BARBARA A. MIKULSKI
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United States Senate

WASHINGTON, DC 20510–2003

April 10, 2013

Mr. Arvin Ganesan
Associate Administrator for Congressional And
Intergovernment Relations
Environmental Protection Agency
1200 Pennsylvania Ave, NW, Room 3426-arn
Washington, DC 20460-0001

Dear Mr. Ganesan:

I am writing to request your consideration of the attached correspondence from (b) (6) [redacted]. Please respond directly to Mr Matulewicz and send a copy to (b) (6) (b) (6) [redacted] of my staff. If you have any questions, please call Mr. (b) (6) [redacted] 4.

Thank you for your assistance.

Sincerely,

Barbara A. Mikulski

Barbara A. Mikulski
United States Senator

BAM:cst
Enclosure

SUITE 310
901 SOUTH BOND STREET
BALTIMORE, MD 21231
(410) 962–4510

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60 WEST STREET
ANNAPOLIS, MD 21401–2448
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GREENBELT, MD 20770–1407
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32 WEST WASHINGTON STREET
HAGERSTOWN, MD 21740–4804
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212 MAIN STREET
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HTML

From: "nobody@www.senate.gov" <nobody@www.senate.gov>
Date: 3/29/2013 12:32:17 PM
To: "webmail@mikulski-iq.senate.gov" <webmail@mikulski-iq.senate.gov>
Cc:
Subject: www_email

Senator Mikulski,

Reading the recent suits brought by beekeepers against the EPA to fight the conditional approval of the use of neonicotinoids in pesticides I wanted to reach out to you and ask for your office to inquire about this critical issue for the farmers of Maryland.

Bees do experience some attrition as they over-winter, however this years impact was not a loss of 5% +/-, but rather 40%+. This decrease in pollinators is not a high visibility issue, but the simple truth is that should there be no bees our ability to grow food and animal feed in Maryland may be severely compromised.

The European Union has proposed to ban the use of neonicotinoids on crops frequented by bees. Some researchers have concluded that neonicotinoids caused extensive die-offs in Germany and France, and these are the same pesticide components conditionally approved by the EPA. Please support additional study and a reexamination of the use of these dangerous substances until their true impact can be determined.

Thank you Senator for your work for the citizens of Maryland.

Yours,

(b) (6) [redacted]s

[redacted]

(b) (6) [redacted]z
[redacted]e
[redacted]3
[redacted].com

FRED UPTON, MICHIGAN
CHAIRMAN

HENRY A. WAXMAN, CALIFORNIA
RANKING MEMBER

ONE HUNDRED THIRTEENTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON ENERGY AND COMMERCE

2125 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515–6115
Majority (202) 225–2927
Minority (202) 225–3641

April 29, 2013

The Honorable Mathy Stanislaus
Assistant Administrator
Office of Solid Waste and Emergency Response
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Dear Assistant Administrator Stanislaus:

Thank you for appearing before the Subcommittee on Environment and the Economy on Thursday, April 11, 2013, to testify at the hearing on a discussion draft entitled "The Coal Ash Recycling and Oversight Act of 2013."

Pursuant to the Rules of the Committee on Energy and Commerce, the hearing record remains open for ten business days to permit Members to submit additional questions for the record, which are attached. The format of your responses to these questions should be as follows: (1) the name of the Member whose question you are addressing, (2) the complete text of the question you are addressing in bold, and (3) your answer to that question in plain text.

Also attached are Member requests made during the hearing. The format of your responses to these requests should follow the same format as your responses to the additional questions for the record.

To facilitate the printing of the hearing record, please respond to these questions and requests by the close of business on Monday, May 13, 2013. Your responses should be e-mailed to the Legislative Clerk in Word format at Nick.Abraham@mail.house.gov and mailed to Nick Abraham, Legislative Clerk, Committee on Energy and Commerce, 2125 Rayburn House Office Building, Washington, D.C. 20515.

Thank you again for your time and effort preparing and delivering testimony before the Subcommittee.

Sincerely,

John Shimkus
Chairman
Subcommittee on Environment and the Economy

cc: The Honorable Paul Tonko, Ranking Member,
Subcommittee on Environment and the Economy

Attachments

Attachment 1—Member Requests for the Record

During the hearing, Members asked you to provide information for the record. For your convenience, relevant excerpts from the hearing transcript regarding these requests are provided below.

The Honorable Robert E. Latta

1. Do you agree that the bill includes all of the constituents identified by the EPA as being of concern for coal ash?

2. Doesn't the bill set a timeline for meeting the groundwater protection standards for surface impoundments that are incorrective?

3. Does the bill require financial assurance?

The Honorable Bill Johnson

1. Does CERCLA give EPA the authority to address inactive or abandoned impoundments or units?

2. Also, Mr. Stanislaus, following Kingston, EPA inspected coal ash impoundments, some 600 of them, in fact, to make sure that they are structurally sound. You hired independent contractors who in the agency's own words are experts in the area of dam integrity. Do you agree with the findings of your staff that not a single coal ash impoundment was rated unsatisfactory and poses an immediate safety threat?

3. Do you agree with the findings of your professional staff as well that the owners and operators of impoundments with identified deficiencies have responded responsibly by submitting response action plans?

The Honorable Paul Tonko

1. And EPA's technical assistance states that under the previous language, dry landfills would not be required to comply with many of the operating criteria that currently apply to municipal solid waste and would be applied to coal ash under EPA's proposed rule. Does this discussion draft fix that flaw with the previous proposal?

The Honorable John D. Dingell

1. Do you believe this draft bill has the timelines and minimum legal standards of protection to ensure that proper program plans are implemented in the states? Yes or no.

2. Under EPA's proposed rule to establish requirements to address this issue, in your testimony you said that EPA received nearly a half million public comments, solicited public data, started drafting a methodology to evaluate the beneficial uses. Under the legislative proposal before us, would EPA have the authority to gather public comments, technical data, or develop methodologies in the future to improve the implementation of the program proposed in the bill? Yes or no?

3. What four or five national standards do you believe should be specifically addressed and added to this legislation to ensure that there is national conformity amongst several states?

4. Now do you believe this legislation as currently written would require these standards to be included in state program plans? Yes or no?

The Honorable Lois Capps

1. In technical assistance you provided to the committee last Congress, you identified multiple principal contaminants of concern in coal ash, including arsenic, cadmium, lead, mercury, and many others. These heavy metals pose very serious threats to human health. Would you, for our hearing today, please identify briefly some of the health effects of these contaminants?

Attachment 2—Additional Questions for the Record

The Honorable John Shimkus

1. Does CERCLA give EPA authority to address inactive or abandoned coal ash impoundments/units? Why or Why not? Please explain.

   a. Would EPA's authority under CERCLA be sufficient to address any inactive or abandoned coal ash impoundments that may pose a threat to public health or welfare or the environment?

2. From information gathered as part of the Steam Electric Power Generating effluent limitation guidelines rulemaking, does EPA currently have information regarding the *location* of coal ash impoundments?

   a. Please be specific in your answer as to specifically what information EPA has requested and from whom.

   b. Please be specific about what information EPA currently has or expects to receive.

3. From information gathered as part of the Steam Electric Power Generating effluent limitation guidelines rulemaking, does EPA currently have, for coal ash impoundments, *specific information* such as ground water monitoring data or other information regarding the performance of the unit?

   a. Please be specific as to what information EPA has requested and from whom.

   b. Please be specific about what information EPA currently has or expects to receive.

4. How does EPA plan to coordinate the Steam Electric Power Generating effluent limitation guidelines rulemaking and the rulemaking for Coal Combustion Residuals?

5. Has EPA developed a risk assessment that supports a determination that coal ash should be regulated under Subtitle C?

6. RCRA typically requires an adequacy determination of State permit programs *prior to* State implementation. Do you see value in having EPA review the adequacy of a State program *after* the State begins implementing it? Please explain why or why not.

7. Please respond to the following questions in as much detail as possible. Please provide a detailed explanation of your answer:

   a. Do you agree that the Discussion Draft contains a provision requiring liners?

   b. Do you agree that the Discussion Draft contains a provision requiring groundwater monitoring?

   c. Do you agree that the Discussion Draft has a deadline for the installation of groundwater monitoring?

   d. Do you agree that the Discussion Draft includes all of the constituents identified by EPA as being of concern for coal ash?

   e. Do you agree that the Discussion Draft sets a time limit for meeting groundwater protection standards for surface impoundments that are discovered to be leaking or are in corrective action on the date of enactment?

f. Do you agree that the Discussion Draft requires control of fugitive dust in the same manner as EPA did in the June 2010 Proposed Rule with the exception of the numeric limit?

g. Do you agree that the Discussion Draft requires financial assurance?

h. Do you agree that the Discussion Draft contains location restrictions for coal ash management and disposal units?

i. Do you agree that the Discussion Draft contains requirements similar in nature to the June 2010 Proposed Rule, please explain.

8. Following the incident at Kingston, EPA inspected coal ash impoundments – some 600 – to make sure that they are structurally sound. You hired independent contractors who, in the Agency's own words, "are experts in the area of dam integrity."

   a. Do you agree with the findings of your staff that not a single coal ash impoundment was rated "unsatisfactory" and poses an "immediate safety threat"?

   b. Do you agree with the findings of your professional staff that the owners and operators of impoundments with identified deficiencies have responded responsibly by submitting response action plans? If not, please explain your answer.

9. What standard(s) or criteria did/does EPA, or contractors hired by EPA, use to complete the Coal Combustion Residuals Impoundment Assessment Reports found at http://www.epa.gov/osw/nonhaz/industrial/special/fossil/surveys2/ ? Please be specific and include any documents provided to EPA personnel or contractors to assist or instruct them in conducting the assessments.

10. What standard(s) or criteria were used to develop the Safety Inspection Reports generated as a result of the assessments?

    a. Please describe, in detail, EPA's on-site inspection that was part of the Coal Combustion Residuals Impoundment Assessment – including what criteria/standards were used to determine whether structures at the facilities were well maintained and in good condition, or not, at the time of the inspection.

    b. Please describe in detail the criteria/standards used to analyze the integrity of dams and dikes at the facilities inspected.

    c. Please describe, in detail, the criteria/standards used to determine the recommendations that were part of the Site Assessment Reports (or Dam Safety Assessment Reports – or any other name by which these reports are identified).

11. Does EPA believe that the MSHA requirements found at 30 CFR Part 77.216 are the appropriate standards for:

    a. Inspecting and analyzing the *design* of impoundments/dams used to manage coal ash? Please explain your answer and provide the citation(s) to the specific requirements EPA believes are applicable and explain why.

    b. Inspecting and analyzing the *construction* of impoundments/dams used to manage coal ash? Please explain your answer and provide the citation(s) to the specific requirements EPA believes are applicable and explain why.

c. Inspecting and analyzing the *continued operation and maintenance* of impoundments/dams used to manage coal ash? Please explain your answer and provide the citation(s) to the specific requirements EPA believes are applicable and explain why.

d. Please explain why an inspection for appearances of structural weakness is necessary at intervals not exceeding 7days?

e. What about the Federal Dam Safety Guidelines published by FEMA – does EPA believe that these requirements may be appropriate standards/criteria for analyzing design of impoundments/dams used to manage coal ash? For analyzing construction of impoundments/dams used to manage coal ash? For analyzing continued operation and maintenance of impoundments/dams used to manage coal ash?

12. Does the Discussion Draft allow EPA to find a State program deficient if the program does not meet the minimum requirements?

    a. Does the Discussion Draft allow EPA to take over a State permit program if the State does not correct identified deficiencies?

    b. What criteria would EPA need to determine whether a State permit program is deficient?

13. Does the Discussion Draft address the full volume of liquid to be stored in an impoundment? Please explain your answer.

The Honorable Bill Cassidy

1. Coal fly ash has been used successfully for years in building materials and as fill material for roads without any negative incidents occurring. Over the last few years the Obama Administration has been pursuing a strategy to declare it hazardous, having an adverse impact on our road and home building industries. Is this just another step in the life cycle of harassment of coal and domestic energy by the Obama Administration? The Administration is delaying Army Corps of Engineers permits for sites of coal mines, pushing new regulations on the mining of coal through their stream buffer zone and mine dust regulations, trying to stop the use of coal by the utilities through air regulations, and now it is trying to declare the waste product hazardous. The Obama Administration lacks the authority to outright make coal illegal so they are attacking the entire life cycle through regulations. This will cost American jobs; by the cost of energy and the materials made from coal ash byproducts.

The Honorable Henry A. Waxman

During a hearing in the Environment and the Economy Subcommittee in February on the role of States in protecting the environment, witnesses suggested that giving EPA the ability to take over a state permit program if it is deficient would constitute backstop enforcement authority. Such a significant step would go well beyond enforcing against a particular facility.

1. What is the process for taking control of existing state permit programs under RCRA?

2. How often does EPA take the dramatic action of taking control of a state permit program under RCRA?

3. How does the process outlined in the discussion draft for taking control of a state coal combustion residual permit program compare to the process for taking control of existing state programs?

4. One advocate for the discussion draft said that if EPA determines that a state is not following the requirements of the bill, the agency can "seize the landfill." Is that accurate, under this bill can EPA seize a landfill found not to be meeting the requirements?

BARBARA BOXER, CALIFORNIA, CHAIRWOMAN

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JOHN BOOZMAN, ARKANSAS
DEB FISCHER, NEBRASKA

BETTINA POIRIER, MAJORITY STAFF DIRECTOR
ZAK BAIG, REPUBLICAN STAFF DIRECTOR

United States Senate

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS
WASHINGTON, DC 20510-6175

April 30, 2013

The Honorable Bob Perciasepe
Acting Administrator
U.S. Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Dear Acting Administrator Perciasepe,

As Chair of the Environment and Public Works Committee, with jurisdiction over the Environmental Protection Agency (EPA), I am writing to express my deepest concern about the massive fire and explosion at the West, Texas facility on April 17, 2013. I want to ensure that a comprehensive investigation is completed by EPA so that the causes of this terrible tragedy are clearly identified and so that this type of disaster is prevented from happening in the future.

EPA, along with others, plays a vital role in preventing accidents like the one at the West facility, which resulted in fifteen fatalities, hundreds of injuries, and damage to homes, businesses, and the adjacent rail line.

By May 16, 2013, I ask that you respond to the information request below:

1) Describe EPA's investigation of the West, Texas facility, including timelines and scope.

2) Sec. 112(r) of the Clean Air Act, including the general duty clause, was passed to enhance safety and reduce the risk from explosive chemicals. The press has reported that the West facility stored large amounts of ammonium nitrate, which can be highly explosive. Why is ammonium nitrate not on the list of covered chemicals that facilities must report to EPA under the Risk Management Program?

3) Please provide a list of all chemicals regulated through the Risk Management Program under Section 112(r) and the types of uncovered chemicals EPA could add to the list or otherwise address under the general duty clause of Sec. 112(r).

4) Provide me with a list of all chemicals that facilities are required to report to state or local emergency planning authorities but are not required to report to EPA.

5) How many facilities fall under Sec. 112(r) of the Clean Air Act and where are they located?

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6) How often are those covered facilities inspected by EPA officials?

7) Who at EPA has lead responsibility for Sec. 112(r) of the Clean Air Act, and how does EPA ensure that oversight is regularly conducted at covered facilities?

8) Describe any and all fines issued against the West facility for failing to comply with safety standards related to chemicals.

9) Explain how EPA works with other agencies at the local, state, and federal level to plan for accident prevention.

10) Describe how EPA can ensure that information about chemical accident prevention and emergency response could be distributed more widely to responsible authorities, including through electronic databases.

I greatly appreciate your attention to this request, as I plan to hold a hearing on this issue in the near future.

If you have any questions, please have your staff contact Grant Cope or Tom Fox at 202-224-8832.

Sincerely,

Barbara Boxer

Barbara Boxer
Chairman
Senate Committee on Environment and Public Works

FRED UPTON, MICHIGAN
CHAIRMAN

HENRY A. WAXMAN, CALIFORNIA
RANKING MEMBER

ONE HUNDRED THIRTEENTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON ENERGY AND COMMERCE
2125 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515–6115
Majority (202) 225 2927
Minority (202) 225–3641

May 10, 2013

The Honorable Robert Perciasepe
Acting Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Dear Acting Administrator Perciasepe,

Thank you for agreeing to testify on Thursday, May 16, 2013, at 10:00 a.m. in 2123 Rayburn House Office Building, at the Subcommittee on Energy and Power and the Subcommittee on Environment and the Economy joint hearing entitled "The Fiscal Year 2014 Environmental Protection Agency Budget."

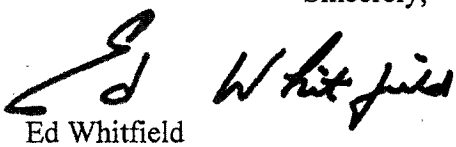
The attached documents provide important details concerning the preparation and presentation of your testimony.

- The first attachment describes the form your testimony must take.
- The second attachment provides you with Electronic Format Guidelines that detail how to file testimony electronically.
- The third attachment provides you the Rules for the Committee on Energy and Commerce.
- The fourth attachment provides you with a Truth-in-Testimony Disclosure form and a Truth-in-Testimony instruction sheet.

Please be aware that, in accordance with the Committee's usual practice, witnesses have a right to be represented by counsel, who may advise the witnesses on their Constitutional rights, but cannot testify. In addition, hearings are open to audio, video, and photographic coverage by accredited press representatives only.

If you have any questions concerning any aspect of your testimony, please contact David McCarthy, Tom Hassenboehler, or Mary Neumayr of the Energy and Commerce Committee staff at (202) 225-2927.

Sincerely,



Ed Whitfield
Chairman
Subcommittee on Energy and Power

John Shimkus
Chairman
Subcommittee on Environment and the Economy

Enclosures:
(1) Form of Testimony
(2) Electronic Format Guidelines
(3) Rules for the Committee on Energy and Commerce
(4) Truth-in-Testimony Disclosure form

GUIDELINES FOR THE ELECTRONIC SUBMISSION OF CONGRESSIONAL TESTIMONY

The Rules and procedures of the Energy and Commerce Committee require each witness to submit their testimony in an electronic format prescribed by the Chairman. Testimony submitted in electronic form will be used to produce the printed hearing record, and will be converted to HTML or Adobe Portable Document Format (PDF) and posted to the Committee on Energy and Commerce website at http://energycommerce.house.gov/. Your compliance with this requirement will facilitate the distribution of your testimony and help the Committee to minimize the costs of printing the hearing record.

Materials submitted to the Committee must be formatted in Microsoft Word.

Please e-mail your testimony to the Legislative Clerk at Nick.Abraham@mail.house.gov. In addition, please include the following in the body of your e-mail: (1) Witness Name, (2) Witness Organization, (3) Name and Date of Hearing, and (4) Subcommittee of Jurisdiction.

The Committee cannot accept testimony submitted on a disk or flash drive.

INSTRUCTIONS FOR COMPLETING THE TRUTH-IN-TESTIMONY DISCLOSURE FORM

In General. The form on the reverse side of the page is intended to assist witnesses appearing before the Committee on Energy and Commerce in complying with Rule XI, clause 2(g) of the Rules of the House of Representatives. The rule requires that:

> In the case of a witness appearing in a nongovernmental capacity, a written statement of proposed testimony shall include a curriculum vitae and a disclosure of the amount and source (by agency and program) of any Federal grant (or subgrant thereof) or contract (or subcontract thereof) received during the current fiscal year or either of the two previous fiscal years by the witness or by an entity represented by the witness.

Please complete the form in accordance with these directions.

1. ***Name (Item 1 on the form).*** Please provide the name of the witness in the box at the top of the form.

2. ***Governmental Entity (Item 2).*** Please check the box indicating whether or not the witness is testifying on behalf of a government entity, such as a Federal department or agency, or a State or local department, agency, or jurisdiction. Trade or professional associations of public officials are not considered to be governmental organizations.

3. ***Nongovernmental Entity (Item 3).*** Please check the box indicating whether or not the witness is testifying on behalf of an entity that is not a governmental entity.

4. ***Entity(ies) to be Represented (Item 4).*** Please list all entities on whose behalf the witness is testifying.

5. ***Grants and Contracts (Item 5).*** Please list any Federal grants or contracts (including subgrants or subcontracts) that the witness personally has received from the Federal Government on or after October 1, 2011.

6. ***Representational Capacity (Item 6).*** If the answer to the question in item 2 is yes, please characterize the capacity in which the witness is testifying on behalf of the entities listed in item 4.

7. ***Affiliated Entities (Item 7).*** Please indicate whether the entity on whose behalf the witness is testifying has parent organizations, subsidiaries, or partnerships that are not represented by the testimony of the witness.

8. ***Grants and Contracts (Item 8).*** Please disclose grants and contracts as directed in item 7.

9. ***Curriculum Vitae (Item 9).*** Please attach your CV to your completed disclosure form.

10. ***Submission.*** Please sign and date the form in the appropriate place. Please submit this form with your written testimony. Please note that under the Committee's rules, copies of a written statement of your proposed testimony must be submitted before the commencement of the hearing. To the greatest extent practicable, please also provide a copy in electronic format according to the Electronic Format Guidelines that accompany these instructions.

THE FORM OF TESTIMONY
BEFORE THE COMMITTEE ON ENERGY AND COMMERCE

Written Statement: You are requested to submit a written statement, which may be of any reasonable length and may contain supplemental materials. However, please be aware that the Committee cannot guarantee that supplemental material will be included in the printed hearing record. Your written statement should be typed, double spaced, and should include a one-page summary of the major points you wish to make.

Pursuant to Rule 3(c) of the Rules of the Committee, please provide your written statement no later than two business days in advance of your appearance. This will allow Members and staff the opportunity to review your testimony.

Oral Presentation: You will have an opportunity to present an oral summary of your testimony to the Committee. To ensure sufficient time for Members to ask questions, your oral presentation should be limited to five minutes.

Printed Hearing Transcript: Rule XI, clause 2(e)(1)(A) of the Rules of the House requires the Committee to keep a written record of committee hearings which is a substantially verbatim account of remarks made during the proceedings, subject only to technical, grammatical, and typographical corrections. Your testimony, the transcript of the hearing, and any other material that the Committee agrees to include in the hearing record (subject to space limitations) will be printed as a record of the hearing.

RULES OF THE COMMITTEE ON ENERGY AND COMMERCE
113TH CONGRESS

RULE 1. GENERAL PROVISIONS

(a) Rules of the Committee. The Rules of the House are the rules of the Committee on Energy and Commerce (the "Committee") and its subcommittees so far as is applicable.

(b) Rules of the Subcommittees. Each subcommittee of the Committee is part of the Committee and is subject to the authority and direction of the Committee and to its rules so far as is applicable. Written rules adopted by the Committee, not inconsistent with the Rules of the House, shall be binding on each subcommittee of the Committee.

RULE 2. MEETINGS

(a) Regular Meeting Days. The Committee shall meet on the fourth Tuesday of each month at 10 a.m., for the consideration of bills, resolutions, and other business, if the House is in session on that day. If the House is not in session on that day and the Committee has not met during such month, the Committee shall meet at the earliest practicable opportunity when the House is again in session. The chairman of the Committee may, at his discretion, cancel, delay, or defer any meeting required under this section, after consultation with the ranking minority member.

(b) Additional Meetings. The chairman may call and convene, as he considers necessary, additional meetings of the Committee for the consideration of any bill or resolution pending before the Committee or for the conduct of other Committee business. The Committee shall meet for such purposes pursuant to that call of the chairman.

(c) Notice. The date, time, place, and subject matter of any meeting of the Committee scheduled on a Tuesday, Wednesday, or Thursday when the House will be in session shall be announced at least 36 hours (exclusive of Saturdays, Sundays, and legal holidays except when the House is in session on such days) in advance of the commencement of such meeting. The date, time, place, and subject matter of other meetings when the House is in session shall be announced to allow Members to have at least three days notice (exclusive of Saturdays, Sundays, and legal holidays except when the House is in session on such days) of such meeting. The date, time, place, and subject matter of all other meetings shall be announced at least 72 hours in advance of the commencement of such meeting.

(d) Agenda. The agenda for each Committee meeting, setting out all items of business to be considered, shall be provided to each member of the Committee at least 36 hours in advance of such meeting.

(e) Availability of Texts. No bill, recommendation, or other matter shall be considered by the Committee unless the text of the matter, together with an explanation, has been available to members of the Committee for three days (or 24 hours in the case of a substitute for introduced legislation). Such explanation shall include a summary of the major provisions of the legislation,

an explanation of the relationship of the matter to present law, and a summary of the need for the legislation.

(f) Waiver. The requirements of subsections (c), (d), and (e) may be waived by a majority of those present and voting (a majority being present) of the Committee or by the chairman with the concurrence of the ranking member, as the case may be.

RULE 3. HEARINGS

(a) Notice. The date, time, place, and subject matter of any hearing of the Committee shall be announced at least one week in advance of the commencement of such hearing, unless a determination is made in accordance with clause 2(g)(3) of Rule XI of the Rules of the House that there is good cause to begin the hearing sooner.

(b) Memorandum. Each member of the Committee shall be provided, except in the case of unusual circumstances, with a memorandum at least 48 hours before each hearing explaining (1) the purpose of the hearing and (2) the names of any witnesses.

(c) Witnesses. (1) Each witness who is to appear before the Committee shall file with the clerk of the Committee, at least two working days in advance of his or her appearance, sufficient copies, as determined by the chairman of the Committee of a written statement of his or her proposed testimony to provide to members and staff of the Committee, the news media, and the general public. Each witness shall, to the greatest extent practicable, also provide a copy of such written testimony in an electronic format prescribed by the chairman. Each witness shall limit his or her oral presentation to a brief summary of the argument. The chairman of the Committee or the presiding member may waive the requirements of this paragraph or any part thereof.

(2) To the greatest extent practicable, the written testimony of each witness appearing in a nongovernmental capacity shall include a curriculum vitae and a disclosure of the amount and source (by agency and program) of any federal grant (or subgrant thereof) or contract (or subcontract thereof) received during the current fiscal year or either of the two preceding fiscal years by the witness or by an entity represented by the witness.

(d) Questioning. (1) The right to interrogate the witnesses before the Committee shall alternate between majority and minority members. Each member shall be limited to 5 minutes in the interrogation of witnesses until such time as each member who so desires has had an opportunity to question witnesses. No member shall be recognized for a second period of 5 minutes to interrogate a witness until each member of the Committee present has been recognized once for that purpose. The chairman shall recognize in order of appearance members who were not present when the meeting was called to order after all members who were present when the meeting was called to order have been recognized in the order of seniority on the Committee.

(2) The chairman, with the concurrence of the ranking minority member, or the Committee by motion, may permit an equal number of majority and minority members to question a witness for a specified, total period that is equal for each side and not longer than thirty minutes for each side. The chairman with the concurrence of the ranking minority member, or the Committee by

motion, may also permit committee staff of the majority and minority to question a witness for a specified, total period that is equal for each side and not longer than thirty minutes for each side.

(3) Each member may submit to the chairman of the Committee additional questions for the record, to be answered by the witnesses who have appeared. Each member shall provide a copy of the questions in an electronic format to the clerk of the Committee no later than ten business days following a hearing. The chairman shall transmit all questions received from members of the Committee to the appropriate witness and include the transmittal letter and the responses from the witnesses in the hearing record. After consultation with the ranking minority member, the chairman is authorized to close the hearing record no earlier than 120 days from the date the questions were transmitted to the appropriate witness.

RULE 4. VICE CHAIRMEN; PRESIDING MEMBER

The chairman shall designate a member of the majority party to serve as vice chairman of the Committee, and shall designate a majority member of each subcommittee to serve as vice chairman of each subcommittee. The vice chairman of the Committee or subcommittee, as the case may be, shall preside at any meeting or hearing during the temporary absence of the chairman. If the chairman and vice chairman of the Committee or subcommittee are not present at any meeting or hearing, the ranking member of the majority party who is present shall preside at the meeting or hearing.

RULE 5. OPEN PROCEEDINGS

Except as provided by the Rules of the House, each meeting and hearing of the Committee for the transaction of business, including the markup of legislation, and each hearing, shall be open to the public, including to radio, television, and still photography coverage, consistent with the provisions of Rule XI of the Rules of the House.

RULE 6. QUORUM

Testimony may be taken and evidence received at any hearing at which there are present not fewer than two members of the Committee in question. A majority of the members of the Committee shall constitute a quorum for those actions for which the House Rules require a majority quorum. For the purposes of taking any other action, one-third of the members of the Committee shall constitute a quorum.

RULE 7. OFFICIAL COMMITTEE RECORDS

(a)(1) Journal. The proceedings of the Committee shall be recorded in a journal which shall, among other things, show those present at each meeting, and include a record of the vote on any question on which a record vote is demanded and a description of the amendment, motion, order, or other proposition voted. A copy of the journal shall be furnished to the ranking minority member.

(2) Record Votes. A record vote may be demanded by one-fifth of the members present or, in the

apparent absence of a quorum, by any one member. No demand for a record vote shall be made or obtained except for the purpose of procuring a record vote or in the apparent absence of a quorum. The result of each record vote in any meeting of the Committee shall be made publicly available in electronic form on the Committee's website and in the Committee office for inspection by the public, as provided in Rule XI, clause 2(e) of the Rules of the House, within 24 hours. Such result shall include a description of the amendment, motion, order, or other proposition, the name of each member voting for and each member voting against such amendment, motion, order, or proposition, and the names of those members of the committee present but not voting. The chairman, with the concurrence of the ranking minority member, may from time to time postpone record votes ordered on amendments to be held at a time certain during the consideration of legislation.

(b) Archived Records. The records of the Committee at the National Archives and Records Administration shall be made available for public use in accordance with Rule VII of the Rules of the House. The chairman shall notify the ranking minority member of any decision, pursuant to clause 3 (b)(3) or clause 4 (b) of the Rule, to withhold a record otherwise available, and the matter shall be presented to the Committee for a determination on the written request of any member of the Committee. The chairman shall consult with the ranking minority member on any communication from the Archivist of the United States or the Clerk of the House concerning the disposition of noncurrent records pursuant to clause 3(b) of the Rule.

RULE 8. SUBCOMMITTEES

(a) Establishment. There shall be such standing subcommittees with such jurisdiction and size as determined by the majority party caucus of the Committee. The jurisdiction, number, and size of the subcommittees shall be determined by the majority party caucus prior to the start of the process for establishing subcommittee chairmanships and assignments.

(b) Powers and Duties. Each subcommittee is authorized to meet, hold hearings, receive testimony, mark up legislation, and report to the Committee on all matters referred to it. Subcommittee chairmen shall set hearing and meeting dates only with the approval of the chairman of the Committee with a view toward assuring the availability of meeting rooms and avoiding simultaneous scheduling of Committee and subcommittee meetings or hearings whenever possible.

(c) Ratio of Subcommittees. The majority caucus of the Committee shall determine an appropriate ratio of majority to minority party members for each subcommittee and the chairman shall negotiate that ratio with the minority party, provided that the ratio of party members on each subcommittee shall be no less favorable to the majority than that of the full Committee, nor shall such ratio provide for a majority of less than two majority members.

(d) Selection of Subcommittee Members. Prior to any organizational meeting held by the Committee, the majority and minority caucuses shall select their respective members of the standing subcommittees.

(e) Ex Officio Members. The chairman and ranking minority member of the Committee shall be

ex officio members with voting privileges of each subcommittee of which they are not assigned as members and may be counted for purposes of establishing a quorum in such subcommittees. The minority chairman emeritus shall be an ex officio member without voting privileges of each subcommittee of which the minority chairman emeritus is not assigned as a member and shall not be counted for purposes of establishing a quorum on any such subcommittee.

RULE 9. OPENING STATEMENTS

(a) Written Statements. All written opening statements at hearings and business meetings conducted by the committee shall be made part of the permanent record.

(b) Length. (1) At full committee hearings, the chairman and ranking minority member shall be limited to 5 minutes each for an opening statement, and may designate another member to give an opening statement of not more than 5 minutes. At subcommittee hearings, the subcommittee chairman and ranking minority member of the subcommittee shall be limited to 5 minutes each for an opening statement. In addition, the full committee chairman and ranking minority member shall each be allocated 5 minutes for an opening statement for themselves or their designees.
(2) At any business meeting of the Committee, statements shall be limited to 5 minutes each for the chairman and ranking minority member (or their respective designee) of the Committee or subcommittee, as applicable, and 3 minutes each for all other members. The chairman may further limit opening statements for Members (including, at the discretion of the Chairman, the chairman and ranking minority member) to one minute.

RULE 10. REFERENCE OF LEGISLATION AND OTHER MATTERS

All legislation and other matters referred to the Committee shall be referred to the subcommittee of appropriate jurisdiction within two weeks of the date of receipt by the Committee unless action is taken by the full Committee within those two weeks, or by majority vote of the members of the Committee, consideration is to be by the full Committee. In the case of legislation or other matter within the jurisdiction of more than one subcommittee, the chairman of the Committee may, in his discretion, refer the matter simultaneously to two or more subcommittees for concurrent consideration, or may designate a subcommittee of primary jurisdiction and also refer the matter to one or more additional subcommittees for consideration in sequence (subject to appropriate time limitations), either on its initial referral or after the matter has been reported by the subcommittee of primary jurisdiction. Such authority shall include the authority to refer such legislation or matter to an ad hoc subcommittee appointed by the chairman, with the approval of the Committee, from the members of the subcommittees having legislative or oversight jurisdiction.

RULE 11. MANAGING LEGISLATION ON THE HOUSE FLOOR

The chairman, in his discretion, shall designate which member shall manage legislation reported by the Committee to the House.

RULE 12. COMMITTEE PROFESSIONAL AND CLERICAL STAFF APPOINTMENTS

(a) Delegation of Staff. Whenever the chairman of the Committee determines that any professional staff member appointed pursuant to the provisions of clause 9 of Rule X of the House of Representatives, who is assigned to such chairman and not to the ranking minority member, by reason of such professional staff member's expertise or qualifications will be of assistance to one or more subcommittees in carrying out their assigned responsibilities, he may delegate such member to such subcommittees for such purpose. A delegation of a member of the professional staff pursuant to this subsection shall be made after consultation with subcommittee chairmen and with the approval of the subcommittee chairman or chairmen involved.

(b) Minority Professional Staff. Professional staff members appointed pursuant to clause 9 of Rule X of the House of Representatives, who are assigned to the ranking minority member of the Committee and not to the chairman of the Committee, shall be assigned to such Committee business as the minority party members of the Committee consider advisable.

(c) Additional Staff Appointments. In addition to the professional staff appointed pursuant to clause 9 of Rule X of the House of Representatives, the chairman of the Committee shall be entitled to make such appointments to the professional and clerical staff of the Committee as may be provided within the budget approved for such purposes by the Committee. Such appointee shall be assigned to such business of the full Committee as the chairman of the Committee considers advisable.

(d) Sufficient Staff. The chairman shall ensure that sufficient staff is made available to each subcommittee to carry out its responsibilities under the rules of the Committee.

(e) Fair Treatment of Minority Members in Appointment of Committee Staff. The chairman shall ensure that the minority members of the Committee are treated fairly in appointment of Committee staff.

(f) Contracts for Temporary or Intermittent Services. Any contract for the temporary services or intermittent service of individual consultants or organizations to make studies or advise the Committee or its subcommittees with respect to any matter within their jurisdiction shall be deemed to have been approved by a majority of the members of the Committee if approved by the chairman and ranking minority member of the Committee. Such approval shall not be deemed to have been given if at least one-third of the members of the Committee request in writing that the Committee formally act on such a contract, if the request is made within 10 days after the latest date on which such chairman or chairmen, and such ranking minority member or members, approve such contract.

RULE 13. SUPERVISION, DUTIES OF STAFF

(a) Supervision of Majority Staff. The professional and clerical staff of the Committee not assigned to the minority shall be under the supervision and direction of the chairman who, in consultation with the chairmen of the subcommittees, shall establish and assign the duties and responsibilities of such staff members and delegate such authority as he determines appropriate.

(b) Supervision of Minority Staff. The professional and clerical staff assigned to the minority shall be under the supervision and direction of the minority members of the Committee, who may delegate such authority as they determine appropriate.

RULE 14. COMMITTEE BUDGET

(a) Administration of Committee Budget. The chairman of the Committee, in consultation with the ranking minority member, shall for the 113th Congress attempt to ensure that the Committee receives necessary amounts for professional and clerical staff, travel, investigations, equipment and miscellaneous expenses of the Committee and the subcommittees, which shall be adequate to fully discharge the Committee's responsibilities for legislation and oversight..

(b) Monthly Expenditures Report. Committee members shall be furnished a copy of each monthly report, prepared by the chairman for the Committee on House Administration, which shows expenditures made during the reporting period and cumulative for the year by the Committee and subcommittees, anticipated expenditures for the projected Committee program, and detailed information on travel.

RULE 15. BROADCASTING OF COMMITTEE HEARINGS

Any meeting or hearing that is open to the public may be covered in whole or in part by radio or television or still photography, subject to the requirements of clause 4 of Rule XI of the Rules of the House. The coverage of any hearing or other proceeding of the Committee or any subcommittee thereof by television, radio, or still photography shall be under the direct supervision of the chairman of the Committee, the subcommittee chairman, or other member of the Committee presiding at such hearing or other proceeding and may be terminated by such member in accordance with the Rules of the House.

RULE 16. SUBPOENAS AND INTERVIEWS

(a) Subpoenas. The chairman of the Committee may, after consultation with the ranking minority member, authorize and issue a subpoena under clause 2(m) of Rule XI of the House. If the ranking minority member objects to the proposed subpoena in writing, the matter shall be referred to the Committee for resolution. The chairman of the Committee may authorize and issue subpoenas without referring the matter to the Committee for resolution during any period for which the House has adjourned for a period in excess of 3 days when, in the opinion of the chairman, authorization and issuance of the subpoena is necessary. The chairman shall report to the members of the Committee on the authorization and issuance of a subpoena during the recess period as soon as practicable but in no event later than one week after service of such subpoena.

(b) Interviews. The chairman of the Committee may authorize committee staff to conduct transcribed interviews in the furtherance of a Committee investigation.

RULE 17. TRAVEL OF MEMBERS AND STAFF

(a) Approval of Travel. Consistent with the primary expense resolution and such additional expense resolutions as may have been approved, travel to be reimbursed from funds set aside for the Committee for any member or any staff member shall be paid only upon the prior authorization of the chairman. Travel may be authorized by the chairman for any member and any staff member in connection with the attendance of hearings conducted by the Committee or any subcommittee thereof and meetings, conferences, and investigations which involve activities or subject matter under the general jurisdiction of the Committee. Before such authorization is given there shall be submitted to the chairman in writing the following: (1) the purpose of the travel; (2) the dates during which the travel is to be made and the date or dates of the event for which the travel is being made; (3) the location of the event for which the travel is to be made; and (4) the names of members and staff seeking authorization.

(b) Approval of Travel by Minority Members and Staff. In the case of travel by minority party members and minority party professional staff for the purpose set out in (a), the prior approval, not only of the chairman but also of the ranking minority member, shall be required. Such prior authorization shall be given by the chairman only upon the representation by the ranking minority member in writing setting forth those items enumerated in (1), (2), (3), and (4) of paragraph (a).

RULE 18. WEBSITE

The chairman shall maintain an official Committee website for the purposes of furthering the Committee's legislative and oversight responsibilities, including communicating information about the Committee's activities to Committee members and other members of the House. The ranking minority member may maintain an official website for the purpose of carrying out official responsibilities, including communicating information about the activities of the minority members of the Committee to Committee members and other members of the House.

RULE 19. CONFERENCES

The chairman of the Committee is directed to offer a motion under clause 1 of Rule XXII of the Rules of the House whenever the chairman considers it appropriate.

FRED UPTON, MICHIGAN
CHAIRMAN

HENRY A. WAXMAN, CALIFORNIA
RANKING MEMBER

ONE HUNDRED THIRTEENTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON ENERGY AND COMMERCE
2125 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515–6115
Majority (202) 225–2927
Minority (202) 225–3641

May 10, 2013

The Honorable Mathy Stanislaus
Assistant Administrator
Office of Solid Waste and Emergency Response
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Dear Assistant Administrator Stanislaus,

Thank you for agreeing to testify on Friday, May 17, 2013, at 10:00 a.m. in 2123 Rayburn House Office Building, at the Subcommittee on Environment and the Economy hearing on three legislative proposals entitled the "Federal and State Partnership for Environmental Protection Act of 2013;" the "Reducing Excessive Deadline Obligations Act of 2013;" and the "Federal Facility Accountability Act of 2013."

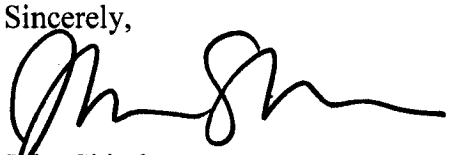
The attached documents provide important details concerning the preparation and presentation of your testimony.

- The first attachment describes the form your testimony must take.
- The second attachment provides you with Electronic Format Guidelines that detail how to file testimony electronically.
- The third attachment provides you the Rules for the Committee on Energy and Commerce.
- The fourth attachment provides you with a Truth-in-Testimony Disclosure form and a Truth-in-Testimony instruction sheet.

Please be aware that, in accordance with the Committee's usual practice, witnesses have a right to be represented by counsel, who may advise the witnesses on their Constitutional rights, but cannot testify. In addition, hearings are open to audio, video, and photographic coverage by accredited press representatives only.

If you have any questions concerning any aspect of your testimony, please contact David McCarthy or Tina Richards of the Energy and Commerce Committee staff at (202) 225-2927.

Sincerely,



John Shimkus
Chairman
Subcommittee on Environment and the Economy

Enclosures:
(1) Form of Testimony
(2) Electronic Format Guidelines
(3) Rules for the Committee on Energy and Commerce
(4) Truth-in-Testimony Disclosure form

THE FORM OF TESTIMONY
BEFORE THE COMMITTEE ON ENERGY AND COMMERCE

Written Statement: You are requested to submit a written statement, which may be of any reasonable length and may contain supplemental materials. However, please be aware that the Committee cannot guarantee that supplemental material will be included in the printed hearing record. Your written statement should be typed, double spaced, and should include a one-page summary of the major points you wish to make.

Pursuant to Rule 3(c) of the Rules of the Committee, please provide your written statement no later than two business days in advance of your appearance. This will allow Members and staff the opportunity to review your testimony.

Oral Presentation: You will have an opportunity to present an oral summary of your testimony to the Committee. To ensure sufficient time for Members to ask questions, your oral presentation should be limited to five minutes.

Printed Hearing Transcript: Rule XI, clause 2(e)(1)(A) of the Rules of the House requires the Committee to keep a written record of committee hearings which is a substantially verbatim account of remarks made during the proceedings, subject only to technical, grammatical, and typographical corrections. Your testimony, the transcript of the hearing, and any other material that the Committee agrees to include in the hearing record (subject to space limitations) will be printed as a record of the hearing.

GUIDELINES FOR THE ELECTRONIC SUBMISSION OF CONGRESSIONAL TESTIMONY

The Rules and procedures of the Energy and Commerce Committee require each witness to submit their testimony in an electronic format prescribed by the Chairman. Testimony submitted in electronic form will be used to produce the printed hearing record, and will be converted to HTML or Adobe Portable Document Format (PDF) and posted to the Committee on Energy and Commerce website at http://energycommerce.house.gov/. Your compliance with this requirement will facilitate the distribution of your testimony and help the Committee to minimize the costs of printing the hearing record.

Materials submitted to the Committee must be formatted in Microsoft Word.

Please e-mail your testimony to the Legislative Clerk at Nick.Abraham@mail.house.gov. In addition, please include the following in the body of your e-mail: (1) Witness Name, (2) Witness Organization, (3) Name and Date of Hearing, and (4) Subcommittee of Jurisdiction.

The Committee cannot accept testimony submitted on a disk or flash drive.

Committee on Energy and Commerce
U.S. House of Representatives

Witness Disclosure Requirement - "Truth in Testimony"
Required by House Rule XI, Clause 2(g)

1. Your Name:		
2. Are you testifying on behalf of the Federal, or a State or local government entity?	Yes	No
3. Are you testifying on behalf of an entity that is not a government entity?	Yes	No
4. Other than yourself, please list which entity or entities you are representing:		
5. Please list any Federal grants or contracts (including subgrants or subcontracts) that <u>you or the entity you represent have received</u> on or after October 1, 2011:		
6. If your answer to the question in item 3 in this form is "yes," please describe your position or representational capacity with the entity or entities you are representing:		
7. If your answer to the question in item 3 is "yes," do any of the entities disclosed in item 4 have parent organizations, subsidiaries, or partnerships that you are not representing in your testimony?	Yes	No
8. If the answer to the question in item 3 is "yes," please list any Federal grants or contracts (including subgrants or subcontracts) that were received by the entities listed under the question in item 4 on or after October 1, 2011, that exceed 10 percent of the revenue of the entities in the year received, including the source and amount of each grant or contract to be listed:		
9. Please attach your curriculum vitae to your completed disclosure form.		

Signature:_____ **Date:**_____

RULES OF THE COMMITTEE ON ENERGY AND COMMERCE
113TH CONGRESS

RULE 1. GENERAL PROVISIONS

(a) Rules of the Committee. The Rules of the House are the rules of the Committee on Energy and Commerce (the "Committee") and its subcommittees so far as is applicable.

(b) Rules of the Subcommittees. Each subcommittee of the Committee is part of the Committee and is subject to the authority and direction of the Committee and to its rules so far as is applicable. Written rules adopted by the Committee, not inconsistent with the Rules of the House, shall be binding on each subcommittee of the Committee.

RULE 2. MEETINGS

(a) Regular Meeting Days. The Committee shall meet on the fourth Tuesday of each month at 10 a.m., for the consideration of bills, resolutions, and other business, if the House is in session on that day. If the House is not in session on that day and the Committee has not met during such month, the Committee shall meet at the earliest practicable opportunity when the House is again in session. The chairman of the Committee may, at his discretion, cancel, delay, or defer any meeting required under this section, after consultation with the ranking minority member.

(b) Additional Meetings. The chairman may call and convene, as he considers necessary, additional meetings of the Committee for the consideration of any bill or resolution pending before the Committee or for the conduct of other Committee business. The Committee shall meet for such purposes pursuant to that call of the chairman.

(c) Notice. The date, time, place, and subject matter of any meeting of the Committee scheduled on a Tuesday, Wednesday, or Thursday when the House will be in session shall be announced at least 36 hours (exclusive of Saturdays, Sundays, and legal holidays except when the House is in session on such days) in advance of the commencement of such meeting. The date, time, place, and subject matter of other meetings when the House is in session shall be announced to allow Members to have at least three days notice (exclusive of Saturdays, Sundays, and legal holidays except when the House is in session on such days) of such meeting. The date, time, place, and subject matter of all other meetings shall be announced at least 72 hours in advance of the commencement of such meeting.

(d) Agenda. The agenda for each Committee meeting, setting out all items of business to be considered, shall be provided to each member of the Committee at least 36 hours in advance of such meeting.

(e) Availability of Texts. No bill, recommendation, or other matter shall be considered by the Committee unless the text of the matter, together with an explanation, has been available to members of the Committee for three days (or 24 hours in the case of a substitute for introduced legislation). Such explanation shall include a summary of the major provisions of the legislation,

an explanation of the relationship of the matter to present law, and a summary of the need for the legislation.

(f) Waiver. The requirements of subsections (c), (d), and (e) may be waived by a majority of those present and voting (a majority being present) of the Committee or by the chairman with the concurrence of the ranking member, as the case may be.

RULE 3. HEARINGS

(a) Notice. The date, time, place, and subject matter of any hearing of the Committee shall be announced at least one week in advance of the commencement of such hearing, unless a determination is made in accordance with clause 2(g)(3) of Rule XI of the Rules of the House that there is good cause to begin the hearing sooner.

(b) Memorandum. Each member of the Committee shall be provided, except in the case of unusual circumstances, with a memorandum at least 48 hours before each hearing explaining (1) the purpose of the hearing and (2) the names of any witnesses.

(c) Witnesses. (1) Each witness who is to appear before the Committee shall file with the clerk of the Committee, at least two working days in advance of his or her appearance, sufficient copies, as determined by the chairman of the Committee of a written statement of his or her proposed testimony to provide to members and staff of the Committee, the news media, and the general public. Each witness shall, to the greatest extent practicable, also provide a copy of such written testimony in an electronic format prescribed by the chairman. Each witness shall limit his or her oral presentation to a brief summary of the argument. The chairman of the Committee or the presiding member may waive the requirements of this paragraph or any part thereof.

(2) To the greatest extent practicable, the written testimony of each witness appearing in a nongovernmental capacity shall include a curriculum vitae and a disclosure of the amount and source (by agency and program) of any federal grant (or subgrant thereof) or contract (or subcontract thereof) received during the current fiscal year or either of the two preceding fiscal years by the witness or by an entity represented by the witness.

(d) Questioning. (1) The right to interrogate the witnesses before the Committee shall alternate between majority and minority members. Each member shall be limited to 5 minutes in the interrogation of witnesses until such time as each member who so desires has had an opportunity to question witnesses. No member shall be recognized for a second period of 5 minutes to interrogate a witness until each member of the Committee present has been recognized once for that purpose. The chairman shall recognize in order of appearance members who were not present when the meeting was called to order after all members who were present when the meeting was called to order have been recognized in the order of seniority on the Committee.

(2) The chairman, with the concurrence of the ranking minority member, or the Committee by motion, may permit an equal number of majority and minority members to question a witness for a specified, total period that is equal for each side and not longer than thirty minutes for each side. The chairman with the concurrence of the ranking minority member, or the Committee by

apparent absence of a quorum, by any one member. No demand for a record vote shall be made or obtained except for the purpose of procuring a record vote or in the apparent absence of a quorum. The result of each record vote in any meeting of the Committee shall be made publicly available in electronic form on the Committee's website and in the Committee office for inspection by the public, as provided in Rule XI, clause 2(e) of the Rules of the House, within 24 hours. Such result shall include a description of the amendment, motion, order, or other proposition, the name of each member voting for and each member voting against such amendment, motion, order, or proposition, and the names of those members of the committee present but not voting. The chairman, with the concurrence of the ranking minority member, may from time to time postpone record votes ordered on amendments to be held at a time certain during the consideration of legislation.

(b) Archived Records. The records of the Committee at the National Archives and Records Administration shall be made available for public use in accordance with Rule VII of the Rules of the House. The chairman shall notify the ranking minority member of any decision, pursuant to clause 3 (b)(3) or clause 4 (b) of the Rule, to withhold a record otherwise available, and the matter shall be presented to the Committee for a determination on the written request of any member of the Committee. The chairman shall consult with the ranking minority member on any communication from the Archivist of the United States or the Clerk of the House concerning the disposition of noncurrent records pursuant to clause 3(b) of the Rule.

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(a) Establishment. There shall be such standing subcommittees with such jurisdiction and size as determined by the majority party caucus of the Committee. The jurisdiction, number, and size of the subcommittees shall be determined by the majority party caucus prior to the start of the process for establishing subcommittee chairmanships and assignments.

(b) Powers and Duties. Each subcommittee is authorized to meet, hold hearings, receive testimony, mark up legislation, and report to the Committee on all matters referred to it. Subcommittee chairmen shall set hearing and meeting dates only with the approval of the chairman of the Committee with a view toward assuring the availability of meeting rooms and avoiding simultaneous scheduling of Committee and subcommittee meetings or hearings whenever possible.

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(d) Selection of Subcommittee Members. Prior to any organizational meeting held by the Committee, the majority and minority caucuses shall select their respective members of the standing subcommittees.

(e) Ex Officio Members. The chairman and ranking minority member of the Committee shall be

ex officio members with voting privileges of each subcommittee of which they are not assigned as members and may be counted for purposes of establishing a quorum in such subcommittees. The minority chairman emeritus shall be an ex officio member without voting privileges of each subcommittee of which the minority chairman emeritus is not assigned as a member and shall not be counted for purposes of establishing a quorum on any such subcommittee.

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(b) Length. (1) At full committee hearings, the chairman and ranking minority member shall be limited to 5 minutes each for an opening statement, and may designate another member to give an opening statement of not more than 5 minutes. At subcommittee hearings, the subcommittee chairman and ranking minority member of the subcommittee shall be limited to 5 minutes each for an opening statement. In addition, the full committee chairman and ranking minority member shall each be allocated 5 minutes for an opening statement for themselves or their designees.
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The chairman, in his discretion, shall designate which member shall manage legislation reported by the Committee to the House.

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(a) Administration of Committee Budget. The chairman of the Committee, in consultation with the ranking minority member, shall for the 113th Congress attempt to ensure that the Committee receives necessary amounts for professional and clerical staff, travel, investigations, equipment and miscellaneous expenses of the Committee and the subcommittees, which shall be adequate to fully discharge the Committee's responsibilities for legislation and oversight..

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(a) Subpoenas. The chairman of the Committee may, after consultation with the ranking minority member, authorize and issue a subpoena under clause 2(m) of Rule XI of the House. If the ranking minority member objects to the proposed subpoena in writing, the matter shall be referred to the Committee for resolution. The chairman of the Committee may authorize and issue subpoenas without referring the matter to the Committee for resolution during any period for which the House has adjourned for a period in excess of 3 days when, in the opinion of the chairman, authorization and issuance of the subpoena is necessary. The chairman shall report to the members of the Committee on the authorization and issuance of a subpoena during the recess period as soon as practicable but in no event later than one week after service of such subpoena.

(b) Interviews. The chairman of the Committee may authorize committee staff to conduct transcribed interviews in the furtherance of a Committee investigation.

FRED UPTON, MICHIGAN
CHAIRMAN

HENRY A. WAXMAN, CALIFORNIA
RANKING MEMBER

ONE HUNDRED THIRTEENTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON ENERGY AND COMMERCE

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June 6, 2013

The Honorable Robert Perciasepe
Acting Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Dear Acting Administrator Perciasepe:

Thank you for appearing before the Subcommittee on Energy and Power and the Subcommittee on Environment and the Economy on Thursday, May 16, 2013, to testify at the hearing entitled "The Fiscal Year 2014 Environmental Protection Agency Budget."

Pursuant to the Rules of the Committee on Energy and Commerce, the hearing record remains open for ten business days to permit Members to submit additional questions for the record, which are attached. The format of your responses to these questions should be as follows: (1) the name of the Member whose question you are addressing, (2) the complete text of the question you are addressing in bold, and (3) your answer to that question in plain text.

Also attached are Member requests made during the hearing. The format of your responses to these requests should follow the same format as your responses to the additional questions for the record.

To facilitate the printing of the hearing record, please respond to these questions and requests by the close of business on Thursday, June 19, 2013. Your responses should be e-mailed to the Legislative Clerk in Word format at Nick.Abraham@mail.house.gov and mailed to Nick Abraham, Legislative Clerk, Committee on Energy and Commerce, 2125 Rayburn House Office Building, Washington, D.C. 20515.

Thank you again for your time and effort preparing and delivering testimony before the Subcommittees.

Sincerely,

Ed Whitfield
Chairman
Subcommittee on Energy and Power

John Shimkus
Chairman
Subcommittee on Environment
and the Economy

cc: The Honorable Bobby L. Rush, Ranking Member, Subcommittee on Energy and Power
The Honorable Paul Tonko, Ranking Member, Subcommittee on Environment and the Economy

Attachments

Attachment 1—Member Requests for the Record

During the hearing, Members asked you to provide additional information for the record and you indicated that you would provide that information. For your convenience, descriptions of the requested information based on the relevant excerpts from the hearing transcript regarding these requests are provided below.

The Honorable Tim Murphy

1. With respect to EPA and FOIA fee waiver requests, I hope you will submit for the record the value of FOIA fees waived by EPA.

The Honorable Michael C. Burgess

1. Lisa Jackson went to the United Nations Conference on Sustainable Development, referred to as Rio+ 20. How much did we spend to send Lisa Jackson to Rio 20?

The Honorable Bill Cassidy

1. In October of 2011 the EPA Office of Underground Storage Tanks announced a proposed revision to the 1988 Federal Underground Storage Tank regulation, and industry stakeholders along with the Petroleum Marketers Association of America submitted comments. EPA estimated the compliance costs to be about $900 per year per facility while the petroleum marketers and others estimate true costs to be $6,100 per year. Now, of course, this concerns them, and they are requesting that the EPA withdraw the proposed rule, which is to be finalized in October of 2013, this year, and form a small business regulatory advisory panel to determine the true compliance costs. They tell me a letter was received from EPA, and the letter did not agree to the regulatory advisory panel. What are the true compliance costs? Is EPA reluctant to form an advisory or other committee to determine the true compliance costs?

The Honorable H. Morgan Griffith

1. In the case of the Clean Air Act, for consent decrees there is a statutory opportunity to comment before they are entered by the court. Does opportunity for public comment ever result in changes to a settlement? We are aware of only one instance involving technology and residual risk reviews for various sources where that has occurred. Can you get that information?

The Honorable John D. Dingell

1. I see that the President's fiscal year 2014 budget request for CERCLA or Superfund is $33 million less than for fiscal year 2012. Can CERCLA continue to fulfill its duties and its current cleanup responsibilities and obligations without slowing down significantly because of this reduction in funding?
   Would you submit some additional information on that issue, please, so that we may evaluate that more adequately?

Attachment 2—Additional Questions for the Record

The Honorable Ed Whitfield

1. Concerns have recently been raised that the EPA has engaged in a pattern of granting Freedom of Information Act (FOIA) fee waivers to environmental groups while denying fee waivers to conservative groups, and we understand that you have contacted the agency's Inspector General regarding conducting a programmatic audit to address these concerns.

   a. What is the status of this audit?

   b. What will be the scope of the audit?

   c. When will the audit be completed?

2. A FOIA-related situation has recently come to my attention that raises questions about whether the EPA may employ a similar practice when it comes to granting timely access to public records under the FOIA process. A case in point has arisen out of Louisiana, where an advocacy group, the Louisiana Bucket Brigade (LABB), was able to gain access, through FOIA, to an EPA draft RMP inspection report of the Baton Rouge Refining Facility, within 16 days of its original FOIA request of Dec. 14, 2012 (Tracking Number : EPA-R6-2013-002185). Conversely, an industry trade association, the Louisiana Mid-Continent Oil & Gas Association (LMOGA) submitted a FOIA request (Tracking Number : EPA-R6-2013-005253) on April 8, 2013, for information related to the fulfilling of LABB's Dec. 14, 2012, FOIA request, yet as of May 20, 2013 – 42 days later – its request has not yet been answered.

   a. Given the concerns that have been raised about potential bias when it comes to FOIA fee waivers, can the EPA say with certainty that when it comes to the timeliness of processing FOIA requests that there is not a bias in favor of environmental groups over industry organizations, state or local governments?

   b. Will EPA include a review of FOIA response times in the agency's upcoming audit of its FOIA fee-waiver practices?

   c. What protocols does the Agency currently have in place for monitoring and ensuring adequate FOIA response times in accordance with FOIA and case law?

   d. Is the EPA aware of any instances in which it has answered a FOIA request through the unofficial sharing of relevant documents and information in lieu of formally releasing the requested information via a publically accessible database?

3. With respect to the Clean Air Act's regional haze provisions, does EPA agree that the Clean Air Act as written and as amended gives the states, rather than the federal government and the EPA, primacy over visibility and regional haze standards? If not, please explain.

4. EPA has proposed a regional haze regulation for the Navajo Generating Station that could require an investment of more than $1 billion with potentially no perceptible visibility improvements. In particular, a study done by the Department of Energy's National Renewable Energy Laboratory (NREL) last year concluded: "The body of research to date is inconclusive as to whether removing approximately two-thirds of the current NOx emissions from Navajo Generating Station would lead to any perceptible improvement in visibility at the Grand Canyon and other areas of concern." Does EPA reject the NREL's conclusion? If yes, please explain the basis for rejecting this conclusion.

5. The Navajo Generating Station plant is critical to the Arizona economy and jobs, and to the Central Arizona Water Project. In the proposed rule, EPA itself states that "the importance to tribes of continued operation of NGS and affordable water costs cannot be overemphasized." Is it reasonable for EPA to propose requiring the owners to spend hundreds of millions of dollars, or possibly over $1 billion, for potentially no perceptible visibility improvements? Can EPA commit that the agency will not finalize a rule that effectively forces the facility to shut down all or a significant part of its operations?

6. Under the Montreal Protocol and Title VI of the Clean Air Act, EPA has been phasing out the consumption and production of hydrochlorofluorocarbons (HCFCs). What is EPA's timetable for proposing and promulgating rules governing HCFC allowances for the period of 2015-2019? What steps is EPA taking to ensure that the proposed rule can be completed well enough in advance of 2015 so that companies and industries can plan and operate their businesses accordingly?

7. During the FY 2014 budget hearing before the Interior Appropriations Subcommittee, you were asked about EPA's proposed order revoking the food uses for sulfuryl fluoride. As you are aware, EPA had strongly encouraged the agricultural and food production sectors to transition to sulfuryl fluoride as a substitute for methyl bromide. In your testimony, you stated that EPA is "sympathetic to the problem" created by the proposed order and acknowledged the pending legislation that would direct EPA to withdraw it. You also testified that "sulfuryl fluoride is a pretty important fumigant," "a good replacement" for methyl bromide, and an "important tool." Does this mean that EPA is willing to work with Congress to provide certainty to the agricultural and food production sectors that they will be able to continue using sulfuryl fluoride to protect America's food supply from dangerous and destructive pest infestations?

8. EPA publishes hundreds of final rules each year in the Federal Register. Does EPA track the number of rules it issues each year? If yes, please provide the number of final rules published for each of the following years: 2009, 2010, 2011 and 2012.

9. Does EPA track the total new compliance costs of the rules it issues each year? If yes, please provide the estimated total compliance costs for EPA rules published in 2009, 2010, 2011 and 2012.

10. Section 321(a) of the Clean Air Act requires the EPA "conduct continuing evaluations of potential loss or shifts of employment which may result from the administration or enforcement of the provision of this Act and app
11. licable implementation plans, including where appropriate, investigating threatened plant closures or reductions in employment allegedly resulting from such administration or enforcement."

    a. Has EPA ever conducted a study or evaluation under Section 321(a)? If yes, please describe each study or evaluation, when it was conducted, and the results of the study or evaluation.

    b. Has EPA ever investigated a threatened plant closure or reduction in employment allegedly resulting from administration or enforcement of the Clean Air Act? If yes, please describe each such investigation, when it was conducted, and the results of the investigation.

12. In its 2010 proposed ozone rule, EPA estimated that the costs to the American manufacturing, agriculture and other sectors could reach $90 billion per year. Many have raised concerns that with such costly rules we are driving manufacturing and agricultural production out of the U.S. to other countries with lax environmental standards.

    a. In analyzing these regulations, does EPA consider the economic and environmental effects of driving manufacturing offshore to countries with little or no environmental controls?

b. If yes, please explain. If not, why not?

13. When President Obama announced Executive Order 13563 in 2011, he promised "to remove outdated regulations that stifle job creation and make our economy less competitive." However, based on review of EPA's most recent retrospective review of regulations, it appears EPA has only completed review of 13 regulations. Most of the revisions appear to be minor, and one of the revisions actually increases regulation.

    a. How many regulations has EPA reviewed as part of this process?

    b. Is the agency continuing to take steps to eliminate outdated or unnecessary regulations? If yes, please describe the steps being taken and the regulations which have been eliminated.

14. EPA is currently undertaking an expensive risk assessment of a hypothetical mine on the Bristol Bay watershed in Alaska.

    a. Why is EPA undertaking such an assessment, before a permit application has even been submitted?

    b. Why is EPA undertaking such an assessment of a hypothetical mine, rather than waiting for an actual permit application to be submitted and reviewed under the National Environmental Policy Act?

    c. Does EPA maintain that it has the legal authority to preemptively veto development projects before a permit application has been submitted? If yes, please explain.

<u>The Honorable John Shimkus</u>

1. Please provide for the record the amount spent by EPA for all testing and any other assessments and other work done by the Agency and related hydraulic fracturing at Dimock, PA; Pavillion, WY; and Parker County, TX.

2. The President's proposed FY14 budget requests $14.1 million for EPA, DOE, and USGS to collaborate on hydraulic fracturing. Last fiscal year, the President made the same request, bringing total proposed spending on this item to around $22 million.

    a. Does this request differ from the FY 2013 request?

    b. How much are DOE and USGS budgeting for this work?

    c. How much of your $14 million fracturing collaboration budget for FY 2014 is for continuing EPA's ongoing study into the potential impacts of hydraulic fracturing on groundwater?

    d. Could you please provide for the record all the detail you have on EPA's proposed specific uses for that $14.1 million request?

3. Battelle, an organization that EPA has used extensively in the past, just issued a report questioning the Agency's ability to reach meaningful conclusions using the Agency's current study plan, particularly its methodology and the retrospective case studies.

    a. Are you aware of or have you seen this new Battelle report?

b. If so, do you share Battelle's concerns about your hydraulic fracturing study's methodology?

c. Are you willing to have EPA re-evaluate the work it have done to date, including the likely scientific merit of any results that may come out of the study?

4. EPA is considering the issuance of Federal guidance on the use of diesel fuel in hydraulic fracturing under its Underground Injection Control program. Yet, EPA has not established that such a federal action is needed to protect underground sources of drinking water as required under section 1421(b) of the Safe Drinking Water Act. The agency has not studied the need for requiring a Class II UIC permit, nor does it appear that EPA is taking into consideration "varying geologic hydrological, or historical conditions in different States and in different areas within a State" as also required by the Act (section 1421(b)). Finally,

   a. What gap in regulation is EPA trying to address with its guidance?

   b. Why does EPA's proposed guidance expand the definition of "diesel fuel?"

      i. What could come under that definition in the future?

      ii. Does EPA have a means or process to add new substances in the future to the definition of "diesel"?

   c. Are you considering revisiting the diesel fuel guidance idea? If so, will you commit to avoid an overly expansive definition?

5. The President's proposed FY14 budget request for Leaking Underground Storage Tanks (LUST) represents a decline of 4.7 percent from the enacted level in FY12. Since LUST is funded from its own Trust Fund, rather than General Treasury monies, does the decline in request mean there is less of a need in this program area?

6. This past April, press reports indicated that EPA confirmed it had released personally identifying information on thousands of farmers and ranchers to environmental activist groups, as part of a Freedom of Information Act request response. Some of the FOIA requesters are in litigation with the Agency to force regulation of the persons identified by the Agency. Please explain this information release.

   a. What has EPA done to shield, or otherwise make whole, these agricultural producers from the harm that release of their information may cause?

   c. Does EPA, outside of a formal discovery process, have a policy or guidance regarding the disclosure of personally identifying information as part of a FOIA request, if the requester is in litigation with EPA regarding a Federal regulation?

   d. Did the EPA release information that was derived from sources other than state regulatory agencies? If so, please provide a list of those sources and a justification for using non-government sources of information.

   e. Does the EPA intend to gather any more personally identifiable information of livestock producers or other potentially regulated entities?

f. Does the EPA intend to make the information provided to the environmental groups or any new personal information available on its website or any other searchable government database?

7. Pesticide registrants are willingly paying more in PRIA fees to cover a much higher percentage of the overall OPP budget. Ironically, rather than focusing on the robust scientific review of pesticides, the current EPA strategic plan suggests that the agency's goal is "to reduce pesticide use" outright -- a goal not stated in any law. Rather than focusing OPP resources on the most significant programmatic challenges and potential risks to human health, EPA is redirecting significant resources and personnel to lower risk issues like school IPM.

   a. Is EPA taxing OPP resources by prioritizing the low risk programs, while underfunding the core mission of the office which is to soundly implement statutory obligations under FIFRA, FQPA and PRIA.

8. Your FY14 budget request includes $60 million for an e-enterprise effort at EPA to reduce the reporting burden on regulated entities and provide easier access to and use of environmental information.

   a. Will statutory changes be needed to effectuate these changes?

   b. Will EPA be building this e-enterprise itself or, like e-manifest, contracting this work out to the private sector?

   c. Does EPA envision a user fee to pay for operation of this system and, if so, who will be asked to pay?

10. The President's proposed FY14 budget request suggests four criteria by which to view Agency operations, including: "fostering better relations with the regulated community." What are some things the Agency has in mind to succeed in this area?

11. One of the Obama Administration's new initiatives at EPA for FY14 is "Next Generation Compliance" and "evidence-based enforcement and compliance."

    a. What is "evidence-based" enforcement and why do you need $4 million dollars for it?

12. As part of "Next Generation Enforcement," EPA is requesting $2.8 million for "targeted, intelligence-based" enforcement activities.

    a. From where or how does EPA intend to gather this information and in what kinds of cases will it be used?

13. The President's proposed FY14 budget requests $62.7 million for the development, peer review, and finalization of risk assessments of additional TSCA work plan chemicals.

    a. How many new work plan chemicals will EPA propose in FY14?

    b. What are they?

14. Regarding the Endocrine Disruptor Screening Program, what percentage of the chemical screens used in the program are not validated?

    a. How many more need to be validated?

b. How many of the tests are validated?

c. What role is EPA ascribing to adverse effects from its screening data versus testing data?

15. EPA's proposed budget for FY14 mentions plans to transform the enforcement and compliance program.

    a. Does this mean that EPA will be restructuring its workforce?

    b. Are national enforcement initiatives or other criminal and civil enforcement being driven by the program offices, DOJ, or Office of Enforcement and Compliance Assurance?

16. Does your proposed Superfund budget, include funds for starting work on any new sites? Are there any you expect to complete?

17. EPA is seeking to justify its costly proposed 316(b) rule, which would affect more than 1,260 power plants and industrial facilities nationwide, on the basis of a public opinion survey asking "how much" a random group of individuals would be willing to pay to reduce fish losses at intakes. This willingness-to-pay approach to determining "benefits" contrasts sharply with the far more traditional approach used by EPA in its earlier 316(b) rulemakings. The earlier analyses relied on actual market prices and costs incurred by individuals, rather than hypothetical questions in a public survey. The "willingness-to-pay" or "stated preference" survey is clearly intended to increase the anticipated benefits of the proposed rule. Yet such stated preference surveys are notoriously difficult to design and implement and often are very unreliable. Using such unreliable benefit estimates will inappropriately lead to cooling water controls that are neither necessary nor cost beneficial and that will not deliver the anticipated benefits but will materially affect compliance and consumer costs. Given all these problems, is EPA going to withdraw the survey and clarify that the survey and its results are inappropriate to use in implementing the final rule?

The Honorable Phil Gingrey

1. Each year since 2003, EPA has issued a notice to receive applications for a Critical Use Exemption (CUE) for methyl bromide under the Montreal Protocol. In announcing the final CUE allocation decisions, the agency has identified the commodities eligible to use methyl bromide under a CUE, as well as the conditions such as the presence of weeds or plant pests that existed that supported the need for the CUE. These uses have included, for example, use by cucurbit growers, eggplant growers, pepper growers, strawberry growers, sweet potato growers, tomato growers, turfgrass producers and users, forest seedling growers and nurseries, stone fruit, table grapes, raisins, walnut and almond growers, ornamental growers, U.S. millers of rice, wheat and corn products, and California handlers of walnuts, beans, dried plums, raisins and pistachios. Since 2011, the EPA has essentially reduced or rejected the CUE applications by these user groups. It has done that despite the fact that the potential tools that EPA maintains are available in lieu of methyl bromide have not increased, but have actually decreased or face significant regulatory challenges of their own, while the weeds or plant pest complexes continue to be a problem.

    a. In view of the significant potential adverse economic and job impacts on those applicants in the agricultural and food production sectors whose applications have been rejected or had their requests substantially reduced, will EPA consider changing its approach and recognize the continuing substantial need for the product under the CUE process?

b. Is EPA open to receiving supplemental requests for methyl bromide, and if so, will the agency fairly and reasonably evaluate such requests?

The Honorable Ralph M. Hall

It is our understanding that EPA has been enforcing the requirements of the NSPS, Subpart UUU for Calciners and Dryers in Mineral Processing Industries against foundries, despite the fact that the agency never intended to include foundries as a source category for this rule. In April 2008, EPA proposed regulatory language to specifically exempt foundries from the requirements of Subpart UUU, but has never taken final action on the proposed regulatory language.

1. Why has EPA failed to promulgate the exemption for foundries from NSPS, Subpart UUU consistent with the original intent of the rule? When can we expect EPA to take final action on its proposal?

2. Why is EPA enforcing the provisions of Subpart UUU against foundries when the agency never intended to include foundries as a source category for Subpart UUU?

The Honorable Joe Barton

1. In your testimony, you indicated that you have contacted the Inspector General regarding a programmatic audit to address the recent allegations of political bias in EPA's awarding of fee waivers for Freedom of Information Act requests.

   a. Has EPA submitted a formal request for an audit?

   b. Has the Inspector General agreed to perform the audit?

   c. What will be the nature and scope of the Inspector General's review and audit?

   d. Will you share the findings of the Inspector General audit with Members of this Committee and the public?

2. Gina McCarthy recently stated in her written responses to the Senate Environment and Public Works committee, "I can conceive of circumstances where EPA has disagreed with State's approach on policy grounds but did not intervene to override the state because the state met the relevant legal criteria."

   a. How do you reconcile her statement with EPA's disapproval of the Texas Commission on Environmental Quality's Flexible Permit Program?

   b. In August, 2012, the Fifth Circuit Court of Appeals vacated EPA's final rule disapproving the Texas Flexible Permit Program, finding that EPA exceeded its statutory authority in rejecting the Texas Flexible Permit Program sixteen years tardy, and had transgressed the Clean Air Act's delineated boundaries of cooperative federalism. What is the status of the remand of EPA's disapproval of the Flexible Permit Program?

3. Gina McCarthy indicated that she believes EPA's Office of Acquisition Management was involved in the decision to force Battelle to drop their contract with the Association of Air Pollution Control Agencies (AAPCA).

a. Did EPA present an ultimatum to Battelle to terminate their contract with AAPCA? If so, please provide justification for EPA's actions. In doing so, please explain the criteria used and list any contracts between Battelle and EPA that may have been judged to present a conflict of interest.

b. What are the larger policy implications of prohibiting a third party contractor from entering into a contract with an environmental, multi-jurisdictional organization for purely administrative and logistical purposes?

The Honorable Lee Terry

1. Is EPA considering replacing the original impingement proposal with a more flexible approach that pre-approves multiple technology options, allows facility owners to propose alternatives to those options, and provides site-specific relief where there are de minimis impingement or entrainment impacts on fishery resources or costs of additional measures would outweigh benefits?

2. EPA's proposed 316(b) rule, EPA has not required existing facilities to retrofit "closed cycle" systems such as cooling towers or cooling ponds if the facilities do not already have such systems, because such retrofits are not generally necessary, feasible, or cost effective. At the same time, facilities that do have closed-cycle systems have long been viewed as satisfying the requirements of section 316(b). Yet in the proposed rule, EPA has defined "closed cycle" cooling much more narrowly for existing facilities than EPA did for new facilities several years ago, thereby excluding a number of facilities. And even for the facilities that qualify, EPA is still imposing new study and impingement requirements. In the final rule that is due this summer, Is EPA considering a broader definition of closed-cycle cooling and measures that more fully view these facilities as compliant? In the final rule that is due this summer, Is EPA considering a broader definition of closed-cycle cooling and measures that more fully view these facilities as compliant?

The Honorable Tim Murphy

1. At last year's budget hearing (Feb. 2012), Administrator Jackson committed to posting notices of intent to sue and rulemaking petitions on the agency's website, and EPA has recently begun to post such notices on its website. You testified at this year's budget hearing that EPA would also begin posting those rulemaking petitions.

   a. What are EPA's plans with regard to posting rulemaking petitions?

   b. When and where will they be accessible on EPA's website?

   c. Will EPA commit to timely updating the website to ensure public access to the rulemaking petitions received by the agency?

The Honorable Robert E. Latta

1. In your testimony, you highlight the fact that supporting states' efforts as the primary implementers of environmental programs is an EPA priority. Yet, through the EPA's budget, it is very clear that the federal agency intends to have a direct role in the regulation of hydraulic fracturing, despite proven state programs, including the very successful one in my state of Ohio under the direction of the Ohio Department of Natural Resources.

a. Do you believe that state regulatory agencies are not capable of effectively regulating hydraulic fracturing?

b. What evidence exists that would justify EPA interference in state regulated hydraulic fracturing operations?

c. What is EPA's jurisdictional hook, given the Safe Drinking Water Act's exemption to regulate hydraulic fracturing?

2. As you move forward on greenhouse gas emissions regulations for both new and existing sources, how will you assess the costs?

   a. Will you consider the impact these regulations will have on manufacturing jobs in your cost-benefit analysis?

   b. Will you consider how these regulations will impact energy costs?

   c. Do you consider hiring an employee to solely work on compliance with regulations as beneficial as hiring an employee to work within normal business operations?

3. Does EPA keep track of compliance costs once a rule is implemented? If not, please explain why.

4. How much did covered entities spend complying with EPA regulations last year?

5. Many Ohio producers are taking an active role in mitigating nutrient run-off by voluntarily enrolling in the "4R Nutrient Stewardship" program which stands for using the right fertilizer source, at the right rate, at the right time and with the right placement. Ohio's leading industry representatives have developed this working closely with state agencies.

   a. Will the agency defer to voluntary, industry-led programs or will the agency issue formal regulations regarding nutrient management?

   b. Have you engaged stakeholders regarding this issue?

      i. If so, please provide a list of EPA stakeholder outreach efforts.

The Honorable Bill Cassidy

Recently, you stated that EPA is embracing the spirit as well as the letter of the NAS recommendations to improve the IRIS program. Yet, the recently revised IRIS methanol assessment, which was released last week, EPA categorizes 15 of 19 'short term' recommendations as being only partially implemented and only 4 short term recommendations are listed as implemented. EPAs description for implementing the more substantive recommendations, suggests progress that is minimal at best.

1. What can EPA show to provide true evidence that substantive changes are being made?

2. How long will it be before released IRIS assessments have fully, not partially, implemented the important NAS recommendations?

3. How many more assessments will be released that are not consistent with the NAS recommendations?

The Honorable Cory Gardner

1. Do you believe the Colorado Regional Haze State Implementation Plan (SIP) serves as a model for how states and the federal government should collaborate to reduce regional haze in the West? If so, will EPA be working with the Department of Justice to vigorously defend Colorado's Regional Haze SIP in the 10th Circuit?

The Honorable Mike Pompeo

1. Recently, the EPA has undertaken a wide-ranging review of the retailers that offer Lead Renovation, Repair and Painting (LRRP) installation services rather than the contractors on the jobsite, performing the work. The Agency reportedly has asserted that the retailers themselves are responsible for all aspects of compliance with the LRRP Rule – even though the renovation work is actually performed by the independent, third-party contractors and not by the retailers themselves. What are your thoughts on the expansion of the LRRP rule to include a retailer?

2. Shouldn't the goal of the LRRP rule be to reduce lead based hazards during a renovation project? If so, why is the agency more focused on bureaucratic, administrative errors in the paperwork submitted to a retailer by the independent subcontractors rather than focusing on actual performance and compliance with the rule by the subcontractor onsite in the actual workplace?

The Honorable Bill Johnson

1. The Environmental Protection Agency headquarters in Washington, D.C. maintains an open door with manufacturing companies in the United States. However, companies often encounter less transparency and accessibility with the agency at the research level regarding data. What steps will the Agency take to rectify this problem?

2. On multiple occasions EPA has stated the important value of manufacturing companies in the United States to improving job growth and the environment. Yet many manufacturing companies face serious challenges with regulations by the Environmental Protection Agency, which effectively force manufacturing to relocate outside the United States. What will the Agency do to improve cooperation between the Environmental Protection Agency and these companies?

3. The Environmental Protection Agency is criticized for employing data in various programs that is outdated, if that data is at all revealed to the public or businesses. What measures will the Agemcy take to correct the use of inaccurate, outdated data in regulatory compliance?

4. I recognize that there are times when spending additional money on a specific regulation is required in order to develop a proper rule. For example, the EPA is currently in the process of developing a MACT standard for the brick industry to replace the MACT that was vacated by the courts in 2007. Since this industry was in full compliance with the original Brick MACT before it was vacated, much of the emission reduction from the larger sources has already been achieved as most of those controls remain in place. In fact, EPA is using data from those sources who installed controls in good faith to force even more stringent controls on this vital industry. How is the Agency effectively using resources to develop a

rule that acknowledges the emissions reductions already attained and to not blindly follow the "one size fits all" approach used in recent MACTs?

5. For example, the Clean Air Act has a different path that is allowed in situations like this. This path, using a combination of health-based standards for threshold pollutants and work practices for pollutants where it is impracticable to measure and control, could both protect the environment and ensure an important industry is not needlessly threatened. Will EPA commit to fully explore this alternative path?

6. The rulemakings for the Brick industry have been impacted by the EPA's "sue and settle" approach to dealing with third-party lawsuits on both rounds. The now-vacated MACT was rushed in 2003 due to a pending lawsuit from an environmental group, resulting in a rule that was vacated by the courts for its deficiencies. Now, this industry is facing another court-ordered schedule based on a consent decree that you recently accepted. What assurances can the Agency give me and this industry, that the schedule will not be used as justification for yet another rushed, deficient rule? And what can the Agency do to ensure that this rulemaking will include a full consideration of the alternative approach of using a combination of health-based and work practice standards to ensure that the requirements of the CAA are followed and the environment protected without requiring huge burdens on a critical industry that provide limited to no environmental benefit?

7. I recognize that EPA is being asked to do more with less; however, so is industry. The brick industry is relatively small, with more limited resources than some of the source categories that you have recently regulated. What is the Agency doing to ensure that this small industry is not disadvantaged simply because it does not have the financial resources to fund research projects to support the rulemaking process? Please explain in detail how EPA ensures that smaller industries have the same access to a fair and reasonable rule as larger industries.

8. Is the EPA maintaining and saving all forms of mobile communication of political appointees? This includes text messages, blackberry messages, iPhone messages, etc.

9. If you are saving all of these messages are you working to turn over messages that are in the scope of FOIA to parties that have requested them?

The Honorable John D. Dingell

1. I recently joined with my colleagues from the Great Lakes region in signing a letter to the Appropriations Committee requesting $300 million for the Great Lakes Restoration Initiative. I know the Administration requested that level of funding as well. However, I have concerns about what EPA is doing to address water quality in the Great Lakes. On March 15, 2013 I sent you a letter referencing an article in the New York Times which noted that in the 1960s Lake Erie was nicknamed "North America's Dead Sea." I have worked long and hard to pass legislation and funding to protect and preserve the Great Lakes.

   a. I received a response from your office but given current and requested funding levels, does EPA have the resources to combat massive algae blooms such as the one on Lake Erie?

   b. Could you please submit for the record additional information on efforts EPA is taking to address this issue?

2. What is EPA doing to enforce the cost of cleanups and emergency cleanups?

   a. What is EPA dong to hold property owners responsible for the costs related to cleanups?

b. Is EPA going to continue to hold these existing steps to the highest level of importance?

The Honorable Frank Pallone, Jr.

On January 14th of this year I, along with several of my colleagues in the House of Representatives, wrote to the Office of Management and Budget regarding the RICE/NESHAPS rule. Specifically, we expressed concern with effectively allowing basically unregulated diesel generators to get paid to run as so-called "demand response." Senator Lautenberg and others have also written on this issue and it was raised by Chairman Whitfield at a hearing last week in the Energy and Power Subcommittee.

While the decision to allow these diesel-fueled backup generators to participate in the electricity market was FERC's, it was EPA's decision not to hold these units to the same environmental standards as others bidding into the market, even though these dirty diesel units are displacing cleaner sources of generation, including solar and wind. Perhaps that's why the concern over this decision has been raised by a diverse set of concerned stakeholders including environmental groups, New Jersey and other states, and power companies. This very diverse set of stakeholders coming together on the same side has now taken the rule to court to petition the EPA for reconsideration.

1. Given the concerns raised by this unique coalition of stakeholders and members, does EPA plan to reconsider the RICE/NESHAPS rule?

The Honorable Diana DeGette

1. Is it known for certain whether or not shale gas development through hydraulic fracturing poses an increased risk to human health and the environment over the risks associated with conventional oil and gas development?

2. Is it known for certain whether or not shale gas development through hydraulic fracturing poses no risk to the environment or public health?

3. As you know, in 2010 former Congressman Hinchey and I requested an EPA study to determine the potential impacts of hydraulic fracturing on drinking water. In your FY2014 budget request, you ask for $6.1 million for the study. As I understand, the study is currently underway with the final report due in late 2014. Is that still the timeline?

4. Is it correct that the hydraulic fracturing drinking water study has been designated a Highly Influential Scientific Assessment, and that a new Scientific Advisory Board, different from the Scientific Advisory Board that reviewed the scoping for the study, has been selected to review the draft report?

5. Given the designation of the study as a Highly Influential Scientific Assessment and the formation of a new Scientific Advisory Board, do you still have sufficient funding, time and access to information to complete the study by late 2014? Or will it only be released for peer review by that time?

6. One part of the study I am especially interested in is the case studies. You identified five sites for retrospective case studies and directed EPA, the state and industry to be present during sampling to verify and review the samples for quality assurance.

a. What are the statuses of the retrospective studies at the five sites? Have there been any issues with data collection and analysis?

b. There are also supposed to be a number of prospective case studies, where wells are drilled, completed, and then produce, with data collection and measurements each step of the way. What about the sites for prospective case studies? Have they been identified, and do you have the resources and support to proceed?

7. The EPA has also issued requests for existing data concerning spills, water and waste treatment and disposal, identities of chemicals, standard operations at drilling sites, well locations, water use, well files, etc., from state, Federal, and local governments, as well as industry and other stakeholders.

   a. Are there any existing or ongoing requests for information? How much of a response have you received?

8. As you know, the Energy Policy Act of 2005 exempted hydraulic fracturing from EPA regulation under the Safe Drinking Water Act, except when diesel is used. In the EPA's budget justification you mention EPA will ensure proper oversight of hydraulic fracturing operations where diesel fuel is used by implementing permitting guidance under SDWA's Class II UIC program. What is the status of the guidance?

9. The budget justification also mentions that the agency also will work with states and stakeholders on developing and implementing voluntary strategies for encouraging the use of alternatives to diesel in hydraulic fracturing and improving compliance with other Class II regulations, including risks from induced seismic events and radio nuclides in disposal wells. One of the primary factors in America's significant reductions in pollution over the last 40 years has been federal baseline policies for restoring and protecting the environment, including the UIC program. Could you or your staff continue to update us on the guidance and the outreach to improve compliance for this program?

The Honorable John Barrow

1. I understand that you've been working with stakeholders to finalize the rule governing cooling water intake structures under Section 316(b) of the Clean Water Act. Last year, I joined on a letter to EPA urging that the final rule should provide ample compliance flexibility to accommodate a diversity of industrial facilities and allow for multiple pre-approved technologies. Can you provide an update on your progress for finalizing the rule with those goals in mind?

The Honorable Jerry McNerney

1. At the hearing, EPA stated that it plays a role in reviewing the Bay Delta Conservation Plan (BDCP).

   a. What have been and what are the specific actions EPA is involved with during this interagency process?

   b. How has the EPA communicated with other federal agencies that are also working on the BDCP?

2. The EPAs *Action Plan for the Bay-Delta* stated that "Despite much ongoing activity, CWA (Clean Water Act) programs are not adequately protecting Bay Delta Estuary aquatic resources, as evidenced by the

pelagic organism decline." Does EPA believe that the current BDCP proposal adequately addresses the concerns outlined in its report related to protecting the Bay Delta Estuary?

3. How many and what type of EPA resources (e.g. number of staff, hours worked, and total agency funds, etc.) were used on the BDCP in fiscal years 2011-2012?

BARBARA BOXER
CALIFORNIA

COMMITTEES:
COMMERCE, SCIENCE, AND TRANSPORTATION
ENVIRONMENT AND PUBLIC WORKS
FOREIGN RELATIONS

United States Senate

HART SENATE OFFICE BUILDING
SUITE 112
WASHINGTON, DC 20510-0505
(202) 224-3553
http://boxer.senate.gov

May 22, 2013

Mr. David McIntosh
Associate Administrator for Congressional and Intergovernmental Relations
Environmental Protection Agency
1200 Pennsylvania Avenue NW Room 3426 Arn
Washington, DC 20460-0001

Dear Mr. McIntosh:

Enclosed, please find a copy of the correspondence Senator Boxer received from (b) (6) [redacted] regarding a matter pertaining to the U.S. Environmental Protection Agency (EPA).

(b) (6) [redacted] informs the Senator that she wishes to report the misuse of federal funds by EPA offices in Region X. As such, she respectfully requests to bring this matter to your attention without delay.

I am forwarding the attached for your review and consideration. Any information you can provide in response to the concerns expressed by Ms. Shell will be most appreciated.

Thank you for your assistance in this matter. Please respond to Senator Boxer's Oakland office, attention: (b) (6) [redacted].

Sincerely,

Eric José Vizcaíno
Director of Constituent Services

EJV:mh
Enclosure
cc: (b) (6) [redacted]

70 WASHINGTON STREET
SUITE 203
OAKLAND, CA 94607
(510) 286-8537

312 NORTH SPRING STREET
SUITE 1748
LOS ANGELES, CA 90012
(213) 894-5000

501 'I' STREET
SUITE 7-600
SACRAMENTO, CA 95814
(916) 448-2787

2500 TULARE STREET
SUITE 5290
FRESNO, CA 93721
(559) 497-5109

600 'B' STREET
SUITE 2240
SAN DIEGO, CA 92101
(619) 239-3884

3403 10th STREET
SUITE 704
RIVERSIDE, CA 92501
(951) 684-4849

PRINTED ON RECYCLED PAPER

United States Senator Barbara Boxer

PRIVACY ACT CONSENT FORM

The provisions of Public Law 93-579 (Privacy Act of 1974) prohibit the disclosure of information of a personal nature from the files of an individual without their consent.

Accordingly, I authorize the staff of Senator Barbara Boxer to access any and all of my records that relate to the problem stated below.

Signature: (b) (6) [redacted] Date: _____

To begin processing your case, please complete all of the following information:

Circle One: Mr. Mrs. Miss Ms.
First Name: (b) (6) [redacted] Rca
Last Name: (b) (6) [redacted]
Date of Birth: (b) (6) [redacted] (b) (6)
Social Security Number: [redacted]

Address:
City: (b) (6) [redacted]
State:
Email:
Phone Number:

Federal agency with which you need help: EPA Federal Funds Mis-use (Region 10)

Briefly explain the problem or the information desired* (attach additional pages if necessary):
2 acres of land through the middle of Stubblefield Salvage Yard in Walla Walla, WA. Many different address have been used to avoid a federal investigation 535 offner Rd / 595 offner Road 986 N.E. Myra Rd -- Walla Walla WA All the same site. Federal Money was given to the expasion of Myra Rd in Walla Walla, WA January 26, 2007 Ecology had listed this property on List for Ecology's Confirmed & Suspected Contaminated Sites. Feb. 16 - 2007 2 acres (same location) from middle of Junk yard for Myra Rd.

*Please include copies of any relevant documentation related to your request as attachments to this form.

Also include the following information if appropriate.

IMMIGRATION:	OTHER:	MILITARY:
Alien Registration#:	EEO Charge #:	Branch of Service:
Priority Date:	EEOC Charge #:	Rank:
Form #:	Student Lender Name:	VA File Number:
Date filed:	OPM CSA #:	VA Office or Medical Center:
USCIS Receipt#:		
Embassy Case #:		

Please list any other Congressional offices that you have contacted about this issue:
Senator Patty Murray - WA State

Print and mail your completed form to Senator Barbara Boxer's Oakland office at:

Attention: Casework Department
United States Senator Barbara Boxer
70 Washington Street, Suite 203
Oakland, California 94607
Fax: 202.228.6866
(Despite containing a Washington D.C. area code, faxes sent to the above fax line will be received in Oakland)

April 19, 2013

Senator Barbara Boxer
2500 Tulare Street
Suite 5290
Fresno, CA 93721

Environment and Public Works:
Major mis-use of Federal Funds (4.2 million)
EPA Region 10 cover up (Handford Nuclear contamination)

My brother, (b) (6) [redacted] personally worked in DC with Aida M. Alvarez, who was the Deputy Administrator for Public Communications, and Jadine Nielsen. So feel free to check with each of them for past reference. Both can verify (b) (6) [redacted] set up The National Ombudsman Program, while working with the SBA in DC. (b) (6) [redacted] my brother stays with me here, in Atwater CA while getting medical treatment at the Fresno VA , he currently 100% disabled Vet.

This abuse of Federal Money and cover up is actually in Washington State. Since my primary home is here in CA and Senator Barbara Boxer is the Chair Person for the Environment and Public Works, I felt she needs to be aware of the corruption, cover up by Ecology & EPA (Region 10) and mis-use of Federal Money.

These are the Departments I have sent copies of documentation to verify the mis-use of Federal Funds and cover up by EPA, Ecology, Walla Walla WA County, HDR Engineering, Pasco WA, Port of Walla Walla, WA.

AGO for Washington State
(b) (6) [redacted], JD Executive Director, Heart of America
The National Ombudsman DC (August 19, 2011)
WA State Governor, Jay Inslee (July20, 2012) ID: 516—received by Eric
OIG

Here are the Facts : I have all documentation to verify
Two separate locations:
Former Dumping Site for all **Handford Nuclear** Scrap
116 N. 11th Ave.
Walla Walla, WA 99362
In 2012 address was changed to **201 N. 11th Ave, Walla Walla, WA** ----same contaminated site.

I have original contracts signed between **Handford Nuclear** Site Superintendent and my Dad, (b) (6) [redacted].

Financial Bank Statements, stating profits from **Handford Nuclear** Site, 6/15/1981, 6/16/1982, 3/30/1983, declarations used **Handford Nuclear** Scrap bought and disassembled at the location of **116 N. 11th Ave, Walla Walla, WA 99362.**

I have copies of several formal complaints made to both Ecology and EPA by former Employees who worked during this time period. Letter submitted to the National Ombudsman and Assistant Administrator, 8/16.2011 written by Elliott J. Gilberg, Director Office of State Remediation Enforcement stated: (page 11)

EPA reviewed the complaint and discussed the Site with **Ecology,** which conducts frequent inspections of such operations. Due to the general, unspecified allegations set forth in the complaint, and the absence of any additional information from Ecology, EPA determined that the follow up action was not warranted. This site is currently owned by (b) (6) [redacted] who legally changed his name from (b) (6) [redacted] at the age of 18 year of age.

Abuse of Federal Money

Ecology & EPA has used 3 different address's to confuse the public---Yet they are ALL the same location

535 Offner Rd. Walla Walla, WA 99362
595 Offner Rd. Walla Walla, WA 99362
980 N.E. Myra Rd. Walla Walla, WA 99362

Facts:

535 Offner Rd. has never been a Business address----since the early 50's this was the location for , Emory Stubblefield **home residence,** never a business site.

535 Offner Rd, was continually used by **Ecology**

Site Hazard Assessment

Site Information:

(b) (6) [redacted]

Ecology Facility Site ID No.: 1367331
(Site scored/ranked for the August 22, 2007)
August 6, 2007 (updated 08/04/2008 to correct **S/T/R)**

Ecology reports state: This Site has been in operation since the 1960's. **Not True** : Tax returns show, [redacted] (b) (6) [redacted] ran his business at **116 N. 11th Ave,**

February 2006: HDR Engineering report stated:

Page 14—3.1.1 **Soil "Most soil samples were below detection levels for semi-volatile organics".**

Page 14—3.1.2 **Groundwater "All groundwater samples were below detection levels for semi-volatile organics."**

This is the same property (**535 Offner Rd ---595 Offner Rd—980 N.E.. Myra Rd. Walla Walla, WA**) depending on who completed the report but all of these addresses are for the same location---this is done often within the Walla Walla area to confuse outsider from any federal investigations. (The past Walla Walla Post Master (prior to (b) (6) (b) (6)) is currently being sent to prison for federal crimes with the US Postal service

(b) (6) [redacted]

business location where the past **Handford Nuclear** scrap material had been taken to and disassembled---the business accountant, (b) (6) [redacted] CPA his past business partner, (b) (6) [redacted] **CPA** s(b) (6) [redacted] was sent to Prison for IRS Fraud. Many criminal's and high profile Republicans are involved with this EPA, & Ecology cover up and abuse of Federal Funds.

Concerns: Read **May 2010** News release by **EPA** Region 10

Stubblefield Environmental Cleanup Community Involvement Plan

FACT SHEET

March 2013 Next Cleanup to Start at Stubblefield Salvage Site **EPA** Region 10.

2 Acres through the middle of this same site—Stubblefield Salvage Yard—was bought and paid for by Walla Walla County February 16, 2007 for the Extension of Myra Rd & Hwy 12 Yet according to Ecology e-mails **NO Soil** samples were taken or tested prior to building this MYRA Rd & Hwy 12---which Federal money was used.

Is the public in danger since this same site was listed **1/26/2007** as a Hazzard & Contaminated Site List ?

2/16/2007 Walla Walla County paid, 93 year old (b) (6) [redacted] **$265,000.00** for 2 acres **through the middle of the Salvage Yard Business** at 595 Offner Rd, Walla Walla WA for the Myra Rd and Hwy 12 Extension

How can the same property site (595 Offner Rd or 535 Offner Rd—both address is for the same location) reports from Ecology **1/26/2007** ----Go from

Walla Walla, WA 99362 from the early 50's through the late 90's.

10/19/2006, (b) (6) [redacted] **Ecology ERO HWTR,** conducted an unannounced Dangerous Waste Compliance Inspection. A large hydraulic fluid spill from the shear---the same leaking shear had been moved from **116 N. 11th Ave.** to **595 Offner Rd.,** in the late 90's.

1/10/2007 , ERO HWTR- wrote a Compliance Report, detailing a list of required actions to be completed at the site in order to attain compliance under Washington State Dangerous Waste Regulations

1/26/2007, Ecology the Site was listed on Ecology's Confirmed and Suspected Contaminated Site List.

2/1/2007, Ecology letter sent to 93 year old (b) (6) [redacted], with a notification (early notice letter) that another hazard assessment would take place.

Special CONSIDERATIONS (include limitations in site file data or data which cannot be accommodated in the model, but which are important in evaluating the risk associated with the site, or any other factor(s) over-riding a decision of no future action for the site):

2/17/2007 Walla Walla County paid, 93 year old (b) (6) [redacted] d, **$265,000.00** for **2 acres through the middle of the Stubblefield Salvage Site.** This 2 acres was needed for the **Myra Rd & Hwy 12 Extension.** Without Ecology doing any clean up.

8/2005 & 2/2006
HDR Engineering, Inc
2805 Saint Andrews Loop
Suite A
Pasco, Washington 99301
completed
Phase 1 & Phase 11 Environmental Site Assessment
for
Stubblefield Salvage Yard parcel# 350724440023
for
Myra Rd Extension Project
Walla Walla, Washington
4.23 million Federal Money for the **Myra Rd extension to US Hwy 12**

being a Hazard, Contaminated Site to **2/16/2007**---Walla Walla County paid for 2 acres right through the middle of this same site---with **HDR Engineering** complete Phase 1 & Phase 11 Environmental Site Assessment stating **"Soil and groundwater samples were below detection levels for semi-volatile organics."**

Within days reports by HDR-sub-contractor for EPA and Ecology and EPA Region 10 have 100% different reports----Myra Rd extension to Hwy 12 was built with 4.32 million in Federal Money---which No-clean up for the 2 acres through the middle of the Stubblefield Salvage Yard was purchased 2/16/2007 and used for this Myra Rd Extension Project----Is the Walla Walla, WA community health at risk since Myra Rd was completed right over the site that EPA declared a Super Site ? EPA stated in response to The National Ombudsman (8/11/2011) page 6 **"EPA conducted its removal action to address threats to public health, welfare and the environment. Contaminants in soil and groundwater also presented a threat of contamination to the adjacent Mill Cree through the water runoff and from continued contaminant migration to groundwater. Mill Creek is the primary source of drinking water for the city of Walla Walla. EPA determined that a federal financed removal action was warranted."**

With this much contaminant soil noted by EPA--- Is the public in danger since Myra Rd was built right over this same Site without clean up---2 acres right through the middle of this #1 Super Site at same location (**595 Offner Rd. 535 Offner Rd**, or **980 N. E. Myra Rd** all address are actually for the same Site)

Is the Public in Danger due to Ecology and EPA refusing to take soil sample to a scrap yard at 116 N. 11th (address changed in 2012 ---same salvage site) 201 N. 11th where for over 12 years **Handford Nuclear** Scrap had to been take to and disassembled ?

If you need I have all the documentation to verify the response from EPA, Ecology, HDR Engineering , National Ombudsman & Assistant Administrator, signed contracts from Handford Nuclear Plant between Emory Stubblefield and the Superintendent for the Handford Nuclear Plant showing all scrap being delivered to 116 N. 11th Ave, Walla Walla, WA. There needs to be a Federal investigation

(b) (6) [redacted] (b) (6) [redacted]

STUBBLEFIELD ENVIRONMENTAL CLEANUP COMMUNITY INVOLVEMENT PLAN

FACT SHEET

EPA U.S. Environmental Protection Agency, Region 10 May 2010

*An environmental cleanup is under way at a site called **Stubblefield Salvage and Recycling** in **Walla Walla, Washington**. The site is contaminated with hazardous substances that pose a threat to people and the environment. EPA (U.S. Environmental Protection Agency) is leading this cleanup. This document lays out EPA's plan for involving the community members in the project. EPA developed this plan with input from local residents and community officials.*
We welcome your ideas for improvement.

Community Involvement Goals

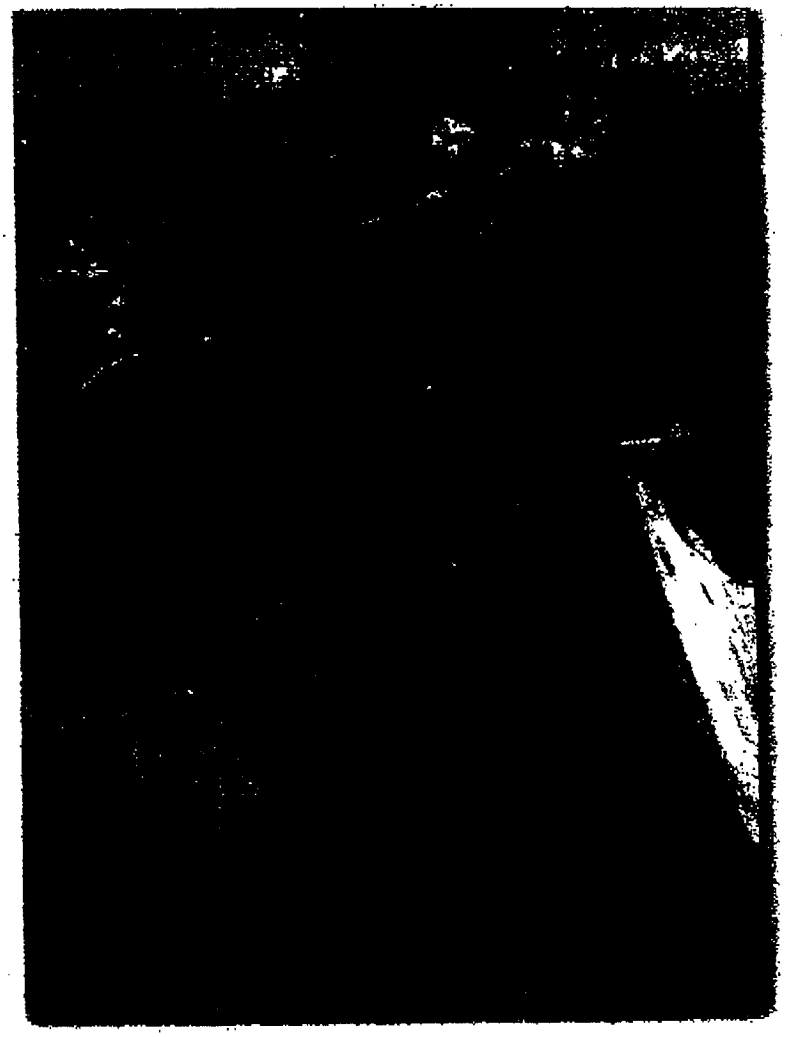
EPA seeks to have meaningful community involvement in the Stubblefield cleanup.

Our goals are to:

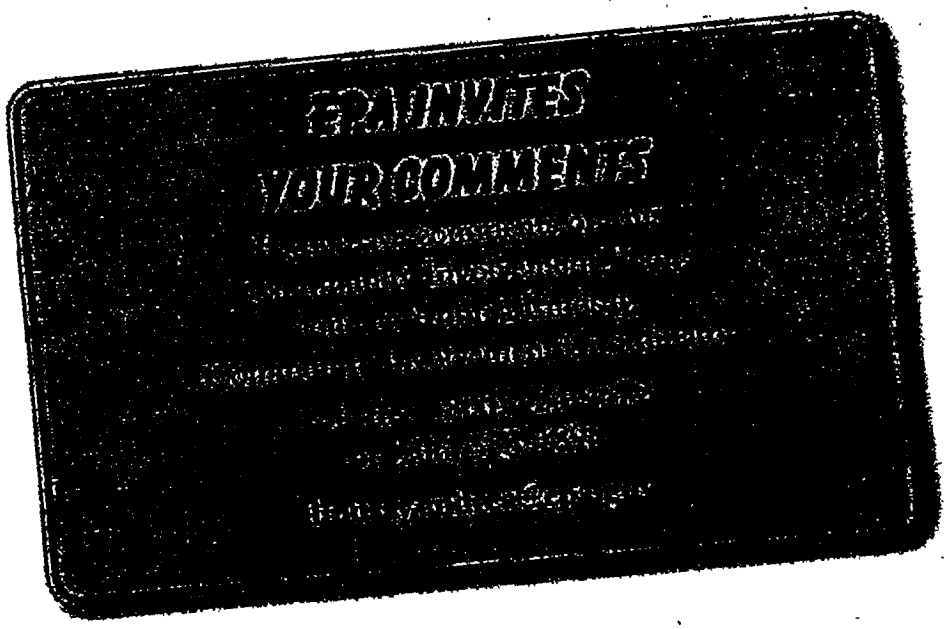
- Provide timely information on site activities and progress
- Establish open communication, responding to questions and concerns as they arise
- Listen to and consider local input

What We've Heard from the Community

The community is generally aware of this site. It is visible from a regularly-used road. People note that it has been an eyesore in the past, but that some improvement can now be seen. Some individuals are concerned that the site may affect property values in the area. People thought it would be helpful to inform the community about the environmental cleanup with direct mailings and some work with a local radio station and newspaper.



➤ WE'LL KEEP YOU INFORMED See Page 2


GRANTS
YOUR COMMENTS

FOR MORE INFORMATION

United States Environmental Protection Agency
Region 10
1200 Sixth Avenue, Suite 900, ETPA-086
Seattle, Washington 98101-3140

March 2013

(b) (6)

Next Cleanup to Start at Stubblefield Salvage Site

Next Cleanup to Start at Stubblefield Salvage Site

Details Inside!

Printed on 100% recycled paper

More contamination remains at the site—mostly in soil at and below the surface. The EPA expects to start the next phase of cleanup work in late spring or early summer 2013. Workers in protective gear will be onsite and there will be increased truck traffic and operation of heavy equipment at the site. The EPA has prepared an Engineering Evaluation/Cost Analysis (EE/CA) for this site. The EE/CA summarizes analytical data and analyzes alternatives for cleaning up the site. You can comment on the EE/CA until **April 5, 2013.**

www.epaosc.org/StubblefieldSalvage

Or at the following locations:
Walla Walla Public Library
238 E. Alder St.
Walla Walla, WA 99362
☎ 509-527-4550

U.S. EPA Superfund Records Center
1200 Sixth Avenue
Seattle, WA 4494
☎ call 206-553-4494 for an appointment

How Can I Comment?

To get more information about the cleanup or to provide comments about the planned activity, contact Jeffrey Fowlow, On-Scene Coordinator, by email at fowlow.jeffrey@epa.gov or phone ☎ 800-424-4372, ext. 2751 or 206-553-2751.

TDD/TTY users please call the Federal Relay Service at 800-877-8339 and give the operator Jeffrey Fowlow's phone number.

Yard Site at 595 as a Super Site in 2006—prior to the Walla Walla County paying Emory Stubblefield $275,000.00 for the 2 acres through the middle of his Junk Yard Business ? Did HDR clean up the 2 acres at 595 Offner Rd, through the middle of the Stubblefield Salvage Yard, prior to Walla Walla County buying the 2 acres in February 2007 for the expansion of Myra Road ? If HDR did remove contaminated soil—where did you take the contaminated soil to ? What location ?

6. Page 7— 2.1 Data Objectives and Needs According to your statement "Soil and groundwater samples were tested for suspected contaminants using appropriate EPA or State methodology in laboratories certified by the State to conduct such tests " Was HDR a contractor under EPA for this project at 595 Offner Rd ?
7. Page 13—3.0 Results of Laboratory Analyses and Comparison to Washington State Cleanup Levels Please explain your comment "No formal regulatory investigation is being conducted nor is there involvement at this time of any regulatory agency Responsibility of contacting WDOE if any contamination exists is the responsibility of the current land owner. Was the current owner Mr. Emory Stubblefield or WDOE informed of soil or water contamination on his property at 595 Offner Road ? If Emory Stubblefield or WDOE was informed please provide a copy of the letter sent to them with results prior to February 2007.
8. Page 14—3.1.1 SOIL—According to your HDR report completed which states "Most soil samples were below detection levels for semi-volatile organics". Does this mean the soil at this location of 595 Offner, purchased by Walla Walla County for the Myra Road extension did not require any clean up ? Was the soil free from public safety ? Did soil need to be removed prior to the Walla Walla County purchasing 2 acres from the middle of the Junk Yard at 595 Offner Road in February 2007 ?
9. Page 14—3.1.2 Groundwater According to your HDR report completed states "All groundwater samples were below detection levels for semi-volatile organics." So please explain the water samples HDR collected was safe and was at zero hazard to public safety ?

Is HDR Engineering Inc a sub-contractor approved by EPA

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currentprojects
www.grbeng.com/currentprojects.htm
GRB is a major subcontractor to HDR, Inc. on this contract. ... GRB provided technical support on approximately 700 contaminated sites throughout EPA Region 2 over a ... U.S. Army Corps of Engineers - Ecosystem Restoration and Mitigation ...

Ralston & Associates, Consulting Biologists
grallston1.home.mindspring.com/Experience.html
... Program) as sub-contractor to James M. Montgomery, Consulting Engineers, Inc. ... Technical Evaluation of E.P.A. NPDES Permits Limitations and Continuous ... Army Corps of Engineers at HDR Engineering to CH2M Hill and HDR Engineers ...

EPA, Aqueduct, DC WASA, action plan to reduce lead, March 10, 2004
www.dcwatch.com/news/040310.htm
Mar 10, 2004 -- Washington Aqueduct, US Army Corps of Engineers ... Staff and contractors for WASA and the Aqueduct, as well as EPA staff members ... Outside sub-contractor: Steven Reiber, Ph.D., and National Director for Water Research, HDR, INC., ... University of Washington; corrosion expert Outside sub-contractor: ...

PDF **Review of the Interim Optimal Corrosion Control ... - EPA Home**
www.epa.gov/dclead/IOCCT_Cover_TOC_Ctrl.pdf
File Format: PDF/Adobe Acrobat - Quick View
Mar 30, 2007 -- This report was prepared by The Cadmus Group, Inc., with assistance from its subcontractor, Dr. Steve Reiber of HDR Engineering.

PDF **Action Plan to reduce the occurrence of lead caching ... - EPA H...**
www.epa.gov/dclead/Action_Plan_to_Reduce_Pb_3_10_04%20.pdf
File Format: PDF/Adobe Acrobat - Quick View
Research, HDR, INC., corrosion specialist. Outside sub-contractor: Gregory V. Korshin, Ph.D., Associate Professor,. Environmental Eng. & Science, University of ...

PDF **Water System Design Manual**
www.doh.wa.gov/ehp/dw/publications/331-123.pdf
File Format: PDF/Adobe Acrobat
Pierre Kwan (HDR Engineering, Inc.) • Randall Thompson (City of .... Submittal to the Department of Health for Review and Approval ..... 9. 2.2 ...

PDF **Capitol Region Watershed District**
www.capitolregionwd.org/documents/October_19_2011.pdf
File Format: PDF/Adobe Acrobat - Quick View
Oct 19, 2011 -- HDR Engineering, Inc. B) Review, Amendments and Approval of the Agenda. Manager Collins asked for additions or changes to the agenda.

PDF **RIVERSIDE COUNTY TRANSPORTATION COMMISSION**
www.rctc.org/.../RJ.ER.RCTC.PVL.construction%20management%20...
File Format: PDF/Adobe Acrobat - Quick View
Jul 14, 2010 -- Agreement with HDR Engineering Inc. for Construction Management ... the PVL. In addition, the Commission approved the development of a federal ..... a subcontractor which is not specified in the proposal upon which this Agreement was ..... notification to FTA and the appropriate EPA Regional Office.

V EVERETT CITY COUNCIL AGENDA ITEM COVER SHEET ...
www.everettwa.org/cityhall/Citydepts/hr/E.../includes/display_file.asp?...
EPA Attachments: Department(s) Approval (Identify). Professional Services ... referred to as the "City," and HDR Engineering, Inc. whose address is 500 108th NE, ... require that each such subconsultant and subcontractor (and subsequent ...

PDF **City of Grand Island**
city.grand-island.com/departments/City.../Crow/.../0628200G-G17.p...
File Format: PDF/Adobe Acrobat - Quick View
with HDR Engineering - Utilities Department. Tuesday, March 28, 2006. Council Session ... perform this modeling and would need to find a subcontractor.

Was HDR federal approved for Myra Road extension Project 90362 Sign in

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Project Milestones - US Highway 12 - Four-Laning from Burbank to ...
www.usHighway12.com/Milestones.html
City of Walla Walla Mayor Jerry Cummins and City Manager Duane Cole travel to ... The first phase of four-laning U.S. Highway 12 previously approved with $10.1 ..... It appears the U.S. Highway 12 widening project will get one federal money ..... (Phase4) and $4.23 million for the Myra Road extension to U.S. Highway 12.

Federal Money

HDR Engineering, Inc. - 8/2011 - Laserfiche WebLink
laserfiche.spokanevalley.org/WebLink8/0/doc/77705/Page44.aspx
Jul 11, 2011 – Myra Road Extension Project, Walla Walla County, WA: HDR is providing full right of way services for Walla Walla County on the Myra Road ...

X

[PDF] City of Walla Walla Comprehensive Water System Plan Update ...
www.ci.walla-walla.wa.us/.../%7B0BC8A8D2-46F7-4C10-BDAB-...
File Format: PDF/Adobe Acrobat
HDR Engineering, Inc. 2006 Saint Andrews ..... Capital Improvement Projects – Walla Walla Capital Improvement Program. Project Code ... Myra Road extension. $500000. 2007- ..... receive prior approval by the City's Public Works Department. Furthermore, all ..... 3.8.1 Description of State/Federal Regulatory Framework .

[PDF] REGIONAL TRANSPORTATION PLAN TRI-CITIES METROPOLIT...
www.bfmpo.us/2011_RTP_TOC%20AND%20CHAPTERS.pdf
File Format: PDF/Adobe Acrobat
for Benton, Franklin and Walla Walla Counties and the Tri-Cities Urban Area' and ..... extension of Road 100 (Broadmoor) is forecast to operate near a congested level. ..... Federal Environmental Protection Agency approved the Plan in May 2006. ..... Two projects completed in 2010: the Myra Road Extension from Poplar ...

[PDF] WSDOT Gray Notebook 43
www.wsdot.wa.gov/NR/rdonlyres/.../0/GrayNotebookSep11.pdf
File Format: PDF/Adobe Acrobat
Nov 18, 2011 – Federal, state, and local contributions brought the value of awarded grants to ..... State policy goal: Preservation To maintain, preserve, and extend the ..... approval, 6 local projects are no longer receiving funds. ..... Easy-to-negotiate roundabouts mark the new US 12 / Myra Road ..... HDR Engineering, Inc.

[PDF] Chapter 21 - Walla Walla Joint Community Development Agency
www.wwjcda.org/.../%7BE8F291A3-00E4-400F-A4A0-7906301F84...
File Format: PDF/Adobe Acrobat
HDR Staff. Incorporated Technical Advisory, Committee and County comments. ... 2.2.5 Walla Walla Subbasin Plan Focal Species of Interest. .....2-6 ..... Hydraulic Project Approval. LID ..... Fisheries) are responsible for designating federal special status. ..... 19.1 FROM S COLLEGE AVE TO SE MYRA RD ...

Chapter 3. Concise Analysis of Alternatives
www.dncetoc.com/docs/.../Chapter-3-Concise-Analysis-of-Alternative...
Aug 13, 2010 – River valleys of western Walla Walla County are covered with are ... primarily to supply municipal and industrial uses (HDR/EEB 2006). ..... Management of critical habitats (i.e., habitats with federal or State listed ..... locations than the County approved UGA. ..... Myra Road: Extension to U.S. Highway 12 ...

Federal

Federal Contracts for Federal Fiscal Year : 2006, Extent Competed ...
www.fedspending.org/...fpds.php?...
A project of OMBWatch ..... Bureau of Prisons/Federal Prison System, 39918176 2 ..... COOPERATIVE STATE RESEARCH EDUCATION AND EXTENSION SERVICE ..... ABERDEEN ROAD COMPANY, $33004 ..... WALLA WALLA ELECTRIC INC, $34639 ..... APPROVED SAFETY PRODUCTS INC, $3604 ..... HDR, INC.

[PDF] Broughton Lumber Company Environmental Assessment and Notiv...
www.fws.gov/.../...tion%20and%20Co.%20Notice%20Finding...
File Format: PDF/Adobe Acrobat
APPENDIX 2: Road Maintenance and Abandonment Plan. APPENDIX 2: ..... a delegation or approval by a Federal agency. ..... This is minimum explanation ...

Myra Road # 353 Bug 60

Myra 4.23 million Federal money

Walla Walla County
PUBLIC WORKS

April 27, 2012

Re: April 23 questions

Dear [redacted]

Walla Walla County's responses to your questions we received on April 23, 2012 are shown below.

1. The Environmental Site Assessments we have previously provided you identified soil testing locations within the Stubblefield property acquired for the Myra Road project as well as any contaminants found at those locations. There was no requirement to remove the soils tested within the Stubblefield property purchased for the Myra Road Project.

2. As mentioned above, no contaminated soils were removed from the Stubblefield property purchased as part of the Myra Road project.

3. Again, no contaminated soils were removed from the Stubblefield property purchased for the Myra Road project.

4. We have already provided you copies of the real property voucher and the residential relocation voucher indicating the amounts the County paid to [redacted] to acquire property needed for the Myra Road project. There was no requirement to clean the soil and thus no costs were incurred for this activity.

5. The County has no information as to whether the Department of Ecology ever took soil samples prior to 2007 on the property the County acquired from [redacted] for the Myra Road project.

6. HDR was acting as a consultant for Walla Walla County for part of the Myra Road project. The County has no information as to whether HDR ever acted as a consultant for the EPA.

7. Walla Walla County paid HDR approximately $12,400.00 for completing the environmental requirements for the Myra Road projects.

8. As mentioned earlier, no soils were removed from the property purchased from [redacted] for the Myra Road project.

9. The County is not aware of any incorrect information contained in the HDR reports provided to the County as part of the Myra Road project.

Sincerely,

[redacted]

990 Navion Lane • PO Box 813 • Walla Walla, WA 99362-0254 [redacted]

FRED UPTON, MICHIGAN
CHAIRMAN

HENRY A. WAXMAN, CALIFORNIA
RANKING MEMBER

ONE HUNDRED THIRTEENTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON ENERGY AND COMMERCE

2125 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515–6115
Majority (202) 225–2927
Minority (202) 225–3641

June 12, 2013

The Honorable Mathy Stanislaus
Assistant Administrator
Office of Solid Waste and Emergency Response
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Dear Mr. Stanislaus:

Thank you for providing testimony to the Subcommittee on Environment and the Economy on Friday, May 17, 2013, hearing on three legislative proposals entitled the "Federal and State Partnership for Environmental Protection Act of 2013"; the "Reducing Excessive Deadline Obligations Act of 2013"; and the "Federal Facility Accountability Act of 2013."

Pursuant to the Rules of the Committee on Energy and Commerce, the hearing record remains open for ten business days to permit Members to submit additional questions for the record, which are attached. The format of your responses to these questions should be as follows: (1) the name of the Member whose question you are addressing, (2) the complete text of the question you are addressing in bold, and (3) your answer to that question in plain text.

To facilitate the printing of the hearing record, please respond to these questions by the close of business on Wednesday, June 26, 2013. Your responses should be e-mailed to the Legislative Clerk in Word format at Nick.Abraham@mail.house.gov and mailed to Nick Abraham, Legislative Clerk, Committee on Energy and Commerce, 2125 Rayburn House Office Building, Washington, D.C. 20515.

Thank you again for your time and effort preparing and delivering testimony before the Subcommittee.

Sincerely,

John Shimkus
Chairman
Subcommittee on Environment and the Economy

cc: The Honorable Paul Tonko, Ranking Member,
Subcommittee on Environment and the Economy

Attachment

The Honorable John Shimkus

1. Does EPA routinely accept State institutional control laws as legally applicable or relevant and appropriate requirements under CERCLA section 121? Does that vary from Region to Region?

2. Do other federal agencies routinely accept State institutional control laws as legally applicable or relevant and appropriate requirements under CERCLA? Please provide details responding to this question for each separate federal agency for which you have information.

3. Does EPA require compliance with State institutional control laws and regulations when CERCLA remedies do not achieve unrestricted use standards? Does that vary across the Regions?

4. Please provide documentation regarding EPA's policy of seeking State concurrence before proposing a site to the National Priorities List – including: regulations (if applicable), guidance, memoranda, and any correspondence with or among the Regions.

5. Please describe in detail EPA's current policy and practice regarding proposing a site to the National Priorities List – including all of the steps for listing a site to the NPL and identify the State role, if any, in each step.

    a. Please also describe EPA's practice, if any, of providing information to a State that proposes a site for listing regarding the decision to list/not list a site.

    b. Is the documentation regarding the listing decision – including correspondence with the Office of Management and Budget – available to the State that proposed the site for listing?

6. Is it EPA's policy to automatically list a site that a State proposes to the NPL under Section 105(a)(8)(B)? Why or why not?

    a. What is EPA's policy and practice for deciding whether sites that are proposed by States will be listed on the NPL?

    b. Does the policy and practice for listing sites proposed by States vary from Region to Region?

7. Please describe in detail EPA's current policy and practice regarding consultation with States in selecting a remedial action and also respond to the following:

    a. Does interpretation or implementation of the Agency's policy regarding consultation with States in selecting a remedial action vary among Regions?

    b. Please describe EPA's interpretation of Section 104(c)(2) that requires that the Agency consult with affected States *before* determining an appropriate remedial action. Identify the specific point(s) in the remedy selection process that EPA consults with an affected State and describe, in detail, the consultation process.

    c. Your written testimony states that shifting the statutory timeframe for EPA-State consultation could "potentially generate uncertainty and delays" – please explain what the potential uncertainty and/or delays that may result and explain why it is the Agency's position that uncertainty/delays may result.

    d. Describe the State role in the *selection* of the remedial action.

e. How are the long-term operation and maintenance costs which will be borne by the States calculated? for what duration of time? and how is this information communicated to the States for their consideration during the remedy selection process? to what extent and how is the long-term financial burden to the State taken into account as a part of the remedy selection? Does the State have the authority to reject a remedial alternative from consideration due to long-term operation and maintenance costs?

f. During the hearing, the ASTSWMO witness provided an example of a remedy component (a corroded pipe) that was in poor operational condition at the time the State became responsible for the operation and maintenance, which resulted in the State incurring unanticipated maintenance costs at the outset of the operation and maintenance period. Does EPA ensure that all remedy components are in proper working order and condition *before* turning the remedy over to the responsibility of the State to prevent such occurrences? If so, please describe in detail how.

8. Please describe in detail EPA's current policy and practice regarding consultation with States in selecting a removal action.

   a. Does interpretation or implementation of the Agency's policy vary among Regions?

9. To what extent do individual Regions consistently apply EPA Headquarters' policies and interpretations regarding: (1) listing sites on the National Priorities List; (2) consulting with affected States in selecting the appropriate remedy; (3) consulting with affected States in selecting a removal action; and (4) providing credit toward 10% cost share under section 104(c)(5) for State in-kind contributions. Please provide detailed examples and explanations for each of the items listed in (1) through (4) for each Region.

10. If a State conducts a removal-type action (at State expense) or provides assistance to EPA in conducting a removal action (when under no obligation to do so) such that EPA either does not need to do a removal action and/or the State action ultimately reduces the long-term remedial cost, following EPA's current policy and practice would it be possible for States to get credit for these actions (under 104(c)(3)) towards the State's *10% cost share for the remedial action*?

    a. Please identify, by Region, whether and to what extent has such credit been granted.

11. Does the Agency anticipate changes to the role of States/State participation in the CERCLA process in FY14 and beyond due to economic and budgetary pressures?

12. Of the three bills – what would EPA anticipate would need to be changed in the National Contingency Plan (NCP) to implement the changes?

    a. *Could* EPA implement the changes in the legislation without changing the NCP – please be specific regarding the specific provisions of the Federal-State Partnership for Environmental Protection Act and the Federal Facilities Accountability Act

    b. *Would* EPA implement the changes in the Federal-State Partnership for Environmental Protection Act and the Federal Facilities Accountability Act without changing the NCP?

13. In the late 1990's/early 2000's, EPA Office of Solid Waste and Emergency Response and States reformed the RCRA Corrective Action process to address lessons learned, to streamline the administrative processes, and to improve remedy effectiveness and efficiency. What similar reforms to the CERCLA remedial process and the NCP have been made to address these same issues?

a. What changes *are needed* to the CERCLA Remedial process and the NCP to modernize and streamline these processes to implement the similar efficiencies and process improvements that were made to the RCRA CA processes?"

14. Your written testimony states that "since the inception of the Superfund program, EPA has continually evaluated program implementation and sought ways to improve the effectiveness of the cleanup program. Working with our state and tribal partners, we have instituted a variety of program changes and reforms over the years." Please list the program changes and reforms referred to in this statement and provide the specific year(s) that the changes were made.

    a. Please also indicate whether the changes referred to involved revision of the NCP and provide details regarding the timeframe (date of proposed rule, date of final rule and any other details regarding timing) for the regulatory change.

    b. For program changes that did not involve regulatory changes to the NCP, please describe in detail the degree to which individual project managers and Regional Offices have implemented these changes consistently and in accordance with Headquarters' guidance and intent. Where there has been inconsistency in the application of Headquarters guidance and intent, what steps has Headquarters taken to identify and correct such inconsistencies?

    c. For changes that did not involve regulatory changes to the NCP, please describe in detail the degree to which other federal agencies (by agency) have implemented these changes consistently and in accordance with EPA Headquarters guidance and intent. Where there has been inconsistency in the application of EPA Headquarters guidance and intent, what steps has EPA Headquarters taken to identify and correct such inconsistencies?

    d. What authority does EPA currently (a) have and (b) utilize, to ensure that other federal agencies (by agency) rules, regulations, policies, interpretations and application to sites concerning the implementation of the CERCLA Removal and Remedial Program are consistent with EPA Headquarters rules, regulations, policies, interpretations, and application to sites including:

        i. State involvement in decision-making?

        ii. Identification of cleanup standards?

        iii. Application of NCP requirements?

        iv. Application of EPA Headquarters policies and procedures at NPL Sites?

        v. Application of EPA Headquarters policies and procedures at non-NPL Sites?

    e. To what extent has EPA utilized the authority described in question 13(d)? What difficulties has EPA encountered in exercising these authorities? Please provide specific examples by federal agency

15. In your written testimony regarding the Reducing Excessive Deadline Obligation Act you noted that the current statutory provision in 2002(b) of the Solid Waste Disposal Act could pose a "significant resource burden on EPA given the complexity and volume of EPA's RCRA regulations." Please explain why the current statutory provision would cause a "significant resource burden" on the Agency.

16. If EPA had to review and, if necessary, revise *each regulation promulgated under the Solid Waste Disposal Act*, would the Agency be able to accomplish such a review? Why or why not?

    a. If revision of *each regulation promulgated under the Solid Waste Disposal Act* were necessary, would the Agency be able to accomplish such a revision? Why or why not?

    b. What resources (fiscal and personnel) are or would be required to conduct such a review every three years? Does EPA have such resources at its disposal?

The Honorable Ralph M. Hall

I am aware of a very promising initiative involving the Superfund program of EPA and the Civil Works program of the Corps of Engineers that is focused on restoring contaminated urban rivers, which pose some of the most difficult challenges of all Superfund sites across the nation. That initiative, referred to as the Urban Rivers Restoration Initiative, gives States a much greater role in proposing and managing restoration at Superfund sites on urban rivers due to the Federal-State partnership relationship inherent in the Water Resource Development Authorities of the Corps. The proposal has been examined with positive results and recommendations for expansion by the EPA IG.

1. Might you provide what steps you might take in this Administration to provide greater support and more enthusiastic backing for this proposal?

The Honorable Henry A. Waxman

1. Please describe the review that EPA currently carries out under section 2002(b) of RCRA?

2. How many FTE's are currently used to carry out this requirement?

3. How many lawsuits have been filed, since 1976, to enforce the deadline in section 2002(b)?

4. EPA currently has in place a policy on seeking state concurrence before proposing a site to the National Priorities List. Please list all of the exceptions included in that policy.

5. What, if any, sites have been added to the National Priority List since adoption of that policy without state concurrence?

6. What is the current cost-share between states and the federal government for removal actions?

7. What is the current cost-share between states and the federal government for response actions?

8. Where the federal government carries out a removal action, does it apply the costs incurred in carrying out that action towards its cost share for the eventual response action at that site?

9. Under section 121 of Superfund, are federal agencies including EPA currently required to evaluate the cost-effectiveness of potential response actions?

10. Does section 121 require that analysis to look at the total short- and long-term costs, including operation and maintenance costs for the entire period during which those activities will be required?

11. Under section 121 of Superfund, are response actions which permanently and significantly reduce the volume, toxicity, or mobility of the hazardous substances preferred over other response actions?

12. What are the least preferred response actions under that section?

13. Please describe EPA's track record in meeting the requirements for evaluation of cost-effectiveness and selection or preferred remedies under section 121.

14. Can state institutional control laws qualify as legally applicable or relevant and appropriate standards, requirements, criteria, or limitations under section 121?

15. Please describe the rights granted to states under section 121 to require compliance with legally applicable or relevant and appropriate standards, requirements, criteria, and limitations.

16. When was the National Contingency Plan (NCP) last revised?

17. Please describe the revision process for the NCP, including the duration of the process.

Congress of the United States
Washington, DC 20515

June 17, 2013

Administrator Robert Perciasepe
Acting Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460-0001

Dear Administrator Perciasepe:

We are seeking clarification regarding the Environmental Protection Agency's (EPA) New Source Performance Standard (NSPS), Subpart UUU (40CFR, Part 60) for Calciners and Dryers in Mineral Processing Industries and recent enforcement actions against U.S. foundries. Specifically, we are concerned about why: a) EPA is enforcing the provisions of Subpart UUU against foundries when it never intended to include these type of facilities as a source category since metalcasting is not a mineral processing industry; and, b) why EPA has failed to promulgate an exemption for foundries from NSPS, Subpart UUU consistent with the original intent of the rule.

It is our understanding that it was not the EPA's intention to subject the foundry industry to this NSPS rule as metal casting is a separate industry from the mineral processers that Subpart UUU was intended to regulate. Furthermore, the original NSPS, Subpart UUU rule which was finalized in September 1992, did not list foundries as an affected industry nor did it designate applicable foundry Standard Industrial Classification (SIC) codes.

On April 22, 2008 (73 Fed. Reg. 21559), EPA proposed a regulation to specifically exempt foundries from the requirements of Subpart UUU (in part because the Agency never intended to cover foundries). The proposed regulatory language that EPA agreed to stated that, "processes used solely for the reclamation and reuse of industrial sand from metal foundries" shall be exempt from the requirements of Subpart UUU in the final rule. In April 2009 (74 Fed. Reg. 19294), EPA issued the final rule for Subpart OOO and noted in the preamble that it was not taking final action on the proposed revisions to Subpart UUU. It is our understanding that in subsequent discussions with EPA officials following the decision to take no final action on the exemption for foundries, EPA enforcement officials agreed that the Agency would not initiate enforcement actions against foundries for Subpart UUU requirements and would address the issue with individual facilities at the time of permit renewal.

In addition, EPA regions across the country have taken inconsistent positions on whether Subpart UUU should apply to foundry sand reclamation and reuse processes at foundries. Recently EPA Region V has initiated enforcement actions against foundries that included violations of Subpart UUU requirements. Although the recent enforcement actions are currently limited in geographic

PRINTED ON RECYCLED PAPER

scope to this region, we have significant concerns that enforcement efforts will be expanded to other areas in the country. As the EPA originally intended to exempt foundries from this regulation, we believe this new enforcement action is misguided.

EPA's recent efforts to impose Subpart UUU requirements on units used solely for the reclamation and reuse of industrial sand from foundries creates an unnecessary regulatory burden, uncertainty and increased costs for foundries. EPA Region V has initiated enforcement actions, even though the record is clear that Subpart UUU should not apply to foundries.
By way of background, foundries are essential to the U.S. economy. Every sector relies on metal castings, with 90 percent of all manufactured goods and capital equipment incorporating engineered castings into their makeup. They produce castings that are integral to the automotive, construction, energy, aerospace, agriculture, plumbing, manufacturing, and national defense sectors. The American foundry industry provides employment for over 200,000 men and women directly and sustains thousands of other jobs indirectly. The industry supports a payroll of more than $8 billion and sales of more than $36 billion annually. Metalcasting plants are found in every state, and the industry is made up of predominately small businesses. Approximately 80 percent of domestic metalcasters have fewer than 100 employees.

Foundries utilize millions of tons of sand each year – these processing units serve to reclaim and reuse the sand. This process should be encouraged because they provide significant environmental benefits. Additionally, sand systems at foundries are already controlled by other air regulations.

It is clear to us that EPA's original rule did not intend for foundries to have to comply with NSPS, Subpart UUU. Consistent with its original intent of Subpart UUU, EPA must finalize a regulation to exempt foundries from the applicability of this regulation. Please provide a detailed explanation of how and when EPA plans to promulgate an exemption for foundries from NSPS, Subpart UUU. We appreciate your attention to this matter and look forward to your timely response.

Sincerely,

Chuck Fleischmann
Member of Congress

Gary Peters
Member of Congress

Phil Roe
Member of Congress

Joe Barton
Member of Congress

Bill Huizenga
Member of Congress

Dan Benishek
Member of Congress

Paul Broun
Member of Congress

Lou Barletta
Member of Congress

Bill Shuster
Member of Congress

Bob Latta
Member of Congress

Bill Johnson
Member of Congress

Hal Rogers
Member of Congress

John Culberson
Member of Congress

Rodney Davis
Member of Congress

Cynthia Lummis
Member of Congress

Tim Huelskamp
Member of Congress

Andy Harris
Member of Congress

Doug LaMalfa
Member of Congress

Ralph Hall
Member of Congress

Larry Bucshon
Member of Congress

Reid Ribble
Member of Congress

David Loebsack
Member of Congress

Mario Diaz-Balart
Member of Congress

Robert Aderholt
Member of Congress

Marsha Blackburn
Member of Congress

Lynn Westmoreland
Member of Congress

Scott Perry
Member of Congress

Jim Jordan
Member of Congress

Scott DesJarlais
Member of Congress

Gregg Harper
Member of Congress

Tom Graves
Member of Congress

Tom Cole
Member of Congress

Susan Brooks
Member of Congress

Jackie Walorski
Member of Congress

Randy Hultgren
Member of Congress

Steven Palazzo
Member of Congress

Mark Amodei
Member of Congress

Tim Walberg
Member of Congress

David Joyce
Member of Congress

Peter Roskam
Member of Congress

Keith Rothfus
Member of Congress

Rick Crawford
Member of Congress

Adam Kinzinger
Member of Congress

Billy Long
Member of Congress

Jason Smith
Member of Congress

Blaine Luetkemeyer
Member of Congress

Jim Matheson
Member of Congress

Don Young
Member of Congress

Tim Griffin
Member of Congress

Patrick Meehan
Member of Congress

Jeff Duncan
Member of Congress

Pat Tiberi
Member of Congress

Brad Wenstrup
Member of Congress

Stephen Fincher
Member of Congress

Lee Terry
Member of Congress

Ann Wagner
Member of Congress

Louie Gohmert
Member of Congress

Charlie Dent
Member of Congress

Shelley Moore Capito
Member of Congress

Adrian Smith
Member of Congress

Jim Renacci
Member of Congress

Steve Stivers
Member of Congress

Tom Marino
Member of Congress

Mike Kelly
Member of Congress

Lynn Jenkins
Member of Congress

Joe Pitts
Member of Congress

Tom Petri
Member of Congress

John Fleming
Member of Congress

Diane Black
Member of Congress

Pete Olson
Member of Congress

Mike Pompeo
Member of Congress

Bob Gibbs
Member of Congress

Michael Turner
Member of Congress

Glenn "GT" Thompson
Member of Congress

Vern Buchanan
Member of Congress

Kristi Noem
Member of Congress

Steve Chabot
Member of Congress

Aaron Schock
Member of Congress

Ed Whitfield
Member of Congress

Blake Farenthold
Member of Congress

Sean Duffy
Member of Congress

James Sensenbrenner
Member of Congress

6/13 21847 MWB

THE WHITE HOUSE OFFICE
REFERRAL

June 12, 2013

TO: ENVIRONMENTAL PROTECTION AGENCY

ACTION COMMENTS:

ACTION REQUESTED: DIRECT REPLY W/COPY

REFERRAL COMMENTS:

DESCRIPTION OF INCOMING:

ID:	1114965
MEDIA:	EMAIL
DOCUMENT DATE:	June 10, 2013
TO:	PRESIDENT OBAMA
FROM:	THE HONORABLE MARIA CANTWELL UNITED STATES SENATE WASHINGTON, DC 20510
SUBJECT:	EXPRESSES COMMENT REGARDING BISTOL BAY WILD SALMON IN ALASKA

COMMENTS: _____

_____

_____

PROMPT ACTION IS ESSENTIAL -- IF REQUIRED ACTION HAS NOT BEEN TAKEN WITHIN 9 WORKING DAYS OF RECEIPT, UNLESS OTHERWISE STATED, PLEASE TELEPHONE THE UNDERSIGNED AT (202) 456-2590.

RETURN ORIGINAL CORRESPONDENCE, WORKSHEET AND COPY OF RESPONSE (OR DRAFT) TO: DOCUMENT TRACKING UNIT, ROOM 63, OFFICE OF RECORDS MANAGEMENT - THE WHITE HOUSE, 20500

THE WHITE HOUSE
DOCUMENT MANAGEMENT AND TRACKING WORKSHEET

DATE RECEIVED: **CASE ID: 1114965**

NAME OF CORRESPONDENT: THE HONORABLE MARIA CANTWELL

SUBJECT: EXPRESSES COMMENT REGARDING BISTOL BAY WILD SALMON IN ALASKA

ROUTE TO: AGENCY/OFFICE	(STAFF NAME)	ACTION CODE	ACTION DATE	DISPOSITION TYPE RESPONSE	DISPOSITION CODE	DISPOSITION DATE COMPLETED
LEGISLATIVE AFFAIRS	MIGUEL RODRIGUEZ	ORG	06/12/2013			
ACTION COMMENTS:						
✓ ENVIRONMENTAL PROTECTION AGENCY		R	06/12/2013			
ACTION COMMENTS:						
ACTION COMMENTS:						
ACTION COMMENTS:						
ACTION COMMENTS:						

COMMENTS: 4 ADDL SIGNEES

MEDIA TYPE: EMAIL **USER CODE:**

ACTION CODES	DISPOSITION		
	TYPE RESPONSE	DISPOSITION CODES	COMPLETED DATE
A = APPROPRIATE ACTION **B** = RESEARCH AND REPORT BACK **D** = DRAFT RESPONSE **I** = INFO COPY/NO ACT NECESSARY **R** = DIRECT REPLY W/ COPY **ORG** = ORIGINATING OFFICE	INITIALS OF SIGNER (W.H. STAFF) **NRN** = NO RESPONSE NEEDED **OTBE** = OVERTAKEN BY EVENTS	**A** = ANSWERED OR ACKNOWLEDGED **C** = CLOSED **X** = INTERIM REPLY	DATE OF ACKNOWLEDGEMENT OR CLOSEOUT DATE (MM/DD/YY)

KEEP THIS WORKSHEET ATTACHED TO THE ORIGINAL INCOMING LETTER AT ALL TIMES
REFER QUESTIONS TO DOCUMENT TRACKING UNIT (202)-456-2590
SEND ROUTING UPDATES AND COMPLETED RECORDS TO OFFICE OF RECORDS MANAGEMENT - DOCUMENT TRACKING UNIT ROOM 63, EEOB.

Scanned by ORM

1114965

United States Senate

WASHINGTON, DC 20510

June 10, 2013

President Barack Obama
The White House
1600 Pennsylvania Avenue NW
Washington, DC 20500

Dear President Obama:

We write to bring to your attention a new report outlining the economic significance of commercial salmon fisheries supported by Bristol Bay, Alaska. Many of our offices have written to the EPA expressing concern over the impact that a large-scale mine, like the proposed Pebble Mine, would have on wild salmon.

Each year, nearly 40 million sockeye (*Oncorhynchus nerka*) return to Bristol Bay supporting North America's most productive salmon fishery. Bristol Bay is home to the largest sockeye fishery in the world and one of the largest Chinook (*Oncorhynchus tshawytscha*) fisheries. The Bristol Bay watershed supports 35 species of fish including all North American salmon species: sockeye, Chinook, coho (*Oncorhynchus kisutch*), pink (*Oncorhynchus gorbuscha*) and chum (*Oncorhynchus keta*)[1].

According to EPA's Draft Watershed Assessment released on April 30, 2013, "An Assessment of the Potential Mining Impacts on Salmon Ecosystems of Bristol Bay, Alaska" (EPA 910-R-12-004Ba), the proposed Pebble Mine threatens Bristol Bay salmon habitat. The Pebble Mine would be one of the largest hard rock mines in the world and the largest copper porphyry mine in the United States. Water contamination and habitat loss from the construction and operation of a hard rock mine in Bristol Bay would put thousands of fishery-related family wage jobs at risk[1].

To better understand how our economies rely on Bristol Bay salmon, we want to bring a new report to your attention. The University of Alaska Institute of Social and Economic Research (ISER)[2] recently released an economic report quantifying the economic value of the Bristol Bay commercial sockeye fisheries. ISER found that Bristol Bay's economic impact is critical to the regional economy of the Pacific Northwest and on our home states of Washington, Oregon and California. Specifically, the ISER Report demonstrates that the value of commercial fishing activities in the region account for $1.5 billion in output value, including $500 million in direct income. Additionally, Washington, Oregon and California benefit from $674 million in

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[1] United States Environmental Protection Agency. (2013). *An Assessment of the Potential Mining Impacts on Salmon Ecosystems of Bristol Bay, Alaska* (EPA 910-R-12-004Ba). Seattle, Washington. Retrieved from http://www.epa.gov/ncea/pdfs/bristolbay/bristol_bay_assessment_erd2_2013_vol1.pdf

[2] The University of Alaska Institute of Social and Economic Research was created in 1961 by the Alaska Legislature with a mission to "enhance[] the well-being of Alaskans and others, through non-partisan research that helps people understand social and economic systems and supports informed public and private decision-making." http://www.iser.uaa.alaska.edu/home/about.php.

economic activity from Bristol Bay salmon fishing and processing. This economic activity fuels approximately 12,000 seasonal jobs and another 10,000 salmon related industry jobs across the United States, from Alaska to Maine. The Bristol Bay fishery generated the equivalent of nearly 4,400 full-time jobs for Alaskans as well as about 6,000 full-time jobs in Washington, Oregon and California[3].

If anyone doubts the devastating impacts of losing salmon fisheries, they need look no further than California. In 2008 and 2009, California's salmon fishing industry lost thousands of jobs, and millions of dollars, due to a catastrophic drop in salmon populations. Today, the state's fishing industry remains closely tied to the health of Bristol Bay, because Californians hold over 140 Bristol Bay fishing permits, the second highest number for any state after Alaska and Washington, and these permits enable over 550 jobs related to salmon fishing. These fishermen – as well as those from Alaska, Washington, and Oregon – cannot risk another salmon fishery collapse.

Our states have a strong maritime history of which our commercial fishing industries are a key part. In order to maintain these direct fishing and processing jobs, and the jobs supported by associated businesses like gear manufacturers, shipbuilders, suppliers and other maritime businesses, we must maintain healthy, sustainable fishery resources.

This new economic report clearly demonstrates that Bristol Bay is an integral component of the broader Alaska and Pacific Northwest seafood industry. Thousands of family wage jobs rely on Bristol Bay's world-class salmon runs. For these reasons, we request that the Administration act to protect Bristol Bay from any large-scale mining that would threaten our Nation's vibrant fishing economy. We support a valid, sound science based approach to ensuring that Bristol Bay salmon are safeguarded. To that end, we respectfully ask that you make staff from both the Council on Environmental Quality and the Department of Commerce available to our staff to discuss the implications of this economic report, and how these two agencies, specifically, are working with the EPA to protect our maritime economies.

Sincerely,

Maria Cantwell
United States Senator

Patty Murray
United States Senator

[3]Knapp, G., Guetttabi, M., and Goldsmith, S. (2013). *The Economic Importance of the Bristol Bay Salmon Industry*. Anchorage, Alaska: University of Alaska Anchorage Institute of Social and Economic Research. Retrieved May 18, 2013, from http://www.iser.uaa.alaska.edu/people/knapp/personal/2013_04-TheEconomicImportanceOfTheBristolBaySalmonIndustry.pdf

United States Senate

WASHINGTON, DC 20510

Jeff Merkley
United States Senator

Dianne Feinstein
United States Senator

Barbara Boxer
United States Senator

CC: Valerie Jarrett, Senior Advisor to President Barack Obama
CC: Jodi Gillette, Senior Advisor for Native American Affairs to President Barack Obama
CC: Nancy Sutley, Chair of the White House Council on Environmental Quality
CC: Sally Jewell, Secretary of the Interior
CC: Rebecca M. Blank, Acting Secretary of Commerce
CC: Dr. Kathryn D. Sullivan, Acting Under Secretary of Commerce for Oceans and Atmosphere and Acting National Oceanographic and Atmospheric Administrator
CC: Bob Perciasepe, Acting Administrator of the Environmental Protection Agency
CC: Dennis McLerran, Regional Administrator for Region 10 of the Environmental Protection Agency
CC: Office of Environmental Information, Environmental Protection Agency: EPA-HQ-ORD-2013-0189

THE WHITE HOUSE OFFICE
REFERRAL

June 26, 2013

TO: ENVIRONMENTAL PROTECTION AGENCY

ACTION COMMENTS:

ACTION REQUESTED: DIRECT REPLY W/COPY

REFERRAL COMMENTS:

DESCRIPTION OF INCOMING:

ID:	1116033
MEDIA:	EMAIL
DOCUMENT DATE:	June 24, 2013
TO:	PRESIDENT OBAMA
FROM:	THE HONORABLE ANDY BARR U.S. HOUSE OF REPRESENTATIVES WASHINGTON, DC 20515
SUBJECT:	EXPRESSES CONCERN REGARDING EPA GREENHOUSE GAS NEW SOURCE PERFORMANCE STANDARD REGULATIONS FOR NEW FOSSIL FUEL-BASED ELECTRIC GENERATING SOURCES

COMMENTS:

PROMPT ACTION IS ESSENTIAL -- IF REQUIRED ACTION HAS NOT BEEN TAKEN WITHIN 9 WORKING DAYS OF RECEIPT, UNLESS OTHERWISE STATED, PLEASE TELEPHONE THE UNDERSIGNED AT (202) 456-2590.

RETURN ORIGINAL CORRESPONDENCE, WORKSHEET AND COPY OF RESPONSE (OR DRAFT) TO: DOCUMENT TRACKING UNIT, ROOM 63, OFFICE OF RECORDS MANAGEMENT - THE WHITE HOUSE, 20500

THE WHITE HOUSE
DOCUMENT MANAGEMENT AND TRACKING WORKSHEET

DATE RECEIVED: **CASE ID: 1116033**

NAME OF CORRESPONDENT: THE HONORABLE ANDY BARR

SUBJECT: EXPRESSES CONCERN REGARDING EPA GREENHOUSE GAS NEW SOURCE PERFORMANCE STANDARD REGULATIONS FOR NEW FOSSIL FUEL-BASED ELECTRIC GENERATING SOURCES

ROUTE TO: AGENCY/OFFICE	(STAFF NAME)	ACTION CODE	ACTION DATE	DISPOSITION TYPE RESPONSE	DISPOSITION CODE	DISPOSITION DATE COMPLETED
LEGISLATIVE AFFAIRS	MIGUEL RODRIGUEZ	ORG	06/26/2013			
ACTION COMMENTS:						
✓ENVIRONMENTAL PROTECTION AGENCY		R	06/26/2013			
ACTION COMMENTS:						
ACTION COMMENTS:						
ACTION COMMENTS:						
ACTION COMMENTS:						

COMMENTS: 6 ADDL SIGNEES

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MEDIA TYPE: EMAIL **USER CODE:**

ACTION CODES	DISPOSITION		
	TYPE RESPONSE	DISPOSITION CODES	COMPLETED DATE
A = APPROPRIATE ACTION **B** = RESEARCH AND REPORT BACK **D** = DRAFT RESPONSE **I** = INFO COPY/NO ACT NECESSARY **R** = DIRECT REPLY W/ COPY **ORG** = ORIGINATING OFFICE	INITIALS OF SIGNER (W.H. STAFF) **NRN** = NO RESPONSE NEEDED **OTBE** = OVERTAKEN BY EVENTS	**A** = ANSWERED OR ACKNOWLEDGED **C** = CLOSED **X** = INTERIM REPLY	DATE OF ACKNOWLEDGEMENT OR CLOSEOUT DATE (MM/DD/YY)

KEEP THIS WORKSHEET ATTACHED TO THE ORIGINAL INCOMING LETTER AT ALL TIMES
REFER QUESTIONS TO DOCUMENT TRACKING UNIT (202)-456-2590
SEND ROUTING UPDATES AND COMPLETED RECORDS TO OFFICE OF RECORDS MANAGEMENT - DOCUMENT TRACKING UNIT ROOM 63, EEOB.

1116033

Congress of the United States
Washington, DC 20515

June 24, 2013

The Honorable Barack Obama
The White House
1600 Pennsylvania Avenue NW
Washington, DC 20500

Dear President Obama:

As Representatives of the Commonwealth of Kentucky in Congress, we write to express our continued concern about the Environmental Protection Agency's (EPA) plans to issue greenhouse gas (GHG) new source performance standard regulations for new fossil fuel-based electric generating sources. The proposed rule will set a standard that is unprecedented under the Clean Air Act, and will hinder our continuing efforts to create jobs.

If adopted, the proposed EPA rule will effectively ban new coal fired power plants from being built. Further, EPA regulations will prevent existing sources from making upgrades that will improve efficiency, allowing for more electricity generation with less fuel and fewer emissions. This two-pronged plan to regulate the coal industry will only result in higher utility rates, consequently harming Kentucky's ability to attract business and maintain and create jobs. Kentucky families will then suffer job loss, higher bills, and increased prices at the grocery store.

Kentucky heavily relies on its signature coal industry. In 2012, Kentucky remained the third-highest coal producer in the United States, a ranking our state has consistently held for several years. Coal accounts for over 90 percent of Kentucky's electricity and is responsible for 14,100 direct mining jobs. Our coal resources allow Kentuckians to enjoy some of the lowest average electricity rates in the nation – rates used to attract manufacturing and aluminum industry jobs to our state. Setting aside the EPA's GHG new source performance standards as written, Kentucky's coal industry has more than 230 years of production left at current consumption rates. This equates to 230 more years of certainty for jobs, revenue, and growth in the Commonwealth.

We believe our nation can and should continue to use coal given its abundance and the role it plays in supporting communities and jobs. In addition, advancements in technology are allowing us to modernize the existing coal-fueled fleet, consequently improving efficiency for homes, offices, and factories.

We respectfully request that you direct the EPA to suspend this needless and costly regulatory process.

Thank you for your time and attention to this matter. Should you or your staff have any questions, please contact Tate Bennett in Congressman Andy Barr's office at (202) 225-4706.

Sincerely,

Andy Barr
Member of Congress

Mitch McConnell
U.S. Senate, Minority Leader

PRINTED ON RECYCLED PAPER

Rand Paul
U.S. Senate

Ed Whitfield
Member of Congress

Hal Rogers
Member of Congress

Brett Guthrie
Member of Congress

Thomas Massie
Member of Congress

FRED UPTON, MICHIGAN
CHAIRMAN

HENRY A. WAXMAN, CALIFORNIA
RANKING MEMBER

ONE HUNDRED THIRTEENTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON ENERGY AND COMMERCE

2125 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515–6115
Majority (202) 225-2927
Minority (202) 225-3641

July 9, 2013

The Honorable Robert Perciasepe
Acting Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Dear Acting Administrator Perciasepe:

Pursuant to Rules X and XI of the U.S. House of Representatives, the Committee on Energy and Commerce seeks documents and information relating to the scope of economic impact analyses prepared by the Environmental Protection Agency (EPA) for recent major rules that may have significant economy-wide impacts.

Many economically significant Clean Air Act regulations issued by EPA in recent years affect far more than just the directly regulated industry sectors. The regulations' compliance costs include price effects and other costs that ripple through the U.S. economy. Yet EPA does not typically report these costs to the wider economy in its public Regulatory Impact Analyses (RIAs). Instead, EPA approaches cost estimation in a manner that restricts analysis to limited sectors, even though it has developed economy-wide modeling capability that could provide fuller information about the price and employment impacts of its rules.

Based on a review of agency RIAs, it appears the agency has turned away from using the economy-wide modeling tools it possesses in its major recent Clean Air Act rulemakings, even for those rulemakings that clearly pose economy-wide cost impacts. In one instance in 2011, EPA's RIA for its final Cross-State Air Pollution Rule discarded the agency's economy-wide modeling used in the RIA for the proposed rule. When the agency attempted to estimate labor and worker income impacts in the final rule, the agency deployed a method that focused solely on sector-specific compliance costs. Absent use of economy-wide modeling, EPA failed to report negative wage and labor impacts from the ripple effects of the rule, whereas an analysis of those costs using economy-wide modeling estimated a negative impact on worker incomes equivalent to about 30,000 jobs. Because EPA has repeated this pattern in multiple recent Clean Air Act rulemakings, the potential worker income losses it has failed to identify for the public is much greater.[1]

[1] See Prepared Statement of Anne E. Smith, Ph.D., Hearing before the Subcommittee on Energy and Power, April 12, 2013.

In addition to concerns about EPA's failure to report fuller economic impacts of its rules, we have concerns about the jobs impacts the agency actually does report. EPA has used a simplistic formula to develop its sector-specific cost estimates in a number of recent rulemakings in which the estimated compliance costs are multiplied by a fixed estimate of "jobs increased per dollar of compliance spending." That fixed estimate was taken from a paper that considered totally different regulations, with no analysis of productivity impacts reflective of the new rule under consideration. According to testimony received by the Subcommittee on Energy and Power in April 2013, this formula "will always conclude that the new regulation will create jobs."[2]

When Representative Bill Johnson questioned you at a Committee hearing on May 16, 2012, about EPA's failure to conduct the analyses needed for fuller understanding of regulatory costs, you acknowledged that EPA is not currently disclosing the full economic impact of its major air rules.[3] Given concerns about the current methods EPA chooses to use, which effectively deny the public accurate estimates of the economic impact of rules' compliance costs, we seek to examine EPA's planning, performance, and decision-making surrounding the use of its economic cost estimates. Accordingly, we ask that you provide responsive documents and written responses to the following by July 24, 2013.

1. Provide all documents, including but not limited to e-mail and other communications, relating to comments received by EPA from the public, intergovernmental review, and internal and external peer review concerning EPA's use of cost estimation methodology generally, and specifically concerning the following: (a) computable general equilibrium (CGE) modeling, (b) multi-market modeling, and (c) the study by Morgenstern, Pizer, and Shih (2002) in RIAs for all major Clean Air Act rules completed since June 1, 2010.

2. Provide all documents, including but not limited to e-mail and other communications, relating to internal deliberations concerning EPA's use of cost estimation methodology generally, and specifically concerning the following: (a) CGE modeling, (b) multi-market modeling, and (c) the study by Morgenstern, Pizer, and Shih (2002) in RIAs for all major Clean Air Act rules completed since June 1, 2010, and including particularly records relating to the decision to drop the CGE analysis in the final 2011 RIA for the Cross-State Air Pollution Rule.

3. Identify all contractors that performed any economic impact modeling for the agency for all major proposed and final Clean Air Act rules completed since June 1, 2010, and provide all documents relating or referring to the results of the work provided to the agency and the scope of work.

4. List and describe in detail all specific work, initiatives, or other projects EPA has undertaken to improve its economic cost analyses since January 2009. The list should also include:
    a. The resources obligated and expended by the agency on these projects.
    b. The offices, programs, and contractors conducting the projects.
    c. How this work has been applied to RIAs for major Clean Air Act rules completed since June 1, 2010.

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[2] Id.
[3] See Joint Subcommittee on Energy and Power and Subcommittee on Environment and the Economy hearing, May 16, 2013.

d. How this work specifically meets any agency goals for the deployment of economic cost analyses and economy-wide cost estimates.

We appreciate your prompt attention to this request. Instructions for responding to the Committee's document requests are included as an attachment to this letter. Should you have any questions, please contact Peter Spencer of the Majority Committee staff at (202) 225-2927.

Sincerely,

Fred Upton
Chairman

Tim Murphy
Chairman
Subcommittee on Oversight and Investigations

Joe Barton
Chairman Emeritus

Ed Whitfield
Chairman
Subcommittee on Energy and Power

Marsha Blackburn
Vice Chairman

John Shimkus
Chairman
Subcommittee on Environment and Economy

Michael C. Burgess
Vice Chairman
Subcommittee on Oversight and Investigations

Attachment

cc: The Honorable Henry A. Waxman, Ranking Member

The Honorable Diana DeGette, Ranking Member
Subcommittee on Oversight and Investigations

The Honorable Bobby Rush, Ranking Member
Subcommittee on Energy and Power

The Honorable Paul Tonko, Ranking Member
Subcommittee on Environment and Economy

RESPONDING TO COMMITTEE DOCUMENT REQUESTS

In responding to the document request, please apply the instructions and definitions set forth below:

INSTRUCTIONS

1. In complying with this request, you should produce all responsive documents that are in your possession, custody, or control or otherwise available to you, regardless of whether the documents are possessed directly by you.

2. Documents responsive to the request should not be destroyed, modified, removed, transferred, or otherwise made inaccessible to the Committee.

3. In the event that any entity, organization, or individual named in the request has been, or is currently, known by any other name, the request should be read also to include such other names under that alternative identification.

4. Each document should be produced in a form that may be copied by standard copying machines.

5. When you produce documents, you should identify the paragraph(s) and/or clause(s) in the Committee's request to which the document responds.

6. Documents produced pursuant to this request should be produced in the order in which they appear in your files and should not be rearranged. Any documents that are stapled, clipped, or otherwise fastened together should not be separated. Documents produced in response to this request should be produced together with copies of file labels, dividers, or identifying markers with which they were associated when this request was issued. Indicate the office or division and person from whose files each document was produced.

7. Each folder and box should be numbered, and a description of the contents of each folder and box, including the paragraph(s) and/or clause(s) of the request to which the documents are responsive, should be provided in an accompanying index.

8. Responsive documents must be produced regardless of whether any other person or entity possesses non-identical or identical copies of the same document.

9. The Committee requests electronic documents in addition to paper productions. If any of the requested information is available in machine-readable or electronic form (such as on a computer server, hard drive, CD, DVD, back up tape, or removable computer media such as thumb drives, flash drives, memory cards, and external hard drives), you should immediately consult with Committee staff to determine the appropriate format in which to produce the information. Documents produced in electronic format should be organized, identified, and indexed electronically in a manner comparable to the organizational structure called for in (6) and (7) above.

10. If any document responsive to this request was, but no longer is, in your possession, custody, or control, or has been placed into the possession, custody, or control of any third party and cannot be provided in response to this request, you should identify the document (stating its date, author, subject and recipients) and explain the circumstances under which the document ceased to be in your possession, custody, or control, or was placed in the possession, custody, or control of a third party.

11. If any document responsive to this request was, but no longer is, in your possession, custody or control, state:

a. how the document was disposed of;
b. the name, current address, and telephone number of the person who currently has possession, custody or control over the document;
c. the date of disposition;
d. the name, current address, and telephone number of each person who authorized said disposition or who had or has knowledge of said disposition.

12. If any document responsive to this request cannot be located, describe with particularity the efforts made to locate the document and the specific reason for its disappearance, destruction or unavailability.

13. If a date or other descriptive detail set forth in this request referring to a document, communication, meeting, or other event is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, you should produce all documents which would be responsive as if the date or other descriptive detail were correct.

14. The request is continuing in nature and applies to any newly discovered document, regardless of the date of its creation. Any document not produced because it has not been located or discovered by the return date should be produced immediately upon location or discovery subsequent thereto.

15. All documents should be bates-stamped sequentially and produced sequentially. In a cover letter to accompany your response, you should include a total page count for the entire production, including both hard copy and electronic documents.

16. Two sets of the documents should be delivered to the Committee, one set to the majority staff in Room 316 of the Ford House Office Building and one set to the minority staff in Room 564 of the Ford House Office Building. You should consult with Committee majority staff regarding the method of delivery prior to sending any materials.

17. In the event that a responsive document is withheld on any basis, including a claim of privilege, you should provide the following information concerning any such document: (a) the reason the document is not being produced; (b) the type of document; (c) the general subject matter; (d) the date, author and addressee; (e) the relationship of the author and addressee to each

other; and (f) any other description necessary to identify the document and to explain the basis for not producing the document. If a claimed privilege applies to only a portion of any document, that portion only should be withheld and the remainder of the document should be produced. As used herein, "claim of privilege" includes, but is not limited to, any claim that a document either may or must be withheld from production pursuant to any statute, rule, or regulation.

18. If the request cannot be complied with in full, it should be complied with to the extent possible, which should include an explanation of why full compliance is not possible.

19. Upon completion of the document production, you should submit a written certification, signed by you or your counsel, stating that: (1) a diligent search has been completed of all documents in your possession, custody, or control which reasonably could contain responsive documents; (2) documents responsive to the request have not been destroyed, modified, removed, transferred, or otherwise made inaccessible to the Committee since the date of receiving the Committee's request or in anticipation of receiving the Committee's request, and (3) all documents identified during the search that are responsive have been produced to the Committee, identified in a privilege log provided to the Committee, as described in (17) above, or identified as provided in (10), (11) or (12) above.

DEFINITIONS

1. The term "document" means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, interoffice and intra-office communications, electronic mail ("e-mail"), instant messages, calendars, contracts, cables, notations of any type of conversation, telephone call, meeting or other communication, bulletins, printed matter, computer printouts, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, power point presentations, spreadsheets, and work sheets. The term "document" includes all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments to the foregoing, as well as any attachments or appendices thereto. The term "document" also means any graphic or oral records or representations of any kind (including, without limitation, photographs, charts, graphs, voice mails, microfiche, microfilm, videotapes, recordings, and motion pictures), electronic and mechanical records or representations of any kind (including, without limitation, tapes, cassettes, disks, computer server files, computer hard drive files, CDs, DVDs, back up tape, memory sticks, recordings, and removable computer media such as thumb drives, flash drives, memory cards, and external hard drives), and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, electronic format, disk, videotape or otherwise. A document bearing any notation not part of the original text is considered to be a separate document. A draft or non-identical copy is a separate document within the meaning of this term.

2. The term "documents in your possession, custody or control" means (a) documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, or representatives acting on your behalf; (b) documents that you have a legal right to obtain, that you have a right to copy, or to which you have access; and (c) documents that have been placed in the possession, custody, or control of any third party.

3. The term "communication" means each manner or means of disclosure, transmission, or exchange of information, in the form of facts, ideas, opinions, inquiries, or otherwise, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether face-to-face, in a meeting, by telephone, mail, e-mail, instant message, discussion, release, personal delivery, or otherwise.

4. The terms "and" and "or" should be construed broadly and either conjunctively or disjunctively as necessary to bring within the scope of this request any information which might otherwise be construed to be outside its scope. The singular includes the plural number, and vice versa. The masculine includes the feminine and neuter genders.

5. The terms "person" or "persons" mean natural persons, firms, partnerships, associations, limited liability corporations and companies, limited liability partnerships, corporations, subsidiaries, divisions, departments, joint ventures, proprietorships, syndicates, other legal, business or government entities, or any other organization or group of persons, and all subsidiaries, affiliates, divisions, departments, branches, and other units thereof.

6. The terms "referring" or "relating," with respect to any given subject, mean anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with, or is in any manner whatsoever pertinent to that subject.

7. The terms "you" or "your" mean and refers to

For government recipients:

"You" or "your" means and refers to you as a natural person and the United States and any of its agencies, offices, subdivisions, entities, officials, administrators, employees, attorneys, agents, advisors, consultants, staff, or any other persons acting on your behalf or under your control or direction; and includes any other person(s) defined in the document request letter.

United States Senate

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS
WASHINGTON, DC 20510-6175

July 16, 2013

James Jones
U.S. Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Ave., NW
Washington, DC 20460

Dear Mr. Jones:

On behalf of the Senate Committee on Environment and Public Works, we invite you to testify before the Committee at a hearing entitled, "Hearing on the Nominations of Kenneth Kopocis to be Assistant Administrator for the Office of Water of the U.S. Environmental Protection Agency (EPA), James Jones to be Assistant Administrator for the Office of Chemical Safety and Pollution Prevention of the EPA, and Avi Garbow to be General Counsel for the EPA." The hearing will be held on Tuesday, July 23, 2013, beginning at 10:00 AM in Room 406 of the Dirksen Senate Office Building. The purpose of this hearing is to consider the nominations of Kenneth Kopocis to be Assistant Administrator for the Office of Water of the EPA, James Jones to be Assistant Administrator for the Office of Chemical Safety and Pollution Prevention of the EPA, and Avi Garbow to be General Counsel for the EPA.

In order to maximize the opportunity to discuss this matter with you and the other witnesses, we ask that your oral testimony be limited to five minutes. Your written testimony can be comprehensive and will be included in the printed record of the hearing in its entirety, together with any other materials you would like to submit.

To comply with Committee rules, please provide 100 double-sided copies of your testimony at least 48 hours in advance of the hearing to the Committee at the following address: 410 Dirksen Senate Office Building, Washington, DC 20510-6175. To ensure timely delivery, the copies of testimony must be hand delivered to 410 Dirksen. Please do not send packages through FedEx, U.S. Mail, or overnight delivery services, because they will be subject to offsite security measures which will delay delivery. Please also email a copy of your testimony (in both MS Word and as a PDF file) to the attention of Mara Stark-Alcalá, Mara_Stark-Alcala@epw.senate.gov, at least 48 hours in advance.

If you plan to use or refer to any charts, graphs, diagrams, photos, maps, or other exhibits in your testimony, please deliver or send one identical copy of such material(s), as well as 100 reduced (8.5" x 11") copies to the Committee, to the attention of Mara Stark-Alcalá, Mara_Stark-Alcala@epw.senate.gov, to the above address at least 48 hours in advance of the hearing. Exhibits or other materials that are not provided to the Committee by this time cannot be used for the purpose of presenting testimony.

If you have any questions or comments, please feel free to contact Grant Cope of the Committee's Majority staff at 202-224-8832 or Bryan Zumwalt of the Committee's Minority staff at 202-224-6176.

Sincerely,

Barbara Boxer
Chairman

David Vitter
Ranking Member

United States Senate

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

WASHINGTON, DC 20510-6175

July 16, 2013

Avi Garbow
U.S. Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Ave., NW
Washington, DC 20460

Dear Mr. Garbow:

On behalf of the Senate Committee on Environment and Public Works, we invite you to testify before the Committee at a hearing entitled, "Hearing on the Nominations of Kenneth Kopocis to be Assistant Administrator for the Office of Water of the U.S. Environmental Protection Agency (EPA), James Jones to be Assistant Administrator for the Office of Chemical Safety and Pollution Prevention of the EPA, and Avi Garbow to be General Counsel for the EPA." The hearing will be held on Tuesday, July 23, 2013, beginning at 10:00 AM in Room 406 of the Dirksen Senate Office Building. The purpose of this hearing is to consider the nominations of Kenneth Kopocis to be Assistant Administrator for the Office of Water of the EPA, James Jones to be Assistant Administrator for the Office of Chemical Safety and Pollution Prevention of the EPA, and Avi Garbow to be General Counsel for the EPA.

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Sincerely,

Barbara Boxer
Chairman

David Vitter
Ranking Member

United States Senate

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

WASHINGTON, DC 20510-6175

July 16, 2013

Kenneth Kopocis
U.S. Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Ave., NW
Washington, DC 20460

Dear Mr. Kopocis:

On behalf of the Senate Committee on Environment and Public Works, we invite you to testify before the Committee at a hearing entitled, "Hearing on the Nominations of Kenneth Kopocis to be Assistant Administrator for the Office of Water of the U.S. Environmental Protection Agency (EPA), James Jones to be Assistant Administrator for the Office of Chemical Safety and Pollution Prevention of the EPA, and Avi Garbow to be General Counsel for the EPA." The hearing will be held on Tuesday, July 23, 2013, beginning at 10:00 AM in Room 406 of the Dirksen Senate Office Building. The purpose of this hearing is to consider the nominations of Kenneth Kopocis to be Assistant Administrator for the Office of Water of the EPA, James Jones to be Assistant Administrator for the Office of Chemical Safety and Pollution Prevention of the EPA, and Avi Garbow to be General Counsel for the EPA.

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Sincerely,

Barbara Boxer
Chairman

David Vitter
Ranking Member

BARBARA BOXER, CALIFORNIA, CHAIRMAN

MAX BAUCUS, MONTANA
THOMAS R. CARPER, DELAWARE
FRANK R. LAUTENBERG, NEW JERSEY
BENJAMIN L. CARDIN, MARYLAND
BERNARD SANDERS, VERMONT
SHELDON WHITEHOUSE, RHODE ISLAND
TOM UDALL, NEW MEXICO
JEFF MERKLEY, OREGON
KIRSTEN GILLIBRAND, NEW YORK

JAMES INHOFE, OKLAHOMA
DAVID VITTER, LOUISIANA
JOHN BARRASSO, WYOMING
JEFF SESSIONS, ALABAMA
MIKE CRAPO, IDAHO
ROGER F. WICKER, MISSISSIPPI
JOHN BOOZMAN, ARKANSAS
DEB FISCHER, NEBRASKA

United States Senate

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS
WASHINGTON, DC 20510-6175

RUBY A. SHAW, STAFF DIRECTOR
DAVID LOW, MINORITY STAFF DIRECTOR

June 7, 2013

Michael H. Shapiro
Deputy Assistant Administrator, Office of Water
U.S. Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Ave., NW
Washington, DC 20460

Dear Deputy Assistant Administrator Shapiro:

Thank you for appearing before the Committee on Environment and Public Works on May 22, 2013, at the hearing entitled, "Nutrient Trading and Water Quality." We appreciate your testimony and we know that your input will prove valuable as we continue our work on this important topic.

Enclosed are questions for you that have been submitted by Senators Cardin, Vitter, and Boozman for the hearing record. Please submit your answers to these questions by COB June 21, 2013, to the attention of Mara Stark-Alcalá, Senate Committee on Environment and Public Works, 410 Dirksen Senate Office Building, Washington, DC 20510. In addition, please provide the Committee with a copy of your answers via electronic mail to Mara_Stark-Alcala@epw.senate.gov. To facilitate the publication of the record, please reproduce the questions with your responses.

Again, thank you for your assistance. Please contact Jason Albritton of the Majority Staff at (202) 224-8832, or Brandon Middleton of the Minority Staff at (202) 224-6176 with any questions you may have. We look forward to reviewing your answers.

Sincerely,

Barbara Boxer
Chairman

David Vitter
Ranking Member

PRINTED ON RECYCLED PAPER

Environment and Public Works Committee Hearing
May 22, 2013
Follow-Up Questions for Written Submission

Questions for Shapiro

Questions from:

Senator Benjamin Cardin

1. Is it accurate that multiple independent entities as well as previous Administrations have all highlighted the benefits of using numeric nutrient criteria? Why have these entities recommended the use of numeric criteria?

2. Does the use of numeric nutrient criteria imply the use of a single nation-wide or state-wide standard? Can numeric nutrient criteria be used in a flexible manner that adapts to local conditions?

3. Can EPA play a constructive role, in consultation with the states, in helping to establish new water quality trading markets? Can you describe the types of assistance that EPA can provide to States in establishing and managing water quality trading programs?

Senator David Vitter

1. In your written testimony you indicate that EPA is "committed to finding collaborative solutions that protect and restore our waters and the health of the communities that depend on them." You also state that EPA "recognizes that states need room to innovate and respond to local water quality needs, and that a one-size-fits-all solution to nitrogen and phosphorous pollution is neither desirable nor necessary."

   I think this emphasis on collaboration and state innovation is helpful, and I appreciate EPA's recognition that there is not one single solution to the issue of nutrient pollution. Based on your testimony, is it fair to say that EPA's role in nutrient trading will be to assist state trading efforts, and that EPA will not be in the business of mandating certain standards or regulatory schemes for nutrient trading?

2. EPA has a 2003 Trading Policy, as well as a Water Quality Trading Toolkit. These documents seem helpful, but my concern is that EPA may at some point move from a Toolkit to a rule or regulation that would give the states little to no flexibility on nutrient trading. Can you assure me that EPA's input on nutrient trading will maintain a suggestive tone and not come in the form of heavy-handed regulations?

3. We understand and support EPA's opposition to "one-size-fits-all" water quality policy, especially in regard to limiting and reducing nutrient levels in U.S. waterways. Unfortunately, this "one-size-fits-all approach" is precisely what is being advocated, in effect, by many environmental groups. For example, in 2008, various environmental groups submitted a rulemaking petition for your agency to establish nutrient water quality standards and Total Maximum Daily Loads (TMDLs) to control nitrogen and phosphorous "for *all water bodies in all states*," a demand that completely contradicts the notion of state innovation and the principle of state primacy in setting water quality standards established by the Clean Water Act. Fortunately, you denied the petition, although I understand that the environmental groups have continued their overreaching demands -- at least in regard to Mississippi River basin states -- through costly litigation in my home state of Louisiana (*Gulf Restoration Network v. USEPA*, No. 2:12-cv-677 [EPA's motion to dismiss and motion for summary judgment pending]). I would like to thank you for opposing these unhelpful environmentalist demands. Can you comment on EPA's opposition to these demands for EPA to impose sweeping nutrient criteria on Mississippi River basin states, and how these demands impact EPA's policy of using multiple, flexible approaches -- including nutrient trading -- to address nutrient issues?

4. Are there any other recent examples where environmental groups have actually impeded nutrient pollution reduction?

5. You state in your written testimony that "[t]rading can occur between point sources, or between point and nonpoint sources." Can you elaborate on how trading between point and nonpoint sources might work and whether it is a realistic way to achieve nutrient pollution reduction?

6. You have also indicated that "water quality trading should occur within a watershed or a defined area for which a [Total Maximum Daily Load] has been approved" under Section 303 of the Clean Water Act. Once EPA has approved a TMDL, and assuming a state decides to implement the TMDL through a trading program, what authority does EPA have to decline or disapprove of the state's implementation plan?

7. I do not believe EPA has any role in dictating to the states how to implement or achieve an established TMDL, whether it's through trading or other mechanisms. Courts have recognized that "there is no statutory language [in the Clean Water Act] requiring submission to or approval of a State's [TMDL] implementation plan by the EPA." *Bravos v. Green*, 306 F. Supp. 2d 48, 57 (D.D.C. 2004). Do you know of any authority to the contrary?

8. In your written testimony you also briefly discuss the general issue of nutrient pollution, and you reference "EPA's most recent National Aquatic Resource Surveys of aquatic health," which apparently examined various water stressors and found that "nitrogen and phosphorous are the most pervasive in the Nation's small streams and lakes," and that "[a]pproximately 50 percent of streams and more than 40 percent of lake acres have high or medium levels of nutrients." Am I correct in assuming that the Surveys you have referenced include EPA's draft National Rivers and Streams Assessment for 2008 and 2009, which EPA released this past February?

9. I have deep concerns about EPA's draft Assessment. In order to determine water quality conditions across the country, EPA compared sampling results with conditions at "least-disturbed" sites in different regions. According to EPA, this "least-disturbed" benchmark standard is defined as those sites that are "least-disturbed by human activities." In other words, the waterbodies examined by EPA in its survey were compared to waterbodies located in places where few, if any, people live—or, as EPA put it, those waterbodies where there is "the least amount of human ambient disturbance."

   The problem this creates is that it prejudices the Assessment's analysis. No matter the improvements that farmers, municipalities, and industry have worked together to achieve to improve our Nation's waterways, many of the waterways will be determined as unhealthy because they are compared to a world in which humans don't use water. EPA supposedly selected the sampling sites at random, however, it appears as if the Agency cherry-picked the benchmark from which to analyze the sites. EPA's flawed method accordingly led to a highly misleading Assessment. What was your involvement in developing this draft Assessment?

10. I appreciate EPA's willingness to offer input on the subject of nutrient trading. However, if the Agency is going to base its comments on flawed environmental analyses, then its recommendations will be called into question. Going forward on the subject of nutrient trading, can you commit to refraining from relying on the draft Assessment, or at least ensuring that EPA cures the various flaws I and others have identified [i.e. the American Farm Bureau] in the Assessment?

Senator John Boozman

For Questions 1-3: In 2008, an organization called EarthJustice filed a lawsuit against EPA claiming that EPA was required by federal law to impose numeric nutrient criteria in Florida. In August of 2009, EPA entered a consent decree with EarthJustice to settle the 2008 lawsuit. In that settlement, EPA committed to finalize numeric nutrient standards in Florida. This was strongly opposed by the State of Florida, which believed they had been shut out of that process.

1. Mr. Shapiro, did the organization, EarthJustice, receive attorneys' fees from the federal government in association with the Florida numeric nutrient criteria case? If so, how much?

2. At the 2011 EPW hearing on this topic, a witness for the State of Florida testified that EPA's nutrient rule would cost over $1 billion. EPA said that the potential incremental costs associated with the Florida nutrient rule would be less than $25 million per year. Importantly, a committee of the National Academy of Sciences did an independent review of the rule's implementation cost. According to the Congressional Research Service, they found that EPA "underestimated the cost of implementing the rule and questioned the validity of several assumptions in EPA's cost analysis." Has EPA taken any steps in response to the National Academy review of EPA costs analysis?

3. Will EPA incorporate the findings of the NAS report into its cost-benefit analysis practices?

4. Mr. Shapiro, you testified that "EPA recognizes that States need room to innovative and respond to local water quality needs and that one size fits all solutions to nitrogen and phosphorus pollution is not desirable or necessary." I agree. Do you agree that some states currently utilize this "room to innovate and respond to local water quality needs" by implementing narrative nutrient criteria?

5. Mr. Shapiro, you mentioned, as a "noteworthy case," Connecticut, where municipal wastewater treatment plants are trading to achieve nitrogen reduction goals for the Long Island Sound. Has the EPA considered proactively facilitating dialogue or other forms of information exchange between experienced trading stakeholders (such as these Connecticut municipalities) and other entities that are interested in exploring trading opportunities?

6. Mr. Shapiro, in your testimony, you mentioned that Virgina encourages the creation of pools of credits ahead of the market, thereby providing additional certainty for some potential trading participants. Would you please share any views you may have on the benefits or drawbacks to this approach?

7. Mr. Shapiro, given that, as one of our witnesses testified "water quality based effluent limitations are placed in permits, where there is the narrative" criteria, do you believe it would be possible to set-up an effective nutrient trading program in states that have narrative nutrient criteria? If so, please elaborate. If not, why not?

8. Mr. Shapiro, do you support EPA cooperation on nutrient trading with states that would prefer to maintain narrative nutrient criteria?

9. Mr. Shaprio, do you agree that various quantifiable water quality conditions, such as algal biomass accumulation, can be used to effectively determine whether certain water quality objectives are being achieved, in states that have narrative nutrient criteria?

10. Mr. Shapiro, what hurdles, if any, need to be cleared in order to allow effective nutrient trading to occur in a watershed or a defined area for which a TMDL has not been approved?

11. Mr. Shapiro, generally speaking, what would be the downsides to legislation that would dictate how states implement water quality trading programs?

12. Mr. Shapiro, do you agree that water quality monitoring can be very expensive, and that in order to effectively measure non-point source reductions, without discouraging participation in a trading program, it is most practical and prudent to carry out such monitoring on a watershed basis?

BARBARA A. MIKULSKI
MARYLAND

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United States Senate

WASHINGTON, DC 20510–2003

July 17, 2013

Mr. Arvin Ganesan
Associate Administrator for Congressional And
Intergovernment Relations
Environmental Protection Agency
1200 Pennsylvania Ave, NW, Room 3426-arn
Washington, DC 20460-0001

Dear Mr. Ganesan:

I am writing to request your consideration of the attached correspondence from (b) (6) [redacted]. Please respond directly t(b) [redacted]r. [redacted]and send a copy to Brent Palmer of my staff. If you have any (6) questions, please call Mr. Palmer at (202) 224-4654.

Thank you for your assistance.

Sincerely,

Barbara A. Mikulski

Barbara A. Mikulski
United States Senator

BAM:cst
Enclosure

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901 SOUTH BOND STREET
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Date: 7/2/2013 10:46:21 AM
To: "webmail@mikulski-iq.senate.gov" <webmail@mikulski-iq.senate.gov>
Cc:
Subject: www_email

Please encourage the EPA to put a temporary ban on the use of neonicotinoid pesticides for ornamental plants while they do further research. These pesticides can kill bees outright when first applied and lead to nerve disorders that kill or disable bees for several years. The pesticide enters the soil and appears in the nectar and pollen. It has been found to be the major contributor to Colony Collapse Disorder in Honey Bees and has contributed to the death of unknown numbers of native bees. We depend on bees for pollination of 80% of our food crops worldwide. Their loss directly impacts our ability to produce food for humans and other animals.

Thank you.

(b) (6) [redacted]

FRED UPTON, MICHIGAN
CHAIRMAN

HENRY A. WAXMAN, CALIFORNIA
RANKING MEMBER

ONE HUNDRED THIRTEENTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON ENERGY AND COMMERCE

2125 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515–6115
Majority (202) 225-2927
Minority (202) 225-3641

July 30, 2013

The Honorable Gina McCarthy
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, D.C. 20460

Dear Administrator McCarthy:

Pursuant to Rules X and XI of the United States House of Representatives, the Committee on Energy and Commerce is examining recent actions by the Environmental Protection Agency (EPA) relating to its studies of hydraulic fracturing and groundwater contamination.

Over the last several years, EPA has examined the groundwater at three different hydraulic fracturing sites for contamination: Pavillion, Wyoming, Parker County, Texas, and Dimock, Pennsylvania. In addition to these site-specific studies, the agency is currently conducting a comprehensive study of the potential impacts of hydraulic fracturing on drinking water resources (the "Hydraulic Fracturing Study"), begun in March 2010.[1]

On June 20, 2013, after spending over four years investigating the Pavillion, WY site, EPA announced that it would be ceding primary responsibility for its investigation of alleged well water contamination to the State of Wyoming.[2] EPA's announcement in late-June is a sharp reversal from its previous statements about the Pavillion site, which the agency had begun to investigate in 2008 asserting jurisdiction under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). In a December 2011 draft report on alleged well water contamination in Pavillion, EPA found that "the data indicates likely impact to groundwater that can be explained by hydraulic fracturing."[3] EPA's testing methods in the December 2011 report were the subject of criticism from both state regulators and industry leaders. Due, in part, to these concerns, EPA agreed in March 2012 to take additional water

[1] "EPA Announces Final Study Plan to Assess Hydraulic Fracturing," Environmental Protection Agency, November 3, 2011, accessed July 24, 2013, http://www.epa.gov/research/priorities/docs/hydraulic-fracturing-research.pdf.
[2] "Wyoming to Lead Further Investigation of Water Quality Concerns Outside of Pavillion with Support of EPA," Environmental Protection Agency, June 20, 2013, accessed July 24, 2013, http://yosemite.epa.gov/opa/admpress.nsf/20ed1dfa1751192c8525735900400c30/dc7dcdb471dcfe1785257b90007377bf!OpenDocument.
[3] "Investigation of Groundwater Contamination near Pavillion, Wyoming," Environmental Protection Agency, December 8, 2011, accessed July 24, 2013, http://www2.epa.gov/sites/production/files/documents/EPA_ReportOnPavillion_Dec-8-2011.pdf.

samples and delay the peer review process.[4] An independent review of EPA's December 2011 draft report, released in May 2012, ultimately found that EPA did not adequately distinguish between potential natural impacts and those from gas drilling activities.[5] Despite past criticism, when the agency announced last month that it would neither finalize its Pavillion study nor rely on the conclusions of the draft report resulting from its investigation, it nonetheless stated that it was "standing behind its work and data."[6]

EPA's history in Pavillion – asserting its jurisdiction, alleging contamination in the ground water, then closing its investigation or inquiry – is similar to its history in both Dimock and Parker County. For example, in January 2012, as part of an inquiry under CERCLA, EPA stated that water tests indicated dangerous levels of barium, arsenic, and "other hazardous substances" in well water in Dimock, PA.[7] The agency made these allegations *after* sending a December 2, 2011 email to Dimock residents stating "the data does not indicate that the well water presents an immediate health threat to users."[8] Then, on July 25, 2012, EPA announced the cessation of its inquiry after tests of wells near a gas drilling operation found no unsafe levels of contaminants.[9]

In December 2010, claiming that state regulators were not acting quickly enough, EPA issued an emergency order under Section 1431 of the Safe Drinking Water Act (SDWA) against Range Resources Corp. in Parker County, TX, demanding that the company place monitors in two homes and provide two families with water based on an allegation that the company had contaminated domestic water wells.[10] On March 29, 2012, EPA dropped its lawsuit against Range Resources.[11]

In order to better understand EPA's decisionmaking, and how EPA's prior experiences in the Pavillion, Dimock, and Parker County cases are informing its present approach to the Hydraulic Fracturing Study, please respond to the following questions and requests for information and documents by August 13, 2013.

1. In its June 20, 2013, press release announcing that the State of Wyoming would lead further investigation of water quality concerns outside of Pavillion, EPA states that it

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[4] Pierre Bertrand, "Study Slams EPA's Draft Fracking Report on Wyoming Water Pollution," *International Business Times*, May 16, 2012, accessed July 24, 2013, http://www.ibtimes.com/study-slams-epas-draft-fracking-report-wyoming-water-pollution-698753#.

[5] Ibid.

[6] "Wyoming to Lead Further Investigation of Water Quality Concerns Outside of Pavillion with Support of EPA," Environmental Protection Agency.

[7] "Dimock, PA: "Ground Zero" in the Fight over Fracking," *StateImpact Pennsylvania*, accessed July 24, 2013, http://stateimpact.npr.org/pennsylvania/tag/dimock/.

[8] John Krohn, "If Confirmed, McCarthy Should Avoid Pitfalls of Past at EPA," *The Hill*, April 11, 2013, accessed July 24, 2013, http://thehill.com/blogs/congress-blog/energy-a-environment/293141-if-confirmed-mccarthy-should-avoid-pitfalls-of-past-at-epa.

[9] Mark Drajem, "EPA Will End Dimock Water Deliveries After Final Water Tests," *Bloomberg*, July 25, 2012, accessed July 24, 2013, http://www.bloomberg.com/news/print/2012-07-25/epa-ends-water-deliveries-in-pennsylvania-after-tests-correct-.html.

[10] Ramit Plushnick-Masti, "Texas Agency: Gas Driller Didn't Contaminate Water," *The Washington Post*, March 22, 2011, accessed July 24, 2013, http://www.washingtonpost.com/wp-dyn/content/article/2011/03/22/AR2011032202141.html.

[11] Mike Lee, "EPA Agrees to Dismiss Well Contamination Case Against Range," *Bloomberg Businessweek*, March 30, 2012, accessed July 24, 2013, http://www.businessweek.com/news/2012-03-30/epa-agrees-to-dismiss-well-contamination-case-against-range.

"stands behind its work and data" but adds that it "does not plan to finalize or seek peer review of its draft Pavillion groundwater report released in December, 2011. Nor does the agency plan to rely upon the conclusions in the draft report."[12] EPA notes it will "look to the results" of its ongoing national study on the potential relationship between hydraulic fracturing and drinking water "as the basis for its scientific conclusions and recommendations on hydraulic fracturing."[13]

a. From the origination of the investigation, in response to the public petition submitted to EPA under CERCLA, up until June 20, 2013, how much appropriated funds did EPA spend on the Pavillion investigation out of the Superfund account, and under what program area(s) at the subaccount level? EPA's response should include all costs the agency has incurred related to the Pavillion investigation conducted under CERCLA, including but not limited to costs related to preparation of the December 2011 draft report.

b. Aside from CERCLA, did EPA rely on any other program authorities or resources in carrying out the investigation and related activities at Pavillion? If so, what were EPA's total investigation costs, what was the scope of activities funded under the investigation, and what were the costs of each activity?

c. Does EPA anticipate that it will provide support to the Wyoming Department of Environmental Quality and the Wyoming Oil and Gas Conservation Commission and under what program authorities? If so, what type of support does it anticipate, and what amount does EPA plan to expend on such support and out of what appropriations?

2. In its Hydraulic Fracturing Study Plan released in November 2011, EPA indicates that its retrospective case studies will be conducted in a "tiered fashion" to "develop integrated data on site history and characteristics, water resources, contaminant migration pathways, and exposure routes." In what Tier are EPA's retrospective case studies at present? Please detail how much appropriated funds EPA has spent, sequentially, on each sampling and/or testing activity already completed.

3. EPA's Hydraulic Fracturing Study Plan also indicates that the prospective case studies will be conducted in a "tiered fashion." In what Tier are EPA's prospective case studies at present? Please detail how much appropriated funds EPA has spent, sequentially, on each sampling and/or testing activity already completed.

4. What data quality standards will EPA use to determine whether data obtained from prior ground water investigations will be incorporated into its Hydraulic Fracturing Study?

5. EPA has designated the study's expected "Report of Results" as a "highly influential scientific assessment," thus requiring the agency to follow peer review requirements described in the Office of Management and Budget's *Information Quality Bulletin for Peer Review*. The Bulletin states that important scientific information must be peer reviewed by qualified specialists before being disseminated by the federal government.

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[12] "Wyoming to Lead Further Investigation of Water Quality Concerns Outside of Pavillion with Support of EPA," Environmental Protection Agency.
[13] Ibid.

Will EPA apply this peer review standard to all of the components and projects that will constitute the "report of results"?

6. In the section of its website devoted to EPA's Hydraulic Fracturing Study, the agency provides a series of "Questions and Answers" to inform the public about its plans for carrying out the study.[14] In a subset of questions focusing on the "Analysis of Existing Data," the following question is posed: "Is EPA incorporating ongoing ground water investigations, such as the ones in Pavillion, WY and Dimock, PA, into this study?" Responding to this question, EPA writes: "Ground water investigations are distinct from the retrospective and prospective case studies conducted as a part of this study, and so they cannot be used as case studies. *However, ground water investigations such as these will be considered in this study's analysis of existing data, once they have undergone peer review.*" (Emphasis added)

    a. Since EPA announced, on June 20, 2013, that it would no longer seek peer review on its draft study of alleged groundwater contamination from hydraulic fracturing activities near Pavillion, WY, is there any portion of the Pavillion study that EPA might consider in its analysis of existing data for its ongoing Hydraulic Fracturing Study? If so, please provide all documents referring or relating to how EPA may use or apply the data from Pavillion to the Hydraulic Fracturing Study.

7. EPA Region 3 Administrator, Shawn Garvin, speaking of the agency's activities in Dimock, PA, announced on July 25, 2012, that "[t]he sampling and an evaluation of the particular circumstances at each home did not indicate levels of contaminants that would give EPA reason to take further action."[15]

    a. Two of the principal contaminants identified by DEP at Dimock, PA were methane and arsenic. Considering that releases of natural gas generally are excluded from the authorities of CERCLA, and that the federal authorities of CERCLA generally are limited to respond to releases of naturally occurring substances, what were EPA's basis and rationale for using the authorities of CERCLA to conduct an investigation of potential contamination in groundwater at Dimock?

    b. How much appropriated funds did EPA spend on the Dimock investigation out of the Superfund account, and under what program area(s) at the subaccount level, from the origination of the investigation when EPA determined that the use of federal response authorities under CERCLA was warranted up until July 25, 2012?

    c. Aside from CERCLA, did EPA rely on any other program authorities or resources in carrying out the investigation and related activities at Dimock? If so, what were EPA's total investigation costs, what was the scope of activities funded under the investigation, and what were the costs of each activity?

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[14] "Questions and Answers about EPA's Hydraulic Fracturing Study," Environmental Protection Agency, accessed July 24, 2013, http://www2.epa.gov/hfstudy/questions-and-answers-about-epas-hydraulic-fracturing-study.
[15] Mark Drajem, "EPA Will End Dimock Water Deliveries After Final Water Tests."

d. Is there any portion of the Dimock investigation that EPA might consider in its analysis of existing data for the Hydraulic Fracturing Study? If so, please provide all documents referring or relating to how EPA may use or apply the data from Dimock to the Hydraulic Fracturing Study.

e. Please detail the interaction between EPA and Pennsylvania Department of Environmental Protection (DEP) relating to actions taken by EPA at Dimock, PA. In your response, please include all communications between EPA employees and DEP referring or relating to EPA's decision to become involved in the investigation at Dimock. Also, please include all documents referring or relating to EPA's December 2, 2011 email to Dimock residents, informing them of the absence of any immediate health threat to well water users, continuing through the agency's subsequent finding, one month later, in January 2012 – six months prior to ending its investigation – that water tests indicated dangerous levels of barium, arsenic, and "other hazardous substances."

8. How much appropriated funds did EPA spend on the Parker County, TX investigation and enforcement action, including actions preceding the issuance of an emergency order under Section 1431 in December 2010 up until March 29, 2012?

9. Does EPA plan to incorporate data obtained from its ground water investigation in Parker County into the Hydraulic Fracturing Study? If so, please provide all documents referring or relating to how EPA may use or apply the data from Parker County to the Hydraulic Fracturing Study.

10. How many times has EPA invoked its emergency powers under Section 1431 of SDWA over the past 5 years? Please provide a list of all such instances.

11. How many times has EPA used its authorities under CERCLA over the past 5 years to investigate potential contamination in groundwater based on risks to drinking water sources, and of those times, how many instances were at sites at which oil or natural gas production occurred in the vicinity? Please provide a list of all such instances.

12. What is EPA's definition of "an imminent and substantial endangerment to the health of persons" in relation to its emergency powers under Section 1431(a) of SDWA and has it withstood judicial scrutiny?

13. Under Section 1431(a) of SDWA, how does EPA determine when "appropriate State and local authorities have not acted"? How, precisely, does EPA define inaction in these instances?

An attachment to this letter provides additional information about how to respond to the Committee's request. If you have any questions regarding this request, please contact Sam Spector with the Committee staff at (202) 225-2927.

Sincerely,

Fred Upton
Chairman

Tim Murphy
Chairman
Subcommittee on Oversight and Investigations

Joe Barton
Chairman Emeritus

Ed Whitfield
Chairman
Subcommittee on Energy and Power

Marsha Blackburn
Vice Chairman

John Shimkus
Chairman
Subcommittee on Environment and Economy

Michael C. Burgess
Vice Chairman
Subcommittee on Oversight and Investigations

Attachment

cc: The Honorable Henry A. Waxman, Ranking Member

The Honorable Diana DeGette, Ranking Member
Subcommittee on Oversight and Investigations

The Honorable Bobby Rush, Ranking Member
Subcommittee on Energy and Power

The Honrable Paul Tonko, Ranking Member
Subcommittee on Environment and Economy

RESPONDING TO COMMITTEE DOCUMENT REQUESTS

In responding to the document request, please apply the instructions and definitions set forth below:

INSTRUCTIONS

1. In complying with this request, you should produce all responsive documents that are in your possession, custody, or control or otherwise available to you, regardless of whether the documents are possessed directly by you.

2. Documents responsive to the request should not be destroyed, modified, removed, transferred, or otherwise made inaccessible to the Committee.

3. In the event that any entity, organization, or individual named in the request has been, or is currently, known by any other name, the request should be read also to include such other names under that alternative identification.

4. Each document should be produced in a form that may be copied by standard copying machines.

5. When you produce documents, you should identify the paragraph(s) and/or clause(s) in the Committee's request to which the document responds.

6. Documents produced pursuant to this request should be produced in the order in which they appear in your files and should not be rearranged. Any documents that are stapled, clipped, or otherwise fastened together should not be separated. Documents produced in response to this request should be produced together with copies of file labels, dividers, or identifying markers with which they were associated when this request was issued. Indicate the office or division and person from whose files each document was produced.

7. Each folder and box should be numbered, and a description of the contents of each folder and box, including the paragraph(s) and/or clause(s) of the request to which the documents are responsive, should be provided in an accompanying index.

8. Responsive documents must be produced regardless of whether any other person or entity possesses non-identical or identical copies of the same document.

9. The Committee requests electronic documents in addition to paper productions. If any of the requested information is available in machine-readable or electronic form (such as on a computer server, hard drive, CD, DVD, back up tape, or removable computer media such as thumb drives, flash drives, memory cards, and external hard drives), you should immediately consult with Committee staff to determine the appropriate format in which to produce the information. Documents produced in electronic format should be organized, identified, and indexed electronically in a manner comparable to the organizational structure called for in (6) and (7) above.

10. If any document responsive to this request was, but no longer is, in your possession, custody, or control, or has been placed into the possession, custody, or control of any third party and cannot be provided in response to this request, you should identify the document (stating its date, author, subject and recipients) and explain the circumstances under which the document ceased to be in your possession, custody, or control, or was placed in the possession, custody, or control of a third party.

11. If any document responsive to this request was, but no longer is, in your possession, custody or control, state:

a. how the document was disposed of;
b. the name, current address, and telephone number of the person who currently has possession, custody or control over the document;
c. the date of disposition;
d. the name, current address, and telephone number of each person who authorized said disposition or who had or has knowledge of said disposition.

12. If any document responsive to this request cannot be located, describe with particularity the efforts made to locate the document and the specific reason for its disappearance, destruction or unavailability.

13. If a date or other descriptive detail set forth in this request referring to a document, communication, meeting, or other event is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, you should produce all documents which would be responsive as if the date or other descriptive detail were correct.

14. The request is continuing in nature and applies to any newly discovered document, regardless of the date of its creation. Any document not produced because it has not been located or discovered by the return date should be produced immediately upon location or discovery subsequent thereto.

15. All documents should be bates-stamped sequentially and produced sequentially. In a cover letter to accompany your response, you should include a total page count for the entire production, including both hard copy and electronic documents.

16. Two sets of the documents should be delivered to the Committee, one set to the majority staff in Room 316 of the Ford House Office Building and one set to the minority staff in Room 564 of the Ford House Office Building. You should consult with Committee majority staff regarding the method of delivery prior to sending any materials.

17. In the event that a responsive document is withheld on any basis, including a claim of privilege, you should provide the following information concerning any such document: (a) the reason the document is not being produced; (b) the type of document; (c) the general subject matter; (d) the date, author and addressee; (e) the relationship of the author and addressee to each

other; and (f) any other description necessary to identify the document and to explain the basis for not producing the document. If a claimed privilege applies to only a portion of any document, that portion only should be withheld and the remainder of the document should be produced. As used herein, "claim of privilege" includes, but is not limited to, any claim that a document either may or must be withheld from production pursuant to any statute, rule, or regulation.

18. If the request cannot be complied with in full, it should be complied with to the extent possible, which should include an explanation of why full compliance is not possible.

19. Upon completion of the document production, you should submit a written certification, signed by you or your counsel, stating that: (1) a diligent search has been completed of all documents in your possession, custody, or control which reasonably could contain responsive documents; (2) documents responsive to the request have not been destroyed, modified, removed, transferred, or otherwise made inaccessible to the Committee since the date of receiving the Committee's request or in anticipation of receiving the Committee's request, and (3) all documents identified during the search that are responsive have been produced to the Committee, identified in a privilege log provided to the Committee, as described in (17) above, or identified as provided in (10), (11) or (12) above.

DEFINITIONS

1. The term "document" means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, interoffice and intra-office communications, electronic mail ("e-mail"), instant messages, calendars, contracts, cables, notations of any type of conversation, telephone call, meeting or other communication, bulletins, printed matter, computer printouts, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, power point presentations, spreadsheets, and work sheets. The term "document" includes all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments to the foregoing, as well as any attachments or appendices thereto. The term "document" also means any graphic or oral records or representations of any kind (including, without limitation, photographs, charts, graphs, voice mails, microfiche, microfilm, videotapes, recordings, and motion pictures), electronic and mechanical records or representations of any kind (including, without limitation, tapes, cassettes, disks, computer server files, computer hard drive files, CDs, DVDs, back up tape, memory sticks, recordings, and removable computer media such as thumb drives, flash drives, memory cards, and external hard drives), and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, electronic format, disk, videotape or otherwise. A document bearing any notation not part of the original text is considered to be a separate document. A draft or non-identical copy is a separate document within the meaning of this term.

2. The term "documents in your possession, custody or control" means (a) documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, or representatives acting on your behalf; (b) documents that you have a legal right to obtain, that you have a right to copy, or to which you have access; and (c) documents that have been placed in the possession, custody, or control of any third party.

3. The term "communication" means each manner or means of disclosure, transmission, or exchange of information, in the form of facts, ideas, opinions, inquiries, or otherwise, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether face-to-face, in a meeting, by telephone, mail, e-mail, instant message, discussion, release, personal delivery, or otherwise.

4. The terms "and" and "or" should be construed broadly and either conjunctively or disjunctively as necessary to bring within the scope of this request any information which might otherwise be construed to be outside its scope. The singular includes the plural number, and vice versa. The masculine includes the feminine and neuter genders.

5. The terms "person" or "persons" mean natural persons, firms, partnerships, associations, limited liability corporations and companies, limited liability partnerships, corporations, subsidiaries, divisions, departments, joint ventures, proprietorships, syndicates, other legal, business or government entities, or any other organization or group of persons, and all subsidiaries, affiliates, divisions, departments, branches, and other units thereof.

6. The terms "referring" or "relating," with respect to any given subject, mean anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with, or is in any manner whatsoever pertinent to that subject.

7. The terms “you” or “your” mean and refers to

For government recipients:

“You” or “your” means and refers to you as a natural person and the United States and any of its agencies, offices, subdivisions, entities, officials, administrators, employees, attorneys, agents, advisors, consultants, staff, or any other persons acting on your behalf or under your control or direction; and includes any other person(s) defined in the document request letter.

HAROLD ROGERS
5TH DISTRICT, KENTUCKY

COMMITTEE ON APPROPRIATIONS
CHAIRMAN

Congress of the United States
House of Representatives
Washington, DC 20515–1705

PLEASE RESPOND TO:

WASHINGTON OFFICE:
2406 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515–1705
(202) 225–4601

DISTRICT OFFICES:
551 CLIFTY STREET
SOMERSET, KY 42503
(606) 679-8346 OR
1-800-632-8588

601 MAIN STREET
HAZARD, KY 41701
(606) 439-0794

110 RESOURCE COURT
SUITE A
PRESTONSBURG, KY 41653
(606) 886-0844

July 31, 2013

The Honorable Gina McCarthy
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue NW
Washington, D.C. 20460-0001

RE: Cleanup and Redevelopment of Former AK Steel Coke Plant Site in Ashland, Kentucky

Dear Administrator McCarthy,

I am writing to request your consideration of a recent proposal by Kentucky's Energy and Environment Cabinet (EEC) submitted to the United States Environmental Protection Agency (EPA) to assume the lead role in the characterization and the cleanup of the former AK Steel Coke Plant site in Ashland, Kentucky that is currently under the EPA's regulatory jurisdiction.

In June of 2011, AK Steel Corporation ceased production at this facility. As you may know, during previous inspections at the facility, the EPA identified various environmental issues, including issues related to the Resource Conservation and Recovery Act (RCRA).

The closing of the AK Steel Coke Plant has had a severe impact on the local economy. For the employees and their families, 200 high-paying full-time positions and an additional 150 contract positions were lost. Payroll tax revenues to the city of Ashland were reduced by around $500,000 dollars as a result. The 2010 announcement of the closing came as unemployment had just reached its sustained high due to the broader recession, representing another blow to a region already burdened by joblessness numbers above the national average.

Today, unemployment in many Appalachian counties remains in double digits after these communities saw disproportionately greater job losses in the manufacturing and energy sectors. Since this tract is a site situated on the Ohio River, it is extremely unique with only a small number of similar competing sites in the southeastern United States. Therefore, redeveloping this site in a timely manner is a very high priority for not only the city of Ashland, but the whole of Appalachia.

The Commonwealth of Kentucky EEC is highly motivated and more than capable of addressing the regulatory violations through a program just as rigorous as federal standards under authorization by the EPA. The EEC has the programmatic resources to work toward a timely cleanup to ensure the protection of human health and the environment, and it would mandate the cleanup to be as equally protective as a cleanup conducted within RCRA. I am concerned that federal administration of the RCRA would result in a prolonged and extensive cleanup that could jeopardize the timely redevelopment of the facility and the resultant gains to the region's economy. Therefore, I request that the EPA transfer the enforcement and oversight roles for addressing the environmental issues at the AK facility to the EEC.

I thank you for careful consideration of this request to ensure that an industrial site that is currently vacant and unproductive can be quickly and responsibly restored as an engine for generating economic opportunities in a severely distressed portion of Appalachia. If you have any questions or concerns about this request, please contact Michael Higdon in my office at (202) 225-4601.

Sincerely,

HAROLD ROGERS
Member of Congress

HR:tc

BARBARA A. MIKULSKI, MARYLAND, CHAIRWOMAN

PATRICK J. LEAHY, VERMONT
TOM HARKIN, IOWA
PATTY MURRAY, WASHINGTON
DIANNE FEINSTEIN, CALIFORNIA
RICHARD J. DURBIN, ILLINOIS
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JACK REED, RHODE ISLAND
MARK L. PRYOR, ARKANSAS
JON TESTER, MONTANA
TOM UDALL, NEW MEXICO
JEANNE SHAHEEN, NEW HAMPSHIRE
JEFF MERKLEY, OREGON
MARK BEGICH, ALASKA
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MITCH McCONNELL, KENTUCKY
LAMAR ALEXANDER, TENNESSEE
SUSAN M. COLLINS, MAINE
LISA MURKOWSKI, ALASKA
LINDSEY GRAHAM, SOUTH CAROLINA
MARK KIRK, ILLINOIS
DANIEL COATS, INDIANA
ROY BLUNT, MISSOURI
JERRY MORAN, KANSAS
JOHN HOEVEN, NORTH DAKOTA
MIKE JOHANNS, NEBRASKA
JOHN BOOZMAN, ARKANSAS

CHARLES E. KIEFFER, STAFF DIRECTOR
WILLIAM D. DUHNKE III, MINORITY STAFF DIRECTOR

United States Senate
COMMITTEE ON APPROPRIATIONS
WASHINGTON, DC 20510-6025
http://appropriations.senate.gov

August 2, 2013

The Honorable Gina McCarthy
Administrator
United States Environmental
Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Dear Administrator McCarthy:

This letter is to request an extension of the detail of Ms. Rita Culp of the U.S. Environmental Protection Agency to the Senate Committee on Appropriations effective October 1, 2013 and ending on September 30, 2014. The detailee is requested to assist the Majority staff of the Appropriations Subcommittee on the Interior, Environment and Related Agencies during the fiscal year 2015 appropriations process. The assignment will be on a non-reimbursable basis with the U.S. Environmental Protection Agency continuing to cover Ms. Culp's salary, benefits, and related expenses, including travel, for the duration of the assignment.

Thank you for your consideration of this request.

Sincerely,

Barbara A. Mikulski

BARBARA A. MIKULSKI
Chairwoman

BAM:tc

[illegible]

United States Senate

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

WASHINGTON, DC 20510-6175

August 7, 2013

Barry Breen
Deputy Assistant Administrator
Office of Solid Waste and Emergency Response
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., NW
Washington, DC 20460

Dear Deputy Assistant Administrator Breen:

Thank you for appearing before the Committee on Environment and Public Works on June 27, 2013, at the hearing entitled, "Oversight of Federal Risk Management and Emergency Planning Programs to Prevent and Address Chemical Threats, Including the Events Leading Up to the Explosions in West, TX and Geismar, LA." We appreciate your testimony and we know that your input will prove valuable as we continue our work on this important topic.

Enclosed are questions for you that have been submitted by Senators Boxer, Gillibrand, Vitter, and Crapo for the hearing record. Please submit your answers to these questions by COB August 21, 2013, to the attention of Mara Stark-Alcalá, Senate Committee on Environment and Public Works, 410 Dirksen Senate Office Building, Washington, DC 20510. In addition, please provide the Committee with a copy of your answers via electronic mail to Mara_Stark-Alcala@epw.senate.gov. To facilitate the publication of the record, please reproduce the questions with your responses.

Again, thank you for your assistance. Please contact Grant Cope of the Majority Staff at (202) 224-8832, or Dimitri Karakitsos of the Minority Staff at (202) 224-6176 with any questions you may have. We look forward to reviewing your answers.

Sincerely,

Barbara Boxer
Chairman

David Vitter
Ranking Member

Environment and Public Works Committee Hearing
June 27, 2013
Follow-Up Questions for Written Submission

Questions for Breen

Questions from:

Senator Barbara Boxer

1. Mr. Breen, in 2012, labor, health, and environmental justice groups petitioned the Environmental Protection Agency to update its guidance on the Clean Air Act's "General Duty Clause," which the Agency issued in 2000, to enhance the use of inherently safer technologies.

   Please describe the status of the Environmental Protection Agency's:

   a. Review of this petition;

   b. Timeline for initiating and completing actions to consider and respond to the petition; and

   c. Actions, if any, to require the consideration and use, where feasible, of inherently safer technologies under the Agency's risk management program.

2. Mr. Breen, in 2012, Environmental Protection Agency's National Environmental Justice Advisory Council wrote to EPA saying: "We have already witnessed in countless environmental justice communities what can, and has happened as chemical releases, explosions, fires, train derailments, and refinery releases have wreaked havoc upon local communities...." The Council recommended that EPA use its authorities under section 112(r) of the Clean Air Act to reduce or eliminate such catastrophic risks, where feasible.

   a. Please describe the actions, if any, that the Environmental Protection Agency has taken in response to this recommendation?

   b. Please describe the Environmental Protection Agency's timeline for initiating and completing actions to consider and respond to this recommendation.

3. Mr. Breen, a 2002 Chemical Safety Board report, titled, "Improving Reactive Hazard Management" found an average of five fatalities a year in our nation related to incidents with reactive chemicals, and that more 50% of these incidents involved chemicals that were not covered by the Environmental Protection Agency or Occupational Safety and Health Administration safeguards. Among other issues, the Chemical Safety Board recommended that Environmental Protection Agency's risk management program "explicitly cover catastrophic reactive hazards that have the potential to seriously impact the public."

   a. Please describe the actions, if any, that the Environmental Protection Agency has taken in response to this recommendation?

   b. Please describe the Environmental Protection Agency's timeline for initiating and completing actions to consider and respond to this recommendation.

4. Mr. Breen, a 2011 Chemical Safety Board report, titled, "Public Safety at Oil and Gas Storage Facilities," investigated the safety of oil and gas storage tanks. This report found a lack of fencing, security, or other safety measures had contributed to 44 deaths and 25 injuries related to explosions at these sites (1983 to 2010). The Chemical Safety Board recommended Environmental Protection Agency use its general duty clause authority under the Clean Air Act to enhance safety, including by having owners or operators put signs warning of explosive hazards on or near tanks.

    a. Please describe the actions, if any, that the Environmental Protection Agency has taken in response to this recommendation?

    b. Please describe the Environmental Protection Agency's timeline for initiating and completing actions to consider and respond to this recommendation.

Senator Kirsten Gillibrand

1. In my State, fire destroyed a Columbia County transformer recycling facility in August 2012. Thankfully, no one was killed or seriously injured in this fire, but the immediate aftermath lead to confusion and more questions than answers by local officials. Fire broke out in an area of this facility that had a high concentration PCB-containing oils. There was presence of sodium and toxic chemicals in this facility. West, TX should be a lesson that the danger posed to first responders who respond to a fire call with no prior knowledge of the elements and compounds inside of a facility risk life, property and threaten the environment. My concern remains as to what obligation these companies, handling elements like this, or transporting them to and from their facilities over our roads and rail, have to inform first responders to their presence?

Senator David Vitter

1. Under what authority is EPA relying to try and access CSB investigative materials?

2. Do you agree with EPA's response to Senator Boxer's April 30th letter on the incident in West, TX, that ammonium nitrate fertilizer does not meet the criteria for regulating substances under the Clean Air Act RMP program?

3. Does EPA share information about regulated chemical facilities with other federal agencies responsible for oversight of activities at their sites? What is being done to identify other "outlier" facilities that have a poor compliance record?

4. How does EPA work with local communities and first responders to ensure information the Agency has collected is not only readily available, but in a form easily used by first responders at the local level in response to chemical facility accidents?

5. The "Information and Data Sharing" section of the Memorandum of Understanding ("MOU") between EPA and CSB states:

   "The CSB is an independent, non-enforcement agency. To ensure that during the conduct of an investigation the CSB is not perceived as an extension of a state or federal enforcement investigation, the CSB will not participate in compliance and enforcement activities conducted by other agencies. To avoid duplicative efforts, interviews of witnesses and requests for documents will be conducted or requested jointly as often as possible; the CSB, EPA, the company, or person(s) involved in the investigation may request to proceed separately."

   In your view, is this section of the MOU being properly adhered to?

6. Does the EPA have any plans to issue a regulation to define the scope of the General Duty Clause, as well as a complete list of chemicals of which it covers?

7. What provisions of the CAA Risk Management Plans do you believe are missing or inadequate enough to result in the Agency applying the General Duty Clause?

8. Does EPA have any plans on issuing any guidance or proposing any rule that would mandate the use or consideration of Inherently Safer Technologies?

Senator Mike Crapo

1. On Friday, February 8, 2013, the CSB's lead investigator in the August 6, 2012, fire at the Chevron refinery in Richmond, CA, was served with a federal grand jury subpoena that demanded his testimony as well as the production of "all notes, audio recordings, and transcripts of every interview conducted in furtherance of the U.S. Chemical Safety and Hazard Investigation Board's accident investigation."

   The subpoena is the result of an EPA criminal investigation overseen by Special Agent Amy Adair of the EPA's Criminal Investigation Division (CID) in San Francisco.

   What type of "chilling effect" will this have on the relationship between CSB and EPA?

2. It is my understanding that The CSB relies on goodwill to obtain the bulk of its witness statements, which are conducted voluntarily. If witnesses are aware that their statements are easily obtained for criminal investigations, they will be very reluctant to voluntarily speak with our investigators.

   a. Would you agree or disagree with this statement?

   b. How are the goals of each agency (CSB & EPA) different?

<u>Questions on first responders to accidents:</u>

3. What type of changes would EPA propose to get first responders hazard information that can help them perform their jobs?

4. How does the public "right to know" conflict with important information given to first responders?

5. How do you incorporate first responder input? What emphasis do you suggest on building relationship between stakeholders instead of information data dumps?

6. What educational outreach and training programs has EPA proposed to first responders and industry as a result of West and other industry accidents?

7. Has EPA talked to first responder as to their needs for reporting information, post the West, Texas accident?

<u>In his testimony, Richard Webre, the Director of OHSEP proposes many changes to current EPCRA laws and enforcement.</u>

8. Which recommendations do you support? (page 5 of Webre testimony)

9. EPA has a robust enforcement agenda in protecting the environment, how much money is directed toward enforcement efforts? And how much is afforded for outreach efforts?

10. Do you find, given this discrepancy, the stick is more effective than the carrot? How can EPA rectify this challenge?

11. Has EPA reached out to industry and first responder partners in outreach material? If no, why not? Do you have a timeline for action?

12. Are you aware of the Agriculture Retailers Association's Fertilizer Code of practice that is currently addressing the challenges faced with fertilizer storage and handling? How can government leverage this knowledge?

13. What progress have you made with other agencies like OSHA, DHS, CSB, DOT in outreach efforts? Is there a tangible product resulting from these talks? Is there a timeline?

14. Will there be more information sharing? How will this be achieved?

BARBARA BOXER
CALIFORNIA

COMMITTEES:
COMMERCE, SCIENCE, AND TRANSPORTATION
ENVIRONMENT AND PUBLIC WORKS
FOREIGN RELATIONS
SMALL BUSINESS AND ENTREPRENEURSHIP
SELECT COMMITTEE ON INTELLIGENCE

United States Senate

HART SENATE OFFICE BUILDING
SUITE 112
WASHINGTON, DC 20510-0505
(202) 224-3553
http://boxer.senate.gov

September 16, 2013

Ms. Laura Vaught
Associate Admnistrator for Congressional and Intergovernmental Relations
Environmental Protection Agency
1200 Pennsylvania Avenue NW Room 3426 Arn
Washington, DC 20460-0001

Dear Ms. Vaught:

Enclosed, please find a copy of the correspondence Senator Boxer received from (b) (6) [redacted] h [redacted] regarding the difficulty he is experiencing with the Environmental Protection Agency.

I am forwarding the attached for your review and consideration. Any information you can provide in response to the concerns expressed by (b) (6) [redacted] will be most appreciated.

Thank you for your assistance in this matter. Please respond to Senator Boxer's Oakland office, attention: Madeline Peare.

Sincerely,

Eric [redacted]
Director of Constituent Services

EJV:mp
Enclosure
cc: (b) (6) [redacted] (b) (6) [redacted]

1700 MONTGOMERY STREET
SUITE 690
SAN FRANCISCO, CA 94111
(415) 403-0100

2500 TULARE STREET
SUITE 2-069
FRESNO, CA 93721
(559) 485-7430

501 I STREET
SUITE 7-600
SACRAMENTO, CA 95814
(916) 448-2787

2500 TULARE STREET
SUITE 8290
FRESNO, CA 93721
(559) 497-5109

600 B STREET
SUITE 2050
SAN DIEGO, CA 92101
(619) 231-9712

PRINTED ON RECYCLED PAPER

United States Senator Barbara Boxer

PRIVACY ACT CONSENT FORM

The provisions of Public Law 93-579 (Privacy Act of 1974) prohibit the disclosure of information of a personal nature from the files of an individual without their consent.

Accordingly, I authorize the staff of Senator Barbara Boxer to access any and all of my records that relate to the problem stated below.

Signature: [signature] Date: JULY 31, 2013 (31)

To begin processing your case, please complete all of the following information:

Circle One: (Mr.) Mrs. Miss Ms.
First Name: [redacted]
Last Name: ODENKIRK
Date of Birth: [redacted] (b) (6)
Social Security Number: (b) (6) [redacted]

Address: (b) (6) [redacted] YACHT YANKEE
City: N (b) (6) [redacted]
State: C [redacted]
Email: J [redacted] com
Phone Num [redacted]

Federal agency with which you need help: EPA

Briefly explain the problem or the information desired* (attach additional pages if necessary):
I DISCOVED ON JULY 28, 2013 THAT ONE OF MY PUBLICATIONS WAS NOT PROPERLY CITED TO ON THE EPA WEBSITE. IN RETURN, I RECEIVED AN UNPROFESSIONAL AND BELITTLING RESPONSE BACK FROM MR. MICHAEL GILL OF USEPA REGION 9 ON JULY 30, 2013. I WOULD APPRECIATE THAT MY CONCERN OF IMPROPER CITATION BE RECTIFIED IMMEDIATELY. AS A CITIZEN OF THE USA, I EXPECT THAT A GOVERNMENT AGENCY WOULD ACT ON CONCERNS EXPRESSED BY PROFESSIONALS IN THE BUSINESS WORLD WHO WORKS HARD AT PRESERVING THEIR REPUTATION AND STATUS IN THE BUSINESS WORLD.

Please include copies of any relevant documentation related to your request as attachments to this form. SEE ATTACHED. 10 pgs
THANK YOU (10)

Also include the following information if appropriate.

IMMIGRATION:	OTHER:	MILITARY:
Alien Registration#:	EEO Charge #:	Branch of Service:
Priority Date:	EEOC Charge #:	Rank:
Form #:	Student Lender Name:	VA File Number:
Date filed:	OPM CSA #:	VA Office or Medical Center:
USCIS Receipt#:		
Embassy Case #:		

Please list any other Congressional offices that you have contacted about this issue:

Print and mail your completed form to Senator Barbara Boxer's Oakland office at:

Attention: Casework Department
United States Senator Barbara Boxer
70 Washington Street, Suite 203
Oakland, California 94607
Fax: 202.228.6866
(Despite containing a Washington D.C. area code, faxes sent to the above fax line will be received in Oakland)

Relevant Documentation Summary for Senator Barbara Boxer's Office

July 31, 2013

(b) (6) [redacted]:

1. EPA Website of Interest- http://www.epa.gov/superfund/remedytech/tsp/download/2012_spring_meeting/eng_thurs/1_beacon_presentation--epa_ts1p.pdf and Two Pages Therefrom pages 1 and 32 of 38 total
2. Email History July 28-30, 2013: to EPA Administrator and Assistant Administrator from Joe Odencrantz-July 30, 2013 at 6:19PM[1]; to Michael Gill from Joe Odencrantz- July 30, 2013 at 4:28PM&4:23PM; ****(b) (6) [redacted] (July 30, 2013 4:06PM)**KEY* and marked with red sticker ;** from (b) (6) [redacted]-July 30, 2013 at 9:19AM; from (b) (6) [redacted] (July 28, 2013 10:16PM)-**original**
3. Email from/t(b) (6) [redacted] -July 31, 2013: 8:28AM&8:49AM
4. Email from/t(b) (6) [redacted]tz- July 31, 2013: 9:31AM&9:39AM

Note [1]: I have yet to hear from either EPA Administrator Gina McCarthy or Assistant Administrator Craig Hooks (RE: I know you are both very busy with very important positions, however, I would appreciate a response as to the behavior of (b) (6) and action on my initial request.)

(1)

http://www.epa.gov/superfund/remedytech/tsp/download/2012_spring_meeting/eng_thurs/1_beacon_presentation--epa_ts1p.pdf

See page 1 & 32 of 38

from link above on

July 31, 2013

BEACON ENVIRONMENTAL SERVICES INC.

Passive Soil Gas Sampling:
A Cost Effective Approach to Identify Source Areas and Vapor Intrusion Pathways, Delineate Contaminant Plumes, and Optimize Remediation Systems

Presented to:

U.S. EPA Technical Support Project

By:
Harry O'Neill
Beacon Environmental Services, Inc.

May 3, 2012

BEACON ENVIRONMENTAL SERVICES INC.

Case Study – Findings

Findings:

- PSG data for PCE ranged from non detects to 29,117 ng
- Sources of PCE releases were identified
- PCE measurement of 29,117 ng equated to 17,000 ug/L in gw
- PSG data identified migration pathways from source areas to impacted monitoring well – plumes commingled
- PCE measurement of 125 ng equated to 6.8 ug/L in gw – SENSITIVE METHOD

> ***Client Stated:*** *"The PSG survey proved to be a cost-effective method to identify the source areas and the extent of the PCE plume. A minimal number of soil borings to collect grab groundwater samples was required to confirm the results of the passive soil vapor survey, thus minimizing costs."*

Reference: Clarke, et al, *Preliminary Investigation of a Perchloroethylene (PCE) Groundwater Plume using a Passive Soil Gas Survey*, **2008, REMEDIATION, Wiley Periodicals, Vol. 18, No. 4.**

Joe Odencrantz

From: [redacted]>
Sent: Tuesday, July 30, 2013 6:19 PM
To: 'Hooks.craig@Epa.gov'; 'McCarthy.gina@Epa.gov'
Cc: 'jodencrantz@tri-s.com'; 'homeoffice@tri-s.com'
Subject: Inappropriate Behavior of Mr [redacted], ORD Superfund and Technology Liaison, US EPA Region 9

Dear Assistant Administrator Craig E. Hooks and Administrator Gina McCarthy:

Please allow me to introduce myself. My name i[redacted]. and I am experienced civil&environmental engineer who is a practicing environmental and water consultant in California since 1990. I own a small, private consulting firm where we specialize in litigation projects for a variety of clientele and I am a respected expert in the field.

I received an inappropriate message this afternoon from M[redacted]D Superfund and Technology Liaison, US EPA Region 9 / SFD-84, that I would like to express my disappointment with to you both. You can find the details below and my reaction to being belittled, etc. by a government employee in a professional capacity.

I know you are both very busy with very important positions, however, I would appreciate a response as to the behavior of Mr.[redacted] on my initial request.

Very truly yours,

[redacted]

[redacted]
Principal
[redacted]
jodencrantz@tri-s.com
www.tri-s.com
[redacted]

"One World, One Environment"

CONFIDENTIALITY NOTICE

THE INFORMATION CONTAINED IN THIS E-MAIL MESSAGE IS INTENDED ONLY FOR THE PERSONAL AND CONFIDENTIAL USE OF THE DESIGNATED RECIPIENT(S) NAMED ABOVE. IF THE READER OF THIS MESSAGE IS NOT THE INTENDED RECIPIENT OR ANY AGENT RESPONSIBLE FOR DELIVERING IT TO THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT YOU HAVE RECEIVED THIS MESSAGE IN ERROR AND THAT ANY REVIEW, DISSEMINATION, DISTRIBUTION, OR COPYING OF THIS MESSAGE IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE NOTIFY ME IMMEDIATELY BY REPLYING TO THE MESSAGE AND DELETE THE ENTIRE MESSAGE FROM YOUR E-MAIL SYSTEM WITHOUT PRINTING ANY COPIES OR FORWARDING IT. THANK YOU.

From: [redacted] [mailto:jodencrantz@tri-s.com]
Sent: Tuesday, July 30, 2013 4:28 PM
To: [redacted]'

Cc: (b) (6) [redacted]
Subject: FW: U.S. EPA Technical Support Project Spring Meeting May 3, 2012 Correction Request: One more thing

For you to suggest "We cannot be changing peoples' presentations without their permission." is ridiculous. I did nothing of the sort. Here is what I wrote:

"I would greatly appreciate it if you or someone else (publications coordinator/leader of the 2012 Spring Meeting) at the EPA instruct the Mr. O'Neill to either remove that reference from the slide or correct it to include ALL others (and upload the corrected version to your/the EPA website). If not, I will be left with no choice but to contact the publisher."

Please be more professional in your future dealings with me.

(b) (6) [redacted]

From: (b) (6) [redacted]]
Sent: Tuesday, July 30, 2013 4:23 PM
To: (b) (6) [redacted]
Subject: RE: U.S. EPA Technical Support Project Spring Meeting May 3, 2012 Correction Request

Hello (b) [redacted]:

Doing great thanks. It is not clear who to contact on the website or the "right folks". How is one to know your supervisor has "nothing to do with the TSP meeting"? To use "that said" has implications that I do not appreciate. I did my best to address the issue and could not find the right person. It is inappropriate to belittle me.

Easy for you to suggest it is incumbent on me to work with Harry. We had a falling out for he did not honor a partnership agreement.

If you can let me know who the rights folks are, I will contact them directly.

Thank you,
(b) (6) [redacted]

From: (b) (6) [redacted]
Sent: Tuesday, July 30, 2013 4:06 PM
To: (b) (6) [redacted]
Cc: (b) (6) [redacted]
Subject: RE: U.S. EPA Technical Support Project Spring Meeting May 3, 2012 Correction Request

Hello Joe,

How are you? Hope things are well. Regarding this paper (b) (6) [redacted] y is my supervisor, but has absolutely nothing to do with the TSP meeting or posting the material from it. Not sure why you approached her. That said, I did go to the meeting and remember attending that talk by (b) [redacted] If you can get an updated version of the material, I can try and get it posted by talking to the right folks. We cannot be changing peoples' presentations without their permission. I think it is incumbent upon you to work with H (b) [redacted] and get a new version to us (EPA) for posting. Get back in touch and I'll do my best.

Regards,

Mike

(b) (6) [redacted]

(b) (6) [redacted]:jodencra[redacted]]
Sent: Tuesday, July 30, 2013 9:19 AM
To: (b) (6) [redacted]
Subject: FW: U.S. EPA Technical Support Project Spring Meeting May 3, 2012 Correction Request

Good Morning (b) (6) [redacted]:

It has been a few years and hope all is well. I am very active with my Tri-S Environmental firm now, as I have been for the last 19+ years, with primarily litigation support projects.

I thought I would forward the email below to you for I have yet to hear back from Ms. Lavay. I would appreciate some attention from someone involved with the referenced meeting.

Thank you for your attention and hope things are going well for you,

(b) (6) [redacted]

(b) (6) [redacted]

"One World, One Environment"

CONFIDENTIALITY NOTICE

[illegible]

From: (b) (6) [redacted] n]
Sent: Sunday, July 28, 2013 10:16 PM
To: (b) (6) [redacted]
[redacted] l Support Project Spring Meeting May 3, 2012 Correction Request

Dear (b) (6) [redacted] y:

It has just come to my attention today that Mr (b) (6) [redacted] left my name on a paper I am a co-author on that appears on the epa.gov website here:
http://www.epa.gov/superfund/remedytech/tsp/download/2012_spring_meeting/eng_thurs/1_beacon_presentation--epa_ts1p.pdf

If you go to page 32 (bottom) you will see the following reference: Reference: **Clarke, et al, Preliminary Investigation of a Perchloroethylene (PCE) Groundwater Plume using a Passive Soil Gas Survey , 2008, REMEDIATION, Wiley Periodicals, Vol. 18, No. 4.**

Note that Clarke, et al is not defined in the remainder of the document and the "et al" should be defined in any publication so that ALL authors are credited. I have had to point a similar issue in the past to Mr. Harry O'Neill.

The true reference to the peer-reviewed journal article is as follows:

Clarke, J.N., D. Goodwin, H.O`Neill and Odencrantz, J.E.. 2008. Application of Passive Soil Gas Technology to Determine the Source and Extent of a PCE Groundwater Plume in an Urban Environment, The Journal of REMEDIATION, Wiley Periodicals, Inc., Vol. 18., No. 4, pp. 55-62.

I would greatly appreciate it if you or someone else (publications coordinator/leader of the 2012 Spring Meeting) at the EPA instruct the Mr. O'Neill to either remove that reference from the slide or correct it to include ALL others (and upload the corrected version to your/the EPA website). If not, I will be left with no choice but to contact the publisher.

Thank you very much,
(b) (6) [redacted] z

[redacted]
(b) (6)
(b) (6)

"One World, One Environment"

CONFIDENTIALITY NOTICE:

THE INFORMATION CONTAINED IN THIS E-MAIL MESSAGE IS INTENDED ONLY FOR THE PERSONAL AND CONFIDENTIAL USE OF THE DESIGNATED RECIPIENT(S) NAMED ABOVE. IF THE READER OF THIS MESSAGE IS NOT THE INTENDED RECIPIENT OR ANY AGENT RESPONSIBLE FOR DELIVERING IT TO THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT YOU HAVE RECEIVED THIS MESSAGE IN ERROR AND THAT ANY REVIEW, DISSEMINATION, DISTRIBUTION, OR COPYING OF THIS MESSAGE IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE NOTIFY ME IMMEDIATELY BY REPLYING TO THE MESSAGE AND DELETE THE ENTIRE MESSAGE FROM YOUR E-MAIL SYSTEM WITHOUT PRINTING ANY COPIES OR FORWARDING TO ANYONE. THANK YOU.

3

(b) (6) [redacted]

From: (b) (6) [redacted] >
Sent: Wednesday, July 31, 2013 8:49 AM
To: (b) (6) [redacted] (b) (6) [redacted]
Subject: RE: U.S. EPA Michael Gill

Please do not call or write me in the future. There is no misunderstanding and you made yourself perfectly clear yesterday. I am feeling harassed and bullied by you at this point (b) (6) [redacted]

From: (b) (6) [redacted]]
Sent: Wednesday, July 31, 2013 8:28 AM
To: (b) (6) [redacted]
Cc: (b) (6) [redacted]
Subject: RE: U.S. EPA Technical Support Project Spring Meeting May 3, 2012 Correction Request: One more thing

Hello Joe,
I tried both of your phone numbers and was able to leave a message on second one listed below. Please give me a call at your convenience.
Mike

Mike Gill
ORD Superfund and Technology Liaison
US EPA Region 9 / SFD-84
75 Hawthorne Street
San Francisco, CA 94105
415-972-3054
415-947-3520 (Fax)
Gill.Michael@epa.gov

From: (b) (6) [redacted]]
Sent: Tuesday, July 30, 2013 4:28 PM
To: (b) (6) [redacted]
Cc: (b) (6) [redacted]
Subject: FW: U.S. EPA Technical Support Project Spring Meeting May 3, 2012 Correction Request: One more thing

For you to suggest "We cannot be changing peoples' presentations without their permission." is ridiculous. I did nothing of the sort. Here is what I wrote:

"I would greatly appreciate it if you or someone else (publications coordinator/leader of the 2012 Spring Meeting) at the EPA instruct the Mr. O'Neill to either remove that reference from the slide or correct it to include ALL others (and upload the corrected version to your/the EPA website). If not, I will be left with no choice but to contact the publisher."

Please be more professional in your future dealings with me.

(b) (6) [redacted]

4

(b) (6) [redacted]

From: (b) (6) [redacted]>
Sent: Wednesday, July 31, 2013 9:39 AM
To: (b) (6) [redacted]
Subject: RE: U.S. EPA(b) (6) [redacted]

Please do not contact me again. I do not approve of your use of exclamation points throughout.
I know you read his message to me yesterday and are clearly covering from his unprofessionalism.
I have dealt with this matter with others.

From: (b) (6) [redacted]
Sent: Wednesday, July 31, 2013 9:31 AM
To: (b) (6) [redacted]
Subject: FW: U.S. EPA(b) (6) [redacted]

Dear Mr.(b) (6) [redacted],

I do apologize for a late return. Your original email was sent to me on Sunday night, I was out of the office on Monday and had back to back meetings on Tuesday!

I have been reading the past couple of email exchanges and am sorry for the misunderstanding that Mike might have been unprofessional or his attempts to belittle you! He simply had responded the fact that he won't be able to change a presenter's slides and needed clarification both from you and Mr(b) (6) [redacted].

I am sorry that you are feeling harassed but he was trying to follow up with you, not only to clarify his intent but to also suggest a conference call between you and Mr.(b) (6) [redacted] to correct and clarify the citation!

We are still willing to assist you with your request if you wish to follow up with (b) [redacted].

Best,
(b) (6) [redacted]

****
(b) (6) [redacted]
[redacted]
(b) (6) [redacted]
(b) (6) [redacted]

From: (b) (6) [redacted]
Sent: Wednesday, July 31, 2013 11:49 AM
To: (b) (6) [redacted]
Cc: (b) (6) [redacted]
Subject: RE: U.S. EPA(b) (6) [redacted]

Please do not call or write me in the future. There is no misunderstanding and you made yourself perfectly clear yesterday. I am feeling harassed and bullied by you at this point.(b) (6) [redacted]

BARBARA A. MIKULSKI
MARYLAND

United States Senate

WASHINGTON, DC 20510-2003

September 25, 2013

Laura Vaught
Associate Administrator for Congressional and Intergovernmental Relations
Environmental Protection Agency
1200 Pennsylvania Avenue, NW, Room 3426 ARN
Washington, DC 20460

Dear Associate Administrator Vaught;

I am writing to request your immediate consideration of a correspondence from my constituent (b) (6) [redacted], Vice President of AINS, Inc.

He has expressed concerns that the Environmental Protection Agency (EPA) has over 200 unused licenses for FOIAXpress, an AINS product that facilitates the processing of Freedom of Information Act and Privacy Act request. AINS has suggested a willingness to modify annual maintenance fees in order to ensure that FOIAXpress licenses are used. Mr. (b) (6) [redacted] believes that the re-deployment of FOIAXpress is an appropriate and economical choice for the EPA.

I have enclosed a copy of the correspondence sent to my office.

I believe this Mr. (b) (6) [redacted] suggestions warrant your consideration. Please provide me with a response, sent to (b) (6) [redacted], a member of my staff, in my Washington office at the above address.

Thank you for your consideration. I look forward to hearing from you.

Sincerely,

Barbara A. Mikulski
United States Senator

AINS

24 September 2013

Dear Senator Mikulski:

I am writing in regards to the implementation and use of FOIAXpress by the Environmental Protection Agency and how it can help save the agency money while improving its overall FOIA case processing performance.

For the past twenty-four years, AINS, Inc., has provided software products and services to numerous federal government departments and agencies. In fact, FOIAXpress is the most comprehensive commercial application for processing Freedom of Information Act requests.

Deployed at over 200 Federal agencies and offices with over 10,000 end-users, FOIAXpress is used to accomplish a number of objectives, including improved FOIA request productivity, reduction in FOIA processing costs, improved government transparency and requestor satisfaction, avoidance and mitigation of FOIA litigation-related costs, and utilization of the Internet to enable online FOIA requests and tracking through agency web portals.

EPA currently owns 266 licenses of FOIAXpress that are not currently being used. The EPA Office of Environmental Information caused to be developed a solution known as FOIAonline, which eventually may provide *some* of the same functionality as FOIAXpress. However, published reports indicate that the annual expense for using FOIAonline by the EPA may exceed $750,000 per year.

AINS is willing to modifying the EPA's annual maintenance fees to less than $75,000 thereby saving the EPA approximately $2 Million over three years - funds that can be allocated towards the Climate Action Plan to cut carbon emissions and continue to enhance and enforce the Clean Air Act.

I am confident that the re-deployment of FOIAXpress will be a successful cost saving decision for the EPA. I would appreciate you reviewing this matter and advising me of your findings.

Thank you for your assistance.

Sincerely,

(b) (6) [redacted]
(b) (6) [redacted]
(b) (6) [redacted]
Vice President
AINS
(b) (6) [redacted]

(b) (6) [redacted]

BARBARA BOXER, CALIFORNIA, *CHAIRMAN*

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United States Senate

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS
WASHINGTON, DC 20510-6175

September 26, 2013

The Honorable Gina McCarthy
Administrator
Environmental Protection Agency
William Jefferson Clinton Federal Building
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Dear Administrator McCarthy,

I write to bring to your attention news reports about a serious problem in the Southern California community of University Park, where residents are experiencing powerful chemical odors and are suffering from dizziness, headaches, and nosebleeds. Residents have lodged hundreds of complaints about these odors and California air pollution control officials have cited expanded urban oil and gas operations in this community for violations of state law.

Other California communities, including Baldwin Hills, Culver City and Whittier, have also raised concerns about pollution and other harmful impacts from expanded operations in nearby urban oil and gas fields. I have attached a recent article from the *Los Angeles Times* that describes these problems in detail.

I ask that you ensure that the Environmental Protection Agency (EPA) immediately address these unacceptable situations using all available and appropriate authorities.

My staff has already contacted EPA regional and state officials to request quick action to address this serious matter.

I request that you respond to this letter by September 30th describing the steps EPA will take to ensure the safety of local residents.

Sincerely,

Barbara Boxer
Chairman

PRINTED ON RECYCLED PAPER

Chemical odor, kids' nosebleeds, few answers in South L.A. neighborhood

An oil pumping operation in South L.A., newly ramped up after years of dormancy, has neighbors worried despite officials' assurances.

By Louis Sahagun

September 21, 2013 12:00 p.m.

Monic Uriarte says she began having headaches and bouts of dizziness three years ago, about the time she and her neighbors began smelling a chemical odor on the streets and in their homes.

Then Uriarte's 9-year-old daughter and other children in the University Park neighborhood of South Los Angeles began suffering from recurring nosebleeds and respiratory ailments.

After a little sleuthing, Uriarte and others traced the smell to property shielded from the neighborhood by a 12-foot-high, ivy-covered wall. Behind it, on land leased from the Catholic Archdiocese of Los Angeles, Allenco Energy Inc. had ramped up production from an oil field by more than 400% — from 4,178 barrels in 2009 to 21,239 in 2010, according to the state Division of Oil, Gas & Geothermal Resources.

Residents of the low-income community complained to state air quality officials 251 times over the next three years — up from just eight complaints from University Park in 2008-09. The South Coast Air Quality Management District responded by issuing 15 citations against Allenco for foul odors.

The district insists that based on its air sampling, the odors are harmless and pose no health risk. Instead, the issue "boils down to incompatible zoning decisions," said Mohsen Nazemi, the district's deputy field officer for engineering and compliance.

James Dahlgren, a toxicology expert and former assistant professor of clinical medicine at UCLA, does not agree. Dahlgren is investigating the complaints of illness on behalf of the Esperanza Community Housing Corp., which uses public and private funds to build affordable housing projects in the University Park area.

Dahlgren said the odors cannot be dismissed as harmless. "If you can smell it, it's not safe," he said. "These people are experiencing symptoms."

Allenco refused to comment about its operation.

University Park is not alone in its concerns about living near newly invigorated wells. High prices for crude oil and new extraction technologies are driving a revival of urban oil fields across Southern California. Some neighborhoods are pushing back.

In Baldwin Hills, residents near the Inglewood Oil Field want to know if structural damage to their homes was caused by drilling. In Culver City, a venting of fumes over homes triggered a class-action lawsuit. In Whittier, residents are fighting plans to resume oil production on land set aside as a nature sanctuary.

"We're seeing people beginning to demand more action from regulatory agencies and industry when it comes to their health and safety," said Angela Johnson Meszaros, general counsel with the Los Angeles chapter of Physicians for Social Responsibility. "They're tired of being told that everything is fine."

The Allenco site is about half a mile north of the USC campus, surrounded by affordable housing projects and schools, including the Doheny Campus of Mount St. Mary's College. The site was given to the archdiocese in the 1950s by descendants of Edward L. Doheny, one of Los Angeles' early oil barons.

Today, Allenco's operations are kept behind brick walls, shaded by oak trees and fringed with manicured lawns.

U.S. Energy Department records show that all 21 wells at the site had been idled in the 1990s because of low oil prices and calcification. As part of a project cosponsored by the Energy Department, hydrochloric and phosphoric acid was used to unplug five of the wells in 2005. California records show that seven to 10 wells are now active.

Signs on gates at the site provide emergency telephone numbers but no information about the nature of the facility. Behind the walls, the roughly two-acre site bristles with pipes, tanks and gauges. The pumps are beneath the surface.

A sign inside the walls warns: "Danger: H2S. Poisonous Gas." No such signs are posted outside the site, which is a few yards from schools and homes.

H2S is hydrogen sulfide, a colorless, flammable gas that occurs naturally in petroleum and natural gas. Exposure to it triggers symptoms consistent with some of the complaints from the neighborhood. Repeated exposure can cause severe eye and respiratory irritation, headache, dizziness and vomiting, according to the federal Occupational Safety and Health Administration.

(b) (6) [redacted], a spokesman for the air quality management district, said the agency has taken three air samples at the Allenco site and in the surrounding neighborhood. The samples, all from 2011, showed extremely low levels of H_2S, and low levels of other noxious gases such as carbonyl sulfide.

However, a sample taken from a wastewater tank discharge line on Aug. 29, 2011, detected levels of hydrocarbons from volatile petroleum products that were 10,000 times higher than ambient levels, according to air quality district lab reports. Although some hydrocarbons are toxic, the analyses did not identify the hydrocarbons in the sample or determine how long they had been leaking into the air.

Separately in 2011, the air district ordered Allenco to pay to move Mount St. Mary's College air-conditioning intake vents that were near the oil site. Students and faculty had complained that foul odors from the vents lingered for hours in classrooms.

The air district did not notify the neighborhood about the change because the odors "were never considered a health threat (i.e. one that could cause permanent harm)," Atwood said in a written statement.

"Foul odors can be extremely objectionable, cause symptoms such as headaches and nausea and significantly impact residents' quality of life, especially if they are present on an ongoing basis," Atwood wrote. "That's why SCAQMD takes complaints of foul odors seriously."

The executive director of the air quality management district, Barry Wallerstein, ventured to the Allenco site last week for a brief visit and a personal sniff test.

"I was there for about 20 minutes and I had a hard time detecting anything in the air," Wallerstein said. Nonetheless, he added, "I'm going to ask our staff to take more air samples. I am also going to set up and attend a community meeting."

As concerns mount, some residents have decided to move away. Sabino Valencia, a 37-year-old machinist, has lived in the neighborhood for 22 years but doesn't think it's safe anymore for his five children. Two of them have nosebleeds nearly every day, he said.

"My doctor says my sons' nosebleeds may be happening because we live across the street from that oil field," Valencia said. "We have friends around here whose children also suffer from nosebleeds."

On a recent Wednesday night as the family was preparing for bed, Sabino's 21/2–year-old son Jonathan had a nosebleed that dripped on the living room floor.

Uriarte's daughter, now 12, also still suffers from nosebleeds.

"Something is wrong in our neighborhood," Uriarte said. "We want answers."

louis.sahagun@latimes.com

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FRED UPTON, MICHIGAN
CHAIRMAN

HENRY A. WAXMAN, CALIFORNIA
RANKING MEMBER

ONE HUNDRED THIRTEENTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON ENERGY AND COMMERCE

2125 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515–6115
Majority (202) 225-2927
Minority (202) 225-3641

September 26, 2013

The Honorable Gina McCarthy
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, D.C. 20460

Dear Administrator McCarthy:

Pursuant to Rules X and XI of the United States House of Representatives, we seek information to help the Committee examine the development and use of estimates for the Social Cost of Carbon (SCC). These controversial estimates are currently being used by federal agencies to place dollar values on the potential climate damages purportedly avoided by carbon dioxide reduction in regulatory actions, with measurements of such effects extending hundreds of years into the future. The implications of quantifying future impacts raises serious questions about how federal agencies are developing these estimates to advance rulemaking.

We write following informal efforts by Committee staff this past August to schedule briefings with certain federal agencies that were listed in a Technical Support Document as participating in an "Interagency Working Group on the Social Cost of Carbon." According to that document, this interagency group was comprised of offices within the Executive Office of the President and a number of federal agencies, including the Environmental Protection Agency (EPA), and the Departments of Agriculture, Commerce, Energy, Transportation, and Treasury. We requested these briefings to learn how these agencies developed SCC estimates and about their specific roles in the interagency working group, which has periodically worked since 2009 to develop a common value for SCC for use across the government in climate-related activities and regulatory actions.

The agencies contacted by Committee staff have not accommodated our requests for briefings. Based on the agencies' responses, it seems agency officials were not fully aware of how their department participated in the working group, or they were reluctant to brief staff on specific details of their agency's participation without first coordinating with other participants in the interagency working group. For example, the Department of Commerce has informed the Committee that it had not had any involvement in the interagency working group since 2010 and was "unaware of any DOC work product that was produced as a result of this collaboration or contributed to the working group." The Department of the Treasury has thus far not identified the appropriate office to brief Committee staff or responded with a briefing date. Similarly, the

Department of Agriculture has not responded to the Committee's briefing request. Initially, the Department of Energy agreed to brief Committee staff but only with EPA participating; later, the Department of Energy explained that it could not provide that briefing until it resolved questions from the interagency group about the scope of the briefing.

The response of the federal agencies to our briefing requests has generated additional questions concerning the contributions of those agencies to the interagency group and the quality of that process. Therefore, we write today to formalize our request for specific information about your agency's role in developing SCC estimates, both within your agency, and for the interagency group. Accordingly, we request that you schedule a briefing for Committee staff to occur no later than October 11. In addition, we request that you provide written answers to the following questions no later than October 11:

1. Please provide a written description of your agency's work on SCC and its participation in any interagency process on the subject.

2. Please identify the staff and offices within your agency that were involved with SCC estimate development and who managed the process both at your agency and for the interagency group.

3. Please identify what records your agency maintained relating to your agency's involvement or participation in the development of SCC. This request would include memoranda, analyses, papers, drafts, and any schedules, agendas, calendars, or appointment or scheduling requests relating to SCC and the interagency working group.

4. Please identify whether your agency consulted with any third parties, including individuals or entities outside the federal government, regarding your agency's work on SCC.

If you have any questions regarding this request, please contact Sam Spector or Peter Spencer with the Committee staff at (202) 225-2927.

Sincerely,

Fred Upton
Chairman

Tim Murphy
Chairman
Subcommittee on Oversight and Investigations

Joe Barton
Chairman Emeritus

John Shimkus
Chairman
Subcommittee on Enviroment and the Economy

Ed Whitfield
Chairman
Subcommittee on Energy and Power

Michael C. Burgess
Vice Chairman
Subcommittee on Oversight and Investigations

Marsha Blackburn
Vice Chairman

Enclosure

cc: The Honorable Henry A. Waxman, Ranking Member

The Honorable Diana DeGette, Ranking Member
Subcommittee on Oversight and Investigations

The Honorable Paul Tonko, Ranking Member
Subcommittee on Environment and the Economy

The Honorable Bobby Rush, Ranking Member
Subcommittee on Energy and Power

RESPONDING TO COMMITTEE DOCUMENT REQUESTS

In responding to the document request, please apply the instructions and definitions set forth below:

INSTRUCTIONS

1. In complying with this request, you should produce all responsive documents that are in your possession, custody, or control or otherwise available to you, regardless of whether the documents are possessed directly by you.

2. Documents responsive to the request should not be destroyed, modified, removed, transferred, or otherwise made inaccessible to the Committee.

3. In the event that any entity, organization, or individual named in the request has been, or is currently, known by any other name, the request should be read also to include such other names under that alternative identification.

4. Each document should be produced in a form that may be copied by standard copying machines.

5. When you produce documents, you should identify the paragraph(s) and/or clause(s) in the Committee's request to which the document responds.

6. Documents produced pursuant to this request should be produced in the order in which they appear in your files and should not be rearranged. Any documents that are stapled, clipped, or otherwise fastened together should not be separated. Documents produced in response to this request should be produced together with copies of file labels, dividers, or identifying markers with which they were associated when this request was issued. Indicate the office or division and person from whose files each document was produced.

7. Each folder and box should be numbered, and a description of the contents of each folder and box, including the paragraph(s) and/or clause(s) of the request to which the documents are responsive, should be provided in an accompanying index.

8. Responsive documents must be produced regardless of whether any other person or entity possesses non-identical or identical copies of the same document.

9. The Committee requests electronic documents in addition to paper productions. If any of the requested information is available in machine-readable or electronic form (such as on a computer server, hard drive, CD, DVD, back up tape, or removable computer media such as thumb drives, flash drives, memory cards, and external hard drives), you should immediately consult with Committee staff to determine the appropriate format in which to produce the information. Documents produced in electronic format should be organized, identified, and indexed electronically in a manner comparable to the organizational structure called for in (6) and (7) above.

10. If any document responsive to this request was, but no longer is, in your possession, custody, or control, or has been placed into the possession, custody, or control of any third party and cannot be provided in response to this request, you should identify the document (stating its date, author, subject and recipients) and explain the circumstances under which the document ceased to be in your possession, custody, or control, or was placed in the possession, custody, or control of a third party.

11. If any document responsive to this request was, but no longer is, in your possession, custody or control, state:

a. how the document was disposed of;
b. the name, current address, and telephone number of the person who currently has possession, custody or control over the document;
c. the date of disposition;
d. the name, current address, and telephone number of each person who authorized said disposition or who had or has knowledge of said disposition.

12. If any document responsive to this request cannot be located, describe with particularity the efforts made to locate the document and the specific reason for its disappearance, destruction or unavailability.

13. If a date or other descriptive detail set forth in this request referring to a document, communication, meeting, or other event is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, you should produce all documents which would be responsive as if the date or other descriptive detail were correct.

14. The request is continuing in nature and applies to any newly discovered document, regardless of the date of its creation. Any document not produced because it has not been located or discovered by the return date should be produced immediately upon location or discovery subsequent thereto.

15. All documents should be bates-stamped sequentially and produced sequentially. In a cover letter to accompany your response, you should include a total page count for the entire production, including both hard copy and electronic documents.

16. Two sets of the documents should be delivered to the Committee, one set to the majority staff in Room 316 of the Ford House Office Building and one set to the minority staff in Room 564 of the Ford House Office Building. You should consult with Committee majority staff regarding the method of delivery prior to sending any materials.

17. In the event that a responsive document is withheld on any basis, including a claim of privilege, you should provide the following information concerning any such document: (a) the reason the document is not being produced; (b) the type of document; (c) the general subject matter; (d) the date, author and addressee; (e) the relationship of the author and addressee to each

other; and (f) any other description necessary to identify the document and to explain the basis for not producing the document. If a claimed privilege applies to only a portion of any document, that portion only should be withheld and the remainder of the document should be produced. As used herein, "claim of privilege" includes, but is not limited to, any claim that a document either may or must be withheld from production pursuant to any statute, rule, or regulation.

18. If the request cannot be complied with in full, it should be complied with to the extent possible, which should include an explanation of why full compliance is not possible.

19. Upon completion of the document production, you should submit a written certification, signed by you or your counsel, stating that: (1) a diligent search has been completed of all documents in your possession, custody, or control which reasonably could contain responsive documents; (2) documents responsive to the request have not been destroyed, modified, removed, transferred, or otherwise made inaccessible to the Committee since the date of receiving the Committee's request or in anticipation of receiving the Committee's request, and (3) all documents identified during the search that are responsive have been produced to the Committee, identified in a privilege log provided to the Committee, as described in (17) above, or identified as provided in (10), (11) or (12) above.

DEFINITIONS

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ENVIRONMENT AND THE ECONOMY

October 23, 2013

The Honorable Gina McCarthy
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Dear Administrator McCarthy:

We are troubled by the EPA's announcement on September 30, 2013 entitled "EPA to Hold Public Listening Sessions on Reducing Carbon Pollution from Existing Power Plants." While hosting eleven public listening sessions held across the country in order to solicit feedback from the public is important, your plan leaves out those most impacted by the regulation by seeking input **only** in major urban areas.

While the proposed regulations on new and existing power plants may not be burdensome to cities such as Boston, San Francisco, Washington, D.C., or New York City, it will have significant impacts on businesses and families in rural areas. Already, one-fifth of our nation's coal plants, 204 facilities across 25 states, closed between 2009 and 2012. These closed and existing plants are **not** located in areas you are holding these listening sessions. In all fairness, residents and businesses in rural areas deserve to be heard just as much.

The EPA must hear from Americans on Main Street in rural America **not** downtown San Francisco or Washington, D.C. If the EPA really wants to learn the impact this regulation will have on mayors, store clerks, senior citizens, blue-collar Americans and others, you must hold these sessions in locations that produce coal and coal-fired electricity. We highly recommend that you and your colleagues take a step out of the Beltway and visit the places that make America great; the places your regulations continue to devastate by shuttering plants and killing jobs. These people need your help and want their views to be heard. Please add rural American communities in which coal and gas are a part of their economies to your locations for listening sessions.

Thank you for your attention to this matter, and we look forward to your thoughts.

Sincerely,

David B. McKinley, P.E.
Member of Congress

Shelley Moore Capito
Member of Congress

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United States Senate

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS
WASHINGTON, DC 20510-6175

November 6, 2013

Administrator Gina McCarthy
Environmental Protection Agency
1200 Pennsylvania Ave., NW
Washington, DC, 20460

Dear Administrator McCarthy:

I want to commend the U.S. Environmental Protection Agency (EPA) for moving forward under the Clean Air Act to control carbon pollution from our nation's power plants – the country's single biggest source of such pollution. Our landmark environmental laws, including the Clean Air Act, have provided major public health and economic benefits, and EPA's actions to reduce carbon pollution will safeguard the American people.

The need to address carbon pollution is clear, and the Clean Air Act provides common-sense tools to achieve this vital goal. The U.S. Supreme Court has confirmed twice, including in *Massachusetts v. EPA*, that EPA has clear authority to control climate pollution under the Act. Using the best available information from America's leading scientists and public health experts, EPA formally found in 2009 that climate pollution threatens public health. Since then, evidence of climate change has only grown stronger.

Scientists now tell us they are as certain of man-made climate change as they are that cigarettes are deadly, and only slightly less than scientists' agreement that gravity exists. We have seen the dangerous impacts of climate change all around us – from record high temperatures in the U.S., to severe wildfires in California and other western states, to flooding of biblical proportions, to shrinking Arctic sea ice and rising sea levels. We must take serious action now to reduce carbon pollution. I fully support the EPA in its efforts to address this dangerous air pollution which causes climate disruption.

I am proud to say that the State of California has been a leader in reducing carbon pollution. Under the state's AB 32 program, carbon pollution from power plants, cars and other sources will be reduced by over 16% by 2020, and a third of the state's electricity will come from renewable sources by 2020. A 2006 California law also requires that any power plant providing energy to the state must be designed to significantly limit its carbon pollution at levels equivalent to the agency's new power plant proposal.

The Clean Air Act has a long record of success, and this landmark environmental law ensures that EPA can continue to protect public health and the nation's economy from the dangers of climate change. EPA's actions today to reduce power plant pollution are needed to help protect the health and safety of future generations, and to promote economic opportunities in clean energy technology.

Sincerely,

Barbara Boxer
Chairman

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BARBARA A. MIKULSKI
MARYLAND

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United States Senate

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November 6, 2013

The Honorable Gina McCarthy
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., NW
Washington, DC 20460-0001

Dear Administrator McCarthy:

I am forwarding a letter from one of my constituents, (b) (6) [redacted] of The Severn Riverkeeper Program, who is concerned about challenges his organization has faced from "EPA Permit Reviewers wedded to the old technology."

It is troubling that unresolved conflicts in scientific methodologies could potentially endanger the goal of protecting the Chesapeake Bay. As (b) (6) [redacted] in his letter, one of the projects the Severn Riverkeeper successfully completed in the Chesapeake Bay Watershed was funded by the American Recovery and Reinvestment Act of 2009, and received an award from the Maryland Department of the Environment for its effectiveness at reducing stormwater runoff. Although this project is considered successful by local authorities, (b) (6) [redacted] asserts that similar projects under consideration by EPA remain stalled due to permitting obstacles. While this anecdote alone cannot verify the science in question, it suggests that the EPA needs to do more to incorporate new technologies and focus on "what works" for the Chesapeake Bay.

This is a particularly timely matter, as Anne Arundel County recently approved a stormwater fee that will provide $40 million per year for restoration projects. It would be very disheartening if local government were to make such a significant investment in protecting the Chesapeake Bay, only to face delays due to permitting processes at the federal level.

Please give this matter appropriate consideration, and send your response directly to my Deputy Projects Director, Justin Hayes, at the above address.

Thank you very much for your consideration. I look forward to hearing from you.

Sincerely,

Barbara A. Mikulski

Barbara A. Mikulski
United States Senator

BAM:jhh

The Severn Riverkeeper Program

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www.severnriverkeeper.org • email: flineskelly@hotmail.com

October 28, 2013

Senator Barbara Mikulski
503 Hart Senate Office Building
Washington, DC 20510

Dear Senator Mikulski,

Thank you for your excellent work on behalf of the Chesapeake Bay. We agree with you and the President that the Bay is a "National Treasure".

While you are working hard in Washington on behalf of the Bay, we are working hard to protect and restore the Capital River of the State of Maryland, the Severn.

In just the past four years, we have installed over $2 Million worth of restoration projects. Unfortunately, we have another $2 Million that are being blocked by EPA Permit Reviewers who are wedded to the old technology.

They constitute a major obstacle to Bay restoration. They deny permits for any project that utilizes the new technology, despite the fact that such technology as regenerative stormwater conveyance systems have proven to be effective.

We were able to utilize the new technology in the $2 Million worth of projects that we installed, because EPA was not involved in the permitting process.

We used $450,000 in Stimulus Money for the first one. It even received an award from the Maryland Department of the Environment for being one of the most effective stormwater projects in Maryland in 2010. This still did not convince EPA to allow us to advance the technology.

Our project to stop the toxic runoff from the Annapolis Mall demonstrated that the new technology was particularly effective for urban stormwater runoff.

Maryland House Speaker Mike Busch hailed this project at the ribbon cutting, and urged the adoption of stormwater fees to fund more such projects in Maryland.

The citizens of Anne Arundel County heeded Speaker Busch's call and adopted a stormwater fee that will provide $40 Million per year for restoration projects.

However, EPA remains a major obstacle due to their continuing opposition to the new technology. We agree that it is not appropriate in every situation, but it has proven to be the answer to urban stormwater runoff, one of the most difficult types of pollution to stop. Without advancement in technology, Bay restoration will be condemned to failure. All we ask is the chance to try.

Enclosed are our letters to Shawn Garvin, the head of EPA Region III. We asked him to meet with us to discuss the impact of opposition to new technology on Bay restoration. Unfortunately, he has not agreed to meet or have an appropriate EPA official meet with us.

We are grateful to the President for **Executive Order 13508** declaring the Bay a National Treasure and, among other things, directing the federal agencies to work with local citizens. Just as all politics is local, all environmental restoration is local.

We would appreciate your help in arranging a meeting with the appropriate EPA official. We would hope it would be one who is committed to the President's mandate. State and local agencies have embraced this new technology, along with the local watershed organizations.

This is a critical juncture in the fight to save the Bay. Your constituents have identified the major sources of pollution, developed the new technology to stop pollution, taxed ourselves to pay for the projects, but are being blocked by EPA Permit Reviewers wedded to the old technology.

We will continue to work hard to protect and restore the Bay as you do in Washington, but we could sure use your help on this one.

Best regards,

(b) (6) [redacted]

The Severn Riverkeeper

cc: Senator Benjamin Cardin
Governor Martin O'Malley
House Speaker Michael Busch
Congresswoman Donna Edwards
Congressman John Sarbanes

CHESAPEAKE RIVERS ASSOCIATION

The Severn Riverkeeper Program

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September 12, 2012

Mr. Shawn Garvin
Administrator, Region III
US Environmental Protection Agency

Re: EPA Violations of Presidental Executive Order 13508

Dear Mr. Garvin:

In our effort to assist the State of Maryland and Anne Arundel County in meeting their WIP obligations and TMDL goals, we encountered possible violations of the President's **Executive Order 13508.** Certain EPA staff may be violating the directives established under the Order by pursuing a pattern of unjustified opposition to restoration projects and not "supporting the restoration activities of local government and watershed groups".

In the **"Strategy for Protecting and Restoring the Chesapeake Bay Watershed"** published May 12, 2010 by the **Federal Leadership Committee for the Chesapeake Bay** under Lisa Jackson, there is a specific Strategy of **Partnering with Communities.**

The language under **Supporting Local Efforts** is as follows:

"Local communities have the greatest interest in and ability to impact conservation of their local environment. The strategy is designed to directly support the restoration activities of local governments, watershed groups, county conservation districts, landowners and citizens".

Unfortunately, we encountered and heard from other watershed groups of a possible pattern for many years of opposition to restoration activities by certain EPA staff members in direct violation of this directive.

In 2010, we received an award from the Maryland Department of the Environment for one of the most innovative stormwater restoration projects in Maryland. As you know, nonpoint source stormwater pollution is one of the most difficult sources of pollution to stop. We are in the forefront of this effort in Maryland, which is why any pattern of opposition to such restoration projects is especially disturbing. It was our **Clements Creek Restoration Project** that won the award.

WATERKEEPER ALLIANCE

The Severn Riverkeeper Program

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December 10, 2012

Mr. Shawn Garvin
Administrator, Region III
US Environmental Protection Agency
1650 Arch Street
Philadelphia, Pennsylvania 19103

Re: EPA Violation of President's Executive Order 13508

Dear Mr. Garvin:

Thank you for your letter of October 19, 2012 in response to my letter regarding possible EPA violations of the President's **Executive Order 13508.**

Again, the violations would be of the directive that federal agencies shall "support the restoration activities of local governments, watershed groups, county conservation districts, landowners and citizens".

I am requesting that you investigate the possibility that certain EPA staff are not only not supporting restoration projects, but are aggressively blocking such projects. The pattern of obstruction is specifically against Regenerative Stormwater Conveyance Systems (RSCs), despite the science that such stream restoration systems are effective.

This directive was included in the **"Strategy for Protecting and Restoring the Chesapeake Bay Watershed"** published May 12, 2010 by the **Federal Leadership Committee** to ensure that all federal agencies comply with the President's Order. As you know, Lisa Jackson headed that committee.

My letter to you of September 12, 2012 was not to champion a specific restoration project but to save EPA the embarrassment of violating the President's Order. It would be particularly embarrassing for Lisa Jackson, since it was her committee that developed the strategy for executing the Order.

We are supporters of (b) (6) [redacted] and her courageous rulings on behalf of the environment. The Riverkeepers of the Chesapeake appreciate those who work to protect and restore the Bay and consider EPA an ally.

I suggest a private meeting to discuss this matter. Time is of the essence. I have been forewarned of retaliation to my letter to you of September 12, 2012 by one of your staff. That would be particularly unfortunate for Ms. Jackson.

I will delay my annual **SevernStat Report** to Governor O'Malley, which always includes suggestions on how to better protect the Severn. I will also delay my meeting with House Speaker Busch to report on whether this problem has been solved until after we have met. The Severn River is in his District, and most of my members are his constituents. In Maryland, we are fortunate to have a Governor and House Speaker, who are proactive in protecting our waterways.

Speaker Busch has also asked me to work with the Maryland Department of Transportation to accelerate their restoration projects at the headwaters of the Severn. All of these projects will be Regenerative Stormwater Conveyance Systems (RSCs). We need to know if your staff are going to oppose these projects, as one of your members has already threatened. If we cannot get some resolution of this matter, we will initiate appropriate action.

I look forward to a meeting with you as soon as possible.

Sincerely,

(b) (6) [redacted]

The Severn Riverkeeper

Severn Riverkeeper Notes Regarding July 16, 2013 Meeting on Permitting

Purpose of the Meeting: The purpose of the meeting was to hear from the Corps, EPA, and MDE about how they were streamlining the permitting process and from the local citizens and local governments about whether streamlining was occurring and whether these agencies were supporting local efforts to stop pollution.

Unfortunately, little was said about streamlining by the three permitting authorities, and they left before hearing from the stakeholders that streamlining was not occurring and that the permitting authorities were more of a barrier than a help to local efforts.

Overview: Thanks to its citizens and their legislative representatives, Anne Arundel County, Maryland will finally have the money to restore its waterways and comply with the recent TMDL goals mandated by EPA under the Clean Water Act. The only threat to these efforts are the barriers posed by the permitting authorities. Ironically, the permit reviewers at EPA are the biggest obstacle to Bay restoration and meeting the TMDL goals.

On May 12, 2009, President Obama issued **Executive Order 13508** declaring the Chesapeake Bay a "national treasure" and establishing the Federal Leadership Committee for the Bay (FLC). On May 12, 2012, the FLC issued the **Strategy for Protecting and Restoring the Chesapeake Bay Watershed,** which among other things, directed that all federal agencies "support the restoration activities" of local governments, watershed groups and citizens.

The Severn Riverkeeper Program is a local watershed group comprised of dedicated citizens who are working to restore the Severn River. We have installed over $2 Million worth of restoration projects in the last three years, including one that won an award from MDE and one that is being hailed as the answer to urban stormwater pollution.

Despite this track record, we are presently being blocked by the Corps, MDE, and EPA on another $2 Million worth of critical restoration projects. These agencies are not only a barrier to local restoration projects, but some of the permit reviewers actually refer to us in derogatory terms.

MDE just denied a wetland permit for a local community that is trying to build a "living shoreline" to protect their property against erosion, an absolute right under Maryland Law. MDE should be promoting living shorelines as mandated under the **Maryland Living Shoreline Protection Act** instead of discouraging them. Living shorelines create wetlands instead of destroying them.

In four decades on the Severn River, I have yet to see a single restoration project by the Corps, EPA, or MDE. Yet their opposition to local efforts to stop pollution continue and their attitude toward those of us who are actually stopping pollution is quite often antagonistic.

Message from Permitting Authorities: Unfortunately, the message from the permitting authorities was for the applicants to submit better applications. There was little or no mention of how the permitting authorities were streamlining their process or supporting local efforts.

The permit reviewers made it clear that they will continue to require levels of "alternative analysis" that defy common sense, oppose innovative techniques, and disregard local knowledge and experience.

Message from Stakeholders: Our message is that the permitting agencies are the biggest threat to Bay restoration and compliance with TMDL goals under the Clean Water Act.

Meeting Follow-Up: Having heard no plan to streamline the process or "support" local efforts, notice shall be provided that the Corps and EPA permit divisions are violating **Executive Order 13508.** Congressional review shall be requested. The Maryland Delegation is fully committed to Bay Restoration. Intervention by the Maryland Speaker of the House saved the **Cabin Branch Steam Restoration Project,** a prototype for urban stormwater runoff. Congressional involvement should prove helpful. Just like all politics is local, all environmental protection is local.

Conclusions: Dirty water polluting our waterways and endangering the health of our children is no longer acceptable. The permit divisions of the Corps and EPA must begin to comply with Executive Order 13508 and "support" local efforts to stop pollution or Bay restoration will fail.

Regenerative Stream Conveyance (RSC) Frequently Asked Questions (FAQ)

1. *One of the reported benefits of these restoration projects is that they reduce pollutants, particularly nutrients and sediment. Does using them constitute in-stream stormwater management?*

While it is true that researchers from the University of Maryland have documented nutrient and sediment reductions from RSC projects at a variety of locations in Anne Arundel County, none of these projects were undertaken as part of a set of "stormwater management" obligations. "Stormwater management" is the set of regulatory obligations associated with managing the runoff of new development, which the state of Maryland requires developers to do on the uplands of their site. When these projects have been done in concert with new development, as was the case at Central Sanitation, stormwater management requirements were met through upland practices with the stream/wetland undertaken as a voluntary resource improvement. Additionally, it should be noted that properly functioning, non-tidal, tributary systems provide water quality benefits, such as sediment trapping and incorporation, as well as de-nitrification. These restoration projects aim to provide water quality improvements as ancillary benefits to their primary goal of aquatic ecosystem improvement.

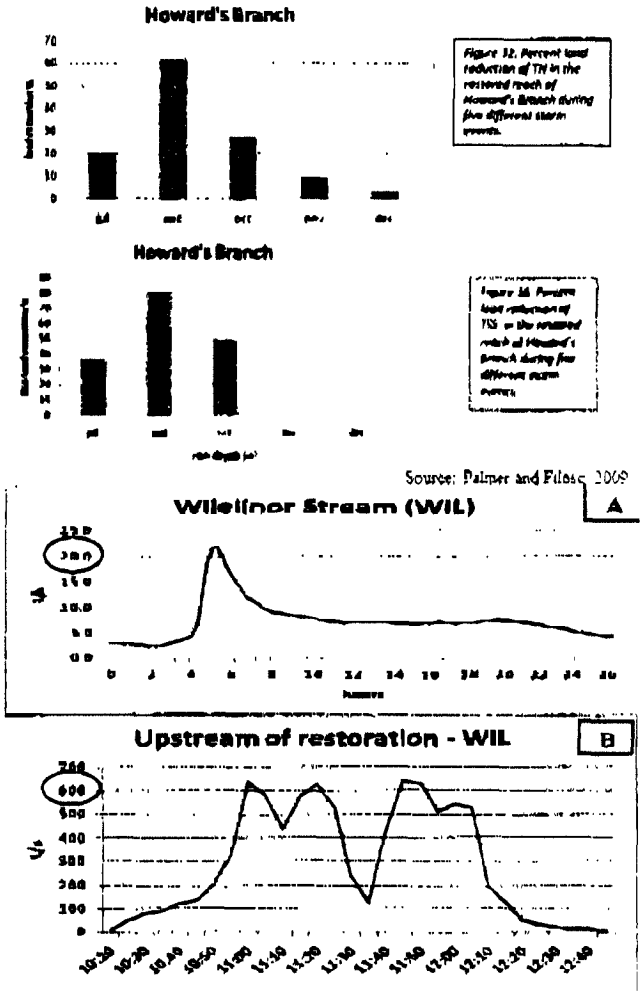
2. *These systems look more like wetlands than streams. Are they a conversion of existing aquatic systems?*

The answer to this question depends on the site. In some cases, this type of restoration involves conversion of areas with upland characteristics to wetlands, in others, enhancement of existing wetlands, and in some other cases, modification of an incised, single-thread ditch to a broad, shallow flow interrupted by plant stems and abundant organic matter.

The other aspect to keep in mind is that many of these restoration sites have already been subject to a significant conversion. Evidence points to the fact that most of these tributary systems in the piedmont and coastal plain were – in the pre-colonial period – characterized by broad, shallow, stream valley-wide, flowing wetland complexes, and this restoration technique mimics that type of system to a large degree.

3. *This restoration method seems relatively new. How extensively has it been monitored?*

Actually, the first, large-scale RSC project was completed in Anne Arundel County in 2001, and has been in place for over a decade. Since that time, over two dozen additional projects employing this method have been installed. Several of the sites, most notably Howard's Branch (on the Severn River) and Wilelinor (on the South River), have been studied extensively by the University of Maryland for sediment and nutrient reduction. Both projects in stream valleys and in ephemeral channels/eroding gullies have been found to significantly reduce sediment and nutrient pollution, both by locking existing sediments in place and trapping, incorporating, and processing pollutants moving through the system during baseflow and storm flow.



A limited amount of biological monitoring has been conducted on these systems by the Maryland Department of Natural Resources, who found significant fish abundance at both Howard's Branch and Wilelinor post-restoration, where, at least in the case of Howard's Branch, no fish existed prior to restoration and seven species were present after restoration. Additionally, studies by the Maryland Herpetological Society have documented an increased amphibian population at Howards Branch.

4. *How do these projects hold up long-term, and what sorts of maintenance do they require?*

The structural features of these projects – the riffle, weir grade controls – are designed to safely convey the 100-year storm, while at the same time maximizing baseflow. Like almost every environmental restoration project they require some adaptive management, particularly in the years immediately following installation and before project vegetation becomes established. Movement of materials (e.g., cobble) and encroachment of invasive plants should be monitored in the immediate post-restoration years, and community involvement in additional native planting should be encouraged, but generally these projects have suffered fewer large-scale failures than alternative restoration methodologies.

The Severn Riverkeeper www.severnriverkeeper.org

The South River Federation www.southriverfederation.net

Underwood & Associates www.ecosystemrestoration.com

BARBARA A. MIKULSKI
MARYLAND

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United States Senate

WASHINGTON, DC 20510-2003

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From: Justin Hayes

Subject: Severn RiverKeeper Program

Office of Senator Barbara A. Mikulski
901 S. Bond Street
Suite 310
Baltimore, MD 21231

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Congress of the United States
Washington, DC 20515
December 3, 2013

The Honorable Gina McCarthy
Administrator
Environmental Protection Agency
Ariel Rios Federal Building
1200 Pennsylvania Avenue, NW
Room 3000
Washington, DC 20460

Dear Administrator McCarthy,

We are writing to ask your agency to pursue commonsense policies that accelerate the phase down of hydrofluorocarbons (HFCs) in this country and globally. We believe the agency can ensure we continue to have affordable, safe refrigeration and air conditioning, while also driving greenhouse gas emissions down.

Since its ratification in 1989, the Montreal Protocol has been an example of a highly successful multi-national environmental initiative. Under the Montreal Protocol, U.S. corporations and corporations in participating countries agreed to replace ozone depleting products - such as Chlorofluorocarbons (CFCs) and Hydrochlorofluorocarbons (HCFCs) - used globally in refrigerants, aerosols and solvents. As a result, we have seen a 97% reduction in the global consumption of controlled ozone depleting substances.

Today, most countries are choosing to replace CFCs and HCFCs with HFC compounds because HFCs have been found to be a safe and efficient alternative. The United States has already made the transition to HFCs, meaning HFCs are now used in a majority of our air conditioners and refrigerants found in our homes, cars, hospitals, and supermarkets. Developing countries participating in the Montreal Protocol are now starting to make their transitions - ramping up their use of HFCs. As a result, the global use of HFCs is expected to grow rapidly in the coming years. The increased HFC use is good for the ozone layer, but evidently not good for our climate. Unfortunately, it is now determined that HFC compounds can have a very high global warming potential. Should their use go unchecked, it is estimated that HFCs could account for approximately 20 percent of greenhouse gas pollution by 2050. So by using HFCs, we are addressing one global environmental problem, while contributing to another.

Our experience with the Montreal Protocol has shown the global community can work together to save the environment without disrupting the market place. That is why using the Montreal Protocol regime to transition the global use of HFCs to materials that are safe for the ozone and

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Protocol regime to transition the global use of HFCs to materials that are safe for the ozone and safe for our climate makes sense and why we applaud the Administration's efforts to do so. We believe this process will give our country and the world the most flexibility and cost-effective path toward reducing HFCs.

As we wait for global action, some sectors in this country and in other countries are already beginning to transition away from HFCs, influenced by regulation, voluntary programs and a growing suite of alternatives. For example, many home refrigerators and window air conditioning units have changed over to hydrocarbon refrigerants. Transitions are also being seen in vending machines, supermarkets, motor vehicle air conditioning, and insulating foams. In fact, a Hannaford supermarket just opened in Turner, Maine that is the first HFC-free supermarket in the country. It is estimated that the new system will reduce the store's carbon footprint by 3.4 million pounds of carbon dioxide equivalent every year and will save the store money in the long run in repair and energy costs. Not all sectors have a clear transition, but for some sectors there are clear, safe alternatives to HFCs.

Recognizing that it may take some time to amend the Montreal Protocol and incorporate those changes into US regulations, we believe the EPA does not need to wait to implement smart policies that can help accelerate these transitions in the United States and globally. We encourage you to focus your agency on HFC applications where technology solutions and alternative products are already available or soon to be in the market, similar to what the European Union has done with their Mobile Air Conditioning Directive. The agency should look to where market transitions are already underway – like in Turner, Maine - and where EPA action could hasten the pace of those transitions, both domestically and elsewhere. We think that such actions would not only have significant cost-effective environmental benefits but would also strengthen the Administration's hand in the Montreal Protocol negotiations.
Thank you for your efforts in this area and we look forward to working with you on this issue in the future.

With best personal regards, we are

Sincerely yours,

Tom Carper
U.S. Senator

Scott Peters
Member of Congress

Dianne Feinstein
U.S. Senator

Christopher A. Coons
U.S. Senator

Sheldon Whitehouse
U.S. Senator

Christopher Murphy
U.S. Senator

Robert Menendez
U.S. Senator

Barbara Boxer
U.S. Senator

Edward Markey
U.S. Senator

Kirsten E. Gillibrand
U.S. Senator

Anna G. Eshoo
Member of Congress

Susan A. Davis
Member of Congress

Matt Cartwright
Member of Congress

Paul D. Tonko
Member of Congress

Alan Lowenthal
Member of Congress

Suzanne Bonamici
Member of Congress

Congress of the United States
Washington, DC 20515

Cynthia Giles
Assistant Administrator, Office of Enforcement and Compliance Assurance
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Mail Code: 2201A
Washington, DC 20460

Janet McCabe
Assistant Administrator, Office of Air and Radiation
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue NW
Mail Code: 6101A
Washington, DC 20460

November 22, 2013

Re: Diesel Hardship Flexibility

Dear Assistant Administrators Giles and McCabe:

We are writing on behalf of two Kentucky companies – Link-Belt Construction Equipment Company (LBCE) and LBX Company (LBX), which together employ 850 people in Lexington, Kentucky. LBCE and LBX design, build, and supply mobile cranes, excavators, forestry, and scrap/material handling equipment. Unfortunately, these companies have experienced substantial delays in obtaining the engines necessary to meet the Environmental Protection Agency's (EPA) Tier 4 standard. We have been concerned that the companies' inability to meet the Tier 4 standard would force them to cancel existing orders, thereby creating substantial disruptions in the supply of critical equipment as well as the loss of jobs at the affected manufacturers and their dealers and distributors. It is our understanding, however, that your Agency has approved an alternative approach that will allow LBCE and LBX to meet their short-term obligations.

We are encouraged by this recent development and urge EPA to continue to work cooperatively with our constituents to achieve a more long-term hardship solution. More specifically, it is our understanding that EPA will soon publish a proposed rule revising current hardship regulations to remove unnecessary restrictions, provide needed flexibility, and create additional discretion to grant "technical hardship requests." Regardless of our varying views of EPA's Tier 4 standards, we agree that this rulemaking should be completed as expeditiously as possible to help prevent unnecessary economic hardship for companies working to meet these engine requirements. Additionally, during this transition period, we hope EPA will continue to

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work constructively with LBCE and LBX. We feel it is in everyone's best interest to arrive at a long-term hardship solution that minimizes any disruptions in the supply of this critical equipment and, more importantly, reduces the risk of any potential job losses.

Thank you for your ongoing efforts and for your consideration of this request. If you have any questions or concerns, please contact Travis Cone in Congressman Barr's office at (202) 225-4706 or at travis.cone@mail.house.gov.

Sincerely,

Andy Barr
MEMBER OF CONGRESS

Harold Rogers
MEMBER OF CONGRESS

Ed Whitfield
MEMBER OF CONGRESS

John Yarmuth
MEMBER OF CONGRESS

Brett Guthrie
MEMBER OF CONGRESS

Thomas Massie
MEMBER OF CONGRESS

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

OFFICE OF THE
CHIEF FINANCIAL OFFICER

The Honorable Harold Rogers
Chairman
Committee on Appropriations
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

I am transmitting the U.S. Environmental Protection Agency's response to the August 2013 Government Accountability Office report entitled, *Environmental Health: EPA Has Made Substantial Progress but Could Improve Processes for Considering Children's Health* (GAO-13-254). The EPA prepared this response pursuant to 31 U.S.C. 720. The EPA generally agrees with the GAO's report findings, conclusions, and recommendations.

Since its inception, the EPA has made protecting children's environmental health part of our mission. As the report highlights, the agency has made substantial progress in its effort to consider children's health. Since the March 2010 GAO report, the Office of Children's Health Protection was reorganized to increase the agency's focus on children's health. Prior to the reorganization, the OCHP's mission was broader and included a focus on both aging and environmental education. Also, in February 2010, the EPA Administrator issued a memorandum that reaffirmed the agency's commitment to children's health.

As recommended by the GAO, the agency-wide strategic plan for fiscal years 2011–2015 identifies children's health as a top priority. In addition, the agency more specifically discusses how it plans to address children's health in the Cross-Cutting Fundamental Strategy: Working for Environmental Justice and Children's Health. Each year an action plan is developed that lists specific tasks that will be taken in carrying out the principles of the cross-cutting strategy. The OCHP also finalized an office strategic plan for fiscal years 2011-2013. The plan defines a vision and mission for the office, establishes goals and objectives for their implementation, and describes measures for evaluating progress.

The GAO correctly points out that the OCHP has also strengthened its relationships with external partners. The OCHP proactively uses the Children's Health Protection Advisory Committee to provide advice on regulations, policies and other issues. Furthermore, the OCHP has actively participated in the interagency organizations initiated under Executive Order 13045 (the President's Task Force on Environmental Health Risks and Safety Risks to Children and the Federal Interagency Forum on Child and Family Statistics).

importance of using applicable guidance, and reiterate EPA's commitment to protecting children's health.

EPA Response: The EPA concurs with the idea of reaffirming the 1995 Policy. On October 31, 2013, Administrator McCarthy reaffirmed the 1995 policy through a memorandum distributed to senior managers. The agency believes this reaffirmation could be a periodic activity; by so doing, the policy never goes out of date and is routinely highlighted as an agency priority.

GAO Recommendation: The EPA Administrator should direct OCHP and OPP to establish procedures to identify tolerance decisions that could pose a significant risk to children's health and provide opportunities for OCHP involvement consistent with the Administrator's 2010 memorandum.

EPA Response: The EPA acknowledges the need for continued coordination and improved communication between the OCHP and the Office of Pesticide Programs. The framework within which pesticide tolerance setting occurs was established after the passage of the FQPA in 1996, and incorporated intra-agency participation and federal advisory committee consultation, including consultation with the Scientific Advisory Panel and the Pesticide Program Dialogue Committee. This groundwork resulted in a policy and scientific framework that continues to be protective of children's health. Although OCHP does not participate in each tolerance decision, the OPP continues to employ the framework to ensure that decisions appropriately consider children's health. The OCHP and the OPP are committed to ensuring that the EPA fully complies with its 1995 policy and have already begun to discuss ways to improve coordination, information sharing, prioritization and communication. The two organizations plan to document the agreement that is reached, thereby ensuring continued and consistent implementation.

We appreciate the significant effort that the GAO committed to this report and we look forward to continuing to discuss these matters with the GAO and members of Congress. If you have any further questions, please contact me or your staff may contact Carolyn Levine in the EPA's Office of Congressional and Intergovernmental Relations, by phone at (202) 564-1859, or by email at levine.carolyn@epa.gov.

Sincerely,

Maryann Froehlich

Maryann Froehlich
Acting Chief Financial Officer

Enclosure

Congress of the United States
Washington, DC 20515

The Honorable Gina McCarthy
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

December 6, 2013

Dear Administrator McCarthy,

As representatives of the Commonwealth at the state and federal levels, we are writing to request that Environmental Protection Agency (EPA) officials visit Kentucky in order to hold public listening sessions regarding your agency's plans to issue standards or guidelines to regulate greenhouse gas emissions from existing fossil fuel-fired power plants.

We are aware of your agency's September 30, 2013 announcement, entitled "EPA to Hold Public Listening Sessions on Reducing Carbon Pollution from Existing Power Plants," which demonstrates a willingness to consider public concerns ahead of the development of these rules. However, we are very surprised and disappointed to learn that all of the EPA's 11 announced sessions are to be held exclusively in major metropolitan areas. What is worse, not one of these cities is located within *any* of the ten states most reliant on coal-fired electricity generation.

As the nation's third largest producer of coal, Kentucky has long provided its residents and the nation with an affordable and dependable energy source. Coal provides 92 percent of Kentucky's electricity generation, and its availability and affordability have far-reaching implications for our manufacturing-driven economy, the coal industry, and family budgets – especially as Kentucky continues to be burdened by our nation's eleventh highest unemployment rate.

Kentucky has already lost more than 6,200 coal jobs in just the last two years, reducing the state's coal employment to its lowest level since the Commonwealth began keeping statistics in 1927. Unfortunately, these job losses are forecast to continue to increase as additional EPA regulations targeting coal come online.

Within its proposed rule for New Source Performance Standards (NSPS) regulating greenhouse gas emissions from new electric utilities, the EPA already predicts that no new coal plants will be built in the United States in the coming decade due to the regulatory environment. Extending greenhouse gas standards to existing utilities will have significant adverse implications for the nation's existing coal fleet and the affordability and reliability of electricity nationwide.

Moreover, it is not clear how this staggering generation capacity – nearly 40 percent of our nation's electricity production – will be replaced. Job losses will not be limited to the coal fields and supporting industries, but will ripple across the country as higher energy costs stifle the nascent manufacturing renaissance in the United States, reducing our economic competitiveness.

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Given the seriousness of these forecasts, it is crucial that EPA officials visit states like Kentucky – particularly their rural mining communities – to hear firsthand our constituents' concerns about the effects on employment and their household budgets before moving forward on a proposed rule.

The EPA has demonstrated a willingness to hear from our constituents on important energy and environmental issues before. Last year, during vigorous public debate over EPA's objections to 36 Kentucky National Pollutant Discharge Elimination System (NPDES) permits, the EPA had three public hearings in the Commonwealth – one in Frankfort and two in Pikeville, in the heart of Appalachian coal country. This was an important opportunity for our constituents to meet with federal regulators. Considering the far broader impacts associated with planned greenhouse gas regulations for existing power plants, we hope that this example of public outreach in our region can be repeated.

Failure by the EPA to hold listening sessions on greenhouse gas regulations in those states with economies most dependent on the coal industry and coal-fired electricity will be perceived as an effort to avoid negative public opinion or ignore adverse economic impacts. For the sake of openness and transparency in the eyes of our fellow Kentuckians and the American people, we urge you to announce plans to visit Kentucky and other states similarly reliant on coal production and coal-fired electricity as you seek public comment on regulating carbon dioxide emissions from existing power plants.

Thank you for your attention to this important matter. We look forward to hearing from you.

Sincerely,

ANDY BARR
MEMBER OF CONGRESS

MITCH McCONNELL
UNITED STATES SENATOR

RAND PAUL
UNITED STATES SENATOR

HAROLD ROGERS
MEMBER OF CONGRESS

ED WHITFIELD
MEMBER OF CONGRESS

BRETT GUTHRIE
MEMBER OF CONGRESS

THOMAS MASSIE
MEMBER OF CONGRESS

SENATOR ROBERT STIVERS
PRESIDENT OF THE SENATE
COMMONWEALTH OF KENTUCKY

SENATOR DAMON THAYER
SENATE MAJORITY LEADER
KENTUCKY STATE SENATE

SENATOR BRANDON SMITH
SENATE MAJORITY WHIP
KENTUCKY STATE SENATE

REPRESENTATIVE JIM GOOCH
CHAIR, HOUSE NATURAL RESOURCES &
ENVIRONMENT COMMITTEE
KENTUCKY HOUSE OF
REPRESENTATIVES

SENATOR JARED CARPENTER
CHAIR, SENATE NATURAL RESOURCES
COMMITTEE
KENTUCKY STATE SENATE

BARBARA BOXER
CALIFORNIA

COMMITTEES:
COMMERCE, SCIENCE, AND TRANSPORTATION
ENVIRONMENT AND PUBLIC WORKS
FOREIGN RELATIONS

United States Senate

HART SENATE OFFICE BUILDING
SUITE 112
WASHINGTON, DC 20510-0505
(202) 224-3553
http://boxer.senate.gov

December 18, 2013

Ms. Laura Vaught
Associate Admnistrator for Congressional and Intergovernmental Relations
Environmental Protection Agency
1200 Pennsylvania Avenue NW Room 3426 Arn
Washington, DC 20460-0001

Dear Ms. Vaught:

Enclosed, please find a copy of the correspondence Senator Boxer received fron(b) (6) is regarding a matter pertaining to the Environmental Protection Agency.

(b) (6) informs the Senator that she has witnessed aerial dispersal above Santa Cruz County in California. She states that she is concerned about the environmental impact of said dispersal. As such, Ms. Ellis respectfully requests to learn if your agency has investigated the aforementioned matter.

I am forwarding the attached for your review and consideration. Any information you can provide in response to the concerns expressed by (b) (6) will be most appreciated.

Thank you for your assistance in this matter. Please respond to Senator Boxer's Oakland office, attention: Madeline Peare.

Sincerely,

(b) (6)
Director of Constituent Services

EJV:mp
Enclosure
cc: (b) (6)

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United States Senator Barbara Boxer

PRIVACY ACT CONSENT FORM

The provisions of **Public Law 93-579** (Privacy Act of 1974) prohibit the disclosure of information of a personal nature from the files of an individual without their consent.

Accordingly, I authorize the staff of Senator Barbara Boxer to access any and all of my records that relate to the problem stated below.

Signature: [illegible] Date: 12/5/13

To begin processing your case, please complete all of the following information:

Circle One: Mr. Mrs. Miss (Ms.)
First Name: (b) (6) [redacted]
Last Name: [redacted]
Date of Birth: [redacted] (b) (6)
Social Security Number: Remand upon request

Address (b) (6) [redacted] (b) (6)
City: [redacted]
State: [redacted]
Email: [redacted]
Phone N [redacted]

Federal agency with which you need help: FAA, NOAA, NASA, EPA, Air Force

Briefly explain the problem or the information desired* (attach additional pages if necessary):

See attached

*Please include copies of any relevant documentation related to your request as attachments to this form.

Also include the following information if appropriate.

IMMIGRATION:
Alien Registration#: _____
Form #: _____
Date filed: _____
USCIS Receipt#: _____
Embassy Case #: _____

HOUSING:
Lender Name: _____
Loan Number: _____
Property Address: Same as above ☐

MILITARY:
Branch of Service: _____
Rank: _____
VA File Number: _____

Please list any other Congressional offices that you have contacted about this issue:

Congressman Sam Farr and Senator Dianne Feinstein

Print and mail your completed form to Senator Barbara Boxer's San Francisco office at:

Attention: Casework Department
United States Senator Barbara Boxer
70 Washington Street, Suite 203
Oakland, CA 94607
Phone: 510.286.8537 Fax: 202.228.6866
(Despite containing a Washington D.C. area code, faxes sent to the above fax line will be received in Oakland)

To: Senator Barbara Boxer
From: (b) (6) [redacted]s
Date: December 5, 2013
Subject: Privacy Act Consent Form Question Attachment

Briefly explain the problem or the information desired:

I would like for your agency to explain the purpose of ongoing aerial dispersant from aircraft at high altitude over my home in Santa Cruz County. I have observed this phenomenon for a number of years now but have noted it happening in a more predictable, routine pattern. Research to date suggests there are a number of stakeholders involved in this program.

My questions are these:

1. Who, (what agency or agencies) are responsible for this high altitude mission over our neighborhoods?
2. What are the chemical properties of the "soot" being sprayed from aircraft?
3. Why is this occurring over my neighborhood and numerous other neighborhoods within the United States?
4. Who are the stakeholders?

What I have observed and documented is not normal; it is not natural and it seems to be changing weather patterns.

I respectfully request an honest response to my questions. I request that your response be provided me through my representative, Senator Barbara Boxer, in writing.

All the Best,

(b) (6) [redacted]

UNIVERSITY OF CALIFORNIA, SANTA CRUZ

BERKELEY • DAVIS • IRVINE • LOS ANGELES • RIVERSIDE • SAN DIEGO • SAN FRANCISCO SANTA BARBARA • SANTA CRUZ

(b) (6)
COORDINATOR FOR CONDUCT AND EDUCATION
PORTER AND KRESGE COLLEGES

SANTA CRUZ, CALIFORNIA 95064

I am pessimistic about the human race because it is too ingenious for its own good. Our approach to nature is to beat it into submission. We would stand a better chance of survival if we accommodated ourselves to this planet and viewed it appreciatively instead of skeptically and dictatorially.

~ E.B. WHITE

December 5, 2013

Dear Senator Boxer,

I hope my letter finds you and your family well and enjoying the pre-holiday season. I am writing not only as your constituent but also as a naturalist who holds the land and ocean of our Central Coast, close to heart. I am writing to express concern, ask questions, and closing with an invitation.

As an outdoor enthusiast and coming from a family of pilots, I have an eye to the sky. One of my earliest childhood memories, living in Monterey, was watching my dad parachute from a Blue Angel's aircraft. Over the past decade, I have observed cloud formation change and unusual air traffic that leaves behind a predictable pattern of lingering contrails.

Preliminary research and communications with various agencies lead me to believe the Central Coast is one of many selected locations for an international contrail cloud experiment.

I understand individuals asking agencies or representatives about this observable phenomenon are often dismissed, told the contrails are normal, or that the unusual contrails are caused by an increase in air traffic. Observation and research tells me otherwise.

To my knowledge, there has been no public discourse regarding this matter. Nor has a study been conducted to determine impacts on the environment and human health. Unfortunately, this would not be new. We are all too familiar with military and government experiments taking place on civilian populations without their knowledge, at home and abroad, resulting in catastrophic results to human health as well as the environment.

If contrail cloud experimentation is beneficial; notably, combating global warming, why has the public not been informed?

I have observed hotter, dryer weather over the past two years, mixed with unusually cold days following the dispersant patterns from aircraft. In one of our local organic markets I read a sign stating, "Due to unusual, cold weather some lettuces and other vegetables are not available and other produce is priced higher as a result." An FAA document states that cold air temperatures are produced following the production of contrail clouds.

Might contrail cloud experiments explain a lack of produce and higher pricing in grocery stores?

Based on keen observation, as well as recorded weather patterns, if this is an experiment it has not been successful. This year represents the most extensive "contrail cloud" activity and yet we have experienced less rain, both hotter and colder temperatures, and crop disruption.

This begs the question, is more happening overhead than mere weather manipulation that your constituents should be aware of?

For those of us who are parents and grandparents, I trust we are concerned about the impact this could have on our children and grandchildren. I want them to know and explore the pristine lands from Big Sur to San Francisco as we have; learning from the creatures, big and small, who have inhabited the land for hundreds of years. That these miraculous life forms could be harmed by action, neglect, or silence is unconscionable to me.

I have noted a steady decrease in some local wildlife, particularly the animals closest to the soil; banana slugs, newts, ladybugs, frogs, bees and earthworms, to name a few. I wonder if one or more elements in the aircraft dispersant are contributing to their decline.

Senator Boxer, what is in the particulate dispersed from these aircraft?

I do not want future generations inheriting polluted air, soil, and water or developing preventable illness. Nor do I want them to miss out on communing with the numerous species of birds, mammals, amphibians, and insets, which are their rightful inheritance. We are capable, given our knowledge and technology, to leave the earth we share in a better state than we entered it. Sadly, our current behavior is moving us way off mark.

> *As Rachel Carson states, in Silent Spring, "We can, if we wish reduce this threat to our genetic heritage, a possession that has come down to us through some two billion years of evolution and selection of living protoplasm, a possession that is ours for the moment only, until we must pass it on to generations to come. We are doing little now to preserve its integrity. Although chemical manufactures are required by law to test their materials for toxicity, they are not required to make the tests that would reliably demonstrate genetic effect, and they do not do so."*

If the substance in the dispersant overhead is not known, then the quality of our air, soil and water is also unknown. Even if particulates in the dispersant are benign, the increase in jet fuel and noise pollution is of concern.

Since we do not exercise the Precautionary Principal in the U.S. it can be years, even decades, before ill effects of such activities are revealed. This has repeatedly been the case in the use of cancer causing chemicals on those deemed "enemy of the state" and closer to home, in the form of pesticides and other petrochemical consumer products.

I have grave concern that we may be adding to this parlay of chemicals in an attempt to manipulate weather or for another purpose yet known to me.

Whether or not this experiment is successful, is it worth the price?

These are the first of many questions regarding this observable health and environmental concern. I would appreciate meeting with you to share additional information, documents, and photographs. I, and a few other constituents, would be honored to host a luncheon discussion in Bonny Doon, a location with a 360-degree view of the skyline. The date and time could be set in accordance with your schedule. We promise delicious food, stunning views, engaging dialogue, as well as an opportunity to enjoy one of the most pristine properties in Santa Cruz County.

I look forward to hearing from you or your scheduler. If you have not done so, please consider reading Silent Spring by Rachel Carson. Her work has informed my understanding of how we came to this precarious place in relationship with nature and what is, and always will be, at stake if we do not head the warning signs nature is offering.

Respectfully and Appreciatively,

(b) (6)

To: Senator Barbara Boxer
From: (b) (6) [redacted]s
Date: December 5, 2013
Subject: Privacy Act Consent Form Question Attachment

Briefly explain the problem or the information desired:

I would like for your agency to explain the purpose of ongoing aerial dispersant from aircraft at high altitude over my home in Santa Cruz County. I have observed this phenomenon for a number of years now but have noted it happening in a more predictable, routine pattern. Research to date suggests there are a number of stakeholders involved in this program.

My questions are these:

1. Who, (what agency or agencies) are responsible for this high altitude mission over our neighborhoods?
2. What are the chemical properties of the "soot" being sprayed from aircraft?
3. Why is this occurring over my neighborhood and numerous other neighborhoods within the United States?
4. Who are the stakeholders?

What I have observed and documented is not normal; it is not natural and it seems to be changing weather patterns.

I respectfully request an honest response to my questions. I request that your response be provided me through my representative, Senator Barbara Boxer, in writing.

All the Best,

(b) (6) [redacted]

BARBARA BOXER, CALIFORNIA, *CHAIRMAN*

MAX BAUCUS, MONTANA
THOMAS R. CARPER, DELAWARE
BENJAMIN L. CARDIN, MARYLAND
BERNARD SANDERS, VERMONT
SHELDON WHITEHOUSE, RHODE ISLAND
TOM UDALL, NEW MEXICO
JEFF MERKLEY, OREGON
KIRSTEN GILLIBRAND, NEW YORK
CORY A. BOOKER, NEW JERSEY

DAVID VITTER, LOUISIANA
JAMES M. INHOFE, OKLAHOMA
JOHN BARRASSO, WYOMING
JEFF SESSIONS, ALABAMA
MIKE CRAPO, IDAHO
ROGER WICKER, MISSISSIPPI
JOHN BOOZMAN, ARKANSAS
DEB FISCHER, NEBRASKA

BETTINA POIRIER, *MAJORITY STAFF DIRECTOR*
ZAK BAIG, *REPUBLICAN STAFF DIRECTOR*

United States Senate

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS
WASHINGTON, DC 20510-6175

December 20, 2013

Sarah W. Dunham
Director, Office of Atmospheric Programs
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., NW
Washington, DC 20460

Dear Director Dunham:

Thank you for appearing before the Committee on Environment and Public Works on November 5, 2013, at the hearing entitled, "Fugitive Methane Emissions from Oil and Gas Operations." We appreciate your testimony and we know that your input will prove valuable as we continue our work on this important topic.

Enclosed are questions for you that have been submitted by Senator Vitter for the hearing record. Please submit your answers to these questions by COB January 3, 2014, to the attention of Mara Stark-Alcalá, Senate Committee on Environment and Public Works, 410 Dirksen Senate Office Building, Washington, DC 20510. In addition, please provide the Committee with a copy of your answers via electronic mail to Mara_Stark-Alcala@epw.senate.gov. To facilitate the publication of the record, please reproduce the questions with your responses.

Again, thank you for your assistance. Please contact Joe Mendelson of the Majority Staff at (202) 224-8832, or Dimitri Karakitsos of the Minority Staff at (202) 224-6176 with any questions you may have. We look forward to reviewing your answers.

Sincerely,

Barbara Boxer
Chairman

David Vitter
Ranking Member

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Environment and Public Works Committee Hearing
November 5, 2013
Follow-Up Questions for Written Submission

Questions for Dunham

Questions from:

Senator David Vitter

1. The recent EPA regulations on the oil and gas sector were a result of a lawsuit filed by environmentalists alleging that EPA missed statutory deadlines for reviewing and updating the previous NSPS and NESHAP standards for the oil and gas sector, is that correct?

    a. Because this lawsuit was centered around updating existing emissions standards, EPA did not affirmatively find it appropriate to revise the oil and gas NSPS to directly regulate methane emissions?

2. Does the Agency have any guidance or cut off as to what point a "co-benefit" actually no longer a "co-benefit?" For example, the NSPS rule for oil and gas finalized by EPA is largely justified by the reduction of methane, a "co-benefit." These methane reductions are over 90 times greater than the reductions of hazardous air pollutants the rule primarily seeks to regulate. At what point in a rule like this does the "co-benefit" actually become the subject of the regulation? If a "co-benefit" results in 10 times the emissions reductions than what a rule is meant to address, is it still a "co-benefit"? What about 50 times?

    a. Methane reduction is clearly a large "co-benefit" of the newly updated air rules for the oil and gas industry. Should EPA move to further regulate air emissions from the oil and gas industry – particularly methane specific regulations – would the Agency count reductions in methane emissions from the current rules as benefits for future new rules?

    b. Can EPA commit to that any future air rules related to the oil and gas industry, for example one specifically regulating methane, will not double count the benefits already used by the Agency in other rules to justify costs or inflate benefits that are already in place?

3. EPA received a notice of intent to sue from seven northeastern – largely non-oil and gas producing – States Attorney Generals to force the agency to create additional regulations on the oil and gas industry in order to directly regulate methane. What are EPA's plans in regards to additional rulemakings on methane or other potential air emissions related to the oil and gas industry? Are there any efforts underway now?

    a. Given the fact that EPA's air rules on the oil and gas industry which the Agency contends will have significant methane emissions reductions have not been fully implemented yet, can the Agency commit to not moving forward with new regulations until a recent NSPS and NESHAP are fully implemented and EPA has a better idea of the state of emissions at that time?

    b. The UT-EDF study used real world data to clearly show that EPA's methane emissions estimates from hydraulically fractured wells were grossly overinflated. Will EPA take this empirical data into consideration prior to crafting any potential new emissions regulations with regard to hydraulically fractured wells?

c. Can you commit that if EPA moves further regulate air emissions from the oil and gas industry the Agency will not rely on their outdated data but rather use actual emissions that among other things have shown significantly less real emissions from hydraulic fracturing?

4. What is the status of the Comprehensive Interagency Methane Strategy announced by the President in June? Who is involved, and can you tell me when the strategy will be released?

   a. Is there any public or stakeholder involvement in this strategy? If so please describe.

   b. What is EPA's role?

5. In the President's Climate Action Plan when addressing the issue of reducing methane emissions the plan states "when it comes to the oil and gas sector, investments to build and upgrade gas pipelines will not only put more Americans to work, but also reduce emission and enhance economic productivity." Does EPA have a roll in the permitting of natural gas infrastructure? Does EPA share the President's goal of expeditiously building more natural gas pipelines and infrastructure?

FRANK R. WOLF, VIRGINIA
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Congress of the United States
House of Representatives
Committee on Appropriations
Washington, DC 20515–6015

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WILLIAM L. OWENS, NEW YORK

WILLIAM E. SMITH
CLERK AND STAFF DIRECTOR
TELEPHONE:
(202) 225-2771

January 16, 2014

Ms. Laura Vaught
Associate Administrator for the
Office of Congressional and
Intergovernmental Relations
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, D.C. 20460

Dear Ms. Vaught:

I am pleased to announce that candidates are again being considered for the Professional Development Program in the House Appropriation Committee's Surveys and Investigations Division. While the Committee has had numerous detailees and interns to support its annual budget process, this program is targeted to individuals within the Federal and Congressional Branches who would find time spent inside the Committee's analytic and investigative arm of particular interest. This is the fourth year of the program and last year 22 outstanding civil servants were selected and served as integral members of the Committee's Surveys and Investigations Division.

The Surveys and Investigations Division operates as a non-partisan entity that investigates and conducts studies of current or emerging issues at the request of the Committee's majority and minority members. All analyses are solely for the use of the Committee. Results of investigations are not available to the public. The work of the Surveys and Investigations Division is routinely the basis for budgetary or management decisions included in individual annual appropriation bills.

The program is designed for individuals that are in formal government-wide or Departmental professional development programs. Examples include SES training programs, Presidential Management Fellows or individual development programs in the mid to upper level federal scale. In addition, individuals at the higher levels who are interested in applying their proven analytic or investigative skills or program expertise to new and different areas or issues have found the program especially interesting as the Division explores a wide variety of issues.

The ideal candidates for this program are individuals in Budget or Policy or related fields or who are eager to learn those areas of expertise. In addition, this would be an excellent opportunity for staff of Inspector General Offices. Assignments will generally be for 1 year, or a shorter term as mutually agreed upon by the Committee and the parent organization. Although the individuals selected will remain on the rolls of the parent Agency, the Appropriations Committee assumes all costs for training and non-local travel while on detail to the Committee.

The Committee request that applications from interested candidates be submitted by February 28, 2014. Other applications may be considered during the course of the year. To be considered for the program, the Committee requires that applicants have the support of their management. Attached is a detailed explanation of the program and includes the names of the individuals to contact with questions or interest in the program.

Respectfully,

Harold Rogers
Chairman
Committee on Appropriations

Nita M. Lowey
Ranking Member
Committee on Appropriations

House Committee on Appropriations
Professional Development Program

The Program:

The House Appropriations Committee has established a unique and important program that will enable professional staff of the Congress, and the Executive Branch to become involved in the core Appropriations evaluation and deliberative process. The program is intended as both a learning experience and an opportunity to apply developed analytic tools to a wide variety of Federal, domestic, and defense oriented programs.

Background:

The Surveys and Investigations (S&I) Division is the evaluation and investigative arm of the Appropriations Committee. It is unique in many ways. It has been in existence since 1943 providing timely oversight, investigations and evaluations of issues and programs of interest to members of the Appropriations Committee. S&I operates separately from the rest of the Committee and its studies and evaluations are completely non-partisan. S&I work is authorized by the Majority and Minority leadership of the Subcommittees and the full Committee. All evaluations are for the use of the Committee and Subcommittees and are not available to the public.

Benefits of Participation:

Program participants will apply their skills to new and different issues and learn new skills relating to the Federal Budget, the Budget process and investigative techniques. Participants will work directly with permanent Committee staff and will help manage outside contract expertise as necessary.

Program participants will become extremely knowledgeable about the on-going activities of the individual subcommittees for whom the analysis is being provided. Program participants will also have access to the Departments and Agencies which administer the programs being evaluated and will learn how those Departments operate in contrast to their parent Agencies.

Program participants may also provide analytic support to Appropriation Committee members on broad based, Government-wide issues. Special task forces may be established and reviews conducted by the Appropriations Committee members themselves.

In return the Committee will supplement its current permanent staff with invaluable technical, program and analytic support, or expertise on issues as they arise.

The Program Details:

The program is a formal program for executive and congressional branch employees who are in career development programs, or higher level employees seeking to expand their analytic horizons or obtain a different perspective on how Agencies and the Congress operate.

Individuals will be formally detailed to the Appropriations Committee and will be subject to the rules and regulations governing the House of Representatives as well as those governing their parent Agency. Formal evaluations of their work and contribution will be provided to their supervisors and the employees will retain their Agency status at all times. Individuals will be detailed for the standard length of time associated with the Appropriations Committee of one year or one budget cycle. However, under special circumstances, consideration will be given for shorter tenures or part-time arrangements.

The Best Candidates:

Those mid to high level employees currently in, or seeking to be proficient in, the fields of budget, investigations, and policy or program evaluations would be best suited for this program. Participants in Agency professional development programs which include rotations outside of the parent agency would find this program especially valuable.

Costs:

Although these will be non-reimbursable details the Committee will cover costs associated with the conduct of a study including non-local travel, equipment, and supplies.

Contacts:

Mr. Will Smith, Clerk and Staff Director, House Appropriations Committee
Dr. David Gibbons, Director, S&I Division, House Appropriations Committee
David.gibbons@mail.house.gov or (202) 225-3881
Ms. Vicky Decatur-Brodeur, S&I Division, House Appropriations Committee
Vicky.decatur-brodeur@mail.house.gov or (202) 225-3881

DATE: 1/16/14

TO: Ms. Laura Vauhgt
Associate Administrator for
Congressional Relations
EPA

FAX NUMBER: (202) 501-1519
TELEPHONE: (202) 564-5200

FROM: Joyce Stover
House Appropriations Committee
Surveys and Investigations Staff
Washington, D.C. 20515
PHONE: (202) 225-3881
FAX: (202) 225-2112

TOTAL NUMBER OF PAGES INCLUDING COVER SHEET: 5

Please have all candidates send a resume and a letter of approval from their leadership.
Thank you for your assistance.

Joyce Stover

Congress of the United States
Washington, DC 20515

January 15, 2014

The Honorable Gina McCarthy
Administrator
U.S. Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, Northwest
Washington, D.C. 20460

Dear Administrator McCarthy,

We are writing to request a sixty day extension of the comment period for the Environmental Protection Agency's proposed rule titled Standards of Performance for Greenhouse Gas Emissions from New Stationary Sources: Electric Utility Generating Units (RIN 2060-AQ91).

Given the 2.5 million comments EPA received for the previous version of this rule and the many stakeholders who could be affected, we believe a comment period extension is appropriate.

As you know, the EPA's actions have far-reaching implications, and this proposed rule affects not only coal and natural gas companies but also energy-intensive industries like manufacturing and construction as well as average American families trying to pay their electric bills.

Given that nearly forty percent of electricity in the United States is generated by coal, it is especially important to carefully consider both the short- and long-term ramifications of this proposal. In some states nearly ninety percent of electricity is coal-powered, so consumers could be especially hard-hit. We have already heard an outpouring of concern from constituents alarmed about this proposal's impact on energy affordability, job creation, and long-term economic growth. Allowing stakeholders additional time to comment will ensure those wishing to share their views are able to do so and will enable the EPA to more fully consider public opinion.

Thank you for your attention to this matter. We look forward to working with you to develop commonsense policies that protect our precious natural resources while creating jobs, lowering costs, and boosting our economy.

Sincerely,

Jackie Walorski

Jackie Walorski
Member of Congress

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Mike Conaway
Chairman, Committee on Ethics

Sam Graves
Chairman, Committee on Small Business

Michael McCaul
Chairman, Committee on Homeland Security

Hal Rogers
Chairman, Committee on Appropriations

Bill Shuster
Chairman, Committee on Transportation and Infrastructure

Lamar Smith
Chairman, Committee on Space, Science, & Technology

Nick Rahall
Ranking Member, Committee on Transportation and Infrastructure

Robert Aderholt
Member of Congress

Andy Barr
Member of Congress

Joe Barton
Member of Congress

Marsha Blackburn
Member of Congress

Susan Brooks
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Paul Broun, M.D.
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Larry Bucshon, M.D.
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Shelley Moore Capito
Member of Congress

Chris Collins
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Doug Collins
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Steve Daines
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John C. Fleming, M.D.
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Tim Griffin
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H. Morgan Griffith
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Vicky Hartzler
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Cathy McMorris Rodgers
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Luke Messer
Member of Congress

Mick Mulvaney
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Tim Murphy
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Randy Neugebauer
Member of Congress

Rich Nugent
Member of Congress

Pete Olson
Member of Congress

Stevan Pearce
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Trey Radel
Member of Congress

Jim Renacci
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Phil Roe, M.D.
Member of Congress

Dana Rohrabacher
Member of Congress

Todd Rokita
Member of Congress

Keith Rothfus
Member of Congress

David Schweikert
Member of Congress

Adrian Smith
Member of Congress

Jason Smith
Member of Congress

Chris Stewart
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Marlin Stutzman
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United States Senate

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS
WASHINGTON, DC 20510-6175

January 7, 2014

Victoria B. Wassmer
Assistant Administrator for Finance and Management
Federal Aviation Administration
800 Independence Ave., SW
Washington, DC 20591

Dear Assistant Administrator Wassmer:

Thank you for appearing before the Committee on Environment and Public Works on December 17, 2013, at the hearing entitled, "Hearing on the Nominations of Rhea Sun Suh to be Assistant Secretary for Fish and Wildlife and Parks of the U.S. Department of the Interior, Victoria Baecher Wassmer to be Chief Financial Officer of the U.S. Environmental Protection Agency (EPA), Roy K.J. Williams to be Assistant Secretary of Commerce for Economic Development of the U.S. Department of Commerce, and Thomas A. Burke to be Assistant Administrator for Research and Development of the EPA." We appreciate your testimony and we know that your input will prove valuable as we continue our work on this important topic.

Enclosed are questions for you that have been submitted by Senators Boxer and Vitter for the hearing record. Please submit your answers to these questions by COB January 17, 2014, to the attention of Mara Stark-Alcalá, Senate Committee on Environment and Public Works, 410 Dirksen Senate Office Building, Washington, DC 20510. In addition, please provide the Committee with a copy of your answers via electronic mail to Mara_Stark-Alcala@epw.senate.gov. To facilitate the publication of the record, please reproduce the questions with your responses.

Again, thank you for your assistance. Please contact David Napoliello of the Majority Staff at (202) 224-8832, or Bryan Zumwalt of the Minority Staff at (202) 224-6176 with any questions you may have. We look forward to reviewing your answers.

Sincerely,

Barbara Boxer
Chairman

David Vitter
Ranking Member

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Environment and Public Works Committee Nominations Hearing
December 17, 2013
Follow-Up Questions for Written Submission

Questions for Wassmer

Questions from:

Senator Barbara Boxer

1. Ms. Wassmer, can you describe how your background and experiences at the FAA and earlier at OMB have prepared you to be the Chief Financial Officer at EPA?

2. Ms. Wassmer, can you describe how, with your background and experiences working for the FAA, OMB, and with the Office of the Vice President's Millennium Challenge, you will provide a fresh perspective and how you will work to change, as appropriate, EPA's financial management systems?

3. Ms. Wassmer, one of the roles of the Chief Financial Officer is to oversee EPA's goal setting process. Can you explain how you would ensure that EPA is working every day to enhance safeguards for pregnant women, children, and other vulnerable populations?

4. Ms. Wassmer, can you describe what in your background best prepares you to be EPA's Chief Financial Officer?

5. Ms. Wassmer, one of the EPA Chief Financial Officer's responsibilities is to be the agency audit follow-up official responsible for agency-wide audit resolution and ensuring action officials implement corrective actions in response to OIG recommendations. Do you agree that, if confirmed, you will work with agency officials to ensure that appropriate actions are taken to implement corrective actions in response to OIG recommendations?

Senator David Vitter

1. Are you familiar with the criminal case against John C. Beale? As you should know, Beale was a career civil servant that bilked the agency for millions in unearned bonus pay, unauthorized travel, and by simply being paid for work he did not do. As the chief financial officer for the agency, it will in large part be your responsibility to develop and implement new systems to protect against this sort of fraud in the future. Please share with the Committee the steps you will take in your first 100 days to reform the agency and prevent future fraudulent acts.

2. In the case of John Beale, it appears that he could not have been able to accomplish his fraud against the American taxpayer without the assistance, either knowing or unknowing, or other EPA staff. For example, the Committee has learned that Robert Brenner was often the one who approved Beale's requests for bonuses and that Beth Craig approved his travel. Have you had the opportunity to review the facts of this case? Do you concur with my assessment that others at the agency participated, perhaps unknowingly, in Beale's fraud? What do you plan to do in your position as CFO to ensure that EPA employees are not bilking the taxpayers out of millions?

3. In the case of John Beale – did you know that he was still on pay roll AFTER his manager – Gina McCarthy – believed he had retired from the agency? How can something like that happen? Do you agree with me that such a disconnect is unacceptable?

4. Are you aware of the fact that the EPA Inspector General has identified "Workforce Planning" as a serious management and performance challenge for the agency? Are you aware of the fact that according to the EPAIG, EPA currently does not identify the essential functions of staff based on data? Do you agree with me that a failure to identify essential agency functions based on data is a serious failing? Wouldn't the Harvard School of Public Policy frown on such a shabby state of affairs?

5. Are you aware of the fact that despite prodding from GAO and the IG, EPA has not developed analytical methods or collected data to measure its workload and the corresponding workforce levels necessary to carry out that workload? How do you intend to remedy that?

6. Are you aware that when the EPW Committee asked EPA how much money the agency spent to conduct the watershed assessment of the Bristol Bay Watershed in Alaska, EPA admitted to my staff that they had no way of calculating the amount of in house resources dedicated to the effort? Do you find such a state of affairs acceptable? If not, will you commit to me today that as the CFO you will develop a process that will require the agency to know how much taxpayer dollars are being spent on agency activities?

7. As you may know, there have been 3 OIG reports on EPA justification for workforce level with the first being released on December 20, 2010, the second on September 14, 2011 and the last on August 30, 2013. Over the span of 3 years these reports have come to the conclusion that EPA is not meeting the requirements set by Title 5 CFR Part 250.202 the *Human Capital Assessment and Accountability Framework,* which states that workforce planning systems include a workforce analysis process that identifies the size and characteristics of the workforce needed to meet organizational goals. Contrary to this requirement EPA has not conducted the necessary workload analysis to determine the correct number of FTEs needed to specifically carry out the most essential parts of its mission. EPA has not done so for 20 years and still does not do so as of 2013. If confirmed as EPA's next CFO, will you commit to implementing a system can accurately model the workforce needs of the agency.

BARBARA BOXER, CALIFORNIA, CHAIRMAN

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United States Senate

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS
WASHINGTON, DC 20510-6175

January 7, 2014

Thomas A. Burke, PhD, MPH
Associate Dean for Public Health Practice and Training
The Johns Hopkins Bloomberg School of Public Health
624 North Broadway, Hampton House Rm. 429
Baltimore, MD 21205

Dear Dr. Burke:

Thank you for appearing before the Committee on Environment and Public Works on December 17, 2013, at the hearing entitled, "Hearing on the Nominations of Rhea Sun Suh to be Assistant Secretary for Fish and Wildlife and Parks of the U.S. Department of the Interior, Victoria Baecher Wassmer to be Chief Financial Officer of the U.S. Environmental Protection Agency (EPA), Roy K.J. Williams to be Assistant Secretary of Commerce for Economic Development of the U.S. Department of Commerce, and Thomas A. Burke to be Assistant Administrator for Research and Development of the EPA." We appreciate your testimony and we know that your input will prove valuable as we continue our work on this important topic.

Enclosed are questions for you that have been submitted by Senators Boxer, Vitter, and Inhofe for the hearing record. Please submit your answers to these questions by COB January 17, 2014, to the attention of Mara Stark-Alcalá, Senate Committee on Environment and Public Works, 410 Dirksen Senate Office Building, Washington, DC 20510. In addition, please provide the Committee with a copy of your answers via electronic mail to Mara_Stark-Alcala@epw.senate.gov. To facilitate the publication of the record, please reproduce the questions with your responses.

Again, thank you for your assistance. Please contact David Napoliello of the Majority Staff at (202) 224-8832, or Bryan Zumwalt of the Minority Staff at (202) 224-6176 with any questions you may have. We look forward to reviewing your answers.

Sincerely,

Barbara Boxer
Chairman

David Vitter
Ranking Member

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Environment and Public Works Committee Nominations Hearing
December 17, 2013
Follow-Up Questions for Written Submission

Questions for Burke

Questions from:

Senator Barbara Boxer

1. Dr. Burke, do you agree that the Environmental Protection Agency (EPA) should use the current, best available science when making decisions on how to best protect human health and the environment, including implementing the recommendations of the National Academy of Sciences (NAS)?

2. Dr. Burke, can you describe how your experiences on numerous NAS Committees and EPA science advisory councils, including the EPA Science Advisory Board, have prepared you to lead scientific research and development at EPA?

Senator David Vitter

1. During the December 17, 2013, nominations hearing you committed to making data and information that underlies scientific studies used to justify EPA rulemakings available to the public. However, when it comes to most regulations under the Clean Air Act, the EPA has a practice of withholding underlying data, making it impossible for Congress and the public to fully understand the scientific underpinnings of major federal regulations. How will you reconcile EPA's current practice of withholding underlying data? How will you ensure that EPA's scientific work is objective and reproducible?

2. Do you believe it is a conflict of interest for a researcher to receive funding from the EPA to conduct research, and then sit on exclusive panels for the agency making decisions based on the very same research?

3. Isn't it correct that you and at least one of your close colleagues, Dr. Jonathan Samet, have received millions of dollars in research grants from the agency? If so,how many EPA research grants have you received? Please describe the scope of the research, which person and office at EPA authorized the grant, and the amount of the grant.

4. EPA research grants are supposed to be awarded in an unbiased and merit-based fashion. However, concerned have been raised that EPA summarily awards the same applicants the limited number of grants. Moreover, Dr. Burke, along with several of his colleagues at the Johns Hopkins University have received numerous EPA research grants. To ensure a competitive and neutral grant process, will you commit to acting without bias or favoritism in distributing EPA research grants?

5. In recent years, the EPA Inspector General (IG) and the Government Accountability Office (GAO) reported instances where EPA grants have been awarded with no public notice, competition, or accountability. Will you commit to adopting all of the IG and GAO's recommendations regarding EPA's grant programs?

6. Francesca Grifo, former senior scientist and director at the Union of Concerned Scientists was recently appointed to serve as EPA's Scientific Integrity Officer within the Office of Research and Development. If confirmed, how do you intend to work with the Scientific Integrity Officer?

7. Are you familiar with Francesca Grifo, EPA's recently appointed Scientific Integrity Officer? Do you believe there is any reason to be concerned that Dr. Grifo's work at the Union of Concerned Scientists may affect her ability to carry out the responsibilities of the Scientific Integrity Officer?

8. In promulgating National Ambient Air Quality Standards (NAAQS), EPA has repeatedly relied on studies that are based on individual cohort data collected in the early 1980s. In 2004, NAS cautioned against relying solely on these studies because of the potential problems given that "cohorts were established decades ago, and some critical data items, including residence history, smoking rates, dietary factors, and other potential confounding and modifying factors, have not been updated." Do you agree with the NAS's caution against using studies that rely so heavily on outdated cohorts? Will you commit to reviewing this issue and reporting back to the Committee with specific guidance on how you intend to use such studies in setting standards and assessing risk?

9. In the Office of Management and Budget's 2013 report on benefits and costs of federal regulations, over 80 percent of the claimed monetized benefits of all federal regulations were based on PM2.5 reductions. However, the report listed six major uncertainties, including a core uncertainty that PM2.5 may not cause the increased risk of mortality at lower concentrations.

    a. Do you agree that these uncertainties are significant within the context of cost-benefit analysis?

    b. Do you believe that EPA should address these uncertainties by developing integrated quantitative uncertainty analyses?

    c. Will you commit to conducting this type of uncertainty analysis in the upcoming ozone NAAQS review?

10. OMB Circular A-4 requires key uncertainties to be disclosed and quantified to the extent possible to inform decision makers and the public about the effects and uncertainties of alternative regulatory actions. However, EPA has a practice of excluding and failing to quantify key uncertainties in the cost-benefit analysis of rulemakings. Will you commit to following all OMB circulars and guidelines? How will you ensure that key uncertainties are included and quantified in the cost-benefit analysis of EPA rulemakings?

11. In FY2013, ORD received approximately $725 million in new appropriations and had $150 in unobligated balances. Yet, no one knows exactly how these funds are used or whether they are being used most efficiently to produce beneficial gains. In effect, EPA has no way of evaluating the environmental "bang for the buck" for each ORD research program. Will you commit to providing Congress an accounting on the costs and potential and actual beneficial gains of each ORD research program? If confirmed, how will you allocate spending in the Office of Research and Development?

12. The psychologist Brian Nosek and colleagues recently wrote: "Publishing norms emphasize novel, positive results. As such, disciplinary incentives encourage design, analysis, and reporting decisions that elicit positive results and ignore negative results." Therefore, it seems that there is less of an emphasis on replication of findings to ensure scientific integrity than developing novel findings.

    a. Do you believe that there is publication bias that leads to greater publication rates of studies reporting positive results compared to studies showing no relationship?

    b. Considering the likelihood of a possible publication bias by journals and a possible bias toward funding positive results by federal agencies, how do you recommend EPA consider this bias in weighing positive and negative studies?

13. The scientific integrity of EPA's hallmark IRIS program has been questioned by Congress as well as the National Academy of Sciences (NAS). While Dr. Ken Olden is working to bring new leadership to the program, there is much more work that needs to be done.

    a. Can you commit to ensuring that all draft and final assessments released by the IRIS program are consistent with the recommendations of the NAS Formaldehyde committee which recommended changes for all IRIS assessments, not just formaldehyde?

b. Science has advanced significantly over the last 25 years. Will you ensure that as part of the improvements in the IRIS program, the Agency will move away from outdated default assumptions and instead always start with an evaluation of the data and use modern knowledge of mode of action -- how chemicals cause toxicity – instead of defaults?

c. Do you agree that standard protocols should be developed to enable all studies to be independently judged based on their quality, strength, and relevance regardless of the author affiliation or funding source? If so, will you make development of these standard approaches a priority?

d. To further improve the IRIS Program, can you commit to revising the way hazard values are presented to the public to ensure that critical science policy choices are transparently presented and not comingled with scientific assumptions?

14. While health protection is often seen as the responsibility of EPA risk managers, when it comes to scientific assessments, the job of a risk assessor or toxicologist should be to produce assessments that are predictive of risks.

    a. Do you agree that the role of the IRIS program is to identify values that are predictive of the potential health risks rather than those that provide the most conservative (lowest) value?

    b. Will you support an approach to chemical assessment that results in hazard values that are predictive of actual health risk?

15. It is my understanding that internally the IRIS program no longer relies on definitions that are still publicly used (for example, the definition of the RfD and the meaning of confidence values in IRIS), yet EPA has never used any formal stakeholder or public or peer review process to implement these changes. Instead EPA seems to be relying on a 2002 review received from EPA's Risk Assessment Forum Technical Panel, and staff appear to pick and choose which suggestions they will follow and which they will not implement.

    a. Will you commit to engaging stakeholders before changes to critical definitions and methodologies in the NAAQS and IRIS program are made?

16. Currently, when developing hazard values for exogenous exposures the IRIS Program does not consider natural environmental levels of chemicals, e.g., exposure to minerals from geologic formation, exposure to off-gassing from foliage, or levels naturally produced by the human body as part of its metabolic processes.

    a. Do you agree that chemicals associated with the body's natural metabolic processes should be addressed specifically and separately in the development of a hazard value?

    b. What is your position about addressing natural environmental chemical levels as distinct from background man-made emission?

    c. Do you agree that IRIS hazard values should be able to pass a reality check and accommodate levels associated with existing natural exposures that are not known to be associated with any adverse effects at these low exposure levels?

17. There is a pressing need for priority setting when it comes to chemical evaluations within ORD and throughout EPA.

a. Can you commit to developing a clearly articulated prioritization process for high priority IRIS assessments that benefits from, and is responsive to, engagement from all stakeholders? Will you ensure coordination with other EPA program offices?

18. A 2011 GAO report recommended that EPA needed a more coordinated approach to managing its laboratories. In 2013 a National Academies (NAS) panel began reviewing EPA's laboratory capabilities. If the NAS study and EPA's own review substantiates that unnecessary and costly redundancy do indeed exist, do you commit to expeditiously undertake appropriate actions to consolidate or close labs, and reduce redundant staff?

    a. Can you commit to developing a plan to undertake research in order to build the datasets necessary to establish scientific confidence for regulatory use of a tiered, risk-based approach for using high-throughput/high-content screening assays for safety evaluations (looking to approaches already developed such as the from the Hamner Institute)?

19. Industry and federal research efforts have invested millions to better understand how chemicals interact with biological systems at human exposure levels in order to ensure development of human health risk assessment prediction models that are as accurate and science-based as possible. However, IRIS has a long track record of dismissing these types of scientific biologically-based models and asserting that such approaches cannot prove the defaults are not warranted. Demanding that science proves a negative is an anti-scientific policy and indicates a deep seated prejudice against use of mode of action knowledge to replace defaults.

    a. Why shouldn't EPA use the most up to date knowledge on mode of action and dose response at environmentally relevant exposures in lieu of outdated default approaches for hazard identification and dose response throughout the Agency, including in the IRIS Program?

    b. Many scientists have criticized IRIS for its current framework and suggested using a weight of evidence framework. Thus, a litmus test for an improved IRIS will be adoption and use of a weight of evidence framework that incorporates all of the relevant and reliable data and knowledge of hypothesized modes of action, so that there is a clear and objective presentation of the extent to which existing data and knowledge do, or do not, support each hypothesis, including the default. Assuming you support such an approach, can you provide us with a timeline for when we might see such an approach adopted within IRIS?

20. In developing chemical assessments, such as those in IRIS, there is a blending of science, policy and science policy assumptions and choices throughout the evaluations.

    a. Do you agree that IRIS assessments should explicitly acknowledge and transparently convey the science and assumptions around the science (i.e., handling uncertainty) inherent in IRIS assessments?

21. In the 2009 NAS committee you chaired issued a report recommending there should be one unified approach for dose- response modeling. Unfortunately, such an approach may not always consider the millions of dollars of research that have been invested to explore the mechanisms of action of individual chemicals. Significant activities, coordinated by the Alliance for Risk Assessment, have been undertaken since 2009 to broaden the understanding of dose-response and to link different approaches to conducting dose response to problem formulation. This has resulting in more than 30 published case studies, illustrating qualitative categorization, quantitative screening and in-depth assessments.

a. Do you support linking dose response to problem formulation such that the complexity of the dose response approach is "fit for purpose" and reflects the range of decision options and likely regulatory impacts?

b. Do you believe that any approach implemented needs to put chemical specific information and test data ahead of standardize approaches?

c. Will you support an approach the puts chemical specific information and test data ahead of standardized approaches in the IRIS program?

22. In the past you have suggested, in an NAS report you chaired, that information on nonchemical stressors should be incorporated into assessments and EPA should put further research dollars into evaluating the interactions between chemical and nonchemical stressors.

    a. Considering the struggles ORD is having simply evaluating chemical stressors in the IRIS program, do you believe that ORD has the staff, with requisite qualifications and financial capacity, to also take on evaluations of nonchemical stressors?

    b. Shouldn't ORD first convince Congress, NAS, and all other stakeholders that they can appropriately evaluate chemical stressors before broadening their scope?

23. As noted in "Science and Decisions: Advancing Risk Assessment" (NRC, 2009) "... formal consideration of numerous simultaneous chemical, physical, and psychosocial exposures with evaluation of background disease processes and other dimensions of vulnerability could quickly become analytically intractable if the standard risk-assessment paradigm is followed, both because of the computational burden and because of the likelihood that important exposure and dose-response data will be missing. That points toward the need for simplification of risk-assessment tools in the spirit of iterative risk assessment..."

    a. Since the NAS 2009 report there have been significant advances in the development and application of tiered, iterative tools for cumulative risk assessment, including development by the World Health Organization of a formal framework for risk assessment of combined exposure to multiple chemicals. Do you support use of this WHO framework? If not, why not?

24. Currently the staff in the IRIS Program are the sole arbiters of determining whether and to what extent draft IRIS assessments should be revised to reflect input from peer reviewers and the public. EPA's own Scientific Advisory Board has recommended the use of a "monitor" or "editor."

    a. Can you commit to ensuring that a 3rd party, independent of the IRIS Program, is tasked with ensuring that EPA staff have sufficiently considered and responded to peer reviewer and public input before assessments and other documents are finalized?

25. In previous comments on IRIS reform, you said that EPA's IRIS program is in "crisis" and is in need of reform while further stating "the sleeping giant is that EPA science is on the rocks ... if you fail, you become irrelevant, and that is kind of a crisis." Further, you admonished, "You can't fail this time."

In response to a question you said, "We owe it to the American public, we owe it to the scientific community. . . to have risk assessments based in sound science. It would be better to do it right than destroy the credibility of the process."

The NAS report on formaldehyde was critical of the process as well as the underlying science that EPA used in its draft assessment. Your October 2011 testimony emphasized not only the importance of the process but, more importantly, the scientific conclusions or scientific content of the IRIS assessments.

a. Given the significance of this risk assessment to the scientific process and for restoring the public confidence in EPA's science, it is imperative that you commit to having the NAS relook at the next iteration of the formaldehyde IRIS assessment. Can I have your assurance that this peer review will take place?

26. EPA, at the urging of stakeholders, will convene a scientific workshop on formaldehyde in the first half of 2014. Three key issues have been identified for discussion. I am concerned that this workshop will be similar to typical EPA science workshops of the past where the agency solicits input from a variety of stakeholders, irrespective of their qualifications, listens politely and without comment and provides no resolution or feedback. Quite frankly, that is a waste of time and resources. I want to see difference in interpretation of the data, particularly from the epidemiological studies, narrowed. It is my hope that a robust dialog will help accomplish that. EPA staff should be engaged participants in the dialog, not mute listeners and I suggest EPA engage a professional facilitator and have the proceedings of the workshop published. Will you commit to be personally involved in the development and conduct of this workshop and ensure that the right scientists with the relevant subject matter expertise are at the table?

27. The EPA workshop is timely, important at both the scientific and policy levels, and deals with scientific challenges of the highest order. How will you assure EPA integrates high quality information to help inform regulatory decisions for formaldehyde that presents complex challenges? How will EPA conduct a thorough, state-of-the-art WOE evaluation of the entire database?

28. If you are confirmed, what commitment will you make to ensure EPA's scientific content and scientific conclusions are sound in light of the series of significant scientific shortcomings that the NAS Formaldehyde report identifies and the subsequent recommendations put forward?

29. As you know, Congress directed EPA to contract with the NAS to review the cancer and non-cancer IRIS assessments of inorganic arsenic. It is our understanding that a senior scientist in the IRIS program stated publically in a meeting that any recommendations from the NAS would be unlikely to change the agency's views on the arsenic IRIS assessment. If confirmed, are you prepared to effect organizational and staffing changes to ensure that scientific integrity characterized by objectivity, transparency and scientific rigor is restored?

30. What are your views on how best to use systematic review as a tool to identify and review the body of scientific literature pertinent to a risk assessment of a chemical or substance? It is our understanding that the systematic review method developed by Dr. Birnbaum at the NTP and planned to be used by EPA IRIS automatically codes studies in the literature funded by industry as biased. That would mean that industry studies would not be given the same weight as other studies possibly funded by other organizations. How do you view this practice? How can you justify automatically ascribing bias to studies from or funded by industry, ignoring their scientific merit? Couldn't this distort the science by leaving out reliable and sound scientific studies?

a. Others have pointed to different sources of bias, such as publication bias, which creates incentives, including increased likelihood of funding, toward studies that report positive associations; what are your views on this and similar concerns and how do you plan to take these kinds of bias into account?

31. The recent NAS interim report on inorganic arsenic states, "EPA proposes to use linear low-dose extrapolation as the default for cancer and non-cancer effects." This is in contrast with the EPA cancer guidelines, which supports the use of mode-of-action to determine the shape of the dose-effect relationship. It is also in contrast with general mechanistic understanding of non-cancer dose-response relationships. What are your views on linear versus non-linear approaches to risk assessment? Do you think EPA should pursue the establishment of a threshold at low exposures if the data support such association?

32. As an epidemiologist, please describe how you think the body of epidemiology on a specific substance should be reviewed. For instance, many observers, including the NAS, have criticized EPA for giving too much weight to epidemiological studies of large populations exposed to inorganic arsenic, such as the Taiwan data, just because of the large number of subjects, while giving little credence to studies from the US that observe smaller populations, although the lifestyles, including nutrition, of the large populations are totally different from US lifestyle. Meta-analysis studies have been conducted of US populations that address the smaller number of study subjects, but EPA has ignored those studies. These meta-analyses provide evidence that the dose-response relationship used by NRC 2001 from Taiwan is not consistent with findings from the US, and is higher than what would be derived from studies of US populations. What is your view on the use of meta-analyses as a way to integrate information from smaller studies and to provide a reality check on EPA risk calculations?

33. Studies from places like Bangladesh and Taiwan involve populations with very different nutritional statuses than is found in the US. The NAS Interim Report notes the importance of taking account of these differences in applying these study findings to the US (at p.59). How would you extrapolate from those studies to make the data relevant to the US?

34. How do you view the intersection between epidemiology and toxicology? Many critics believe EPA has been overly reliant on epidemiology and deemphasized mechanistic research that provides guidance for dose-response calculations. Some EPA critics suggest that a reluctance to identify modes of action is a deliberate approach by EPA to allow it to use epidemiological data to validate their modeling.

    a. What steps can you take to correct this bias, whether real or perceived?

    b. Science commentators have noted a concern about "normative science," which is defined as "information that is developed, presented or interpreted based on an assumed, usually unstated, preference for a particular policy choice." [Lackey, Robert T. Normative Science. *Terra Magazine*, Oregon State University, Volume 8, Issue 2 (2013).] What steps will you take to ensure that EPA's science assessments on your watch do not include this kind of normative science?

    c. Another type of concern has been identified: "EPA's use of assumptions that it claims are 'public health protective,' which err on the side of overstating risk when data are lacking.... Such inflated risk estimates can lead to overly stringent regulations and can scramble agency

priorities because the degree of precaution differs across chemicals."[1] How do you intend to guard against this problem? What are your views on the use of empirical data as a "reality check" on overly conservative risk assessments, particularly those resulting from modeling or extrapolation of data? How do you view the application of additional safety factors – particularly when they become cumulative – for sensitive subpopulations or policy considerations such as environmental justice?

35. The NAS 2008 Report: Science and Decisions: Advancing Risk Assessment, frequently referred to as the "Silver Book" strongly recommended that EPA should consider the regulatory impacts of its IRIS hazard assessments. Since then, EPA has proposed IRIS assessments, including the cancer assessment for inorganic arsenic, which would drive regulatory standards below naturally occurring background levels in soil and water. EPA national and regional managers were highly critical of the IRIS proposed 17x increase in the cancer slope for inorganic arsenic, saying the science was " detached from reality" and would have "disastrous consequences" for EPA programs including Safe Drinking Water and RCRA.

    The NAS Silver Book urges EPA to perform extensive examination of risk management implications and options in the first phase of human health hazard assessments. It further recommends involving EPA national program managers (Air, Water, CERCLA, RCRA) in this early phase of assessment so that EPA can then use risk assessment to make more informed choices among those options.

    Do you support this particular recommendation from the NAS Silver Book? Do you believe EPA's IRIS assessments must properly consider the "real world" regulatory and risk management implications of its hazard assessments?

36. What is the cost of EPA's Hydraulic Fracturing study on the potential impacts of hydraulic fracturing on drinking water resources thus far? How long has the agency been engaged in the study? What has the agency done in terms of testing?

37. Has the EPA done any testing in real time for sites that are being drilled now? My understanding is that the agency has tested several sites that were drilled years ago, which is a problem because EPA does not have a good baseline of information and there are other factors which could have caused contamination (agriculture, mining, etc.). How does EPA plan on overcoming the lack of good baseline information and ensuring no conclusions are drawn about hydraulic fracturing without first ruling out any other possible sources of contamination?

38. Has the agency has expanded the scope of the study beyond looking at groundwater? What is the full scope of what the agency is now studying? What are all the various pieces that will be included in the study? Were those asked for by Congress? If the study has been expanded, what justification does the agency have for doing so?

39. What has been the extent of EPA's work with DOE and USGS to date on the study?

40. How are you accounting for fracturing technology, as it is changing quickly and beneficially, as part of the study?

41. There has been some controversy over methane leakage from shale development and hydraulic fracturing. But a recent study from the University of Texas that was published in the Proceedings

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[1] Gray & Cohen, "Rethink Chemical Risk Assessments," *Nature*, Vol. 489, p. 27 (9/6/12).

of the National Academy of Sciences found that methane leaks from natural gas development were in line with EPA's data, which showed a leakage rate of only about 1.5 percent. There are several other studies, some of which found high leakage rates, but most seem to suggest that leakage is low and manageable. Based on your review of the scientific literature, what's your understanding of methane leakage from natural gas development, and do you see any environmental benefits of increasing natural gas production and use in the United States?

42. Former EPA administrator Lisa Jackson said, 'I'm not aware of any proven case where the fracking process itself has affected water.' Secretary of Energy Ernest Moniz has said 'I still have not seen any evidence of fracking per se contaminating groundwater.' Interior Secretary Sally Jewell said she is 'not aware of documented cases' of hydraulic fracturing contaminating groundwater. I realize the EPA is currently studying this issue, but based on the evidence already available, do you agree with these officials' assessments?"

43. The increase in domestic energy production is due to the application of two proven engineering technologies – hydraulic fracturing and horizontal drilling. Hydraulic fracturing has been used commercially since the 1940s and directional drilling has been around since the 1930s. Development of resources using these technologies is responsible for 2.1 million American jobs and this number is expected to rise to 3.9 million in 2025. Furthermore, tens of thousands of wells are drilled every year using the process, and we have seen over a million wells drilled in the US with no cases of groundwater contamination. Do you agree that hydraulic fracturing is critical to our economy and our national security? Do you agree that it is a proven technology that has been used safely for over half a century and can be used safely?

    a. Are you aware of any cases where hydraulic fracturing has contaminated drinking water?

44. As part of the Congressionally-requested study on the relationship between hydraulic fracturing and drinking water, the conference report stated that "the study [shall] be conducted through a transparent, peer-reviewed process that will ensure the validity and accuracy of the data." The EPA Science Advisory Board (SAB) has set up an ad hoc panel specifically to provide the peer review for the study and its components.

    a. Will the SAB ad hoc panel peer review all of the reports and projects that are developed as part of the study? Do you believe it is the SAB ad hoc panel's role to peer review all of the study's reports and projects as part of the study?

45. Also included in the conference report is the statement that "The Agency shall consult with other Federal agencies as well as appropriate State and Interstate regulatory agencies in carrying out the study..."

    a. Are you aware of any other federal agencies currently being consulted in the study? Which agencies will you consult with should you be confirmed and head the ORD and lead the study?

46. Recently, EPA Administrator Gina McCarthy was quoted as saying that "developing some kind of uniform standard [as it relates to water] is very difficult given different geologies and different uses of water, different aquifers."

    a. Do you agree with that statement?

47. This June, ORD announced it would abandon its flawed drinking water investigation in Pavillion, WY and would instead support a further investigation by the State of Wyoming.

    a. Given the flawed science on display by the agency in Pavillion and ORD's withdrawal, will you exclude the agency's work and data prior to June 2013 from the agency's Congressionally-requested study on the relationship between hydraulic fracturing and drinking water? If not, why not?

    b. ORD abandoned its investigation, yet according to agency statements, continues to "stand[] behind its work and data." How can the agency reconcile these directly contradictory actions? How would you explain to the American people that continuing a flawed investigation is not worth taxpayer resources, yet the agency "stands behind" the work and data that it abandoned? If confirmed, will you correct the record and explain to the public that EPA does not stand behind flawed science?

    c. Are you aware of criticisms of EPA's work in Pavillion by other federal agencies? How would you respond to those criticisms?

    d. How are ORD and the EPA regional office in Denver currently supporting the State of Wyoming's investigation?

48. Is there a reason, particularly as it relates to air science impacts (PM, ozone, etc.) that we don't see the agency using nonlinear threshold analysis? There are concerns that EPA's analysis is allowing the agency to count benefits that just don't exist, or otherwise set standards below naturally occurring background levels. We've seen this in chemical assessments as well, such as on dioxin and inorganic arsenic. How do we resolve the distance between theoretical benefits and empirical evidence?

49. One of the most important responsibilities of the EPA Office of Research and Development is the development of health assessments for EPA's IRIS progam. In September 2011, EPA issued its long-awaited "Toxicological Review of Trichloroethylene (CAS No. 79-01-6) in Support of Summary Information on the Integrated Risk Information System (IRIS)."

    The IRIS Assessment contains a reference concentration ("RfC") of 0.0004 ppm (0.4 ppb or 2 μg/m3) and a reference dose ("RfD") of 0.0005 mg/kg/day for trichloroethylene (TCE). These are values that are considered by EPA to be protective for all noncancer critical effects. EPA's derivation of the RfC/RfD for TCE is based, in part, on Johnson *et al.*, Threshold of Trichloroethylene Contamination in Maternal Drinking Waters Affecting Fetal Heart Development in the Rat, Environmental Health Perspectives 111: 289-92 (March 2003).

    The RfC/RfD is within the range of background concentrations of TCE in urban air. There is a significant ongoing dispute among the EPA regions as to whether and how this RfC/RfD derived from Johnson *et al.* should be the basis for a short-term TCE exposure limit at Superfund sites. Thus, the proper interpretation and use of this non-GLP study in risk assessment is a question of the highest priority to EPA's Superfund program.

    As noted in the peer review of a recent EPA "TSCA Chemicals Work Plan" assessment of TCE which was highly critical of EPA's reliance on Johnson *et al.*, "[o]ne of the fundamental tenants in science is the reliability and reproducibility of results of scientific investigations."

    The peer reviewers noted:

- At least two GLP-compliant studies conducted under both EPA and OECD guidelines have been unable to reproduce the effect seen by Johnson *et al.*, despite the participation in one of the studies by Johnson herself.

- The dose-response relationship reported in Johnson *et al.* for doses spanning an extreme range of experimental dose levels is considered by many to be improbable, and has not been replicated by any other laboratory.

- The congenital heart defect incidence in control animals in Johnson *et al.* was 86 times the historical control incidence in Charles River rats.

- As California EPA noted in declining to rely upon Johnson *et al.*: "These results are also not consistent with earlier developmental and reproductive toxicological studies done outside this lab in mice, rats, and rabbits. The other studies did not find adverse effects on fertility or embryonic development, aside from those associated with maternal toxicity (Hardin et al., 2004)."

Is EPA concerned that the TCE IRIS Assessment appears to rely on an irreproducible study result? Is there any effort underway to correct this Assessment? Does this information presented seem to indicate that the EPA's IRIS program is no longer "crisis" and is being based on the best available science?

50. The Chemical Safety Improvement Act, which is bipartisan legislation drafted by myself and the late Senator Frank Lautenberg, calls for prioritization screening to identify high priority substances for the Agency to focus on. Is this type of priority setting part of problem formulation? And do you support EPA conducting priority setting? How should ORD programs like IRIS prioritize assessments?

    a. Once problem formulation has been completed, in conducting an assessment, do you believe EPA should use an objective evidence-based review system to evaluate studies?

    b. In integrating results across studies and lines of scientific evidence, should EPA use a systematic and transparent approach for assessing the overall weight of the evidence for observed biological or other effects, mechanistic information, and exposure? Will you commit to ensuring that EPA's scientific work product reflects such an approach?

    c. When developing new methods and procedures for conducting assessments, should EPA develop guidance and solicit stakeholder comments and conduct independent scientific peer review? Should peer review ever preclude the involvement of an individual solely based on a current or former affiliation with industry despite any actual showings of bias or conflict (i.e. does industry experience inherently prove bias in your opinion)?

    d. When assessing potential risk, should EPA use an integrated and tiered testing and assessment strategy in which animal testing is minimized by first using all available and relevant data, including information on structure activity relationships, chemical categories and exposure as part of an initial evaluation tier? With a subsequent second tier of additional animal tests and more detailed evaluation undertaken only when warranted?

Senator James Inhofe

1. Dr. Burke, as head of the EPA's R&D Office, you are going to have responsibility for the Congressionally-requested study on the relationship between hydraulic fracturing and drinking water. The conference report mandating the study state that "the study [shall] be conducted through a transparent, peer-reviewed process that will ensure the validity and accuracy of the data." The EPA Science Advisory Board (SAB) has set up an ad hoc panel specifically to provide the peer review for the study and its components.

   Will the SAB ad hoc panel peer review all of the reports and projects that are developed as part of the study?

2. Dr. Burke, a few weeks ago the EPA Administrator was quoted saying that "developing some kind of uniform standard [as it relates to water] is very difficult given different geologies and different uses of water, different aquifers."

   Do you agree with this statement?

3. Dr. Burke, you have served as a member of EPA's Science Advisory Board. The SAB serves an important function especially in regard to providing advice on EPA's study on hydraulic fracturing and drinking water.

   a. In your capacity on the SAB, did you have an opportunity to review EPA's study plan?

   b. Do you agree that all of the individual components of the study should be deemed highly influential scientific assessments?

Congress of the United States
Washington, DC 20510

February 21, 2014

The Honorable Gina McCarthy
Administrator
U.S. Environmental Protection Agency
William Jefferson Clinton Federal Building
1200 Pennsylvania Ave, NW
Washington, DC 20460

Dear Administrator McCarthy:

We are writing to urge the EPA to accelerate the phase-down of U.S. consumption of virgin HCFC-22. We believe this is one of the most significant and immediate actions the Administration can take in the short-term to address global climate change.

As you know, under the Montreal Protocol the United States must fully phase out domestic consumption of virgin HCFC-22 by 2020. On December 24, 2013, EPA issued a proposed HCFC-22 allocation rule for the years 2015 through 2019.[1] In reviewing the EPA's proposed rule outlining several options for allocating allowances for 2015-2019, we are concerned that EPA's preferred approach does not go far enough and would allow an additional 90 million pounds of virgin HCFC-22 to be manufactured or imported over the five-year period – an amount far greater than what is needed to service aftermarket demand. There is broad agreement among industry and public interest stakeholders that EPA's preferred approach would allocate too many HCFC-22 allowances.

EPA's preferred approach could dramatically expand the already substantial existing stockpile of HCFC-22. In 2011, EPA estimated there was a 50-100 million pound stockpile of HCFC-22. In the proposed rule, the Agency estimates that, as of December 31, 2012, the stockpile has grown beyond 100 million pounds. With the increase in allowances granted for the years 2013 and 2014, it is likely the stockpile will continue to grow. The Agency's consumption allocation going forward should adequately account for the size of that stockpile. And, while we do not support re-proposal of the rule, we were disappointed that the Agency did not solicit comment on a zero allocation of virgin HCFC-22.

In public meetings, EPA has indicated they have no plans to request stockpile data for calendar year 2013. Consequently, the proposed rule will be issued without the most current industry information regarding the impacts of further stockpiling and atmospheric releases. This, coupled with the fact that 2012 stockpile submissions remain publically unavailable, makes it all the more difficult for stakeholders to assess the appropriateness of Agency actions. Additionally, the proposed rule fails to consider the widespread and growing availability of low-GWP alternative refrigerants that can be used as a substitute for HCFC-22. Between the large stockpile, decreased demand, better leak control, use of reclaimed HCFC-22, and availability of

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[1] U.S. Environmental Protection Agency, *Protection of Stratospheric Ozone: Adjustments to the Allowance System for Controlling HCFC Production, Import and Export*, Fed. Reg. 78072 (Dec. 24, 2013).

alternative refrigerants, consumers can be assured of sufficient capacity to serve their existing systems without the granting of significant new HCFC-22 allowances.

We are also troubled that the proposed rule does not consider the adverse impact of the preferred alternative on greenhouse gas emissions. Every pound of new gas produced is replacing a pound that was lost to the atmosphere. The difference in greenhouse gas pollution between EPA's preferred approach and the most aggressive proposed phase-down schedule is equal to the annual emissions of more than eight coal-fired power plants. Moreover, without an aggressive plan to encourage reclamation and proper management practices, any additional gas produced will eventually be lost to the atmosphere.

One of EPA's stated goals is to increase the industry's use and reliance upon recycled and reclaimed HCFC-22 by limiting allowances to a fraction of the aftermarket demand, which in turn would foster the development of the reclamation industry to support supply needs. Unfortunately, EPA's allocation levels have not moved the market in that direction, instead leading to even greater stockpiles of HCFC-22. Over-supplying the market makes it difficult to incent the conservation of HCFC-22 and prevent refrigerant leakage, which in turn drives demand for new production.

We also ask that the Agency revisit its decision to permit the continued sale of HCFC-22 condensing equipment beyond the original 2010 phase-out date. As you know, while the Agency prohibits the sale of new air-conditioning units that are pre-charged with HCFC-22, it permits the sale of uncharged condensing equipment. A new replacement HCFC-22 condensing unit extends the life of older, lower-efficiency central air conditioner systems by as much as 15 years. With an estimated installed base of 67 million HCFC-22 residential air conditioners in the U.S., the potential gains in energy efficiency and CO_2 reductions that could be achieved by addressing this policy are substantial. Ending the sale of these units will also allow the Agency to eliminate the need for approximately 8 million pounds of additional consumption allowances in 2015 and each year thereafter (estimated sales and charge size in 2012), beyond what is currently proposed.

As the Agency develops its final rule, we urge you to adopt a more aggressive phase-down than currently proposed and to end the sale of uncharged HCFC-22 condensing units. A faster phase-down of virgin HCFC-22 consumption will help stimulate reclamation, support the development of low-GWP alternative refrigerants, and foster better refrigerant management practices. It will also reap significant environmental benefits from both an ozone depletion and greenhouse gas perspective, placing our nation on stronger footing as we continue international negotiations to phase down HFCs. We also urge you to finalize the rule quickly to allow the industry to properly plan and prepare for compliance.

Thank you again for your steadfast commitment to protecting our environment. We appreciate your attention to this matter and stand ready to assist you in whatever manner possible

Sincerely,

Christopher S. Murphy
United States Senator

Barbara Boxer
United States Senator

Richard J. Durbin
United States Senator

Charles E. Schumer
United States Senator

Thomas R. Carper
United States Senator

Benjamin L. Cardin
United States Senator

Bernard Sanders
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Rush Holt
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Earl Blumenauer
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BARBARA A. MIKULSKI
MARYLAND

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APPROPRIATIONS

HEALTH, EDUCATION, LABOR, AND PENSIONS

United States Senate

WASHINGTON, DC 20510–2003

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February 14, 2014

Ms. Laura Vaught
Associate Administrator for Congressional and Intergovernmental Relations
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., NW, Room 3426 ARN
Washington, DC 20460-0003

Dear Ms. Vaught:

I am forwarding for your attention, correspondence I have received from my constituent, (b) (6) [redacted] concerning a complaint she filed with your agency in September 2013 about alleged violations of lead paint statutes and regulations for properties owned by McDiarmid Associates and located in Drayden, Maryland.

I am requesting a status report on this matter. Please send your response directly to Bart Kennedy in my Baltimore office, at the above address.

Thank you very much for your consideration. I look forward to hearing from you.

Sincerely,

Barbara A. Mikulski

Barbara A. Mikulski
United States Senator

BAM:wbk
Enclosure(s)

(b) (6) [redacted]

THE HONORABLE BARBARA MIKULSKI
UNITED STATES SENATE
503 HART SENATE OFFICE BUILDING
WASHINGTON DC 20510

RE: Lead Paint Issue

Dear Senator Mikulski:

Enclosed is correspondence and documentation concerning a potential violation of lead paint statutes and regulations, both federal and state, regarding dwellings located in Drayden, Maryland. I forwarded this documentation to the National Lead Information Center, U.S. Environmental Protection Agency (Region 3) (EPA), the Maryland Department of the Environment, and the Manager of the Maryland Department of the Environment Field Operations Office. See, signature page of the letter for the addresses used.

The only response I have received is from the EPA ([redacted], which requested more documentation. I provided that documentation by email and to the "tip" site, as requested. Since then, I have heard nothing. Furthermore, an email requesting an update was unanswered by the EPA. Documentation enclosed.

As documented, I feel serious violations of the inspection regulations have been committed by the testing firm, that the real estate agency misrepresented the property in a deliberate and calculated manner regarding the lead testing, that the firm that performs the maintenance is unqualified (uncertified) to do so, and that the owner is aware and complicit in these matters. Unfortunately, I ended my lease before the lead issues became known to me and my lawyer (who admitted his ignorance of lead regulations) did not deem them an issue to raise during the subsequent litigation (which I lost). However, I deemed them of sufficient value to try to ensure that future tenants are at least aware of the lead paint hazards that may be in the house. (Since the lead test was improperly conducted, who knows whether the levels are acceptable?)

I would appreciate any action your office might deem of value to determine what, if any, actions the various agencies intend to take with regard to this matter. As I stated in my letter, I realize these are small fish in a big pond and resources are scarce. But, why have the laws on the books if they are not going to be enforced across the board? It is unfair to large firms if they are the only ones being pursued for lead violations. Don't you agree? And, while these may be small fish in the federal pond, the maintenance firm is not a small fish in St. Mary's County. And, it is probably not the only county firm that is in violation of the certification requirement for firms doing maintenance work on sites that may (or do) contain lead. So, a little hand slapping could go a long way in these waters.

Thank you for your consideration of my request.

Sincerely,

(b) (6) [redacted]

02-11-10 A09:13 IN

verizon
Verizon Message Center

Monday, Jan 13 at 10:17 PM

From: navylady20051@verizon.net

To: Chelius.Kyle@epa.gov

Subject: Re: Your recent submission to EPA

Dear (b) (6) [redacted]:

Did anything ever come of this? I know it took place right around the time the government had a hard time keeping its doors open. I'd be interested to know if anything was done. The tenant's lease was up in October, and I'm sure it has been rented again. And, I'm sure the other house on the property is also rented out. So, the potential violations keep growing. I do hope you don't consider this owner too small a fish to go after. You not only have the owner of this property, you have the maintenance firm that does all the work on these houses. They are a stand-alone firm with other renovation work in the county, too. Who knows how many of those homes may have contained lead? This area has a lot of waterfront homes built back at the turn of the 20th century that are being "renovated" into major waterfront properties. This firm is one of the "good ol' boys" down in this part of the county and I'm sure he's had his share of the work in the past and now.

Thank you for your time.

[redacted]R

On 09/11/13, (b) (6) [redacted]e:

(b) (6) [redacted]:

I received your packet concerning alleged Lead Based Paint disclosure and Renovation, Repair and Painting Rule violations on September 10, 2013.

Would you be able to go to http://www.epa.gov/tips/ and file a tip? EPA Region 3 is now using a new computer system to initiate and track tips and complaints. By your entering your information into this system, it will help to make sure that it is handled in a timely matter. Once you enter it into the system, it will be forwarded to me. In turn, I will forward it and the information you provided to one of our inspectors who will then start to look at your case.

Looking over the information you provided, I see that you only provided pages 6 and 7 of your lease for 45748 Boothe Road, Drayden, MD. If you could send me copies of the rest of the lease, that would be helpful and would speed our investigation. (One of the first steps that our inspectors would do would be to ask you for those missing pages. By sending them to me as soon as you can, it will save some time since they won't have to contact you and then wait for them. It will save a couple of days.)

If you have any questions, please feel free to email me at [redacted] or at the phone number below.

Thank you,

(b) (6) [redacted]

verizon
Verizon Message Center

Thursday, Sep 12 at 1:46 PM

From: (b) (6) [redacted] >

To: (b) (6) [redacted]

Cc:

Subject: YOUR EMAIL OF 9/11 RE MY EPA SUBMISSION

Dear (b) (6) [redacted] s,
Thank you for your acknowledgement of receipt. I appreciate it. As requested, I have gone to the website and filed the tip, as well.

I only provided what I thought were relevant pages to the lease. But, as requested, the entire lease is attached FYI. Again, I am not living in the house. I cancelled the lease for other reasons, before I became fully cognizant of the lead issues. Unless McDiarmid has replaced the windows by now and repaired the dining area wall, I do not believe this house could/should pass a lead inspection. It appears the windows are original to the house. They are wooden. Some simply cannot be opened at all (they are caulked open/shut because the sashes no longer align to properly close--laundry room in particular, or are there are windows painted shut. One was nailed shut (!) because of damage to the frame--living room.) This was not apparent until the start date of the lease during the walk-through. So, I don't know how this house passed its lead certification. That is one of the things I am pursuing (I hope, anyway) with Maryland's Department of the Environment.

I am also providing MapQuest directions to the house. The starting point is the Federal Trade Commission at 6th & Penn NW. I thought a DC starting point would clarify how to get to Waldorf and points south.

If you require anything else, please let me know. I will tell you, too, that my case was litigated (I lost). There was some documentation of repairs done on my rental (45748) provided in the interrogatories and during testimony. I do not have a transcript of the hearing (it was too expensive for me to obtain). Nor do I have all attachments provided in the response to interrogatories. The Civil Case No. is 0403-0000044-2013 and was heard in the District Court of Maryland for St. Mary's County. As I stated in my correspondence, I wanted to include the lead as an issue, but my attorney didn't agree. I still feel, though, that it is important to pursue. I didn't pursue it earlier for fear it would become public and my attorney would not like it and McDiarmid would not be willing to negotiate. Not that it would have mattered. They weren't willing to negotiate anyway.

Thank you for your time.
Sincerely,
(b) (6) [redacted]
Your message is ready to be sent with the following file or link attachments:
McDiarmid Lease

Note: To protect against computer viruses, e-mail programs may prevent sending or receiving certain types of file attachments. Check your e-mail security settings to determine how attachments are handled.

Enforcement

You are here: EPA Home » Enforcement » Report an Environmental Violation » Information Submitted

Report an Environmental Violation - Information submitted

Thank you for submitting information on a possible environmental violation. The information will be reviewed by EPA enforcement personnel.

This notice will be the only response you will receive regarding your submission. Due to the sensitive manner in which enforcement information must be managed by EPA, **we can not provide status reports or updates regarding any submission** we receive through the Report an Environmental Violation form.

Back to Report an Environmental Violation page

Your Name:	(b) (6) [redacted]
Your Email:	
Your Address:	
Your City:	
Your State:	
Your Zip:	
Your Phone:	
Suspected Violator Name:	McDiarmid Associates (and others)
Suspected Violator Address:	390 Maple Avenue E
Suspected Violator City:	Vienna
Suspected Violator State:	Virginia
Suspected Violator Zip:	22180
Still Occurring:	yes
Notified State DEP/DEQ/DEM:	yes
Characterized incident as:	
Intent:	Unknown
Type:	Falsified
Media:	Worker
Media:	Documents
Entity:	Company

Specific Directions:	FROM WALDORF, MD (south of Washington, DC) - Route 5/235 South to Mechanicsville. Route 5 splits from Route 235 just south of Mechanicsville "proper" at the light at the WaWa station. Take right on Route 5 South to and through Leonardtown, Maryland. In Callaway, Maryland, take right on Route 249 toward St. George Island. Turn LEFT on route 244 at Valley Lee Fire Department (just past Valley Lee Post Office, which will be on your right). Take next right onto Cherryfield Road, then next right onto Boothe Road. Follow Boothe Road to end, where it turns to gravel. Take gravel road straight back into the front yard of the house. I don't believe there are any numbers on the house. It is gray, with some white trim and a large oak tree in front. SEE MAPQUEST DIRECTIONS provided with written package.

Contact Us to ask a question, provide feedback, or report a problem.

EPA Home

Privacy and Security Notice

Accessibility

Last updated on September 4, 2013

Social sites:

More social media at EPA »

2. LEAD INSPECTION FIRM

Canter Environmental - Accreditation No. 6193 - Contracted via Inspection Connection by Century 21
P O Box 259
Great Mills, MD 20634
Inspector: Kristi Frischholz (now, Canter) - No. 8568
Telephone No.: UNKNOWN
Lead Certificate No. 590012 applies
Inspected: May 31, 2012 at 11:00 a.m. (per certificate)

The real estate firm with the exclusive listing on the property was Century 21 New Millennium located in Lexington Park, Maryland. The listing/showing agent was Margaret C. Taylor. Ms. Taylor arranged for the lead inspection of the 45748 property through Inspection Connection. (As I understand it, Inspection Connection acts as a go-between to identify appropriate inspectors for the type of inspection being conducted. I am not aware of the relationship, if any, between Inspection Connection and Century 21 and/or McDiarmid Associates.) As stated above, the inspection took place on May 31, 2012. As set forth in the supporting documentation, the inspection looks as though it were properly conducted. HOWEVER,

a. Per Maryland regulations, one dust swipe for a "dust" inspection SHALL be collected from the window well of windows in each inhabitable area of the house. The supporting documents state that was done. BUT, the next day--June 1, 2012--when I conducted the walk-through, 19 of 20 windows (all of the wooden windows in the house) DID NOT OPEN. If the lead inspection had been properly done the day before, surely at least seven of them should have opened. I visually noted several windows caulked shut, painted shut, and, in one instance, nailed shut because the frame was damaged.

b. I noted the problem with the windows on the walk-through documentation (enclosed). In response, the owner/lessor wrote on it that the windows were painted shut and needed to be opened. Painted shut--yet the inspector documented dust swipes from the window wells just the day before. Interesting!

c. The inspector also documented that a visual inspection was conducted before dust swipes were taken and that the house passed. Yet, there is chipping/flaking paint in a corner of the dining room--between the only two windows in that room--that is *clearly* visible. See, enclosed photograph.

NOTE: I never received the lead certificate on the house from the real estate agent or owner/lessor until after I had cancelled the lease. I received it in August 2012 following a demand by my attorney. Thus, I was not aware of the manner of conduct of the lead inspection or its results until well after the time provided in the regulations for provision of a lead certificate by an owner/lessor.

Allegations: The fact that visible chipping/flaking paint is present, and the fact that none of the wooden windows in the house opened the very next day after the inspection, gives the definite impression that the conduct of the inspection was improper, at best. This house failed one inspection by Canter in August/September 2005, but has passed all inspections since that time. I am not aware whether Maryland's requirements to do a modified risk reduction following a "failed" inspection applied in 2005. However, there is no documentation that a modified risk reduction was required *or conducted* following that failed inspection. The windows appear original to the house. They are old. They are painted shut. In some cases, they are caulked shut. In one case, the window was nailed shut because the frame is breaking. (The real estate agent didn't note that on the walk-through.) Also, Canter (or, Inspection Connection) apparently failed to make proper distribution of the certificate. MDE received its copy from Canter, as required. And, notes from the real estate agent state that the owner's copy was forwarded to the owner; however, the tenant's copy was forwarded to the real estate agent and never distributed to the tenant. It is supposed to be sent to the owner for distribution to the tenant by verifiable means.

Documents: Walk-through documentation with owner/lessor's note re painted windows; picture of flaking paint; and, see also failed certificate (enclosed).

3. MAINTENANCE FIRM

A&A Painting and Restoration Company
Address UNKNOWN
Phone: 301.994.0229
Principle/Point of Contact: Mike Adams (partner)

Per the real estate agent (Ms. Taylor), Mike Adams (via his firm A&A) provides maintenance services to McDiarmid Associates for both rental properties listed above. These services have included electrical work, arranging for the upgrade of the electric at the 45748 property, general electrical work, carpentry at 45748, interior and exterior painting, and plumbing work at the 45748 property. In 2012, A&A/Mike Adams performed a complete renovation of the 45749 (2nd dwelling). While I was a tenant at 45748, A&A/Mike Adams repaired a dangerously weak bathroom floor. Just prior to my tenancy, they repaired a "rotten" sill and siding at the porch, as well as prepared the house for the lead inspection and did the interior/exterior painting that occurred before my tenancy.

Allegation/s: As stated herein, and as portrayed by the owner/lessor in the lease document, the house was built in 1950. Per federal regulations, as of April 2010, any firm performing electrical, remodeling--repair/maintenance, plumbing, painting preparation, and/or carpentry--where LBP may be present and disturbed in pre-1978 housing must be EPA certified and follow specific work practices to prevent lead contamination. Neither A&A Painting and Restoration Company nor Mike Adams (or any of his brothers/partners) are EPA certified. Nor are they listed on Maryland's web-site of approved renovation contractors. Not only does the house at 45748 (my rental) contain lead, so may the one at 45749, which was also built in 1950. It is also noted that no work and/or building permits were pulled by A&A/Mike Adams for the renovation of the 45749 property. Therefore, no inspections of the work were performed to ensure that LBP was properly handled. Given the age of the property, it is quite possible the exterior had LBP--which may now be in the ground as well as the local landfill. This property has been leased in the past. Prior to its renovation in 2012, the house was stated by Mike Adams to have been in a state of disrepair for three years. So, the most recent habitation/rental would have been around 2008, or thereabouts. It is noted that Maryland's lead program has been in place since at least 1998 (the earliest certificate on the 45748 property). However, there is no documentation that McDiarmid Associates ever "opted-in" the Maryland program for the 45749 property; that is, the house is not registered. Per MDE, there are no lead certificates for this property. The association between McDiarmid Associates and A&A is one of long-standing (over 20 years). So, it is not a stretch of the imagination to conclude the relationship will continue in the future. So, it is only right that A&A should receive some reprimand for its failure to obtain lead certification and that it be required for future work on these properties.

Documentation: MLIS pages for 45748 and 45749 showing age of houses as 1950. See also, lease documentation of the age of the 45748 property.

4. REAL ESTATE FIRM

Century 21 New Millennium
23063 Three Notch Road
California, MD 20619
Phone: 301.862.2169
Agent: Margaret C. Taylor, Realtor

IMPORTANT NOTE: There are TWO Margaret Taylors at C21NM. So, it is important to remember to use the middle initial "C" in any correspondence or inquiries concerning is matter.

I'm not sure which, if any, regulations may apply to the real estate agent (REA), Margaret C. Taylor. Or, what, if any, would attach to the real estate firm, C21. The listing type was exclusive, which didn't apply to me, since I contacted Ms. Taylor upon seeing the listing. She went over the lease with me, including pointing out the LBP provisions and the federal disclosure form. I was provided access to the required brochures. No mention was made of any lead inspections or certificates, however. The owner/lessor had written a note on the federal disclosure (enclosed herein) that said "but is probable", in response to the "knowledge" block. There was no elaboration. My previous knowledge (if you can call it that) of LBP was that it was hazardous to children. So, I didn't really pay much attention to the LBP provisions, to be honest.

I have since learned the house had the lead dust inspection on May 31, 2012 (the day before my tenancy began). I also learned that it was the REA (or another member of C21) that contacted Inspection Connection and was put in touch with Canter Environmental to conduct that inspection. The REA is the one that followed-up regarding the results. And, the REA is the one that received the tenant's copy of the certificate--the certificate that was never provided to me.

The same REA handled the re-lease on the property. No turnover inspection was performed; thus, no certificate was obtained for the new tenant.

Allegation/s: The REA knew or should have known of the presence of LBP in the TWO dwellings (she is the agent for the other rental, too). The REA received the tenant's copy of the certificate for 45748 and did not provide it. This is against the distribution policy regarding the tenant's copy of the certificate; that is, the owner is to receive the tenant's copy and forward it to the tenant by verifiable means (e.g., certified mail; return receipt requested). The REA is supposed to ensure the owner/lessor is aware of the requirements regarding LBP/H disclosures for sales and rentals. The federal disclosure has the REA's signature stating that was done. Yet, the REA inserted herself into the process and, as a result, what should have been done wasn't completed. I don't know to what extent that constitutes a violation; I'll leave it for you to decide. At least, the REA should be reprimanded for her involvement in the lead inspection process--which is the owner's responsibility. The lead certificate is to be provided by the first day of the tenancy. The REA was aware of this and did not ensure compliance by either the homeowner or herself. Nor, did she inform me (the tenant) that a lead inspection had not been conducted in a timely manner or was ongoing and to be provided. Her very awareness of the actions taking place--and scheduling/ attending the lead inspection--gives knowledge and the need to ensure the disclosure of that knowledge. Since the REA was aware of the current lead inspection (May 2012), the agent should have ensure that it was disclosed on the Title X disclosure, but did not. And, the REA was certainly aware of the May 2012 lead inspection and the requirement to conduct another one prior to the new tenancy in October 2012, but did not ensure a new inspection was conducted.

Documentation: See, the federal disclosure. (NOTE: Check out the dates of signature for the owner and REA. The REA certified the accuracy of the information BEFORE the owner filled it out/signed it! Is she clairvoyant?) Also enclosed is a letter from the REA to the owner/lessor (also named "Mary"--it was not addressed to me), that explains about obtaining confirmation that the house passed the lead inspection and that the REA would receive the tenant's copy.

As set forth in the beginning of this letter, I hereby respectfully request that the recipients of this letter and its enclosures conduct proper investigations into the alleged wrongdoing. I know efforts to reduce the risk of lead paint poisoning in older homes can be costly to the homeowners. However, it can be DEADLY for tenants who have not received available documentation on which to base an informed determination to rent a property containing LBP/H. The laws don't require a homeowner to abate the lead, only to provide available knowledge. Yes, there will be potential tenants who decide against renting a property with lead. They should have the opportunity to make that choice. I didn't. I wish I had.

As intimated herein, there was litigation involving my tenancy (I prematurely terminated the lease). During witness interrogation, admissions were made regarding some of these allegations, particularly by Mr. Mike Adams and the renovations made at 45748 Boothe Road (my tenancy). The lead paint disclosure was not a matter of litigation, however, despite my desire to do so because my attorney insisted I didn't have standing. He deemed that the disclosures made in the lease were adequate despite the failure to provide the previous and current lead certificates. I disagreed, but..... .

I still deem these alleged infractions of sufficient warrant so that I am bringing them to your attention. LBP/H are a problem everywhere--in every state, every county, every jurisdiction. They need to be diligently pursued when raised. It's too late for me, but not for you. Please, do what you can. These are nice looking houses, and the rent is right. I was told that 45748 was once leased under the Section 8 program. So, it is possible young children have been, or will be, housed in one or both of these houses. Then, it may be too late to prevent a tragedy. Please, don't let that happen!

I realize funds may be an issue and this is a small fish compared to owners of tenements. But, should a child of a tenant renting from someone like McDiamid Associates matter less than children in tenements? The law should be applied equally, to both big and small fish. America, including Maryland, is supposed to be about equal justice under the law. At least, I hope that's still true. It's time someone took a stand against McDiarmid Associates, which has been renting these properties out over 30 years now. I'm doing my part by informing you of these potential violations. Will you do yours, too? I hope so.

Please inform me of our decision whether to investigate these matters. An email is acceptable.

Sincerely,

(b) (6) [redacted]

SENT TO:
National Lead Information Center
422 South Clinton Avenue
Rochester, NY 14620

U.S. Environmental Protection Agency - Region 3
Waste & Chemicals Management Division
Toxics Programs & Enforcement Branch (3WC33)
1650 Arch Street
Philadelphia, PA 19103
Branch Chief, Regional Lead Program Coordinator,
and Regional Lead Enforcement Coordinator

Maryland Department of the Environment
Lead Compliance & Accreditation Division
Lead Poisoning Prevention Program
1800 Washington Boulevard Suite 630
Baltimore, MD 21230

Manager - MDE Field Operations Office
416 Chinquapin Round Road
Annapolis, MD 21401

ENCLOSURES (All Recipients):
1 - Pages 6 and 7 of Lease btwn Rolands and McDiarmid Associates - See para 48 (2 pages)
2 - Federal Lead Paint Disclosure - Roland/McDiarmid Lease (Addendum #1) (1 page)
3 - Notice to Tenant Lead-Based Paint and Lead-Based Paint Hazards - Roland/McDiarmid Lease (1 page)
4 - Lead Inspection Certificate #590012 for 45748 Boothe Rd - Received 6/13/2012 (w/reports) (8 pages)
5 - Lead Inspection Certificate #380046 - Received 11/19/2009 (no reports) (1 page)
6 - FAILED Lead Inspection Certificate #299640 - Received 9/6/2005 (w/report) (5 pages)
7 - Lead Inspection Certificate #223814 - Received 8/19/2003 (no report) (1 page)
8 - Lead Inspection Certificate #112840 - Received 3/16/1999 (no report) (1 page)
9 - Lead Inspection Certificate #082261 - Received 3/23/1998 (no report) (1 page)
10-Email btwn T. Stinney/MDE and M. Roland of 13 Mar 2013 (12:33pm) re 45748 Boothe Rd (2 pages)
11-Rental Unit Acceptance & Check Out Form - 45748 Boothe Road - June 2012 (2 pages)
12-Picture - Dining Room Window Frame and Corner showing chipped/flaking paint - 45748 Boothe Rd (1 page)

13-Page 1 of MRIS Listing for 45748 Boothe Rd - showing Year Built (1950) (1 page)
14-Page 1 of MRIS Listing for 45749 Boothe Rd - showing Year Built (1950) (1 page)
15-Ltr fr Margaret C. Taylor, Century 21 to Mary (McDiarmid) dated June 7, 2012 re dust inspection
NOTE: This letter was received as "discovery" in a litigation matter. It is my understanding that I may provide it to you, since it was submitted to the court.

(d) Tenant shall replace, at Tenant's exp e, furnace filters at least every three (3) mon' Tenant shall turn off and drain all exterior water spigots before November 1.

(e) Additional agreements, if any, regarding maintenance, repairs and/or replacement are as follows:

tENANT WILL MOW GRASS AROUND IMMEDIATE VICINITY OF HOUSE AND UP TO WOODS AT SIDE OF HOUSE ON LEFT. TENANT WILL MOW UP TO CULTIVATED FIELDS TO REAR AND RIGHT OF HOUSE AND ROAD AT FRONT OF HOUSE. LAWN TRASH WILL BE REMOVED FROM PROPERTY. TENANT WILL PROVIDE RECEIPT FOR PROFESSIONAL CLEANING OF CARPET IN KITCHEN AND DINING AREA CHIMNEY ON VACATING
TENANT WILL TREAT PROPERTY FOR TICKS AND FLEAS ON VACATING - with receipt
TENANT HAS PERMISION TO ERECT A MAINTENANCE FREE WOODEN FENCE COMPARABLE TO A PICKET FENCE ON THE LINES OF THE OLD RAIL FENCE AND UTILIZING THE POSTS IN PLACE, WITH AN EXTENSION TO THE OIL TANK TO ENCLOSE THE BACK DOOR, WITH 2 GATES. FENCE WILL REMAIN AFTER TENANTS LEAVE.

38. TENANT'S RESTRICTIONS CONCERNING PETS: NO PETS may be kept on the Property without the prior written permission of the Owner. If pets are allowed, an addendum containing PET provisions must be attached to this Lease.

39. EQUIPMENT THAT OVERLOADS A SYSTEM: Tenant will not install or use, or permit to be installed or used, any equipment of any kind that will require any alteration or additions to, or create an overload on any gas, water, heating, electrical, sewerage, drainage, or air conditioning system of the said Premises, without prior written consent of Owner, and the permission of any governmental agency or public utility company, as and if required, and in compliance with applicable public law.

40. ACTIVE MILITARY DUTY: If Tenant is on active duty with the United States military and receives permanent change of station orders or temporary duty orders for a period in excess of three (3) months, Tenant may terminate the Lease and shall be liable for no more than thirty (30) days rent after written notice and a copy of such orders are given to Owner by Tenant. Tenant shall remain liable for any costs for damages to the Property, other than ordinary wear and tear.

41. NOTICE OF ABSENCE: Tenant shall give Owner notice of an anticipated extended absence of Tenant from the Property in excess of fourteen (14) days. During any such absence of Tenant, Owner may enter the Property at times reasonably necessary to protect the Property and any possessions of Owner on or in the Property.

42. SUBORDINATION AND ASSIGNMENT OF LEASE BY OWNER: This Lease shall be subordinate to the lien of the existing and future mortgages placed against the Property, and Tenant agrees to execute whatever additional agreements are required to so subordinate this Lease. Owner shall have the right to assign any rights under this Lease at any time.

43. LIENS: Tenant has no authority to incur any debt or make any charge against the Owner or assign or create any lien upon the Property for any work, utilities or materials furnished to the same.

44. DEATH OF TENANT OR OWNER: If either the Owner or Tenant are husband and wife and one of the spouses should die during the term of this Lease, the surviving spouse (or other person in authority over the estate) of the deceased may terminate this Lease by giving thirty (30) days' written notice.

45. ILLEGAL ACTIVITIES: Owner shall have the right to terminate this Lease upon receipt of a preponderance of evidence that indicates an immediate threat, which materially affects the health or safety of either Owner, Tenant or other tenants. For example, the sale, distribution or possession of illegal, dangerous or prohibitive drugs and drug paraphernalia on the Premises shall be considered an immediate threat. In such event, Owner shall give Tenant written Notice of Termination of this Lease with the time of vacating to be commensurate with the urgency of the situation. Tenant shall vacate and surrender possession of the Premises to Owner within the time period specified in the Notice of Termination.

46. TENANT'S AND OWNER'S DELIVERY OF NOTICES: All notices required to be given by Owner to Tenant shall be sufficiently given by leaving the same at the Property, except that notice of the withholding by Owner of any portion of the security deposit shall be mailed by Owner to Tenant at Tenant's last known address, within forty-five (45) days after the termination or expiration of this Lease.

All notices required to be given by Tenant to Owner, and all rent, shall be delivered to the following address: (Notices shall be given by certified mail.)

Name **MCDIARMID ASSOCIATES** ☒ Owner ☐ Property Manager

Address **390 MAPLE AVE E VIENNA VA 22180-2700**

Phone **703 938 2700 Office 703 938 6129** home in an emergency

47. FUEL OIL: If the Property uses oil for heat, Tenant is responsible for the payment of all fuel oil consumed during this tenancy. Owner will del[redacted] Property with a full fuel oil tank. ~~Immediately upon taking occupancy, regardless of the time of year, Tenant will reimburse Owner [redacted] amount equal to the cost of a full tank of oil (calculated at the current rate per gallon).~~ At the end of the Lease ~~the Owner will reimburse or credit the Tenant for the fuel oil remaining in the tank. Owner agrees to maintain a service contract on the fuel oil system~~. Tenant agrees to use the heating oil provider designated by Owner for any purchase of fuel oil. Until further notice, the designated oil company is **BURCH OIL 301 373 2131**. Tenants to provide paid receipt for a full tank of oil!

48. LEAD PAINT – APPLICABLE LAW: Title X, Section 10108, The Residential Lead-Based Paint Hazard Reduction Act of 1992 (the Federal Program) requires the disclosure of certain information regarding lead-based paint and lead-based paint hazards in

Tenant _____ Landlord M.W.D. #1-1

Computer generated using AutoContract™ v6.02 software, from AutoRealty, LLC, 1060 W. Pipeline, Suite 101, Hurst, TX 76053, (800) 322-1178 C:\Users\mtaylor\Documents\ACWin\BOOTHE RD ROLAND
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connection with the rental of residential r ' property. An owner of pre-1978 housing is r ired to disclose to the tenant, based upon the owner's actual knowledge, all known d-based paint hazards in the Property and pr de the tenant with any available reports in the owner's possession relating to lead-based paint or lead-based paint hazards applicable to the Property.

If the Property was built prior to 1979, the Property is also subject to the Maryland Lead Paint Poisoning Prevention Program Act contained in the Maryland Code, Environmental Article Section 6-801 et seq. (the Maryland Program). If the Property was constructed prior to 1950, **all** provisions of the Maryland Program will apply to the Property. If the Property was constructed during the period 1950 through 1978, the provisions of the Maryland Program will also apply to the Property except that Owner will have the option to participate in the liability limitation portion of the Maryland Program.

Age Classification of Property: Owner represents and warrants to Tenant(s), and Owner's agents, intending that they rely upon such warranty and representation, that ***(initial all that apply)***

- **The Federal Program** *(initial one)*

  N.M.G. _____ the Property was built during or after 1978; **the Federal Program does not apply.**

  XX the Property was built before 1978; **the Federal Program applies.**

- **The Maryland Program** *(initial one)*

  _____ the Property was built prior to 1950, **the Maryland Program applies fully.**

  N.M.G. XX the Property was built after 1949 but before 1979, **the Maryland Program applies at Owner's option.**

- **Age Classification Unknown** *(initial, if applicable)*

  _____ Owner is uncertain as to age classification; therefore, Owner acknowledges that, for the purposes of the rental contemplated by this Lease, the Property will be treated as though it had been constructed prior to 1950, and agrees that the Property is fully subject to Federal and Maryland law as to the presence of lead-based paint and/or lead-based paint hazards.

NOTICE TO TENANT – LEAD-BASED PAINT AND LEAD-BASED PAINT HAZARDS: Tenant acknowledges that Property may be subject to Federal and Maryland law as to the presence of lead-based paint and/or lead-based paint hazards. Tenant acknowledges the receipt of the following required brochures:

1. **Under Federal Law** (the Residential Lead-Based Paint Hazard Reduction Act of 1992)
   a. The EPA "*Protect Your Family From Lead In Your Home*" brochure; and
   b. The *"Disclosure of Information on Lead-Based Paint and Lead-Based Paint Hazards - Target Housing Rentals and Leases"*, together with any documentation referenced therein.
2. **Under Maryland Law** (the Maryland Lead Poisoning Prevention Program)
   a. The *Notice of Tenants' Rights, Lead Poisoning Prevention*, as published by the Maryland Department of the Environment.
   b. The EPA "*Protect Your Family From Lead In Your Home*" brochure (the same brochure as 1.a.).

Tenant understands and acknowledges that compliance under the Federal and Maryland laws is the sole responsibility of Owner and that Tenant agrees to read and become familiar with the requirements of Federal and Maryland law as contained in the above brochures and notice.

_____ Tenant's Initials

49. WATER/MOISTURE/MOLD: Tenant shall promptly notify Owner in the event of the presence of water moisture, water leaks, water spillage (including in or around roof, windows, doors, ceilings, floors, toilets, bathtubs, sinks, dishwasher, washing machine, refrigerator, freezer, air conditioning unit(s), faucets), flooding and/or water damage to the premises. In the event of water moisture, water leaks, water spillage, flooding and/or water damage, Tenant shall take immediate measures to contain the water and to prevent further water damage including turning off any faucets and to cease the use of any toilet, sink, bathtub or appliance causing such water leaks or spillage. Tenant shall notify Owner promptly in the event mold of any type is observed within the leased premises.

Upon notification from Tenant, Owner, at Owner's sole expense, shall promptly remediate and repair any water damage to the premises caused by water moisture, water leaks, water spillage or flooding and remove in accordance with industry standards any mold within the premises which occur through no fault of Tenant. In the event water damage or mold occurs within the premises through the negligence of Tenant, Tenant shall pay, as additional rent, all costs and expenses incurred by Owner, to remediate and repair such water damage and removal of mold.

_____ Tenant's Initials _____ Tenant's Initials

50. TENANT ACCEPTS PROPERTY: Tenant has been provided with an opportunity to inspect the Property and accepts the Property in its present condition, unless otherwise agreed in writing below.

51. "TIME IS OF THE ESSENCE" SHALL APPLY TO THIS LEASE.

52. ADDITIONAL PROVISIONS:

#1-2

Tenant _____ Landlord N.M.G. _____

Computer generated using AutoContract™ v6.02 software, from AutoRealty, LLC, 1060 W. Pipeline, Suite 101, Hurst, TX 76053, (800) 322-1178 C:\Users\mtaylor\Documents\ACWin\BOOTHE RD ROLAND
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FEDERAL LEAD PAINT DISCLOSURE
(RENTALS)

Disclosure of Information on Lead-Based Paint and Lead-Based Paint Hazards

Addendum # 1

RE: (b) (6) [redacted] (b) (6) [redacted] [redacted]20630
Property Address

LEAD WARNING STATEMENT: Housing built before 1978 may contain lead-based paint. Lead from paint, paint chips, and dust can pose health hazards if not managed properly. Lead exposure is especially harmful to young children and pregnant women. Before renting pre- 1978 housing, landlords must disclose the presence of known lead-based paint and/or lead-based paint hazards in the dwelling. Tenants must also receive a federally approved pamphlet on lead poisoning prevention.

LESSOR'S DISCLOSURE (Initial)

_____ **(a) Presence of lead-based paint and/or lead-based paint hazards (check one below):**

☐ Known lead-based paint and/or lead based paint hazards are present in the housing (explain):

_____

MCY ☑ Lessor has no knowledge of lead-based paint and/or lead-based paint hazards in the housing. but is probable.

_____ **(b) Records and reports available to the Lessor (check one below):**

☐ Lessor has provided the lessee with all available records and reports pertaining to lead-based paint and/or lead-based paint hazards in the housing (list documents below):

_____

MCY ☑ Lessor has no reports or records pertaining to lead-based paint and/or lead based paint hazards in the housing.

LESSEE'S ACKNOWLEDGEMENT (Initial)

_____ **(c) Lessee has received copies of all information listed above.**

_____ **(d) Lessee has received the pamphlet *Protect Your Family From Lead in Your Home*.**

AGENT'S ACKNOWLEDGMENT (Initial)

MCY **(e) Agent has informed the Lessor of the Lessor's obligations under 42 U.S.C. 4852(d) and is aware of his/her responsibility to ensure compliance.**

CERTIFICATION OF ACCURACY

The following parties have reviewed the information above and certify, to the best of their knowledge, that the information provided by the signatory is true and accurate.

Lessor _____ Date 3/12/12

Lessor _____ Date

(b) (6) [redacted]
Agent _____ Date

(b) (6) [redacted]
Agent _____ Date

#2

This is a standard form of the Southern Maryland Association of REALTORS, Inc.

RD05/01-601

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NOTICE TO TENANT
LEAD-BASED PAINT AND LEAD-BASED PAINT HAZARDS

Tenant acknowledges that Property may be subject to Federal and Maryland law as to the presence of lead-based paint and/or lead-based hazards. Tenant acknowledges the receipt of the following required brochures from Agent:

1. Under Federal Law (the Residential Lead-Based Paint Hazard Reduction Act of 1992)

   a. The EPA "Protect Your Family From Lead in Your Home" brochure

2. Under Maryland Law (the Maryland Lead Poisoning Prevention Program)

   a. The Notice of Tenants' Rights, Lead Poisoning Prevention, as published by the Maryland Department of the Environment.

   b. The EPA "Protect Your Family From Lead In Your Home" brochure (the same brochure as 1.a.)

Tenant understands and acknowledges that compliance under the Federal and Maryland laws is the sole responsibility of Owner and that Tenant will read and become familiar with the requirements of Federal and Maryland law as contained in the above brochures and notice.

(b) (6) [redacted] 5/18/2012
Tenant MARY C. ROLAND Date

(b) (6) [redacted] 5/18/2012
Tenant JAMES P. ROLAND JR Date

(b) (6) [redacted] 5/18/2012
Agent Date

[redacted] (b) [redacted]

#03

MARYLAND DEPARTMENT OF THE ENVIRONMENT **COPY COPY COPY** LEAD PAINT RISK REDUCTION

INSPECTION CERTIFICATE NO. 590012

NOTE: This inspection certificate is not valid unless it contains the Owner #

MDE OWNER #	MDE PROPERTY #	UNIT #	OWNER NAME
152106	1902013215	SINGLE	MARY MCDIARMID

PROPERTY ADDRESS	CITY	STATE	ZIP
45748 BOOTHE ROAD	DRAYDEN	MD	20630-0000

The Inspector must check inspection category #1, 2, 3, or 4. Check ONE and ONLY one. Also check each appropriate option or method used. The following attachments are required: Dust test, Form C; Visual inpsection, Form B; Lead Free, Form E. Provisional or limited certificates are issued pursuant to a waiver for exterior work for a specifice time frame and will be invalid after the expiration date unless a Form D is completed and returned to the Department within 10 days of that expiration date. Any re-inspections require a Form D be submitted to MDE. The original Inspection Certificate No. should be referenced on all Forms submitted.

Inspection Category		Options or Methods			
( ) 1.	Lead Free	Option A: One Time Only [ ] or Option B: [ ] If Limited Re-certification Required by _____			
		Dust Test	Satisfactory Visual Inspection		
		Method A	Interior AND Exterior Method B	Exterior Waiver Method C or D	Expiration Date Applied only if Provisional
(✓) 2.	Full Risk Reduction	[✓]	or [ ]	or [ ]	Provisional _____
( ) 3.	Modified Risk Reduction	[ ]	or [ ]	or [ ]	Provisional _____
( ) 4.	Lead Safe Qualified Offer	[ ]	and [ ]	or [ ]	Provisional _____
( ) 5.	Lead Safe not Qual Offer	[ ]	and [ ]	or [ ]	Provisional _____

[✓] PASS — Based on the findings of the attached inspection report(s), the property/unit meets the certification criteria at this time.

Received 06/13/2012

[ ] FAIL — Based on the Findings of the attached inspection report(s), the property/unit fails to meet certification criteria at this time.

Reinspection

I certify that I inspected the above listed property/unit on 05/31/2012 under Title 6, Subtitle 8 of the Environment Article, Annotated Code of Maryland.

Inspector	Accreditation No.	Inspection Company	Accreditation No.
Kristi Ann Canter	8568	Canter Environmental	6193

COPY COPY COPY

MDE 300 (Rev. 5-96)

Printed 03/13/2013

1-44

MARYLAND DEPARTMENT OF THE ENVIRONMENT

LEAD PAINT RISK REDUC[redacted]N (MDE FORM 330)

INSPECTION CERTIFICATE NO. 590012

(b) (6) [redacted]

(b) (6) [redacted]

[redacted]RAC[redacted]G NO. MDE [redacted]Y NO. (Include county c[redacted]

(b) (6) [redacted]

(b) (6) [redacted]

(b) (6) [redacted]

(b) (6) [redacted]

(b) (6) [redacted]

[redacted] 149 Boo[redacted] Road [redacted]ge

Unit No. City Zip [redacted] Property Construction Date

The Maryland accredited lead inspector must mark an inspection category 1, 2, 3, or 5 and mark the appropriate inspection method. Only ONE category and method are to be marked. The following attachments are required to be submitted with the certificate: Form E for Lead Free. Form C, laboratory results, and diagrams for Full Risk Reduction, and Forms B and C, original signed copy of Supervisor's Statement of Work, laboratory results, and diagrams for Modified Risk Reduction. The certificate shall be signed by the inspector who performed the inspection. Inspection certificates and all required attachments must be submitted to MDE within 10 days following Lead Free and Lead Safe Inspections and within 10 days following the receipt of dust sample results for Full and Modified Risk Reduction Inspections. Copies of all inspection records shall be maintained for at least 5 years by lead inspection contractors. Maximum penalties will be pursued by MDE for any falsified documentation that is received by MDE. Indicate "0000" if Property Construction Date is unknown. Lead paint inspection contractors must mail inspection certificates and the supporting documentation for inspection certificates to: P.O. Box 943, Jessup, MD 20794.

INSPECTION CATEGORIES

☐ 1. Lead Free	☒ 2. Full Risk Reduction	☐ 3. Modified Risk Reduction	☐ 5. Lead Safe
Methods	**Methods**	**Methods**	**Methods**
☐ A. One Time Only *(Interior & Exterior)*	☒ A. Dust Inspection	☐ B. Visual Inspection **and** Dust Inspection	☐ A. Dust Inspection
OR	OR	OR	OR
☐ B. Limited *(Interior Lead Free Only)* Passing Re-inspection required no later than: ___/___/___	☐ D. Dust Inspection with Exterior Waiver	☐ C. Visual Inspection **and** Dust Inspection with Exterior Waiver	☐ B. Dust Inspection **and** Visual Inspection
___ Number of Pre-1950 Lead Free Units	Passing Re-inspection (Form D and Supervisor Statement of Work) required no later than 04 / 30 / ___ unless otherwise noted in local code.	Passing Re-inspection (Form D and Supervisor Statement of Work) required no later than 04/ 30 / ___ unless otherwise noted in local code.	OR
___ Number of Post-1949 Lead Free Units	OR	OR	☐ C. Dust Inspection with Lead Free Exterior
	☐ E. Dust Inspection with Lead Free Exterior	☐ D. Visual Inspection **and** Dust Inspection with Lead Free Exterior	OR
			☐ D. Dust Inspection **and** Visual Inspection with Lead Free Exterior
			AND
			Verification that windows are lead free or have been treated so f[redacted] surfaces are lead free.

☒ **PASSED** Based on the findings of the attached inspection report(s), I certify that the property/unit meets the certification criteria at this time. *(circle property or unit)*

☐ **FAILED** Based on the findings of the attached inspection report(s), the property/unit fails to meet certification criteria at this time. *(circle property or unit)*

I certify that I inspected the above listed property/unit on 05/31/12 at 11:00 a.m./p.m. under Title 6, Subtitle 8 of the Environment Article, Annotated Code of MD.

(b) (6) [redacted]

	10/02/2013	Center Environmental	6153	10/02/2013
	Accreditation Exp. Date	Inspection Contractor Name	Accreditation No.	Accreditation Exp. Date

Form Number: MDE 330, *Revised: 10/2011* *(copy distribution: original to owner; yellow to MDE; pink to tenant; goldenrod to inspection contractor)*

244

MARYLAND DEPARTMENT OF THE ENVIRONMENT
Land Management Administration • Lead Poisoning Prevention Compliance & Accreditation Division
1800 Washington Blvd. • Suite 630 • Baltimore Maryland 21230
(410) 537-3825 • 1-800-633-6101 x3825 • www.mde.state.md.us

FORM C- DUST INSPECTION
VISUAL REVIEW / DUST SAMPLE COLLECTION & ANALYSIS

The lead paint inspection contractor/inspector is to submit a copy of the Lead Paint Risk Reduction Inspection Certificate (Form 330), with this Form C which includes the diagram; a copy of the lab results to Maryland Department of the Environment and the property owner WITHIN 10 CALENDAR DAYS following the inspection. This form must be fully completed and accurate or the Inspection Certificate may be invalidated. (EA 6-8, COMAR 26.16.02 and 26.16.05)

MDE Tracking No.:	Date of Inspection:	Inspection Certificate No.:
152106	05/31/2012	590012

Address of Property Inspected:				
Street Address:	Unit No.:	City:	Zip Code:	County/City:
(b) (6) [redacted]				

Date of Lab Report:	Date Lab Report was Received by Inspector:
06/05/2012	06/05/2012

PART I – VISUAL REVIEW

Visually review all interior and exterior painted surfaces of unit for chipping, peeling, or flaking paint. If chipping, peeling, or flaking paint is found, corrections must be made before dust samples may be collected. Exterior corrections may be delayed if interior paint condition is satisfactory and an Exterior Waiver is approved.

	INTERIOR	EXTERIOR
Is Condition of Paint Satisfactory? *(circle one in each column)*	(Yes) / No	(Yes) / No

Is an Exterior Waiver being used? *(circle one)*	Yes / (No)

If Yes, this Certificate expires on: **04 / 30 /** _____. The property must pass re-inspection no later then this date or this inspection certificate will no longer be valid. Name of the approving agency or official for the Exterior Waiver: _____. Form D with the Supervisor's Statement of Work form must be submitted to MDE and the property owner by the lead inspector.

PART II – DIAGRAM

On a separate sheet of paper, provide a diagram of the unit. The diagram is to include: the full site address, street(s) adjacent to the outside entry with the street name(s), location of the unit within a multi-unit property if applicable, window and doorway locations, assigned room numbers, and locations of where dust samples where taken. Show each room within the unit and number each. Your numbering system on your diagram is to match Part III of this form. Note locations of windows with a "W" and sampling locations with an "X". Attach the diagram to this form.

PART III – DUST COLLECTION & ANALYSIS

After collection of samples in a room, enter the total number of samples that were taken in that room. Attach additional copies of page 2 of this form if there are more rooms than can be accommodated on the back of this form. The "Meets Standard" column requires circling a Yes or No. **Under Maryland law, the Lead Risk Reduction Standard for dust is: floors <40; window sills <250; window wells <400 µg/ft².** A copy of the Laboratory Analysis Report must be attached to this form. The Result column, below, is for results/concentration of lead in **micrograms per square foot (µg/ft²)**, not Total Lead (µg).

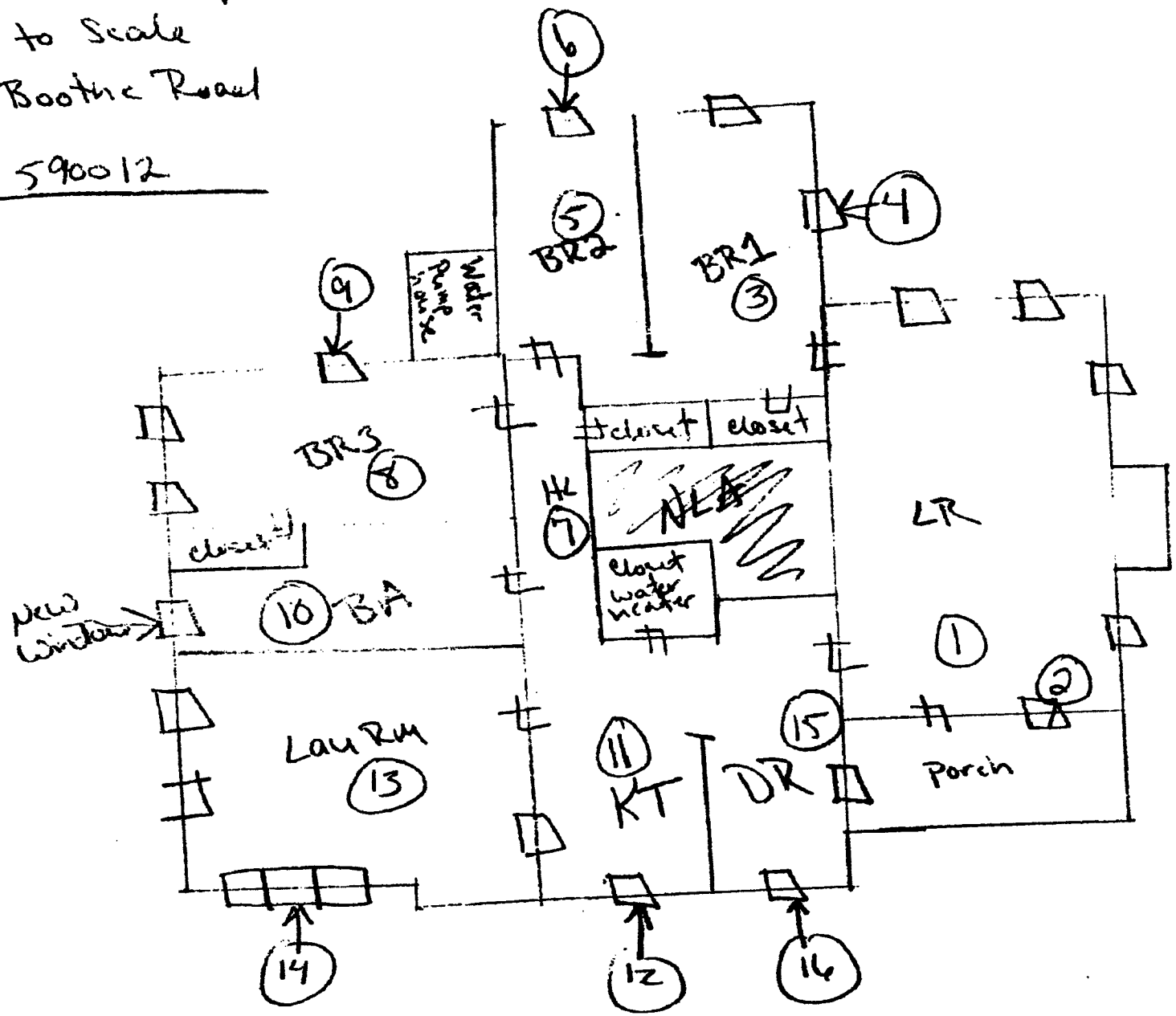
#4-3

All old window (except where noted)

A - not to Scale

4574 Boothe Road

Cert. # 590012



Boothe Road

FORM C, PART III Continued

Is this a retest of failed room(s)? *(circle one)*	Yes / (No)

Inspection Certificate No.: 590012
Page No.: 1

	SAMPLE No.	AREA (in inches)	RESULT µg/ft²
* Field Blank	A	12X12	<10.0

*Field blank samples are required to be collected per the American Society for Testing and Materials (ASTM) International Standard E 1728 as of May 19, 2008. Field blanks only have to be collected at a minimum frequency of 5 % (or 1 for every 20 field wipe samples collected). Therefore, completion or not of the Field Blank box may vary.

ROOM NO.: L2		Number of NON-Lead Free windows in room: 5	Number of Lead Free windows in room: 0	Total number of windows in room: 5
SURFACE	SAMPLE No.	AREA (in inches)	RESULT µg/ft²	MEETS STANDARD
Floor	1	12X12	<10.0	(Yes) / No
Sill				Yes / No
Well	2	2X18	<40.0	(Yes) / No
Total Samples Collected in room: 2				

ROOM NO.: BR1		Number of NON-Lead Free windows in room: 2	Number of Lead Free windows in room: 0	Total number of windows in room: 2
SURFACE	SAMPLE No.	AREA (in inches)	RESULT µg/ft²	MEETS STANDARD
Floor	3	12X12	<10.0	(Yes) / No
Sill				Yes / No
Well	4	2X18	<40.0	(Yes) / No
Total Samples Collected in room: 2				

ROOM NO.: BR2		Number of NON-Lead Free windows in room: 1	Number of Lead Free windows in room: 0	Total number of windows in room: 1
SURFACE	SAMPLE No.	AREA (in inches)	RESULT µg/ft²	MEETS STANDARD
Floor	5	12X12	<10.0	(Yes) / No
Sill				Yes / No
Well	6	2X18	<40.0	(Yes) / No
Total Samples Collected in room: 2				

ROOM NO.: HL		Number of NON-Lead Free windows in room: 0	Number of Lead Free windows in room: 0	Total number of windows in room: 0
SURFACE	SAMPLE No.	AREA (in inches)	RESULT µg/ft²	MEETS STANDARD
Floor	7	12X12	<10.0	(Yes) / No
Sill				Yes / No
Well				Yes / No
Total Samples Collected in room: 1				

ROOM NO.: BR3		Number of NON-Lead Free windows in room: 3	Number of Lead Free windows in room: 0	Total number of windows in room: 3
SURFACE	SAMPLE No.	AREA (in inches)	RESULT µg/ft²	MEETS STANDARD
Floor	8	12X12	<10.0	(Yes) / No
Sill				Yes / No
Well	9	2X18	<40.0	(Yes) / No
Total Samples Collected in room:				

Accredited Inspector's Name: Kristi Fischbach	Inspector's Accreditation No.: 8568	Date of Inspection: 05/31/12

TJ 20121

#4-5

FORM C, PART III Continued

Is this a retest of failed room(s)? *(circle one)*	Yes / (No)

Inspection Certificate No.: 590012
Page No.: 2

	SAMPLE No.	AREA (in inches)	RESULT µg/ft²
* Field Blank			

*Field blank samples are required to be collected per the American Society for Testing and Materials (ASTM) International Standard E 1728 as of May 19, 2008. Field blanks only have to be collected at a minimum frequency of 5 % (or 1 for every 20 field wipe samples collected). Therefore, completion or not of the Field Blank box may vary.

ROOM NO.: BA		Number of NON-Lead Free windows in room: 0	Number of Lead Free windows in room: 1	Total number of windows in room: 1
SURFACE	SAMPLE No.	AREA (in inches)	RESULT µg/ft²	MEETS STANDARD
Floor	10	12X12	<10.0	(Yes) / No
Sill				Yes / No
Well				Yes / No
Total Samples Collected in room: 1				

ROOM NO.: KT		Number of NON-Lead Free windows in room: 2	Number of Lead Free windows in room: 0	Total number of windows in room: 2
SURFACE	SAMPLE No.	AREA (in inches)	RESULT µg/ft²	MEETS STANDARD
Floor	11	12X12	<10.0	(Yes) / No
Sill				Yes / No
Well	12	2X18	<40.0	(Yes) / No
Total Samples Collected in room: 2				

ROOM NO.: Lau RM		Number of NON-Lead Free windows in room: 5	Number of Lead Free windows in room: 0	Total number of windows in room: 5
SURFACE	SAMPLE No.	AREA (in inches)	RESULT µg/ft²	MEETS STANDARD
Floor	13	12X12	<10.0	(Yes) / No
Sill				Yes / No
Well	14	2X18	<40.0	(Yes) / No
Total Samples Collected in room: 2				

ROOM NO.: DR		Number of NON-Lead Free windows in room: 2	Number of Lead Free windows in room: 0	Total number of windows in room: 2
SURFACE	SAMPLE No.	AREA (in inches)	RESULT µg/ft²	MEETS STANDARD
Floor	15	12X12	<10.0	(Yes) / No
Sill				Yes / No
Well	16	2X18	<40.0	(Yes) / No
Total Samples Collected in room: 2				

ROOM NO.:		Number of NON-Lead Free windows in room:	Number of Lead Free windows in room:	Total number of windows in room:
SURFACE	SAMPLE No.	AREA (in inches)	RESULT µg/ft²	MEETS STANDARD
Floor				Yes / No
Sill				Yes / No
Well				Yes / No
Total Samples Collected in room:				

Accredited Inspector's Name: Kristi Frischholz	Inspector's Accreditation No.: 8548	Date of Inspection: 05/31/12

... 13 2012

#4-6

SCHNEIDER LABORATORIES GLOBAL

INCORPORATED
2512 W. Cary Street • Richmond, Virginia • 23220-5117
804-353-6778 • 800-785-LABS (5227) • (FAX) 804-359-1475
Over 25 Years of Excellence in Service and Technology
AIHA/ELLAP 100527, ISO/IEC 17025, NVLAP 101150-0, VELAP 460135, NYELAP/NELAC 11413

LABORATORY ANALYSIS REPORT

Lead Analysis based on EPA 7000B Method
Using SLI P27 A14

ACCOUNT #: 2736-12-487
CLIENT: Canter Environmental
ADDRESS: P.O. Box 259
Great Mills, MD 20634
PROJECT NAME: 45748 Boothe Road
JOB LOCATION:
PROJECT NO.:
PO NO.:

DATE RECEIVED: 6/4/2012
DATE ANALYZED: 6/5/2012
DATE REPORTED: 6/5/2012

Sample Type: WIPE

SLI Sample No.	Client Sample No.	Collection Date	Sample Description	Sample Area (ft^2)	Total Lead (µg)*	Lead Conc (µg/ft^2)
31483735	A	5/31/2012	Blank	1.00	< 10.0	< 10.0
31483736	1	5/31/2012	LR FL	1.00	< 10.0	< 10.0
31483737	2	5/31/2012	LR WW	0.25	< 10.0	< 40.0
31483738	3	5/31/2012	BR 1 FL	1.00	< 10.0	< 10.0
31483739	4	5/31/2012	BR 1 WW	0.25	< 10.0	< 40.0
31483740	5	5/31/2012	BR 2 FL	1.00	< 10.0	< 10.0
31483741	6	5/31/2012	BR 2 WW	0.25	< 10.0	< 40.0
31483742	7	5/31/2012	HL FL	1.00	< 10.0	< 10.0
31483743	8	5/31/2012	BR 3 FL	1.00	< 10.0	< 10.0
31483744	9	5/31/2012	BR 3 WW	0.25	< 10.0	< 40.0
31483745	10	5/31/2012	BA FL	1.00	< 10.0	< 10.0
31483746	11	5/31/2012	KT FL	1.00	< 10.0	< 10.0
31483747	12	5/31/2012	KT WW	0.25	< 10.0	< 40.0
31483748	13	5/31/2012	Lau Rm FL	1.00	< 10.0	< 10.0
31483749	14	5/31/2012	Lau Rm WW	0.25	< 10.0	< 40.0

Total Number of Pages in Report: 2

Results relate only to samples as received by the laboratory.

Final concentration calculations are based on client supplied information.

*Minimum Reporting Limit: 10.0 µg. EPA Lead Hazard Std: 40 µg/ft^2 floors (please check lead wipe EPA HUD limit in your state) and 250 µg/ft^2 interior window sills, based on weighted avg of all samples taken. EPA Clearance Std: 40 µg/ft^2 floors, 250 µg/ft^2 interior window sills, 400 µg/ft^2 window troughs. MDLs and resulting reporting limits are based on ASTM E 1792 compliant media. *Data precision justifies 2 sig figures. All internal QC parameters were met. Unusual sample conditions, if any, are described.*

2012

#4-7

SLI Sample No.	Client Sample No.	Collection Date	Sample Description	Sample Area (ft^2)	Total Lead (µg)*	Lead Conc (µg/ft^2)
31483750	15	5/31/2012	DR FL	1.00	< 10.0	< 10.0
31483751	16	5/31/2012	DR WW	0.25	< 10.0	< 40.0

Analysis Run ID: 50037

Analyst: Sultan Al-Johani

Total Number of Pages in Report: 2

Reviewed By Brittany Stone, Analyst

Results relate only to samples as received by the laboratory.

Visit www.slabinc.com for current certifications.

Final concentration calculations are based on client supplied information.

*Minimum Reporting Limit: 10.0 µg. EPA Lead Hazard Std: 40 µg/ft^2 floors (please check lead wipe EPA HUD limit in your state) and 250 µg/ft^2 interior window sills, based on weighted avg of all samples taken. EPA Clearance Std: 40 µg/ft^2 floors, 250 µg/ft^2 interior window sills, 400 µg/ft^2 window troughs. MDLs and resulting reporting limits are based on ASTM E 1792 compliant media. *Data precision justifies 2 sig figures. All internal QC parameters were met. Unusual sample conditions, if any, are described.*

JUN 2012

#48

MARYLAND DEPARTMENT OF THE ENVIRONMENT **COPY COPY COPY** LEAD PAINT RISK REDUCTION

INSPECTION CERTIFICATE NO. 380046

NOTE: This inspection certificate is not valid unless it contains the Owner #

MDE OWNER #	MDE PROPERTY #	UNIT #	OWNER NAME
152106	1902013215	SINGLE	PARTNERSHIP MCDIARMID ASSOCIATE

[redacted] (b)(6) D

[redacted] TY A

CITY	STATE	ZIP
DRAYDEN	MD	20630-0000

The Inspector must check inspection category #1, 2, 3, or 4. Check ONE and ONLY one. Also check each appropriate option or method used. The following attachments are required: Dust test, Form C; Visual inpsection, Form B; Lead Free, Form E. Provisional or limited certificates are issued pursuant to a waiver for exterior work for a specifice time frame and will be invalid after the expiration date unless a Form D is completed and returned to the Department within 10 days of that expiration date. Any re-inspections require a Form D be submitted to MDE. The original Inspection Certificate No. should be referenced on all Forms submitted.

Inspection Category		Options or Methods			
( ) 1.	Lead Free	Option A: One Time Only [ ] or Option B: [ ]			
		If Limited Re-certification Required by _____			
		Dust Test	Satisfactory Visual Inspection		
		Method A	Interior AND Exterior Method B	Exterior Waiver Method C or D	Expiration Date Applied only if Provisional
(✓) 2.	Full Risk Reduction	[✓]	or [ ]	or [ ] Provisional	_____
( ) 3.	Modified Risk Reduction	[ ]	or [ ]	or [ ] Provisional	_____
( ) 4.	Lead Safe Qualified Offer	[ ]	and [ ]	or [ ] Provisional	_____
( ) 5.	Lead Safe not Qual Offer	[ ]	and [ ]	or [ ] Provisional	_____

[✓] PASS — Based on the findings of the attached inspection report(s), the property/unit meets the certification criteria at this time.

[ ] FAIL — Based on the Findings of the attached inspection report(s), the property/unit fails to meet certification criteria at this time.

Received 11/19/2009

Reinspection

I certify that I inspected the above listed property/unit on 10/09/2009 under Title 6, Subtitle 8 of the Environment Article, Annotated Code of Maryland.

Kristi Ann Canter
Inspector

8568
Accreditation No.

Canter Environmental
Inspection Company

6193
Accreditation No.

COPY COPY COPY

MDE 300 (Rev. 5-96)

Printed 03/13/2013

#5

MARYLAND DEPARTMENT OF THE ENVIRONMENT **COPY COPY COPY** LEAD PAINT RISK REDUCTION

INSPECTION CERTIFICATE NO. 299640

NOTE: This inspection certificate is not valid unless it contains the Owner #

MDE OWNER #	MDE PROPERTY #	UNIT #	OWNER NAME
152106	1902013215	SINGLE	ASSOCIATES MCDIARMID &

PROPERTY ADDRESS	CITY	STATE	ZIP
[redacted] (9) (q)	DRAYDEN	MD	20630-0000

The Inspector must check inspection category #1, 2, 3, or 4. Check ONE and ONLY one. Also check each appropriate option or method used. The following attachments are required: Dust test, Form C; Visual inpsection, Form B; Lead Free, Form E. Provisional or limited certificates are issued pursuant to a waiver for exterior work for a specifice time frame and will be invalid after the expiration date unless a Form D is completed and returned to the Department within 10 days of that expiration date. Any re-inspections require a Form D be submitted to MDE. The original Inspection Certificate No. should be referenced on all Forms submitted.

Inspection Category		Options or Methods			
( ) 1.	Lead Free	Option A: One Time Only [ ] or Option B: [ ] If Limited Re-certification Required by _____			
		Dust Test	Satisfactory Visual Inspection		
		Method A	Interior AND Exterior Method B	Exterior Waiver Method C or D	Expiration Date Applied only if Provisional
(✓) 2.	Full Risk Reduction	[✓]	or [ ]	or [ ] Provisional	_____
( ) 3.	Modified Risk Reduction	[ ]	or [ ]	or [ ] Provisional	_____
( ) 4.	Lead Safe Qualified Offer	[ ]	and [ ]	or [ ] Provisional	_____
( ) 5.	Lead Safe not Qual Offer	[ ]	and [ ]	or [ ] Provisional	_____

[ ] PASS — Based on the findings of the attached inspection report(s), the property/unit meets the certification criteria at this time.

[✓] FAIL — Based on the Findings of the attached inspection report(s), the property/unit fails to meet certification criteria at this time.

Received 09/06/2005

Reinspection

I certify that I inspected the above listed property/unit on 08/09/2005 under Title 6, Subtitle 8 of the Environment Article, Annotated Code of Maryland.

Denise Canter
Inspector

7240
Accreditation No.

Canter Environmental
Inspection Company

6193
Accreditation No.

COPY COPY COPY

MDE 300 (Rev. 5-96)

Printed 03/13/2013

L-9A

Maryland Department of the Environment
Lead Paint Risk Reduction Report

FORM C- VISUAL REVIEW / DUST SAMPLE COLLECTION & ANALYSIS

NOTE: This form is to be attached to a "Lead Paint Risk Reduction Certificate." This form is not valid unless it contains both the Owner Number and Inspection Certificate Number.

(b) (6) [redacted] Single Drayden MD

Property Address | Unit No. | City | State

152105 | 299640

MDE Owner # | Inspection Certificate #

Inspection Date: 8/9/05 | Date of Lab Report: 8/12/05

Date Lab Report Received by Inspector 8/16/05 | Is this a retest of a failed dust sample? Yes or No

Instructions:

1. Visually review all interior and exterior painted surfaces of unit for chipping, peeling, or flaking paint.
2. If chipping, peeling, or flaking paint is found, corrections must be made before dust sample is collected. Exterior corrections may be delayed if interior passes for visual and seasonal waiver is approved.
3. Complete a diagram of the rental unit.
4. Show each room within the unit and number each. Note locations of windows (W).
5. Indicate sampling locations.
6. After collection of samples in a room, enter the total number of samples for that room.
7. If there are more rooms than can be accommodated on both sides of this form C, attach additional copies of the form.
8. The "Meets Standard" column requires circling a YES or NO. Under Maryland law, the lead risk reduction standard for dust is: floors <200; window sills <500; window wells < 800µg/ft^2.

PART 1- VISUAL REVIEW	Interior	Exterior
Condition of Paint	Satisfactory / Yes or No	Satisfactory / Yes or No

Seasonal Waiver: YES / NO Expiration Date ___/___/___

Name of Approving Agency or Official Seasonal Waiver: _____

NOTE: This Lead Paint Risk Reduction Inspection Certificate is invalid if exterior work subject to a seasonal waiver has not been completed and verified by an accredited inspector within 30 days of the expiration date of the waiver. **When the exterior work is completed, a Form D with the supervisor statement must be submitted to MDE Lead Inspections Certificate.**

PART II- Diagram On a separate sheet of paper, provide a diagram noting street name(s) adjacent to the outside entry. Describe the location of the unit within a multi-unit property, if applicable. Attach to this form.

ENVIRONMENTAL LEAD DIVISION

#6-2

Inspection Certificate # 299640

PART III- DUST SAMPLING

Room # LR Total windows in room 4 Total lead-free windows _____ Total other windows 4

SURFACE	SAMPLE #	AREA (in inches)	RESULT µg/ft	MEETS STANDARD
Floor	1	12 X 12	23.8	YES / NO
Sill	2	2 X 18	< 80	YES / NO
Well				YES / NO
Total Samples	2			YES / NO

Room # BR1 Total windows in room 2 Total lead-free windows _____ Total other windows 2

SURFACE	SAMPLE #	AREA (in inches)	RESULT µg/ft	MEETS STANDARD
Floor	3	12 X 12	< 20	YES / NO
Sill	4	2 X 18	< 80	YES / NO
Well				YES / NO
Total Samples	2			YES / NO

Room # BR2 Total windows in room 1 Total lead-free windows _____ Total other windows 1

SURFACE	SAMPLE #	AREA (in inches)	RESULT µg/ft	MEETS STANDARD
Floor	5	12 X 12	< 20	YES / NO
Sill	6	2 X 18	< 80	YES / NO
Well				YES / NO
Total Samples	2			YES / NO

Room # BR3 Total windows in room 3 Total lead-free windows _____ Total other windows 3

SURFACE	SAMPLE #	AREA (in inches)	RESULT µg/ft	MEETS STANDARD
Floor	7	12 X 12	< 20	YES / NO
Sill	8	2 X 18	< 80	YES / NO
Well				YES / NO
Total Samples	2			YES / NO

Room # BA Total windows in room 1 Total lead-free windows 1 Total other windows 0

SURFACE	SAMPLE #	AREA (in inches)	RESULT µg/ft	MEETS STANDARD
Floor	9	12 X 12	< 20	YES / NO
Sill				YES / NO
Well				YES / NO
Total Samples	1			YES / NO

ENVIRONMENTAL LEAD DIVISION

#6-3

Inspection Certificate # 299640

PART III- DUST SAMPLING

Room # HL Total windows in room 0 Total lead-free windows 0 Total other windows 0

SURFACE	SAMPLE #	AREA (in inches)	RESULT µg/ft	MEETS STANDARD
Floor	10	12 X 12	< 20	YES / NO
Sill				YES / NO
Well				YES / NO
Total Samples	1			YES / NO

Room # LA Total windows in room 4 Total lead-free windows 0 Total other windows 4

SURFACE	SAMPLE #	AREA (in inches)	RESULT µg/ft	MEETS STANDARD
Floor	11	12 X 12	70.9	[redacted] / NO
Sill	12	2 X 18	< 80	YES / NO
Well				YES / NO
Total Samples	2			YES / NO

Room # KIT Total windows in room 1 Total lead-free windows 0 Total other windows 1

SURFACE	SAMPLE #	AREA (in inches)	RESULT µg/ft	MEETS STANDARD
Floor	13	12 X 12	< 20	YES / NO
Sill	14	2 X 18	< 80	YES / NO
Well				YES / NO
Total Samples	2			YES / NO

Room # DR Total windows in room 2 Total lead-free windows 0 Total other windows 2

SURFACE	SAMPLE #	AREA (in inches)	RESULT µg/ft	MEETS STANDARD
Floor	15	12 X 12	< 20	YES / NO
Sill	16	2 X 18	< 80	YES / NO
Well				YES / NO
Total Samples	2			YES / NO

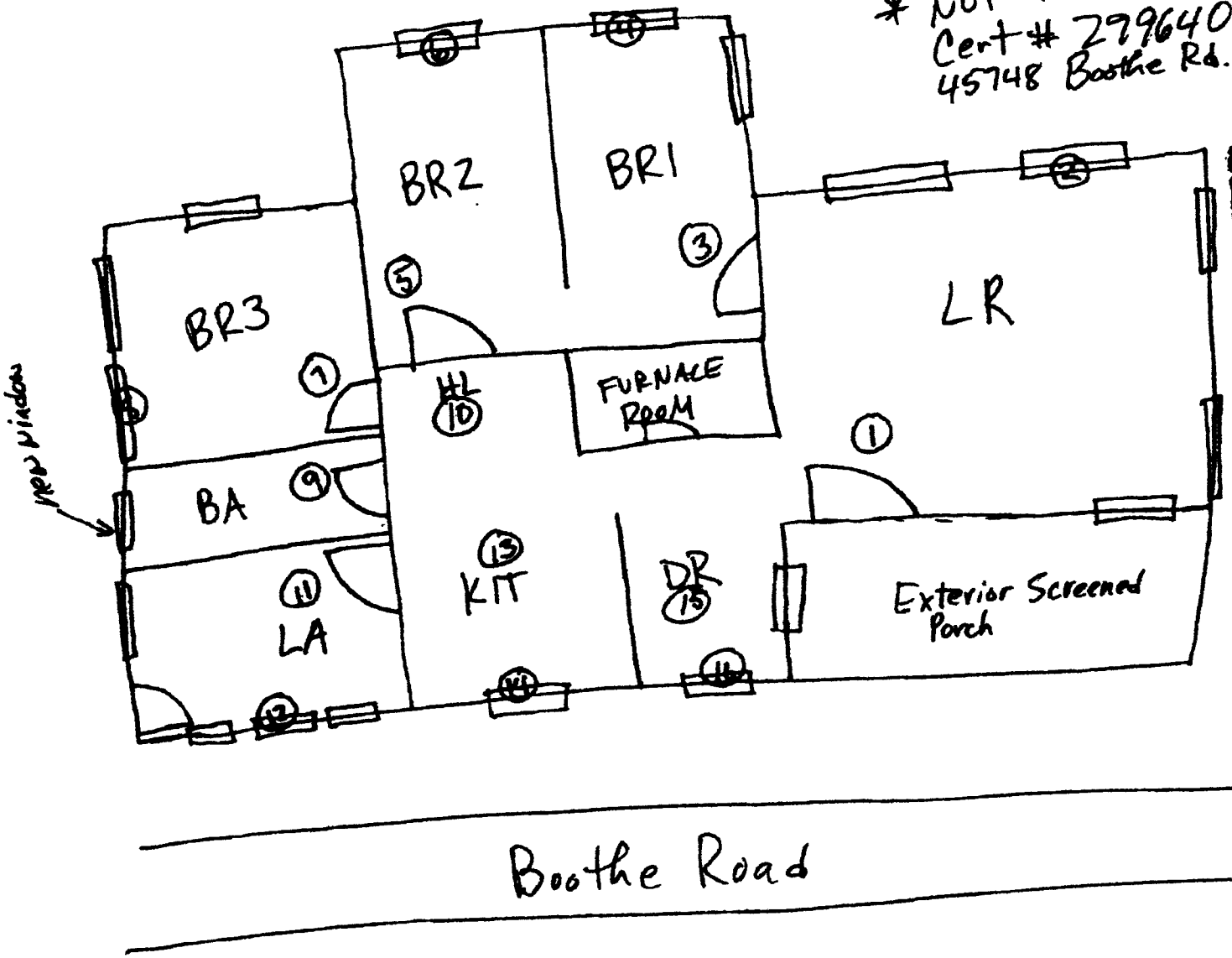
Room # _____ Total windows in room _____ Total lead-free windows _____ Total other windows _____

SURFACE	SAMPLE #	AREA (in inches)	RESULT µg/ft	MEETS STANDARD
Floor				YES / NO
Sill				YES / NO
Well				YES / NO
Total Samples				YES / NO

RECEIVED
ENVIRONMENTAL LEAD DIVISION

#6-4

* Windows painted shut
* NOT TO SCALE
Cert # 279640
45748 Boothe Rd.



RECEIVED
SEP - 6 2005
ENVIRONMENTAL LEAD DIVISION

5-9 #

MARYLAND DEPARTMENT OF THE ENVIRONMENT **COPY COPY COPY** LEAD PAINT RISK REDUCTION

INSPECTION CERTIFICATE NO. 223814

NOTE: This inspection certificate is not valid unless it contains the Owner #

MDE OWNER #	MDE PROPERTY #	UNIT #	OWNER NAME
152106	1902013215		ASSOCIATES MCDIARMID &

PROPERTY ADDRESS	CITY	STATE	ZIP
(b) (6) [redacted]	DRAYDEN	MD	20630-0000

The Inspector must check inspection category #1, 2, 3, or 4. Check ONE and ONLY one. Also check each appropriate option or method used. The following attachments are required: Dust test, Form C; Visual inpsection, Form B; Lead Free, Form E. Provisional or limited certificates are issued pursuant to a waiver for exterior work for a specifice time frame and will be invalid after the expiration date unless a Form D is completed and returned to the Department within 10 days of that expiration date. Any re-inspections require a Form D be submitted to MDE. The original Inspection Certificate No. should be referenced on all Forms submitted.

Inspection Category		Options or Methods				
( ) 1.	Lead Free	Option A: One Time Only [ ] or Option B: [ ] If Limited Re-certification Required by _____				
		Dust Test	Satisfactory Visual Inspection			
		Method A	Interior AND Exterior Method B	Exterior Waiver Method C or D		Expiration Date Applied only if Provisional
(✔) 2.	Full Risk Reduction	[✔]	or [ ]	or [ ]	Provisional	_____
( ) 3.	Modified Risk Reduction	[ ]	or [ ]	or [ ]	Provisional	_____
( ) 4.	Lead Safe Qualified Offer	[ ]	and [ ]	or [ ]	Provisional	_____
( ) 5.	Lead Safe not Qual Offer	[ ]	and [ ]	or [ ]	Provisional	_____

[✔] PASS — Based on the findings of the attached inspection report(s), the property/unit meets the certification criteria at this time.

Received 08/19/2003

[ ] FAIL — Based on the Findings of the attached inspection report(s), the property/unit fails to meet certification criteria at this time.

Reinspection

I certify that I inspected the above listed property/unit on 08/05/2003 under Title 6, Subtitle 8 of the Environment Article, Annotated Code of Maryland.

Denise A. Canter
Inspector

6010
Accreditation No.

Canter Environmental
Inspection Company

6193
Accreditation No.

COPY COPY COPY

MDE 300 (Rev. 5-96)

Printed 03/13/2013

L #

MARYLAND DEPARTMENT OF THE ENVIRONMENT **COPY COPY COPY** LEAD PAINT RISK REDUCTION

INSPECTION CERTIFICATE NO. 112840

NOTE: This inspection certificate is not valid unless it contains the Owner #

152106
MDE OWNER # MDE PROPERTY # UNIT # OWNER NAME

(b) (6) [redacted]
PROPERTY ADDRESS CITY MD STATE 20630 ZIP

The Inspector must check inspection category #1, 2, 3, or 4. Check ONE and ONLY one. Also check each appropriate option or method used. The following attachments are required: Dust test, Form C; Visual inpsection, Form B; Lead Free, Form E. Provisional or limited certificates are issued pursuant to a waiver for exterior work for a specifice time frame and will be invalid after the expiration date unless a Form D is completed and returned to the Department within 10 days of that expiration date. Any re-inspections require a Form D be submitted to MDE. The original Inspection Certificate No. should be referenced on all Forms submitted.

Inspection Category		Options or Methods			
( ) 1.	Lead Free	Option A: One Time Only [ ] or Option B: [ ] If Limited Re-certification Required by			
		Dust Test	Satisfactory Visual Inspection		
		Method A	Interior AND Exterior Method B	Exterior Waiver Method C or D	Expiration Date Applied only if Provisional
(✓) 2.	Full Risk Reduction	[✓]	or [ ]	or [ ] Provisional	03/16/1999
( ) 3.	Modified Risk Reduction	[ ]	or [ ]	or [ ] Provisional	
( ) 4.	Lead Safe Qualified Offer	[ ]	and [ ]	or [ ] Provisional	
( ) 5.	Lead Safe not Qual Offer	[ ]	and [ ]	or [ ] Provisional	

[✓] PASS — Based on the findings of the attached inspection report(s), the property/unit meets the certification criteria at this time.

Received 03/16/1999

[ ] FAIL — Based on the Findings of the attached inspection report(s), the property/unit fails to meet certification criteria at this time.

Reinspection

I certify that I inspected the above listed property/unit on 02/09/1999 under Title 6, Subtitle 8 of the Environment Article, Annotated Code of Maryland.

Eric Merritt
Inspector

2284
Accreditation No.

American Lead Consultants, Greenbelt
Inspection Company

1345
Accreditation No.

COPY COPY COPY

MDE 300 (Rev. 5-96)

Printed 03/13/2013

8 A

MARYLAND DEPARTMENT OF THE ENVIRONMENT **COPY COPY COPY** LEAD PAINT RISK REDUCTION

INSPECTION CERTIFICATE NO. 082261

NOTE: This inspection certificate is not valid unless it contains the Owner #

MDE OWNER #	MDE PROPERTY #	UNIT #	OWNER NAME
152106		SINGLE	

(b) (6) [redacted]

PROPERTY ADDRESS

CITY

STATE MD ZIP 20630

The Inspector must check inspection category #1, 2, 3, or 4. Check ONE and ONLY one. Also check each appropriate option or method used. The following attachments are required: Dust test, Form C; Visual inpsection, Form B; Lead Free, Form E. Provisional or limited certificates are issued pursuant to a waiver for exterior work for a specifice time frame and will be invalid after the expiration date unless a Form D is completed and returned to the Department within 10 days of that expiration date. Any re-inspections require a Form D be submitted to MDE. The original Inspection Certificate No. should be referenced on all Forms submitted.

Inspection Category		Options or Methods			
( ) 1.	Lead Free	Option A: One Time Only [ ] or Option B: [ ] If Limited Re-certification Required by _____			
		Dust Test	Satisfactory Visual Inspection		
		Method A	Interior AND Exterior Method B	Exterior Waiver Method C or D	Expiration Date Applied only if Provisional
(✓) 2.	Full Risk Reduction	[✓]	or [ ]	or [ ] Provisional	03/23/1998
( ) 3.	Modified Risk Reduction	[ ]	or [ ]	or [ ] Provisional	
( ) 4.	Lead Safe Qualified Offer	[ ]	and [ ]	or [ ] Provisional	
( ) 5.	Lead Safe not Qual Offer	[ ]	and [ ]	or [ ] Provisional	

[✓] PASS — Based on the findings of the attached inspection report(s), the property/unit meets the certification criteria at this time.

[ ] FAIL — Based on the Findings of the attached inspection report(s), the property/unit fails to meet certification criteria at this time.

Received 03/23/1998

Reinspection

I certify that I inspected the above listed property/unit on 03/10/1998 under Title 6, Subtitle 8 of the Environment Article, Annotated Code of Maryland.

Panagiotis Fineskos
Inspector

85
Accreditation No.

American Lead Consultants, Greenbelt
Inspection Company

1345
Accreditation No.

COPY COPY COPY

MDE 300 (Rev. 5-96)

Printed 03/13/2013

49

verizon

Verizon Message Center

Wednesday, Mar 13 at 12:33 PM

From: (b) (6) [redacted]

To: (b) (6) [redacted]

Subject: (b) (6) [redacted]

(b) (6) [redacted].

Attached is the report and inspection certificate for (b) (6) [redacted]. The State has provided you with all the documentation we have on record for the reference property and MDE330 form 590012.

>>> <navylady20051@verizon.net> 3/13/2013 11:50 AM >>>
Dear Ms. Stinney:
Thank you for your timely response. I appreciate the documentation you provided. However, I have a clarification or two to request:

1.You did not provide the inspection reports that are attached to the MDE330 forms. Does the responding office not have those? I thought they were supposed to be attached not only to your copy, but to the copies provided to the owner. I am specifically interested in the reports for the following certificate: Inspection Certificate No. 590012, inspected on 5/31/12 and received (by your office, I presume) on 6/13/2012.

2.My second request had asked whether the owner had met the percentage of inventory requirements, and cited the property at 45749 Boothe Road. I presume your redaction was regarding that information. But, can you tell me whether lead inspections have been conducted at that location and the date of the last one you have on file. You do not have to provide a copy; just confirm whether there are any and the date of the last one. However, I understand that your PIA regulations may require you to provide documentation in lieu of simply providing information. If that is the case, then please provide me a copy of the MDE330, but not any attachments.

Lastly, can you confirm that the 6/13 certificate is the last you have received on that property? Don't take me wrong; I'm not questioning your recordkeeping. I just want to be absolutely sure.

Thank you.
Sincerely,
(b) (6) [redacted]

On 03/13/13, (b) (6) [redacted] wrote:

Attached is the response to your request for information. If you have any questions, please contact me at (b) (6) [redacted].

Thank you,
(b) (6) [redacted]

The information contained in this communication may be confidential, is intended only for the use of the recipient named above, and may be legally privileged. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution, or copying of this communication, or any of its contents, is strictly prohibited. If you have received this communication in error, please re-send this communication to the sender and delete the original message and any copy of it from your computer system. Thank You

#10-1

New Millennium

RENTAL U[illegible] ACCEPTANCE & CHECK OUT [illegible]ORM

1. Property address: (b) (6) [redacted]
2. Check in date: 6/1/12 check out date: /
3. Furniture inventory attached? (circle one) yes (no)
4. Utility accounts transfer checklist:

	Occupancy date	Initials	Vacating date	Initials
Insurance Policy:				
SMECO:	6/1/12	AW		
METCOM/Water & Sewer:	NA ~~6/1/12~~			
Oil/Gas/Propane:	~~6/1/12~~			

Bush?

Upon vacating, receipts attached for: HVAC annual service ___, carpet cleaning and extermination (if pet occupied) ___
Chimney cleaning ___ Insurance Policy HMD0068854

5. Items

	CONDITION AT OCCUPANCY	CONDITION AT VACATING
Living Room:		
Doors	OK	
Walls	↓	
Ceiling	↓	
Carpet	↓	
Other	2 missing screens, 1 cracked pane, Rec lamp not working	
Dining Room:		
Doors	OK	
Walls	Patched	
Ceilings	↓	
Carpet	↓	
Other	↓	
Kitchen:		
Doors		
Walls	OK	
Ceiling	↓	
Floor	↓	
Stove	↓ Bring own	
Cabinets	Broken drawer front	
Dishwasher	N/A	
Sink	OK	
Disposal NA	↓	
Refrigerator	↓	
Freezer	N/A	
Other	↓	
Bathroom 1:		
Doors		
Walls	OK	
Ceiling	↓	
Toilet	↓	
Tub	Rust stained	
Tile	Grout missing	
Sink	OK	
Vanity	N/A	
Med cabinet	OK	
Other	Floor weak around toilet	

dangerously weak

Fixed M.MO before move in

	CONDITION AT OCCUPANCY	CONDITION AT VACATING
Bathroom #2:		
Toilet		
Walls		
Ceiling		
Floor		
Sink		
Vanity		
Tub		
Tile		
Med cabinet		
Other		
1/2 Bath		
Doors		
Walls		
Ceilings		
Floor		
Toilet		
Sink		
Vanity		
Tile		
Med. Cabinet		
Other		
Utility Room:		
Doors	Furnace room doorplate loose	
Walls	OK	
Ceiling	↓	
Floor	↓	
Washer	Knob missing	
Dryer	OK	
Other	No screens, No storm door	
Family Room:		
Doors		
Walls		
Ceiling		
Carpet		
Other		

Fixed M.MO before move in

#11-1

	CONDITION AT OCCUPANCY	CONDITION AT VACATING
Bedroom 1:		
Doors	OK	
Walls	↓	
Ceiling	↓	
Carpet	↓	
Other	↓	
Bedroom 2:		
Doors	OK	
Walls	↓	
Ceiling	↓	
Carpet	↓	
Other	↓	
Bedroom 3:		
Doors	OK	
Walls	↓	
Ceiling	↓	
Carpet	↓	
Other	1 Cracked Pane	
Attic	N/A	
Basement	↓	
Garage	↓	
Fireplace	OK	

	OCCUPANCY	VACATING
Shed	OK	
Patio	↓	
Siding	↓	
Roof	LOOSE SHINGLES/BUISED SHEETING fixed M.H.D	
Floor	↓	
Railing	↓	
Other	↓	
Windows	SEE THRUOUT	
Screens	↓	
Locks	↓	
Shades	↓	
Water Htr.	↓	
Keys (how many?)	↓	
Lawn/landsope	↓	
Exterior Door	↓	
Furnace	↓	
Air conned.	N/A	
Elec.Fixture	↓	
Elec.Outlts	↓	
Other	↓	

Comments and/or other: No Storm doors, Multi Windows do not close properly painted shut to be opened M.H.D

Floors scratched & scarred

BROKEN RHC FENCE - 0

it does ly from screened porch

6. I hereby acknowledge that the above is an accurate statement of the condition of the unit at the time of my taking occupancy. I further understand that I shall be required to deliver the unit in this same condition at the termination of my tenancy and to pay for any costs associated with returning the unit to the same condition at occupancy as noted on this form. Normal wear and tear excepted.

New Ten (b) (6) [redacted]

Tenant [redacted]

Listing agent (b) (6) [redacted]

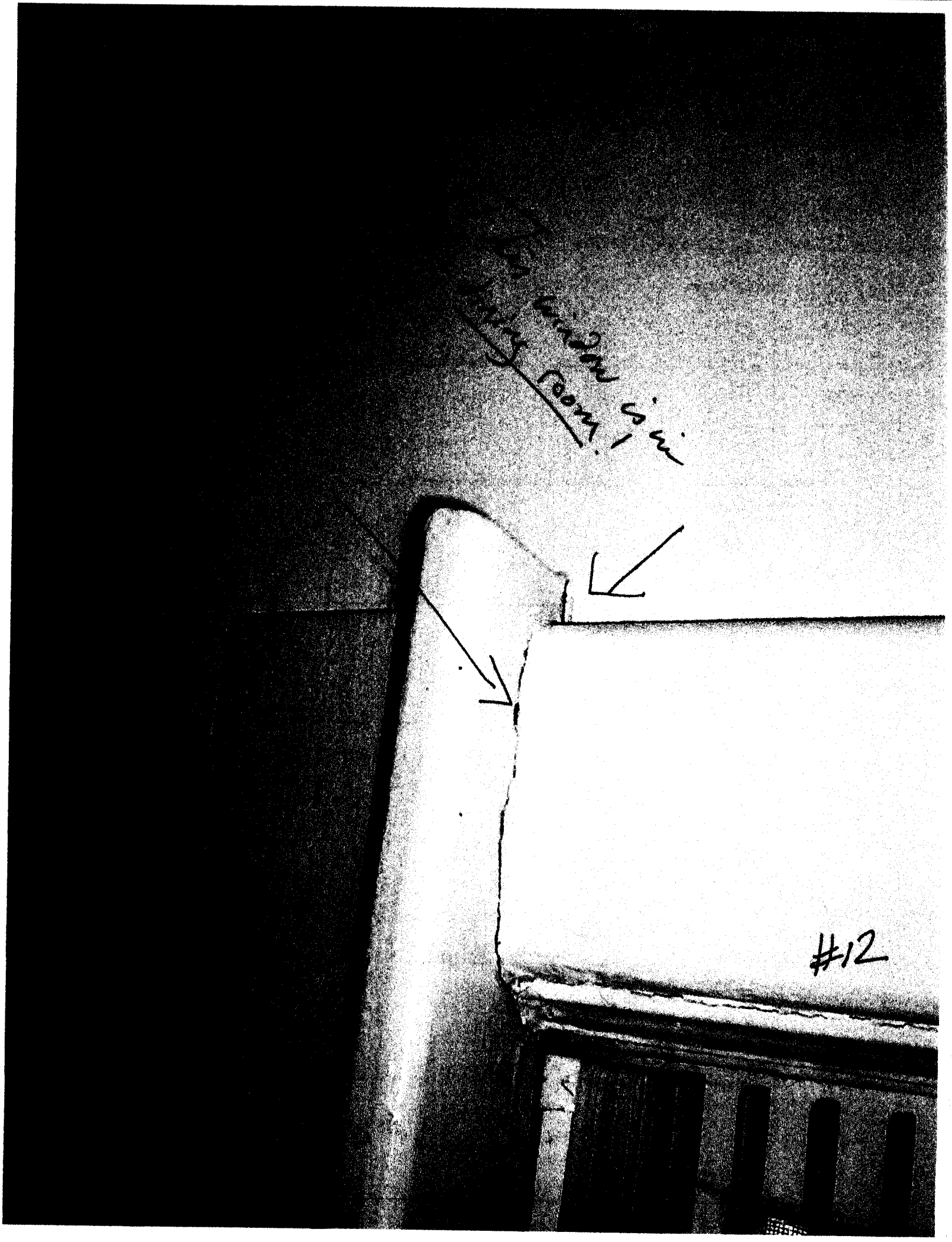
Date 6/1/12

7. I hereby acknowledge that the above is an accurate statement of the condition of the unit at the time of I vacate from the property.

Tenants _____

_____

Landlord [illegible] 6/1/12


Window sill
Rot Room
#12

SM7814434
Residential Full Listing
45748 BOOTHE RD, DRAYDEN, MD 20630

MRIS
Real Estate in Real Time

Status: TEMPOFF
MLS#: SM7814434
Postal City: Drayden
Class: Residential
Listing Type: Excl. Right
Legal Subdiv:
Advertised Subdiv: NONE
Model Name:
Tax ID: UNKNOWN
Age: 62
Style: Rambler

Address: (b) (6) [redacted]
County/State: SAINT MARYS, MD
Election District:
Inc. City/Town:
Date Avail: 10-Apr-2012
ADC Map: XXX
Area:
Total Taxes:
Tax Year:
Year Built: 1950
Tot Sqft - Fin: 0
Type: Detached
TH Type:

List Price: $1,000
Zip Code: 20630
Ownership: Fee Simple, Rental
TBM Map:
Lot AC/SF: 0.00/0
HOA Fee: /
C/C FEE: /
Levels: 1
Fireplaces: 1

INTERIOR	Total	Main	Upper 1	Upper 2	Lower 1	Lower 2	Schools
Bedrooms:	2	2	0	0	0	0	ES:
Full Baths:	1	1	0	0	0	0	MS:
Half Baths:	0	0	0	0	0	0	HS:

Room List: Bedroom-Second, Kitchen, Other Room 1, Bedroom-First, Lndry-Sep Rm, Main Lvl BR

Room	Dimension	Level	Flooring	Fireplace
Bedroom-First		Main	Wood	
Bedroom-Second		Main	Wood	
Kitchen				
Other Room 1		Main	Wood	

Main Entrance:
Interior Style: Floor Plan-Traditional
Dining/Kitchen: Kit-Dining Combo
Appliances: Tenant
Amenities:
Property Condition:
Security:
Windows/Doors:
Walls/Ceilings:
Basement (Y/N): No
Foundation:
Handicap: None
Unit Description:
R-Factor Basement:
Tot Sqft - Fin: 0

(b) (6) [redacted]

(b) (6) [redacted]

(b) (6) [redacted]

4/12/12

R-Factor Ceiling:
Above Grade Fin/Unfin: /

House Dimensions:
R-Factor Walls:
Below Grade Fin/Unfin: /
Tax Living Area:

DIRECTIONS: Rt4 south on Rt 235. R on Chancellor's Run Rd. R on Great Mills Rd. L Rt249, L on Drayden Rd.R on Cherry Field Rd. R on Boothe Rd. Continue on dirt road to white house at the end. No sign.

#13

Copyright (c) 2012 Metropolitan Regional Information Systems, Inc.
Information is believed to be accurate, but should not be relied upon without verification.
Accuracy of square footage, lot size and other information is not guaranteed.

Contact Me

PROPERTY SEARCH | MY LISTINGS | SELLING | BUYING | MORTGAGE | COMMUNITY INFO | CONTACT ME | ABOUT ME |

MargaretC Taylor, SFR CDRS ePRO
301-481-8407 Direct, ext. 5133
301-481-8407 Cell Phone

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Property Details

Drayden Residential - Lease offered at $ 1,050

Photo: 1 of 9

Drayden, MD 20630

MLS #: SM7876794

360 Tour

Style: Rambler

Yr Built: 1950

Bedrooms: 2

Baths: Full - 1 Half - N/A

Square Ft: N/A

Basement: N/A

County: SAINT MARYS

Schools: N/A

Taxes: $ N/A

Request Information | Map This Property

Completely renovated two bedroom 'cottage', Kitchen with table space, all hardwood floors, central A/C, fans, new stove, refrigerator and microwave. Delightful. Back entry mud room/laundry room and front deck. Care and use of land around house, estimated acreage. Very private country setting. Commute to PAX River and come home at night to relax and enjoy the wild life. Sorry No pets.

Additional Details

Living Rm: 13 x 12	**Master:** N/A	**Baths - full:** 1	**Lot Dim:** N/A
Dining Rm: N/A	**Bedroom 2:** 109 x 9	**Baths - half:** N/A	**Sub:** NONE
Family Rm: N/A	**Bedroom 3:** N/A	**Fireplace:** N/A	**Assoc:** $N/A
Kitchen: N/A	**Bedroom 4:** N/A	**Heating:** Heat Pump(s)	
Great Rm: N/A	**Bedroom 5:** N/A	**Cooling:** Electric Ceiling Fan(s), Central A/C, Heat Pump(s)	

Other Rms: Bedroom-First, Living Room, Mud Room, Bedroom-Second, Laundry-Kit Lvl, Kitchen
Garage: N/A
Appliances: N/A

Contact Information

This property is presented online by **MargaretC Taylor**
Century 21 New Millennium agent in the Metro DC area.
Contact MargaretC at 301-481-8407 or use the request info form.

Request Service or Market Information

IDX Displayed on margareto.c21nm.com through multiple listing service.
Listing courtesy of Century 21 New Millennium

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#14

Century 21
NEW MILLENNIUM

received after June 11 phone call from Roland.

Margaret C.

June 7, 2012,

Dear Mary,

I heard from Inspection Connection. The house passed the dust wipe test. You will be sent your copies and I will receive the Tenant copies.

I don't think I requested a copy of the Walkthrough signed by you. The Tenant is requesting a copy of this document.

Has Mike spoken to you about electrical, or other, concerns?

Mary Roland sent me an email that says the bathroom floor is finished and looks good. However she also described a number of Code concerns and requests, some she has discussed with Mike.
Rather than type it out differently I have enclosed a copy, even though it is addressed to me. I hope to have spoken to you by the time you receive this, but if not please call me.

How do you want to address this? Do you want Mike to have a copy of this email with it's concerns?

These concerns may have been present during the last Tenancy but were not presented to me.

Hopefully we have already spoken and discussed a solution. If not please call.

Sincerely

(b) (6)
(b) (6)
[redacted]

Century 21 New Millennium
23063 Three Notch Road
California, Maryland 20619
Office 301 862 2169

#15

mapquest

Trip to:
(b) (6) [redacted]
68.40 miles / 1 hour 42 minutes
Notes

Are you comfortable in your retirement?

If you have a $500,000 portfolio, download the guide for retirees by *Forbes* columnist and money manager Ken Fisher's firm. It's called **"The 15-Minute Retirement Plan."**

Click Here to Download Your Guide!

FISHER INVESTMENTS

6th St NW & Pennsylvania Ave NW, Washington, DC 20001

	1. Start out going **east** on **Pennsylvania Ave NW** toward **Constitution Ave NW**. Map	**0.3 Mi** *0.3 Mi Total*
	2. Take the 3rd **right** onto **3rd St NW**. Map	**0.3 Mi** *0.5 Mi Total*
	3. Turn **left** onto **Independence Ave SW**. Map *Independence Ave SW is just past Maryland Ave SW* *If you reach C St SW you've gone about 0.1 miles too far*	**0.07 Mi** *0.6 Mi Total*
	4. Turn **slight right** onto **Washington Ave SW**. Map *If you reach 1st St SW you've gone a little too far*	**0.10 Mi** *0.7 Mi Total*
RAMP	5. Take the **I-295 S** ramp. Map *If you reach 1st St SW you've gone a little too far*	**0.3 Mi** *1.0 Mi Total*
EXIT	6. Take the **South Capitol Street** exit. Map	**0.2 Mi** *1.2 Mi Total*
	7. Turn **slight right** onto **S Capitol St SE / S Capitol St SW**. Continue to follow **S Capitol St SE**. Map	**1.2 Mi** *2.4 Mi Total*
	8. Turn **slight left** onto **Suitland Pky SE** (Crossing into **Maryland**). Map *Suitland Pky SE is 0.5 miles past Potomac Ave SE*	**3.1 Mi** *5.5 Mi Total*
RAMP	9. Take the **Branch Ave / MD-5** ramp. Map	**0.2 Mi** *5.7 Mi Total*
SOUTH 5	10. Turn **right** onto **MD-5 S / Branch Ave**. Continue to follow **MD-5 S**. Map *Image of God Church In Christ is on the corner*	**15.1 Mi** *20.8 Mi Total*
SOUTH 5	11. Turn **left** to stay on **MD-5 S**. Map *MD-5 S is 0.5 miles past McKendree Rd* *If you reach Mattawoman Rd you've gone about 0.1 miles too far*	**3.2 Mi** *24.0 Mi Total*

12. Turn **left** onto **MD-5 S / Leonardtown Rd.** Continue to follow **MD-5 S**. Map — **17.6 Mi**
If you are on St Charles Pky and reach Northgate Pl you've gone about 0.1 miles too far — *41.6 Mi Total*

13. Turn **right** to stay on **MD-5 S**. Map — **19.8 Mi**
MD-5 S is 0.3 miles past Baptist Church Rd — *61.4 Mi Total*
If you are on MD-235 S and reach Harper's Corner Rd you've gone about 1.1 miles too far

14. Turn **right** onto **MD-249 / Piney Point Rd.** Map — **2.1 Mi**
MD-249 is just past Callaway Village Way — *63.5 Mi Total*
SHELL is on the corner
If you reach Heather's Ln you've gone about 0.2 miles too far

15. Turn **slight left** onto **Happyland Rd.** Map — **1.3 Mi**
Happyland Rd is just past Hewitt Rd — *64.8 Mi Total*
If you reach Blake Creek Rd you've gone about 1.1 miles too far

16. Turn **left** onto **St Georges Church Rd.** Map — **0.1 Mi**
64.9 Mi Total

17. Take the 1st **right** onto **Flat Iron Rd.** Map — **0.9 Mi**
If you reach the end of Usher Ln you've gone about 1.0 mile too far — *65.8 Mi Total*

18. Turn **slight left** onto **Drayden Rd.** Map — **0.8 Mi**
Drayden Rd is 0.6 miles past Ri Goddard Dr — *66.6 Mi Total*

19. Turn **right** onto **Cherryfield Rd.** Map — **1.4 Mi**
Cherryfield Rd is just past Windswept Ln — *68.0 Mi Total*
If you reach Uplands Ln you've gone about 0.2 miles too far

20. Turn **right** onto **Boothe Rd.** Map — **0.4 Mi**
If you reach Cherryfield Ln you've gone about 1.0 mile too far — *68.4 Mi Total*

[redacted] (b) (6) [redacted] and straight ahead.

[redacted] Gray/white cottage type.

FRED UPTON, MICHIGAN
CHAIRMAN

HENRY A. WAXMAN, CALIFORNIA
RANKING MEMBER

ONE HUNDRED THIRTEENTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON ENERGY AND COMMERCE

2125 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6115
Majority (202) 225-2927
Minority (202) 225-3641

February 28, 2014

The Honorable Jim Jones
Assistant Administrator
Office of Chemical Safety and Pollution Prevention
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Dear Assistant Administrator Jones:

Thank you for appearing before the Subcommittee on Environment and the Economy on Wednesday, November 13, 2013, to testify at the hearing entitled "S. 1009, The Chemical Safety Improvement Act."

Pursuant to the Rules of the Committee on Energy and Commerce, the hearing record remains open for ten business days to permit Members to submit additional questions for the record, which are attached. The format of your responses to these questions should be as follows: (1) the name of the Member whose question you are addressing, (2) the complete text of the question you are addressing in bold, and (3) your answer to that question in plain text.

To facilitate the printing of the hearing record, please respond to these questions by the close of business on Friday, March 14, 2014. Your responses should be e-mailed to the Legislative Clerk in Word format at Nick.Abraham@mail.house.gov and mailed to Nick Abraham, Legislative Clerk, Committee on Energy and Commerce, 2125 Rayburn House Office Building, Washington, D.C. 20515.

Thank you again for your time and effort preparing and delivering testimony before the Subcommittee.

Sincerely,

John Shimkus
Chairman
Subcommittee on Environment and the Economy

cc: The Honorable Paul Tonko, Ranking Member,
Subcommittee on Environment and the Economy

Attachment

The Honorable Henry A. Waxman

Transparency has been a significant problem under TSCA. Consumers, public health advocates, researchers, and state governments are often in the dark about chemical risks, even when EPA has data. This is because the statute prohibits EPA from sharing information that has been marked as Confidential Business Information, or CBI, but requires no substantiation of CBI claims. Current law includes no penalty for overclaiming CBI.

The result is a system where the public has no access to any information about approximately 20% of the 83,000 chemicals on the TSCA inventory, and the chemical identities of 66% of new chemicals covered by pre-manufacture notices (PMNs) are marked CBI. EPA has been working to check these CBI claims, and has made significant strides to make more chemical information public, but the process requires significant public resources.

1. Should TSCA reform legislation require upfront substantiation of CBI claims, and why is this important?

S. 1009 would require up front substantiation for some, but not all, CBI claims. The bill contains a long list of types of information that will be presumed to be CBI, without substantiation.

2. Does exempting large categories of information from the substantiation requirement comport with EPA's principles for TSCA reform?

One impact of EPA's review of CBI claims has been a significant decrease in the number of claims being made. For example, under the last Inventory Update Rule, manufacturers claimed that the use of a chemical in children's products was confidential 24% of the time. In the most recent version – the Chemical Data Reporting Rule, the rate of confidentiality claims for the use of a chemical in children's products dropped to 0.4%.

3. Why does EPA collect and publish information about what chemicals are used in children's products?

4. Are there other types of uses that might be particularly relevant and important for the public at large and vulnerable populations?