

Scientific Integrity Policies in Practice

A Work Very Much in Process

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July 2013

Public Employees for Environmental Responsibility

PEER is a service organization for scientists and other specialists within public agencies struggling over environmental concerns.

PEER provides —

Legal representation and counseling;

Safe outlet for disclosure and advocacy; &

Shelter for battered staff.



www.peer.org

Why This Matters



Government scientists have scant legal protection

- Not generally whistleblowers—not disclosing waste, fraud, abuse or danger to public safety.
- Law treats scientific disputes as matters of opinion –where opinion of a scientist and lay person are equal and decided by rank.
- No 1st Amendment protection on the job.

Bush appointees were free
to rewrite scientific findings

because

**There was no rule
against it.**



These scientific integrity rules
for the first time provide some
legal protection for



scientific work and those
who create it.

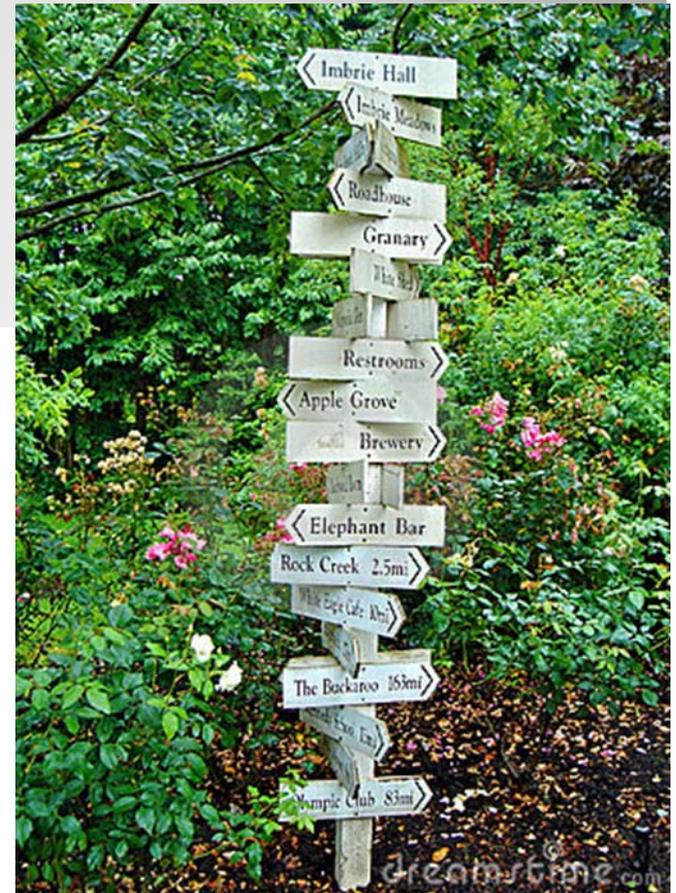


Where Are We Going?

1. What Do These Policies Provide?

2. How Have They Been Applied?

3. How Can They be Improved?



Policy Scorecard

Of the 22 agencies covered by the 2009 Obama Directive

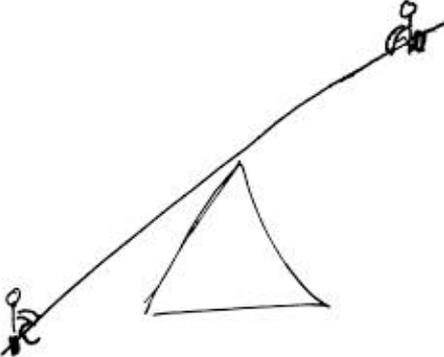
❖ **Six still lack policies.**



- NIST, SSA, OMB and OSTP still have no policies. ***Ironically, OSTP is in charge of overseeing policy development.***
- Education and DOJ have yet to finalize draft policies.

❖ finalized policies **only in the past few months.**

{Labor, DHS & DOT}



Policies Vary Widely

- * Different Scope & Shape
- * Uneven Rights to Publish & Lecture
- * Varied Misconduct Procedures
- * Two Have Revised Policies in Recent Months (USDA & State)



Detailed breakdown, side-by-side comparisons, ranking and texts posted on PEER website:

<http://www.peer.org/campaigns/whistleblowers/scientific-integrity>

COMPLAINT I:

Mexican Wolf Recovery

- Critical **scientific findings** on recovery for the struggling Mexican wolf in the Southwest were **altered**, compromising prospects for its revival.



- Pressure to lower the number of wolves needed and **jettison numeric threshold** altogether
- **Political deals** made to remove entire states from recovery plans





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No dispute as to the facts

Career official issued a 5-page
“reply letter”



Novel grounds for dismissing all specifications:

- ❖ No final decision has been made, thus a violation of the integrity policy is not possible.

and

- ❖ “It is not reckless for the [Southwest] Regional Director to request [scientific changes], since the Regional Director is ultimately responsible for the recovery of the Mexican wolf.”

Under these standards, FWS can always shield itself no matter how blatantly it misbehaves.

Complaint II. Exclusion of Grazing from BLM Landscape Assessments

In the largest study in agency history, BLM ordered scientists not to consider livestock impacts when determining change agents affecting Western landscapes.

In meeting minutes, BLM managers said **study of grazing impacts would concern “stakeholders” and the Washington Office due to “fear of litigation.”**



BLM's collateral duty Scientific Integrity Officer concluded that while the **complaint was factual** it had "no merit" since the decision to exclude grazing was due to the "**lack of sufficient data**" about livestock impacts. (ignoring the meeting minutes which said nothing of the sort)



This conclusion, of course, does not hold water because

- The attempts to exclude grazing began at the study's earliest stages, ***before data availability was even examined.***
- Other factors being studied, such as invasive species, have ***bigger data gaps.***

- BLM managers ***hid the existence of a major livestock database*** which was never given to researchers.

MOO-VE along.





Complaint III. Klamath Dam Removal - Scientific Cherry- Picking

Bureau of Reclamation's own Scientific Integrity Officer complained that agency press release & summaries –

- ✓ Distorted findings of studies on effects of still-pending decision to remove dams in Klamath River.
- ✓ The release described only positive aspects, omitting a number of major contingencies, uncertainties and possible negative effects.
- ✓ Summaries contained factual assertions not in the studies themselves.



Interior hired a consultant firm that concluded the complaint was factually correct but did not amount to misconduct for some very curious reasons:

- ❑ Instances of “false precision” are dismissed because they are “not inconsistent” with the underlying studies;
- ❑ Repeated **inaccuracies** – all slanted in one direction – are excused because it is “**normal practice**” for press releases to exhibit hyperbole or falsities; and
- ❑ Explicit efforts to prevent concerns from being put into writing were discounted because the panel found them “**not sufficiently unusual**” to be “**automatically alarmed**” by them.



Insult to Injury



Contractor's panel **interviewed no witnesses** and did not even speak to complainant, Dr. Houser.

Yet, made **findings about motives and intent** of several of the actors inside Interior.

Rather than conduct her own inquiry, Interior's Scientific Integrity Officer, **Dr. Suzette Kimball**, accepted panel's conclusions as "**definitive**" and declared complaint "Not Warranted."

Her ruling came in a letter which **did not include a copy of the report** on which it was based.



These rules were created at the behest of President Obama to **root out rampant political manipulation** of science.



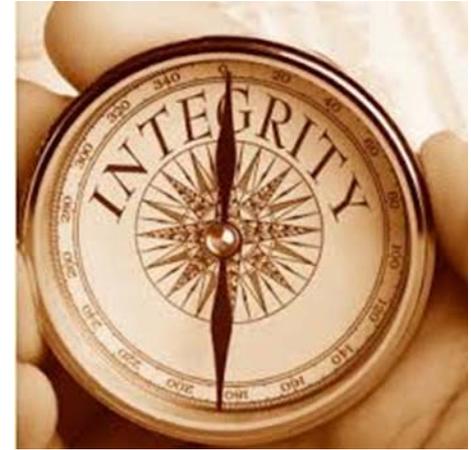
Yet in more than two years Interior has managed not to find a **single instance** of it.



Did it never exist or did it disappear?

Criticisms – Policies Lack

1. Independence
2. Transparency
3. Meaningful Whistleblower Protection



Lack of Independence Review

Scientific Integrity Officer (SIO)
is a collateral duty;

SIO must indict his/her own chain-
of-command; and

Confusion about whether serving the
“Departmental mission” trumps all
other concerns.



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=Equals=

No consistency in handling cases.

Hired consultants have incentive to please
the agency.

No due process.

Transparency Disparity

Right to publish or lecture – varies from agency to agency;

No **open scientific record**

Erratic and opaque **peer review**

The FOIA gag – may not disclose any information potentially covered by a Freedom of Information Act exemption

Tension between **privacy rights** of the accused **versus open review** of the record.



Meaningful Whistleblower Protection

1. Who Is Protected?



? Only those who file formal complaints?

? What about scientists who complain of loss of integrity to chain-of-command?

? Scientists whose research triggers retaliation?

? Scientists who testify to support colleagues?

2. How Are They Protected?

Who investigates on what timeline?

Will a scientist have tools to defend him/herself?

Will retaliator be punished – and if so, how?





Like a Volcanic Island Rising from the Sea Floor – a work in process.

Worth the effort because these policies:

- ✓ Confer for the first time **legal status to technical work-products**. This is a huge development.
- ✓ Extend **Whistleblower Protection Act safeguards** on behalf of scientist disclosing deviations from scientific integrity standards.
- ✓ Offer protected avenue to **ventilate scientific abuse**.



Conclusion

While far from perfect, PEER will continue harvesting this new legal vineyard to strengthen the rules by

- Universalizing strong rules **across the entire government;**
- Fostering truly **independent review** and securing the **right to publish and lecture;** and
- Protecting scientists from **persecution for merely doing their jobs.**

