

Emails before and after, and transcript of seven pages of notes from telephone conversation between Dr. Corey Goodman and Dr. William (Bill) Lellis (USGS)

December 7, 2012, from noon PT (3 pm ET) to 1:40 pm PT (4:40 pm ET)

(1) On December 3, 2012, I emailed Dr. Lellis with a series of questions including:

*Dear William Lellis,*

*I have a few questions regarding the USGS "Assessment of Photographs from Wildlife Monitoring Cameras in Drakes Estero, Point Reyes National Seashore, California." The web site says that I should address my questions to you. Many of my questions revolve around clarification of methodology.*

*First, your report says that you analyzed 165,282 NPS photographs from 2008. How did you pick the events to make into the individual videos? Did someone, or several people, go thru all of the 165,282 photographs to pick out the individual flushing events? To what extent did you rely on previous accounts of the photos, including the detailed NPS logs and/or the MMC report? What confidence do you have that you included all flushing events in the 2008 photos?*

*Second, for the 5/15/2008 event, you report that the video included 31 photos. Please provide me with the numbers of those photos.*

*Third, how many people analyzed each event? A single person, a pair of people, or more? In your assessment of each event, to find an association, and to consider the source of the disturbance, did all of the people who analyzed the event have to agree, or did you find differences of opinion? If there were differences, how did you reconcile them?*

*Fourth, all of the report authors except one are USGS employees. What role did the scientist from Hubbs-Seaworld play compared to the USGS scientists? Why did you turn to an outside scientist? Was he your major expert in harbor seal behavior?*

*Fifth, when did you complete your report? When did you file it with NPS so that they could include it in their final EIS?*

*Sixth, when comparing your USGS report to the way it is described in the NPS final EIS, I note a difference. You write about association which is another word for correlation. The final EIS claims that your report writes about attribution which is another word for causation. Do you believe that the final EIS correctly described your report? If not, have you said anything publicly or privately to NPS?*

*Thanks very much. I look forward to receiving your answers.*

*Sincerely yours,*

*Corey*

(2) On December 4, 2012, Dr. Lellis responded (below is an excerpt from a longer reply):

*Two people screened each video and recorded incidences of human activity, seal haulout, and potential flushing. This was done at the USGS. Photographs of potential flushing events and human activities were sent to Brent Stewart for analysis. As you noted, Brent was the harbor seal behaviorist on this project.*

(3) On December 5, 2012, I emailed Dr. Lellis:

*Bill,*

*Thanks very much for the lengthy answer.*

*3 pm on Friday sounds good. I'll be at 415 663-9495. Where can I reach you?*

*Yes, I do have the USGS report. Looking forward to discussing the issue on Friday. One question -- the harbor seal expert in San Diego (Brent Stewart) -- from what you wrote it sounds like you sent him the videos of the flushing events, and he did an evaluation of each one. I presume he was under some sort of contract with USGS. Did he file a written report or spreadsheet with his evaluations? In what form did he report back to you? Can I get a copy please. Judging by the internet, he is very well respected in the pinniped behavior world, and I'd be interested in seeing what he concluded. I've spent a bunch of time with some of these photos, and it would be interesting to see what a true expert said as compared to my own thoughts.*

*Thanks!*

*Best,*

*Corey*

(4) On December 5, 2012, Dr. Lellis responded:

*Yes, essentially that is Appendix 1 of the report. We sent him the information in Columns 1-3 (Date, Stimulus, # Photos) and he filled in the information in Columns 4, 5, and 12 (Evidence, Connection, Comments). From that we created Table 1 and posted the videos so people could examine the photographs and draw their own conclusions.*

*There were a few questionable incidences of "flushing" identified by our crew that I removed from the analysis. These were largely top of tide incidences involving a few seals that to me seemed like normal end of haulout evacuations. I can send you those dates/times if you have an interest.*

*Were you able to download and play the videos?*

*William Lellis*

- (5) As pre-arranged by email, Dr. Lellis called me at noon PT on Friday 12/7/12 to discuss the USGS Report. His office phone is 703 648-4061, and his mobile is 571 425-5555. Dr. Lellis is Deputy Associate Director, Ecosystems, USGS.
- (6) I asked him how the USGS analysis of the NPS photos came to be. He answered that NPS made the request of USGS Director Dr. Marcia McNutt and asking for the USGS opinion of the photos, if they were useful, and if so, whether they provided information on the correlation of human activity and seal behavior
- (7) Lellis said it was Bert Frost from NPS DC headquarters who made the request
- (8) When asked when, he answered "probably about 1 year ago"
- (9) Lellis said: Marcia McNutt asked me to oversee the analysis. I am Deputy Associated Director of Ecosystems. I had discussion with the core sciences group, a group that analyzes satellite photos. I put a team together thinking longer term. The project caught our attention.
- (10) In 2008, there were 2 cameras with 2 views. The OB camera angle was better.

After getting introduced to the project, we decided that the UEF camera was not useful.

- (11) We had a discussion with NPS about what data to analyze. Of the four years 2007-2010, the two years 2008 and 2009 were more complete. NPS did not steer us. We wanted a complete breeding season. We picked 2008.
- (12) The Marine Mammal Commission report came up in context. They recommended a more deep dive.
- (13) It was time consuming to make videos of the images. Each image had an image stamp, but the numbers reset with each time the camera was reset.
- (14) We first looked at sampling, how we might use it. We decided against sampling.
- (15) When asked if he had been familiar with the previous NPS claims, he said no.
- (16) When asked if he had been familiar with the detailed NPS logs, he said no. "I did see them only recently."
- (17) When asked if he had been familiar with the content of the MMC report, he said no.
- (18) I then told him about my background, how I got involved in this issue, what kind of claims NPS had made over the past 5-6 years concerning so-called harbor seal disturbances by the oyster farm, the 80% claim, etc.
- (19) Lellis responded: "I'm glad I didn't know about it. I'm glad I didn't have any influences." Lellis told me he did not know about the history of NPS claims concerning the harbor seals and oyster farm disturbances.
- (20) When asked why they did this analysis at headquarters, Lellis responded: "We thought it would take 1 to 2 weeks."
- (21) What did they do, and how did they do it? Lellis answered that they took the original photos and made them into videos. They wanted videos of when the seals were hauled out, not when the tide was in. They then had pairs of university students (working as interns at USGS) from the CAC division look at the videos. This division analyzes military satellite photos for public, not sensitive, issues.
- (22) The students, working in pairs, made a spreadsheet. There were 6-8 students. They recorded seals, boats, kayaks, and birds. They looked for human presence =/ - 10 minutes of when seals flushed into the water.
- (23) They then sent the videos with potential flushing events to Dr. Brent Stewart at Hubbs-SeaWorld Research Institute. How did they pick Brent? He was a harbor seal behavior expert with no contact with the controversy. Laurie Allen (USGS Ecosystems) had worked with NOAA and knows many of the top marine mammal experts around the world. She picked Brent.
- (24) It took near 1 year. Brent was never here. It took a long time. He would go away. He was willing to work with us. NPS offered to pay USGS for the study. USGS said no – we wanted no payment. But Brent Stewart needed to be paid for his analysis. Thus, we asked NPS to pay him. NPS contracted directly with Brent.
- (25) Brent Stewart filled out a spreadsheet. He filled it out in the spring.
- (26) Q. Did Brent file his report with NPS? A. He must have but we weren't involved.
- (27) USGS was looking for instances of correlation – human presence when seals

flushed. No way were we trying to determine cause and effect.

- (28) Lellis called the correlations “associations” in which seals flushed and people were walking nearby at the same time, within the field of view. He reiterated: no cause and effect. In fact, he told me that an association was not even a correlation – it was weaker.
- (29) He said they can’t see what is to the left or right that might be causing the behavioral change. “I don’t know if it is a disturbance or not.”
- (30) Brent’s job was to determine if there was a disturbance, and if so, what type. We couldn’t hear vocalizations. We also didn’t consider a change in body position. Those were not documented, because they could mean anything.
- (31) We considered a flush as movement toward or into the water, with or without a return to the original location. When writing, we referred to the MMC Report and its definitions.
- (32) Our original plan: does human activity effect seals? Does it affect their rate of coming and going? It was a correlative study. We were preparing for a bigger study.
- (33) I asked: who wrote the report? How did you write it? Lellis did not specifically answer who wrote it, although he took primary responsibility as the senior author. He told me they went thru Brent’s report, and when they had questions, went back and forth with Brent. He said Brent was the expert, and they relied on his analysis.
- (34) I asked him about whether appendix 1 in the USGS Report represented Brent’s spreadsheet. He said yes. They wrote where Brent said “no evidence of disturbance” to seals. He said they corrected spelling mistakes, punctuation mistakes, and cleaned up Brent’s entries. Otherwise, he said appendix 1 was essentially identical to Brent’s report.
- (35) We next discussed what the USGS supplied to NPS. He said it was a long process. He said it was not a scientific study, but rather an opinion. Within the DOI, one bureau asked another for their opinion. It was an iterative process.
- (36) After a few videos, they briefed Bert Frost. After one month or two. Some video clips. The photos were not so useful. Frost asked for more – for analysis of all of the videos.
- (37) Lellis briefed Bert again with numbers of videos, events with boats, events with flushing, a lot of numbers. 40 boat trips with no disturbances, no flushing.
- (38) We showed him videos of kayaks causing a disturbance. One incidence of correlation equaling cause and effect. Also showed one other of birds.
- (39) Finally, we wrote it up. Since it was opinion, and not a scientific paper, we considered a memo from Director to Director, but that be not be citable. Thus we considered an administrative report. This one is called an “open file report,” the USGS lowest level of a citable report. Bert asked for a citable format.
- (40) It was my fault that it was late in posting it. We finished it in early summer. We needed peer review. We went to three marine mammal people from NMFA, including one that Brent recommended. We went thru every video again. Found some things we had to straighten out in our report.
- (41) We delivered the draft report over the summer to NPS, to Ray Sauvajot. He was my point of contact. He came back several times. They did not ask us for changes in the data, rather they asked for clarifications of the writing.

- (42) At some point, Ray called me, said they were going to release the EIS, and asked if we can get the final release of the USGS report, so they released before we released.
- (43) Q. Have you seen the FEIS? A. No.
- (44) I told him that NPS used the word "attributed" in the FEIS. He said he wouldn't have used the word, rather "associated." Only the kayak, Lellis told me, was "attributed."
- (45) I asked him if Brent was the expert, and he said yes, Brent was the harbor seal behavior expert. They relied upon Brent for the analysis of potential disturbances.
- (46) I asked him about June 11, 2008. I noted to him that it said "cause unknown" and "no obvious disturbance of seals." I asked him how he concluded an association. He answered that it was a minor incident. Maybe conflicted. He was not trying to claim cause and effect.
- (47) As time went by, Bill read the words again and thought. I asked him again about concluding an association when Brent Stewart, according to the appendix, said no disturbance. Lellis answered: "There is a contradiction right there." "That would be a contradiction." "That is an obvious contradiction." "That didn't get caught in the review." "Only incident of seals flushing towards the water" 3 minutes prior to the boat arriving. "No cause and effect."
- (48) Lellis said: "This one intrigues me a lot." "I've watched this video quite a bit." "40 times boats came and went with no reaction. Here, there was a momentary reaction. Don't know if the boat or not. Maybe a helicopter. We don't know."
- (49) I next asked him about May 15, 2008. I note that in the appendix it does not quote Brent as saying "no evidence of disturbance." I start to ask him, and he interrupts. Lellis says to me: "Before we get to far along, I am the final author. We may have made some decisions that are not what Brent said."
- (50) He said Brent's report was not the final word, that there was some back and forth. This was quite different from what he told me at the beginning of the conversation. It was all triggered by my asking him about May 15. I asked him for a copy of Brent's spreadsheet. He told me it was nearly identical to appendix 1. I asked again. He did not offer to send it to me.
- (51) We discussed the May 15 so-called disturbance for quite a while. Lellis told me the boat "goes over to the other shoreline" using words almost identical to the MMC report. I asked him about causation. He said he had "no idea." He said the seals come right back out. It was a "minor flush."
- (52) He said the purpose of his report was to put the information out there "for everyone to make up their own opinion." I argued with that, saying he admitted no cause and effect except maybe the kayak and some birds.
- (53) I then told him that about 10-15 minutes after the May 15 incident, there were white birds (pelicans) that came in and a bunch of seals flushed into the water. "We missed that one."
- (54) I told him that people are going to use your information to claim that the oyster farm causes disturbances. We discussed June 11 again. Lellis said "I will go back and look at my notes" Concerning June 11, he again admitted it was a "contradiction."
- (55) We ended our conversation at 1:40 pm PT.

- (56) I emailed Lellis four days later on December 11 and once again requested a copy of Dr. Stewart's report and spreadsheet, and also asked him to reply to the contradiction concerning the account of June 11, 2008 in the text vs. in the appendix. I wrote:

*Bill,*

*Thanks for spending time on the phone last Friday.*

*Two requests. First, would you please send me a copy of Dr. Stewart's report and spreadsheet. Second, did you look any more at the June 11 2008 (did I get the date right?) disturbance and the contradiction with the appendix?*

*Thanks very much.*

*Corey*

- (57) After Lellis did not answer, I wrote back again two days later on December 13, 2008:

*Bill,*

*Any chance of getting both the Stewart report and your thoughts about June 11 2008 analysis?*

*Thanks,*

*Corey*

- (58) Dr. Lellis responded on December 13. He did not send me a copy of Dr. Stewart's report or spreadsheet. He did not respond about the June 11, 2008 so-called disturbance. Rather, he wrote:

*Hi Corey.*

*I'm really locked down right now between a Research Grade Evaluation Panel and budgetary preparations and contingency planning for multiple federal appropriations scenarios. I'll try to get back to you when I have a little time to focus. I need to put some thoughts down on paper about our conversation last week which really caught me off guard. We have come at this question from a very different angle than the one you were asking me about and it took me some time to understand that. In fact, I'm still not sure I understand it. We were looking at the forest. The approach you were discussing was looking at the trees. In fact, not just the trees, but a specific tree and perhaps even just the bark of that tree. I'm not sure if we completely missed the question we were being asked to address, or if somehow the conversation took a completely different direction after we became involved, but there really is a big disconnect in what we attempted to address in the report and what you were attempting to extract.*

*Let's talk after I've had time to gather my thoughts and revisit the report.*

*BTW, I was at the restaurant we discussed the other night and I ordered the cheese plate. The cheese in question was listed as "Point Reyes Original Blue". Are you familiar with that? It was quite good.*

*Cheers,*

*Bill*

- (59) Dr. Lellis never responded again. He never sent me Dr. Stewart's report

or spreadsheet. Three days later, on Sunday December 16, I spoke at length with then-USGS Director Dr. Marcia McNutt about this issue.