

Statement of Dr. Paul R. Houser, Hydrometeorologist

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**Why I Filed a Complaint of Scientific Misconduct**

In September 2011, as part of my job as the Bureau of Reclamation Scientific Integrity Officer, I expressed concern about the accuracy of science reporting and summary documents related to the pending Secretarial Decision on Klamath River Dam Removal. I considered this case closed until the Department of the Interior escalated it through systematic reprisal and termination of my job in February 2012. Subsequently, I filed a scientific integrity complaint in accordance with the Department of the Interior's Scientific Integrity Policy, and a whistle-blower protection claim with the U.S. Office of Special Counsel.

I did a great deal of soul-searching and consultation before filing the complaint. Making the complaint has significant implications for my career and family, and I wanted to make sure I was not pursuing it for selfish or political reasons. I decided to file the complaint for three reasons:

- (1) My obligation to scientific integrity as a scientist and my duty as a citizen to improve how our government operates;
- (2) For the benefit of my replacement, so that he or she can uphold the public trust by providing honest scientific advisement without fear of losing their job; and
- (3) So that the Secretarial Decision is well informed.

I attest that I have no fiduciary or political 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.

My philosophy has been to accept all interview and speaking requests, and I have been adamant about not accepting payment for them. I am also not for or against dam removal, but rather I am an advocate for the best science-informed decision that meets the multi-objectives of obeying the law, protecting the environment and advancing society.

**Official Response to Complaint**

In March 2013, the Department of the Interior released a report by a consultant pertaining to my scientific integrity complaint. The consultant report included a summary of an evaluation by a *Panel* of unidentified "experts." Based on this consultant report, the Department of the Interior Scientific Integrity Officer (DSIO), Dr. Suzette Kimball, found no merit in my complaint.

**Response to Interior's Action**

For reasons detailed below, I maintain that Interior's handling of my complaint is misguided and turns the Department's scientific integrity process on its head. The basis for this contention is far-reaching and multi-faceted but can be summarized in seven major failings in that Interior:

- (1) Did not even evaluate the full scope of my complaint;
- (2) Failed to conduct an actual investigation of my complaint;
- (3) Ignored its own findings;
- (4) Used circular reasoning as the basis for dismissing my complaint;
- (5) Made up the rules as it went along;
- (6) Convened an unqualified and conflicted panel; and
- (7) Engaged a process that itself is the antithesis of scientific integrity.

At the outset, it should also be noted that the *Panel* evaluation does not contest the factual accuracy of the main components of my complaint. Instead, it dismisses them as being "normal practice" or "not inconsistent" with the underlying record. The basis for these conclusions is both flimsy and tortured. Nor was I allowed to see, let alone rebut, these conclusions until they were publicly posted on Interior's web site just days ago – more than six months after the consultant's report had been delivered to Interior. Nonetheless, these conclusions were accepted as "definitive" by Interior's Scientific Integrity Officer.

The end result is that my scientific integrity complaint has been dismissed without being fully investigated or even cogently considered, and continues the Department's record of never finding itself in violation of its own scientific integrity policy. I explore these points more fully below.

Point 1: The panel did not evaluate the full scope of my complaint.

- The *Panel's* scope was limited by the statement of work it was given by the Department contract. Specifically, "the scope of work provided to the Expert Panel did not provide for an evaluation of specific personnel actions, but was limited to the review of evidence for scientific misconduct in the drafting and issuance of the subject press release." As the consultant's report states in its Executive summary: "The panel was instructed not to consider other aspects of the complaint." As a result, the *Panel* never examined elements of the complaint concerning the intentional circumventing of the scientific integrity policy, and did not evaluate the consistency, intentionality, and pre-determined nature of the actions described in my allegation.
- The panel further narrowed its scope by only considering the *press release* and *summary*, rather than considering the full breadth of the documents and correspondence presented in the allegation. The panel also limited its work to only soliciting the individual opinions of the panelists, and to not conduct any kind of formal investigation.
- The *Panel's* summary of Allegation 1 is that "we do not find the analysis and reporting of the scientific issues in the Summary are consistent with an interpretation that there was intentional

falsification in the scientific record.” This indicates that the *Panel* considered a radically distorted version of the allegation, considering evidence of intentional falsification in the broad scientific record as evidenced by the content of the *Summary*, rather than evaluating the intentional biasing of the *Summary* itself.

- Both the *Panel* and the DISO also attempt to narrow the scope of the allegation in time, by considering my initial expression of concern as disconnected from the subsequent reprisal or by tempering my initial concerns and allegation based on the subsequent availability of other documents (such as the receipt of public comments or peer review). By separating the elements of the allegation, the Panel and Dr. Kimball fail to evaluate the motivation, intent, and consistency of the Department’s predetermined decisions and actions which is at the heart of my allegation.
- Further, the DISO took a rather narrow scope on her evaluation of my second allegation concerning attempts to circumvent the *Policy*. Most importantly, she largely focuses on activities related to the drafting of the press release on Sept 14-15, 2011, rather than considering a large amount of evidence showing subsequent reprisal including termination of my position. She incorrectly dismisses these aspects of the allegation as the purview of the OIG and the OSC, when in fact they are likely the most critical aspects of scientific misconduct.
- The *Panel* failed to grasp the critical importance of the press release and summary apart from the studies themselves. They regarded these products merely as appendages of the studies. To the contrary, the press release and summary are all that most people – and, critically, most decision-makers – will read. Thus, it is imperative, not incidental, that these summaries written for lay audiences be accurate. Further, the *Policy* requires “accurate representation of scientific opinion in all communications”, which is ignored by both the *Panel* and the DISO.

Point 2: Failing to conduct an actual investigation.

- The panel reviewed the written record. It interviewed no witnesses. It did not choose to hear from me or to pose any questions to me. This was a facial and not a factual review, without due process.
- Without the benefit of any interview or more than surface investigation, the panel decided that the inaccuracies were unintentional.
- The panel exhibited no curiosity as to why the identified inaccuracies all went in one direction – supporting a decision for dam removal. Nor did it bother to explore statement by DOI officials such as “The Secretary wants to remove those dams.”

- The panel ascribed motives for actions to persons it never interviewed. For example, in its conclusion the report states:

“So, although Dr. Houser is correct that climate change is not mentioned in the Summary, we do not see this as clearly intended to deceive the public or the decision-making process. [Because] All the extensive discussions on climate change were available in the base documents...”

The fact that the Summary omitted major aspects of the base studies was the POINT on my complaint – not an excuse for failing to take these omissions seriously.

- Further, the *Panel* exhibited only cursory interest in attempts to prevent the creation of a paper trail on these issues. It was not “disturbed” about cautions against putting concerns in writing. Nor did it seek to discover why one senior DOI official wanted to see only a paper copy of concerns I raised and asked that it not be emailed to him so there would be no record of his knowledge of these matters.

Point 3: Ignoring its own findings.

- The *Panel* acknowledged that instances of “false precision” and other inaccuracies –all slanted in one direction – appeared repeatedly in these very short documents, but did not view this as intentional, misleading or biased.
- The *Panel* concluded that some but not all of the complaint was factually accurate. In fact, a review of the discussion suggests that the complaint was correct in virtually every material representation. Nor did the panel identify in what particular respect the complaint was not entirely factual.
- The *Panel* report does, however, acknowledge that explicit efforts were made to prevent these concerns from being put into writing. These actions are then dismissed because the panel is “not automatically alarmed” by them.

The report adds this disconcerting conclusion:

“Nor do we assume ... that there was a conspiracy to suppress scientific discussion on the Klamath. On the contrary, avoiding documentation of preliminary discussions is a relatively standard practice. It is not sufficiently unusual here to suggest that there was an attempt to suppress or alter science on the Klamath issue.”

First, the empirical basis for the claim that it is “normal practice” to prevent documentation concerning scientific matters is opaque, at best. Secondly, and perhaps more significantly, the practice of preventing documentation is forbidden by the DOI scientific integrity policies and is a major element of my complaint. Violations of the policy cannot be dismissed because they are

considered routine. Indeed, the policy was rooted in President Obama's declaration that the abuses of the past must end. The report would instead perpetuate those abuses under the guise of maintaining normalcy.

Finally, this finding is in direct opposition to the DISO's statement that she found no evidence that I was "directed not to communicate my opinion", clearly showing that she did not look at the evidence very carefully.

- The *Panel* finds that the underlying scientific record for coho salmon, salmon disease or steelhead do not at all conflict with the *Summary*. However, not being in conflict does not mean that they are accurate representations of scientific opinion as required by the *Policy*; uncovering this truth would clearly require an actual investigation into my allegations.

Point 4: Dismissing the complaint using circular reasoning.

- The *Panel* said it will not make any recommendation on "whether a formal investigation of misconduct is merited", yet Dr. Kimball adopts the panel's conclusions as definitive "I have carefully reviewed the Panel Report and accepted it as definitive...". The result is faulty circular reasoning that dismisses the allegation without an investigation at any level.
- The aspects of the press release about which I complained were corrected. This action was a tacit admission of the validity of the concerns raised. This fact was a prominent part of the record assembled for the panel but never mentioned in the *Panel* report.

Point 5: Making up the rules as it went along.

- The *Panel* makes up a whole new standard as to whether the cited documents are "not inconsistent with" the underlying studies. Not only is this standard created out of whole cloth but it allows summaries to embellish or skew facts so long as not flatly contradicted by the studies. Despite this unsupported rationalization, this form of falsification clearly violates the scientific integrity policy.
- Based upon finding another inaccurate DOI press release, the panel concludes that it is "normal practice" for press releases to include hyperbole or nonexistent details. This suggests that press releases need not be accurate even though they are subject to the same rigorous DOI scientific integrity standards as all other documents.
- Despite generally agreeing that the *Summary* excluded climate change, contained false precision, excluded uncertainty and risks, and neglected to discuss additional required actions (beyond dam removal), the DISO concludes that these do not "meet the test for scientific misconduct" because they did not depart from normal practice, or because the *Summary* and

*Press Release* were not intended to be stand-alone documents. This despite the Policy calling for “accurate representation of scientific opinion in all communications.” This scientific misconduct test is absurd, bearing no resemblance to the *Policy* guidelines, and certainly does not garner public trust in its press releases or science summaries.

Point 6: The panel is unqualified and conflicted.

- Interior often convenes scientific integrity, peer review, and expert panels via sole-source contracts to companies (e.g. RESOLVE) that want repeat business; if the panel hired by the company does not find in favor of the Department, it may risk future business. There is no attempt to address these biases and conflicts of interest, and establish a panel with truly independent oversight. Further RESOLVE does not claim to have expertise or standards in scientific integrity, panel reviews or policy, making its relevance to this issue of concern.
- The *Panel* was led down a path by Dr. Steven Courtney of RESOLVE, who also prepared the panel report (which was never officially ratified by the *Panel*). Besides the obvious conflict of interest of a RESOLVE employee participating directly in the review, it is ironic that RESOLVE felt the need to assign another RESOLVE employee (Dr. Birkoff) to maintain independence.
- The *Panel* consisted of “scientific experts with expertise in the fields of fish ecology, hydrology, dam operations, and decision making in complex ecological management scenarios”. None, however, was an expert on scientific ethics, integrity, misconduct or policy. Yet, the *Panel* opined on whether inaccuracies were “disturbing” and whether deviations from prescribed practice were commonplace. These topics were both outside their stated expertise but elicited conclusions that appear to have little or no empirical basis. In fact, the Panel report makes virtually no mention of the Scientific Integrity Policy nor does it seem to use the Policy as a standard by which to do its evaluation.
- The panel did not know what standard of review it was supposed to employ. As the report states:

“Firstly, although there is a DOI and (recently adopted) BOR Code of Scientific Integrity and these codes apply to all Departmental or Bureau personnel, it is apparent that the details of implementing this policy have yet to be fully worked out. For instance, the code calls for accurate representation of scientific opinion in all communications. It is unclear whether scientific uncertainty needs to be extensively discussed in all press releases. It is desirable to avoid conveying ‘false precision’ when extracting salient points for press releases.”

This uncertainty reflects a fatal cluelessness. The DOI policy requiring accuracy clearly applies to all communications – including press releases. The inclusion of falsities, especially instances of

“false precision,” is clearly and unambiguously forbidden by the policy and cannot be shunted aside as simply less than “desirable” practices.

Point 7: Engaging a process antithetical to scientific integrity.

- It is interesting to note that the *Panel* concludes that the “exhaustive peer-review process [used to evaluate the Draft EIS/EIR] worked” because it identified some of the same issues identified in my allegation. However, the final science summary was never changed to address either my concerns or the concerns of the peer review. Finally, just as the *Panel’s* scope was limited by its statement of work, so was the draft EIS/EIR peer review. Note that the Draft EIS/EIR is preconditioned on the removal of the four Klamath PacificCorp dams, so questions as to whether removing the four dams is in the best interest of the fish are never asked by the research supporting the Draft EIS/EIR or by its subsequent peer review.
- In the evaluation of my second allegation, the panel also only considers the potential bias on the final September 21 press release, and not the draft that I expressed concerns about on September 14-15. In fact, the panel admits that the final release has a “more neutral title” and “the claims of the draft press release were substantially moderated as a result of the internal review.” While I agree that it is the only the final press release that is important for public consumption, the fact that I panel agrees with my assessment of draft press release positive bias and the implication of this bias being intentional and consistent with other Department press releases is a very serious and unaddressed scientific integrity issue.
- The DISO informed me of her decision to dismiss my February 24, 2012 allegation in a letter dated January 29, 2013. This letter made significant references to the August 2012 expert panel report, but did not actually provide the report. Rather, I was informed on March 19, 2013 that the *Panel* report was available on-line via a reporter that had obtained the report link from a Klamath Tribe contact [there is no direct link to the report from the Departmental scientific integrity web pages]. This report was only made available after repeated requests made to the DISO via phone/email, a December FOIA request and several requests from Congressional committees. Scientific integrity allegations and their handling should set an example of transparency, verifiable references, and timely action - all of which were lacking in the DSIO’s handling of this case.
- Standard scientific peer-review procedures allow for a dialogue to develop better information and resolve issues. The process employed in this case eschewed any dialogue or opportunity to respond to issues or questions as they arise in any analysis of the paper record.
- The inquiry process called for in the Policy is largely controlled by the DSIO and the Bureau Scientific Integrity Officer (BSIO) who have the authority to summarily dismiss the complaint after reviewing the submitted information. If they determine that an investigation is warranted,

then they can perform fact finding, and convene a panel of experts to advise them on the merits of the investigation. As written, these procedures give too much discretion to the DSIO and the BSIO to decide the fate of the complaint and the procedures by which it should be investigated.

- The oversight independence of the DSIO and the BSIO's are dubious since they report to the regular chain-of-command at the Department of the Interior. Additionally, the inquiry process calls for involving the subject's manager and Departmental leadership in the process with little regard for conflicts of interest.
- The DSIO, BSIO's and the Department leadership are naturally biased in favor of the Department, and against the complaint: they naturally want the Department to be found to uphold scientific integrity. However, this bias can also perturb the inquiry process. The obvious example here is that pre-written questions asked of expert panels can naturally lead the panel to a pre-determined conclusion.

The Department's Scientific Integrity Policy expects the Department to hold itself accountable. As evidenced by the numerous issues with this inquiry, and the fact that the Department has never found itself in violation, we really can't trust that the Department can responsibly implement its Scientific Integrity Policy. Besides the obvious conflicts of interest in having the Department evaluate itself, the policy is so vague that the Department is stumbling in the dark trying to figure out how to implement misconduct investigations. In this stumbling process, there is plenty of room for it to wiggle out of the allegations.

The bottom line is that through a very narrow panel charge and through its own de-scoping, the important aspects of my allegation were not evaluated, and no actual investigation was done. So, it seems my allegation really has not yet been addressed, and I don't expect that it will ever be addressed by the DOI.