

Congress of the United States
Washington, DC 20515

October 18, 2011

Dr. John Holdren
Director
Office of Science and Technology Policy
Executive Office of the President
725 17th St., Room 5228
Washington, D.C. 20502

Dear Dr. Holdren:

We write to ask for your assistance in helping us better understand the apparent collapse in the quality of scientific work being conducted at our federal agencies. Specifically, we are concerned with data quality, integrity of methodologies and collection of information, agencies misrepresenting publicly the weight of scientific “facts,” indefensible representations of scientific conclusions before our federal court system, and our fundamental notions of “sound” science.

When you were nominated as White House Science Advisor, the President and you personally promised that sound science would be a pillar of this administration. In fact, President Obama stated in his Inaugural speech to “restore science to its rightful place.”¹ On March 9, 2009, President Obama issued a *Presidential Memorandum on Scientific Integrity* emphasizing the importance of science in guiding Administration decisions and the importance of ensuring that the public trusts the science behind those decisions.²

Public trust in federal scientific work is waning and the academic community has gone so far as to call the situation a “crisis.”³ Accordingly, we request that you provide us with an accounting of your activities in response to serious questions raised about the quality of science utilized by this Administration.

We identify in this letter important examples of agency scientific misconduct. For each example, we would appreciate thorough responses to the questions we provide. These are major scientific issues that have had, and will continue to have, significant implications on our struggling economy. We are hopeful that in each instance highlighted you took it upon yourself as White House Science Advisor to give appropriate advice to the President and/or relative federal agency.

¹ President Barack Obama's Inaugural Address, January 21, 2009

² MEMORANDUM FOR THE HEADS OF EXECUTIVE DEPARTMENTS AND AGENCIES, SUBJECT: *Scientific Integrity*, March 9, 2009. <http://www.whitehouse.gov/the-press-office/memorandum-heads-executive-departments-and-agencies-3-9-09>

³ Thomas Burke, associate dean of The Johns Hopkins Bloomberg School of Public Health, *Key Adviser Warns EPA To Improve Agency Science Or Face A 'Crisis'*, Inside EPA, July 8, 2011

IG investigation of National Academy of Engineers Report (Department of Interior)

On November 9, 2010, an Inspector General (IG) investigation revealed that the Department of Interior (Interior) inappropriately manipulated a 30-day report by the National Academy of Engineers.⁴ The IG investigation showed that not only had Interior violated the Information Quality Act, but there was direct involvement by the White House, specifically Carol Browner, to manipulate the summary document in violation of peer-review protocol. As you are aware, the National Academy of Engineers is a member organization of the National Academies. The investigation revealed blatant political influence, on what should have been an independent scientific assessment, to inaccurately represent the views of a particular team of scientists.

1. When this IG report became public, who did you contact at Interior to discuss scientific integrity and allegations that Interior violated peer reviewed protocol?
2. Did you speak directly with Secretary Salazar or anyone else identified in the IG report?
3. What was the content of your conversations with the President and Carol Browner, as well as any other White House officials?
4. What firewalls did you put in place at the White House to prevent future political influence from interfering with an independent scientific report?
5. What actions were taken at both Interior and the White House, or otherwise government-wide, as a direct result of your efforts following the IG's findings?
6. What are your suggestions for strengthening the Information Quality Act in light of this incident specifically?
7. Please provide all documents and communications referring or relating to your response to the IG's investigation of the report released by the National Academy of Engineers.

National Research Council Review of IRIS Formaldehyde Assessment (Environmental Protection Agency):

On April 8, 2011 a National Research Council (NRC) panel of independent scientists blasted the quality of work that was being done by the EPA's Integrated Risk Information System (IRIS) chemical assessment program.⁵ They found that EPA's scientific work did not

⁴ Investigative Report, *Federal Moratorium on Deepwater Drilling*, U.S. Department of Interior, Office of Inspector General, November 8, 2010.

<http://www.doi.gov/images/stories/reports/pdf/DeepwaterMoratoriumPublic.pdf>

⁵ *Review of the Environmental Protection Agency's Draft IRIS Assessment of Formaldehyde*, National Research Council of the National Academies, April 8, 2011.

<http://www8.nationalacademies.org/onpinews/newsitem.aspx?RecordID=13142>

support EPA's scientific conclusions. They found the problem to be one that is recurring at the agency.⁶

According to the NRC:

Overall, the committee found that EPA's draft assessment was not prepared in a logically consistent fashion, lacks clear links to an underlying conceptual framework, and does not sufficiently document methods and criteria used to identify evidence for selecting and evaluating studies. Moreover, many of the general problems with the EPA formaldehyde health assessment have been identified by other Research Council committees that reviewed other EPA chemical assessments in recent years. For instance, there have been recurring problems with clarity and transparency of the methods, even though the documents have grown considerably in length. The committee concluded that if the methodologic issues are not addressed, future assessments may suffer from the same general problems highlighted in this report.⁷

In fact, the Administration was warned on June 30th of this year by Thomas Burke, associate dean of The Johns Hopkins Bloomberg School of Public Health that the situation borders on a "crisis."⁸ Burke further stated "the sleeping giant is that EPA science is on the rocks . . . if you fail, you become irrelevant."⁹

1. When the NRC report became publicly available, did you contact EPA to discuss data quality, weight of evidence protocol, and methodological standards? Who did you speak with?
2. Did you speak directly with Administrator Jackson or Dr. Anastas?
3. What was the content of your conversations with EPA leadership and when did these conversations occur?
4. What was the content of your conversations with the President as well as any other White House officials?
5. What actions were taken at the EPA or other federal agencies as a direct result of your efforts following the NRC report?
6. What are your suggestions for strengthening the Information Quality Act in light of this incident?

⁶ *Id.*

⁷ *Id.*

⁸ Thomas Burke, associate dean of The Johns Hopkins Bloomberg School of Public Health, *Key Adviser Warns EPA To Improve Agency Science Or Face A 'Crisis'*, Inside EPA, July 8, 2011

⁹ *Id.*

7. Please provide all documents and communications referring or relating to your reaction to NRC's criticism of EPA's Integrated Risk Information System (IRIS) chemical assessment program.

U.S. District Judge Oliver Wanger's Decision, Criticizing Agency Scientific Work and Testimony in Federal Court (Department of Interior)

On September 16, 2011, Judge Oliver Wanger ruled on the quality of scientific work Interior Department was utilizing for potential water allocations to California farmers.¹⁰ In 2009, Deputy Secretary David Hayes failed to recuse himself from a significant scientific matter for which he had long held a personal agenda as a lobbyist and attorney. Deputy Secretary Hayes worked directly to force approximately 200,000 acres of farmland out of production by restricting necessary water. The resulting "agency made" drought ruined lives, put many people out of work, and devastated the affected local economies.¹¹

Judge Wanger expressed strongly negative views on Hayes' scientific "leadership" and of the testimony presented by the two agency scientists:

I am going to make a very clear and explicit record to support that finding of agency bad faith because, candidly, the only inference that the court can draw is that it is an attempt to mislead and to deceive the court into accepting not only what is not the best science, it's not science. There is speculation. There is primarily, mostly contradicted opinions that are presented that the court finds no basis for, but they can't be anything but false because a witness can't testify under oath on a witness stand and then, within approximately a month, make statements that are so contradictory that they're absolutely irreconcilable with what has been stated earlier.¹²

Further stating:

The court finds that Dr. Norris's testimony, as it has been presented in this courtroom and now in her subsequent declarations, she may be a very reasonable person and she may be a good scientist, she may be honest, but she has not been honest with this court. I find her incredible as a witness. I find her testimony to be that of a zealot. I'm not overstating the case, I'm not being histrionic, I'm not being dramatic. I've never seen anything like it. And I've seen a few witnesses testify.¹³

And perhaps the Judge's most damning statements on Interior's scientific work:

¹⁰ Ruling on Interior Department Motion to Stay, The Consolidated Delta Smelt Cases, UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF CALIFORNIA, September 16, 2011

¹¹ *California's Man-Made Drought, The green war against San Joaquin Valley farmers*, Wall Street Journal, SEPTEMBER 2, 2009. <http://online.wsj.com/article/SB10001424052970204731804574384731898375624.html>

¹² Ruling on Interior Department Motion to Stay, The Consolidated Delta Smelt Cases, UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF CALIFORNIA, September 16, 2011

¹³ *Id.*

The United States, as a sovereign, has a duty not only in dealing with the court but in dealing with the public to always speak the truth, whether it's good or bad. It's never about winning and losing. It's always about doing justice. And in the final analysis, protecting endangered species is crucially important. It's a legislative priority. And even the plaintiffs don't dispute that. But when it overwhelms us to the point that we lose objectivity, we lose honesty, we're all in a lot of trouble. Serious, serious trouble.¹⁴ [emphasis added]

Let us direct you to the specific terminology Judge Wanger used to describe the quality of scientific work and representations made by the agency. He used the words: "inconsistent", "misleading", "bad faith", "that of a zealot", "unworthy of belief", and finally he expressed sadness and "remorse for our justice system for what has been placed before the court."¹⁵

1. Deputy Secretary David Hayes had direct and personal responsibility over this debacle. Have you had conversations with Hayes about DOI's work on water allocations for California farmers? If so, what was the content of those conversations?
2. What direction have you given to Secretary Salazar and Deputy Secretary Hayes in regards to future standards for scientific information intended to be presented in a court of law?
3. Following Judge Wanger's ruling, do you agree with the Fish and Wildlife Service's regional director that "fully, 100%, stand[s] behind the scientific integrity and credibility"¹⁶ of the two chastised scientists? Do you have concerns that no investigation at the agency has been initiated?
4. Do you intend to initiate investigations into the scientific integrity of the work of the two scientists involved, and do you intend to investigate Deputy Secretary Hayes as to his involvement in the agency's misrepresentation of scientific fact in a federal court?
5. Have you discussed this matter with anyone at the White House?
6. What are the specific actions you intend to take on this matter?
7. What are your suggestions for strengthening the Information Quality Act in light of this incident?
8. Please provide all documents and communications referring or relating to your reaction to Judge Oliver Wanger's criticism of Interior.

¹⁴ *Id.*

¹⁵ Brandon Middleton, *Wanger Court: Environmental "Bad Faith" Exposed Again!*, Families Protecting the Valley Newsletter, VOLUME 3 ISSUE 56, September 16, 2011

¹⁶ Ruling on Interior Department Motion to Stay, The Consolidated Delta Smelt Cases, UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF CALIFORNIA, September 16, 2011

Following Judge Wanger's ruling, Senator Feinstein (D-CA) stated that "it is increasingly clear to me that key biological opinions done by the Department of Interior are not based on sound science."¹⁷

1. Do you believe Senator Feinstein's statement has merit?
2. Do you intend to meet with Senator Feinstein directly on this matter and if so would you be interested in having a joint meeting to discuss the challenges with Interior Department science and steps forward to reform Interior Department scientific work?
3. What specific steps have you taken to improve biological opinions done by the agency and to address individual scientists whose work clearly does not meet standards of integrity under the Information Quality Act?

GAO Report on Yucca Mountain and IG Investigations into the Actions of DOE Secretary Chu and NRC Chairman Gregory Jaczko (Department of Energy and Nuclear Regulatory Commission)

Congress has consistently raised concerns in response to the Obama Administration's policies that are detrimental to civilian use of nuclear energy. However, there are a few specific items that directly relate to scientific integrity, decision making, and the possibility of inappropriate political influence. The instances are as follows:

May 10, 2011 GAO Report on DOE's Yucca Mountain Closure

In May 2011, GAO released a report critical of the process by which the Obama Administration decided to shut down Yucca Mountain as a long term storage site for nuclear waste. In the report, GAO noted that, "Amid uncertainty over whether it had the authority to terminate the Yucca Mountain repository program, DOE terminated the program without formally assessing the risks stemming from the shutdown, including the possibility that it might have to resume the repository effort."¹⁸ GAO also stated that "the actions DOE took would appear to be insufficient in light of the facts" and that "Several DOE officials told us [GAO] that they had never seen such a large program with so much pressure to close down so quickly."¹⁹

1. Is it in the interest of sound science for an agency not to assess the risks before taking a major action as it relates to our civilian and defense nuclear programs?

In addition, GAO stated, "The actions DOE took would appear to be insufficient in light of the facts."²⁰

¹⁷ *Id.*

¹⁸ Mark Gaffigan, *Commercial Nuclear Waste: Effects of a Termination of the Yucca Mountain Repository Program and Lessons Learned* April 8, 2011, available at <http://www.gao.gov/products/GAO-11-229>.

¹⁹ *Id.*

²⁰ *Id.*

2. What are your suggestions for strengthening the Information Quality Act in light of this statement specifically?
3. Do you believe sound science dictates that a multi-year, multi-billion dollar, program related to securing and containing nuclear waste should receive such pressure to terminate without scientific assessment of the potential impacts?

June 2011 House Science, Space, and Technology Committee Report “Yucca Mountain: The Administration’s Impact on U.S. Nuclear Waste Management Policy

“Despite numerous suggestions by political officials—including President Obama—that Yucca Mountain is unsafe for storing nuclear waste, the Committee could not identify a single document to support such a claim. To the contrary, the Committee found great agreement among the scientific and technical experts responsible for reviewing the suitability of Yucca Mountain—considered by many to be —the most studied piece of land on Earth—that nuclear waste can be safely stored at the site for tens of thousands of years in accordance with Nuclear Regulatory Commission (NRC) requirements. Most noteworthy in this regard is Volume III of the NRC’s Safety Evaluation Report (SER)—a comprehensive technical evaluation of site safety critical to advancing licensing and construction of the Yucca facility. Obtained by the Committee only after repeated demands and over the objections of the NRC Chairman, SER Volume III demonstrates in excruciating detail the level of technical support among NRC and Department of Energy (DOE) experts in favor of the site’s advancement: the Committee found that NRC agreed with over 98.5 percent of DOE’s findings regarding the site’s suitability to meet regulatory requirements. The remaining 1.5 percent did not impact the NRC staff’s overall conclusions, which found that DOE’s Yucca Mountain License Application complies with applicable NRC safety requirements, including those related to human health and groundwater protection, and the specific performance objectives called for in NRC regulations for disposal of high-level radioactive wastes at Yucca Mountain (10 CFR 63.113-115).

“FINDING #17: Not a single document provided to the Committee by the Nuclear Regulatory Commission found that the Yucca Mountain Project was not safe or viable.”

“FINDING #18: The NRC staff review of DOE’s Yucca Mountain License Application detailed in SER III agreed overwhelmingly with DOE on the scientific and technical issues associated with the site, ultimately concluding that the application complies with applicable NRC safety regulations necessary for the site to proceed to licensing for construction.”

1. What is the specific scientific basis for the conclusion that Yucca Mountain is unsafe?

2. The NRC is the independent agency statutorily charged with making a determination of the safety of the proposed repository. What scientific issues concern you that the NRC staff failed to consider?
3. In making the decision to terminate the project, how do you believe the Administration most closely followed the President's principles and directives related to scientific integrity, openness, and transparency?

IG Investigations of the Actions of NRC Chairman Gregory Jaczko

One IG report has already been made public criticizing the actions and professionalism of Chairman Jaczko.²¹ We have only a few specific questions based on your professional scientific opinion:

1. Do you believe Chairman Jaczko's March 16th statement before the House Energy and Commerce Committee that there was no water left in the Fukushima Daiichi's Unit 4 spent fuel pool was based on sound science?
2. Do you believe the radiation dose modeling used by Chairman Jaczko as a basis for the recommendation to evacuate all Americans within fifty miles of the Fukushima Daiichi site, and released to the media, was developed and used appropriately? Did you review or approve this information prior to the recommendation? Do you feel it was appropriate to release the radiation dose modeling without the corresponding assumptions? Do you believe the radiation dose modeling provided to the public was the primary basis for the fifty mile evacuation recommendation?
3. The Japanese Government recently relaxed its evacuation recommendations and now allows residents to return to areas outside a twelve-mile radius of the Fukushima Daiichi site. What is the scientific basis for maintaining a fifty-mile evacuation perimeter for Americans?
4. Have you personally met with Chairman Jaczko to discuss the quality of scientific information and conclusions he has presented publicly?
5. What are your suggestions for strengthening the Information Quality Act to ensure the quality of scientific work presented by the NRC?
6. Please provide all documents and communications referring or relating to the scientific basis for the recommendation to evacuate for all US citizens residing within 50 miles of the Fukushima Daiichi site.


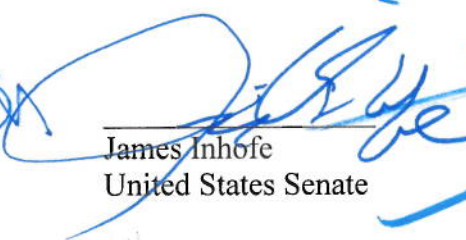

²¹ NRC Chairman's Unilateral Decisions to Terminate NRC's Review of DOE Yucca Mountain Repository License Application (OIG Case No. 11-05) Office of the Inspector General, June 6, 2011

The Committee on Oversight and Government Reform is the principal oversight committee of the House of Representatives and may at "any time" investigate "any matter," as set forth in House Rule X. An attachment to this letter provides additional information about responding to the Committee's request. In preparing your answers to these questions, please answer each question individually and include the text of each question along with your response.

We request that you provide the documents and information as soon as possible, but no later than 5:00pm on November 2, 2011. When producing documents to the Committee, please deliver production sets to the Majority Staff in Room 2471 of the Rayburn House Office Building. The Committee prefers, if possible, to receive all documents in electronic format.

In terms of much needed scientific scrutiny the aforementioned items are obvious. You are in a unique position as White House Science Advisor to have had the most influence over the last three years on federal agency action and advice to the President. Your informing us of your specific actions in each situation as it arose would be most beneficial and would help us know what steps to take to advance science to its "proper place" and to ensure that "sound science" wins the day. Indeed it is in the interest of every United States citizen and our national economy.

Sincerely,

		
David Vitter United States Senate	James Inhofe United States Senate	Darrell Issa U.S. House of Representatives

Cc: President Barack Obama,
The Honorable William Daley, White House Chief of Staff
The Honorable Cass Sunstein, Administrator, White House Office of Information and Regulatory Affairs
The Honorable Lisa Jackson, Administrator, Environmental Protection Agency
Dr. Paul Anastas, Science Advisor, Environmental Protection Agency
The Honorable Ken Salazar, Secretary of the Interior
The Honorable David Hayes, Deputy Secretary, Department of Interior
The Honorable Jane Lubchenco, Administrator, National Oceanic and Atmospheric Administration
The Honorable Gregory Jaczko, Chairman, U.S. Nuclear Regulatory Commission
The Honorable Elijah Cummings, Ranking Member, Oversight and Government Reform
The Honorable Dennis Kucinich, Ranking Member, Oversight and Government Reform Subcommittee on Regulatory Affairs, Stimulus Oversight, and Government Spending