Mims, Kathy

From: abingdon_office@warner.senate.gov
Sent: Wednesday, December 20, 2017 5:14 PM
To: OCIRmail
Subject: Inquiry on behalf of (b) (6) [redacted] (Intranet Quorum IMA00384808)
Attachments: Workflow Related Mail Incoming Attachment 7236040 22057334 (b) (6) [redacted] Request2Warner.pdf; IQFormatFile.txt

Dear Ms. Vaught,

I have recently been contacted by my constituent, (b) (6) [redacted], concerning the Environmental Protection Agency (EPA).

You will find the inquiry details in the enclosed documents. If you require additional information from (b) (6) (b) (6) [redacted] in order to properly review the case, please let me know.

Please give this request every consideration and provide my office with a timely response. Any correspondence should be addressed to:

The Honorable Mark R. Warner
Attention: Shane Clem
180 W. Main Street, Room 235
Abingdon, Virginia 24210
P: 276-628-8158, F: 276-628-1036
Email: Shane_Clem@warner.senate.gov

Thank you for your attention to this matter.

Sincerely,
MARK R. WARNER
United States Senator

(b) (6) [redacted]

The Honorable Mark R. Warner
180 W. Main Street, Room 235
Abingdon, Virginia 24210

Dear Honorable Mark R. Warner:

I am requesting assistance to assure timely corrective action at the Environmental Protection Agency (EPA) with its civil rights program as managed by the EPA's Office of Civil Rights (OCR).

Description of the problem

The EPA does not hold its management accountable for gross mismanagement related to issuing timely Final Agency Decisions (FADs) to formal discrimination complaints made by its employees.

The EPA made an unreasonable finding based on the evidence of its in-house investigation ordered by the Office of Special Counsel (OSC) rather than admitting gross mismanagement.

Employees and former employees of the EPA continue to be adversely affected by the continued violation of regulation, past gross mismanagement and possibly ongoing gross mismanagement. As the OSC pointed out in its letter to the President of the United States:

"By allowing a highly inefficient process to remain uncorrected over a period of at least six years, while thereby adversely affecting the statutory and due process rights of EPA employees, OCR has engaged in management inaction that has a deleterious effect on its ability to accomplish its mission."

Actions taken to resolve the matter

I made a whistleblower complaint to the Office of Special Counsel (s (b) (6) [redacted] published on the internet at (b) (6) [redacted] The complaint included detailed allegations of violation of regulation and of gross mismanagement.

As a result of the whistleblower allegations, the OSC ordered the EPA to conduct an investigation. In its letter to the President of the United States, the OSC determined that the whistleblower allegations were substantiated and that the EPA's *"finding that gross mismanagement did not occur is unreasonable"* and additionally, that *"the agency's conclusions regarding gross mismanagement appear at odds with the evidence adduced in the investigation."*

The OSC letter stated that *"The agency substantiated* (b) (6) [redacted] *allegations. The investigation revealed that, dating back to at least fiscal year 2011, OCR has systematically failed to issue Final Agency Decisions (FADs) within the 60-day timeframe specified in EEOC regulations. See 29 C.F.R. § 1614.110. Indeed, since 2011, it has taken OCR on average 491 days to issue FADs."*

Description of a favorable outcome

A favorable outcome would include:

- Immediate issuance of Final Agency Decisions (FADs) that are already in violation of regulation. At the time of my whistleblower complaint, I had become aware of at least 43 decisions that were in the overdue queue.

- Performance monitoring of the Environmental Protection Agency (EPA) by an appropriate oversight body for its civil rights program. This should specifically include the number of FADs in the queue and when each is due.

- Relating the EPA budget to satisfactory performance in its civil rights program. Satisfactory performance should be defined as full compliance with Equal Employment Opportunity Commission (EEOC) regulations, specifically those related to issuing FADs as found in 29 C.F.R. § 1614.110.

- External investigation of the allegations of gross mismanagement and meaningful consequences to the EPA officials who are and have been responsible for the alleged gross mismanagement of the civil rights program.

- Investigation into how and why the EPA's conclusions regarding gross mismanagement *"appear at odds with the evidence adduced in the investigation."*

- Corrective action designed to prevent future unreasonable findings by the EPA.

Role my office can take in achieving that outcome

As I understand the process, the Senate Committee on Environment and Public Works and the House Committee on Science, Space, and Technology are in receipt of the Office of Special Counsel's letter to the President, an unredacted version of the agency report and my, the whistleblower's, comments related to this matter.

Although it does not appear that you are on the Senate Committee on Environment and Public Works, I would appreciate it if you could bring this matter to their attention. My understanding is that they have some oversight of the Environmental Protection Agency (EPA).

I would appreciate any power your office may have to influence:

- the EPA budget;
- corrective actions leading to improved civil rights performance at EPA;
- investigation and appropriate consequences to EPA officials for gross mismanagement.

Thank you for your attention to this matter and for your commitment to provide efficient and effective service to your constituents.

Sincerely,

(b) (6) [redacted]

enclosures:

- copy of email I received from your office (December 4, 2017)
- signed Privacy Act documents

Dear (b) (6) [redacted],

Thank you for contacting me about the issues mentioned by the Office of Special Counsel report. My top priority as your United States Senator is to provide efficient and effective constituent service to all Virginians. I appreciate the opportunity to assist you.

Before I can proceed, please provide a signed letter requesting assistance. The letter should detail a description of the problem, the actions taken to resolve the matter, a description of a favorable outcome and the role my office can take in achieving that outcome. Additionally, The Privacy Act of 1974 requires written authorization before the agency can communicate with my office about these concerns. Please complete the enclosed Privacy Act Release to provide this authorization. In addition, please provide copies of the most recent correspondence received from the Environmental Protection Agency (EPA). This information should be submitted to my office at the following address:

The Honorable Mark R. Warner
180 W. Main Street, Room 235
Abingdon, Virginia 24210
P: 276-628-8158, F: 276-628-1036

Once the requested documents are received, my staff and I will begin reviewing your case.

Sincerely,
MARK R. WARNER
United States Senator

THE HONORABLE MARK R. WARNER

PRIVACY ACT RELEASE

I am aware that the Privacy Act of 1974 prohibits the release of information regarding my case without my express written approval. Therefore, I authorize the following agency or agencies to release information regarding my concerns to the office of Senator Mark R. Warner (VA). ***Please note, if the appropriate government agency or department is not included, NO action can be made on this case.***

ENVIRONMENTAL PROTECTION AGENCY

Name of government agency or department

OFFICE of SPECIAL COUNSEL

Please read and follow all directions carefully. If you are inquiring on behalf of someone, that person must sign this release of consent. Please note, NO action can be made without an original signature. Provide the following information for Senator Warner's office to move forward on your case: The following is personal information that I am providing to Senator Warner's office to help in resolving my case.

(b) (6) [redacted]

Street Address | City | State | Zip code

(b) (6) [redacted]

Home Phone Number | Cell Phone Number (opt in) | Email Address (opt in)

(b) (6) [redacted]

Mr./Ms./Mrs./Dr. (circle one) | Printed Name | Date | Signature (non-digital)

If I wish Senator Warner's office to provide any information on this matter to another person such as parent, child or attorney, I have indicated those names here:

PLEASE COMPLETE PAGE 2 OF THIS FORM

THE HONORABLE MARK R. WARNER
PRIVACY ACT RELEASE

Please complete the section(s) that apply to your case

Active Military or Veteran's Administration

SS#_____ Serial#_____

Social Security, Medicare, Medicaid or ACA

SS#_____ Date of Birth_____

Office of Personnel Management (OPM)

SS#_____ CSA# _____ Date of Birth_____

USCIS, State Department or Visa

(Please do not provide your social security number in any correspondence)

Alien#_____ Receipt#_____ Date of Birth_____

Passport Application

SS#_____ Application#_____ Date of Birth_____

Department of Education

SS#_____ Account#_____ Date of Birth_____

IRS or Labor Department

SS#_____ EIN#_____ OWCP#_____

Other

(Please specify)

Department or Agency OFFICE of SPECIAL COUNSEL

Identifying Number# OSC File # (b) (6) [redacted]
(account, case, claim, etc.)