

**DATE:** February 24, 2012

**TO:** Office of the Executive Secretariat and Regulatory Affairs  
Department of the Interior  
1849 C Street, N.W.  
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**FROM:** Dr. Paul R. Houser  
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**SUBJECT:** Allegation of scientific and scholarly misconduct and reprisal for a disclosure concerning the biased summarization of key scientific conclusions for the Klamath River dam removal Secretarial determination process.

**SUMMARY:** With this letter, I submit two allegations of scientific and scholarly misconduct and reprisal intended to compromise scientific integrity for a disclosure concerning the Department of the Interior's biased (falsification) summarization of key scientific conclusions for the Klamath River dam removal Secretarial determination process. These allegations violate different parts of the 305 DM 3 Scientific Integrity Policy, but are being submitted together, as their possible motivation and topics are related. In my role as Science Advisor and Scientific Integrity Officer for the Bureau of Reclamation, I provide my comments at various points during this presentation.

1. Intentional Falsification: Motivated by Secretary Salazar's publically stated 2009 intention to issue a Secretarial determination in favor of removing four dams on the Klamath River (due on March 31, 2012), the Department of the Interior has followed a course of action to construct support for such an outcome. An example of this intentional biased (falsification) reporting of scientific results is contained in the September 21, 2011 "Summary of Key Conclusions: Draft EIS/EIR and Related Scientific/Technical Reports" [attachment 1]. Other examples provided by third parties are provided in the attached documents.

- a. Person(s) alleged to have committed misconduct:
  - i. Unreported author(s) of report "Summary of Key Conclusions: Draft EIS/EIR and Related Scientific/Technical Reports"
  - ii. Department of the Interior officials

2) Intentionally circumventing policy that ensures the integrity of science and scholarship, and actions that compromise scientific and scholarly integrity: On September 15, 2011, I expressed concern via written disclosure relating to the scientific integrity of a draft press release on the draft

environmental analysis for removing four Klamath River dams [attachments 2, 3], and via verbal disclosure about the integrity of the larger Klamath River dam removal Secretarial determination process. My disclosure was clearly made to people who had authority to fix the press release (*Department Press Secretary, Department Solicitor's Office*), and people who had influence on the Secretarial decision process (*Department Solicitor's Office, Reclamation Deputy Commissioner*). My disclosure was never directly addressed, and supervisors have used my probationary status to enact reprisal for the disclosure culminating in the termination of my employment (effective February 24, 2012).

Even though some changes were in the final press release (showing I had made the disclosure to people with the authority to change the press release), the subsequent reprisal indicates that these same people questioned my commitment to Secretarial intentions to support the Klamath River dam removal. This Secretarial decision (due March 31, 2012) is reported to have a cost to the public (taxpayers and ratepayers) in excess of \$1B, so a poor decision would result in gross waste of funds.

Following my disclosure, I faced systematic reprisal that enacted a 1-year probationary period to issue threats of termination, gave a low performance rating, denied travel, denied training and executive development, denied mentoring, and terminated my position. This period of reprisal demonstrates a pattern of hindering and not being supportive or honest about the scientific integrity process; the subsequent reprisal shows intentional actions that directly compromise 305 DM 3, and therefore constitutes a violation of rules and regulations. Finally, the expectation for employees to compromise scientific integrity in support of Departmental mission and goals, and to engage in systematic reprisal when an employee questions the Department's scientific integrity is clearly an abuse of authority.

- a. Person(s) alleged to have committed misconduct:
  - i. Mr. Adam Fletcher, *Department of the Interior, Press Secretary*
  - ii. Ms. Kira Finkler, *Deputy Commissioner for External and Intergovernmental Affairs, Bureau of Reclamation*

By submitting these allegations, I request that the Department of the Interior Scientific Integrity Officer conduct a review of the allegations and submitted materials to determine whether an inquiry is warranted. To assist in this process, these allegations are more fully explained and justified below.

## **BACKGROUND:**

*Klamath River Secretarial Determination (from <http://klamathrestoration.gov>):*

The Klamath River Basin covers over 12,000 square miles in southern Oregon and northern California and contains many natural and economic resources related to fisheries, farming, ranching, timber, mining and recreation. Each of these resources and opportunities has economically sustained communities throughout the basin for many decades. The Klamath Basin is also home to six federally recognized Indian tribes who have depended on many of these same natural resources for thousands of years to support their way of life and spiritual wellbeing. Natural resources in the basin, including clean water, abundant and reliable supplies of fish, and terrestrial plants and animals are central to their cultural identity.

The construction of PacifiCorp's hydroelectric dams on the Klamath River combined with the development of irrigated agriculture, both beginning in the early 1900s, contributed to declines in fisheries and water quality as well as to detrimental impacts to tribal resources and culture throughout the Klamath Basin. Crises in agricultural water availability and fish populations, combined with challenges and uncertainties involved in obtaining a new long-term Federal Energy Regulatory Commission (FERC) license for PacifiCorp's Klamath Hydroelectric Project 2082 (inclusive of the J.C. Boyle, Copco 1, Copco 2, and Iron Gate dams) led willing basin stakeholders to come to agreement on the Klamath Hydroelectric Settlement Agreement (KHSA) and the Klamath Basin Restoration Agreement (KBRA).

The KHSA is a multi-party agreement that, if fully implemented, would result in the removal of the Four Facilities within the Klamath Hydroelectric Project. Signatories of the KHSA, with the exception of the Federal government and PacifiCorp, also signed the KBRA. The Federal government is not able to sign the KBRA until Congress passes Federal legislation authorizing the agreement. The KBRA includes interrelated plans and programs intended to benefit fisheries throughout the basin, water and power users in the upper basin, counties, Indian tribes and basin communities. KBRA fisheries programs include extensive habitat restoration, improvements to water flow and quality, and a fish reintroduction program in the upper basin. Full implementation of the KBRA requires an affirmative Secretarial determination on the removal of the four dams, and will likely cost taxpayers and ratepayers in excess of \$1B to implement.

*Department of the Interior Scientific Integrity Policy:*

The Department's Manual (305 DM 3) defines scientific and scholarly misconduct as:

- (1) *Fabrication, falsification, or plagiarism in proposing, performing, or reviewing scientific and scholarly activities, or in the products or reporting of the results of these activities. (Federal Policy on Research Misconduct, 65 FR 76260-76264, December 6, 2000.) Misconduct also includes: (a) intentionally circumventing policy that ensures the integrity of science and scholarship, and (b) actions that compromise scientific and scholarly integrity. Scientific and scholarly misconduct does not include honest error or differences of opinion.*
- (2) *Fabrication, falsification, or plagiarism in the application of scientific and scholarly information to decision making, policy formulation, or preparation of materials for public information activities.*
- (3) *A finding of scientific and scholarly misconduct requires that:*
  - a. *There be a significant departure from accepted practices of the relevant scientific and scholarly community.*
  - b. *The misconduct be committed intentionally, knowingly, or recklessly*
  - c. *The allegation be proven by a preponderance of evidence.*

305 DM 3 indicates that scientific misconduct must be an intentional and significant departure from accepted practices of scientific community that is proven by evidence, such as intentional fabrication, falsification or plagiarism, or actions that intentionally circumvent or compromise the policy.

**ALLEGATION I: *Intentional Falsification:*** Motivated by Secretary Salazar's publically stated intention to issue a Secretarial determination in favor of removing four dams on the Klamath River (due on March 31, 2012), the Department of the Interior has likely followed a course of action to construct such an outcome. In 2009, Secretary Salazar stated that the proposal to remove the Klamath River dams "*will not fail*", and on September 19, 2011, Ms. Kira Finkler, *Deputy Commissioner for External and Intergovernmental Affairs*, told me directly that "*the Secretary wants to remove those dams*". This intention has motivated

Department of the Interior officials to “spin” or incompletely report the scientific results towards a more optimistic scientific story that supports dam removal.

An example of this intentional falsification is contained in the September 21, 2011 “*Summary of Key Conclusions: Draft EIS/EIR and Related Scientific/Technical Reports*” [attachment 1]. This summary intentionally distorts and generally presents a biased view of the Klamath River dam removal benefits. It intends to present only the positive, without the uncertainties or negatives. This is ascertained by comparing the *summary* with the underlying Klamath River Expert Panel Reports compiled by Atkins (see <http://klamathrestoration.gov>).

- Climate changes are projected to play an important role in fish recovery (as stated by several of the Atkins expert panel reports), but climate is never mentioned in the *summary*. This is especially important for the projected impact of temperature increases on salmon recovery.
- The *summary* section on Chinook Salmon recovery projects an 81.4 percent recovery, but says nothing about the nine contingencies summarized in the June 13, 2011, *Klamath River Expert Panel Final Report: Scientific Assessment of Two Dam Removal Alternatives on Chinook Salmon* report that could completely negate this projected recovery: Upper Klamath Lake (UKL) and Keno Reservoir (KR) water quality issues, reduction in disease, enabling free migration to the upper basin, hatchery salmon do not overwhelm spawning grounds, predation is sufficiently low, climate change, small reductions in fall flows, and no long-term dam removal impacts. Neglecting to report on these contingencies provides the public and the Secretary with a falsified and incomplete scientific summary.
- The *summary* states that “Coho salmon reclaim 68 miles of habitat”, but says nothing about the April 25, 2011 statement in the *Klamath River Expert Panel Final Report: Scientific Assessment of Two Dam Removal Alternatives on Coho Salmon and Steelhead* that “the difference between the Proposed Action and Current Conditions is expected to be small, especially in the short term (0-10 years after dam removal).” By omitting this additional information, and only reporting the positive, the summary distorts and falsifies the science.
- The *summary* states that dam removal will likely reduce salmon disease, but does not properly state its uncertainty. Whereas the June 12, 2011 *Klamath River Expert Panel Final Report: Scientific Assessment of Two Dam Removal Alternatives on Chinook Salmon* report states “Although several aspects of the Proposed Action could lead to a reduction in disease-related mortality, uncertainty about these aspects is very high”.
- The *summary* also spins an optimistic outlook for Steelhead trout, providing access to 420 miles of historical habitat. However, the April 25, 2011 *Klamath River Expert Panel Final Report: Scientific Assessment of Two Dam Removal Alternatives on Coho Salmon and Steelhead* states that this success would be dependent on effective implementation of the proposed and related actions [e.g. Total Maximum Daily Load (TMDL)]; whereas ineffective implementation would result in no detectable response.

Several Bureau of Reclamation employees agreed with this assessment of the *summary* and associated draft press release [attachment 2]:

- 1) Mr. Keith Schultz, *Fisheries Chief, Reclamation Klamath Office*: Supporting message attached [attachment 4].
- 2) Mr. Pedro “Pete” Lucero, *Public Affairs Chief, Reclamation Mid-Pacific Region*: Verbally agreed during September 15, 2011 phone call with bias in the science summary.

- 3) Mr. Daniel DuBray, *Chief of Public Affairs, Reclamation*: Stated that bias issues were above his pay-grade (September 15, 2011).
- 4) Mr. David Gore, *Mid-Pacific Region Asst. Regional Director for Technical Services*: Verbally expressed concerns about the integrity of Klamath Secretarial Determination science, agreed that process was biased, and was concerned that the Solicitors Office (Mr. Bezdek) was so heavily involved in writing the reports (October 12, 2011).

Other examples of science integrity issues provided by third parties are provided in attached documents. These examples should also be considered when evaluating the scientific integrity of the Klamath River dam removal Secretarial decision process.

- 1) February 7, 2012 Siskiyou County notice of intent to file suit [attachment 5].
- 2) January 31, 2012 Siskiyou County comments on report [attachment 6].
- 3) July 12, 2011 Siskiyou County KBRA and KHSA letter [attachment 7].
- 4) November 11, 2011 Letter from Tom Connick [attachment 28].
- 5) July 21, 2011 Science, Secrecy and Salmon Restoration [attachment 29].
- 6) December 27, 2011 *Klamath dams: County's comments in* by John Bowman, Siskiyou Daily News, December 27, 2011 [attachment 30].

**ALLEGATION II: *Intentionally circumventing policy that ensures the integrity of science and scholarship, and actions that compromise scientific and scholarly integrity.***

305 DM 3 establishes a scientific code of conduct (section 3.7). Specifically, for all Departmental employees, volunteers, contractors, cooperators, partners, permittees, leasees and grantees, the *code* requires *communication of the results of scientific and scholarly activities clearly, honestly, objectively, thoroughly, accurately, and in a timely manner* (3.7.A.2), *not intentionally hindering the scientific and scholarly activities of others* (3.7.A.6), and *clearly differentiating among facts, personal opinions, assumptions, hypotheses, and professional judgment in reporting the results of scientific and scholarly activities and characterizing associated uncertainties in using those results for decision making, and in representing those results to other scientists, decision makers, and the public* (3.7.A.7). Additionally for scientists and scholars, the *code* requires *providing constructive, objective, and professionally valid peer review of the work of others, free of any personal or professional jealousy, competition, non-scientific disagreement, or conflict of interest* (3.7.B.6). And finally, for decision makers, the *code* requires *supporting the scientific and scholarly activities of others and not to engage in dishonesty, fraud, misrepresentation, coercive manipulation, censorship, or other misconduct that alters the content, veracity, or meaning or that may affect the planning, conduct, reporting, or application of scientific and scholarly activities* (3.7.C.1), and to *adhere to appropriate standards for reporting, documenting and applying results of scientific and scholarly activities used in decision making* (3.7.C.3).

On September 15, 2011, I expressed concern via written disclosure relating to the scientific integrity of a draft press release on the draft environmental analysis for removing four Klamath River dams, and via verbal disclosure about the integrity of the larger Klamath River dam removal Secretarial determination process. My disclosure was never directly addressed, and supervisors have enacted and used 1-year probationary status to enact reprisal culminating in the termination of my employment (effective February 24, 2012). The details leading to the termination show a pattern of hindering and not being supportive or honest about the scientific integrity process; the details themselves are not the scientific integrity issue but are rather a case of subsequent reprisal that show intentional actions that compromise the scientific and scholarly integrity *codes* called out above. Below I outline the actual disclosure, and subsequent reprisal.

*Disclosure:*

On September 14, 2011 I was asked to review a draft Department of the Interior press release titled: *Studies Show Removing Klamath Dams Could Add Thousands of Jobs and Boost Dwindling Salmon Runs Draft Environmental Analysis also Released, Public Comment Period Opens* [attachment 2]. The draft press release was casually given to me by Ms. Nell Zeitzmann, *Reclamation Public Affairs Officer*, because she had concerns about its science reporting. Reviewing press releases and developing releases is not in my position description [attachment 8], nor is it in my performance elements [attachment 9], and I am not in the public affairs office. However, I had visited Reclamation's Klamath Office and toured the dams considered for removal in late June 2011, and I was relatively familiar with the available scientific documents, so I felt that I could provide a constructive review.

My initial disclosure [attachment 10] was provided to Ms. Nell Zeitzmann on the morning of September 15, 2011. Ms. Zeitzmann brought my initial disclosure to the attention of Mr. Daniel DuBray, *Reclamation Chief of Public Affairs*, who referred us to Mr. Adam Fletcher, Press Secretary, *Department of the Interior*. Ms. Zeitzmann and I met with Mr. Fletcher in person to relay my initial disclosure. Mr. Fletcher asked for a hardcopy of my disclosure, and specifically asked for it to not be emailed to him. Mr. Fletcher also referred us to Mr. John Bezdek, *Assistant Solicitor, Department of the Interior*, who was reportedly also responsible for drafting the press release. Ms. Zeitzmann and I then sought out Mr. Bezdek, who was out of the office, so we were referred to and able to convey the initial disclosure to Mr. Carter Brown, *Attorney/Advisor, Department of the Interior*. Being the Department Press Secretary, and a member of the press release author team, Mr. Fletcher and Mr. Brown clearly had authority to act on the disclosure.

Following these meetings on the morning of September 15, 2011, I developed the full written disclosure, and confirmed the information by studying the expert panel reviews available from <http://klamathrestoration.gov>. I also contacted a number of experts in Reclamation's Klamath Area Office via Email for confirmation of the bias issue. I received verbal confirmation of the bias issue from Mr. Pedro "Pete" Lucero, *Public Affairs Chief, Reclamation Mid-Pacific Region*, during a September 15, 2011 phone conversation. Based on this information gathering, on the afternoon of September 15, 2011, I provided hardcopies of my final written disclosure to Mr. Fletcher and Mr. Brown, and emailed the same disclosure information to my supervisor, Ms. Kira Finkler, *Reclamation Deputy Commissioner for External and Intergovernmental Affairs* (who was out of town) [attachment 10]. The hardcopy was never Emailed to Mr. Fletcher or Mr. Brown.

Subsequently, I received email confirmation of the positive bias issue from Mr. Keith Schultz, *Fisheries Chief, Reclamation Klamath Office* [attachment 4]. I also later (October 12, 2011) verbally confirmed the bias concern with Mr. David Gore, *Mid-Pacific Region Asst. Regional Director for Technical Services*, who verbally expressed concerns about the integrity of Klamath Secretarial Determination science, agreed that process was biased, and was concerned that the Solicitors Office (Mr. Bezdek) was so heavily involved in writing the reports. On September 19, 2011, I received feedback from Ms. Christine Karas, *Deputy Area Manager, Klamath Basin Area Office, Bureau of Reclamation*, who provided more information on the Secretarial determination process, pointed out that the science of the Klamath River dam removal is not my job, and warned against creating discoverable records [attachment 11].

Finally, as part of my disclosure I also verbally expressed concerns to Ms. Zeitzmann (on September 15, 2011), Ms. Finkler (On September 19, 2011) and Mr. Gore (on October 12, 2011) about the integrity of the larger Klamath River dam removal Secretarial determination process. I was concerned that if the department was summarizing the science in a biased manner, that that same bias may infuse the March

2012 Klamath River dam removal Secretarial determination. Further, I stated that I was not for or against the Secretarial determination outcome, but rather was concerned that the science be reported accurately with critical uncertainties and caveats, so that the Secretarial determination can be made without scientific bias. This Klamath dam removal Secretarial determination is reported to have a cost to the public (taxpayers and ratepayers) in excess of \$1B, so a misinformed or premeditated decision could be a gross waste of funds.

*Direct Response to Disclosure:*

I received no direct response or follow-up on my disclosure from Mr. Fletcher or Mr. Brown. However, the tone and bias of the final press release scientific reporting was improved, and the title was changed [attachments 1, 2, and 3]. My specific disclosure comments, which primarily addressed issues with the *Attachment: Summary of the major findings and a schedule for public hearings*, were not addressed in the final release.

When my supervisor, Ms. Finkler, returned to the office on September 19, 2011, I discussed the issue with her, and she expressed concern that I chose to document the disclosure via Email. She cited concerns about creating discoverable records that could be subject to FOIA for this contentious issue, and pointed out to me that that *"the Secretary wants to remove those dams"*. In subsequent discussions with Ms. Finkler on this issue, she told me that she thought the press release and related materials were unbiased, but she also conceded that she had not reviewed the underlying documents, including the expert panel reports.

*Reprisal for Disclosure:*

Following my disclosure related to the Klamath Dam Press release [attachment 10], I faced systematic reprisal on several fronts. These include, enacting and using a 1-year probationary period to issue threats of termination, issuing a low performance rating, denying travel, denying training and executive development, denying mentoring, and termination of my position.

Performance Appraisal: On October 27, 2011, my supervisor, Ms. Finkler, presented me with a minimally successful performance rating. She invited Mr. David Murillo, Reclamation *Deputy Commissioner for Operations* to the meeting as a witness. Areas identified as being below fully successful were as follows [attachment 12]:

- 1) *Needs to pay closer attention to detail when submitting a written product. For example, he submitted a memo to the Commissioner that still was labeled "draft" and had no date on it. He also needs to work on his writing - he needs to take the time to review the substance of his written products more carefully, organize information in a logical way and make the final product easy to read.*
- 2) *Needs to make sure he responds in a timely way to requests from me and follows directions.*
- 3) *Needs to work on contributing to a positive workplace that supports the organization's missions and goals.*
- 4) *Needs to better engage in strategic planning, for example, he needs to proactively suggest ways he can add value to various priorities rather than waiting for instructions.*
- 5) *Needs to work on using sound judgment to make effective decisions, for example, he should not assume, and take action on such assumption, that his input has been ignored prior to knowing the final decision.*

The review involved extensive discussion of my September 15, 2011 disclosure, and was clearly the subject of performance items 2, 3 and 5. On point 2) Ms. Finkler felt that I did not follow Mr. Fletcher's directions (to not send him my disclosure in Email), when I chose to Email the disclosure to Ms. Finkler. I had intentionally decided to Email the disclosure to Ms. Finkler to make sure that the situation was properly

documented and transparent. On point 3), Ms. Finkler felt that my disclosure actions were not in support of the organization's mission and goals (i.e. Secretary Salazar's desire to remove the four Klamath River dams). Also, she felt that my disclosure did not contribute to a positive workplace and showed that I was not a team player. Finally, she included point 5), because she thought making the disclosure was a poor decision and that by communicating it so broadly I was making an assumption that it was being ignored, when in fact I was simply trying to make sure it was in the hands of someone who could act on it.

Finally, during the review she gave me the first indication that I was on a 1-year probation period, by presenting me with a SF-50, revised to reflect the probationary period [attachment 14].

Probation: Neither my offer letter or my original SF-50 mentioned a 1-year probationary period [attachments 13 and 14]. Due to my previous civil service at the USGS (3 years) and NASA (8 years), I have lifetime reinstatement eligibility based on acquired career tenure by completing 3 years of substantially continuous credible service [attachment 16]. None-the-less, a revision to put a probationary period in place was initiated on September 29, 2011 [attachment 15], which is closely coincident with my September 15, 2011 disclosure. Therefore, I submit that here is adequate evidence that my disclosure prompted my supervisor, Ms. Finkler, to start proceedings toward my eventual termination by enacting and taking advantage of the 1-year probation period. Essentially, Ms. Finkler thought that my disclosure indicated an unwillingness to support Departmental missions and goals, so she enacted and used the 1-year probationary period as reprisal for my disclosure, with the intent to terminate my employment.

Letter of concern: On November 10, 2011, I received a "letter of concern during probationary period" [attachment 17] from Ms. Finkler, concerning an incident on November 3, 2011. The incident involved an Email message [attachment 18] that I forwarded to Mr. David Hayes, *Deputy Secretary of the Department of the Interior*. I forwarded this message as instructed by Ms. Devon Ryan, *Association of Fish and Wildlife Agencies* [attachment 19]. Ms. Finkler believed that an October 28, 2011 request she had made to discuss departmental coordination on the same topic overrode Ms. Ryan's instructions [attachment 20]. I did not see a conflict between these two actions, and subsequently never heard that Mr. Hayes was upset that he received the information from me. On November 3, 2011, Ms. Finkler told me verbally that it was inappropriate for me to contact David Hayes directly, and that she does not even take that liberty. This is an unwritten rule for which I did not receive training or mentoring.

The letter references "previous examples (discussed during your performance review)", which directly refers to the September 15, 2011 disclosure. In fact, when Ms. Finkler presented the letter, she said she had been planning to write a letter of concern regarding the September 15, 2011 disclosure, but she decided to focus on this second incident instead. The letter goes on to make a direct threat of termination and provides an offer of assistance (these topics are discussed below).

The letter of concern grossly exaggerates a minor incident that can easily be attributed to my short tenure and lack of knowledge or training on the "unwritten rules". The letter is clearly aimed at paving the way to the termination of my position, and can be directly linked back to the September 15, 2011 disclosure.

Travel: My position as Reclamation's Science Advisor requires frequent interaction with scientists, stakeholders, partners and managers. So, travel is critical to the success of this position. The original advertisement for the position stated that the position required a 25% travel commitment.

The date of my disclosure (September 15, 2011) marked a distinct change in my travel. Between my start date (April 11, 2011) and the disclosure (September 15, 2011), I traveled 42 out of 158 days (26%). Between the disclosure (September 15, 2011) and the termination date (February 24, 2012), I traveled 7



out of 163 days (4%). Prior to the disclosure, I did not have any travel requests denied, but afterwards, all but the most essential travel were denied [attachment 21], which limited my ability to do my job.

It is quite clear that at the time of the disclosure, my supervisor decided to restrict access to travel, in an apparent attempt to reduce my effectiveness, which would further her goal of using the probationary period to terminate my position.

Training: On November 29, 2011 I finalized a standard Executive Professional Development plan [attachment 22], which was focused on the learning and improvement goals outlined in my performance review [attachment 12]. This plan was carefully developed in close coordination with Ms. Norma Martinez, *Reclamation's Learning Officer*. Ms. Finkler signed the plan without even reading or discussing its details. I presented a plan for implementing this training to Ms. Finkler on January 11 [attachment 23], which she said she would review later, but then disapproved at a subsequent meeting, citing budget concerns. By denying training in the very areas that were cited for needing improvement in my performance plan, Ms. Finkler further undermined my success. This action further illustrates that Ms. Finkler did not intend to give me an opportunity for improvement, having decided at the time of disclosure to proceed towards termination.

Mentoring: Based on the establishment of a probationary period for my position on September 29, 2011 [attachment 15], and Ms. Finkler's offer of "*assistance which will better enable you to meet the requirements of the position*" in the November 10, 2011 letter of concern [attachment 17], on November 10, 2011, I requested that Ms. Finkler provide me written guidance on how she would evaluate success in my probationary period. Ms. Finkler indicated that she had given me all the guidance I needed in the letter of concern. In summary, the letter of concern essentially says that *one more incident of using poor judgment or failing to listen and follow directions will result in termination during the probationary period*.

Between the November 10, 2011 and January 24, 2012, I met with Ms. Finkler seven times at regularly scheduled weekly check-in meetings (11/15/11, 11/23/11, 11/29/11, 12/6/11, 1/11/12, 1/18/12, and 1/24/12). At each meeting I asked Ms. Finkler how I was performing, and each time she said "you are doing OK". I also asked at each meeting how I can improve, and she always replied that she could not think of anything.

Further, to better engage in strategic planning, and proactively suggest ways that I could add value to various priorities (as pointed out in my performance review), I presented Ms. Finkler with seven proposals ranging from ways to engage in California Water [attachment 24] to FY14 budget proposals [attachment 25]. Ms. Finkler took the proposals, but never offered discussion, feedback or decisions to proceed. At a meeting in early November 2011, she told me that the "*ball was in her court*" with respect to the California Water proposal [attachment 24], and later in November 2011 she told me that she did not trust me to act on the California water ideas.

It is clear that since the time of the disclosure (September 15, 2011), Ms. Finkler's intention has been to use my probation status to terminate my position. She has not offered genuine mentoring or guidance, and has not made decisions regarding my proactive strategic planning suggestions.

Termination: On February 8, 2012, Ms. Finkler informed me that my expertise and skills were not a good match for the science advisor position [attachment 26], and gave me until February 10, 2012 to resign or be terminated. There was no specific incident cited for the action, and the termination did not result from *using poor judgment or failing to listen and follow directions*, as was her guidance in the letter of concern [attachment 17]. On February 10, 2012, I decided to let the position be terminated because I firmly believe

the evidence points to it being the direct result and the ultimate reprisal for the September 15, 2011 disclosure. The timing of the termination, being just one month before the Klamath Secretarial Determination, suggests that my supervisors did not want me included in the decision process; for fear that I would make another disclosure that does not support the Department's goal to remove the dams.

After receiving the termination notice on February 8, 2012, I contacted Ms. Laurie Larson-Jackson, *Associate Inspector General for Whistleblower Protection*. I was subsequently interviewed by Mr. Steven Futrowsky, *OIG Senior Investigator*, and Mr. Gregory Gransback, *OIG Investigator*. Ms. Larson-Jackson thought that I had a reasonable complaint, and encouraged me to contact Ms. Kira Finkler to negotiate a solution. On February 10, 2012, I met with Ms. Finkler and Mr. Murrillo to offer such a discussion. Mr. Murrillo indicated that they would discuss my offer to find a solution with the Department and get back to me the following week. I contacted Ms. Finkler via Email on 2/14/2012, and 2/21/2012 asking for a phone discussion. Ms. Finkler responded on 2/14/2012 asking for clarification of what I meant by "negotiate a solution", to which I responded with some options to find a positive outcome [attachment 27]. Having not heard from Ms. Finkler since 2/14/2012, it is clear that she is not interested in mitigation.

#### *Summary of Allegation II:*

*305 DM 3 specifically calls all Department employees to communicate the results of scientific and scholarly activities clearly, honestly, objectively, thoroughly, accurately, and in a timely manner, to not intentionally hinder the scientific and scholarly activities of others, and to clearly differentiating among facts, personal opinions, assumptions, hypotheses, and professional judgment in reporting the results of scientific and scholarly activities and characterizing associated uncertainties in using those results for decision making, and in representing those results to other scientists, decision makers, and the public.*

On September 15, 2011, I expressed concern via written disclosure relating to the scientific integrity of a draft press release on the draft environmental analysis for removing four Klamath River dams, and via verbal disclosure about the integrity of the larger Klamath River dam removal Secretarial determination process. My disclosure was clearly made to people who had authority to fix the press release (Department Press Secretary, and Department Solicitor's Office), and people who had influence on the Secretarial decision process (Department Solicitor's Office and Reclamation Deputy Commissioner). Even though some changes were in the final press release (showing I had made the disclosure to people with the authority to change the press release), the subsequent reprisal indicates that these same people questioned my commitment to Secretarial intentions to support the Klamath River dam removal. This Secretarial decision (due March 31, 2012) is reported to have a cost to the public (taxpayers and ratepayers) in excess of \$1B, so a poor decision would result in gross waste of funds.

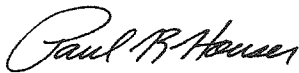
Following my disclosure, I faced systematic reprisal that used my 1-year probationary period to issue threats of termination, giving a low performance rating, denying travel, denying training and executive development, denying mentoring, and terminating my position. This period of reprisal demonstrates a pattern of hindering and not being supportive or honest about the scientific integrity process; the subsequent reprisal shows intentional actions that directly compromise 305 DM 3, and therefore constitutes the violation of rules and regulations. Finally, the expectation for employees to compromise scientific integrity in support of Departmental mission and goals, and to engage in systematic reprisal when an employee questions the Department's scientific integrity is clearly an abuse of authority.

#### **CONFLICT OF INTEREST STATEMENT:**

305 DM 3 requires all accusers to declare any conflicts of interest that may be inherent in their submissions. Conflict of interest exists when a person has ties to activities that could inappropriately influence his or her judgment, whether or not judgment is in fact affected. Financial relationships with industry, for example, through employment, consultancies, stock ownership, honoraria, expert testimony, either directly or through immediate family, are usually considered to be the most important conflicts of interest. However, conflicts can occur for other reasons, such as personal relationships, academic competition, and intellectual passion.

I attest that I have no fiduciary ties or conflicts associated with the Klamath River Secretarial decision process. I do not have any financial relationships with Klamath River associated industry, employment, consultancies, stock ownership, honoraria, expert testimony, either directly or through immediate family. I am not an author of any reports or the recipient of any research support associated with the Klamath River. However, I do have personal impact (loss of job) associated with accusation II, but have nothing to directly gain or lose from the potential result of this accusation. I also plan to submit an appeal for whistleblower protection with the Merit System Protection Board (MSPB), and with the Office of Special Council (OSC). My motivation for submitting this allegation is to uphold the principles of scientific integrity and its code of conduct, as is my responsibility as a practicing research scientist.

Cordially,



Dr. Paul R. Houser  
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