

June 14, 2010

President Barack Obama
The White House
1600 Pennsylvania Avenue NW
Washington, DC 20500

Re: Scientists & Conservation Groups Request Resignation of Interior Secretary Ken Salazar

Dear President Obama:

We are writing to request that you ask Secretary of the Interior Ken Salazar to resign. After nearly a year and a half on the job, Mr. Salazar has failed to develop and implement policies that adequately safeguard this nation's natural treasures – either on land or at sea.

Some of the undersigned organizations wrote to you on January 15, 2009, expressing concerns with your nomination of Mr. Salazar as Interior Secretary, given his flawed record on natural resource issues. The intervening 16 months, unfortunately, have confirmed that Mr. Salazar will not fulfill your administration's promises to safeguard the environment in this country or globally. Rather, Mr. Salazar has either embraced or failed to reform many of the destructive policies of the previous administration.

Scientific Integrity

While the following examples point to key issue areas – principally energy and biodiversity policies – where Secretary Salazar has failed to safeguard the environment, a broad problem is the Secretary's failure to ensure that natural resource decisions are based on science. While Mr. Salazar repeatedly pledged to uphold science during the confirmation process, he has failed to match those words with action. Indeed, the Inspector General reported just last month that Interior still lacks a comprehensive scientific integrity policy. Of all Interior's agencies, only the U.S. Geological Survey has such a policy. The Inspector General notes that officials at Interior have known for a decade that a comprehensive scientific integrity policy is needed, and there are model and draft policies readily available.¹

President Obama, you wisely issued a memorandum to your cabinet and agency heads on March 9, 2009 requiring the development of scientific integrity policies.² In contrast to more than half of your cabinet offices, Interior Department is still lacking a scientific

¹U.S. Department of the Interior Office of Inspector General Evaluation Report: Interior Lacks a Scientific Integrity Policy. Report dated April 2010. Online at: <http://www.doioig.gov/upload/2010-I-0020.pdf>.

²Presidential Memorandum for the Heads of Executive Cabinets and Agencies. 2009. Subject: Scientific Integrity. Dated March 9, 2009. Online at: http://www.whitehouse.gov/the_press_office/memorandum-for-the-heads-of-executive-departments-and-agencies-3-9-09/.

integrity policy.³ This deficiency is striking, as Interior's past scandals have dramatically underscored the need for rigorous scientific standards.

Off-Shore Drilling & the Gulf Oil Spill

The previous administration left behind an Interior Department riddled by scandal and politicized science. When Mr. Salazar took the helm as Secretary, one of his first pledges was to return transparency and ethics within all branches at Interior. In late January 2009, Secretary Salazar visited the Lakewood, Colorado office of the Minerals Management Service (MMS), where scandals involving sex and drug use with, and financial pay-offs from, oil and gas companies had occurred. During his visit, Secretary Salazar stated,

The president has made it clear that the type of ethical transgressions, blatant conflicts of interest, wastes and abuses that we have seen over the past eight years will no longer be tolerated. The Department of the Interior will raise the bar for ethics, and we will set the standard for reform.⁴

Today we know that real reform at MMS never happened. MMS continued its reckless lack of oversight of the oil and gas industry, this time in the form of rubberstamping off-shore oil and gas development.

The agency was warned by parties in both industry and government that a major oil spill in the Gulf of Mexico was impending. A lawyer representing Kenneth Abbott, a British Petroleum ("BP") contractor, wrote a letter to the Interior Solicitor's office, on May 27, 2009, alerting Interior of the potential for a major oil spill due to BP's carelessness on another platform in the Gulf (BP Atlantis) and a fundamental lack of oversight by MMS. That letter stated,

The threat to the marine environment of the Gulf of Mexico is immediately present; it threatens a catastrophic event which could dwarf the Exxon Valdez or Alaskan pipeline spill disasters. We urge MMS to act.⁵

Secretary Salazar was copied on Mr. Abbott's letter. On February 24, 2010, Rep. Raúl Grijalva urged MMS to act on these same concerns by conducting a full investigation of BP's Atlantis Rig.⁶ On September 21, 2009, the National Oceanic and Atmospheric

³Supra Note 1.

⁴U.S. Department of the Interior press release, dated January 29, 2009. Online at: http://www.interior.gov/news/09_News_Releases/012909.html.

⁵Letter dated May 27, 2009 from David L. Perry, of Perry & Haas, to Silvia Murphy, Office of the Solicitor, with copy to Ken Salazar, Secretary of Interior. Online at: <http://www.washingtonpost.com/wp-srv/photo/homepage/KenAbbottLetter.pdf>. P. 3.

⁶Letter dated February 24, 2010 from Rep. Raul Grijalva (D-AZ) and 18 other Members of Congress to Elizabeth Birnbaum, MMS Director. Online at: <http://grijalva.house.gov/uploads/Letter%20to%20MMS%20on%20BP%20Atlantis.pdf>.

Administration (NOAA) wrote to MMS that its environmental analysis on off-shore oil drilling understated the frequency and magnitude of oil spills, underestimated the environmental effects of such spills, and was not based on science.⁷

Despite a year's notice and a wave of warnings rolling in, Secretary Salazar's MMS allowed expansion of off-shore oil drilling in the Gulf with minimal environmental analysis. This lack of oversight set the stage for one of the nation's most catastrophic environmental disasters and the tragic loss of human life: the collapse of BP's Deepwater Horizon off-shore drilling platform on April 22, 2010. This well could spew as much as 73 million gallons of oil into the Gulf of Mexico.⁸ Equally alarming is that MMS issued at least 27 exemptions from National Environmental Policy Act review (categorical exclusions) in the Gulf of Mexico *after* the explosion and collapse of Deepwater Horizon.⁹

NOAA's letter to MMS also warned the latter not to underestimate impacts from oil and gas drilling in the Arctic:

NOAA believes that no leasing should occur in the Arctic Sea under this proposed plan [Draft Proposed Outer Continental Shelf Oil and Gas Leasing Program for 2010-2015] until additional information is gathered and additional research is conducted and evaluated regarding oil spill risk; adequate response and preparedness to spills in the Arctic...¹⁰

Yet, in October and December 2009, Secretary Salazar approved plans for Arctic drilling by Shell Oil.¹¹ In his approval of off-shore drilling, whether in the Gulf, Arctic, or elsewhere, Ken Salazar has demonstrated a wide gap between his words and actions. That is why the American public cannot be expected to believe the promise he made to Congress on May 18, 2010 that he will "clean up" MMS.¹² This is a promise he made to the American public almost a year and a half ago and utterly failed to fulfill.

Coal Leasing

Your administration has stated that addressing the global climate crisis, caused by greenhouse gas emissions, is a top concern. Coal production and use in coal-fired power plants is the largest source of greenhouse gases in the U.S.¹³ Yet, Secretary Salazar has

⁷Letter dated September 21, 2009 from Jane Lubchenco, Under Secretary of Commerce for Oceans and Atmosphere, to Elizabeth Burnbaum, MMS Director. Online at: http://graphics8.nytimes.com/packages/pdf/national/14agency/1_Comments-on-MMS-5YearPlan.pdf.

⁸See *New York Times* Oil Spill Tracker at: <http://www.nytimes.com/interactive/2010/05/01/us/20100501-oil-spill-tracker.html>.

⁹Letter dated May 17, 2010 from Rep. Raul Grijalva (D-AZ) to Ken Salazar. Online at: <http://grijalva.house.gov/uploads/Dear%20Secretary%20Salazar.pdf>.

¹⁰Supra Note 7 at p. 5.

¹¹Center for Biological Diversity press release, online at: http://www.biologicaldiversity.org/news/press_releases/2010/arctic-drilling-05-05-2010.html.

¹²Broder, J.M and L. Robbins. 2010. Federal Agency Chief Admits Lapses in Gulf Oil Spill. *New York Times*, May 18, 2010. Online at: <http://www.nytimes.com/2010/05/19/us/19spill.html?pagewanted=1>.

¹³Analysis based on U.S. EPA, 2009. "Inventory of U.S. Greenhouse Gas Emissions and Sinks, 1990-

actively facilitated expanded coal mining throughout the U.S. In one region alone, the Powder River Basin in Wyoming and Montana, Interior's Bureau of Land Management (BLM) is offering 12 new coal leases that would collectively mine up to 5.8 billion tons of coal—as much coal as has been mined from the region in the last 20 years. These proposals threaten to lead to the release of over 9.63 billion metric tons of carbon dioxide—more than the amount released every year by 1.7 billion passenger vehicles.¹⁴

Compounding this is that Secretary Salazar has turned his back on calls to restore meaningful competition and environmental oversight to federal coal leasing in the Powder River Basin. This problem stems from the fact that the Powder River Basin—the largest coal producing region in the U.S.—has been decertified as a coal production region. As a result of this decertification, coal leasing is conducted through a lease by application process whereby coal companies design their own leases, rather than the BLM. Although ostensibly a competitive process, leases have been designed to preclude actual competition. In the last twenty years, twenty-one coal leases have been offered by the BLM and only three have ever attracted more than one bidder, likely costing the U.S. tens of millions of dollars in lost revenue. The decertification also eliminated the requirement that the BLM conduct coal leasing based on a full consideration of regional environmental impacts. Calls to recertify the Powder River Basin as a coal production region, to restore competition, and to restore environmental oversight have been outright ignored by Secretary Salazar.¹⁵

Removal of Protections for Gray Wolves

In addition to his role in the Gulf oil spill, most Americans will remember this about Ken Salazar: he affirmed the Bush administration's decision to remove protections for gray wolves in most of the Northern Rockies. On April 2, 2009, Secretary Salazar delisted the gray wolf throughout the Northern Rockies, except Wyoming. 74 Fed. Reg. 15123-15188. This removal of legal protections allowed a subsequent slaughter of wolves in the Northern Rockies. The number of wolves killed by hunters and the federal agency Wildlife Services in Idaho and Montana last year was 444 animals.¹⁶ The tally for wolf deaths in 2009 in the Northern Rockies was close to 600. Mortalities were much higher in Idaho and Montana than in Wyoming, where wolves remain federally protected.¹⁷

Scientists and conservationists have sharply criticized the wolf delisting decision as “biologically indefensible,” stating,

2007.” EPA 430-R-09-004, p. 3-4. Online at: <http://www.epa.gov/climatechange/emissions/downloads09/InventoryUSGhG1990-2007.pdf>.

¹⁴Nichols, J. UnderMining the Climate. A WildEarth Guardians report, dated November 23, 2009. Online at: http://www.wildearthguardians.org/Portals/0/support_docs/report_powder_river_11-23-09.pdf.

¹⁵*Id.*

¹⁶U.S. Fish and Wildlife Service et al. 2010. Rocky Mountain Wolf Recovery 2009 Interagency Annual Report. C.A. Sime and E. E. Bangs, eds. USFWS, Ecological Services, 585 Shepard Way, Helena, Montana. 59601. Online at: <http://www.fws.gov/mountain-prairie/species/mammals/wolf/>.

¹⁷*Id.*

...despite the Obama administration's stated intention to ensure the inclusion of science in policy decisions, it appears that in the decision to delist the NRM [Northern Rocky Mountains] gray wolf, the USFWS [U.S. Fish and Wildlife Service] and the new Interior secretary have ignored the best and latest available science, as well as the legal letter and spirit of the ESA.¹⁸

Among the wolves killed as a result of Secretary Salazar's decision to remove federal protections were members of the Cottonwood Pack, which inhabited Yellowstone National Park. This loss interferes with an important scientific study on wolves. Moreover, the killing of Yellowstone's wolves harms millions of Americans, as wolves are a top draw to Yellowstone, one of the country's most popular national parks.

Endangered Species Listings

Another scandal at Interior when Mr. Salazar took his post involved the Endangered Species Act's listing program. Due to long-term stalling and obstruction, the listing program had virtually ground to a halt. In two separate reports (dated March 2007 and December 2008), the Interior Inspector General documented a multitude of imperiled species for which federal protection was denied due to corruption within Interior.¹⁹ Under Secretary Salazar's watch, imperiled species continue to be denied federal protection, principally through foot-dragging. In a 14-month period, from January 2009-March 2010, Secretary Salazar listed just two new U.S. species under the Endangered Species Act, despite a backlog of approximately 300 species awaiting listing. This was the lowest federal listing rate for the first year of an administration since the law was passed in 1973.²⁰ Secretary Salazar dismissed concerns about the sluggish pace of listings in late December 2009, saying his goal is not "number counting of how many species have we listed and how many have we not."²¹ While Mr. Salazar would prefer not to emphasize objective numbers, the question is not idle. The Endangered Species Act is effective in preventing extinction, but species do not benefit from its protections until they are listed. The 300 species waiting for listing are moving closer to the precipice as a result of Mr. Salazar's refusal to count.

There has been some progress in species listings: in one county in the nation (Kauai, Hawaii). In April 2010, Secretary Salazar finalized a 2008 Bush proposal to list 48 Kauai

¹⁸Bergstrom, B. J., S. Vignieri, S. R. Sheffield, W. Sechrest, and A. Carlson. 2009. The Northern Rocky Mountain Gray Wolf is Not Yet Recovered. *BioScience* 59: 991-999. P. 997.

¹⁹U.S. Department of the Interior Office of Inspector General Investigative Report: On Allegations Against Julie MacDonald, Deputy Assistant Secretary, Fish, Wildlife, and Parks. Report released March 2007. Online at: <http://www.doioig.gov/upload/Macdonald.pdf>; and U.S. Department of the Interior Office of Inspector General Investigative Report: The Endangered Species Act and the Conflict Between Science and Policy. Report dated December 10, 2008. Online at: http://www.doioig.gov/upload/Endangered%20Species%20FINAL%20REDACTED5%20w_TOC_encryption.pdf.

²⁰U.S. Fish and Wildlife Service database, online at: http://www.fws.gov/ecos/ajax/tess_public/pub/speciesCountByYear.jsp.

²¹Kohler, Judith. 2010. Interior Head Ends 1st Year With Vows of Reforms. *Associated Press*, January 3, 2010.

species. 75 Fed. Reg. 18960-19165. While the action was urgently needed, it was also overdue: it came more than 6 months after the law required and during the pendency of a lawsuit filed to force action. Some of the species Secretary Salazar listed are likely extinct, having languished in the species waiting line for far too long.

Moreover, key officials involved in Bush-era endangered species scandals remain in place. For example, the Inspector General indicated in the December 2008 report that Mr. Ren Lohofener was involved in, and defended, several controversial decisions in which political interference prevented endangered species from receiving protection. Mr. Lohofener also supported the former Deputy Assistant Secretary for Fish and Wildlife and Parks, Julie MacDonald, who was the spotlight of the Interior political scandals from 2006-2008, and who resigned just prior to Congressional hearings on the issue. Wrote the Inspector General, “According to Lohofener, MacDonald brought a critical review to the process, which he believed was beneficial.”²² Despite his participation in, and defense of, the politicization of science to the detriment of endangered species, Mr. Lohofener is currently director of the Fish and Wildlife Service’s Region 8.

Ken Salazar Should Resign

Secretary Salazar, like his predecessors in the George W. Bush administration, has failed to place science above politics and prioritize federal environmental protections above accommodations for ecologically harmful industries. We believe this is why one of the most catastrophic environmental disasters in our nation’s history – the Deepwater Horizon oil spill in the Gulf of Mexico – is occurring. Without a fundamental change by the Obama administration, our nation’s rich natural heritage will be squandered.

On this basis, we urge you to ask Ken Salazar to step down from the post of Interior Secretary. In his place, we implore you to appoint an individual with a proven commitment to conservation. Particularly important are the two issues we’ve highlighted above: the need for policies which move us past fossil fuels in order to combat the climate crisis; and the urgent need to safeguard biodiversity. Scientists are warning that, at our own peril, humanity is overstepping “planetary boundaries,” particularly in these two areas.²³ The new Interior Secretary must demonstrate unequivocal commitment to environmental protection, dedication to science-based decision-making, and the courage to resist pressures from industry to continue down the path to environmental ruin.

Sincerely,

/S/Nicole J. Rosmarino

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²²Supra Note 19 (December 2008 report) at p. 133.

²³Rockström et al. 2009. “A Safe Operating Space for Humanity.” *Nature* 461 (September 24, 2009) 472-475. Online at: <http://www.nature.com/news/specials/planetaryboundaries/index.html>.

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