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TODD YOUNG
CHIEF OF STAFF

U.S. House of Representatives
Committee on Natural Resources
Washington, DC 20515

Opening Statement of
Chairman Doc Hastings
Committee on Natural Resources
On Wednesday, September 10, 2014
1324 Longworth House Office Building
Full Committee Oversight Hearing on

"The Status of the Fish and Wildlife Service's Responses to Committee Subpoenas and the Continued Lack of Transparency about Its Implementation and Enforcement of American Wildlife Laws, and Oversight of the Department of the Interior's Solicitor's Office"

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PENNY DODGE
DEMOCRATIC STAFF DIRECTOR

In regards to oversight, it's not only Congress' right but our responsibility to hold the Executive Branch accountable for its actions and decisions. In turn, we expect the Administration to be honest and transparent. The reality is just the opposite. The Obama Administration has consistently engaged in a deliberate pattern of slow-rolling its responses and purposely withholding information from Congress.

Today's hearing will specifically examine examples of this stonewalling from the U.S. Fish and Wildlife Service.

The Service has failed to comply with two subpoenas for documents. One related to the Whitebluffs Bladderpod, the second on the Administration's approach for enforcing wildlife laws, including the Migratory Bird Treaty Act and the Bald and Golden Eagle Protection Act.

Despite the issuance of subpoenas, the Department continues to withhold and redact documents. Even worse, the Department is going out of its way to provide even less information to Congress than it is to others.

Here are three distinct examples.

In December 2013, the Service provided the Committee copies of about 1,000 pages of documents. These were exact duplicates of what the Service had already provided to the Associated Press under the Freedom of Information Act. Some of these documents were redacted while others were released in full to both the AP and the Committee.

One of those FOIA documents was this January 2013 email. Exhibit 1 in your packets.



Re: eagle rule

Jerome Ford <jerome_ford@fws.gov>

Fri, Jan 4, 2013 at 5:31 PM

To: "Cottingham, David" <david_cottingham@fws.gov>

Cc: Betsy Hildebrandt <betsy_hildebrandt@fws.gov>, Stephen Guertin <stephen_guertin@fws.gov>, Dan Ashe <d_m_ashe@fws.gov>

Bcc: Brad_Bortner@fws.gov

Before I have my staff build another rock, I respectfully request that someone with an idea of what is being asked meet with Mike, Brad and I. Every time we have to attempt to create this miracle strategy, that means we are not working on the other priorities the Director has challenged us to complete. Do my team need to sit with Steve? I will be happy to do that if that is what the Director wants.

Lastly, are to put together an eagle strategy or a strategy to permit renewable energy. The approach for these are different although they are related.

Help me out here

Sent from my iPhone

On Jan 4, 2013, at 3:39 PM, "Cottingham, David" <david_cottingham@fws.gov> wrote:

Liz -

first I heard of the Jan 14 briefing at OMB. does Jerome know about it -- copied here? We can provide a preliminary discussion that the tenure rule should be there shortly. Not a problem.

I spoke with Steve yesterday. He wants a few things:

1. a comprehensive eagle document that shows what our overall strategy is regarding eagles. He wants us to have it to outsiders. We can revise the 4 or 5 pager we developed for outside use. It isn't currently drafted that way.

2. DRECP eagle research piece. The Dec DRECP document shows about 30 research projects we expect to get done in the next 5 or so years. Steve wants that fleshed out with schedules, timelines, and responsibilities. Problem is we don't know who is going to do all the research. I've spoken with some USGS folks about this. They are going to help but it exceeds their current capacity as well. We have to consider the CA research in the context of other eagle research.


3. eagle rule stakeholder dialog:

a) I've spoken with Julie Falkner and John Anderson this week. They would like us to schedule a meeting the last week in Feb. We need to see if that works for schedules of our guys (including DOI 6th floor folks)

b) Jerome and I have been talking with Robert Fisher in the CADR office about appropriate process for a dialog. We will meet with Robert next week. I think we are likely to hire a neutral facilitator to conduct a professional assessment of what people really want out of such a dialog and how to establish one. We are also consulting with SOL about FACA pitfalls to avoid.

timing - we may have more to report the week of Jan 14 than next week as many folks are just returning from holidays and getting back in the swing of the office.

In March of this year, the Committee issued a subpoena seeking 55 specific unredacted documents and categories of other documents. In response, the Service issued another large document production. It included the same January 2013 email (Exhibit 2). Except this time it was redacted in several places, even though an unredacted version had already been provided to the news media and the Committee almost six months earlier.



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To: "Cottingham, David" <david_cottingham@fws.gov>
Cc: Betsy Hildebrandt <betsy_hildebrandt@fws.gov>, Stephen Guertin <stephen_guertin@fws.gov>, Dan Ashe <d_m_ashe@fws.gov>
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On Jan 4, 2013, at 3:39 PM, "Cottingham, David" <david_cottingham@fws.gov> wrote:

Liz --

[REDACTED] does Jerome know about it -- copied here? We can provide a preliminary discussion that the tenure rule should be there shortly. Not a problem.

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Timing -- we may have more to report the week of Jan 14 than next week as many folks are just returning from holidays and getting back in the swing of the office.

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In this second example (Exhibit 4) on the left is a document provided to the AP and the Committee under FOIA. It contains partial redactions. We issued a subpoena for the unredacted document, and received the document on the right – even more redacted than the first.

FOIA Document Provided in Dec. 2013 vs. More Heavily Redacted Document After

Framework For Golden Eagle Conservation and Permitting Under the Desert Renewable Energy Conservation Plan

The primary purpose of the Desert Renewable Energy Conservation Plan (DRECP) is to conserve the species and natural communities covered under the DRECP, while streamlining environmental review and permitting processes for renewable energy projects in the Mojave and Colorado Plateau regions within California. The DRECP is intended to be a National Community Conservation Plan and a Habitat Conservation Plan under state natural resources, conservation and federal endangered species laws and a U.S. Bureau of Land Management (BLM) Land Use Plan Amendment. The California Department of Fish and Game and the U.S. Fish and Wildlife Service (Wildlife Agencies) along with the BLM and the California Energy Commission (CEC), the four together comprising the Renewable Energy Action Team or "REAT", are working together to meet their respective conservation responsibilities and renewable energy development goals through the DRECP.

I. GOALS FOR GOLDEN EAGLE CONSERVATION AND RENEWABLE ENERGY

This Framework document describes the process and procedures to be followed by public entities to provide for the protection of Golden Eagle habitat and the conservation of the species and promote the development of renewable energy projects in the Mojave and Colorado Plateau regions. The Framework is intended to be a National Community Conservation Plan and a Habitat Conservation Plan under state natural resources, conservation and federal endangered species laws and a U.S. Bureau of Land Management (BLM) Land Use Plan Amendment. The California Department of Fish and Game and the U.S. Fish and Wildlife Service (Wildlife Agencies) along with the BLM and the California Energy Commission (CEC), the four together comprising the Renewable Energy Action Team or "REAT", are working together to meet their respective conservation responsibilities and renewable energy development goals through the DRECP.

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Either the Administration is incompetent or it is going out of its way to expend time and money to withhold information from Congress.

In this third example (Exhibit 5), the document on the left was released to a bird conservation group under FOIA. Only the bottom part was redacted. When the Service provided the same document to the Committee in June – almost the entire document was redacted.

March 26, 2013

Briefing Memorandum for Deputy Secretary

From: Dean Ashe, Director

Subject: Meeting with environmental groups and wind industry, March 27, 2013

Background

You are meeting with representatives of wind industry and environmental groups that are critical to the Service's national and customer regarding comments on the Service's NPSR to revise the 2000 eagle (PCC) take rule and the proposed rule to extend the term of eagle take permits from 5 to up to 30 years.

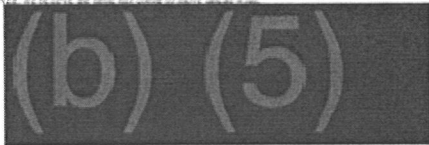
At a meeting with many of these groups in February, they asked for an opportunity to collaborate on some ideas they were thinking about how to improve the Service's eagle conservation programs. At this meeting, they will present the result of these discussions. They will likely ask that:

- 1. The Department Service not promulgate a final rule extending the duration of eagle take permits up to 30 years.
- 2. The Department Service create a science advisory committee to develop a research program to estimate a low operating and proposed wind projects to estimate model, evaluate advanced conservation practices, and monitor projects for eagle behavior and mortality.
- 3. The Service and Justice provide incentives that prevent operators participating in the research program would not be penalized if they break an eagle.

You should also be aware that an environmental group who was not a signatory to the initial letter has asked that we not meet with this group again. This is outside that doing so would violate the Federal Advisory Committee Act (see attached talking points).

Service's Comprehensive Eagle Conservation Program

The Service appreciates the efforts of the wind industry and environmental groups to collaborate. However, we believe the time has come to move forward with:



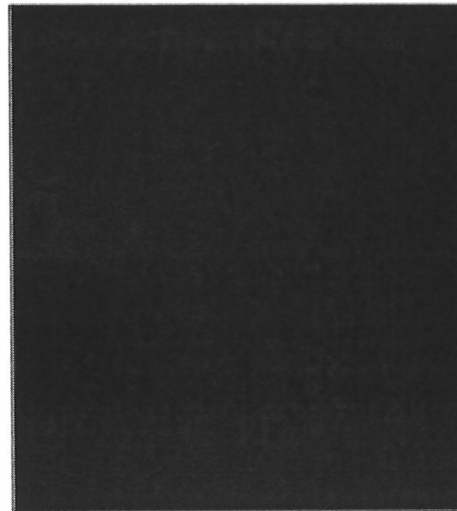
March 26, 2013

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Background



In addition, the Service has released documents to this same bird group last year under FOIA that have NEVER been provided to the Committee – even though it was specifically covered in the parameters of the subpoena.

I would like to hear from Director Ashe today how he justifies such a blatant disregard for transparency and disrespect of Congress. Is this what he means when he talks about being responsive and cooperating with congressional oversight?

The Interior Department has dragged its feet on every oversight issue this Committee has pursued. It has purposefully sought ways to increase the burden, costs, and delays for responding to the Committee's legitimate requests.

Some claim that our requests are costly and burdensome. However, it's now evident that the Administration is wasting time and taxpayer dollars by going out of its way to redact documents that have already been released. Most of their time and resources are spent figuring out which documents to purposely withhold. Furthermore, oversight and transparency to the American taxpayers should not be considered a burden.

We'll also hear from the Department of the Interior Solicitor Hilary Tompkins. The Solicitor's Office is the legal advisor for the Department and decides which documents gets

released or withheld from Congress. I intend to find out more today about the Solicitor's involvement in redacting these documents.

There are other issues pertaining to the Solicitor's Office that I would like to address. Yesterday, the Committee released a report on the Department's ethics program – identifying significant weaknesses. Also, ahead of tomorrow's hearing with Deputy Inspector General Mary Kendall, I would like to hear the Solicitor discuss the relationship and interaction with the Department's Office of Inspector General.

The Administration's response to the Committee's oversight efforts has been downright shameful. Their actions are unjustifiable and show blatant disrespect to the transparency they promised the American people.