

May 13, 2013

From: Dr. Corey S. Goodman

Re: insights from USGS response to FOIA request

When NPS released the Draft EIS in September 2011, they dismissed the 300,000 NPS photographs from the secret cameras, and detailed NPS logs, in a single sentence:

“Because the collection of these photos was not based on documented protocols and procedures, the body of photographs does not meet the Department’s standards for a scientific product. As a result, the photographs have not been relied upon in this EIS.”

The DEIS did include, however, other data without documented protocols, such as aerial photos, maps, and other data, not to mention use of data in a paper (Becker et al 2011) from 1982 and 1983 notebooks from Dr. Sarah Allen prior to when she worked for NPS and prior to current protocols for data collection. Nevertheless, the NPS dismissed the 300,000 photos and the detailed NPS logs that showed no DBOC disturbances of harbor seals over a three and one half year period.

The NPS received complaints that they failed to include the analysis of the photographs in the DEIS. As a result, instead of relying on the detailed NPS logs, NPS asked USGS to analyze the photos for seal disturbances. We don’t know when they asked. The first record (see emails below) is February 7, 2012.

The NPS FEIS (released November 20, 2012) found that the oyster farm had a “*moderate adverse impact*” on the harbor seals at Drakes Estero. This single determination had a significant impact on other findings in the FEIS, and on elected officials, the public, and media. After six years of false public claims, manipulated reports, and secret cameras – and millions of taxpayer dollars – NPS used the USGS Report to claim a moderate impact.

The NPS cited a 2012 USGS Report that analyzed, at NPS request, over half of the 300,000 time- and date-stamped NPS photographs of the oyster boats and harbor seals (from secret cameras operational for three and one-half years from 2007 to 2010). The USGS Report analyzed around 165,000 photos from the 2008 harbor seal pupping season. The FEIS quoted the USGS Report as concluding that on two occasions in 2008, oyster boats caused seals to flush into the water. This was a key finding for the FEIS.

There are, however, two major problems with this claim: NPS misquoted the USGS Report, and USGS misquoted the original harbor seal behavior expert’s findings (Dr. Brent Stewart of Hubbs SeaWorld Research Institute). In so doing, both agencies misrepresented the primary scientific analysis.

The USGS Report was authored by William Lellis, Carrie Blakeslee, Laurie Allen, Bruce Molnia, Susan Price, Sky Bristol, and Brent Stewart (all from USGS except Dr. Stewart who is from Hubbs-SeaWorld Research Institute). Dr. Lellis was the senior author.

On December 14, 2012, Cause of Action, a Washington D.C. non-profit focused on government accountability, submitted a FOIA request to USGS. USGS provided a 91-page response on May 8, 2013. Below is a timeline of quotations from emails produced by USGS in response to FOIA.

What this timeline shows is that the USGS analysis of the NPS photos relied on outside

harbor seal behavior expert Dr. Brent Stewart from Hubbs-SeaWorld Research Institute. Moreover, it was not just a small, technical part of the NPS FEIS. Rather, it was a **“very high profile”** project that had **“very high priority”** because it was needed for NPS **“to brief Secretary Salazar who needs to make a decision on Wilderness Status for the park.”**

A key author of the USGS Report wrote that **“the analysis must be done quickly because NPS needs to give their final report to Ken Salazar by March 30th.”** The USGS analysis involved officials at the very highest level of the Department of the Interior.

While the public was told that the USGS analysis was done independently, the emails reveal that NPS was intimately involved and **“chomping at the bit,” “breathing down my neck,”** and needed it done because **“they’ve got deadlines for deciding on the permit.”** NPS was constantly in the loop as USGS staff wrote of **“keeping the department informed.”** The analysis of the photos was kept **“on the fast track”** because it was needed to inform the Secretary for his decision.

In the end, who was briefed? Nearly five months prior to when both the NPS FEIS and USGS Report was released to the public, the following three people apparently were briefed about the USGS findings: USGS Director Dr. Marcia McNutt, Assistant Secretary Anne Castle (who oversees USGS and reports to the Secretary), and Assistant Secretary Rachel Jacobson (who oversees NPS and reports to the Secretary).

The USGS analysis of the NPS photos, based upon Dr. Brent Stewart’s analysis, was apparently presented to two Assistant Secretaries (Castle and Jacobson) in early July to help inform the Secretary’s decision. These emails suggest that the Secretary’s decision was indeed informed by the science. We imagine that the two Assistant Secretaries were presented the same misrepresentations found in the USGS Report.

We know that when Dr. Brent Stewart filed his report on May 3, 2012 with USGS, he found *“no evidence of disturbance”* of harbor seals by DBOC. We also know that when the USGS Report was released to the public nearly seven months later in November, it claimed Dr. Stewart found two examples of correlations of disturbances with DBOC boats, and when the NPS FEIS was released to the public in the same month, it claimed the USGS Report found two examples of causation of disturbances by DBOC boats.

What was presented to Director McNutt, Assistant Secretary Castle, and Assistant Secretary Jacobson in late June and early July? If they were presented with a finding that included anything other than *“no evidence of disturbance,”* then they were presented with false science to help the Secretary make his decision concerning the DBOC permit.

Brief timeline of key statements in USGS emails [bold emphasis added]:

- (1) February 7, 2012: Dr. William (Bill) Lellis, Deputy Associate Director, Ecosystems, USGS, writes to Carrie Blakeslee (USGS):
 - a. **“... very high priority animal behavior project** starting immediately?”
 - b. **“The NPS needs an evaluation of whether or not the photos can be used to determine disturbance events of seals.”**
 - c. **“The NPS needs this analysis done by the end of March to brief Secretary Salazar who needs to make a decision on Wilderness Status for the park.”**
 - d. **“This is a high profile project. Very high profile ...”**
- (2) March 5, 2012: Carrie Blakeslee to Sally Holl (USGS): **“The analysis must be done quickly because NPS needs to give their final report to Ken Salazar by March 30th.”**

- (3) April 20, 2012: Laurie Allen to Brent Stewart (Hubbs-SeaWorld Research Inst.): **"NPS is chomping at the bit (They've got deadlines for deciding on the permit,) ..."**
- (4) May 1, 2012: Laurie Allen to Brent Stewart: **"NPS will be breathing down my neck this week, when do you think you'll be able to transmit something?"**
- (5) May 15, 2012: Laurie Allen to Carrie Blakeslee: **"We need to keep this on the fast track, ..."**
- (6) June 18, 2012: Laurie Allen to Carrie Blakeslee: **"NPS knows about these developments and we are keeping the department informed."**
- (7) June 25, 2012: Bill Lellis to Carrie Blakeslee: "We have two briefings on Points Reyes: Tuesday, June 26, 3:00-4:00 pm. **USGS Director, Marcia McNutt**. Monday, July 2, 11:00-12:00 am. **Assistant Secretary of Interior for Water & Science, Anne Castle**."
- (8) June 26, 2012: Hannah Hamilton (USGS Liaison to Water and Science) to Bill Lellis and Anne Kinsinger: "The briefing date and time needed to be changed to: Tuesday July 3rd from 12noon – 1PM, same location, room 6641. We needed to accommodate **Rachel Jacobson's** schedule." [Jacobson was Acting Assistant Secretary of Interior for Fish and Wildlife and Parks]
- (9) December 3, 2012: Bill Lellis to Carrie Blakeslee: **"With Salazar's decision to not extend the lease, I wonder if they are closing the books on this"**

Detailed timeline:

- (1) February 7, 2012: Dr. William (Bill) Lellis, Deputy Associate Director, Ecosystems, USGS, writes to Carrie Blakeslee (USGS):
 - a. "Would you be interested in doing a 4-8 week detail to work with us in Reston on a **very high priority animal behavior project** starting immediately?"
 - b. "The NPS needs an evaluation of whether or not the photos can be used to determine disturbance events of seals."
 - c. **"The NPS needs this analysis done by the end of March to brief Secretary Salazar who needs to make a decision on Wilderness Status for the park."**
 - d. **"This is a high profile project. Very high profile, so we need to put our very best people on it."**
- (2) February 9, 2012: Carrie Blakelee to Bill Lellis:
 - a. "I have found quite a bit of information on Point Reyes National Seashore, Harbor seals, and mariculture in Drakes Estero, although I am sure there is still lots more to learn."
- (3) February 22, 2012: Carrie Blakeslee to Brannon Ketcham, NPS (PRNS), about uploading photos and help with the project
- (4) late February – getting photos transferred to USGS
- (5) by early March, making videos of photos (by Sky Bristol, USGS); Carrie to Sky: March 5 "everything moves very quickly at Reston!"
- (6) March 5, 2012: Carrie Blakeslee to Sally Holl (USGS, works for Sky Bristol): "I am currently working on a detail to determine if photographs taken by the NPS can be used to determine seal behavior or any changes in their behavior. **The analysis must be done quickly because NPS needs to give their final report to Ken Salazar by March 30th.**"
- (7) March 5, 2012: reply from Sally Holl to Carrie Blakeslee: "They are two people who definitely could write code to analyze 300,000 photographs in 2 weeks."
- (8) March 8, 2012: Carrie Blakeslee to Bruce Molnia (USGS): "By Monday I am expecting

- over 60 videos to be completed so we should be able to begin the analyzing process right away.”
- (9) March 13, 2012: :Laurie Allen (USGS) to Carrie Blakeslee: “There doesn’t seem to be a line for appearance of a non-human related object/ animal that could cause seals to react.”
 - (10) March 13, 2012: Carrie Blakeslee to “everyone” (4 USGS employees, or possibly student interns): “I forgot to mention this earlier, but if you come across any videos with seals where you believe they have been disturbed (whether due to human activity, or non-human activity) can you please e-mail me the video file name. I have to keep track of those specific videos to be sure they get sent to our marine mammal expert.”
 - (11) March 14-16, 2012: back and forth with Brannon Ketcham (NPS, PRNS) about missing photos, and his explanation that the gaps are real due to card space limitations or dead batteries. Brannon offers that while out of town, Carrie should contact Melanie Gunn.
 - (12) March 23, 2012 (Friday): Carrie to others: “We are moving along and hopefully will be done mid next week.”
 - (13) March 27, 2012: Steven Hak (USGS) to Carrie Blakeslee: “We finished the OB site today.”
 - (14) April 2, 2012 (Monday): Carrie Blakeslee to Bill Lellis and Laurie Allen: “I have compiled all of the photograph files we would like Brent to review and placed them on the ftp server at ... I have also attached a brief summary of what we did initially and what we are sending to Brent.”
 - (15) April 2, 2012: Laurie Allen to Brent Stewart (Hubbs-SeaWorld): “Looks like we’re ready to roll on this.”
 - (16) Laurie and Brent arranged to speak on Monday April 9, 2012.
 - (17) April 12, 2012: Carrie Blakeslee to Bruce Molnia (USGS): **“The photographs of interest were sent to Brent Stewart for further analysis and he is schedule to work on them for about 14 days.”** “We are in a bit of a waiting phase while Brent does his analysis ...”
 - (18) April 18, 2012: Carrie Blakeslee to Bill Lellis: “Can I reference the Marine Mammal Commission’s report and our involvement as the next step after that analysis?”
 - (19) April 18, 2012: Lellis responds to Blakeless: “Let’s keep it very simple.
 - a. “Initial analysis by the NPS indicated that the photographs were too x and/or too xxx to be of value in a seal disturbance analysis (citation).”
 - b. “The MMC studied a small portion of these photographs and concluded that they may be useful for xxx and recommended a more detailed analysis of xxx (citation).”
 - c. “The USGS was asked by the NPS to conduct an independent review of the photos for value in assessing use in determining cause and frequency of seal disturbance independent of other information with the following objectives (list objectives):”
 - (20) April 19, 2012: Carrie Blakeslee to Bill Lellis: “I did the math and we analyzed about 165,307 photographs for 2008 and sent Brent about 3,421 photographs for further analysis. So that’s only about 2% of the total photographs. Any news from Brent on how he is doing?”
 - (21) April 20, 2012: Laurie Allen to Brent Stewart: “Checking in” **“NPS is chomping at the bit (They’ve got deadlines for deciding on the permit,)** I told them we wouldn’t have anything before April 30, but wanted to make sure you were still on track to get us a written product by then. How is everything going?”
 - (22) April 27, 2012: Brent Stewart to Laurie Allen: “I’ve finished going through the

- photos and now working on report. I'm still in Philippines ... will get you report as soon as possible ..."
- (23) May 1, 2012: Laurie Allen to Brent Stewart: "**NPS will be breathing down my neck this week, when do you think you'll be able to transmit something?**"
- (24) May 1, 2012: Brent Stewart to Laurie Allen: "I'm in transit. ... Might have brief draft report to you before I leave Dubai if I can finish; otherwise when I arrive in San Diego tomorrow evening."
- (25) May 3, 2012: Brent Stewart to Laurie Allen: "Attached is a distilled summary narrative analysis and an Excel Workbook appendix to it. Please let me know if you need any additional feedback or detail." Attachments: "HSWRI Tech Rept 2012-378.pdf," and "Drakes Estero Harbor Seals HSWRI.xlsx"
- (26) May 4, 2012: Laurie Allen to Bill Lellis: "Here is Brent's report, how do we want to couple with Carrie's work?"
- (27) May 4, 2012: Bill Lellis to Carrie Blakeslee (referring to Stewart Report): "Can you please take the first shot at incorporating this information into your draft report?"
- (28) May 15, 2012: Laurie Allen to Carrie Blakeslee: "You did an excellent job on this report, it really states the case pretty plainly. ... **We need to keep this on the fast track,**" Concerning Bill Lellis: "If he asks again about doing more with these photos bring me in for reinforcements ..."
- (29) June 18, 2012: Laurie Allen to Carrie Blakeslee: "**NPS knows about these developments and we are keeping the department informed.**"
- (30) June 25, 2012: Bill Lellis to Carrie Blakeslee: "We have two briefings on Points Reyes: Tuesday, June 26, 3:00-4:00 pm. **USGS Director, Marcia McNutt.** Monday, July 2, 11:00-12:00 am. **Assistant Secretary for Water & Science, Anne Castle.** I can struggle through the one tomorrow, but I really, really need you at the one on Monday."
- (31) June 26, 2012: Hannah Hamilton (USGS Liaison to Water and Science) to Bill Lellis and Anne Kinsinger: "The briefing date and time needed to be changed to: Tuesday July 3rd from 12noon – 1PM, same location, room 6641. We needed to accommodate **Rachel Jacobson's** schedule." [Jacobson was Acting Assistant Secretary for Fish and Wildlife and Parks]
- (32) August 22, 2012: Carrie Blakeslee to Ray Sauvajot (NPS, Oakland) and cc Bill Lellis: "I have an external hard drive to mail to you with the photographs available from Drakes Estero, the videos we produced from the 2008 photographs, and the image sequences that were sent to Brent Stewart for further analysis for your record."
- (33) August 22, 2012: reply from Ray Sauvajot: "What's the timeline for a final report?"
- (34) August 22, 2012: reply from Bill Lellis: "The final report draft will be done this week and sent out for review."
- (35) October 3, 2012: Bill Lellis to Carrie Blakeslee; "I really need your help on this NPS report. There is something I just cannot figure out and the report needs to go out this week."
- (36) Blakeslee replied that she will be here all day. Lellis then replied on October 3: "Do you have a copy of Table 1 handy"
- (37) October 11, 2012: Bill Lellis to Sky, Bruce, Susan, and Brent: "Please find attached the latest draft of the NPS report regarding the Pacific Harbor Seal Photograph Analysis. Please review the report and send me your comments and edits."
- (38) October 29, 2012: Bill Lellis to Carrie Blakeslee: "Did you get input from any of these folks? I need to finalize."
- (39) October 31, 2012: Bill Lellis to Carrie Blakeslee: "Can you please call just to make sure they do not have any comments. The NPS needs a final report by this Friday so we are in a significant push right now to get things buttoned up."

- (40) October 31, Blakeslee responds: "I called Sky, Bruce, and Susan and ask them to look over the NPS report as soon as they could and get back to me with any edits or comments, but I do not have Brent Stewart's phone number to call him."
- (41) October 31, 2012: Bill Lellis emailed Stewart's phone number to Carrie Blakeslee
- (42) October 31, 2012: Carrie Blakeslee to Bill Lellis: "I called Brent and left him a voice message" at his office phone. We do not know if Dr. Stewart was out of the country. There is no evidence in the documents provided by USGS that they ever made contact with Dr. Stewart or that he ever responded.
- (43) November 26, 2012: Bill Lellis to all those involved including Brent Stewart: "The following USGS online publication was approved for release and has been made available to the public."
- (44) December 3, 2012: Bill Lellis to Carrie Blakeslee: **"With Salazar's decision to not extend the lease, I wonder if they are closing the books on this."**