

TESTIMONY OF MARY L. KENDALL  
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BEFORE THE COMMITTEE ON NATURAL RESOURCES  
UNITED STATES HOUSE OF REPRESENTATIVES  
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Mr. Chairman and members of the Committee, I want to thank you for the opportunity to testify today about a recent Office of Inspector General (OIG) investigation that calls into question the ethical integrity of science-based decisions at the Department of the Interior (Department or DOI).

As you know, we recently issued a Report of Investigation on Deputy Assistant Secretary for Fish and Wildlife and Parks, Julie MacDonald. Our investigation was initiated based on allegations that MacDonald had unreasonably interfered with scientific findings relative to Endangered Species Act (ESA) issues; that she had conducted herself outside the chain of command by interacting directly with field personnel; and, in doing so, she had been heavy-handed with staff.

During the course of our investigation, we also discovered that MacDonald had provided non-public information to friends and colleagues outside of the Department and Federal Government. In one instance, this non-public information was provided to individuals who had litigation pending against the Department. The information provided to them served as the basis of a motion to re-open the record in Federal District Court.

Our investigation determined that MacDonald did inject herself personally in a number of ESA issues, particularly those that had the potential to impact her home state, California. Although ESA issues were clearly within the realm of her responsibilities, MacDonald involved herself far more profoundly than might be expected of a Deputy

Assistant Secretary. Based on our interviews, it became clear that MacDonald's management style was abrupt and abrasive, if not abusive. Her conduct demoralized and frustrated her subordinate managers, intimidated field personnel, and led to at least one instance in which the substitution of her judgment for that of the field was simply wrong, and was promptly overturned by the court.

An issue of equal concern, however, was our discovery of the release of non-public information by Ms. MacDonald to her friends and colleagues – to lawyers and lobbyists who had interests in variance with the Department, and to an individual with whom MacDonald became acquainted through internet role-playing games. Ms. MacDonald's various, and sometimes contradictory, explanations for releasing information that she knew was not releasable, suggests that she was uninformed, disingenuous or both. Although Ms. MacDonald claimed that she tried to respond to everyone when asked for information, our investigation made clear that close acquaintance with Ms. MacDonald equated to special access to information and documents. That she failed to recognize the seriousness of these actions is most disconcerting.

As you know, we are conducting a follow-on investigation into Ms. MacDonald's role in the decision to withdraw the Sacramento Splittail, as well as some related ethics issues. Our preliminary findings suggest that while she should probably have recused herself from involvement in the Sacramento Splittail decision due to a conflict of interest, Ms. MacDonald did not appear to materially affect the outcome of this particular decision with her involvement. We are continuing to investigate several attendant ethics/conflict of interest issues related to this matter.

Overall, the impact of Ms. MacDonald's conduct on the Department of the Interior has been considerable. It has cast a vast cloud over the Department's scientific integrity. Having reviewed the ESA decisions in which Ms. MacDonald involved herself, the Department has determined that eight additional decisions must now be reviewed, and perhaps, reversed or modified. Other decisions may be at risk for legal challenge, simply by virtue of Ms. MacDonald's personal involvement. These impacts will undoubtedly be both time-consuming and costly.

This is not the first time that the Office of Inspector General has been called upon to investigate allegations of scientific misconduct, although it is the first case that involved someone at the Deputy Assistant Secretary level. More than five years ago, following our investigation into allegations of tampering with scientific field samples and findings related to an ESA study, we recommended that the Secretary ask the Department's Chief Scientist to convene a workgroup consisting of internal and external scientists to review and make recommendations on how to restore rigorous science to the Endangered Species Program, and to design and implement a DOI Scientific Code of Ethics. While an effort was undertaken to develop a Draft Code of Scientific Conduct, it has never been finalized or issued Department-wide. While we believe that this code needs to be revived in its present form applicable primarily to employees and volunteers who participate in "hands-on" scientific activity, we also believe that it needs to be expanded to specifically include policy-makers, like Ms. MacDonald.

It would be unproductive to speculate as to whether or not such a policy might have prevented the inappropriate conduct of Ms. MacDonald in this instance. This case, however, highlights the need for just such a policy, one in which clear expectations – of

scientists and policy-makers, alike – are articulated, and processes are established by which disputes and differences of opinion can be efficiently and constructively resolved.

The Inspector General has testified previously about ethics failures on the part of senior Department officials – taking the form of appearances of impropriety, favoritism, and bias. Ms. MacDonald is among a number of high-level Interior officials who have left the Department under the cloud of OIG investigations into bad judgment and misconduct.

As recently as last week, the Inspector General had a discussion with Secretary Kempthorne about this very matter, and advised him of the stalled policy document and the need to expand its application. We are hopeful that somehow the Congress, the Secretary, and the Office of Inspector General can work together constructively to rid the Department of conduct that brings disrepute to its programs and decisions, and replace it with an ethical culture in which honest differences can be resolved, and sound, science-based decisions are advanced with integrity and transparency.

This concludes my formal testimony. Thank you for the opportunity to appear before the Committee today. I will be happy to answer any questions you may have.