

U.S. House of Representatives
Committee on Natural Resources
Washington, DC 20515

July 20, 2021

Mr. Daniel Cordalis
Deputy Solicitor, Water Resources
U.S. Department of the Interior
1849 C Street, N.W.
Washington, D.C. 20240

Ms. Heather Gottry
Director and Designated Agency Ethics Official, Departmental Ethics Office
U.S. Department of the Interior
1849 C Street, N.W.
Washington, D.C. 20240

Dear Mr. Cordalis and Ms. Gottry,

Senior leaders at federal agencies are responsible for fostering cultures of ethical conduct.¹ Employees unable to act impartially are not qualified to perform their role in government.² To ensure appropriate conduct, the U.S. Office of Government Ethics (OGE) issues ethical standards by which all executive branch employees must abide.³ OGE standards require employees to “place loyalty to the Constitution, the laws, and ethical principles above private gain”⁴ and “act impartially and not give preferential treatment to any private organization or individual.”⁵ Transparency is key to ensuring federal employees’ compliance with OGE’s standards.⁶

Prior to joining the Department of the Interior (DOI), Mr. Cordalis served as an attorney for the Yurok Tribe, Earthjustice, and in private practice.⁷ Mr. Cordalis opened his own firm, after leaving Earthjustice in June 2016.⁸ Through his law firm, Mr. Cordalis represented the

¹ *Nomination of Emory A. Rounds III Nominated to be Director of U.S. Office of Government Ethics, Kelly A. Higashi Nominated to be an Associate Judge, Superior Court for the District of Columbia, and Frederick M. Nutt Nominated to be Controller, Officer of Federal Financial Management, Office of Management and Budget: Hearing before the S. Comm. on Homeland Security and Governmental Affairs*, 115th Cong. (2018) (statement of Emory A. Rounds III, nominated to be Director of U.S. Office of Government Ethics).

² *Id.*

³ 5 C.F.R. Part 2635 (2017).

⁴ *Id.* at 101(b)(1).

⁵ *Id.* at 101(b)(8).

⁶ U.S. OFFICE OF GOV'T ETHICS, *The Ethics Program, Transparency, and You* (June 7, 2018), <https://www.oge.gov/web/oge.nsf/Resources/The+Ethics+Program,+Transparency,+and+You>.

⁷ Press Release, Dep't of the Interior, *Interior Dep't Welcomes Newest Members of Leadership Team* (Feb. 22, 2021), <https://www.doi.gov/pressreleases/interior-department-welcomes-newest-members-leadership-team>.

⁸ Jeremy P. Jacobs, *Meet Interior's New Water Lawyer*, E&E NEWS (Mar. 11, 2021), <https://www.eenews.net/greenwire/2021/03/11/stories/1063727093>.

Yurok Tribe in lawsuits, including suits against the Bureau of Reclamation (BOR) during the Trump Administration.⁹

The BOR implements the Central Valley Project Improvement Act (CVPIA), which modified Central Valley Project (CVP) operations beginning in 1992 by including the protection, restoration, and enhancement of fish, wildlife, and associated habitats in the Central Valley and Trinity River basins of California.¹⁰ Section 3406 of the CVPIA identifies specific restoration actions, including the Trinity River Restoration Program, that DOI is required to undertake to further the purposes of the CVPIA.¹¹ The Yurok Tribe serves as a member of the Trinity River Restoration Program Management Council¹² and actively participates in matters related to implementation of the CVPIA. In particular, the Yurok Tribe focuses on section 3406(b)(23) of the CVPIA, which authorized and directed the Secretary of the Interior to implement a program in the Trinity River watershed for “the purposes of fishery restoration, propagation, and maintenance.”¹³

Pursuant to CVPIA section 3407(d), these activities are funded by the collection of restoration fund charges imposed on water and power contractors. Under CVPIA section 3407(d)(2), when the Secretary determines the restoration activities identified in section 3406 are “complete,” these restoration fund charges will be reduced.¹⁴ On January 19, 2021, then-Interior Secretary David Bernhardt concurred with the January 14, 2021, findings of DOI’s career solicitor and assistant secretaries who concluded that most of the restoration requirements were deemed “complete” under the CVPIA.¹⁵

On June 11, 2021, Mr. Cordalis leveraged his position as a political appointee to overrule a January 14, 2021 legal policy penned by nonpolitical career officials related to requirements under the CVPIA.¹⁶ By overruling the January 14, 2021 memorandum, Mr. Cordalis enacted an official decision in favor of a position to maintain high level of funds available for CVP grants.¹⁷ The Yurok Tribe, Mr. Cordalis’ former client, has a financial interest in the funding levels available under the CVPIA. Since 2013, the Yurok Tribe received at least \$30.8 million in BOR grants related to the Central Valley Project.¹⁸

⁹ *Id. see also* Yurok Tribe v. United States Bureau of Reclamation, 2020 U.S. Dist. LEXIS 94484 (N.D. Calif. 2020); Yurok Tribe v. United States Bureau of Reclamation, 2018 U.S. App. LEXIS 37034 (9th Cir. 2018); Yurok Tribe v. Rancheria, 787 Fed. Appx. 421 (9th Cir. 2019).

¹⁰ Central Valley Project Improvement Act, Pub. L. No. 102-575, § 3402 (a).

¹¹ *Id.* at §3406.

¹² *Trinity Management Council*, TRINITY RIVER RESTORATION PROGRAM, <https://www.trrp.net/program-structure/program-structure/trinity-management-council/>.

¹³ *Supra* note 10 §3406(b)(23).

¹⁴ *Id.* at § 3407.

¹⁵ Jeremy P. Jacobs & Michael Doyle, *Biden Admin Set to Ditch Trump’s Calif. Irrigation Policy*, E&E NEWS (July 1, 2021), <https://subscriber.politicopro.com/article/eenews/1063736319>.

¹⁶ *Id.*

¹⁷ Memorandum from Daniel Cordalis, Deputy Solicitor for Water Resources to Ernest Conant, Regional Director, California-Great Basin Region, Bureau of Reclamation (June 11, 2021).

¹⁸ *Spending by Prime Award*, USA SPENDING, (last visited July 13, 2021), <https://www.usaspending.gov/search/?hash=924fb8214a35f7a0733aa82a6fecff1e>.

As Deputy Solicitor for Water Resources, Mr. Cordalis is subject to President Biden's ethics standards. Therefore, for two years, Mr. Cordalis is prohibited from participating in "any particular matter involving specific parties that is directly and substantially related to [his] former employer or former clients, including regulations and contracts."¹⁹ The financial implications of his June 11, 2021 memorandum, particularly for the Yurok Tribe, call Mr. Cordalis' compliance with President Biden's standards into question.

To satisfy his ethical obligations, Mr. Cordalis must also consider the impacts his official decisions have on the financial interests of his spouse, Mrs. Amy Cordalis. Federal law dictates civil penalties²⁰ for executive branch employees who "personally and substantially" participate in decisions where the employee, or his spouse, has a financial interest.²¹ OGE standards build upon this principle. Executive branch employees are to recuse themselves from matters when their impartiality could be reasonably questioned due to their spouse's financial interests.²² Additionally, OGE guidance describes how an agency's designated ethics official should evaluate an employee's recusal from a matter, even if it does not rise to a violation of federal law.²³

Mrs. Cordalis is a member of and general counsel to the Yurok Tribe.²⁴ Together, Mrs. Cordalis' role as general counsel and the financial implications of his decision,²⁵ should require Mr. Cordalis to examine his ethical obligations. To avoid even the appearance of preferential treatment, it is reasonable to expect Mr. Cordalis consulted Ms. Gottry prior to his participation in the discussions that culminated in the June 11, 2021 memorandum.

To confirm Mr. Cordalis' compliance with ethical standards and to assist with our oversight activities, please provide the following documents as soon as possible, but no later than 5:00 p.m., July 27, 2021:

1. A copy of Mr. Cordalis' signed ethics pledge.
2. A copy of Mr. Cordalis' Ethics Guidance and Recusal Obligations and all related attachments, including, but not limited to, his List of Recusals and Quick Reference Chart.
3. A copy of Mr. Cordalis' Executive Branch Personnel Public Financial Disclosure Report (OGE Form 278e).
4. A document sufficient to describe all ethics waivers granted to Mr. Cordalis.

¹⁹ Exec. Order No. 13989, 86 Fed. Reg. 14, 7029 (Jan. 20, 2021).

²⁰ 18 U.S.C. § 216.

²¹ 18 U.S.C. § 208.

²² *Supra* note 3 at 502(a).

²³ *Supra* note 3 at 502(c)-(d).

²⁴ *The Status of Drought Conditions Throughout the Western United States: Before the Subcomm. on Water, Oceans, and Wildlife of the H. Comm. on Natural Resources*, 117th Cong. (2021) (Statement of Ms. Amy Cordalis, Counsel, Yurok Tribe and Principal, Ridges to Riffles Conservation Fund).

²⁵ *See supra* note 3 at 502(b)(1)(iii).

Mr. Cordalis and Ms. Gottry

July 20, 2021

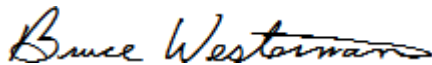
Page 4

5. A document sufficient to describe all authorizations issued under 5 C.F.R. § 2635.502 to Mr. Cordalis.
6. A copy of the information Mr. Cordalis provided to DOI's Ethics Office describing his work for the Yurok Tribe.
7. A document listing all legal and regulatory challenges Mr. Cordalis participated in beginning January 1, 2016.
8. A document listing the decisions, deliberations, and actions that include Mr. Cordalis' participation as a DOI employee from February 22, 2021 through July 20, 2021.

Please contact the Oversight and Investigations Subcommittee Minority staff at (202) 225-2761 with any questions about this request and to coordinate the delivery of your response to room 1329 of the Longworth House Office Building.

An attachment contains additional instructions for responding to this request. Thank you for your prompt attention to this matter.

Sincerely,



Bruce Westerman
Ranking Member
Committee on Natural Resources



Paul A. Gosar, D.D.S.
Ranking Member
Subcommittee on Oversight and
Investigations

cc: The Honorable Raúl Grijalva, Chair, House Committee on Natural Resources
The Honorable Katie Porter, Chair, Subcommittee on Oversight and Investigations

Enclosure