

May 16, 2009

To: Secretary Ken Salazar, Department of Interior

From: Dr. Corey S. Goodman, member, National Academy of Sciences

**RE: Regional Director Jon Jarvis and Scientific Misconduct:
The Case Against a Jarvis Nomination for Director, NPS**

About the author: Dr. Corey Goodman is an elected member of the National Academy of Sciences (NAS). He is a West Marin resident (Marshall, CA). For several decades he was a Professor at Stanford and U.C. Berkeley; today he is an Adjunct Professor at U.C. San Francisco while spending most of his time in the private sector. Dr. Goodman was asked by a member of the Marin County Board of Supervisors in April 2007 to investigate the National Park Service (NPS) science in relation to the oyster farm in Drakes Estero, and to testify at their hearing in May 2007. When Dr. Goodman testified to the Supervisors on May 8, 2007, he had not discussed the issue with Kevin Lunny, owner of Drakes Bay Oyster Company (DBOC). Rather, Dr. Goodman spoke as an independent scientist. He reported that the NPS had misrepresented their own data. Dr. Goodman spoke that day, and continues to speak, for scientific integrity and against predetermined agendas driving false science. Goodman does not represent Kevin Lunny or DBOC. He receives no compensation for this public service. Two years later, a NAS report (Ocean Studies Board) confirmed what Dr. Goodman told the Marin County Supervisors, other elected officials, the NPS, and Department of Interior in 2007. The NAS concluded that the NPS had “... *selectively presented, over-interpreted, or misrepresented* ...” their own scientific data, leading to conclusions that were flawed, misleading, and exaggerated. Dr. Goodman concluded that NPS data were misrepresented, selectively presented and omitted (i.e., cherry-picked), fabricated, and falsified, and that these misrepresentations have continued to this day under the leadership of NPS Regional Director Jon Jarvis. Goodman contends that Jarvis and colleagues violated the NPS Code of Scientific and Scholarly Conduct and White House Office of Science and Technology Policy (OSTP) Federal Policy on Research Misconduct. The scientific misconduct and ethics complaints against Jarvis remain pending.

About the case for scientific misconduct against NPS Regional Director Jon Jarvis: On May 8, 2007, a NPS superintendent and his staff scientist gave testimony to the Marin County Supervisors in which they misrepresented the NPS scientific data in falsely claiming that they had strong evidence to show that an oyster farm was causing grave environmental harm to Drakes Estero. On May 8 & 11, 2007, these same NPS officials published a report that made further false science claims against the oyster farm. In May 2007, Dr. Goodman said these claims were false; in May 2009, an NAS panel similarly concluded that these claims were false. These NPS officials were under the jurisdiction of Regional Director Jon Jarvis. Jarvis became publicly involved in this issue in June 2007, and was officially asked by then NPS Director Bomar to take charge of this matter in July 2007. This case involves Jarvis' actions – what he did and did not do – and what took place under his watch from 2007 to 2009. It is based on a series of events in which Jarvis oversaw a serial pattern of scientific misconduct, including misrepresentations, cover-ups, publications and press interviews intended to deceive and confuse the public, and comments to his superiors intended to similarly deceive them. By his own actions, and the actions of those for which he had responsibility, Jarvis committed scientific misconduct.

Timeline of Serial Misrepresentations by Regional Director Jon Jarvis:

- (1) The Point Reyes National Seashore (PRNS) is a unit of the National Park Service under the administrative jurisdiction of the Pacific West Region, headed by Regional Director Jon Jarvis. Drakes Estero is in PRNS. Drakes Bay Oyster Company (DBOC) is in Drakes Estero. Kevin Lunny owns DBOC. Don Neubacher is the PRNS Superintendent. Dr. Sarah Allen is PRNS Staff Scientist.

May 8 & 11, 2007: Neubacher and Dr. Allen made strong claims that the oyster farm was causing grave environmental harm to Drakes Estero in their public testimony to the Marin County Board of Supervisors on May 8, 2007. They made a series of claims against DBOC, including claims concerning harm to harbor seals, eelgrass, fish, and sediments. Allen's most provocative claim was that the oyster farm had caused an 80% decline in harbor seals at a specific (but unnamed) subsite in Drakes Estero in 2007 compared to two years before. They testified that this 80% decline in harbor seals was "*a serious problem right now*" and "*a national issue*". Neubacher and Allen included these same claims, including the 80% decline in harbor seals, in their report published by NPS, "*Drakes Estero, A Sheltered Wilderness Estuary*" (herein called the Drakes Estero Report, published and republished on May 8 & 11, 2007). These claims were false. We now know that the available scientific literature and NPS harbor seal database did not support these claims. **NPS Superintendent Neubacher's and Scientist Dr. Allen's misrepresentations of NPS scientific data violated the OSTP Federal Policy on Research Misconduct (Federal Register, December 6, 2000).**

May 12 & 13, 2007: After Allen ignored a request for data, Dr. Corey Goodman submitted two FOIA requests to Superintendent Neubacher on May 12 and 13, 2007. Goodman requested "the data" (i.e., the Drakes Estero harbor seal data, including 2007 data) used to calculate the 80% decline (declared by NPS to be a national emergency) and an identification of where in the Estero the decline occurred. Concerning the 80% decline, Goodman asked: "*what site?*", "*compared to what?*", "*what is evidence that this reduction is a result of the oyster operation?*"

- (2) June 13, 2007: Jarvis responded to Goodman's FOIA requests. **Jarvis denied the request for "the data" using inappropriate reasons in conflict with DOI FOIA guidelines.** Jarvis denied "the data" citing "*deliberative process privilege*", even though a few days later, Jarvis' FOIA Officer Holly Bundock admitted to Goodman that she knew that data was explicitly excluded from this exemption. Moreover, the data were no longer deliberative since NPS has testified and published conclusions based upon it. Jarvis also refused to answer the question: "*what subsite?*" He did so by denying any records existed which supported the 80% claim (e.g., which subsite out of eight total subsites in Drakes Estero), and saying that without documents, he did not have to answer questions. **Jarvis withheld the missing piece of information ("*what subsite?*") crucial to affirm or refute the most important NPS harbor seal claim against the oyster farm. This single decision by Jarvis perpetuated the present conflict.**

This question ("*what subsite?*") remained unanswered by NPS for 16 months until Sept 4 & 24, 2008 (see #19 & #20 below) when at a meeting of the National Academy of Sciences (NAS) panel, Jarvis asked NPS scientist Dr. Ben Becker to give an explanation of how NPS derived the 80% decline claim – an explanation that was

completely untenable -- and then 20 days later Jarvis himself gave a different, and equally untenable, explanation of the 80% decline to the panel.

- (3) July 21, 2007: Senator Feinstein held a meeting at Olema with NPS Director Mary Bomar, Jarvis, Neubacher, Lunny, Goodman, and others. Goodman accused the NPS of scientific misconduct. **Bomar removed Superintendent Neubacher from administrative responsibility for the oyster farm, and directed Jarvis to assume those duties and be accountable for DBOC and Drakes Estero.** Feinstein and Bomar instructed Jarvis to work with Goodman and CA Dept Fish & Game Tom Moore to oversee NAS review of the May 2007 Drakes Estero Report and NPS public testimony. Feinstein and Bomar agreed with Goodman that Jarvis' FOIA denial of harbor seal data was inappropriate and insisted that Jarvis provide Goodman with the data within two weeks. Feinstein and Bomar asked Jarvis to remove the Drakes Estero Report from the NPS website and to post a correction. Goodman indicated that he had heard that Jarvis and Neubacher were preparing a so-called "peer-review" of the Drakes Estero Report that would be a rebuttal to Goodman's criticisms. **Jarvis said that NPS had been obtaining external peer-reviews of the Drakes Estero Report, and planned to release a new document based in part on these reviews.** Jarvis was instructed by Feinstein and Bomar not to release this new document, but instead to share the "peer reviews" with Goodman, and to have the current testimony and the Drakes Estero Report independently reviewed by the NAS. **Two months later it was revealed that these so-called "peer-reviews" did not meet DOI peer-review standards. Moreover, the so-called peer reviews described to Feinstein and Bomar by Jarvis, were not reviews of the Drakes Estero Report, but rather were reviews of their "response to Goodman" as a rebuttal to Goodman's earlier report.**
- (4) July 21 & 22, 2007: At the conclusion of the Olema meeting, Goodman handed DOI Solicitor Molly Ross (21st), and the next day emailed Jarvis (22nd), a copy of a 25-page report on scientific misconduct focused on the misrepresentation of USGS Dr. Roberto Anima's 1991 paper and NPS claims concerning oyster feces in sediments. Ross never responded. **Jarvis, now in charge of all matters concerning the oyster farm and Drakes Estero, never responded. Jarvis ignored the case for scientific misconduct submitted by Goodman.**
- (5) August 13, 2007: Neubacher, as instructed by Jarvis, sent Goodman the harbor seal data. The NPS data revealed that there was no evidence that DBOC had caused harm to the harbor seals. This is presumably why the data had been withheld in June. Only one of the eight subsites had declined by 80% in 2007, and that subsite was sandbar A. Sandbar A was the only subsite that fit all of the descriptions in Dr. Allen's public testimony. However, Sandbar A is in the designated wilderness area, far away from the oyster farm, and disturbances at sandbar A came from Park visitors. The oyster farm did not cause the 80% decline at sandbar A. **The NPS harbor seal data revealed that the NPS harbor seal claims against DBOC were fabricated in both the NPS public testimony to the Marin County Board of Supervisors and in the NPS Drakes Estero Report.**
- (6) August 17, 2007: At Olema, Senator Feinstein and NPS Director Bomar directed three individuals – Jarvis, Goodman, and Tom Moore (CA Fish & Game) – to jointly prepare a "charter" for the outside, independent science review, to be conducted by the National Academy of Sciences (NAS). Jarvis scheduled a meeting at his office in mid-August. He excluded Moore, and thus eliminated input from the State of California, but invited in his place two additional NPS scientists, including West

Regional Chief Scientist Dave Graber (who reported to Jarvis). For the next six weeks, Jarvis and Graber (by email) kept pushing for irrelevant questions about everything other than investigating the May 2007 NPS testimony and Drakes Estero Report. Jarvis did not want to investigate whether his subordinates had misrepresented their own scientific data. In September, Jarvis wrote to Goodman telling him that the NPS proposed questions were essentially the same as Goodman's (when they were in fact completely different), and that Jarvis would go ahead without Goodman and submit his questions to the NAS Ocean Studies Board. **Jarvis first excluded Moore, and subsequently excluded Goodman, from overview of the NAS panel charter questions.**

Jarvis took the NPS proposal to the Ocean Studies Board rather than the NAS Board (called COSEPUP) that traditionally investigated ethics and misconduct issues. Jarvis submitted the formal proposal on October 24, 2007 without notifying Goodman. Weeks later, in November, Goodman was contacted by NAS Ocean Studies Board Executive Director Dr. Susan Roberts. Roberts said that Jarvis told her that Goodman had pre-approved the questions. **Having excluded Goodman from overview of the NAS charter, Jarvis then misrepresented Goodman's support of the proposed charter to Roberts.**

Towards the end of December, Goodman eventually got some changes made to the mission statement (specifically a reference to the Drakes Estero Report and public testimony) to better align the study with what Feinstein and Bomar had requested on July 21.

- (7) August 20, 2007: Having analyzed the harbor seal data and found the NPS 80% decline claim a misrepresentation, Goodman asked Jarvis to examine the data and investigate the misconduct. Jarvis assigned his Chief Scientist Dave Graber the task of examining the NPS harbor seal data. Graber emailed Goodman, and cc'ed Jarvis, that he would do so. Neither Graber nor Jarvis ever got back to Goodman. **Jarvis did not fulfill his duty to investigate the allegations of scientific misconduct by his subordinates at PRNS. At the same time, he was actively involved in a cover-up to defend Neubacher and avoid investigation of NPS.**
- (8) September 18, 2007: In mid-September, having been instructed by Feinstein and Bomar NOT to issue any further documents on NPS science until after the independent review was completed (May 2009), Jarvis issued the NPS "*Clarification*" document. NPS Regional FOIA Officer Holly Bundock (who reports to Jarvis and whose office is across the hall from Jarvis) sent Goodman the "*Clarification*" document ("*NPS Clarification of Law, Policy, and Science on Drakes Estero*"). This document conspicuously listed no authors, but it was prepared by, and released by, Jarvis' office. This is the very document that Feinstein and Bomar (on July 21, 2007 at Olema) instructed Jarvis not to release. Bundock quoted an email between Goodman and Jarvis as their reason for releasing the document, an email that simply asked for the over-due but promised outside reviews of the NPS Drakes Estero Report. Jarvis' office falsely claimed that Goodman requested the "*Clarification*" document, and used this excuse to release it to Goodman, certain environmentalists, and the press. **Jarvis was responsible for the September 18, 2007 "*Clarification*" document – it was his document, put out by his office, under his responsibility.**

Although Jarvis told Feinstein and Bomar on July 21 that the reviewers were independent, had done a peer-review, and had been sent the Drakes Estero Report (and told Goodman the same thing by email), in fact most of the so-called "peer

reviews” were informal emails back and forth between NPS scientist Dr. Allen and various friends, colleagues, collaborators, and former colleagues. None of the reviewers appeared to have been sent the NPS Drakes Estero Report and asked to review it, but instead were sent Goodman’s May 8th report to the Marin County Supervisors and asked to help revise the “*response to Goodman*” document that became the “*Clarification*” document. **Contrary to Jarvis’ statements, his “Clarification” document did not follow DOI peer-review standards, and was not a peer-review of the Drakes Estero Report. Jarvis misrepresented this document to Feinstein and Bomar, and to the public, and issued the deceptive “Clarification” document in conflict with the directive from Feinstein and Bomar.**

(9) One of the so-called peer-reviews was by West Regional Chief Scientist Dave Graber who reported to Jarvis. Graber and Jarvis should have been investigating the serious allegations of scientific misconduct on the part of their subordinates, but they were not. Instead Graber was helping Allen respond to Goodman with an email “*Hiya*” which gave her suggestions to help rebut Goodman’s criticisms so that certain points would get “*gently hammered home.*” **Jarvis and Graber were required to place objectivity ahead of allegiance to individuals, but they did not. Instead of investigating the allegations of scientific misconduct by analyzing the NPS data vs. the NPS claims, they helped cover-up the NPS misconduct by participating in a rebuttal of Goodman.**

(10) The NPS “*Clarification*” document, released by Jarvis, was written in such a way as to confuse the public. Jarvis and Neubacher told the community that this peer-reviewed document was an independent validation of the NPS claims and the Drakes Estero Report, and served as a rebuttal against Goodman’s testimony and reports. The “*Clarification*” document was provided to the local press within several days, and was described to them as a validation of the NPS claims and a rebuttal of Goodman. Evidence for this confusion can be found in an article in the October 4, 2007 issue of the West Marin Citizen which stated: “*Ultimately, the report upholds the park’s concern about the oyster farm on the basis that it alters natural conditions and resources.*”

The “*Clarification*” document was a convoluted attempt to convince the public that NPS had refuted Goodman’s criticisms, when in reality it was a retraction of the claims in the Drakes Estero Report. **Jarvis’ “Clarification” document retracted all of the NPS claims against DBOC, but buried these retractions in the middle of paragraphs and sections that appeared to the casual reader to be a validation of the NPS claims and a rebuttal to Goodman. Jarvis’ document was intentionally misleading.**

For example, the “*Clarification*” document contains no mention of the NPS claim that DBOC caused an 80% decline in harbor seals at one unnamed subsite. In fact, it states: “*More focused analyses are required to determine if oyster operations are affecting seal distribution and productivity within Drakes Estero.*” That statement overturns Neubacher’s and Allen’s strong claims in their May 2007 public testimony and the Drakes Estero Report. [Three months later, Jarvis reinstated the 80% decline -- see #14 below.]

As further evidence of the way in which this document has misled the community, to this date, the “*Save Drakes Bay Coalition*” website (including the Sierra Club, NPCA, Environmental Action Committee, and others) states, concerning the “*Clarification*” document: “*Peer-reviewed by 7 non-NPS marine ecology experts. Dr.*

Corey Goodman's analysis refuted by these experts." This statement has been posted since 2007. This website's misrepresentation is similar to how Jarvis and Neubacher misrepresented the "*Clarification*" document to the community.

- (11) Dr. Peter Gleick, NAS member, MacArthur Fellow, Founder of the Pacific Institute, and well-known environmentalist, reviewed Jarvis' "*Clarification*" document, and wrote:

"... this NPS 'rebuttal' ... acknowledges very clearly that the NPS was wrong and Goodman was right, over and over and over again, but couched in language that pretends the opposite."

"The NPS errors were NOT minor, but major and misleading, and now, given the responses, pretty obviously intentional. Nor were they corrected when pointed out ..."

"... it should be an embarrassment to the Park Service. It is a remarkable piece of misleading fluffery ... the Park Service effectively acknowledges over and over that they were wrong and Goodman was right."

- (12) October 23, 2007: Jarvis rejected, as "moot", the Information Quality (aka DQA) complaint filed by Marin Farm Bureau, Pacific Coast Shellfish Growers Association, Marin Organic, DBOC, and Pacific Institute for correction of information in the Drakes Estero Report. Jarvis rejected it because "*NPS has initiated an independent scientific review of the body of scientific studies.*" This was a false statement. On October 23, 2007, no review of any kind had been initiated. It would be another six months before a contract was executed between NPS and NAS (April 2008).

October 24, 2007: A day after rejecting the DQA complaint, Jarvis submitted a proposal to the NAS to study mariculture in Drakes Estero. However, Jarvis' proposal did not include in its mission statement a request to review the Drakes Estero Report. **Jarvis rejected the DQA because he said the Drakes Estero Report was already under review. One day later, Jarvis proposed that NAS conduct a science review that avoided any reference to the Drakes Estero Report.**

- (13) December 18, 2007: At the request of Ocean Studies Board Executive Director Roberts, who was in charge of the NAS review of oyster farm and Drakes Estero, Goodman sent a 77-page scientific misconduct and ethics complaint to the NAS, including alleged violations of sections I.1 and I.2 of the OSTP Federal Policy on Research Misconduct by Don Neubacher and Sarah Allen, and violation of sections III.3, IV.1, IV.3, V.1, and V.2 by Jon Jarvis and David Graber.

December 21, 2007: **Goodman send the 77-page scientific misconduct and ethics complaint against Jarvis and his subordinates to NPS Director Bomar with a detailed cover letter asking her to investigate misconduct and ethics.** On January 4, 2008, her assistant Melissa Kuckro emailed Goodman to say that Bomar had received the document and had "*asked Deputy Director Dan Wenk to handle this issue and to communicate further with you about it.*" Goodman never heard back from Wenk. Three months later, on March 27, 2008, Goodman emailed Kuckro asking about the status of the ethics investigation, and requested a reply from Deputy Director Wenk. Goodman never received a reply.

- (14) December 28, 2007: In an interview with the San Francisco Chronicle (environment reporter Peter Fimrite), Jarvis reinstated the very claims of environmental harm by the oyster farm that his "*Clarification*" document had withdrawn. According to Jarvis: "*Our research would indicate there are some negative effects.*" He went on to

reiterate the claim of an 80% decline in harbor seals due to DBOC. **Jarvis said that "Park service officials deny any misrepresentations were made and have stood firmly behind their research."** After the story was published, Goodman spoke to Fimrite who assured him that Jarvis made those statements. **Some three months after Jarvis retracted every major claim of environmental harm by DBOC (in a concealed fashion in the "Clarification" document), Jarvis told the press that the accusations by NPS against DBOC were accurate and he stood by them.**

- (15) December 31, 2007: Lunny wrote to Jarvis asking him, among other detailed questions, about his quotes in the SF Chronicle article and whether he had indeed retracted his retractions, and if so, based upon what data.
January 14, 2008: **Jarvis refused to answer questions about his public accusations in the SF Chronicle, saying he did "not think long detailed, point-by-point responses are productive ..."** Jarvis would not discuss his denial of NPS misrepresentations, and his reinstatement of the claims against DBOC.
- (16) May 12, 2007 to September 3, 2008: Jarvis was asked by formal letter and separately by FOIA, and refused to answer the question: "*what subsite?*". Goodman published articles in the local press and asked. Goodman submitted a 77-page scientific misconduct complaint with Bomar on December 21, 2007, and made this point in great detail. Jarvis remained silent. **For 16 months, Jarvis steadfastly refused to answer the question "*what subsite?*" concerning the 80% decline in harbor seals at an unnamed subsite due to DBOC.**
- (17) Summer, 2008: On July 31, 2008, Goodman submitted a FOIA request to Jarvis for a copy of the annual 2007 Harbor Seal Report which is usually published in December. Jarvis, in previous correspondence, promised the report would be available in December 2007. On August 25, 2008, eight months after the Report was supposed to be available, and on the eve of the NAS public hearing, Jarvis denied Goodman's request, declaring "*...the 2007 Harbor Seal Report is undergoing peer review and is, as a result, withheld ...*" Jarvis was incorrect. After the NAS hearing, Goodman subsequently discovered that the annual 2007 PRNS Harbor Seal Monitoring Report had been dated June 2008 and was already posted on a NPS website. The 2007 Harbor Seal Report was not submitted to the NAS panel, and was withheld from Goodman. Moreover, it was posted on the NPS website in such a way as to make it invisible to a Google search. The 2007 PRNS Harbor Seal Monitoring Report on the NPS website contained a computer instruction that prohibited it from being retrieved by Google, Yahoo, and other search engines. It was hidden. It was withheld. It was not provided to the NAS panel.

The 2007 PRNS Harbor Seal Monitoring Report contradicted the harbor seal claims made by NPS officials in May 2007, and contradicted the Jarvis-Becker lead presentation to the NAS panel in September 2008 (see #18 below). The official 2007 NPS Harbor Seal Report did not make the provocative 80% decline claim against the oyster farm as had the NPS officials in May 2007. It made no claims that the oyster farm was disturbing the harbor seals. Yet it was authored by the same PRNS scientists as made these claims in the Drakes Estero Report in 2007 and in the Becker paper in 2008. Lunny sent all of this information to Jarvis on October 15, 2008. **Jarvis was told that the annual NPS 2007 Harbor Seal Monitoring Report contradicted the harbor seal claims against the oyster farm made by his NPS officials in May 2007, that this Report was posted on the web and hidden so as to make it nearly impossible to find by search engines, that Jarvis had incorrectly denied Goodman's FOIA request for a copy of this public Report in August 2008,**

and that Jarvis had not supplied this Report to the NAS panel. Jarvis was told all of this and did nothing. Jarvis did not respond.

- (18) September 4, 2008: Jarvis, on the NAS agenda to make the lead presentation to the NAS panel, gave a majority of his allotted time to NPS scientist Dr. Ben Becker to allow him to present new harbor seal data analysis that was in a paper in press and had also been given to the NAS panel. Becker presented new false science to the NAS panel. New science, however, was expressly excluded from this review process as stated in letters between Feinstein and Bomar and copied to Jarvis. **The Becker report was so flawed that he was forced to retract the paper, make major revisions, and resubmit the paper. Becker's second version contained further misrepresentations, selective use and omission of data, and fabricated and falsified data. Jarvis gave Becker's paper to the NAS panel and highlighted Becker's presentation in the key time slot, thus vouching for its veracity. Becker used cherry-picked and falsified data. His statistical analysis was flawed. His paper did not show what he and Jarvis said it did.**
- (19) September 4, 2008: At the NAS panel meeting, Goodman presented the case for scientific misconduct, with considerable focus on the May 2007 claim of an 80% decline in harbor seals at an unnamed subsite caused by DBOC. Goodman showed that the subsite was sandbar A, and that this sandbar was in the wilderness area and far away from the oyster farm. Jarvis asked for additional time at the end of the meeting for Becker to respond to Goodman's assertion that NPS had cited data from sandbar A. This was the first time in 16 months that Jarvis or his NPS staff attempted to explain their May 2007 claim, and did so because they were forced to respond to Goodman's presentation. Becker spoke, using specific numbers that he obtained from Allen, and gave an explanation for what Allen cited in her testimony and the Drakes Estero Report. **Becker's explanation was completely untenable, and inconsistent with the details of Allen's May 2007 testimony, the NPS Drakes Estero Report, and the NPS harbor seal database. After the meeting, Goodman and Becker met, with two reporters (Tess Elliott, Pt. Reyes Light; and Andrea Blum, West Marin Citizen) and two NPS officials (Dr. John Dennis and Holly Bundock) present, and Goodman showed Becker why his explanation, as told to him by Allen, was untenable. Becker agreed, and asked "why would they do this?"**
- (20) September 24, 2008: Jarvis submitted a document to the NAS panel attempting to explain the original 80% claim made on May 8, 2007. Knowing that Becker's explanation of the 80% decline claim on September 4, 2008 had been shown to be untenable, and that Becker had agreed with Goodman in front of the local press, Jarvis provided the NAS panel with another completely different explanation, in writing, of how Allen had derived the 80% decline claim in May 2007. Sixteen months after Jarvis' colleagues made the provocative claim, Jarvis wrote an explanation of it that was false and misleading. Interestingly, Jarvis orchestrated two completely different explanations for this NPS false claim within a 20-day period – the first on September 4th by Becker and the second on September 24th by Jarvis himself. Goodman sent a 26-page report about Jarvis' false explanation of the 80% claim to the NAS panel on October 25, 2008. **Jarvis misrepresented the NPS data, testimony, and the Drakes Estero Report to the NAS panel. In writing he gave a false explanation to cover-up the original false claim.**
- (21) May 5-7, 2009: On May 5, the NAS released it's report. The NAS concluded:

... The National Park Service report "Drakes Estero: A Sheltered Wilderness Estuary" in some instances selectively presented, over-interpreted, or misrepresented the available scientific information on DBOC operations by exaggerating the negative and overlooking potentially beneficial effects.

Also on May 5, Jarvis' West Regional NPS office released a press release, and Jarvis gave interviews with many newspapers about the report. In the NPS press release, Jarvis stated:

"Certainly, we apologize for the errors in our original document and already have taken steps to correct them," Park Service Regional Director Jon Jarvis said. "We appreciate the thoroughness of the academy's report and especially that academy concurred with many of our conclusions in the final, corrected version of the report."

The most recent public version of the "Drakes Estero: A Sheltered Wilderness Estuary" report was the May 11, 2007 version, and that version is the one that the NAS analyzed and found had seriously misrepresented the scientific data. Jarvis invented the notion of a "final, corrected version of the report". **There is no "final, corrected version" of the NPS Drakes Estero report, as confirmed by NAS staff.** In response to Jarvis' press release, on May 11, 2009, Lunny asked the NAS if the panel had reviewed an unreported or undisclosed version of the Drakes Estero Report. Greg Symmes of the NAS responded:

"The NRC [NAS] Committee did not review an unreported or undisclosed version of NPS Drakes Estero report."

In the San Francisco Chronicle, Jarvis was quoted by Peter Fimrite:

"They didn't say our research was wrong. They just said it was incomplete," Jarvis said.

In the Point Reyes Light newspaper, Jarvis was quoted by Editor Tess Elliott:

"There was some overreaching."

It might be argued that perhaps Jarvis was misquoted by Editor Tess Elliott. To determine the veracity of those quotes, Goodman telephoned Elliott on Thursday May 14. She read her notes from the interview of Jarvis to Goodman. Elliott said Jarvis used the word "overreaching" twice in the interview. She was struck by the word and wrote it down in the context of the whole quotes. Elliott, quoting her notes said that Jarvis' second use of the word was in response to her question about scientific misconduct:

"Neither the IG nor the NAS found that [scientific misconduct]. What they did find in both cases was overreaching."

The DOI IG stated: "We did not, however, analyze the science." The NAS stated that they would not deal with allegations of scientific misconduct, and instead formally referred them to DOI Secretary Salazar. When Jarvis said that neither the IG nor the NAS found scientific misconduct, he knew that neither had looked. Moreover, the IG did find some misconduct by Allen. Most of the allegations remain pending.

Thus, Jarvis misrepresented the NAS report in his press release and his interviews with the press by saying there was some "overreaching" and that the NPS research was "incomplete" when in fact the NAS found that the NPS report had misrepresented their own data. Jarvis said the NAS concurred with his most recent version of the Drakes Estero Report, when no such version exists. Jarvis said he disagreed with the NAS conclusions without saying which ones.

Conclusions

Regional Director Jon Jarvis is not fit to serve this President, Administration, Department, or Agency. His record involving the oyster farm and Drakes Estero disqualifies him. He fails to meet the "Obama standards for service."

The NPS Code of Scientific and Scholarly Conduct (January 31, 2008) states:

"To enhance their contribution to quality, objectivity, utility, and integrity of such information, all NPS employees working with scientific and scholarly information will, in performing their duties: ...

- *conduct, process data from, and communicate the results of scientific and scholarly activities honestly, objectively, thoroughly, and expeditiously; ...*
- *be responsible for the quality of collected data and interpretations, and for the integrity of conclusions drawn in the course of scientific and scholarly activities;*
- *place integrity, utility, and objectivity of scientific and scholarly activities and reporting of their results ahead of personal gain or allegiance to individuals or organizations."*

Jarvis failed to meet this NPS Code of Scientific and Scholarly Conduct:

- **Jarvis did not communicate the results of scientific activities honestly:**
 - **Jarvis' "Clarification" document was intended to deceive, #'s 8-11 above**
 - **Jarvis did not submit the annual 2007 PRNS Harbor Seal Monitoring Report to the NAS panel; this Report contradicted the harbor seal claims against the oyster farm made by NPS in the Drakes Report, #17 above**
 - **Jarvis' press release and quotes concerning the NAS report, #21 above**
- **Jarvis did not take responsibility for data quality and integrity of conclusions:**
 - **Jarvis' September 24, 2008 report to the NAS explaining the May 2007 NPS harbor seal claims (80% decline at unnamed subsite) in #20 above**
 - **NPS Dr. Ben Becker's presentation, paper, retraction, and revised paper to the NAS with all of its flaws and falsified data analysis, #'s 18 above**
- **Jarvis did not place integrity and objectivity of scientific reporting ahead of his allegiance to individuals and organizations:**
 - **Jarvis refused to investigate scientific misconduct by his subordinates while covering up their misconduct and releasing documents and interviews to deceive and confuse the public, #'s 7-10, 14, 15, & 21 above**

Transparency and scientific integrity are two key cornerstones of the Obama Presidency. On the first day of the Obama Presidency, a Presidential Memorandum to the "Heads of Executive Departments and Agencies" was issued declaring that a *"democracy requires accountability and accountability requires transparency."* The Presidential policy is clear -- *"The Freedom of Information Act should be administered with a clear presumption: In the face of doubt, openness prevails. All agencies should adopt a presumption in favor of disclosure, in order to renew their commitment to the principles embodied in FOIA, and to usher in a new era of open Government. The presumption of disclosure should be applied to all decisions involving FOIA."*

Jarvis failed to meet the President's standard of transparency & openness:

- **Jarvis was not open and transparent in his FOIA denials:**
 - **in 2007, Jarvis inappropriately denied NPS harbor seal data, and refused to answer the question "what subsite?" concerning the most provocative NPS claim of harm to harbor seals by DBOC, # 2 above**
 - **in 2008, Jarvis inappropriately denied access to the annual 2007 PRNS**

Harbor Seal Monitoring Report, saying that it was still being peer-review, when in fact it had been finalized several months earlier, and was already posted on an NPS website, but in a form that made it unsearchable by search engines (Google, Yahoo), see #17 above

Some 50 days later, in another memorandum, President Obama said, "*The public must be able to trust the science and scientific process informing public policy decisions. Political officials should not suppress or alter scientific or technological findings and conclusions.*"

Jarvis failed to meet the President's standard of scientific integrity in public communications of scientific findings and conclusions:

- **Jarvis did not openly and honestly present NPS scientific data and conclusions to the public, nor did he openly and honestly present the conclusions of the NAS report to the public (as in #9, #10, #15, #17, #19, #20, #21, and #22 above).**

In President Obama's speech to the National Academy of Sciences, he said:

"... we are restoring science to its rightful place."

"... the days of science taking a back seat to ideology are over."

"I want to be sure that facts are driving scientific decisions ..."

The consideration of Jon Jarvis for a presidential appointment should not rest exclusively on whether or not he -- and those he oversaw -- formally committed scientific misconduct. I have concluded that Jarvis and his staff in fact did commit scientific misconduct, and did so on numerous occasions starting in 2007 and continuing until this very day. Rather, does Jarvis embrace and practice transparency and does his record exemplify the highest standards of scientific integrity? Jarvis was placed in charge of matters concerning the oyster farm and Drakes Estero. At every turn, Jarvis evaded transparency and avoided scientific integrity.

Regional Director Jon Jarvis has misused and abused science in a fashion inconsistent with the President's principles. He allowed ideology to drive false science. On his watch, scientific decisions were not driven by facts. The integrity of science was tarnished by his actions, not restored. The preponderance of evidence says that Jarvis violated the OSTP Federal Policy on Research Misconduct (Federal Register, December 6, 2000).