



**U.S. OFFICE OF SPECIAL COUNSEL**

1730 M Street, N.W., Suite 218  
Washington, D.C. 20036-4505  
202-254-3600

**Analysis of Disclosures, Agency Investigation and Reports,  
Whistleblower Comments, and Comments of the Special Counsel**

**OSC File No. DI-05-2703**

**Summary**

Research Biologist Daniel Uresk, Ph.D., who originally requested to remain anonymous,<sup>1</sup> alleged that Jack Butler, Ph.D., Research Ecologist, United States Department of Agriculture (USDA), Forest Service (FS), Rocky Mountain Region, Rocky Mountain Research Station (RMRS), Rapid City, South Dakota, inappropriately exercised control over a small mammal research project and improperly shifted agency funds in order to continue the project, because his wife was one of the project's scientific consultants. Dr. Uresk alleged that Dr. Butler's actions created a conflict of interest in violation of federal regulations.

The Secretary, USDA, asked the Office of the Inspector General (OIG), USDA, to investigate Dr. Uresk's allegations. The OIG found no evidence to substantiate the allegation that Dr. Butler exerted any inappropriate influence on the small mammal research project, improperly shifted funds to the project, or abused his authority in any way connected to the project.

OSC finds that the agency's report contains all of the information required by statute and that its findings appear to be reasonable.

**The Whistleblower's Disclosures**

Dr. Uresk alleged that Dr. Butler assumed control of a small mammal research project performed in conjunction with the National Parks Service (NPS) and with the aid of Colorado State University (CSU) and directed funds to his wife, Cheryl Schmidt, Ph.D., through the project. Dr. Uresk served as the project's Principal Investigator from its inception until June 3, 2004. Dr. Butler replaced Dr. Uresk as Unit Project Leader at Rapid City RMRS on November 10, 2003. Dr. Uresk had served as Unit Project Leader since February 1988. According to Dr. Uresk, when the research project began, Dr. Schmidt was hired on a contract basis to work as a consultant. After some time, the project exhausted its funding, and CSU requested that the project be suspended until more funding became available. In response, Dr. Butler, in his official capacity, allegedly shifted unit funds originally designated for other research projects into the NPS Small Mammal Research Project in order to keep the project operational and, thus, his wife employed. In addition, Dr. Uresk also contended that Dr. Butler inappropriately assumed control of the project, circumventing the appropriate management personnel by cutting them out of project funding decisions and relieving them of specific duties.

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<sup>1</sup> On March 27, 2007, Dr. Uresk, through his attorney James F. Margadant, provided written consent to the release of his name in connection with these allegations.

Dr. Uresk's allegations raised issues of impropriety and partiality with respect to the use of government funds and may have disclosed an abuse of authority, gross mismanagement and violations of law. As stated in 5 C.F.R. § 2635.502, unless specifically authorized by the agency designee, an employee should not participate in a particular matter directly affecting the financial interest of a member of his household when the circumstances would cause a reasonable person to question the employee's impartiality. Furthermore, the use of public office for the private gain of relatives is specifically prohibited by 5 C.F.R. § 2635.702 unless the requirements of 5 C.F.R. § 2635.502 are met, namely the authorization of the agency designee.

### **Report of the United States Department of Agriculture**

The OIG interviewed several employees of Rapid City RMRS, including Dr. Butler. In addition, the OIG interviewed Dr. Schmidt and Dan Licht, Monitoring Coordinator, NPS, Northern Great Plains Network, Rapid City, South Dakota. The OIG also reviewed financial documents for any funds that may have been allocated to the NPS Small Mammal Research Project.

The investigation found no violations of law, rule, or regulation, and no evidence of mismanagement or waste of funds. Rather, it found that Dr. Butler purposely removed himself from any management or funding decisions concerning the NPS Small Mammal Research Project in order to avoid any potential conflicts of interest. He played no active role in the project at any time.

In particular, the investigation found that Dr. Butler was not involved in the decision to hire his wife, nor did he actively participate in the project. CSU, which had agreed to conduct the study as a joint venture with FS, hired Dr. Schmidt with the approval of FS and NPS.<sup>2</sup> Although Dr. Butler informed Mr. Licht of his wife's expertise in the study of bats, he played no further role in her hire. In August 2002, at the request of FS, an ethics review found no conflict of interest in Dr. Schmidt's hire, because Dr. Uresk was the Principal Investigator, also known as the Technical Representative, and served as the contact between NPS and CSU. In addition, Dr. Schmidt was a CSU employee, and Dr. Butler was not involved in the submission of any of the project agreements and had distanced himself from the project.

As the project progressed, however, funding became an issue. The original agreement between FS and NPS called for NPS to provide funding in the amount of \$34,038 in Fiscal Year 2002 (FY 2002), \$32,688 in FY 2003, and \$12,574 in FY 2004. Due to delays in the contract between FS and CSU, Dr. Schmidt did not begin work until 2003. Her 2003 work was paid from funds carried over from FY 2002. However, FY 2003 funds had to be used by September 30, 2003, or they would be de-obligated. When FS failed to bill NPS against the FY 2003 funds by September 30, 2003, NPS de-obligated most of the funds. NPS, however, still wanted the project completed. FS and NPS jointly accepted responsibility for FS's failure to bill NPS against the FY 2003 funds. Consequently, NPS asked FS to raise half of the funds required to complete the three year project.

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<sup>2</sup> NPS provided the project funding through an interagency agreement.

According to Mr. Licht, he and Mark Rumble, Ph.D.,<sup>3</sup> FS, Rapid City RMRS, determined the actual amount needed to complete the project. In addition to the \$30,000 that NPS would provide and the approximately \$5,000 that Dr. Schmidt obtained from South Dakota Fish and Wildlife, they decided that it would require \$5,000 in FS funds to finish the project on time. Dr. Rumble acquired \$4,898 in FS funds from his research budget. According to Janine Powell, Ph.D., Assistant Station Director for Research, FS, Rapid City RMRS, Dr. Rumble's request was consistent with RMRS' allocation of research funds based on individual research needs and she approved and signed the amendment to the Joint Venture Agreement between FS and NPS for the use of those funds.

Nevertheless, there arose a question concerning \$10,158 that appeared to have been allocated to the NPS Small Mammal Research Project from RMRS funds. Based on closer inspection of the documents and an interview with Dr. Powell, the OIG determined that the \$10,158 could not have been used for the NPS Small Mammal Research Project, because it was provided to the Research Unit for new lease costs. Dr. Powell also stated that she had seen no documentation that any other project had lost funding in order to fund the NPS Small Mammal Research Project. As a result of Dr. Powell's statement, statements from other employees, and a review of financial documents, the OIG investigation concluded that FS had not misused funds.

The OIG investigation also did not find that Dr. Butler abused his authority or influenced the project in any way. In fact, the investigation found that Dr. Butler made it abundantly clear that he would not take an active role or become directly involved in the NPS Small Mammal Research Project. This included any funding decisions concerning the project, which Dr. Butler stated he left up to Dr. Rumble and the Grants and Agreements staff. The initial ethics review discussed previously also found no conflict of interest or violation of law in Dr. Schmidt's hire.

#### **The Whistleblower's Comments**

Dr. Uresk expressed concern that the agency report contained attacks on his character and management style to divert attention from the conflict of interest charge. He surmised that Dr. Butler increasingly asserted control over the NPS Small Mammal Research Project to ensure it was funded to its completion. Dr. Uresk recalled neither receiving the May 18, 2004, letter from Dr. Butler, which discussed the possibility of contributing \$10,000 of RMRS funds to the NPS Small Mammal Research Project, nor attending the meeting referenced within the letter. In fact, Dr. Uresk stated that he had been out of the state during the time period when the letter was written. He questioned why the message was not sent via e-mail. Dr. Uresk also questioned why Dr. Schmidt's May 2004 time sheet was not directed to him as the Principal Investigator of the NPS Small Mammal Research Project.

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<sup>3</sup> Dr. Rumble succeeded Dr. Uresk as Principal Investigator of the NPS Small Mammal Research Project in June 2004.

**Conclusion**

Based on my review of the original disclosures and the USDA report, I have determined that the agency's report contains all of the information required by statute and that its findings appear to be reasonable. Although Dr. Butler expressed a desire to allocate \$10,000 to the NPS Small Mammal Research Project, the USDA report states that the only FS funds given to the project were \$4,898 requested by Dr. Rumble. The decision to approve the allocation of the \$4,898 was made by Dr. Powell, not Dr. Butler. Thus, the USDA report's conclusion that Dr. Butler did not engage in a conflict of interest or improperly divert or misuse FS research funds appears to be reasonable.