



Rodger Schlickeisen

President & Chief Executive Officer

National Headquarters

1130 17th Street, N.W. | Washington, D.C. 20036-4604 | tel 202.682.9400 | fax 202.682.1331
www.defenders.org

September 25, 2009

Geospatial Information Office (GIO)
U.S. Geological Survey
National Center
Reston, VA 20192

Re: Complaint About Information Quality

Dear Sir or Madam:

We seek correction of information disseminated by the U.S. Geological Survey (USGS) pursuant to the Information Quality Act, 44 U.S.C. § 3516 note ("IQA"), the "Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Disseminated by Federal Agencies" issued by the Office of Management and Budget ("OMB Guidelines"),¹ the 2004 OMB "Final Information Quality Bulletin for Peer Review" ("OMB Peer Review Bulletin"), the "Information Quality Guidelines" of the Department of the Interior ("Interior Guidelines"),² and the USGS "Guidelines for Ensuring the Quality of Information Disseminated to the Public" ("USGS Guidelines"), which incorporate the Interior Guidelines by reference.³

Specifically, we seek correction of the information presented by USGS Director Mark D. Myers in a memorandum to the Director of the U.S. Fish and Wildlife Service (FWS) and the Solicitor of the Department of the Interior dated May 14, 2008 regarding, "The Challenges of Linking Carbon Emissions, Atmospheric Greenhouse Gas Concentrations, Global Warming, and Consequential Impacts" ("USGS memorandum").⁴ This information fails to satisfy the standards in the OMB, Interior and USGS Guidelines, and also fails to comply with the requirements of the OMB Peer Review Bulletin. As of this date, to our knowledge, the USGS memorandum and the FWS and Solicitor guidance based on that memorandum have not been withdrawn or modified; nor has any action been taken to assure that the USGS memorandum complies with the guidelines and standards cited herein.

Requirements of the OMB Peer Review Bulletin and the OMB, Interior and USGS Guidelines

¹ 67 Fed. Reg. 8452 (Feb. 22, 2002).

² <http://www.doi.gov/ocio/guidelines/515Guides.pdf> (accessed September 23, 2009).

³ http://www.usgs.gov/info_qual/#guidelines (accessed September 23, 2009).

⁴

http://www.doi.gov/issues/polar_bears/challengesoflinkingcarbonemissions3.pdf (accessed September 23, 2009).

The Interior Guidelines state the following:

“Before disseminating information to members of the public, the originating office within the Department must ensure that the information is consistent with the OMB, Departmental, and bureau or office guidelines and must determine that the information is of adequate quality for dissemination. If the information is influential, the Department will provide for more rigorous review of the conclusions than the review performed by the originating office.”

The Interior Guidelines further require disseminated information to be developed from reliable methods to ensure information quality, and that the “Department’s methods for producing quality information will be made transparent, to the maximum extent practicable, through accurate documentation, use of appropriate internal and external review procedures, consultation with experts and users, and verification of its quality.” Additionally, the Interior Guidelines state that “[i]f the Department is responsible for disseminating influential scientific, financial, or statistical information, Departmental guidelines shall include a high degree of **transparency** about data and methods to facilitate the **reproducibility** of such information by qualified third parties” (emphasis in original). According to the USGS Guidelines, “the scientific information it disseminates will have a high degree of transparency regarding (1) the source of the data used, (2) the various assumptions employed, (3) the methods applied, and (4) the statistical procedures employed.”

Section II of the OMB Peer Review Bulletin states, “To the extent permitted by law, each agency shall conduct a peer review on all influential scientific information that the agency intends to disseminate.”

The terms in the above-cited requirements that are relevant to this complaint are defined under the Interior Guidelines and OMB Peer Review Bulletin as follows:

1. The term “dissemination” means “agency initiated or sponsored distribution of information to the public.”
2. The term “scientific information” means “factual inputs, data, models, analyses, technical information, or scientific assessments related to such disciplines as the behavioral and social sciences, public health and medical sciences, life and earth sciences, engineering, or physical sciences.” The term “includes any communication or representation of knowledge such as facts or data, in any medium or form” and further includes “information that an agency disseminates from a web page.” The definition excludes opinions, but only “where the agency’s presentation makes clear that an individual’s opinion, rather than a statement of fact or of the agency’s findings and conclusions, is being offered.”
3. The term “influential scientific information” means “scientific information the agency reasonably can determine will have or does have a clear and substantial impact on important public policies or private sector decisions.”

Additionally, the OMB Peer Review Bulletin states that a “scientific assessment is considered ‘highly influential’ if the agency or the OIRA Administrator determines that the dissemination

could have a potential impact of more than \$500 million in any one year on either the public or private sector or that the dissemination is novel, controversial, or precedent-setting, or has significant interagency interest.”

The USGS Memorandum Is Subject to IQA Requirements

The USGS memorandum from Director Myers to the FWS Director and Interior Department Solicitor unequivocally is subject to the requirements of the OMB Peer Review Bulletin and the OMB, Interior and USGS Guidelines.

First, there clearly was “dissemination” by USGS and the Interior Department of the information provided in the USGS memorandum. USGS and the Interior Department “initiated distribution of the information to the public” by making it prominently available on the Department’s web site information regarding protection of polar bears.

Second, the USGS memorandum presents “scientific information.” For example, in his memorandum, Director Myers states the following:

“In response to a request from Dale Hall, Director, U.S. Fish and Wildlife Service, the U.S. Geological Survey has summarized some of the latest climate results from the science community in defining CO₂ loading from individual actions and specific biological responses. These results indicate that current science and models cannot link individual actions that contribute to atmospheric carbon levels to specific responses of species, including polar bears.”

“It is currently beyond the scope of existing science to identify a specific source of CO₂ emissions and designate it as the cause of specific climate impacts at an exact location.”

The above statements undeniably constitute “scientific assessments related to such disciplines as the behavioral and social sciences, public health and medical sciences, life and earth sciences, engineering, or physical sciences.” Also, it is beyond question that the USGS memorandum is “a communication or representation of knowledge such as facts or data, in any medium or form” and further includes “information that an agency disseminates from a web page.” Director Myers’ presentation makes clear that the information conveyed in his memorandum is not his opinion or any other “individual’s opinion,” but rather that “a statement of fact or of the agency’s findings and conclusions is being offered.”

The scientific information presented in the USGS memorandum further clearly constitutes “influential scientific information.” The memorandum was produced in response to a request from the FWS Director for guidance. On the same date as issuance of the USGS memorandum (May 14, 2008), FWS Director Dale Hall issued a memorandum to FWS Regional Directors stating the following:

“Based on the attached memorandum to me from the Director of the U.S. Geological Survey, however, the Service does not anticipate that the mere fact that a Federal agency authorizes a project that is likely to emit GHG [greenhouse gases] will require the initiation of section 7 consultation.”

“The best scientific data available today do not allow us to draw a causal connection between

GHG emissions from a given facility and effects posed to listed species or their habitats, nor are there sufficient data to establish that such impacts are reasonably certain to occur. Without sufficient data to establish the required causal connection—to the level of reasonable certainty—between a new facility’s GHG emissions and impacts to listed species or critical habitat, section 7 consultation would not be required to address impacts of a facility’s GHG emissions.”

On October 3, 2008, the Solicitor issued a memorandum to the Secretary of the Interior regarding “Guidance on the Applicability of the Endangered Species Act’s Consultation Requirements to Proposed Actions Involving the Emission of Greenhouse Gases.” In that memorandum, the Solicitor cited the USGS memorandum and its assessment therein that “[i]t is currently beyond the scope of existing science to identify a specific source of CO₂ emissions and designate it as the cause of specific climate impacts at an exact location.” The Solicitor then concluded:

“Based on the above statement by USGS, I concur with the guidance provided by the FWS and conclude, for the reasons explained below, that where the effects at issue result from climate change potentially induced by GHGs, a proposed action that will involve the emission of GHG cannot pass the “may affect” test, and is not subject to consultation under the ESA [Endangered Species Act] and its implementing regulations.”

The memoranda by the Solicitor and FWS Director establishing guidance on the applicability of the ESA to federal activities involving GHG emissions explicitly state that the guidance is based on statements in the May 14, 2008, USGS memorandum. As such, there can be absolutely no doubt that the USGS memorandum has “a clear and substantial impact on important public policies or private sector decisions.” Moreover, because the USGS memorandum was issued in response to a request by the FWS Director, there also can be no doubt that USGS was reasonably able to determine that it would have such an impact.

We assert, in fact, that the USGS assessment “of the latest climate results from the science community in defining CO₂ loading from individual actions and specific biological responses” constitutes a “highly influential scientific assessment” under the OMB Peer Review Bulletin. Given the reliance on this assessment by the FWS and the Solicitor in establishing their guidance that GHG emissions are not subject to consultation under the ESA, it cannot be contested that dissemination of this assessment was “novel, controversial, or precedent-setting, or has significant interagency interest.”

The USGS Memorandum Fails to Comply with the OMB Peer Review Bulletin and the OMB, Interior and USGS Guidelines

The highly influential scientific assessment or influential scientific information disseminated by USGS in its memorandum does not comply with the OMB, Interior and USGS Guidelines. Under the Interior Guidelines, when USGS is responsible for disseminating influential scientific information, as clearly is the case here, USGS “shall include a high degree of transparency about data.” The USGS Guidelines further state that “the scientific information it disseminates will have a high degree of transparency regarding (1) the source of the data used, (2) the various assumptions employed, (3) the methods applied, and (4) the statistical procedures employed.”

The USGS memorandum fails to provide this required transparency about data. According to the memorandum, “the U.S. Geological Survey has summarized some of the latest climate results from the science community in defining CO₂ loading from individual actions and specific biological responses.” While the USGS memorandum references the Intergovernmental Panel on Climate Change Fourth Assessment Synthesis Report (IPCC) and the Climate Change Science Program’s Synthesis and Assessment Product 1.1, *Temperature Trends in the Lower Atmosphere* (CCSP), no other literature citations or other information are included in the memorandum or as attachments to indicate the sources of the data that were included in the summary of “some of the latest climate results from the science community.” The USGS memorandum also fails to provide any information to indicate the methodology used, and the assumptions employed, to determine which of the “latest climate results” were selected for summary and how that summarization process was conducted, including any statistical analyses.

The highly influential scientific assessment disseminated in the USGS memorandum also does not comply with the OMB Peer Review Bulletin, which states, “To the extent permitted by law, each agency shall conduct a peer review on all influential scientific information that the agency intends to disseminate.” No evidence has been made available to demonstrate that such peer review was conducted on the information presented in the USGS memorandum or that an OMB-approved alternative procedure was employed to ensure the scientific information product meets applicable information-quality standards.

Even if USGS argues that the information cited from the IPCC and CCSP reports already has been subjected to adequate peer review pursuant to Section II of the OMB Peer Review Bulletin requirements for influential scientific information, no such exemption is provided for highly influential scientific assessments, such as the USGS memorandum. Instead, such assessments must either comply with the OMB-established peer review requirements in Section III of the Peer Review Bulletin or “an agency may instead (1) rely on scientific information produced by the National Academy of Sciences, (2) commission the National Academy of Sciences to peer review an agency draft scientific information product, or (3) employ an alternative procedure or set of procedures, specifically approved by the OIRA Administrator in consultation with the Office of Science and Technology Policy (OSTP), that ensures that the scientific information product meets applicable information-quality standards.”

Moreover, regardless of whether the USGS memorandum is deemed to constitute influential scientific information or a highly influential scientific assessment, there is no evidence that any peer review was conducted with respect to these two key conclusions by USGS:

“[T]he U.S. Geological Survey has summarized some of the latest climate results from the science community in defining CO₂ loading from individual actions and specific biological responses. These results indicate that current science and models cannot link individual actions that contribute to atmospheric carbon levels to specific responses of species, including polar bears.”

“The final conclusion that can be reached from this information is that human-induced global warming can be observed and verified at global to continental scales where cumulative GHG concentrations can be measured and modeled. Climate impacts, however, are observed at specific locations, at much more specific and localized scales--incongruent with the global scale of the aforementioned measured and modeled climate forces. It is currently beyond the scope of existing science to identify a specific source of CO₂ emissions and designate it as the cause of specific climate impacts at an exact location.”

These conclusions go beyond the statements from the IPCC and CCSP reports that are cited in the USGS memorandum, and they explicitly are not drawn solely from these statements but also from other unspecified scientific information summarized by USGS. Consequently, the OMB Peer Review Bulletin unequivocally requires that peer review be conducted of the influential information or highly influential scientific assessment contained in these two major findings by USGS.

Description of How We Are Affected by the Information Errors

Founded in 1947, Defenders of Wildlife has more than one million members and supporters across the nation and is dedicated to the protection and restoration of wild animals and plants in their natural communities. Defenders of Wildlife is a recognized leader in the effort to protect fish and wildlife and the habitat on which they depend – habitat that will be severely stressed in the decades to come as the climate becomes generally warmer, precipitation patterns change, sea level rises, and other climate-related changes impact terrestrial and aquatic ecosystems. The depth of Defenders’ interests in protecting wildlife and wildlife habitat from the effects of global warming are demonstrated by the significant resources we have invested on protection and recovery of endangered species; conservation planning, including the state wildlife plans, transportation, sprawl and connectivity; and federal, state and private land management issues.

Recommendations for Corrective Action

First, we request that USGS provide the required transparency regarding (1) the sources of the data used to summarize “the latest climate results from the science community,” (2) the various assumptions employed in that summarization process, (3) the methods applied to select and summarize the data sources, and (4) the statistical procedures employed in development of the highly influential scientific assessment provided by the USGS memorandum.

Second, once USGS provides the required transparency, we request that USGS conduct peer review of the resulting scientific assessment pursuant to the OMB Peer Review Bulletin.

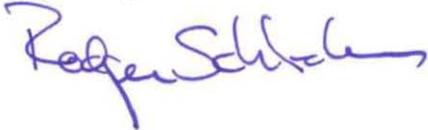
Contact Information

Robert P. Davison

Defenders of Wildlife
26658 Sulphur Springs Road
Corvallis, OR 97330
Phone: 541-745-5521
Email: bdavison@defenders.org

Thank you for your consideration of this request. Pursuant to the USGS Guidelines, we understand that within 10 business days, USGS will notify us of receipt of this complaint about information quality, and that USGS will evaluate this complainant within 60 calendar days of its receipt. We look forward to your prompt response.

Sincerely,

A handwritten signature in blue ink, appearing to read "Roger Schuler". The signature is fluid and cursive, with a long horizontal stroke at the end.