization. BOEM is used in all references to this agency to reflect its current name.

² www.alaska.boemre.gov/ess/bwasp/xbwasp.htm

³ U. S. Department of Interior, Minerals Management Service, Alaska Outer Continental Shelf Region, "Aerial Surveys of Endangered Whales in the Beaufort Sea Fall 2006-2008," 2010, p. 1-8. (<http://alaska.boemre.gov/reports/2005rpts/2005-037.pdf>) and "Aerial Surveys of Endangered Whales in the Beaufort Sea Fall 2002-2004," 2005, p. 1-5 (<http://www.afsc.noaa.gov/nmml/PDF/BWASP-2006-2008-Report.pdf>)

menus that included date, time, latitude, longitude, altitude, aircraft heading, reason for entry, species, total number, observer, swim direction, clinometer angle, behavior, size, habitat, swim speed, whether it was a repeat sighting, and response to aircraft. Reduced data sequences were used when recording other marine mammals. In addition, BOEM project personnel created a software program to perform the preliminary BWASP flight data analysis. It provided daily summations of marine mammals observed, plus calculation of time and distance on transect legs and general search portions of the flight. Data from all of the BWASP surveys were combined in the BWASP database.⁴

A BOEM wildlife biologist managed the BWASP until he retired in 2003. Charles Monnett, a BOEM wildlife biologist, became involved in the BWASP in 1999 as an observer. In 2003, Monnett was promoted to team leader, a position he held until 2006. As team leader, he was responsible for managing the day-to-day operations of the BWASP, including participating in the mission flights. Jeffrey Gleason, a BOEM avian ecologist, also participated in the flights from 2004 to 2006, primarily as an observer.

During the BWASP mission flights that occurred on September 14, 16, 18, and 22, 2004, Monnett and Gleason were assigned as primary and secondary observers. During each one of these flights, Monnett and Gleason stated that they observed a polar bear carcass floating in the Alaskan Beaufort Sea. Based on these sightings, Monnett and Gleason prepared a “poster presentation,” which detailed observations with a brief analysis. In December 2005, Monnett and Gleason presented the poster at the 13th Annual Wildlife Society conference in San Diego, CA. After this presentation, the Wall Street Journal published an article about their polar bear observations on December 14, 2005.

Following the 2005 presentation, Monnett and Gleason co-authored a manuscript titled “Observations of Mortality Associated with Extended Open-Water Swimming by Polar Bears in the Alaskan Beaufort Sea.” In 2006, their manuscript was published in “Polar Biology,” a scientific journal that presents results of studies in plants, animals, and microorganisms in the Arctic and Antarctic regions.

U.S. Fish and Wildlife Service’s Listing of the Polar Bear

On February 16, 2005, the Center for Biological Diversity (CBD) filed a “Petition to List the Polar Bear (*Ursus maritimus*) as a Threatened Species⁵ under the Endangered Species Act”⁶ with the U.S. Department of the Interior (DOI) Fish and Wildlife Service (FWS). Following CBD’s petition, FWS issued a proposed rule to list the polar bear as threatened on January 9, 2007.⁷ FWS issued a final rule to list the polar bear as threatened on May 15, 2008.⁸

BOEM Contract #1435-01-05-CT-39151

On September 23, 2005, BOEM issued contract #1435-01-05-CT-39151 to the University of

⁴ www.alaska.boemre.gov/ess/bwaspx/bwaspx.htm

⁵ CBD petition available online at http://www.biologicaldiversity.org/species/mammals/polar_bear/pdfs/15976_7338.pdf

⁶ 16 U.S.C. §§ 1532 et seq.

⁷ 72 Federal Register, pages 1064-1099

⁸ 73 Federal Register, pages 28212-28303

Alberta, Department of Biological Studies. The purpose of this contract was to have staff from the University of Alberta conduct a study of juvenile polar bears born on or near the Outer Continental Shelf of Western Canada. The principal investigator of the University of Alberta's staff was identified as Andrew Derocher. The original award amount was \$250,000, although the total cost of the obligation was reported to be \$1,139,137 after incremental funding was added to the award each of the 4 additional option years.⁹

The Federal Acquisition Regulation (FAR) addresses research and development contracting. Specifically, FAR 35.002 states: "[T]he primary purpose of contracted [Research and Development, or R&D] programs is to advance scientific and technical knowledge and apply that knowledge to the extent necessary to achieve agency and national goals." To obtain a broad base of the best contractor sources from the scientific and industrial community, agencies must, in addition to following the requirements of FAR part 5, "Publicizing Contract Actions," continually search for and develop information on sources competent to perform research and development work.¹⁰ These efforts should include early identification and publication of agency research and development needs and requirements, including publicizing through the Governmentwide point of entry.

The provisions at FAR 35.007(a) and FAR 35.007(b) recognized that "submission and subsequent evaluation of an inordinate number of R&D proposals from sources lacking appropriate qualifications is costly and time-consuming to both industry and the Government."¹¹ Proposals generally should be solicited from technically qualified sources, including sources that become known as a result of synopsis or other means of publicizing requirements. Cognizant technical personnel were required to recommend potential qualified sources, and "[i]n the interest of competition, contracting officers shall furnish copies of the solicitation to other apparently qualified sources."¹²

DETAILS OF INVESTIGATION

The confidential complainant, a career U.S. Department of the Interior (DOI) employee, alleged that Charles Monnett, a Bureau of Ocean Energy Management (BOEM; formerly the Minerals Management Service, or MMS) wildlife biologist, and Jeffrey Gleason, a BOEM avian ecologist, presented fraudulent scientific data regarding their observations of four drowned polar bears floating in the Alaskan Beaufort Sea during Bowhead Whale Aerial Survey Project (BWASP) mission flights conducted on September 14, 16, 18, and 22, 2004. The complainant wrote that Monnett and Gleason omitted critical data or results and possibly submitted false data to advance a global warming agenda, which influenced the listing of the polar bear under the Endangered Species Act of 1973, and that they hindered the exploration and development of offshore oil and gas drilling in Alaska's Outer Continental Shelf by releasing internal email exempt from the

⁹ The source selection memorandum dated September 8, 2005, noted that, in accordance with FAR 13.106-1, "Soliciting Competition," a notice of intent to make a sole source award to the University of Alberta was posted on FedBizOpps for 3 full weeks. FAR 13.106-1 applies to simplified acquisition procedures. At the time of the award, the simplified acquisition threshold was \$100,000, except for certain inapplicable exceptions. FAR 2.101 (2004). The contract award exceeded the simplified acquisition threshold.

¹⁰ FAR 35.004 (2004). The 2004 edition of the FAR applied at the time of this acquisition.

¹¹ FAR 35.007(b) (2004).

¹² FAR 37.007(b) (2004)

Freedom of Information Act (FOIA) disclosure rules.

In addition to these allegations, a review of Monnett's communications surrounding the creation and awarding of the contract with the University of Alberta identified several apparent procurement process irregularities. We therefore contacted BOEM's Procurement Division, received a copy of the contract file, and interviewed procurement staff responsible for administering the contract, along with the Bureau Procurement Chief.

Allegations of Monnett's Unauthorized Release of U.S. Government Documents to Outside Parties Involved in the Litigation of Exploration and Development of Offshore Oil and Gas Drilling

The complainant accused Charles Monnett of wrongfully forwarding internal, FOIA-exempt BOEM emails regarding the National Environmental Policy Act exploratory drilling plan submitted by the Shell Oil Company to parties outside BOEM. The complainant provided several of these emails as examples. The U.S. Court of Appeals for the Ninth Circuit used these emails, in part, in making the decision to vacate BOEM's approval of the Shell exploration plan.

The complainant told us that a 2008 BOEM internal review of Monnett's Government emails revealed that Monnett forwarded FOIA-exempt emails outside BOEM exposing BOEM's deliberative process during litigation. Monnett also forwarded a Regional Director's order not to discuss Government communications with outside organizations to the same outside parties. BOEM, however, took no administrative action against Monnett.

We interviewed a former BOEM regional director, and Jeffrey Loman, BOEM Deputy Regional Director, regarding this matter. Loman confirmed that in early 2007, BOEM conducted an environmental assessment to determine whether an exploratory drilling plan submitted by Shell complied with the National Environmental Policy Act. During this assessment period, Loman recalled that several BOEM managers were challenged by a few of its scientists, who asserted that the activity Shell proposed would constitute what the National Environmental Policy Act describes as "significant impact" to the environment. Loman stated that the scientists were primarily concerned about the effects of introducing invasive species to the environment and that BOEM's cumulative effects analysis assessment and findings lacked proper consideration of climate change impacts.

Loman explained that the scientists' opposition was handled by BOEM managers through protracted conversations and email exchanges. Despite the dissent, BOEM approved Shell's exploratory drilling plan. As a result, several advocacy organizations, including the Alaska Eskimo Whaling Commission, filed a lawsuit against BOEM challenging its approval of Shell's plan.

The former BOEM regional director told us that while BOEM was in litigation in 2008 over its approval of Shell's drilling plan, DOI Solicitor's Office lawyers determined that someone was providing Public Employees for Environmental Responsibility (PEER) and others with internal BOEM emails—specifically, emails that outside parties were not privy to and that were not in the administrative record. Solicitor's Office lawyers requested that the former regional director

determine who was providing opposing parties with the protected internal communications. The former regional director said that he delegated the task of performing the internal review to Loman.

Loman told us that during the initial stages of the litigation process, the plaintiffs filed several FOIA requests, with which BOEM complied. Soon afterwards, the plaintiffs provided BOEM with approximately 60 emails that had *not* been included in BOEM's original FOIA response packet. The plaintiffs claimed that BOEM had intentionally omitted the emails from its FOIA response packet because they contained evidence suggesting that BOEM had rebuffed its scientists for opposing the approval of Shell's exploratory plan.

Loman also said that news articles on the subject began to appear after PEER posted many of the 60 emails on its Web site. Loman believed that PEER's display of these emails was an attempt to demonstrate that BOEM's management intentionally rebuffed or ignored the dissenting scientists' concerns that Shell's plan would have a negative impact on the Outer Continental Shelf's environment.

Loman said that BOEM's management and DOI's Solicitor's Office reviewed the 60 emails and determined that they were exempt from the FOIA request because of their deliberative and pre-decisional nature. Consequently, on January 29, 2008, an associate solicitor from DOI's Division of General Law sent a letter to PEER requesting that it immediately cease the unauthorized release and publication of the emails and return them immediately to BOEM. Loman recalled that the former regional director instructed all BOEM Alaska employees to refrain from discussing PEER press releases and BOEM internal emails with anyone outside BOEM. This directive was sent in an email on January 31, 2008. Loman said that on February 4, 2008, PEER posted this directive on its Web site with the title "MMS gag order against discussing e-mail messages."

Loman had his IT staff determine whether any of the recipients of his email directive forwarded it to anyone outside the BOEM network. The IT staff told Loman that Monnett was the only BOEM employee who had done so, and that Monnett had also forwarded the email to a professor and marine conservation specialist at the University of Alaska, Anchorage, AK, on the same day Monnett received it. Based on an Internet search that revealed several documents identifying the professor and marine conservation specialist as being represented by PEER on related issues, Loman said he believed that the professor was a member of PEER and an opponent of offshore oil and gas exploration.

When Loman found out that Monnett had forwarded his email to the professor and marine conservation specialist, he sought the advice of the Solicitor's Office. The Solicitor's Office suggested that Loman send Monnett a formal letter of reprimand for forwarding a FOIA-exempt email to an unauthorized recipient. Loman said that he did not follow the Solicitor's Office advice to reprimand Monnett because he did not want to provide him with another document to forward to PEER for its Web site. Loman said he believed a letter of reprimand would not have had any disciplinary effect on Monnett, nor would it have prevented him from forwarding future emails to PEER. Loman added that if management told him today to write Monnett a letter of reprimand, he still would not do so for the same reasons.

Loman said that once he identified Monnett as PEER's source for BOEM's FOIA-exempt email and other potentially sensitive data, he wanted to determine the extent of Monnett's actions. He asked that IT staff provide him with all of the emails that Monnett had written or received between March 2003 and March 2008. Several weeks later, Loman stated that BOEM IT staff gave him a DVD containing approximately 25,000 emails. Loman recalled that a review of the emails revealed that Monnett had forwarded several hundred BOEM email communications, including FOIA-exempt emails and potentially sensitive data, to the professor and marine conservation specialist and the Alaska Eskimo Whaling Commission. Both were actively involved in the Shell litigation with BOEM.

The former BOEM regional director told us that discussions took place over several weeks between BOEM management, Human Resources, and the Solicitor's Office as to what actions should be taken. He said that the Solicitor's Office and Human Resources determined that there was no clear course of disciplinary action. As a result, no administrative action was taken against any employee relating to the unauthorized release of emails. Loman confirmed that BOEM never disciplined Monnett for forwarding FOIA-exempt email or other potentially sensitive BOEM data to unauthorized recipients.

The U.S. Attorney's Office, District of Alaska, declined to pursue a criminal prosecution of Monnett for his unauthorized disclosure of Government records [Exemption 5].

Allegations of Misconduct against Monnett and Gleason

September 2004 BWASP Polar Bear Observation Photographs

The complainant also alleged that Charles Monnett falsified and manipulated photographs of the dead polar bears referenced in his manuscript. Our investigation determined that during a September 2004 BWASP mission, Jeffrey Gleason took three photographs of what he claimed to be a dead polar bear. The photographs were subjected to a forensic review, and there was no evidence that the digital images were altered.

Gleason explained that during the 2004 BWASP survey, he and Monnett observed one dead polar bear each day on September 14, 16, 18, and 22, 2004. Gleason said that he did not believe that it was possible to observe the same dead polar bear on a different mission flight because the distance between transects of each flight was approximately 50 to 100 miles.

Prior to observing the dead polar bears, Gleason said that they had done some survey work and had seen these (the same) animals swimming offshore. After a very strong windstorm, he said, it was calm, and that was when they saw the dead bears. He said that they attributed the bears' deaths to the windstorm, but had no way to determine the actual cause. He said that given the distance and the number of polar bears they saw before the storm, and then the dead polar bears after the storm, the storm seemed to be the most likely explanation for what happened.

Gleason told us that based on his review of the local weather records on the dates immediately preceding their observations of the four dead polar bears, what had happened was that some of the polar bears began their long-distance trek from one piece of land to another because the

ocean was unusually calm. During the polar bears' trek, Gleason believed that the wind started to increase to 30 knots, creating very high waves that broke over the bears' heads as they swam. Gleason said that over time, the polar bears probably ran out of energy fighting the waves and drowned. Gleason further opined that polar bears drown in the Beaufort Sea much more frequently than people realize, but people seldom have the opportunity to observe them.

Gleason stated that Monnett was the first one to observe three of the four polar bears and that he was the secondary observer who verified Monnett's initial observations. Gleason believed that a "white blob" he observed floating in the middle of the ocean with several birds on and around it was a fourth dead bear; he said that he verified his observations with binoculars.

Gleason also told us that he took three or four photographs from the aircraft of the first dead polar bear Monnett observed. He told us that the quality of the pictures that he took during the survey flights was typically very poor because he had to take them through the plane window, and the vibration of the aircraft made it very difficult to stabilize the camera.

We asked Gleason why, if the photos were of the same polar bear, the images were so different. Gleason explained that his photographs of the dead polar bear had different shades of blue in the images even though he took them within several seconds of each other because he took these photographs while the aircraft was flying lower and circling the dead bear. According to Gleason, the color of the water appeared to be different in the photographs because of the different camera angles and location of the sun relative to the subject of the photo. Gleason further stated that he and Monnett first used a computer program to try to make the photos clearer. When he could not enhance them, he said, he took the file to a commercial photography studio, but the originals were so poor that nothing could be done to enhance them.

When we asked why he did not photograph the three other dead polar bears that he observed in September 2004, Gleason did not recall precisely why. He replied that either he had failed to think of doing so or that the first photos were so poor he did not think it worthwhile to attempt again.

At the conclusion of the January 20, 2011 interview, Gleason voluntarily provided a CD that he said contained the original JPEG files of the photographs of the dead polar that he took during the BWASP mission flight in September 2004.

Loman said he became curious about Gleason's polar bear photographs after he had a conversation a researcher, Arctic Research Consortium of the United States, at a local conference. Loman stated that during their conversation the researcher told him that she assisted in the documentary movie called "An Inconvenient Truth." She told him she knew that Monnett worked on "that program," referring to the BWASP, and was the person who had seen the dead polar bears. Loman said that after his conversation with the researcher, he recalled seeing an email from Monnett to an unknown recipient about photographs of dead polar bears.

At Loman's request, Monnett and Gleason sent him an email with three attached photographs of what they purported to be a dead polar bear in a body of water. Monnett told Loman that Gleason was the one who took the photographs, and he also admitted that their quality was poor.

2004 Polar Bear BWASP Observations/Data Recordings

After it was published, the complainant read Monnett and Gleason's manuscript detailing their September 2004 dead polar bear observations several times, reviewed the BWASP database, and spoke to participants of the BWASP mission flights conducted in September 2004. According to the complainant:

There is an abundance of conflicting information in MMS data and even in the manuscript produced by Monnett and Gleason. There is conflicting information regarding numbers of polar bears seen off shore swimming, dead or drowned, and on land. Lastly, even a casual reader of Monnett's and Gleason's manuscript can easily conclude that these numbers are important. The number of dead bears observed is extrapolated to make an assumption that many more died but were unseen as a result of the geographic limitations in the survey.

We interviewed Charles Monnett; Jeffrey Gleason; a BOEM oceanographer; Fred King, BOEM's chief of the Leasing Activities Section; and the BWASP project coordinator from 1987 to 2003, regarding BWASP data entries, observations, and procedures.

In their interviews, both Monnett and Gleason repeatedly said that while they relied primarily on the BWASP database as their source of information to support the assertions they made in their manuscript, they also used BWASP annual reports and interviewed the BWASP project coordinator. Monnett's and Gleason's notebooks both indicated that they saw a dead polar bear floating each day on September 14, 16, 18, and 22, 2004.

During his first interview, on February 23, 2011, Monnett told us that the dead polar bears would *not* have been entered into the BWASP database because there were limitations on entering information about mammals other than bowhead whales. He also explained how data recording worked on BWASP missions. Monnett said that once a bowhead whale or other mammal was sighted, the observer would call out the specific data to the data recorder, who was located toward the rear of the aircraft. The data recorder would enter the information into a specially designed software program using a laptop.

Monnett said that he and Gleason had observed four polar bear carcasses floating in the Beaufort Sea during four separate BWASP aerial flights over a period of a few days in September 2004. Monnett said he manually recorded his dead polar bear observations in his journal. He emphasized that while they did see other live mammals, such as ringed seals and polar bears, the BWASP software program used in 2004 and in prior years had no flexibility in being able to document the behavior of mammals other than bowhead whales. He said that they did have a few behavior variables in the database for polar bears, but that they were general. Monnett specifically stated: "Um, two examples of that, uh, were the sightings of dead polar bears. We had no way to document dead polar bears in our system. It simply wasn't an option, so that forced us to write in our books."

Monnett said that being unable to record everything they might want on polar bears was one reason they later redesigned the program to be more flexible. Monnett explained that after he

observed the dead polar bears in September 2004, he and others “reinvented the BWASP’s software program and made it much more flexible and much more complex.” Monnett said that they were redesigning the program by the end of his work on the BWASP around 2006 timeframe. He said that by the time the National Marine Fisheries Service (NMFS) took over BWASP, they had created a reliable version of the software, which NMFS continues to use.

During Monnett’s second interview, on August 9, 2011, however, he stated that the 2004 database could have logged the polar bears as dead. He believed the data recorder on the flights with him and Gleason told them the database could not do so, and that was the reason they made detailed observations in their notebooks—a step they would not have taken if they had known they could enter the bears into the database as dead.

During his interviews, Gleason had difficulty recalling the capabilities of the BWASP database. Commenting on why the BWASP database did not have any data reflecting dead polar bears, Gleason said that he was uncertain about exactly what happened—either the program was unable to record the dead bears or the data recorder did not enter his and Monnett’s observations.

During his second interview, we asked Gleason if the BWASP database software program was—as Monnett stated—“reinvented” after their dead polar bear sightings in September 2004 to allow observers to record sightings of mammals other than the bowhead whale. Gleason responded that he believed there was some discussion about modifying the database after they observed the dead polar bears, but he could not remember if they changed it at that time.

A BOEM oceanographer said that she participated in the September 2004 BWASP mission flights as a data recorder. She explained that in this capacity she was able to record observations of other mammals, such as polar bears and ringed seals, as long as the observers on the flight called them out to her. She vaguely recalled that the BWASP software program allowed the data recorder to toggle through a dropdown menu that listed several letter codes correlating to the type of species the observers saw, such as a bowhead whale or a polar bear. The oceanographer said that she could not remember what options came up for each particular species or what the software input looked like.

We showed her a copy of a file document from the BWASP observation database listing each entry that occurred on September 6, 2004. We then asked her to refer to entry #274—an observation of a polar bear swimming. She said that in reference to observation entry #274, she would have recorded a polar bear in the species field, but she could not recall what the options for behavior were on the graphical user interface section.

We then provided the oceanographer with a copy of a document that listed several observation codes, including species, behavior, sighting cue, size, habitat, track, swim speed, and vessel.

Data Order	Species	Behavior	Sighting Cue
AK DL Date-Time	A no sight	S swim	B body
Latitude	B bowhead	M mill	S splash
Longitude	E beluga	C cow with calf	W blow
Altitude (ASL)	G gray	R rest	L slick
Aircraft Heading	K kill site no bear	D dive	I ice tracks
Reason for Entry	P polar bear	B breach	K kill site
Species	R ringed seal	F flipper slap	M mud plumes
Total Number	S bearded seal	T tail slap	F birds or fish
Observer	T track	N run	N no cue
Swim Direction	U unknown pin	H thrash	
Clinometer Angle	C unknown cet	O roll	
Calf Number	V vessel	E feed	Swim Speed
Behavior	W walrus	Y spy hop	S still
Sighting Cue	O other	V mate	O slow
Size		W under water	M medium
(predominant)		blow	F fast
Habitat		L log play	U unknown
Swim Speed		X dead	
Repeat Sightings		U unknown	
Aircraft Heading	Size	Habitat	Repeated Sightings
Sky Conditions	A adult	O open water	Y Yes
Visual impediments	L large adult	T tide rip	N No
Visibility Left	I immature	I on ice	U Unknown
Visibility Right	P cow/calf pair	L on land	
Ice Coverage %	C calf of the year		
Ice Type	U unknown		
Sea State	Track	Vessel	
	Track -bowhead	icebreaker	
	Track - beluga	Commercial vessel	
	Track polar bear	Seismic vessel	
	Track - unknown cet	Small craft	

Note to Observers: It is helpful to the data recorder to give the bold highlighted data elements in descending order.

Figure 1. Observation codes used by BWASP data recorders.

This document, according to the complainant and the BWASP project coordinator, is a list of observation codes used by BWASP data recorders. After reviewing the document, the oceanographer was asked to refer to the behavior section of the document and the code "X" signifying that the mammal being observed was dead. We asked the oceanographer about Monnett's and Gleason's dead polar bear observations on September 14, 16, 18, and 22, 2004 and whether she, as the data recorder, would have had the ability to record the observed mammal as being dead. She told us that it would be possible only if it were an option on the graphical user interface. The oceanographer further said that she could not remember what the program looked like and would not be able to say whether it was possible without seeing the program. Only certain attributes, she said, came up for each species, and therefore some of the behaviors on the sheet may not show up for certain species.

We asked the oceanographer if she was the data recorder when Monnett or Gleason observed the

dead polar bears, she said: “I was on a flight where a polar bear was sighted, thought to be dead.” She could not recall the specifics of Monnett’s and Gleason’s observation of the one dead polar bear because it had occurred so long ago.

Fred King, BOEM Leasing Activities Section Chief, said that he participated in the first seven BWASP mission flights as an observer in September 2004. He recalled seeing a dead polar bear in the Kaktovik area during two of these flights. King was unable to recall the exact dates of the observations or whether they occurred on consecutive days. King said that when he observed the two dead polar bears on the two separate flights he “called out” both observations to the data recorder. King also remembered that the pilot of the plane circled around the bears several times on both occasions because of his observation. King stated that Monnett was the other observer and team leader on both of these flights, and that Monnett verified his observations of the dead polar bears while the plane was circling.

We asked King whether he made his two sightings of dead bears before Monnett and Gleason made their observations of four dead polar bears referenced in their logbooks. King confirmed that since the flights he participated in occurred earlier than the ones on which Monnett and Gleason saw the four dead bears, his observations would have taken place several days earlier.

King stated that he did not know all of the capabilities of the BWASP data recording software. He was aware, however, that if an observer saw a marine mammal other than a bowhead whale, the data recorder was able to record that observation. King stated that the BWASP observers were responsible for recording all marine mammal sightings made during BWASP flights. His understanding was that all marine mammals were in some way being captured.

King explained that in addition to the BWASP data recorder documenting observations, BWASP observers used notebooks of their own. He said that the notebooks were used to take notes verifying the number of animals being recorded. King said that he had a notebook, but due to its age, he did not keep his notebook from those BWASP missions. King did not remember whether Monnett recorded his and King’s observation of the dead polar bear in his notebook during the flights on September 1 through 7, 2004.

Our review of the BWASP September 2004 flight schedule and observer assignments revealed that Monnett was assigned as an observer during 19 BWASP flights that month. During the first seven flights, on September 1 through 7, 2004, Monnett was accompanied by King as a secondary observer.

Monnett’s 2004 BWASP notebook revealed that he observed a dead polar bear on September 14, 16, 18, and 22, 2004. A review of the BWASP mission flight observation data for the same dates in September reflect a polar bear was observed (figures 2 through 5) but does *not* indicate that the observed polar bear was dead:

```

-----
Entry 120  9/14/04 1:02:46 PM  LAT:7023.446  LON:14434.16  ALT:1031  HEAD:181.1
-----
Reason for Entry : s on trans                      Species : polar bear
Total Number : 1                                Aircraft Response : no
Sky Conditions : overcast                        Visual Impediments : low ceiling
Visibility Left : 5-10 km                        Visibility Right : 5-10 km
Ice Coverage % : 0                               Ice Type : no ice
Sea State : B1 lt ripples 1-3 kt
-----

```

Figure 2. Database entry for September 14, 2004.

```

-----
Entry 235  9/16/04 5:52:18 PM  LAT:7020.898  LON:14802.13  ALT:1419  HEAD:241.1
-----
Reason for Entry : s on search                      Species : polar bear
Total Number : 1                                Aircraft Response : no
Sky Conditions : overcast                        Visual Impediments : none
Visibility Left : 5-10 km                        Visibility Right : 5-10 km
Ice Coverage % : 0                               Ice Type : no ice
Sea State : B1 lt ripples 1-3 kt
-----

```

Figure 3. Database entry for September 16, 2004.

```

-----
Entry 5  9/18/04 9:22:22 AM  LAT:7026.84  LON:14846.31  ALT:1572  HEAD:343.2
-----
Reason for Entry : s on search                      Species : polar bear
Total Number : 1                                Aircraft Response : no
Sky Conditions : clear                          Visual Impediments : none
Visibility Left : 5-10 km                        Visibility Right : 5-10 km
Ice Coverage % : 0                               Ice Type : no ice
Sea State : B1 lt ripples 1-3 kt
-----

```

Figure 4. Database entry for September 18, 2004.

```

-----
Entry 132  9/22/04 12:14:40 PM  LAT:7126.019  LON:14748.03  ALT:982  HEAD:0.8
-----
Reason for Entry : s on trans                      Species : polar bear
Total Number : 1                                Aircraft Response : no
Sky Conditions : overcast                        Visual Impediments : none
Visibility Left : 5-10 km                        Visibility Right : 5-10 km
Ice Coverage % : 0                               Ice Type : no ice
Sea State : B2 sm waves 4-6 kt
-----

```

Figure 5. Database entry for September 22, 2004.

Our review of Monnett's notebook that included notations from the first seven BWASP mission flights in September 2004 did *not* reveal a notation that he or King had observed any polar bears, living or dead. The flight observation data entries for the same flights, however, revealed that polar bears were observed. Some data entries included a behavior data field reflecting that the polar bear was either feeding, swimming, resting, or running, all behaviors included in the observation code document (figure 1). Importantly, however, "dead" is an option in the behavior data field, and we noted that polar bear observation entries, such as entries #128, #129, and #130, did not include a behavior data field.

Our review of BWASP database entries (figure 6) from September 4 and 6, 2004, the dates of the flights on which King reported he was an observer with Monnett, revealed entries of polar bear sightings, but none were documented as dead. A review of Monnett's green notebook for the same dates revealed no record of any polar bears, alive or dead.

Entry 11 9/4/04 9:56:00 AM LAT:7004.333 LON:14533.82 ALT:822 HEAD:127.4

Reason for Entry : s on search	Species : polar bear
Total Number : 1	Behavior : run
Habitat : on land	Swim Speed : fast
Aircraft Response : no	Sky Conditions : overcast
Visual Impediments : precip	Visibility Left : <1 km
Visibility Right : <1 km	Ice Coverage % : 1
Ice Type : broken floe	Sea State : B3 sctrd caps 7-10

Entry 274 9/6/04 4:40:04 PM LAT:7018.312 LON:14744.1 ALT:1506 HEAD:189.4

Reason for Entry : s on trans	Species : polar bear
Total Number : 1	Behavior : swim
Habitat : open water	Aircraft Response : no
Sky Conditions : partly cloudy	Visual Impediments : haze
Visibility Left : 5-10 km	Visibility Right : 5-10 km
Ice Coverage % : 0	Ice Type : no ice
Sea State : B2 sm waves 4-6 kt	

Entry 239 9/6/04 2:34:26 PM LAT:7001.527 LON:14515.09 ALT:1437 HEAD:287.7

Reason for Entry : s on connect	Species : polar bear
Total Number : 1	Behavior : rest
Habitat : on land	Aircraft Response : no
Sky Conditions : partly cloudy	Visual Impediments : haze
Visibility Left : 5-10 km	Visibility Right : 5-10 km
Ice Coverage % : 0	Ice Type : no ice
Sea State : B3 sctrd caps 7-10 kt	

Entry 238 9/6/04 2:33:45 PM LAT:7000.974 LON:14511.22 ALT:1476 HEAD:296.8

Reason for Entry : s on connect	Species : polar bear
Total Number : 2	Behavior : rest
Habitat : on land	Aircraft Response : no
Sky Conditions : partly cloudy	Visual Impediments : haze
Visibility Left : 5-10 km	Visibility Right : 5-10 km

Event 210 9/6/04 12:59:35 PM LAT:7008.031 LON:14333.42 ALT:596 HEAD:89.1

Reason for Entry : s on search	Species : polar bear
Total Number : 1	Behavior : feed
Habitat : on land	Repeat Sightings : no
Aircraft Response : no	Sky Conditions : partly cloudy
Visual Impediments : haze	Visibility Left : 5-10 km
Visibility Right : 5-10 km	Ice Coverage % : 0
Ice Type : no ice	Sea State : B2 sm waves 4-6 kt

Entry 128 9/6/04 11:08:29 AM LAT:7009.288 LON:14317.43 ALT:1525 HEAD:287

Reason for Entry : s on connect	Species : polar bear
Total Number : 2	Repeat Sightings : yes
Aircraft Response : no	Sky Conditions : partly cloudy
Visual Impediments : haze	Visibility Left : 5-10 km
Visibility Right : 5-10 km	Ice Coverage % : 0
Ice Type : no ice	Sea State : B1 lt ripples 1-3 k

Entry 129 9/6/04 11:08:49 AM LAT:7009.464 LON:14319.17 ALT:1505 HEAD:286.1

Reason for Entry : s on connect	Species : polar bear
Total Number : 1	Repeat Sightings : yes
Aircraft Response : no	Sky Conditions : partly cloudy
Visual Impediments : haze	Visibility Left : 5-10 km
Visibility Right : 5-10 km	Ice Coverage % : 0
Ice Type : no ice	Sea State : B1 lt ripples 1-3 k

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-----
Entry 130  9/6/04 11:09:30 AM  LAT:7009.887  LON:14323.22  ALT:1493  HEAD:287
-----
Reason for Entry : s on connect          Species : polar bear
Total Number : 1                         Repeat Sightings : yes
Aircraft Response : no                   Sky Conditions : partly cloudy
Visual Impediments : haze                Visibility Left : 5-10 km
Visibility Right : 5-10 km                Ice Coverage % : 0
Ice Type : no ice                        Sea State : B2 sm waves 4-6 kt
-----

```

Figure 6. September 6, 2004 database entries.

During Gleason's second interview, we provided him with a copy of this flight observation data reflecting that no dead polar bears were recorded. Gleason said again that he was not sure why the data recorder had not recorded the bears as dead even though the option was available in the database.

The BWASP project coordinator explained BWASP procedures to us. He told us that he helped put the BWASP program together in 1987 when BOEM took it over from Science Applications International Corporation (SAIC).¹³ He said that he was BOEM's first BWASP project manager and team leader. He trained the other team leader, Monnett, and all of the individual data recorders and observers from 1987 to 2004 on BWASP data entry procedures and software program. His trainees included an oceanographer, a data recorder, Monnett, and Gleason. He added that the data entry program used in 1987 has been updated at least twice, but he thought that the program was fairly stable and a lot of the early data looked very similar to the more recent data. He said that the more recent data might be a little more explicit. He added that the data recorder used a code sheet, inherited from SAIC in 1987, that listed "dead" as a behavior.

We asked the BWASP project coordinator whether BWASP data recorders from 1987 through 2004 were able to record dead polar bears. He emphasized that from the time he became involved with the BWASP database software program in 1987, the data recorders have always been able to record any mammals they observed during the BWASP mission flights as dead or alive.

We provided the BWASP project coordinator with a copy of BWASP observation data, entry #5 (figure 7), dated September 11, 2004:

```

-----
Entry 5  9/11/04 9:39:49 AM  LAT:7033.18  LON:14925.96  ALT:1011  HEAD:292.2
-----
→ Reason for Entry : s on search          Species : polar bear
Total Number : 1                         Aircraft Response : no
Sky Conditions : overcast                 Visual Impediments : haze
Visibility Left : 3-5 km                  Visibility Right : 3-5 km
Ice Coverage % : 0                        Ice Type : no ice
Sea State : B5 many caps 17-22 kt
-----

```

Figure 7. Database entry number 5 for September 11, 2004.

The BWASP project coordinator said that he recognized that the entry signified a sighting of a polar bear and commented: "I notice it does not have the behavior column and it does not have

¹³ The U.S. Government has used SAIC since 1988 for commercial outsourcing.

the habitat column.” He then reviewed BWASP data reflecting polar bear sightings from September 2004, specifically the dates Monnett and Gleason reported to have seen the dead polar bears. He speculated, but was unsure why the behavior and habitat data would be missing. He stated:

There may be a, you know a logical explanation for that, but I—I’m not sure what it is. The—especially if it’s—if it’s a sighting on transect in particular, you know, it would seem like we’d want all the information we could get on it, and if it were a polar bear, it seemed like we’d want all the information regardless. . . it’s almost as if the program were updated, you know, like we said, you know, we update it from time to time, try to improve it. Maybe it was updated after the 6th of September in an attempt to improve it and—and somehow that thing—that part didn’t get improved.

The BWASP project coordinator further said:

You know, you could argue that maybe it was an improvement, but I don’t understand that one. I—it doesn’t seem like an improvement to me to reduce—I mean to reduce—I mean to pull out those two things in—you know a week into the season. . . . So, I mean there may be an answer, but I—I haven’t figured it out.

BWASP Data Recordings of Dead Polar Bears Between 1987 and 2003

We interviewed Monnett, Gleason, and the BWASP project coordinator regarding the BWASP data recordings between 1987 and 2003.

During his February 23, 2011 interview, Monnett was asked about the statement in his manuscript that “no polar bear carcasses were observed [prior to 2004].” Monnett responded that in addition to reviewing the BWASP database, he and Gleason asked the BWASP team leader from 1987 to 2003 whether he or his team had ever observed dead polar bears during BWASP aerial flights. While the BWASP project coordinator told us directly that he had observed dead polar bears, Monnett indicated that the project coordinator and his team had never observed dead polar bears during those flights. Monnett indicated that he did not document his conversations with the project coordinator, but did recall that he had spoken frequently to him on the phone.

We asked Monnett if his questioning of former BWASP team leaders to determine if BWASP observers between 1987 and 2003 had observed dead polar bears was reasonable since the primary objective of the BWASP was to observe and document the migration of bowhead whales, not dead polar bears. Monnett replied that he had “complete confidence in it” and “that people managing the survey would know,” adding:

I thought that was perfectly reasonable to ask them, since it isn’t something—remember, the reason it’s not in the database is because it, it doesn’t happen. You know, you don’t see it, so—and there’s a reason, uh, why it’s changed, which is in, in a lot of the early years, there was a lot of ice out there, and there just weren’t opportunities for there to be dead bears. You know, bears don’t drown when

there's ice all over the place.

In Monnett's second interview, he reiterated that he and Gleason ultimately relied on the BWASP database to support the statement in his manuscript's abstract section that between 1987 and 2003 "no polar bear carcasses were observed," but said he did also speak with the BWASP project coordinator. We reminded Monnett that in his first interview, he indicated that the BWASP database was very rigid and did not allow for recording observations other than bowhead whale sightings. Monnett responded that he was new to managing the program in 2004 and was not completely familiar with the details of the database. Moreover, Monnett said that BOEM had moved to a different building shortly after the missions on which Monnett and Gleason had observed the dead bears. With the offices packed up and the database inaccessible, he and Gleason were unable to confirm their statement.

We asked Monnett if he was confident that the data collected over that period were an accurate representation of the observations of dead polar bears. Monnett responded that despite the fact he could not recall if the BWASP database could document a dead polar bear, he believed it was. Monnett added that he was not there for all of the data collection, which took place over a period of 25 years. He concluded that he relied on the database but said he also spoke to the BWASP project coordinator.

During Gleason's second interview, on October 26, 2011, we discussed the limitations of the BWASP database for recording observations of dead polar bears in 2004 and between 1987 and 2003, a topic discussed during his January 20, 2011 interview. Gleason replied that the BWASP had two procedures to document specifics about each observation: a software program and a field notebook as backup.

We reminded Gleason that during his January 20, 2011 interview he said that he and Monnett analyzed more than 30 years of archived BWASP records and concluded that "no polar bear carcasses were ever seen or documented floating in the open water" before their 2004 dead polar bear observations. He had also said that they found no records of dead polar bears. In support of his statement that "no polar bear carcasses were ever seen or documented floating in open water," Gleason said that he believed they had some conversations with the BWASP project coordinator about whether he and other BWASP observers had sighted dead polar bears between 1987 and 2003.

We told Gleason that during Monnett's second interview on August 9, 2011, in discussing the manuscript's statement that "No dead polar bear carcasses were observed," Monnett corrected himself concerning the database's capabilities and said that Gleason had done an extensive analysis of the BWASP database and found that they could log dead polar bears. We told Gleason that Monnett also said that, for some reason, on the flight where they saw dead bears, he and Gleason were under the impression that they could not log them.

Gleason responded that the BWASP database allowed them to document that they observed a polar bear. He said that he was unsure as to whether the program allowed them to record a polar bear as dead. If they could, he said, that information not being in the database would have been an oversight of the data recorder. He said that either dead was not an option to record or the

recorder failed to enter it in the database at the time of observation.

We asked Gleason how he and Monnett could make the statement in their manuscript's abstract section that between 1987 and 2003 no dead polar bear carcasses were observed if he was not certain that the BWASP program was set up to retrieve this specific information. Gleason replied: "As I stated previously, we also used other sources of information, including BWASP annual reports, the scientific literature, and I believe conversations with the program manager, over that period of time." He added: "[The BWASP database] would have been the primary source of information."

During Gleason's first interview, on January 20, 2011, in reference to the BWASP annual report's usefulness for gathering information, Gleason said that the report gave them limited assistance. The report, he told us, was an update from the previous year's report. He said that there were very few details or statistical analysis of the data in a given year. "It's just sort of an overall report," he said.

During his October 26, 2011 interview, however, we asked Gleason if the BWASP annual reports were a primary source of information used in their review of archived records from 1987 and 2003, which was their support for stating in their manuscript's abstract section that "no dead polar bear carcasses were observed." We further asked if the data of prior dead polar bear observations were not collected to begin with, how the information could have been noted in the BWASP annual reports.

In their interviews, both Monnett and Gleason repeatedly said that while they relied primarily on the BWASP database as their source of information to support the assertions they made in their manuscript, they also used the BWASP annual reports and interviewed the BWASP project coordinator from 1987 to 2003. According to Monnett's notebook, and interviews with both Monnett and Gleason, they indicated that they saw a dead polar bear floating each day on September 14, 16, 18, and 22, 2004. While other dead mammals were recorded, there was no record of any dead polar bears in the BWASP database from 1987 through 2004. Gleason told us that it was standard operating procedure in most surveys to use a field notebook for instances in which the database would not allow for capture of specific information. He said: "As I stated, I didn't—I don't know if the version we were using in 2004 had the same—the program, itself, whether it was the same as we used in 1987. Like—there's no way for me to know that."

We asked Gleason if he believed that he and Monnett were the first BWASP observers to have observed dead polar bears. Gleason replied that he believed that they were. Any other observations should have been captured in field notebooks and then entered into the annual reports. He said that whether that information was captured in the database was a separate issue. Gleason added that it would have been inappropriate to add information into the database after the fact. If information was missing from the database, he said, it was a larger issue relative to survey methodology and the transfer of information through time, and not something for which he and Monnett were responsible. We then told Gleason that another BWASP observer indicated that he observed dead polar bears during BWASP mission flights prior to Gleason's and Monnett's September 2004 dead polar bear sightings. We asked whether he had heard of anyone else observing dead polar bears. He said, "certainly not."

A review of the BWASP annual report titled “Aerial Surveys of Endangered Whales in the Beaufort Sea, Fall 2002 – 2004,” revealed on page 8:

As with previous reports in this series ([the BWASP project coordinator], 1988, 1989, 1990, 1991, 1992, 1993, 1994, 1995, 1996, 1997, 1998, 2000, and 2002a, and 2002b), same-day repeat sightings or sightings of dead marine mammals were not included in summary analyses or maps. Where tables and figures exclude certain data, such exclusions are indicated in the captions.¹⁴

We asked the BWASP project coordinator how many polar bears, alive or dead, he had seen between 1987 and 2003 as team leader of BWASP. He responded that the team kept annual reports reflecting how many polar bears they saw, but they analyzed the data only for living mammals. Any dead animals, he said, would have been “confounding” to put in a map or analysis with live ones. When we asked whether he ever observed a dead polar bear when he was BWASP’s team leader, he replied that he had. He explained that he had seen polar bears eating other polar bears on the ice and that he “probably saw a floater or two.” He said he would have called dead polar bears out to the data recorder to enter them in the BWASP database. The BWASP project coordinator said he never discussed his observations of dead polar bears with Gleason. He said that he probably spoke with Monnett about it and if he did, he would have divulged this information to him. When asked, he said that the statement from Monnett’s abstract that read, “No polar bear carcasses were observed,” was not necessarily accurate, as he recalled that he had seen dead polar bears before.

The BWASP project coordinator said that everybody on board the BWASP plane had a notebook to maintain their own records of their observations, but it would have been up to the team leaders to put anything “interesting” in them. He recalled that when he observed the one or two dead polar bears during his BWASP mission flights, it was possible that he recorded them in his notebook, but he could not spend much time doing data entries by hand, because it took him away from trying to observe whales.

The BWASP project coordinator indicated that when he retired, he left all the notebooks that he had in his possession at the office. He believed that Monnett took them and shipped them to the National Marine Mammal Laboratory.¹⁵ We were unable to locate his notebooks.

In 2008, the responsibility for the BWASP and its database was transferred to the National Oceanic and Atmospheric Administration (NOAA), National Marine Fisheries Service (NMFS). According to NOAA, NMFS representatives responsible for the BWASP program and database said that the database reflected no dead polar bear sightings from 1987 through 2003.

Manuscript

The complainant alleged that Monnett and Gleason may have presented fraudulent scientific data

¹⁴ “Aerial Surveys of Endangered Whales in the Beaufort Sea Fall 2002-2004,” 2005, p. 1-5 (<http://alaska.boemre.gov/reports/2005rpts/2005-037.pdf>)

¹⁵ We contacted the National Marine Mammal Laboratory to ask for the notebooks and were told that they have only the BWASP data created by BOEM.

for the purpose of advancing a global warming agenda, influencing the listing of the polar bear under the Endangered Species Act (ESA) of 1973, and hindering the exploration and development of offshore oil and gas drilling in Alaska's Outer Continental Shelf. The complainant said that these beliefs were based on the discovery of several of Monnett's emails and Monnett and Gleason's published manuscript detailing their dead polar bear observations. The complainant provided us with these emails, and stated that their significance could easily be underestimated without an understanding of scientific processes and potential motives for committing scientific misconduct.

The first email, prepared by Gleason, was addressed to Monnett, dated September 28, 2004—just hours after they returned from the September 2004 BWASP mission flights. In the email, Gleason refers to Ian Stirling,¹⁶ who is a leading Arctic ecologist:

Chuck:

Just got off the phone with my co-supervisor from my PhD who's an Arctic ecologist and I mentioned the dead polar bears. He thought we might be onto something with the global warming angle. In any case, he recommended we get in touch with Ian Stirling to discuss our observations. It might be worthwhile to get his views on the topic. Attached are some of his research projects in the north.

Monnett's wife¹⁷ prepared the second email, addressed to Monnett and dated February 4, 2005. She suggested he send the manuscript to Stirling and Andrew Derocher¹⁸ of the University of Alberta, Canada, "before someone else jumps on it."

The third email, dated March 3, 2005, was prepared by Derocher and addressed to Monnett and Gleason:

Hi Chuck,

I had a chance to read through your draft paper and it is ready to go! This was a very interesting data set that is very timely with respect to climate change discussions. The story is very compelling and was one of the most interesting stories I've seen about polar bears in a while. I would move to publish this with expediency if you can. . .

The initial complaint reads: "The mention of 'global warming angle' is key here as is the need to bolster the effort by consultation with other reputable scientists with similar ideology—Stirling, with whom they later consulted."

¹⁶ Ian Stirling, Ph.D., Adjunct Professor, University of Alberta, Canada. Current research interests include population ecology of the polar bear and seals in arctic marine ecosystems, the effects of climate warming on polar bears and seals and conservation and management of polar bears, seals, and polar marine ecosystems.

¹⁷ Monnett's wife is currently employed by NMFS.

¹⁸ Andrew Derocher, Ph.D., Professor, University of Alberta, Canada. Current research interests include ecology, conservation, and management of large arctic mammals focusing on polar bears and assessments of the effects of climate change on polar bears and toxic chemicals on polar bears (www.biosci.ualberta.ca).

Monnett explained how they came to the decision to write the manuscript referenced in the emails. He told us that during the BWASP aerial flights in September 2004, it was his first observation of a significant number of swimming polar bears at the same time. Monnett estimated that on one particular flight in September 2004, he saw approximately 10 polar bears swimming together a lengthy distance from the Beaufort Sea coastline. Monnett recalled seeing the 4 dead polar bears several days later in the same general vicinity that he saw the 10 swimming polar bears; this observation made him realize “something unusual had happened.”

Monnett said that soon after they made these observations, they “started poking around in the database and realized that we had seen—observed almost as many bears swimming on one day as had been seen in the entire 20-year history of the project, in the past 20-some years.” Monnett also said that 2004 was considered a record year for the retraction of sea ice from the Beaufort Sea coast.

As a result, Monnett believed that his and Gleason’s observations of the 4 dead and 10 swimming polar bears were important and that they were worthy of being submitted to a journal. Gleason agreed; in his first interview, he explained that theirs was a unique observation, which was why they wanted to present their findings as a poster and as a paper. He said that they did a quick review of the database and, finding no references to dead polar bears, went ahead with the writing of the manuscript.

Monnett told us that the manuscript he and Gleason co-authored focused on their observations of the swimming and drowned polar bears during their participation in the September 2004 BWASP aerial flights and their belief that the bears’ deaths were related to a storm. He also said that when they developed the story, they talked about their observations of the retreat of sea ice, as well as the quality of sea ice changing from thick ice to an annual, thin ice.

During Monnett’s interview on August 9, 2011, we asked him to explain the circumstances surrounding the first email referencing the “global warming angle.” Monnett replied that since the email was referring to a discussion between Gleason and his advisor, he did not know the circumstances. Monnett stated, however, that the global warming angle in the manuscript is “obvious.” He stressed that he and Gleason were trying only to present their observation of the dead polar bears, saying: “we were as surprised as anybody with what it’s turned into and the sort of ways I’m being referred to in both positive and negative press are absolutely baffling to me. I’m not a polar biologist. People pretend like I am; I’m not a climate change campaigner.”

The abstract of the published manuscript made no mention of the storm that preceded Monnett’s observation of the dead bears. We asked Monnett about this. Monnett responded that he and Gleason used the abstract to present the most important details of the manuscript. He added: “We were very careful to make it clear that we weren’t going beyond looking at this as a local phenomena that, you know, was developing because of changing conditions in this part of the Arctic.”

Monnett recalled that he and Gleason called Stirling, whom he described as the “all-time most famous polar bear guy in the world,” seeking advice regarding their dead polar bear observations. In an email to Monnett, dated March 1, 2005, Stirling wrote:

I thought the report was well written and important. My main comment was that I thought, in relation to the amount of data and the necessary speculation in interpreting it, the intro was way too long. A half to a third of the length would be fine, i.e. warming, less ice, longer distance offshore, more swimming, in advent of storms, problems, etc.

We read Monnett the following statement from the abstract of his manuscript: “We further suggest that drowning-related deaths of polar bears may increase in the future if you observe trends in the regression of pack ice and/or longer open-water periods continues.” Monnett responded, “I stand by that.”

We reminded Monnett that in the introduction of the manuscript, he did not mention bad weather or the storm as having a potential negative or lethal effect on the bears. Monnett replied that the introduction is an overview of the research done in that particular field. The storm would be considered a result, and so it would not be included in the introduction. We then asked Monnett about the study section of his manuscript and whether his emphasis on sea ice and no mention of a storm had any connection to the Gleason email referencing “we might be onto something with the global warming angle.” Monnett replied, “No...absolutely not.”

During Gleason’s first interview on January 20, 2011, he stated that he remembered writing the email that referenced the “global warming angle.” He said that at the time he recognized that the manuscript had a high probability of getting published because of the uniqueness of their observations. He said he did not approach the drafting of the manuscript with Monnett from any angle other than wanting to publish an observation that he thought was interesting. Gleason emphasized that although the manuscript does discuss changing ice conditions, they did not directly refer to or use the term “global warming.”

Gleason also said he believed that Monnett contacted Stirling to discuss his observations of the four dead polar bears. Gleason recalled that Monnett told him Stirling thought their observations were very interesting and, that in all the years conducting survey work, Stirling had never observed dead polar bears floating in the middle of the ocean.

Manuscript Peer Review

Our investigation determined that Monnett and Gleason’s manuscript underwent two separate review processes. The first review was the BOEM internal publication review and the second was the peer review process of the publisher, “Polar Biology.”

We interviewed Monnett; Gleason; the former BOEM regional director; the BOEM leasing and environment supervisor; and a supervisory geologist regarding BOEM’s document review processes.

In interviews with both Monnett and Gleason and their former BOEM supervisors, they categorized their manuscript, titled “Observations of Mortality Associated with Extended Open-Water Swimming by Polar Bears in the Alaskan Beaufort Sea,” as information product covered under the BOEM Manual, part 600, “Information and Publication Management,” “Chapter 1:

Offshore Program Publications.” This manual establishes the policy, responsibilities, requirements, and procedures regarding the preparation, review, and approval processes for releasing general-interest and scientific and technical information for the BOEM Offshore Programs. The BWASP was a BOEM Offshore Program from 1987 to 2007.

Under this policy, Monnett and Gleason’s manuscript was required to go through the appropriate peer and supervisory reviews, technical editing, and content approval to ensure that its data and information were accurately and clearly presented for the intended audience. Reviews and approval should have been documented on a review and approval sheet. The regional director, the BOEM leasing and environment supervisor, and the supervisory geologist confirmed that BOEM did have an intra-office peer review policy at the time. This peer review process typically entailed the critique of the author’s work by coworkers, supervisors, and the regional director.

Monnett described the peer review process that the manuscript went through before it was published in “Polar Biology.” He said that before he submitted the manuscript for publication in 2006, it was peer reviewed by his wife; his immediate supervisor, a supervisory geologist; and the geologist’s immediate supervisor. Monnett said he also had Andrew Derocher and Ian Stirling of the University of Alberta peer review the manuscript. When he submitted the manuscript to “Polar Biology,” the journal, following its own peer review process, selected three anonymous peer reviewers to review the manuscript.

Agent’s Note: *Derocher and Stirling did not respond to our requests for interview.*

Monnett later explained the formal peer review process used by journals was not the same as the peer review process he described prior to his manuscript’s submission, which would be considered a review by peers. He said that, to scientists, a peer review is “a formal process by which a journal sends an article out to anonymous reviewers who evaluate it and make recommendations for publication.”

In discussion of Monnett’s and Gleason’s observations and their manuscript, the former BOEM regional director told us that he could not recall the exact date, but remembered that several years ago, while conducting BWASP flights, Monnett and Gleason observed several polar bears “floating” in the middle of the Beaufort Sea. The former regional director and others within BOEM believed that their observations of the dead polar bears were an anomaly.

He recalled that Monnett and Gleason’s manuscript did not go through the intra-office peer review process that BOEM had in place at the time. As a part of this peer review process, the last person to review the work is typically the regional director. According to the former regional director, if the regional director believes that the work has National implications or has a direct effect on BOEM policy, the regional director forwards it to BOEM headquarters in Washington, DC, for final review, approval, and ultimate disposition.

The former BOEM regional director said that he did not review the manuscript before it was published in “Polar Biology.” He said that if he had reviewed the manuscript, he would have determined the subject matter had National importance and he would have forwarded the manuscript to headquarters. In addition, he said that he would have also forwarded the

manuscript to the DOI U.S. Fish and Wildlife Service (FWS) for peer review, as many consider them to be DOI's experts in polar bear research. He also would have wanted to ensure that FWS was aware of Monnett and Gleason's unprecedented dead polar bear observations. He said that he remembered reading the manuscript after it was published in "Polar Biology" and that it received a significant amount of media attention.

The former BOEM regional director recalled that this manuscript's review process within BOEM stopped at the BOEM leasing and environment supervisor, who failed to forward the manuscript to him. The former regional director told us that the peer-review process at the time was well known among the employees, and he did not know why the leasing and environment supervisor did not forward the manuscript to him. He said that he could not remember whether he asked the leasing and environment supervisor about it; he believed that the leasing and environment supervisor simply forgot.

The former BOEM regional director met with Monnett after his manuscript was published in "Polar Biology" to remind him of the BOEM policy and procedure on peer reviews. The former regional director could not recall whether he had a conversation with Monnett's immediate supervisor about why the manuscript did not go through the proper BOEM review and approval process. According to the former regional director, no one was ever held responsible or disciplined for failing to ensure that the manuscript was reviewed and approved by the regional director.

We spoke to BOEM's regional supervisor for the Office of Leasing and Environment between 1997 and 2007. In this capacity, he indicated that he was the geologist's immediate supervisor. The leasing and environment supervisor explained that the supervisory geologist was Gleason and Monnett's immediate supervisor between 2001 and 2007, making the leasing and environment supervisor their second-line supervisor between 2001 and 2007.

The leasing and environment supervisor stated that he was aware of an early version of Monnett and Gleason's manuscript regarding their observations of four dead polar bears during a BWASP mission flight. He was unable to verify whether this was the version that was published in "Polar Biology."

The leasing and environment supervisor explained that, at the time, BOEM policy mandated that if an employee wanted to publish a paper, all management up to a certain level had to clear it. He stated that the level of review depended on the findings and sensitivity of the subject matter. He believed that Monnett and Gleason's manuscript had to be cleared by the regional director. He said that once Monnett and Gleason completed the manuscript, it had to be approved by the supervisory geologist and then by the regional director.

The leasing and environment supervisor said that during his review of the manuscript, he requested that Gleason and Monnett brief him on their paper, which he typically asks of authors of any paper in the leasing and environmental division. He said that briefings include issues such as what was new and different, what could be considered a breakthrough, and what were key conclusions. He admitted that, because he was not an expert in each of these subjects, he had to rely on the expertise of Monnett and Gleason and the opinion of their immediate supervisor to

get a “feeling of the importance of the paper.”

The supervisory geologist told us that he did not forward the manuscript to the regional director because when he and the leasing and environment supervisor reviewed the manuscript, neither of them considered its content to contain National scope or policy information. The leasing and environment supervisor emphasized that such National scope or policy information would have required the review and approval of the manuscript by BOEM’s Associate Director or Director in Washington, DC. The supervisory geologist and the leasing and environment supervisor believed the subject matter of the manuscript to be isolated to the Alaskan region. The leasing and environment supervisor recalled that they did not consider it to have implications for the Gulf of Mexico or California since polar bears do not live in these regions. He said that at the time of their review and approval of the manuscript, they did not anticipate the possibility of the manuscript gaining its current prominence in the media. As a result, the supervisory geologist decided, and recommended to the leasing and environment supervisor, that they would review and approve the manuscript for publication without the regional director’s involvement.

After Monnett and Gleason’s manuscript was published in “Polar Biology,” the supervisory geologist learned that the leasing and environment supervisor and the regional director had a “heated” conversation about what should have happened about the review and approval of the manuscript. The supervisory geologist did not participate in this meeting, but stated that one could surmise the topic of the discussion.

Missing Documents

After our interview with Gleason on January 20, 2011, we asked him to provide all the documents he had in his possession pertaining to the BOEM peer reviews of the polar bear manuscript. Gleason went to his desk to search for the documents and returned with a folder that he said contained those documents. We reviewed the documents and requested copies, and Gleason left the room to copy the documents. When he returned, we reviewed the copies again and noted that the manuscript routing slip was missing.

We questioned Gleason about the missing routing slip, describing it in detail. Gleason did not verbally respond. He immediately appeared to search through the stack of papers. Gleason was unable to locate the missing routing slip. We conducted a search for the missing document in the immediate area and eventually recovered the missing routing slip in a trashcan several offices away from the copy room.

From ESS:

Date: 2-14-06

Ref: Manuscript Review / Approval



RSLE

✓ RD

✓ PAO

✓ PIO



MS

JH

SSC

CKA

Comments:

- 1) See my comment on sea ice. Statement is not supported in the abstract.
- 2) General comment: Are there enough data to make these statements?
Was survey protocol the same thru the 26 years? (est. regards pol. bears.)
This translates into ~12 sightings/year.
- 3) We will also need to see the poster, when in draft.
Please return to Chief, ESS
- 4) Paul -- to avoid confusion, please mark "supervisors" rather than RD box. --

Figure 8. Manuscript review and approval routing slip found in the trash.

We asked Gleason how the routing slip ended up in the trashcan. Gleason replied: “This was, again, I was... I think this might have been attached via paper clip or stapled. So I had a pile of documents that I was feeding sort of independently through and this little piece of paper may have ended up in that location. There was no intent. I did not place a cover slip in the garbage to deceive the agents at the time. Absolutely did not do that.”

Extrapolation of Data Contained in the Manuscript

Page 5 of Monnett and Gleason’s manuscript for the “Polar Biology” journal included the following statement:

Our observations obtained from 34 north-south transects provide coverage of approximately 11% of the 630 km wide study area assuming a maximum sighting distance for swimming/floating polar bears of 1 km from the aircraft. . . . Limiting data to bears on transect and not considering bears seen on connect and search segments, four swimming polar bears were encountered in addition to three dead polar bears. If these bears accurately reflect 11% of bears present under these conditions, then 36 bears may have been swimming in open water on 6 and 7 September, and 27 bears may have died as a result of the high offshore winds. These extrapolations suggest that survival rate of bears swimming in open water during this period was low ($9/36 = 25\%$).

We interviewed the former regional director, the leasing and environment supervisor, the supervisory geologist, and a professor from the University of Western Ontario, Canada about the extrapolation of data in Monnett and Gleason’s manuscript.

The former regional director stated that, based on his background and experience as a meteorologist, Monnett and Gleason’s calculations regarding the distribution of polar bears in the entire Beaufort Sea region were a “leap.” He said that he questioned whether Monnett and Gleason’s use of simple math was legitimate or justified, stating that if a scientist makes this kind of statement, it should be supported and justified by more than just a simple mathematical calculation. The former regional director said that he always advises his employees to stick to the facts to avoid getting into trouble—especially, he said, in regards to the extrapolation of data.

The leasing and environment supervisor remembered interpreting the data extrapolation as being only hypothetical and believing that Monnett and Gleason presented the analysis as such. He emphasized that he asked them specifically whether they should add a statement to the manuscript explaining that the extrapolation was hypothetical. He recalled, however, that both Gleason and Monnett believed that their extrapolation of data was not merely hypothetical; they explained that they were not stating that there were possibly 40 dead polar bears, but that if the conditions across the survey area were the same as those faced by the 4 dead bears they observed, the effect could be the same mortality rate.

The supervisory geologist said that he was one of several in-house peer reviewers of Monnett and Gleason’s manuscript. He recalled that during his peer review, he had several concerns about Monnett and Gleason’s extrapolation and presentation of data. The supervisory geologist told us

that several other peer reviewers in the office who read the manuscript had similar concerns.

The supervisory geologist said that he and other peer reviewers were concerned about Monnett and Gleason's conclusion that the observation of four dead polar bears and an "x" number of swimming polar bears under certain adverse weather conditions equated to a representation of the distribution of polar bears over the vast Beaufort Sea region. He told us he felt that the peer reviewers were concerned over this type of data extrapolation because it might influence the audience's "perspective" on the manuscript's subject matter, saying: "Well, I know within the office some folks had questions about the extrapolation of the—the implications. . . . Yes, I remember that. So that was extrapolations that caused some people issues on perspective. Yes."

The supervisory geologist also recalled that he and the other peer reviewers met with Monnett to discuss their concerns about the way he extrapolated and presented the data in his manuscript. He could not recall how Monnett explained his extrapolations. He remembered, however, that he must have been satisfied with Monnett's explanations because he approved the manuscript and forwarded it to his supervisor for further review.

We spoke to a professor who said that he was Gleason's Ph.D. supervisor while Gleason was a graduate student at the University of Western Ontario, Canada, in the late 1990s. The professor stated that he remembered criticizing Gleason's manuscript for speculating that climate change caused the four polar bears to drown. He indicated that although Gleason's manuscript "over speculated" about the cause of death of the four polar bears, speculating is what scientists do.

The professor said that he read the manuscript several times and did not believe that Gleason or Monnett "crossed any lines." He added: "If that is what they saw, then in my opinion, it was totally legitimate. On the other hand, it is not a reproducible piece of research so the value of it is really, really low. In my opinion, the fact that it got blown up in the news says a lot about the people using it way more than it does about science, if you know what I mean."

We asked Monnett about the data extrapolation in his manuscript. He said: "Well, that's not scientific misconduct, anyway. If anything, it's sloppy. I mean, the level of criticism that they seemed to have leveled here, scientific misconduct suggests that we did something deliberately to deceive or to change it. I don't see any indication of that in what you are talking about."

During the February 23, 2011 interview, we asked Monnett whether any of the peer reviewers from "Polar Biology," or the peers who reviewed the manuscript, such as Derocher, Stirling, or his BOEM supervisors, objected to the way he had extrapolated his data. At the time, Monnett responded: "No, not really." He then added, "Well, I don't remember anybody doing the calculation but there weren't any huge objections." We read this statement to Monnett and asked if he stood by it. He said, "Yes, I guess."

We also read him a critique of his manuscript written by the first "Polar Biology" peer reviewer:

Your observation suggests that swimming during stormy and very windy conditions poses a risk to polar bears. In previous years you observed bears in open water, but no mortalities. I would agree that having to swim greater

distances will increase the risks to polar bears, but at least where I work on polar bears, when they come off the ice they are quite fat and, therefore, float quite well. In my view, the increased risk comes not so much from having to swim greater distances, per se, but from the increased chance of being exposed to high winds and wave action during a longer swimming period to reach them.

We then read to Monnett a statement he made from his response to the first peer reviewer's comment: "We agree that the risk comes mostly from windy conditions and believe that we had clearly made the distinction. However, since the point also bothered peer reviewer number three, we have added clarifying statements to the discussion."

When asked whether he considered this critique a "huge objection," Monnett stated: "No, not at all. I don't see that. We adjusted to it. We made a fair amount in the paper about—and the posters later—about the wind, and you probably can find a lot of emails and things that I have written since then where I say that."

When we reminded Monnett that his manuscript's abstract failed to mention the storm, he replied that the abstract is limited to a certain number of characters. He also said that the journal editor may rewrite or change it. Monnett could not remember if this had happened to his manuscript, but he opined that if it had, they would have been "at the mercy of the journal as to what eventually comes out."

We then read to Monnett the second peer reviewer's critique of his manuscript:

The whole exercise in this section seems very dubious to me, and particularly the lack of information on distance from track line to observations of swimming/floating bears and information on the sighting probability function makes the calculations and extrapolation meaningless.

Monnett responded: "Well, since I don't know what calculation you're talking about, it's hard to respond to."

We also read to Monnett his response to the second peer reviewer's critique:

We believe that the simple facts stand as sufficient. In 25 years of surveying, only 12 bears were seen swimming and none drowned. Then, in 2004 we saw ten bears swimming and four drowned. Big change. We believe that the simple observation of swimming and drowned polar bears should be published quickly not be held up while the entire data picture is developed.

Monnett replied: "We didn't feel, and we don't feel, that it would add anything to what is a very simple obligation or observation that we presented very conservatively."

We then asked Monnett whether he considered the second peer reviewer's critique a "huge objection." Monnett responded that it was a "typical remark" from a peer reviewer when a manuscript has a huge database. He said that he had seen that type of remark in many papers.

Monnett added that he and Gleason handled it to the satisfaction of the journal editor by adding caveats and moving some information. He did not consider it a huge objection.

We asked Monnett whether his statement that he rushed to publish his manuscript before “the entire data picture [was] developed” was a reflection of the comment, “We might be onto something with the global warming angle,” from the 2004 email to him from Gleason. Monnett responded: “Well, this thing took almost 2 years to come out, didn’t it? I mean it was published sometime in 2006. The observations were in 2004. So, obviously, we didn’t rush enough.”

Monnett added that the manuscript was clearly relevant to the question of climate change. He said that polar bears do not drown when there is sea ice. He explained that, if they did drown, it would be hard to see any because they would probably be under ice. Monnett said that polar bears are strong swimmers and the only circumstances he could imagine in which they would drown would be “when they are caught in a storm of this nature or if, for some reason, a bear entered the water in a weakened state.” He said that they already knew other bears had drowned because they found carcasses of weaker bears. Monnett continued that they chose not to treat the data in a “highly” statistical way because they had wanted to report a simple observation about an unusual number of drowned polar bears.

We read to Monnett the third peer reviewer’s critique of his manuscript:

I am concerned, however, that too much emphasis has been put on suggesting that the bears died because of loss of sea ice and extended open-water swimming. The fact is that the causes of these deaths and the circumstances surrounding the mortalities are unknown. . . . I have raised throughout the document serious concerns and dangers with respect to the extrapolation of limited data. It is very risky and not supported. . . . Much of the introductory material describing climate change and projected loss of sea ice would seem better suited in a discussion of the idea of bears spending more time in open water due to loss of sea ice cover, and therefore, being exposed to increased risk of storms.

We asked Monnett whether he believed that this critique was a “huge objection.” Monnett replied: “It’s normal give and take in peer review.”

Monnett added that there is no reason to think that the peer reviewers are necessarily knowledgeable about the circumstances. He said that if they were someone who had flown to the Arctic regularly and seen the changes in the ice, none of the information in the manuscript would be new.

We then read to Monnett his response to the third peer reviewer’s critique:

He suggests other more plausible explanations for the deaths, including the scenario that bears were caught offshore by a storm. This is in fact, what we believe to be the case. That is, during calm weather, many bears swam towards ice that was unusually distant. A storm developed, and bears died. End of story. . . . Reviewer number three appears to have missed our message, so we have added

text in the discussion to make sure there's no confusion among readers.

Monnett reiterated that he did not believe the critique to be a huge objection. He told us that he believed a huge objection would lead to the paper not being published. "Obviously, we worked it out with the editor."

We asked Monnett if he had placed more focus on the storm in his manuscript, including in the abstract, would he still consider this good science. Monnett responded:

I don't think it would have changed anything. Because it is clear. Everybody knows that the reason the storms are there is related to the retraction of the sea ice. And most people would say that it is related to climate change . . . maybe—or maybe the journal editor didn't remove them and said they're redundant.

Monnett added:

There's nothing absolute about a publication. In a way, it's kind of an art, and it's a negotiation between scientists and the journal, and it evolves because, in the process of creating it, you learn, and you emphasize. When we did this—when we first saw the bears we had no idea that it was significant. We didn't care enough to really try to make sure we got a good picture. We didn't care enough to expand the survey to try to get more coverage to see more dead bears. If it happened now, wouldn't anybody. I mean, wouldn't you say this is a major deal, knowing what we know now, and you'd try to make sure that the science was just absolutely iron-clad. It would have been worth changing objectives over.

Monnett told us that the editor is the final arbiter of what goes in the manuscript.

The journal "Polar Biology" required that the abstract section of a submitted manuscript be limited to between 150 and 250 words in length. The version of Monnett and Gleason's manuscript that was published in "Polar Biology" had an abstract that was 189 words in length. A review of earlier drafts of the manuscript's abstract section that included references of the storm showed that such references comprised 34 words, bringing the total abstract length to 223, less than the maximum number of words allowed in the abstract.¹⁹

In addition, our investigation revealed an email communication, dated December 15, 2005, between Monnett and "Polar Biology" editor Rolf Grading, Ph.D.,²⁰ during Grading's final review and approval of Monnett and Gleason's manuscript. The email indicates that Grading's comments are to be used as suggestions. The image below shows that this final review included deleting the storm reference from the abstract.

¹⁹ <http://www.springer.com/life+sciences/ecology/journal/300>

²⁰ Rolf Grading, Ph.D. in Marine Biology, University of Kiel, Germany. Currently employed as associate professor, School of Fishery & Ocean Sciences, University of Alaska. Editor for the journal "Polar Biology."

**Observations of mortality associated with extended open-water swimming by polar bears
in the Alaskan Beaufort Sea**

Charles Monnett and Jeffrey S. Gleason
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3801 Centerpoint Drive, Suite 500
Anchorage, Alaska 99503

Abstract: During aerial surveys in September 1987-2003, a total of 315 live polar bears was observed with 12 (3.8%) animals in open water, defined for purposes of this analysis as marine waters >2 km north of the Alaska Beaufort Sea coastline or associated barrier islands. No polar bear carcasses were observed. During aerial surveys in early September, 2004, 55 polar bears (*Ursus maritimus*) were seen; 51 were alive and of those 10 (19.9%) were in open water. In addition, 4 polar bear carcasses were seen floating in open water and had, presumably, drowned. Average distance from land and pack ice edge for live polar bears swimming in open water in 2004 ($n = 10$) were 8.3 ± 3.0 km and 177.4 ± 5.1 km, respectively. We speculate that mortalities due to offshore swimming during late-ice (or mild ice) years may be an important and unaccounted source of natural mortality given energetic demands placed on individual bears engaged in long-distance swimming. We further suggest that drowning-related deaths of polar bears may increase in the future if the observed trend of regression of pack ice and/or longer open water periods continues.

Deleted: observers participating in the Minerals Management Service Bowhead Whale Aerial Survey Project (BWASP) saw an unusually large number of
Deleted: swimming in open water,

Deleted: defined for purposes of this analysis as marine waters >2 km north of the Alaska Beaufort Sea coastline or associated barrier islands

Deleted: Subsequently, polar bear carcasses were seen floating offshore. During September 1987-2003, a total of 315 live polar bears was observed and of those 12 (3.8%) were in open water. No polar bear carcasses were observed. By comparison, in September 2004, a total of 55 polar bears were observed during September

Deleted: Fifty-one were alive and of those 10 (19.9%) were in open water. In addition, 4 polar bear carcasses were seen floating in open water and had, presumably, drowned. Survey coverage was approximately 10% of the area surveyed. Extrapolation of survey transect data suggests that many more polar bears may have been swimming on the survey dates and that most of those probably drowned as a result of rough seas caused by high winds. Average distance from land and pack ice edge for live polar bears swimming in open water in 2004 ($n = 10$) were 8.3 ± 3.0 km and 177.4 ± 5.1 km, respectively

Comment [RG1]: Page: 2
The information in the abstract was repetitive and I tried to get it better focused

Figure 9. Copy of Monnett and Gleason's abstract showing the tracked changes.

On December 20, 2005, Monnett responded to Gradinger's December 15, 2005 email, stating that Monnett and Gleason had accepted all of his suggestions. The image below shows the revised abstract.

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Figure 10. Monnett and Gleason's final abstract.

Agent's note: *Our attempts to contact Gradinger and "Polar Biology" went unanswered.*

We reviewed all versions of Monnett and Gleason's manuscript from the first draft to the last draft that was ultimately published in "Polar Biology." During this review, we found several drafts that included tracked edits made during the peer review process by Monnett's wife, Derocher, Stirling, and Gradinger. It appeared that with each subsequent edit, the tracked changes underscored the limitations of the BWASP study and moved away from the storm as being the primary cause of death of the four observed polar bears. The edits provided more of an emphasis linking the polar bear deaths to receding ice and climate change. For example, in an

email to Monnett, dated March 1, 2005, Stirling suggested that Monnett and Gleason shorten the introduction: “My main comment was that I thought, in relation to the amount of data and the necessary speculation in interpreting it, the intro was way too long. A half to a third of the length would be fine, i.e. warming, less ice, longer distances offshore, more swimming, in advent of storms, problems, etc. Look forward to seeing it in press. Ian”

Questions Involving Advancing the Agendas of Climate Change Non-Government Organizations (NGOs)

During our review of the manuscript’s peer reviewer comments and Monnett’s November 9, 2005 response to those comments, we identified remarks we later questioned Monnett on referencing his data extrapolation and its effects on NGOs’ ability to fundraise.

During his second interview, we read Monnett the rest of his response to the third peer reviewer’s critique:

With respect to extrapolation, we do not believe our analysis is risky. . . . We believe that our conclusion that many of the swimming bears probably drowned as a result of rough seas was understated. We didn’t say 30 [bears] as the ratio suggests, but deliberately chose to be understated because of the potential importance of these data to NGO’s involved in the debate about the climate change “and associated fundraising.”

Monnett explained: “Well, that’s what they do. They use things like this, or, in my case, I went through Exxon Valdez, where they turned that into a huge fundraising event.”

We asked Monnett whether he deliberately understated the numbers to make his data more credible or believable. Monnett responded that they did the opposite; he said that they understated the numbers because “we didn’t want somebody to go nuts with it.”

We then asked Monnett whether understating data could be considered good science. Monnett responded that it was. He said that they treated the paper as an observational study. All of the information included was from the database or direct observation, he said. Monnett said that they noted a casual correlation based on well-documented trends and suggested there might be a future concern. He added that they used many qualifiers to make it clear that they were not presenting anything as absolute. He further added that the manuscript was a “note.”²¹

We asked Monnett whether he saw himself playing a role in the climate-change NGOs and their fundraising. Monnett replied that the NGOs took advantage of the manuscript. He said he suspected the manuscript created a growth of anti-climate-change blogs. Monnett said: “They are running amok with all of this.” It was unintentional, he said: “We’re not responsible for the spin.”

²¹ A scientific note, or a short note, is a type of manuscript characterized by a concise format. A Bureau of Reclamation science advisor explained that a scientific note emphasizes new methods, significant new findings, or research results that merit more rapid publication. He stated that scientific notes are required to go through a journal peer review process, which typically includes three external reviewers.

We reread to Monnett his response to the third peer reviewer's critique: "We didn't say 30 as the ratio suggests, but deliberately chose to be understated because of the potential importance of these data to NGO's involved in the debate about the climate change and associated fundraising," suggesting to Monnett that "deliberately" underreporting data to help NGO fundraising opportunities could be considered improper.

Monnett responded: "You could easily read that to mean that we were doing it to avoid having that effect . . . I mean in the way you're interpreting it. I don't read that to say that we changed those numbers to enhance fundraising opportunities for NGOs. I'm reading it exactly the opposite, the way it is there now. But the reason we understated it was because we wanted to avoid it."

We asked Monnett whether manipulating data by understating or overstating the numbers for any purpose was considered bad. Monnett responded: "Well yes. One's bad. His [your interpretation] is bad because I don't want to be viewed as manipulating my data because I was trying to enhance a fundraising opportunity for anybody. . ."

During the course of the investigation, our review of Monnett's Government computer files identified additional relevant email threads related to Stirling and Derocher, and their relationship with associated NGOs and their fundraising activities pertaining to climate change. The thread started with an email prepared by a staff member of the World Wildlife Federation (WWF) and was received by Monnett 15 days prior to Monnett submitting his comments to his peer reviewed manuscript. The email, dated October 25, 2005, was addressed to Stirling and Derocher and was forwarded to Monnett on the same day:

The interest from WWF in fundraising for arctic conservation has increased and we have been inundated with copy which needs clearance for possible fundraising activities. One "treatment" that they seem keen on is the idea of more polar bears drowning as a result of climate change over melting ice. . . . However, looks like we now need a view on this so we can avoid any potentially ill-advise fundraising attempts by colleagues.

Stirling forwarded this email to Monnett the same day, with the following comment:

Hi Chuck,
Nice to see you in Anchorage the other day, if briefly. The enclosed is self-explanatory. It looks pretty sensationalistic to me but since you are the only one with real information on this, would you mind giving a brief assessment to [the WWF]?
Thanks very much, Ian

We asked Monnett if he believed that his manuscript had a significant influence on the listing of the polar bears as a threatened species. Monnett responded: "I don't think our paper had a significant impact. We provided other data that probably was more important to normal agency channels. Those data, to some extent, have subsequently been published by Dr. Gleason and people in the Fish and Wildlife Service."

We also asked Gleason during his second interview, on October 26, 2011, whether understating numbers in a manuscript for the purpose of fundraising and NGOs was considered “good science.” Gleason told us that he and Monnett had not received any compensation from any NGOs, nor did they receive independent funding for their research.

Effect of Monnett’s Manuscript on FWS’ Endangered Species Act Listing of the Polar Bear

Background

On February 16, 2005, the Center for Biological Diversity (CBD) filed a “Petition to List the Polar Bear (*Ursus maritimus*) as a Threatened Species under the Endangered Species Act” with the Fish and Wildlife Service (FWS).²²

Following CBD’s petition,²³ FWS issued a proposed rule to list the polar bear as threatened on January 9, 2007.²⁴ In its proposed rule, FWS cited Monnett’s manuscript several times as support for the listing.

FWS issued a final rule to list the polar bear as threatened under the ESA on May 15, 2008.²⁵ FWS’ final rule also cited Monnett’s manuscript several times as support for the listing.

Following FWS’ issuance of its final rule, the Congressional Research Service issued a report for Congress on March 4, 2009, titled “Polar Bears: Listing Under the Endangered Species Act.” In its report, the Congressional Research Service noted Monnett’s manuscript was used by FWS as support for its final rule. According to the report: “A loss of sea ice could affect survival and reproduction of polar bears by . . . requiring nearshore bears to travel through fragmented sea ice and open water, which uses more energy than walking across stable ice formations.”

This statement was footnoted in the following manner:

Loss of sea ice forces polar bears to cross large expanses of water and increases risk of drowning. In 2004, scientists documented polar bears swimming as far as 60 miles offshore and observed 4 drowned bears. See C. Monnett and J. S. Gleason, “Observation of Mortality Associated with Extended Open-Water Swimming by Polar Bears in the Alaskan Beaufort Sea,” *Polar Biology*, v. 29, no. 8 (July 2006): 681-687.

FWS’ View as to the Effect of Monnett’s Manuscript to the Listing of the Polar Bear

We interviewed a former biologist and polar bear project leader for the FWS Polar Bear Management Team; Rosa Meehan, Division Chief, FWS’ Marine Mammals Management (MMM) program in Anchorage, AK; a National climate change scientist for FWS’ Office of the Science Advisor; and Douglas Krofta, FWS’ Chief of the Endangered Species Listing Program

²² CBD petition available online at http://www.biologicaldiversity.org/species/mammals/polar_bear/pdfs/15976_7338.pdf

²³ 16 U.S.C. §§ 1532 et seq.

²⁴ 72 Federal Register, pages 1064-1099

²⁵ 73 Federal Register, pages 28212-28303

regarding Monnett and Gleason's manuscript and its influence on listing the polar bear under the ESA.

The former biologist started working for FWS as an ascertainment biologist in 1979. He joined the MMM program around 1980. In MMM, he conducted life history studies and harvest work on polar bears, sea otters, and walruses. As the project expanded, he became the project leader responsible for polar bear management within FWS.

Once the ESA listing petition was received from CBD and others, the former biologist became the primary lead for gathering information about the ESA requirements. He wrote the recommendation and participated in the briefing and decision-making process, which lasted about 3 years. He mentioned that he sought help in areas that required subject-expert knowledge related to climate change. He extrapolated the data and formulated the cause and effect regarding sea ice and polar bears.

The former biologist did not think Monnett's manuscript about observations of polar bears floating in the sea influenced FWS' recommendation to place the polar bear on the ESA "threatened" list. He acknowledged that Monnett's manuscript was reviewed and considered by FWS and was referenced in their recommendation, but he indicated that there were other studies that provided more insight about potential threats to the polar bear as a result of declining sea ice. Monnett's manuscript was, at most, an addition to the ample evidence about the impact of the climate to the polar bear species. Accordingly, the former biologist stated that FWS would have recommended listing the polar bear as threatened with or without Monnett's manuscript.

Meehan has been the MMM division chief since 1999 and has been working for FWS for approximately 33 years in Alaska. Meehan stated that FWS was petitioned by CBD and others to add the polar bear to the ESA listing. The request was submitted to MMM because it is the division responsible for developing the initial response to the petition. Meehan described the evaluation of a species for the listing as a standard scientific process using five factors. In this case, habitat was the first factor identified and established. The other factors included overuse for commercial, recreational, scientific, or educational purposes; disease or predation; the inadequacy of existing regulatory mechanisms; and other natural or manmade factors affecting its continued existence. Meehan said that MMM proposed to recommend listing the polar bear as threatened after completing 12 months of mandatory evaluation.

Meehan explained that the information for each factor was obtained by subject experts. Meehan mentioned that a study by the Polar Bear Specialist Group, a group that specializes in polar bear research, was conducted about a year before the petition was filed with MMM. Meehan noted that MMM relies on others in the scientific community, such as the Arctic Climate Impact Assessments, on subject matters where they have no related expertise.

Meehan explained the distinction between threatened and endangered listings by stating that threatened "means you've got a population that's in trouble" and endangered means that the "species is one that is in danger of extinction." Meehan said that the polar bear was designated as a threatened, rather than endangered, species because at the time of MMM's evaluation, the polar bear population was estimated to be around 200,000, and they were not likely to become extinct.

Meehan further explained that there are instances when species have been listed immediately as endangered.

Meehan said that informal interviews conducted with scientists and subject experts on modeling revealed that the evidence pointed mainly to the change in the ecosystem and its correlation to the polar bears losing prey, losing weight, and other issues.

Meehan acknowledged that information used in their assessment to recommend listing the polar bear as threatened included Monnett's observation of drowned polar bears during his research on Bowhead Whale Aerial Survey Project. Meehan recalled that, according to Monnett, the dead polar bears were a result of the huge distance between the ice edge and land. Meehan said that Monnett's research pertained to the study of the migration of the bowhead whale, not polar bears. She also said that his research was not based on a detailed survey study.

Meehan pointed out that there were many follow-up questions to Monnett's polar bear observations. She added that although these inquiries do not eliminate the observations, they do suggest that it cannot be considered anything but incidental observation. In Meehan's words, "it was certainly not a definitive piece of information."

Meehan said that MMM really does not pay attention to anything but the facts. Meehan mentioned that even a little amount of wave is enough to throw the polar bears off course. Meehan recalled her office's objection to the sample size and the extrapolation of data from this sample. She said that the Monnett manuscript observations, at best, could be considered only incidental and not a scientific measurement.

The National climate change scientist has been employed by FWS since 1996. He serves as chair of the strategic plan team, which addresses and develops strategic plans for climate change for FWS. He is also head of the National climate team, which is the in-service entity responsible for implementing strategic plans. He also performs a support and advisory role on climate change issues for the various programs within FWS.

Prior to being assigned to the Office of Science Advisor, the National climate change scientist was assigned to the Endangered Species Program as a listing wildlife biologist. The scientist was not assigned to this program when the original work on the listing of the polar bear as a threatened species began. Krofta, FWS Chief of the Endangered Species Program, asked the scientist to be involved in polar bear research. Krofta requested that the scientist be responsible for the climate change aspects of the polar bear listing. The National climate change scientist emphasized, however, that he was not a climate change scientist and did not have anything to do with the climate during the research of the polar bear listing. He explained that the listing was what initially got him involved and interested in climate change issues.

The National climate change scientist became involved with most of the status reviews and the final listing review so that he could work on the climate change issues related to the polar bear listing. During this time, he focused on sea ice and sea ice changes.

The National climate change scientist said that he was familiar with Monnett's manuscript, but

he could not recall many of the manuscript's details. His understanding of Monnett's study was that they observed a number of polar bears dead in the water while they were conducting a whale survey. He further remembered that Monnett's dead polar bear observations occurred when the seas were fairly rough and that Monnett hypothesized or speculated that the polar bears drowned because they had to swim a long distance during a storm.

The National climate change scientist stated that the polar bear listing decision was predicated on observed declines and projection models of the polar bear populations in the Churchill population in Canada and projected changes in populations based on a whole series of reports prepared by the U.S. Geological Survey (USGS). The USGS reports projected a "middle of the road" climate emissions scenario that revealed a substantial decline in polar bear population. He emphasized that these two factors were the key in the polar bear listing decision.

The National climate change scientist indicated that he was not really involved in making the decisions on the polar bear listing, but from his recollection, Monnett's manuscript did not have a significant role in the decision to list the polar bear. He opined that "Monnett's manuscript information was like one small piece of the puzzle in the listing decision," and that if Monnett's manuscript information on the dead polar bears had not been included in the polar bear listing, the decision would not have been different.

Krofta has been employed by FWS as the chief of the Endangered Species Listing Program since April 2006 and has been a member of the listing staff in Washington, DC, since 2003. Krofta's primary responsibility in his current position is to review all of the listing determinations for the domestic side of the agency, review policy and scientific issues, and then recommend a particular listing to the FWS Director's office.

When FWS was petitioned to list the polar bear under the ESA, FWS was required by statute to prepare an initial finding within 90 days of the petition submittal. Krofta was involved in working with the regional office and with the Director's office in responding to the 90-day finding, reviewing the document itself, and making the recommendation to the Director's office on a substantial finding, which initiated a status review for the polar bear species. Krofta and the National climate change scientist, along with lead staff biologists at the FWS' Regional Office in Anchorage, AK, completed the status review and development of the subsequent 12-month finding on the petition for the polar bear species.

During the status review process, there were many policy-level and scientific discussions about the data, climate change, and other topics as to whether listing the polar bear would be warranted or not. After discussion and consideration of the science, the participants of this review determined that the polar bear did meet the standards under the ESA for warranting a listing. Krofta was instrumental in the conversations between the region and the Director's office as to whether FWS would move forward with a concurrent proposal.

Krofta was not directly involved in the briefing of FWS' findings and recommendations to the Secretary of the Interior (Secretary). He was, however, instrumental in the conversations with the Director's office, providing the Director with the necessary supporting materials to be able to brief the Secretary on their findings and recommendation to list the polar bear. During this time,

Krofta and the National climate change scientist participated in the discussions with the Secretary's office and the USGS scientists on some of the science and the uncertainties with the models used in FWS' and USGS' findings and recommendations.

Krofta recalled that the Secretary asked USGS to look at some additional climate models and other models for the status of the polar bear. From this review, USGS produced nine reports in September 2007, which Krofta believed were published for public review and comment. These reports analyzed the accumulation of data on polar bear science and climate models in an attempt to project the polar bear status over the increments of the projected climate change. Krofta emphasized that these were the data they used in "moving the final listing forward."

Krofta and his staff completed their draft final listing rule in February 2008. After the review and revision process with the offices of the Secretary and DOI Solicitor, the final listing rule was published in May 2008. Krofta explained that when they were working through the proposed listing rule, some of the debates involved the science and uncertainties of the climate models, as well as the possible decline of polar bear populations. Some of the pivotal information under consideration was how the polar bear's increased amount of time on land was affecting its physical condition. Krofta remembered that they primarily focused on a study that was conducted on the polar bear population in Hudson Bay. This study showed that the physical condition of adult polar bears and their young was diminishing with their increased time on land. In addition, the study showed that the more time polar bears spent on land, the more it negatively affected their populations.

Krofta explained that these data, in addition to everything else they reviewed, were pivotal for the FWS moving forward with the polar bear species listing. The data not only allowed them to project the threats to and the effects on the polar bear, but also the detrimental effects on the polar bear population.

Krofta stated that to refresh his memory he recently reviewed FWS' final rule to determine exactly how Monnett's manuscript was used in FWS' finding and recommendation to list the polar bear as "threatened." Krofta didn't read Monnett's manuscript but reviewed the rule itself to see how FWS used Monnett's manuscript information. Krofta recalled that the drowning polar bears were discussed during some of their briefings about the conditions for the polar bears.

Krofta opined that Monnett's information was not necessarily pivotal in FWS' finding and recommendation. He recalled that during the initial briefings for the 90-day stage and the 12-month finding stage proposed rule, Monnett's manuscript information was brought in to help make the case. Because FWS had so much other information from the USGS Polar Bear Specialist Group, however, he considered Monnett's manuscript as having more of a supportive role rather than a pivotal role in making FWS' finding and recommendation to list the polar bear species under the ESA.

Krofta "strongly" believed that if Monnett's manuscript information had not been used for support, FWS would have still gone forward with the listing. Krofta believed that the manuscript helped to create an image about how the loss of sea ice causes bears to have to swim greater distances and the possible relationship between sea ice loss and more bears drowning. He

reiterated, however, that they had “very strong” data that suggested that the polar bear’s habitat itself was being lost and the effects on the polar bear were going to be severe. Because of these data, Krofta speculated FWS would have gone forward with its recommendation even without Monnett’s manuscript information.

Monnett’s Actions Related to BOEM Contract #1435-01-05-CT-39151

On September 23, 2005, BOEM²⁶ issued contract #1435-01-05-CT-39151 (the Derocher contract) to the University of Alberta, Department of Biological Studies. The purpose of this contract was to have staff from the University of Alberta conduct a study of juvenile polar bears born on or near the Outer Continental Shelf of Western Canada. The principal investigator of the University of Alberta’s staff was Andrew Derocher. The original award amount was \$250,000, although the total cost of the obligation was reported to be \$1,139,137 after incremental funding was added to the award each of the 4 additional option years.

Cause for Office of Inspector General (OIG) Investigation

A review of Monnett’s communications surrounding the creation and awarding of the contract identified several apparent procurement process irregularities. Based upon these irregularities, OIG contacted BOEM’s Procurement Division, received a copy of the contract file, and interviewed the procurement staff responsible for administering the contract.

BOEM Procurement Division Interpretation of Monnett’s Actions

We spoke with several experienced contracting staff members regarding Monnett’s actions: A former BOEM contract specialist who participated in the formation of the contract; Celeste Rueffert, who has been the chief of the Procurement Operations Branch within BOEM’s Procurement Division since February 2005; and Mark Eckl, BOEM’s Bureau Procurement Chief.

We provided the former BOEM contract specialist with a copy of a November 24, 2003 email between Monnett and Derocher. In the email, Monnett and Derocher discuss the costs of a potential scientific study concerning polar bears. According to the former BOEM contract specialist, unless this communication was clearly qualified as being “market research,” Monnett’s efforts to seek cost estimates from only one entity for an upcoming Federal contract as a basis for an independent Government cost estimate (IGCE) would be “inappropriate.” She stated: “The IGCE should never come from a contractor, period, end.”

We also provided the former BOEM contract specialist with a copy of a December 20, 2004 email Monnett sent to Derocher containing a draft statement of work (SOW). In the email, Monnett suggests to Derocher that he start preparing a proposal in response to the SOW. The email was sent before a formal “justification and approval for other than full and open

²⁶ On October 1, 2011, the Bureau of Ocean Energy Management, Regulation and Enforcement (BOEMRE), formerly the Minerals Management Service (MMS), was replaced by the Bureau of Ocean Energy Management (BOEM) and the Bureau of Safety and Environmental Enforcement (BSEE) as part of a major reorganization. BOEM is used in all references to this agency to reflect its current name.

competition” document (JOFOC)²⁷ or a request for proposal (RFP) had been issued. According to the former BOEM contract specialist, sending the email was “very inappropriate.”

Rueffert said she has been in the contracting field for about 20 years, starting in December of 1990. Rueffert acknowledged that she was the contracting officer who issued the original Derocher contract on September 23, 2005.

We provided Rueffert with a copy of the December 20, 2004 email that Monnett sent to Derocher, which contained a draft SOW. Rueffert noted that the contract file indicated that the former contracting officer had given Monnett verbal approval for a JOFOC in December 2004, whereas the formal JOFOC was not issued until March 2005. Regarding the email and draft SOW Monnett sent to Derocher on December 20, Rueffert said: “It [verbal approval of a JOFOC] really isn’t the final approval. [The email] would not be advisable, no.”

Mark Eckl is BOEM’s Bureau Procurement Chief. He has served in this position for approximately 6 years, and has been in Federal contracting for 21 years.

We provided Eckl with a copy of the December 20, 2004 email that Monnett sent to Derocher. According to Eckl, he saw this email when he reviewed the contract file and had concerns about the communication it represented. He said: “[I] don’t think that that’s information that’s appropriate or proper to be discussed at that point with a potential offeror.” He further stated: “We would never recommend anybody relay that type of information to a vendor, in fact, would encourage people to do the exact opposite. . . . I think it would be inappropriate and certainly way too early in the process.”

We provided Rueffert with a January 10, 2005 email exchange between Monnett and Derocher. On the morning of January 10, 2005, Derocher sent an email to Monnett stating:

Dear Chuck,
Happy New Year. I just thought I would touch bases [sic] with you to see how things stand on your side. Here, I have a draft proposal done and I just need to work through the science issues a bit more. I have structured the document closely to the SOW and have tried to focus on the key issues. The budget is worked through in some detail now. . . . Let me know what our next move is. I will have a refined version later this week if you would like to see where I’m at.
Cheers,
Andy

Monnett responded the same day:

Excellent! I was thinking about you this AM. At this end, I am waiting for a HQ reviewer of the SOW to return from holiday so that I can satisfy all the channels. I

²⁷ The JOFOC cited Federal Acquisition Regulation 6.302-1 as justification for the sole source award. That provision may be used when there is only one responsible source and no other services will satisfy agency requirements. The investigation revealed that a number of qualified scientists were recommended to perform the peer review of the resulting scientific research. Those scientists presumably could have been approached for proposals.

believe she is back today so things should start to move at our end, shortly. Email the draft to me when you are happy with it and together we can work out any rough spots. You will get the official RFP from the Contracting Officer after everyone is happy with the SOW. Your proposal will respond to that official contact when it occurs. Hope you had a great holiday. cm

After reading the email, Rueffert stated that the email indicates to her that “he [Monnett] had participated in preparation of the proposal.” Rueffert then acknowledged that at the time of the email, the JOFOC had not yet been formally issued and Monnett had been appointed as Chair of the Technical Proposal Evaluation Committee (TPEC). According to Rueffert, the TPEC is charged by the contracting officer to evaluate and score the technical proposals based upon the criteria outlined in the solicitation.

Rueffert said that she was not aware that Monnett was offering assistance to Derocher in preparing his proposal and, based on these facts, Rueffert stated that it was not appropriate for Monnett to be participating in preparation of the proposal.

We provided the former BOEM contract specialist a copy of the January 10, 2005 email and asked if she thought it appropriate for Monnett to serve on the TPEC that would be responsible for reviewing Derocher’s final proposal. She responded, “No. No, not vote anyway.” The former BOEM contract specialist later emphasized that “all communication should come through the Contracting Office. It can’t be a free-for-all.”

We also showed Eckl a copy of the January 10, 2005 email exchange. After reading the email, Eckl stated that he had the “same impression as before, way overboard, way too early, and not following any processes that I would recommend to our customers to follow.” Regarding Derocher’s submission of his draft proposal to Monnett and Monnett’s offer to advise Derocher on the proposal, Eckl stated: “I don’t think any of that is appropriate in these circumstances. No, I would not agree with the approach that was taken.”

Eckl confirmed that Monnett was appointed as chair of the TPEC that would be responsible for reviewing Derocher’s proposal to ensure it met the minimum qualifications of the Government’s RFP. Eckl also said that Monnett’s offer to assist Derocher in preparing his proposal was “not appropriate.”

The JOFOC was formally approved on March 8, 2005 by Rueffert, and the RFP was issued to Derocher on April 5, 2005.

The next email provided to BOEM procurement personnel was dated April 11, 2005, following the formal approval of the JOFOC and issuance of the RFP. In the email, Derocher sent Monnett a draft of his proposal. In the email, he states: “If I am at all close to the sorts of information that you require it would be useful input to hear. If I am way off, that too would be useful.”

After reviewing this email, the former BOEM contract specialist said that this communication between Monnett and Derocher was improper because all communication regarding the contract should be made through the contracting officer after an RFP is released. According to her,

Monnett should have told Derocher at the time to send all of his communications related to the contract to the contracting officer.

Noting that Monnett ultimately sat as the chair on the TPEC responsible for reviewing Derocher's proposal, the former BOEM contract specialist stated that the procurement process was not followed properly "because there are evaluation factors in a sole-source RFP. It's not a done deal, you know."

After reviewing the April 11, 2005 email, Rueffert stated: "it appears as if he [Derocher] attached information that he wanted Chuck [Monnett] to provide input." Rueffert then said that it would be inappropriate for an agency representative to assist in preparation of a proposal in this way. Rueffert explained that the proper procurement process to follow would have been to allow the potential contractor to formally submit his proposal to the Government. If the proposal was far off track, negotiations between the Government and the contractor could then occur to bring the proposal closer in line with the Government's needs.

We also provided Eckl the same email. After reviewing it, he stated: "I don't think that's appropriate either."

The former BOEM contract specialist indicated that while she was working as the contract specialist for the Derocher contract, she did not know about the emails between Monnett and Derocher regarding the contract. After reviewing the emails we provided to her, she stated that now that the BOEM procurement office knows about these improper communications, it was her professional opinion that the agency should "terminate [the contract] for convenience of the Government."

After reviewing the above mentioned emails, Rueffert also stated that based upon this new knowledge of how Monnett communicated with Derocher, she would "probably recommend termination [of the contract] for convenience [of the Government]."

Upon his final review of emails listed above, Eckl stated: "The first thing I would do would be discuss it with Celeste [Rueffert] as the CO [Contracting Officer]. A lot of this information, today is the first time I believe I've seen it or have heard it, so certainly would encourage her to take any and every appropriate action that may be necessary, termination, you know, on down." At the end of our interview, Eckl added: "You know, and one thing I do want to add is that I hate when these things pop up. You know, we take our jobs very seriously, and it bothers me anytime we're even remotely associated with something such as this."

BOEM's Procurement Division's Actions After Learning of Monnett's Communications Regarding the Derocher Contract

On July 13, 2011, Rueffert issued a stop-work order for the Derocher contract to the University of Alberta. On the same day, Rueffert issued a memorandum to Monnett terminating his duties as a contracting officers' representative (COR) for the contract. The termination memorandum stated:

Information raised by the Department of the Interior Office of Inspector General in an on-going inquiry causes us to have concerns about your ability to act as the Contracting Officer's Representative in an impartial and objective manner on the subject contract. Therefore, this memorandum shall serve to terminate your appointment as the Contracting Officer's Representative for the subject contract, effective immediately.

BOEM's Human Resources Division's Actions After Learning of Monnett's Communications Regarding the Derocher Contract

On July 18, 2011, Monnett was placed on administrative leave. He returned to his assigned duties on August 26, 2011. He was, however, not reassigned to his previous duties related to contract administration.

Eckl told us that after learning of Monnett's communications with Derocher, he discussed the facts surrounding the formation of the contract with his supervisor, who then raised the matter to the BOEM Director's office. Eckl further said:

Mr. Monnett was removed as the COR on that contract and I believe all other contracts that he was COR on. That was sort of done under the purview of, the COR DOI guidance gives the CO [contracting officer] the authority to unilaterally move, swap, change a COR at any time for any reason. And that was done.

A new COR was appointed. A stop-work-order was issued on the contract, I forget the period of time that that had elapsed. Once it went up the chain, you know, I was later informed that he was put on administrative leave. I was not involved in any conversations that were conducted related to that decision.

Eckl said that a conference call was held with management from the BOEM Alaska Regional Office concerning the merits of completing the project under the contract. He told us: "It was agreed during that phone call that a sort of a decision paper or whatever would be developed and sent to the Director for input from him. Not too long after that, a decision was made to—that it was in the best interest to lift the stop-work order, which Celeste [Rueffert] did per the guidance from above."

According to Eckl, the BOEM Alaska Regional Office recommended, "from a technical standpoint," that the work be completed under the Derocher contract. Eckl said that the procurement division was given the opportunity to voice their concerns with lifting the stop-work order, which they provided in a briefing paper for the BOEM Director's consideration. Ultimately, however, the procurement division received a message from the BOEM Director's office directing them to lift the stop-work order. On August 1, 2011, Rueffert issued a Notice to Proceed letter to the University of Alberta, the contract awardee.

Agent's Note: At the time this matter was discussed by BOEM officials, most of the research required under the contract had already been completed and paid for under the terms of the contract; compiling the report detailing the research was essentially the only step left.

Eckl said that he believed BOEM was entitled to the work that had already been completed under the contract, yet he was concerned about how the project results would be viewed given the improprieties with the contracting process.

On August 9, 2011, we interviewed Monnett in the BOEM offices in Anchorage, AK. Monnett said that he completed his initial COR training in 1998 while employed by FWS in Hawaii. He stated that he began working for MMS, now known as BOEM, in June of 1999. He has been a COR since his hire. BOEM's records of Monnett's COR training indicates that he completed COR refresher training courses in May 2002 and May 2005. It also shows that he completed a contracting officers' technical representative (COTR) training course in February 2007 and a 40-hour refresher COTR course in October 2010.

According to Monnett, he has served as a COR on approximately \$60 million worth of contracts since becoming a COR for BOEM. He said that most of these contracts were sole-source contracts. He has also served as a COR on a limited number of competitive contracts.

Based on his COR training, Monnett stated, the "COR serves at the pleasure of the contracting officer and has no ability to commit funds or change contracts." He further acknowledged that the contracting officer is the final word on all contract matters and as a COR he is responsible for protecting the interests of the Government, as opposed to protecting the interest of the contractor.

Regarding the COR training he received from BOEM, Monnett explained:

On the training, it's widely acknowledged within MMS that our duties as CORs don't fit the normal Government model because we contract science studies. We don't contract hammers and widgets and things. And most of the training and the contractors that we deal with are used to training people in DoD and other big agencies that are involved in procurements of, you know, large volumes of things in a very competitive environment. And so, the training—and this has been openly discussed repeatedly—is a poor fit, and the online training is a very poor fit for what we do.

Monnett acknowledged that the ultimate decision to move forward with a sole-source contract is made by the contracting officer.

According to Monnett, in past sole-source contracting situations he had been directed to send a draft SOW to a potential contractor prior to an official RFP being issued. Specifically, he said: "I've been directed at times, you know, by the contracting officer and by other high officials in my agency to proceed that way. . . . So they can get started because we need to try to meet some deadline to get the project in the field, and there are huge lags."

When we asked Monnett if, based on his COR training, it is proper for a Government official responsible for preparing the SOW to advise and assist the vendor in preparation of the actual proposal, he responded, "I would say absolutely." He further stated: "I would say we interact closely in that, especially given that often the proposals are appended to the statement of work." According to Monnett, "in many of these things there's a close collaboration to try to make the

science as high-quality as possible to try to make it financially as efficient as possible, and it's worked very well."

Regarding how the Government reviews proposals to contracts, Monnett explained that the COR would typically create a TPEC that would make recommendations regarding the technical aspects of the contract. According to Monnett, the TPEC process for reviewing proposals to a competitive contract is more formalized than the TPEC process for reviewing sole-source contract proposals. He then stated: "It seems like sometimes they want different things on different studies, but I have—I'm fuzzy on that, you know."

In a typical TPEC review process, Monnett explained:

We get the proposal ultimately from the contracting officer, whatever the final thing is, and then we're given directions on the standards that were used to evaluate it. Usually there's a bunch of categories. And usually two or three people review it and feed back to the chair, who writes a summary document and refers them to headquarters with a recommendation.

Monnett said that once a contract is issued, it is the duty of the COR to monitor the contractor's performance under the contract and it is the duty of the contracting officer to "assure" performance. He stated:

The COR can make recommendations, but the contracting officer is normally copied on all progress reports and there's a lot of communication and forwarding of intermediate products, you know, between both the contractor, the COR and the contracting officer. So I'd say generally the contracting officer is pretty aware of where things stand.

Monnett said that there have been several contracting officers for the Derocher contract. He said the first contracting officer retired in January 2005, "at about the time we were sorting some of this out." According to Monnett, after the first contracting officer retired, there was a contracting specialist who worked on the Derocher contract, and Rueffert became the contracting officer who signed the actual contract. Monnett also acknowledged that he was appointed as the COTR to the contract.

In December 2004, Monnett sent his draft SOW for the potential contract to several people for review. When asked if he also sent the draft SOW to Derocher at that time, prior to a formal RFP or JOFOC being issued, Monnett said: "I had a conversation with the first contracting officer on that date and forwarded it to everybody here, and at that time she said that I could go ahead and send it to him, send him the draft, so that he could get started on preparing his proposal."

In addition to the first contracting officer giving him permission to send the draft SOW to Derocher, Monnett said that Jim Kendall, the current BOEM Alaska Regional Director, who was the agency's chief scientist at the time, also directed him to send the draft SOW to Derocher in December 2004. According to Monnett, Kendall "told me in an email dated on the 21st [of December] that [the first contracting officer] had said it was okay to do it, and that I should do it,

but I had already done it the day before because Jane had told me it was okay.”

A December 21, 2004 email from Kendall to Monnett said: “As such, [the first contracting officer] has informed us that it is OK for you to send the draft SOW to them so they can start thinking about how to prepare their proposal.”

When we asked if Derocher sent him a draft of his proposal, Monnett said “I don’t—I don’t—no, he didn’t provide it to me. I didn’t see it. I don’t—I don’t recall seeing a draft. I may have, but it—what happened was there were a number of delays that started at our end.”

Monnett was then asked specifically if he had offered to assist Derocher in preparing his proposal, and whether he actually provided assistance before Derocher formally submitted the proposal to the Government. Monnett responded: “I think, other than sending the statement of work, probably not. I don’t—I don’t recall.” According to Monnett, based on his COR training: “I would say in this case, since it was a shared project where they were paying half of the funds, addressing a need that both parties had, that it wouldn’t be out of line for me to look at a draft of his proposal to make sure it’s consistent with [the SOW].”

Monnett acknowledged that he was appointed as the chair to the TPEC that would be responsible for reviewing Derocher’s proposal. When asked if he believed a chair to a TPEC should be objective in protecting the Government’s interest by ensuring that there is no real or apparent bias or favoritism toward a particular proposal or vendor, Monnett said: “Those are—those are weird words.” Monnett explained that it was his belief that once the sole-source justification had been approved, and there had been an announcement on FedBizOpps, and “nobody had any problems with it, then I would say that it’s my job to support my position on it. I’ve already been—I’ve already dealt with the objectivity when I—when I determined that the contractor, you know, was by far the best set of circumstances.”

We read Monnett the following email that Monnett sent to Derocher on December 20, 2004:

Dear Dr. Derocher,

MMS is considering funding a research project that involves tagging polar bears in western Canada with satellite transmitters to study natal dispersal in population delineation. Attached, as a courtesy, is a draft of a statement of work that is under development. At this time we anticipate funding this as a sole-source procurement to your organization. However, this communication does not represent a formal offer from the US Government to fund your services. All formal offers/communication must come directly from the MMS contracting officer based in Herndon, Virginia. In the interest of saving time it might be to your advantage to begin work on a proposal in a response to the attached statement of work. However, please understand that some changes may yet be made to the statement of work before it is finalized. Moreover, if for some reason the study were not funded, the US Government would accept no responsibility for reimbursing you for your time or any expenses related to creation of the proposal.

Thank you for your cooperation on developing this study. Please feel free to contact me by return email or at [Monnett's phone number] if you have any questions. Best regards, Charles Monnett

We then read Monnett the following January 10, 2005 email exchange between him and Derocher. Derocher wrote:

Dear Chuck,

Happy New Year. I just thought I would touch bases with you to see how things stand on your side. Here I have a draft proposal done, and I just need to work through the science issue a bit more. I have structured the document closely to the statement of work and I have tried to focus on the key issues. The budget is worked through in some detail now. I will be sending up a condensed version of the proposal to the permitting agencies this week. This will be a necessary hurdle to work through, but I think we can do it. It may take some work, but that is nothing new. Let me know what our next move is. I will have a refined version later this week if you would like to see where I am at.
Cheers, Andy

Monnett responded to Derocher the same day:

Excellent! I was thinking about this—I was thinking about you this a.m. At this end, I am waiting for headquarters reviewer of the statement of work to return from the holiday so that I can satisfy all of the channels. I believe she is back today so things should start to move at our end shortly. Email the draft to me when you are happy with it and together we can work out any rough spots. You will get the official RFP from the contracting officer after everyone is happy with the statement of work. Your proposal will respond to that official contact when that—when it occurs. Hope you had a great holiday. cm

Notwithstanding his request to Derocher to “email the draft to me when you are happy with it and together we can work out any rough spots,” Monnett said that he did not remember if Derocher actually sent him a copy of his draft proposal.

We then read Monnett the following April 11, 2005 email from Derocher to him:

Hi Chuck,

I am still working through the proposal, but I must confess the contract materials sent to me by the Virginia office is taking some time to figure out. I have a meeting with our contract people tomorrow to figure it out. What I have attached is a bit of the science side of things. I haven't gone into great detail, as this will be developed over time. If I am at all close to the sorts of information that you require, it would be useful input to hear. If I'm way off that, too, would be useful. Best regards, Andy.

After hearing this email, Monnett said: “Okay. Well, that suggests that he sent an attachment to me that had at least a kernel from the proposal so that we could see if we were on the same page regarding the objective.”

We read Monnett the following April 14, 2005 email from him to Derocher, with the subject heading “Draft Proposal:”

Andy,
Sorry to take so long to reply . . . bit distracting around here. I’m headed to Wash, D.C. area for next two weeks, but will monitor my email and try to move your proposal along when I see it. What you have seems on-target. The most important thing is that objectives and methodology conforms to the statement of work, and that seems to be the case. Put in what details you can. If we have further questions, we won’t be shy. Hope the bureaucracy doesn’t get you down. You or your bean-counters should get back to the MMS contracting officer if you have questions on that side. Regards, Chuck

In response to hearing this email, Monnett stated:

Now, there are two things that you—you don’t have in your thing there that are really important in this record. One is a memo—an email from Kendall, in which he acknowledges that [the first contracting officer] had said that it was okay to send the statement of work to Derocher so he could get started on it. And then the other is an email by [the former BOEM contract specialist] some point after he—well, around—after the RFP had gone out where she asked me if I already have a copy of the proposal and I say that I don’t, that I thought that you would be asking for the proposal. And then she replies something to the effect that, Well, I thought you might already have that because—what did she say, something like “Often that’s the case,” and then in parentheses, “Funny how that seems to happen.” And then she requested a proposal, so maybe that’s when the RFP went out.

In a March 3, 2005 email the former BOEM contract specialist sent to Monnett, she stated: “Yes, the CO is supposed to obtain the proposal but many times this is already done by the time we get the procurement package (funny how that happens!). Anyway, I’ll move it forward just as quickly as possible.” We asked her about the March 3, 2005 email following Monnett’s interview and she said that she did not specifically remember sending the email. She noted, however, that she was an inexperienced contracting specialist at that time and must have been misinformed about the procurement integrity requirements regarding the submission of proposals. She acknowledged that she acted improperly by making such a statement in the March 3 email. She explained that she should not have suggested in the email that it was acceptable for an employee to receive a proposal directly from a potential vendor or review and comment on it outside the formal procurement process. She said that she now knows that such activity should always come through the procurement office.

We asked Monnett specifically if he had ever informed BOEM’s procurement division that he had reviewed Derocher’s draft proposal and provided advice on how to prepare his proposal

prior to its submission to the Government. In response, Monnett initially said that there was not a contracting officer assigned at the time he first requested the draft proposal from Derocher. When asked if he had informed *anyone* in BOEM's procurement division, not just the contracting officer, about his actions, Monnett stated: "You know, I don't remember who I talked to, whether I talked to my supervisor or anybody else, but—Yes, it's obvious that—that the procurement officials and the managers knew what I was doing."

According to Monnett, his actions of assistance to Derocher in preparing his proposal, which Monnett would be responsible for reviewing as the chair of the TPEC, "was done in full view of MMS management." When asked whether he had anything to establish that his actions were "in full view of MMS management," Monnett said: "Well, I don't know. It's 8 years ago." Monnett then explained that he has taken similar actions on other contracts, and the procurement office was fully aware of his actions on those contracts as well.

Following his interview, Monnett identified several past procurements that he felt he, and others in BOEM's Alaska Regional Office, had taken actions similar to those he took with respect to the creation of the Derocher contract. The formation of one particular contract Monnett proffered showed similar actions and was created during the same time frame as the Derocher contract; contract # 01-05-CT-39145 (the Ringed Seal contract) was issued for the study of ringed seals near Sachs Harbour, Northwest Territories, Canada.

The former BOEM contracting officer who, just before her retirement in January 2005, assisted BOEM's Alaska Regional Office in the initial steps leading to the formation of both the Derocher and the Ringed Seal contracts.

We provided the former BOEM contracting officer with a copy of a December 9, 2004 email from Monnett to her containing a draft JOFOC for the Derocher contract. We also told her that Monnett had informed us that she had given his office verbal approval to move forward with the sole-source contract process. We then asked if her verbal approval was sufficient for Monnett to move forward with the procurement process by directly contacting the potential vendor without the contracting office being involved. She replied: "They should probably wait to get approval. But they normally don't. They normally go and will talk if I've said, yes, I think it will pass." She further explained: "So you do a lot of, you know, you can do some up front work. It's better to do it with a contracts person with you. But having a distance between us, that sometimes was a problem." The former BOEM contracting officer then said that it would not have been appropriate for Monnett to contact potential vendors directly if it was to be a competitive contract.

We then provided the former BOEM contracting officer with a copy of the December 20, 2004 email Monnett sent to Derocher containing a draft SOW. In the email, Monnett suggests to Derocher that he start preparing a proposal in response to the SOW; the email was sent before a formal, signed JOFOC or RFP had been issued. After reviewing the email, she said "I didn't have a problem with that, no."

We then showed the former BOEM contracting officer a similar email from BOEM Alaska Region wildlife biologist Jeffrey Gleason regarding a different potential sole-source contract, the

Ringed Seal contract. Gleason sent the email to the potential vendor with an attached SOW. Upon reading the email, the former BOEM contracting officer said: “Normally I’d like to wait until he gets the written [JOFOC], because then it’s there in stone.” She further stated: “And he’s probably better off not to do that. But if they talk to a CO [contracting officer], and normally the CO has reviewed the sole source and doesn’t have a problem with it—but if I were them, until the statement of work was done and things like that were done, I wouldn’t talk with anybody until that got done.”

We asked if she, as the contracting officer, approved of Monnett and Gleason sending a draft SOW to the potential vendors for these two contracts. She responded:

Yes, because sometimes they will have something in a statement of work that isn’t going to work on their side. It won’t work the way they want to do their research or something like that. You know, it’s the same thing, if you have an RFP and you have a statement of work, you can meet with all the people that are coming in to propose on it, if they think there’s a problem. . . . Or you’ll have your pre-bid proposal conference with them, you go through sales like that. So on a sole source, they’re not competing with anybody. So you’re not harming anybody else. . . . You’re not giving them a competitive advantage. So for them to look at it wouldn’t, to me, would not be bad. Now, I think other people in the community, contracting community, might have a different answer to that. But it’s the way I’ve been brought up and the many years I’ve put into contracting, there are some things I think you’re going to be able to do.

We provided the former BOEM contracting officer with a January 10, 2005 email exchange between Monnett and Derocher regarding the Derocher contract. After reading these emails, she stated:

You know, personally, I think that’s fine, because what you can do is, usually, as I said before, it’s better to work with the CO talking with them and with him. But COs don’t have that technical expertise either. So a lot of times they can smooth out something in the Statement of Work that they need to.

I think you’ll get a lot of different opinions on whether he should have or shouldn’t have. My whole thing says it’s sole-source. And if you can talk about some of this. The proposal comes in. I’m going to send it to you. You’re going to review it. We’re going to send it back, maybe if we have to change it. So if you can do some things up front, it can shorten the time to start study.

We also provided the former BOEM contracting officer an email string between Gleason and the potential vendor to the BOEM contract regarding the Ringed Seal contract. In the email string, which occurred between January 31 and February 2, 2005, the potential vendor provided Gleason a draft proposal for his review. According to the former BOEM contracting officer:

I think [Gleason] probably just should have talked to them about the scientific part, getting, you know, feedback on here’s what the statement of work is

probably going to look like and the RFP, and not sent anything else out until either [Rueffert] or one of her people sent out an actual proposal.

Based on her comments, we asked the former BOEM contracting officer if Gleason or Monnett should have waited for the formal procurement process to commence, in the form of an RFP, prior to receiving and reviewing proposals. She said that they should have waited. She added:

But I don't think it's anything against the law. They could get their hand slapped to say, don't do that, it's not a good thing to do. But, you know, I don't think there's any regulation that would kind of nail them or anything, because it is a sole-source. If it wasn't, then yes, they would be totally, absolutely wrong.

When we asked if she thought it proper for Monnett or Gleason to provide feedback on the draft proposals they received from the vendors prior to the RFP being issued, she replied: "No, they probably shouldn't. I think they should just be sticking to the technical area, the expertise that they have with talking about the statement of work. Other than that, they shouldn't talk about anything in the proposal that's coming over to them. . . . Sole-source, to me, is a little bit looser in how you interact with the people you're going to go with."

We then asked the former BOEM contracting officer if she thought it proper that Monnett served as the chair of the TPEC responsible for reviewing a proposal that Monnett had already read and advised the vendor on. She said:

Yes, maybe he should, you know, if you look back, and say, yes, he was a TPEC chairman, he shouldn't have done it. But was he prejudicing everybody for that? I don't know, because he's the one who started it, he wrote the Statement of Work, he sent it to procurement, he sent the sole-source justification, he's done all of that up front. . . . It's sole-source, everybody knew who he was going to, knows the reputations of these people that are on here. So, yes, it's probably not the best way to do it. But as he said, people in Alaska do things differently sometimes.

We then showed her the email dated April 11, 2005, in which Derocher transmitted his draft proposal to Monnett. Derocher wrote: "If I am at all close to the sorts of information that you require it would be useful input to hear. If I am way off, that too would be useful."

We asked the former BOEM contracting officer if these interactions should occur between the contracting office and the vendor, as opposed to between Monnett and the potential vendor. She replied, "Absolutely." She explained that if a vendor is having issues with the RFP, it needs to contact the contracting office directly, not the agency scientist, and that Monnett "should have said, I think you better talk to the contracts office and then, you know, if necessary, the contracts office and us can talk." She also pointed out that the contracting office was not copied on the emails.

We then informed the former BOEM contracting officer that the BOEM procurement personnel responsible for handling the contract process following her retirement told OIG that they did not know that Monnett and Derocher had communicated about the proposal, and she responded:

“I’m sure they didn’t.”

We also told the former BOEM contracting officer that the BOEM procurement personnel told OIG that the sole-source-contract-related communications between Monnett and Derocher were not appropriate, and in response, the former BOEM contracting officer said that the BOEM procurement personnel were correct. She further said that these communications were inappropriate, regardless of the fact that it involved a scientific, sole-source contract, because all such communications need to go through the contracting office.

The former BOEM contracting officer said that these communications were outside the procurement integrity process, yet pointed out that no laws had been broken. She said, however: “They all take the classes, on what they’re allowed to do, procurement integrity.” She also said: “We’ve been up there with them every time. The last couple years before I left, every one of my people went to a site with the person who was doing a class, in case there were questions, so we could answer. And I even went.”

When we asked the former BOEM contracting officer if communicating with a vendor about proposals after the RFP was issued was covered in the COR training Monnett participated in, she said that: “I would think it would be. It might not be specific. It’s just like any contract class that you take. It’s a wide range. And, you know, you have to learn on the job where you’re working to really know how that organization handles those regulations.”

When we asked if, based on Monnett’s COR training, he should have known better about his improper communications, the former BOEM contracting officer said: “Well, even common sense they would tell you, if I’m working on a procurement, they, contract offices sent out the proposal, and here I’ve got somebody coming in that has a question that says the RFP is kind of confusing. All right, well, then go back to the contract office and ask them.”

We then informed the former BOEM contracting officer that Monnett stated in his interview that all of his actions were in the full view of management and the procurement office and were approved. She responded: “In my time and, say, in December [2004], having him talk with the university on what the technical aspects [of the SOW] were—I really don’t have a problem with it. Now Celeste [Rueffert] and [the former BOEM contract specialist] might have.”

Regarding Monnett’s communications after the RFP was issued, however, the former BOEM contracting officer stated: “Not after I sent the RFP out, if I sent the RFP out, they should be just talking with us. And I can always get to the tech office.”

BOEM had a contracting specialist assist BOEM’s Alaska Regional Office in creating the Ringed Seal contract. We provided her with a copy of the December 22, 2004 email from Kendall to Gleason. The email informed Gleason that the former BOEM contracting officer had given approval to send a draft SOW to the potential vendor of a sole-source contract. We then provided her an email Gleason sent the same day to the potential vendor containing a draft SOW. In the email, Gleason suggested that the potential vendor start preparing a proposal in response to the SOW.

We then provided the contracting specialist with an email string between Gleason and the potential vendor that occurred between January 31 and February 2, 2005. In the email string, the potential vendor sent Gleason a draft proposal for his review.

In response to the email, the contracting specialist stated:

Communication like this goes on. Whether it's right, you know, I don't know that. But, you know, I do know we talk back and forth. And when you talk about a sole-source kind of thing, you know, it seems like it, maybe sometimes we're a little bit more lenient, because you are dealing with a sole-source, versus going out there and doing complete competition or something like that.

We then asked the contracting specialist if it was permissible for Gleason to review a draft proposal and provide feedback to the vendor before a RFP was issued. She said: "This probably could have been done a little bit better. I'm not going to say that it couldn't be."

The contracting specialist explained that the culture in the contracting office changed when the former BOEM contracting officer retired in January 2005. Eckl and Rueffert instituted changes in the procurement office when they took their respective positions. She explained that Eckl and Rueffert insisted on a far more regulation-driven, rigid approach in their processing of contracts that incorporated checklists and ensured thorough documentation for every step of the process. The contracting specialist noted that this approach contrasted sharply with the former BOEM contracting officer's more informal way of handling contracts.

We re-interviewed Rueffert regarding the Derocher contract. We told Rueffert that Monnett had stated in his interview that all of his actions regarding the formation of the contract were in full view of management and the procurement office, and were approved. Rueffert responded:

I don't recall knowing about some of the things that you revealed to me about that particular contract. Yes, this was some of this process. You know, we were trying to take the current process when we got here, and build it better, ensure that things like this were announced at FedBizOpps, you know, that the steps in the process were followed. It's not to say that this file that I saw it as perfect, because it's not. But we had to continue to conduct business while we were trying to build up the process a bit better. There were no policies that existed at the time. There were, you know, checklist guidelines, et cetera, were very scant. . . . You know, we were in a period where we were trying to increase the excellence of the process here in the procurement shop.

On August 19, 2011, a BOEM Alaska Region oceanographer, sent an email to Rueffert stating that he had learned about OIG's review of Monnett's action in relation to the formation of the Derocher contract and, based on his COR training and understanding of procurement law and policies, he believed that Monnett's actions were entirely legal and appropriate. He then stated that if his understanding of procurement law and policies was in error, he would need to request additional training related to his COR designation.

Rueffert provided us a copy of the formal response she sent to the oceanographer on September 19, 2011. In her response, Rueffert explained to him that BOEM fully complies with current mandated Federal and departmental COR training requirements. She further informed the oceanographer that he has obtained the requisite training to effectively perform his COR duties and responsibilities. She then pointed out to him that one of the critical recommendations emphasized in all COR training classes is the importance of frequently communicating with his CO to ensure all parties are properly informed and protected.

Regarding the formation of the Derocher contract, Rueffert wrote in her response to the oceanographer that “whether the procurement is competitive or a sole source approved by the CO, the allowable exchange of information is identical. In any case, it is not appropriate for the government to disclose the government cost estimate or to assist an offeror in preparing its proposal in either a sole source or competitive environment.”

Rueffert concluded her letter to the oceanographer informing him that the procurement office is “quite willing to discuss supplemental training for you and your colleagues to the extent you and your colleagues believe that such additional training is necessary.”

We also re-interviewed Eckl regarding the Derocher contract. We informed Eckl that Monnett claimed that all of his actions were in full view of management and the procurement office. Eckl replied that the formation of this contract predated his arrival at BOEM and if Monnett’s actions were approved by the CO in place at that time, “then the CO provided bad advice.” He said that he would not provide such advice, nor would he expect his staff to do so.

We then asked Eckl about the email the oceanographer sent to Rueffert requesting more training related to his COR designation. We asked Eckl if he agreed with Rueffert’s response to the oceanographer, and he said that he had input in Rueffert’s response. He elaborated on her response, saying that the COR training program that BOEM administers is a Governmentwide mandated program, that is provided to all Federal agencies by the Office of Federal Procurement Policy.

Regarding Monnett’s assertion that his COR training was frequently “a poor fit” based on the unique circumstances of many BOEM contracts, we asked Eckl if contracting for scientific studies in a seasonally driven environment such as Alaska warrants separate, different training for CORs versus the Governmentwide program. He responded that while some training could be tailored to fit an agency’s needs, the overall rules of procurement applied across the Government.

We then asked Eckl if it were a valid excuse to not follow the structure process of a procurement because Alaska is in a unique situation with seasonal issues and scientific, sole-source contracts. Eckl responded, “In my opinion, no, that does not. You know, there may be unique circumstances. But that’s the type of thing that you’ve got to work with in the processes that you’re given.”

ADDITIONAL BACKGROUND INFORMATION

Federal Information Quality Standards – Public Law 106-554, § 515

In fiscal year 2001, the U.S. Congress acknowledged the need to improve the quality of information disseminated by the Government to the public by enacting Public Law (PL) 106-554, § 515, of the Treasury and General Government Appropriations Act. This legislation, more commonly known as the Information Quality Act, directs the Office of Management and Budget (OMB) to issue Governmentwide guidelines that “provide policy and procedural guidance to Federal agencies for ensuring and maximizing the quality, objectivity, utility, and integrity of information (including statistical information) disseminated by Federal agencies.”²⁸

OMB Information Quality Guidelines

OMB complied with the Information Quality Act by issuing guidelines in February 2002 that directed each Federal agency to:

(a) issue its own guidelines ensuring and maximizing the quality, objectivity, utility, and integrity of information disseminated by the agency; (b) establish administrative mechanisms allowing affected persons to seek and obtain correction of information that does not comply with OMB guidelines; and (c) report periodically to the Director of OMB on the number and nature of complaints received by the agency regarding the accuracy of information disseminated by the agency and how such complaints were handled by the agency.²⁹

OMB Final Information Quality Bulletin for Peer Review

In December 2004, using the Information Quality Act as its legal authority, OMB issued its “Final Information Quality Bulletin for Peer Review.”³⁰ The bulletin applies to peer review of scientific information that contains findings or conclusions that represent the official position of one or more Federal agencies.³¹ It establishes that important scientific information should be peer reviewed by a qualified specialist before dissemination by the Government.³² The purpose of the bulletin was to enhance the quality and credibility of the Federal Government’s scientific information.

Sections II and III of the bulletin require “influential” and “highly influential” scientific information to be peer reviewed. The term “influential scientific information” is defined in the bulletin as “scientific information the agency reasonably can determine will have or does have a clear and substantial impact on important public policies or private sector decisions.”³³ The

²⁸ Pub. L. No. 106-554 § 515(a) (2000).

²⁹ 67 Federal Register, pages 8452-8460.

³⁰ Executive Office of the President, Office of Management and Budget, “Final Information Quality Bulletin for Peer Review” (Dec. 16, 2004) (hereinafter “Bulletin”).

³¹ Bulletin, p. 7.

³² Bulletin, p. 1.

³³ Bulletin, p. 11.

bulletin considers scientific information “highly influential” if the agency determines that the dissemination of the information “could have a potential impact of more than \$500 million in any one year on either the public or private sector or that the dissemination is novel, controversial, or precedent-setting, or has significant interagency interest.”³⁴

Section II of the bulletin requires each agency to subject influential scientific information to peer review prior to dissemination. Agencies have broad discretion in determining what type of peer review is appropriate and what procedures should be employed to select appropriate reviewers.³⁵

Highly influential information is subject to the requirements of both sections II and III. Section III, however, has additional requirements that make the peer review process more rigorous. In planning a peer review under this section, agencies typically will have to devote greater resources and attention to the issues.

The Office of Science and Technology Policy - Federal Policy on Research Misconduct

In 2000, the White House’s Office of Science and Technology Policy (OSTP) issued a directive that required all Executive Office agencies to implement scientific integrity policies to address research misconduct. This OSTP policy defines research misconduct as fabrication, falsification, or plagiarism in performing or reviewing research, or in reporting research results.³⁶

Several criteria must be met in order to establish a finding of research misconduct under the OSTP policy. The policy requires that there be a significant departure from accepted practices of the relevant research community; the misconduct be committed intentionally, knowingly, or recklessly; and the allegation be proven beyond a preponderance of evidence.³⁷ The OSTP policy requires that if the funding agency of the alleged misconduct believes that criminal or civil fraud may have occurred, the agency must promptly refer the matter to the Department of Justice, the Inspector General for the agency, or other appropriate investigative body.³⁸

Office of Inspector General Evaluation of the U.S. Department of the Interior’s Scientific Integrity Policy

In April 2010, the U.S. Department of the Interior’s (DOI) Office of Inspector General (OIG) issued an evaluation report on DOI’s scientific integrity policy. OIG reported that, despite the OSTP requirement that all Executive Office agencies implement scientific policies, DOI has never had a comprehensive scientific integrity policy. Further, DOI had no requirement to track allegations of scientific misconduct, and its discipline and adverse action policy was deficient to the point that scientific misconduct could go unpunished. OIG concluded that the absence of a comprehensive policy leaves DOI, and those who rely upon its scientific information, vulnerable to tainted data and misinformed decisions and could erode public trust.³⁹

³⁴ Bulletin, p. 23.

³⁵ Bulletin, p. 11.

³⁶ Executive Office of the President, “Federal Policy on Research Misconduct,” 65 Federal Register, pages 76260-76264 (hereinafter “Policy”).

³⁷ Policy, p. 3.

³⁸ Policy, p. 10.

³⁹ U.S. Department of Interior, Office of Inspector General, “Interior Lacks Scientific Integrity Policy,” report no. WR-EV-

OIG reported that as of April 2010 the U.S. Geological Survey’s scientific integrity policy was the only DOI policy that met OSTP requirements.⁴⁰

DOI Scientific Integrity Policy

On September 29, 2010, the Secretary of the Interior issued Order No. 3305, “Ensuring Scientific Integrity within the Department of the Interior.” The order, effective January 28, 2011, directs the establishment of a chapter in the departmental manual setting forth principles of scientific integrity and clarifies the roles and responsibilities of all DOI employees in upholding these principles.⁴¹ The Secretary issued this order based on the above-referenced OMB and OSTP directives, the Presidential Memorandum on Scientific Integrity dated March 9, 2009, and the OSTP 2010 guidance memorandum on scientific integrity.

Bureau of Energy Management Scientific Integrity Policy

According to OIG’s April 2010 evaluation report, DOI’s Bureau of Energy Management (BOEM)⁴² was operating without a comprehensive scientific integrity policy. BOEM does, however, have an interim policy document (IPD), which was issued on December 28, 2009. The IPD established a policy on the integrity and code of conduct for science, scientific assessment, and other similar technical activities within BOEM. The IPD established responsibility for program implementation and directed all personnel, including decision makers, employees, and external participants, who are engaged in or use the results of scientific activities or scientific assessments to comply with its requirements.⁴³

This IPD encompasses all of the above-referenced OMB, OSTP, and DOI directives and guidelines pertaining to the objective of preserving the agency’s integrity of science, scientific assessment, and other similar technical activities conducted by its personnel and by others on its behalf. Furthermore, the IPD states that BOEM will not tolerate misconduct in the performance or management of such activities.⁴⁴

SUBJECT(S)

Charles Monnett, Wildlife Biologist, BOEM, GS-48b – 13/9
Jeffrey Gleason, Avian Ecologist, BOEM, GS-401 – 12/8

DISPOSITION

During our investigation, we presented our preliminary findings regarding Monnett’s suspected

MOA-0014-2009 (Apr. 28, 2010) (hereinafter “Report”).

⁴⁰ Report, p. 7.

⁴¹ Department of Interior Departmental Manual, “Integrity of Scientific and Scholarly Activities,” 305 DM 3 (Jan. 28, 2011) (hereinafter “Manual”).

⁴² Formerly known as the Minerals Management Service (MMS). After the Deepwater Horizon disaster in 2010, the bureau was reorganized and named the Bureau of Energy Management, Regulation and Enforcement (BOEMRE). In October 2011, BOEMRE was divided into the Bureau of Energy Management and the Bureau of Safety and Environmental Enforcement.

⁴³ MMS IPD, Offshore Energy and Minerals Management, “Integrity and Code of Conduct for Science, Scientific Assessment, and Other Similar Technical Activities,” IPD No.: 2010-01, dated December 28, 2009, p. 1 (hereinafter “Interim Policy”).

⁴⁴ Interim Policy, p. 2.

conflict of interest involving the sole-source contract as a possible violation of 18 U.S.C. § 208, along with Monnett and Gleason's use of data in the manuscript as a possible violation of 18 U.S.C. § 1001, to the U.S. Attorney's Office in Anchorage, Alaska (USAO). The USAO declined prosecution [Exemption 5]. The allegation of unauthorized disclosure of Government documents, a possible violation of 18 U.S.C. § 641, "Theft of Government Records," was presented to the USAO at the completion of the investigation. The USAO again declined to prosecute the unauthorized disclosure [Exemption 5].

This report will be forwarded to BOEM for whatever action is deemed appropriate.