United States Senate
WASHINGTON, DC 20510

October 22, 2019

The Honorable Andrew Wheeler
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Ave, N.W.
Washington, D.C. 20460

Dear Administrator Wheeler:

We write regarding the Environmental Protection Agency's (EPA's) troubling decision to end negotiations with the American Federation of Government Employees (AFGE) and unilaterally impose a contract on thousands of employees. We urge EPA to fulfill its legal obligation to bargain in good faith and return to the negotiating table with AFGE.

AFGE Council 238 represents nearly 7,500 EPA employees, including some of the most talented scientists, engineers, and environmental specialists in the country. EPA employees across the country directly support EPA's mission to protect public health and the environment. The importance of EPA's mission makes its actions toward its workforce all the more distressing.

After failing to settle a dispute with AFGE over applicable ground rules, EPA abruptly announced earlier this year that it would forego further negotiations, and instead opted to implement a contract over union objections on July 8, 2019. This contract cuts telework and official time, and eliminates employees' ability to challenge adverse actions through the union grievance process. Further, since the implementation of this contract, we have heard concerns from AFGE that union representatives have been evicted from office, meeting and bulletin board space to which they have historically had access.[1] These are sensitive issues that should have been negotiated in the course of good-faith bargaining.

The EPA's actions appear to show a disregard for federal labor-management law. The Federal Labor-Management Relations Statute clearly outlines agencies' obligation to bargain with employee unions and to do so in good faith.[2] By unilaterally ending collective bargaining, EPA appears to have abdicated its statutory responsibility in order to impose contentious contract terms.

To better understand EPA's decision to end negotiations and impose a contract on its employees, we respectfully submit the following questions, to be answered no later than November 15, 2019:

1. In its negotiations with AFGE Council 238, did EPA ever seek assistance from the Federal Mediation and Conciliation Service, as is the protocol laid out in §7119 of the Federal Labor-Management Relations Statute? If not, please explain.

[1] Eric Katz, *EPA Unilaterally Imposes New Union Contract Slashing Telework, Easing Firing*, Government Executive. 26 June 2019.
[2] 5 U.S.C. § 7114(b)

2. Did the White House, Office of Management & Budget (OMB), or any entity outside of EPA provide direction or guidance on the contract terms that EPA has imposed? If so, please describe the nature and source of this direction or guidance.

   In addition, please provide all documents and communications created since May 2018 between EPA officials and any offices or personnel within the Executive Office of the President related to federal labor management policies and practices, negotiating collective bargaining agreements with federal workers, or interacting with federal employee unions.

3. Did the White House, OMB or any entity outside EPA provide direction or guidance on EPA's decision to end the collective bargaining process and unilaterally impose a new contract on AFGE? If so, please describe the nature and source of this input.

   In addition, please provide all documents and communications since May 2018 between EPA officials and any offices or personnel within the Executive Office of the President related to EPA's decision to end the collective bargaining process with AFGE 238.

4. What discretion did your negotiating team have to deviate from the seven-year contract term, the grievance proposal, or guidelines OMB or any other entity may have issued to EPA management?

As our country faces increasingly dire environmental and public health challenges, EPA must be prepared to meet these challenges head-on. It simply cannot do so with a demoralized and weakened workforce. We urge EPA management to return to the bargaining table to negotiate in good faith. Furthermore, as EPA enters the early stages of bargaining with its second-largest union, the National Treasury Employees Union (NTEU), we hope that EPA will meaningfully engage in those negotiations and avoid further alienation of its workforce.

Thank you very much for your attention to this matter. We look forward to your prompt response. Should you or members of your staff have any questions regarding this letter, please contact Marie Talarico of Senator Peters' Homeland Security and Governmental Affairs Committee staff (marie_talarico@hsgac.senate.gov) or Brian Eiler (brian_eiler@epw.senate.gov) of Senator Carper's Environment and Public Works Committee staff.

Sincerely,

Gary C. Peters
Ranking Member
Senate Committee on Homeland Security
and Governmental Affairs

Tom Carper
Ranking Member
Senate Committee on Environment
and Public Works

Edward J. Markey
United States Senator

Benjamin L. Cardin
United States Senator

Kirsten Gillibrand
United States Senator

Sherrod Brown
United States Senator

Richard Blumenthal
United States Senator

Tim Kaine
United States Senator

Brian Schatz
United States Senator

Jeanne Shaheen
United States Senator

Jacky Rosen
United States Senator

Dianne Feinstein
United States Senator

Tina Smith
United States Senator

Kamala D. Harris
United States Senator

Tom Udall
United States Senator

Mazie K. Hirono
United States Senator

Chris Murphy
United States Senator

Tammy Baldwin
United States Senator

Richard J. Durbin
United States Senator

Maria Cantwell
United States Senator

Debbie Stabenow
United States Senator

Robert P. Casey, Jr.
United States Senator

Margaret Wood Hassan
United States Senator

Chris Van Hollen
United States Senator

Patty Murray
United States Senator

Mark R. Warner
United States Senator

Tammy Duckworth
United States Senator

Charles E. Schumer
United States Senator

Elizabeth Warren
United States Senator

Bernard Sanders
United States Senator

Cory A. Booker
United States Senator

Catherine Cortez Masto
United States Senator

Sheldon Whitehouse
United States Senator

Christopher A. Coons
United States Senator

Michael F. Bennet
United States Senator

Jack Reed
United States Senator

Robert Menendez
United States Senator

Jeffrey A. Merkley
United States Senator

Ron Wyden
United States Senator

Amy Klobuchar
United States Senator

Jon Tester
United States Senator