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May 21, 2007

The Honorable Dirk Kempthorne
Secretary
Department of the Interior
1849 C Street, N.W.
Washington, DC 20240

Dear Secretary Kempthorne:

We are writing to reiterate the request we made at the House Natural Resources Committee's hearing on May 9, 2007, and subsequently in writing by Chairman Nick J. Rahall, II, for a complete accounting of how the Department of the Interior is responding to the Inspector General's investigation of Julie MacDonald. Yesterday's newspaper report in the Contra Costa Times on Julie MacDonald and her role in the decision to remove the Sacramento Splittail from the list of threatened species demands an immediate response from the Department. This new information adds very serious charges to her record.

The Contra Costa Times reports ("Decision on splittail raises suspicions") that the Fish and Wildlife Service, at MacDonald's direction, may have improperly ignored scientific evidence when deciding to eliminate the Sacramento Splittail's threatened species designation, and that MacDonald, a non-scientist, was heavily involved in the decision. By statute, as you know, listing and de-listing decisions can only be made on the basis of the best scientific and commercial data available.

More egregious still, the article demonstrates that MacDonald was profiting significantly from agricultural property in Sacramento Splittail habitat. It is our understanding that this is the first and only time that a fish species has been removed from the list of threatened species for reasons other than extinction. It is unacceptable that such an unprecedented policy decision may have been made because a Deputy Assistant Secretary had a direct and substantial personal financial interest.

In light of this highly troubling new report, please provide us with a full accounting of former Deputy Assistant Secretary MacDonald's role from 2002-2004 in the Sacramento Splittail decision, including but not limited to:

(1) Details of her contacts with staff in the California and Nevada Operations Office and elsewhere within the Department regarding the Sacramento Splittail;
(2) A complete accounting of the changes made by Julie MacDonald, and others, to the Sacramento Splittail listing documents after they were sent to Washington; and
(3) Communications regarding the Sacramento Splittail, if any, between MacDonald and interests outside the Department, including the San Luis & Delta-Mendota Water Authority, the State Water Contractors, or the California Farm Bureau.

In addition, please provide us with a full account of former Deputy Assistant Secretary MacDonald's apparent conflict of interest, including but not limited to:

(1) Details of her participation in decisions affecting the management of fish and wildlife species in the Sacramento-San Joaquin Delta region, especially those on or near her property;
(2) A description of Interior Department decisions, if any, from which she recused herself based on a conflict of interest, or the appearance of a conflict;
(3) A list of officials at the Department who were aware that she continued to own and profit from agricultural property in California while serving as Deputy Assistant Secretary; and
(4) All advice or ethics opinions provided to her by the Department regarding these matters.

In order to determine the Interior Department's role in overseeing MacDonald's activities, please provide a description of all formal or informal action taken by the Department in response to her 2004 decision to leak documents to the California Farm Bureau's lobbyist in an apparent attempt to undermine a scientific decision regarding the threatened Delta smelt.

Finally, in order to address the significant policy implications of MacDonald's actions, we request that you direct the Fish and Wildlife Service to re-evaluate whether its decision to de-list the Sacramento Splittail was based solely upon the best available scientific and commercial data, as required by law, and to report these findings to the Congress. In addition, please provide us with the results of each of the three statistical methods employed by the Fish and Wildlife Service to determine the health of the Sacramento Splittail's population. Endangered species

decisions must be based on accurate and reliable scientific analysis, not the conflict of interest of a senior departmental official. This is especially true for significant and sensitive decisions such as this one, which could affect the management of California's Bay-Delta and water operations.

We appreciate your prompt attention to our request. Please contact Ben Miller with Rep. George Miller's staff at (202) 225-2095, or Lori Sonken with the Natural Resources Committee staff at (202) 225-6065, with any questions.

Sincerely,

GEORGE MILLER
Member of Congress

NICK J. RAHALL, II
Chairman
Committee on Natural Resources