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May 15, 2020

Dr. Cynthia J. Decker
Scientific Integrity Officer
NOAA Research Council
National Oceanic and Atmospheric Administration
1315 East-West Highway
Silver Spring, MD 20910

Dear Dr. Cynthia Decker,

As you are aware, on September 10, 2019 I contacted you to request that National Oceanic and Atmospheric Administration (NOAA) open a formal investigation into the Administration's response to President Trump's unsubstantiated statements about Hurricane Dorian. Specifically, I requested you examine whether these actions violated the NOAA Administrative Order on scientific integrity. I am pleased to see that this process has moved forward with the seriousness it requires.

In my original complaint, I expressed concern about reports indicating that political leadership pressured NOAA scientists to avoid contradicting President Trump. In particular, President Trump claimed that Alabama would "most likely be hit (much) harder than anticipated," despite the fact that forecast guidance indicated that the state was not at risk. Additionally, I also shared my disturbance with the unsigned statement published by NOAA on September 6, 2019 that supported the president's false assertion. My overarching concern was that actions suggest that the Administration prioritized political interests over the safety and welfare of the American people, who depend on the National Weather Service for life-saving forecasts and information.

Recently, I have reviewed the National Academy of Public Administration's (NAPA) report on the matter, and my written exceptions appear below, both for you and the Determining Official to review. I have structured my written exceptions as it pertains to each finding in the report, followed by some additional responses and concerns. I commend you for enlisting NAPA to conduct the investigation independently. I also want to recognize the strength of NOAA's existing scientific integrity policies, which require a career official to act as the Determining Official.

Finding 1:

I remain concerned that the media guidance issued by NOAA between September 1-6, 2019 constituted a violation of the NOAA scientific integrity policy. While I understand that agencies have specific protocols during times of crisis, my concern remains that the existing scientific integrity policies - which are strong - may be sidelined by political considerations during communications crises. In this case, there was no scientific dispute; this was a political crisis created by political actors, and there was a value in timely communication from NOAA's scientific authorities while Hurricane Dorian remained an active threat. NOAA's scientific integrity policy allows for scientists to communicate with the public and press without prior approval. Any delay in response that is not based on scientific concerns could at best cause a loss of public trust in forecasters, and at worst could cost lives and personal safety. NOAA's existing policy seems tailored to this necessity. Forecasting hurricane paths certainly seems to meet this test.

I find it hard to believe that these actions were taken to protect forecasters, as was suggested by some of the individuals NAPA interviewed. Forecasters are skilled crisis managers who work often with the public and are trained in crisis communication. I have observed that local forecasters want to do all they can to communicate important and potentially life-saving information in a timely manner with the public.

I also am concerned that NOAA's policy of allowing scientists to share their personal opinions was violated. NOAA's scientific integrity policy has allowed for this for almost a decade, and we have seen no major issues as a result. That policy is substantially weakened if, in times of crisis, it can be ignored. While there could be reasonable and extraordinary circumstances where it could be necessary to put limitations on scientists' ability to speak with the media, I see no evidence that the limitations placed on NOAA scientists in this case served any benefit to agency performance or public safety.

Finally, I believe it crucial to consider Finding 1 of the NAPA report within the broader context of the other findings. The intended political manipulation and interference, combined with the communications limitations put in place, clearly show that the intention of the Agency actions was never to protect public safety. Thus, the delay in timely information impedes the Agency's mission, constituting an exception.

Finding 2:

I agree that Neil Jacobs and Julie Roberts violated the Code of Ethics in Section 7.01 of the scientific integrity policy when they failed to engage the Birmingham Weather Forecasting Office in developing the September 6 statement. I do want to note that officials at Commerce clearly acted inappropriately and also should be held accountable. I agree with the recommendations in the report but want to ensure that any new communications guidance does not diminish the existing NOAA scientific integrity policy. Instead, it should complement the NOAA policy. I also recommend that NOAA share its updated policies with Office of Science

and Technology Policy (OSTP) and other agencies so the lessons learned here can be applied more broadly.

In light of these findings, it would be my hope to require NOAA and Commerce to formally and publicly acknowledge all violations and commit to not repeating these violations again. In particular, the Birmingham office should receive a public apology. This would restore some public trust and faith in NOAA and Commerce's policies both from the public, community partners and NOAA's scientists and forecasters.

Finding 3:

I agree that Neil Jacobs and Julie Roberts violated Section 7 of the scientific integrity policy in helping to prepare the September 6 statement in general. It is clear that the actions of NOAA's leadership to uphold President Trump's inaccurate claim about the path of the storm strongly suggest a violation of agency policy. Again, officials at Commerce clearly acted inappropriately as well.

I fully support the recommendations related to this finding. It may be useful for NAPA to specify in its report that any interagency agreements between NOAA and Commerce should not weaken any elements of the existing scientific integrity policy at NOAA.

Again, it would be my hope that NOAA and Commerce formally and publicly be required to acknowledge all violations and commit to not repeating these violations again. Again, I recommend that NOAA share its updated policies with OSTP and other agencies so the lessons learned here might be applied more broadly.

For all findings:

I am interested to learn if NAPA consulted with scientific integrity experts or officers external to this case, and if so, how many they contacted. Similarly, I would be interested to learn if NAPA contacted House Science Space and Technology Committee for information.

For all findings: On the scientific integrity policy at Commerce proper:

This investigation has revealed that the Department of Commerce has a weak scientific integrity policy that does not fulfill OSTP's requirements to instill a culture of scientific integrity. The scientific integrity policy for Commerce proper¹ is minimal—only 4 pages long—and has little to say about the very actions that the Commerce political officials took in promulgating the September 6 statement. In fact, the Commerce scientific integrity policy apparently does not forbid Commerce employees except “public affairs officers” from misrepresenting the work of scientists who work in Commerce sub-agencies. If it would not be inappropriate to the scope of

¹ https://2010-2014.commerce.gov/sites/default/files/documents/2012/april/scientific_integrity_memorandum_dtd_2011-12-16.pdf

the inquiry, I would request that NAPA add observations about the adequacy of the scientific integrity policy for Commerce proper, given the role that political officials at Commerce played in the preparation and dissemination of the September 6 statement.

An interagency comparison between Commerce and Interior highlight the inadequacy of the broad Commerce scientific integrity policy. I note that like the Commerce Department, the Department of the Interior (DOI) has an “umbrella” scientific integrity policy that applies to the Department in its entirety, with several sub-agencies (e.g. USGS) articulating their own, more detailed policies. DOI’s umbrella policy, by contrast, is far more comprehensive than the Commerce Department policy. It is 17 pages long and is accompanied by a 53 page Procedural Handbook.² It designates a DOI-wide Scientific Integrity Official, makes clear that the scientific integrity expectations and a Code of Conduct extend to all DOI employees, outlines a process for potential violations where the Office of the Secretary might be involved, and so on.

NOAA/Commerce relationship:

On page 9, NAPA notes that it did not have access to Commerce Department officials for this review. Commerce has similarly stonewalled the House Science, Space & Technology Committee, and has only shared communications featuring NOAA officials while withholding communications and interviews from Commerce officials. But both the House Science, Space & Technology Committee’s review and NAPA’s found that the drafting of the September 6 public statement was done primarily by Commerce political officials (see page 33), and that NOAA officials participated at their direction. As NAPA acknowledges in its report, the NOAA scientific integrity policy only applies to “NOAA employees, political or career,” and thus does not cover political officials in Commerce proper. This clear deficiency supports NAPA’s recommendation to establish a formal intra-agency agreement to guide the interactions between Commerce and NOAA officials in the drafting of NOAA communications. But perhaps NAPA could go a step further with this recommendation – does the NOAA scientific integrity policy need to articulate clearer protocols for how to proceed when Commerce Department officials direct NOAA officials to take any action, communication or otherwise, that does not satisfy the NOAA scientific integrity policy?

On social media policy:

On page 15 under “Decision Point,” NAPA discusses how it reached the conclusion that a tweet from NOAA is covered under the NOAA scientific integrity policy. It may be worth considering whether a revision should be made to the policy to clarify and state affirmatively that social media statements from official Agency accounts represent Official Communications, and thus should be subject to the same standards as other Agency communications, so that future social media communications that otherwise meet the definition of “scientific product” (as articulated on page 16 of NAPA’s report) are made in accordance with the NOAA policy. Is there any

² <https://www.doi.gov/sites/doi.gov/files/elips/documents/305%20DM%203%20Handbook%20-%20Scientific%20Integrity%20Procedures.pdf>

reason why NAPA does not recommend that NOAA amend its scientific integrity policy to affirm explicitly that social media communication of “scientific products” are covered?

On the White House’s responsibility:

Does NAPA have any recommendations for agencies if orders that would compel violations of their respective scientific integrity policies come directly from the White House? What should agency leadership or staff do if they are directly ordered by the White House to take actions that put them at odds with their agencies’ policies? This episode has demonstrated the importance of establishing interagency understanding regarding scientific integrity. Should such understanding be established for the Executive Office of the President of the United States?

On agency coordination:

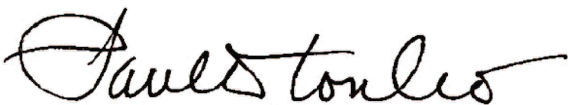
NAPA could use this report to encourage OSTP to convene officers from various agencies regularly, given the clear lessons learned from this process. Such a concept is included in my legislation, the *Scientific Integrity Act* (H.R. 1709). This is an important opportunity to learn and strengthen scientific integrity policies to reflect previously unconsidered situations.

Taking part in this investigation has reaffirmed my strong belief that all agencies that conduct or fund science need baseline standards to ensure that its scientific integrity policies are strong and meaningful. I intend to once again express this to OSTP and to move forward with H.R. 1709, the *Scientific Integrity Act*. I believe this process illustrates the effectiveness as well as the limitations of scientific integrity policies. This process will allow for some transparency and hopefully influence agency policy and actions going forward. These mistakes should not be repeated.

I again want to highlight that millions of Americans, organizations, and state and local agencies across the country look to NOAA and the National Weather Service for guidance on matters of weather and climate. Interference undermines the ability of government scientists to conduct life-saving work, puts the nation at risk, and compromises the integrity of our National Weather Service. I appreciate NOAA’s mission, its strong commitment to scientific integrity, and its cooperation with NAPA in its efforts to complete this necessary investigation.

Thank you for your consideration.

Sincerely,



Paul D. Tonko

Member of Congress