






UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF
AIR AND RADIATION

SUBJECT: Request for prior approval to publish an article about sea level rise in the peer-review journal *Environmental Research Letters*

FROM: James G. Titus, Economist (GS-14) 

THROUGH: Rona Birnbaum, Chief 
Climate Science and Impacts Branch

Dina Kruger, Assistant Deputy Ethics Official 
Climate Change Division

TO: Brian McLean, Deputy Ethics Official
Office of Atmospheric Programs

I seek approval to publish a letter entitled "Governments plan for development of most land vulnerable to rising sea along U.S. Atlantic Coast" in my personal capacity as an outside activity. I wrote the letter during my spare time between February 2008 and June 2009. This letter has been accepted by the journal *Environmental Research Letters* and summarizes the sea level rise planning study on which I worked (on average) approximately half-time from 1998-2007 as part of my official duty. It synthesizes a series of state-specific studies that divide coastal lands into four land-use categories related to intensity of development and likelihood of shore protection, and lists 11 contributors to those studies as co-authors. The letter concludes that a key nationwide permit issued by the Corps of Engineers violates the Clean Water Act's requirement of no cumulative impact.

I have discussed this activity with ethics officer Justina Fugh. She has reminded me that if you approve this publication as an outside activity, then I can still make reference to my official title and position with a disclaimer stating: "The opinions expressed in this letter do not necessarily reflect the official position of either the United States Environmental Protection Agency or the United States Government."

- name, title and grade

James G. Titus. GS-14 economist;

- the nature of the outside activity, including a full description of the services to be performed and the amount of compensation expected

I have written a 7-page letter, and prepared extensive online supplemental material about a sea level rise planning study undertaken by EPA staff, contractors, and grantees in the journal *Environmental Research Letters*. I have kept other authors informed and revised the manuscript in response to peer review comments. Prospectively, I intend to publish the article and answer questions about the article's results and conclusions. The article and online supplements will include county- and state-scale maps, results, and text extracted from draft EPA reports prepared in 2003-2007 but never published.

There is no compensation; in fact the authors must pay the journal a \$1900 author fee.

- the name and business of the person or organization for which the work will be done (in cases of self-employment, indicate the type of services to be rendered and estimate the number of clients or customers anticipated during the next six months)

I wrote the letter on my own rather than as part of an arrangement with another person, and then submitted the unsolicited manuscript to the journal. The Institute of Physics is a scientific charity devoted to increasing the practice, understandings, and application of physics. Its publishing company, IOP Publishing, is the publisher of *Environmental Research Letters*.

- the estimated time to be devoted to the activity

I estimate 30 hours between now and whenever the article is published. I have no idea how much (if any) time I will have to spend answering questions about the letter after it is published. It is difficult to estimate how much time I have spent on this manuscript in the past, but I spent about 50 hours preparing the first rough draft and another 50 hours preparing summary graphics and tables. I also estimate that I have spent on average about 4 hours per week during the last 18 months.

- whether the service will be performed entirely outside of normal duty hours (if not, estimate the number of hours of absence from work required)

Prospectively, all work will be entirely outside of normal duty hours, except that I plan to take a day of annual leave on the day that the article is published. In the past, I have generally written the article outside of normal duty hours. On occasion, I have worked on the paper during normal business hours, but in each case I was working longer than my regular day and worked into the evening by an amount of time greater or equal to the amount of time spent on this article.

- a statement that no official duty time or Government property, resources, or facilities available to the general public will be used in connection with the outside employment

Prospectively, publishing this article will not require the use of any duty time, government property, resources, or facilities not available to the general public. Given that the article is about research undertaken by EPA, however, it seems likely that the article will lead people to call me

at EPA. Following the advice of EO Justina Fugh, I shall seek to determine at the beginning of any such call, whether the inquiry concerns the outside activity or part of my normal duty. If it concerns the outside activity, I shall ask the caller to contact me at home. If it is ambiguous (e.g. other federal employees) I shall refer the caller to Rona to decide whether to help the caller as part of my official duty. For at least the next year, I shall refer data requests to the climate change web site's comments page or to another person in the Division to avoid the appearance that I am assigning myself work during government time in response to an article I wrote as an outside activity.

In the past, the use of government property was *de minimus* and I wrote the article during nights, weekends, and vacations—not because I was consciously viewing this as an outside activity but because the CCSP report consumed all my available time during the business day. On occasion, I have worked on the paper during normal business hours, but in each case I was working longer than my regular day and worked into the evening by an amount of time greater or equal to the amount of time spent on this article.

- the basis for compensation (e.g., fee, per diem, per annum, etc.)

There is no compensation. The authors will split the \$1900 author fee equally.

- a statement that the employee has read, is familiar with, and will abide by the restrictions described in [5 CFR Part 2635](#) (Subpart H on Outside Activities) and [Section 6401.102](#) (EPA's Supplemental Regulations)

I have carefully studied the restrictions in [5 CFR Part 2635](#) (Subpart H on Outside Activities) and [Section 6401.102](#) (EPA's Supplemental Regulations) and will abide by them.

- an identification of any EPA assistance agreements or contracts held by a person to or for whom services would be provided.

None.

Approve outside activity

 9/23/09

(Brian McLean)

Disapprove outside activity

(Brian McLean)