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S. HRG. 116–102

HEARING ON THE NOMINATION OF SEAN O'DONNELL TO BE INSPECTOR GENERAL OF THE ENVIRONMENTAL PROTECTION AGENCY

HEARING

BEFORE THE

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

UNITED STATES SENATE

ONE HUNDRED SIXTEENTH CONGRESS

FIRST SESSION

OCTOBER 30, 2019

Printed for the use of the Committee on Environment and Public Works

Available via the World Wide Web: http://www.govinfo.gov

U.S. GOVERNMENT PUBLISHING OFFICE

38–653 PDF WASHINGTON : 2020

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ONE HUNDRED SIXTEENTH CONGRESS

FIRST SESSION

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HEARING ON THE NOMINATION OF SEAN O'DONNELL TO BE INSPECTOR GENERAL OF THE ENVIRONMENTAL PROTECTION AGENCY

WEDNESDAY, OCTOBER 30, 2019

U.S. SENATE,
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS,
Washington, DC.

The Committee met, pursuant to notice, at 10:08 a.m. in room 406, Dirksen Senate Office Building, Hon. John Barrasso (Chairman of the Committee) presiding.

Present: Senators Barrasso, Carper, Capito, Braun, Rounds, Sullivan, Ernst, Cardin, Whitehouse, Gillibrand, Markey, Duckworth, and Van Hollen.

OPENING STATEMENT OF HON. JOHN BARRASSO, U.S. SENATOR FROM THE STATE OF WYOMING

Senator BARRASSO. Good morning. I call this hearing to order.

Today, we are going to consider the nomination of Sean O'Donnell to be Inspector General of the Environmental Protection Agency. Mr. O'Donnell is a very well qualified individual and will bring a wealth of experience and expertise to this critically important position. I applaud President Trump's nomination of such an experienced and dedicated public servant.

The Office of the Inspector General is an independent office within the EPA. It is charged with conducting independent audits, evaluations, and investigations of agency programs and of operations. It is tasked with preventing and detecting fraud, waste, abuse, mismanagement, and misconduct, relating to the EPA and the U.S. Chemical Safety and Hazard Investigation Board. It makes evidence based recommendations to promote efficiency and effectiveness in agency programs and operations.

Twice a year, the Office of the Inspector General provides a report to Congress profiling its accomplishments. The report identifies significant deficiencies at the agency and proposes corrective actions.

Although a part of the EPA, Congress provides the Office of Inspector General with funding separate from the agency to ensure its independence. The Office of Inspector General's work assists Congress and the public in holding the agency accountable.

The EPA's Office of Inspector General currently lacks Senate confirmed leadership. Earlier this month, Arthur Elkins, who has

served as Inspector General since 2010, retired. Mr. O'Donnell has the right experience to replace him.

For nearly 20 years, Mr. O'Donnell has devoted his career to public service. Since 2005, he has served as a trial attorney for the U.S. Department of Justice. He currently works in the Criminal Division Bank Integrity Unit. Previously, he worked for the Civil Fraud Section and the Federal Programs Branch of the Civil Division. He also was a part of the Civil Rights Division's Voting Section.

He has handled criminal and civil matters, such as those relating to financial and Government program fraud and public corruption. Mr. O'Donnell is familiar with the use of sophisticated investigative and forensic tools. He has managed large investment teams of attorneys, of analysts, and of investigators. And he has worked with agents and auditors from half a dozen offices of inspectors general.

He has received numerous honors and awards for his work at the Department of Justice. In 2017, he received the Attorney General's award for distinguished service, the second highest honor awarded by that department. That year, he also received the Executive Office for United States Attorneys Director's Award for superior performance by a—I guess a team of litigators, but there is a different word for it. Yes, a team of litigators. During the Obama administration, he received the Civil Division's Special Achievement Award and numerous annual quality service awards.

Mr. O'Donnell's commitment to public service extends to his personal life. From 2011 to 2014, he was the Chair of the Ethics Commission for the City of College Park, Maryland. The Commission is charged with encouraging high ethical standards of conduct by city officials and employees.

Kyle Cohen, who is the United States Assistant Attorney for the Middle District of Florida, worked with Mr. O'Donnell when he was an attorney with the Department of Justice's Civil Fraud Division. He wrote in support of this nomination. He said, "Due to his relentless commitment in rooting out fraud, waste, and abuse of taxpayer dollars, Sean is an ideal candidate for an Inspector General's position."

Mr. O'Donnell's background and experience make him an ideal candidate to serve as the Environmental Protection Agency's Inspector General, and I look forward to hearing Mr. O'Donnell's testimony today and to moving his nomination expeditiously through the confirmation process.

I would now turn to Ranking Member Carper for his statement.

OPENING STATEMENT OF HON. THOMAS R. CARPER, U.S. SENATOR FROM THE STATE OF DELAWARE

Senator CARPER. Thanks so much, Mr. Chairman, and thanks for holding today's hearing on our nominee, Sean O'Donnell.

My only regret, Mr. O'Donnell, in your nomination is that it did not come about a year sooner. My staff is going to give me the name of the Acting, who has just retired, I think the Chair just mentioned, Arthur Elkins, who was our Acting IG for a while. And we appreciate his service.

We are glad that you have been nominated by the Administration. I want to thank your family, your wife, four children. Is that all the children you have, just four? OK.

[Laughter.]

Senator BARRASSO. Thirteen, 11, 9, and 7.

Senator CARPER. That is every 2 years, then.

Senator BARRASSO. Pretty close.

Senator CARPER. That is pretty good. And is that a sister-in-law, over your right shoulder? Is that your sister-in-law? We are all glad that you are here. Thank you to your wife and children for sharing you with our country and your willingness to share—and you specifically—with the Environmental Protection Agency in the oversight role that, if confirmed, you will play.

The mission of the EPA is to protect human health and our environment. Our country relies on EPA to safeguard communities from hazardous waste, from toxic chemicals, from greenhouse gas emissions, and other harmful air and water pollutants. EPA's dedicated career staff works every day to ensure that we have clean air, safe drinking water, and a healthy environment.

However, in order for EPA to protect all of us in this country, the agency itself must be protected from the kinds of misconduct that can impair its important mission. This responsibility falls in no small part to the EPA's Inspector General.

As EPA's principal oversight official, the IG is charged with detecting and preventing fraud, preventing waste, abuse, mismanagement, and misconduct across EPA and the U.S. Chemical Safety and Hazard Investigation Board. The Inspector General is a watchdog for the American people and provides an independent voice of integrity.

Unfortunately, as we know, the EPA has been without a confirmed Inspector General for more than a year, way too long. So needless to say, we are pleased to be able to consider your nomination today, Mr. O'Donnell.

If confirmed, you will have a big job ahead of you. We want to be supportive.

The Office of Inspector General has completed some valuable audits of EPA's programs and activities in recent days. Just last month, the IG released a report evaluating EPA's efforts to ensure that public drinking water systems notified the public when unsafe levels of water contamination are detected, as required by the Safe Drinking Water Act. As a result of that audit and evaluations, EPA has agreed to undertake recommended improvements to bolster the systems that protect Americans' drinking water.

Under the Trump administration, however, we have seen far too many breaches of ethics and abuses of authority among the political leaders at EPA. I have read too many stories, too many headlines, too many investigations that more than, frankly, I want to count. Many ethics violations committed by former Administrator Scott Pruitt have been well documented, but those violations bear repeating today, and I will do so briefly.

These include Mr. Pruitt's acceptance of below market rental housing from the wife of a lobbyist with business before the EPA, Mr. Pruitt's use of his position to try to acquire a Chick-Fil-A fran-

chise and other employment opportunities for his wife, and Mr. Pruitt's practice of using a security detail to run personal errands.

More recently, former Assistant Administrator Bill Wehrum had his deputy appear to have helped reverse EPA's position in a power plant enforcement case involving their former industry clients. Senator Whitehouse, House Energy and Commerce Chairman Pallone, and I referred this matter to the Office of Inspector General in February of this year. In May and July of this year, Senator Whitehouse and I provided additional referrals after we uncovered more evidence.

In addition to detecting and preventing waste and fraud within the EPA's programs, it is critical that one of your highest priorities as EPA IG will be to ensure that these kinds of flagrant violations of public trust are documented and that those responsible for the violations are held accountable, even when they leave the agency.

Regrettably, over the past 2 years, many of my colleagues on this Committee and I have been frustrated by what seems to be the Office of Inspector General's reluctance or even refusal to investigate ethics breaches and abuses of powers by EPA political leadership. In particular, last year, after Mr. Pruitt resigned, I was very discouraged to learn that the Office of Inspector General halted multiple ongoing investigations into allegations of abuse, and decided their efforts were inconclusive because they could not interview Mr. Pruitt. To me, that sends the wrong signal to the agency and to our country that public servants at the highest levels can avoid accountability for their misconduct simply by leaving the job before an investigation is completed.

The whole truth really does matter. The next Inspector General, which I hope will be you, must do all that you can do to ensure that the whole truth is revealed, that those responsible for misconduct will face appropriate consequences for their actions.

It is also important for the next Inspector General to understand that part of the job is to protect the integrity of internal oversight functions within EPA. Across the agency, there are offices with responsibility to support and enforce the agency's ethics and other rules. However, these offices cannot fulfill their oversight responsibilities when the subjects of that oversight are their bosses who wield power over their positions. When this happens, the Office of Inspector General is responsible for ensuring that oversight is indeed conducted.

So, Mr. O'Donnell, we look forward to hearing your views on these matters. Your experience at the Department of Justice indicates that you have the ability to doggedly pursue financial crimes and public corruption investigations. We hope you are ready to use those skills to investigate corruption at EPA and pursue investigations wherever the facts may lead.

Thank you. Good luck.

Senator BARRASSO. Thank you, Senator Carper.

Senator Cardin.

Senator CARDIN. Thank you, Mr. Chairman. Thank you for giving me the opportunity to introduce to the Committee Sean O'Donnell.

Thank you, Chairman Barrasso and Ranking Member Carper.

Sean O'Donnell is a resident of College Park, Maryland. That is where the University of Maryland's principal campus is located. I

don't know that you get too many quiet nights, but it is nice to have a Marylander who is here.

Mr. O'Donnell has served as a civil servant for nearly 20 years, most recently as a trial attorney at the Criminal Division of the Department of Justice. He has handled some of the more challenging matters under the Department of Justice. He handled election issues from 2005 through 2008. In 2013, he handled the residential mortgage backed security predatory investigations. So he has widespread experience in regard to civil matters and commercial and governmental fraud corruption and national security matters which will stead him well in the position he has been nominated to.

I want to point out a couple of other things about his background that really impress me. Because local politics can be extremely challenging. Mr. O'Donnell served as chairman and commissioner on the City of College Park's Ethics Commission, and also on the City of College Park's Redistricting Commission. Why anybody would want to serve on that, I don't know. But he has taken on some very challenging issues in his career. He is well qualified, as both the Chairman and Ranking Member have pointed out.

It is really important that we have a confirmed, experienced, independent Inspector General for the EPA. We desperately need to have that.

I want to thank Mr. O'Donnell, I want to thank his family, because the family very much is a part of this, for his willingness to step forward and serve in this position.

Senator BARRASSO. Thank you very much, Senator Cardin.

Now I would like to welcome our nominee to the Committee. Sean O'Donnell, nominee to be the Inspector General for the Environmental Protection Agency.

I want to remind you that your full written testimony will be made a part of the record. I look forward to hearing your testimony.

I don't know if you want to start by introducing your family to the Committee and then proceeding with your testimony.

STATEMENT OF SEAN O'DONNELL, NOMINEE TO BE INSPECTOR GENERAL, U.S. ENVIRONMENTAL PROTECTION AGENCY

Mr. O'DONNELL. Chairman Barrasso, Ranking Member Carper, and distinguished Members of the Committee, thank you for the opportunity to appear before you today as the nominee for the Inspector General of the Environmental Protection Agency and the Chemical Safety Board. It is a profound honor.

I would also like to thank Senator Cardin for his introduction and his acknowledgement of the many sleepless nights we have in College Park due to the proximity of the University of Maryland.

[Laughter.]

Mr. O'DONNELL. I am also grateful to the President and to Administrator Wheeler for the confidence they have shown in me for this important position. I am also grateful for the time the members of this Committee and their staff made to meet with me as part of my nomination.

I would like to thank my family, friends, and colleagues for the support they have shown. With me today is my wife of nearly 25

years, Dr. Cynthia Finley. I have known Cynthia since seventh grade, when we first met in first period English class. Actually, I think it might have been second period. You remain the smartest, most wonderful person I know. And you have made me the luckiest.

Also here with me today are my four children, Brigid, Fintan, Molly, and Aine. You bring so much joy to my life, and I am incredibly proud of each of you.

Also joining me is my father, Sean; and his wife, Andrea; and my sister-in-law, Cheryl. Thank you for coming.

Being here today represents a milestone in a long journey. I grew up far away from Washington, DC, in the northwestern part of Washington State. I am the proud grandson, son, brother, and uncle of four generations of O'Donnells who have worked at the Port of Seattle. Growing up in a family of stevedores instilled in me the value of hard work and plain speaking.

I have always believed that public service is a high calling. This is why, 15 years ago, I jumped at the opportunity to work at the U.S. Department of Justice and to represent the United States of America. During my time in the department, I have had the privilege to work on some of the most interesting and complex matters facing our Nation.

But what I have always found most rewarding is seeing how my cases can make the lives of our fellow Americans better. One of the first matters I handled at the department was United States v. Euclid, a Voting Rights Act case. Despite having a significant African American population, the city of Euclid had never elected an African American preferred candidate.

My colleagues and I worked tirelessly to vindicate the voting rights of black voters, developing a compelling case by following the facts and listening to local voters, candidates, and government officials.

The results speak for themselves. Since the United States prevailed, the city has elected a diverse and far more representative city council. When you see the good that government can do, it washes away the cynicism that seems so prevalent nowadays.

I have always strived to lead investigations in a fair, objective, and thorough manner, going where the facts lead no matter how uncomfortable the results or how difficult the task. For example, in 2013, I joined the Residential Mortgage Backed Security Working Group, which was formed to bring some measure of justice to those who had participated in one of the biggest frauds in our history.

To do so, we used creative statutory and investigative tools to dive deep into highly complex securities. At its height, our investigative team consisted of approximately 30 attorneys, agents, and analysts from a variety of agencies, including two inspector general offices.

In less than 2 years, our team reviewed nearly 10 million documents, analyzed gigabytes of data, and interviewed scores of individuals. We untangled a mess of deals to uncover a pattern of making false and misleading statements about the quality of the mortgage loans underlying the securities. And we ultimately held that investment bank to account with a multi-billion dollar fine and a

statement of facts that clearly and plainly set out the basis for that fine.

In my work at the Department of Justice, I often have occasion to ponder Justice Holmes' words in Rockland Island, that people must turn square corners when dealing with the Government. For me, it has come to have two meanings. First, it means that the Government depends on the integrity and honesty of those who deal with it. It also means that we in the Government must be fair and honest when we deal with the public.

I firmly believe that the best way we instill confidence in those we have the honor of serving is by conducting our business with integrity. In my experience, the OIG auditors, agents, and attorneys I have had the privilege of working with exemplify this commitment to integrity. To a person, I have found that they share a passion for fighting waste, fraud, abuse, and mismanagement. And I have found that they are equally committed to providing independent and objective oversight of their departments and agencies.

For this reason, I come before you today seeking your support to become the Environmental Protection Agency's Inspector General. The EPA serves a critical role as steward of our environment. To this end, it has been entrusted with the most important statutes enacted to improve the quality of our lives and protect our public health. The result of the EPA's work is evident in the air we breathe and the water we drink. Every year, my children and I see the impact of EPA's work in our own neighborhood, as we fish in the Anacostia River and we see the water become cleaner and the fish healthier.

It would be an honor to lead the EPA's Office of Inspector General as it contributes to the agency's important mission. If confirmed, I will strive to continue the office's work in eliminating waste, fraud, and abuse. I will also focus the office's efforts to promote the efficient and effective use of the authority you have granted the EPA. I will do so while maintaining a positive relationship with you and the rest of Congress.

Thank you for the opportunity to appear before you today. I sincerely appreciate your consideration of my nomination, and I look forward to answering your questions.

Thank you.

[The prepared statement of Mr. O'Donnell follows:]

Sean O'Donnell, Esq.
Trial Attorney
U.S. Department of Justice

President Trump nominated Sean O'Donnell to serve as Inspector General of EPA on October 15, 2019. The nomination was received in the Senate and referred to the EPW Committee. When the EPW Committee reports the nomination, it will then be sequentially referred to the Homeland Security and Governmental Affairs Committee for a period not to exceed 20 calendar days.

Mr. O'Donnell currently serves as a trial attorney at the Department of Justice (DOJ), a position he has held since 2005. Since 2017, he has served in the Criminal Division's Bank Integrity Unit. Previously, he served in the Civil Division's Civil Fraud Section from 2013 to 2017; the Civil Division's Federal Programs Branch from 2008 to 2013; and the Civil Rights Division's Voting Section from 2005 to 2008. He was also detailed as Counsel to the Office of Legal Policy where he was a member of the Judicial Nominations Working Group, which vetted and prepared candidates for nomination to the federal bench, including now-Justice Neil Gorsuch.

Prior to his tenure at DOJ, Mr. O'Donnell served as Clerk for Judge Raymond Gruender on the U.S. Court of Appeals for the Eight Circuit in St. Louis, Missouri, from 2004 to 2005; Associate Attorney for Husch and Eppenberger, a law firm in Jefferson City, Missouri, in 2004; Associate Attorney for Howrey Simon Arnold and White, a law firm in Menlo Park, California, from 2003 to 2004; and Clerk for Judge Harry Lee Hudspeth on the U.S. District Court for the Western District of Texas in Austin, Texas, from 2002 to 2003.

Mr. O'Donnell received several accolades during his tenure at DOJ, including the Attorney General's Award for Distinguished Service in 2017, which is the second highest honor awarded by DOJ for employee performance; an Executive Office for United States Attorneys Director's Award for Superior Performance by a Litigative Team in 2017; a Civil Division Special Achievement Award in 2015; and two Civil Rights Division Special Achievement Awards in 2006 and 2007. He also received numerous annual quality service awards from the Civil Division from 2008 to 2013.

Mr. O'Donnell coached for St. Jerome Catholic Youth Organization sports programs from 2015 to 2019; chaired the City of College Park's Ethics Commission, which encourages high ethical standards of conduct by city officials and employees, from 2011 to 2014; and directed and was a lawyer for Austin Hound Rescue from 1999 to 2004.

Mr. O'Donnell received a B.S. in Economics from Texas A & M University in 1995; a B.A. in Mathematics from the University of Washington in 1996; an M.S. in Economics from the University of Texas at Austin in 1999; and a J.D. from the University of Texas at Austin in 2002.

Statement of Sean William O'Donnell
Nominated to be Inspector General,
Office of Inspector General
U.S. Environmental Protection Agency

Chairman Barrasso, Ranking Member Carper, and distinguished Members of the Committee, thank you for the opportunity to appear before you today as the nominee for Inspector General of the Environmental Protection Agency and the Chemical Safety Board. It is a profound honor.

I am grateful to the President and to Administrator Wheeler for the confidence they have shown in nominating me for this important position. In many ways, I have been preparing for this position for most of my professional career. I am also grateful for the time the Members of this Committee and their staff made to meet with me as part of my nomination.

I would also like to thank my family, friends, and colleagues for the support they have shown. With me today is my wife of nearly 25 years, Dr. Cynthia Finley. I have known Cynthia since seventh grade, when we first met in Ms. DeWitt's honors English class. You remain the smartest person I know. And you have made me the luckiest. Also here with me today are my four children, Brigid, age 13, Fintan, age 11, Molly, age 9, and Aine, age 7. You bring so much joy to my life and I am incredibly proud of each of you.

Being here today represents a milestone in a long journey. I grew up far away from Washington, DC, in the northwestern part of Washington State. And I am the proud grandson, son, brother, and uncle of four generations of O'Donnells who have worked at the Port of Seattle. Growing up in a family of stevedores instilled in me the value of hard work and plain speaking.

I have always believed that public service is a high calling. This is why, over fifteen years ago, I jumped at the opportunity to work for the U.S. Department of Justice and to represent the United States of America. During my time in the Department, I have had the privilege to work on some of the most interesting and complex matters facing our nation. But what I have always found most rewarding is seeing how my cases can make the lives of our fellow Americans better.

One of the first matters I handled at the Department was *United States v. Euclid*, a Voting Rights Act case. Despite having a significant African-American population, the city had never elected an African-American preferred candidate. My colleagues and I worked tirelessly to vindicate the voting rights of black voters, developing a compelling case by following the facts and listening to local voters, candidates, and government officials. The results speak for themselves. Since the United States prevailed, the City has elected a diverse and far more representative city council. When you see the good that government can do, it washes away the cynicism that seems so prevalent nowadays.

I have always strived to lead investigations in a fair, objective, and thorough manner, going where the facts lead no matter how uncomfortable the result. For example, in 2013, I joined the Residential Mortgage Backed Security Working Group, which was formed to bring some measure of justice to those who had participated in one of the biggest frauds in our history. To do so, we used creative statutory and investigative tools to dive deep into highly complex securities. At its height, our investigative team consisted of approximately 30 attorneys, agents, and analysts from a variety of agencies, including two inspector general offices. In less than two years, our team reviewed nearly 10 million documents, analyzed gigabytes of data, and interviewed scores of individuals. We untangled a mess of deals to uncover a systemic pattern of making false and misleading statements about the quality of the mortgage loans underlying the securities. And we ultimately held the investment bank to account for a multi-billion dollar fine and a statement of facts that clearly and plainly set out the basis for that fine.

As another example, I helped lead several investigations focusing on the servicing of reverse mortgages. As I am sure you are aware, these are financial instruments that are intended to allow older Americans to access equity in their homes. Working with a number of IG offices, including HUD OIG, we were able to uncover systemic fraud and misrepresentations to the FHA. We achieved settlements across numerous corporations, resulting in over $130 million returned to the Treasury. But just as significant as any money recovered, our settlements resulted in important and lasting change in the industry.

In my work, I often ponder what Justice Holme's words in *Rockland Island*, that people must turn square corners when dealing with the Government. For me, it has two meanings. First, it means that the Government depends on the integrity and honesty of those who deal with it. It also means that we, in the Government, must be fair and honest when we deal with the public. I firmly believe that the best way we instill confidence in those we have the honor of serving is by conducting our business with integrity.

In my experience, the OIG auditors, agents, and attorneys I have had the privilege of working with exemplify this commitment to integrity. To a person, I have found that they share a passion for fighting waste, fraud, and abuse. And I have found that they are equally committed to providing independent and objective oversight of their departments and agencies.

For this reason, I come before you today seeking your support to become the Environmental Protection Agency's inspector general. The EPA serves a critical role as steward of our environment. To this end, it has been entrusted with the most important statutes enacted to improve the quality of our daily lives and protect our health, including the Clean Air Act, the Clean Water Act, and the Safe Drinking Water Act. The result of the EPA's work is evident in the air we breathe and the water we drink. Every year, my children and I see the impact of EPA's work in my own neighborhood, as we fish in the Anacostia River and as we see the water become cleaner and the fish healthier.

It would be an honor to lead the EPA's Office of Inspector General as it contributes to the Agency's important mission. If confirmed, I will strive to continue the office's work in eliminating waste, fraud, and abuse. I will also focus the office's efforts to promote the efficient and effective use of the authority you have granted the EPA. And I will do so while maintaining a positive relationship with you and the rest of the Congress.

Thank you again for this opportunity to appear before you today. I sincerely appreciate your consideration of my nomination and I look forward to answering your questions.

Senate Committee on Environment and Public Works
Hearing entitled, *"Hearing on the Nomination of Sean O'Donnell to be Inspector General of the Environmental Protection Agency"*
October 30, 2019
Questions for the Record for Mr. O'Donnell

Ranking Member Carper:

1. Do you agree to provide complete, accurate, and timely responses to requests for information submitted to you by any Member of the Environment and Public Works Committee? If not, why not?

   Yes, if confirmed, I will commit, to the fullest extent permitted by law, to providing complete, accurate, and timely responses to requests for information by any member of Congress to the fullest extent permitted by law.

2. Will you commit to providing me with materials responsive to my oversight letters at the same time or earlier than they are provided to House Committee Chairs or Freedom of Information Act (FOIA) requesters? If not, please explain why not.

   Yes, if confirmed, I will commit, to the fullest extent permitted by law, to providing any member of Congress materials responsive to any oversight letters at the same or earlier than those materials are provided to House Committee Chairs or Freedom of Information Act (FOIA) requesters.

3. Whistleblower laws protect the right of federal employees to make lawful disclosures to agency management officials, the Inspector General, and the Office of Special Counsel. They also have the right to make disclosures to Congress. Specifically, 5 U.S.C. § 7211 states that the "right of employees, individually or collectively, to petition Congress or a Member of Congress or to furnish information to either House of Congress, or to a committee or Member thereof, may not be interfered with or denied." Further, 5 U.S.C. § 2302(b)(8), makes it a violation of federal law to retaliate against whistleblower because of "(A) any disclosure of information by an employee or applicant which the employee or applicant reasonably believes evidences- (i) a violation of any law, rule, or regulation, or (ii) gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety, any disclosure to the Special Counsel, or to the Inspector General of an agency or another employee designated by the head of the agency to receive such disclosures, of information which the employee or applicant reasonably believes evidences a violation of any law, rule, or regulation ... " In addition, pursuant to 18 U.S.C. § 1505, it is against federal law to interfere with a Congressional inquiry.

a. Will you commit that you will to not prevent or discourage any individual who brings the Office of Inspector General information regarding misconduct within the federal government from also disclosing this information to Congress?

Yes, if confirmed, I will commit, to the fullest extent permitted by law, to not preventing or discouraging any individual who brings the Office of Inspector General information regarding misconduct within the federal government from also disclosing this information to Congress.

b. Will you commit to protecting the anonymity of any individual who discloses to the Office of Inspector General information regarding misconduct within the federal government if the informant wishes to remain anonymous?

Yes, if confirmed, I will commit, to the fullest extend permitted by law, to protecting the anonymity of any individual who discloses to the Office of Inspector General information regarding misconduct within the federal government if the informant wishes to remain anonymous.

c. If you are confirmed, will you commit to protect the rights of all employees of the Office of Inspector General, to make lawful disclosures, including their right to speak with Congress?

Yes, if confirmed, I will commit, to the fullest extent permitted by law, to protecting the rights of all employees of the Office of Inspector General to make lawful disclosures, including their right to speak with Congress.

d. Will you commit to communicate employees' whistleblower right via email to all OIG employees within one week of being sworn in?

Yes, if confirmed, I will commit to communicating employees' whistleblower rights via email to all OIG employees within one week of being sworn in.

4. In the ethics agreement that you submitted to the EPA Designated Agency Ethics Official on October 16, 2019, you stated that your spouse is employed by the National Association of Clean Water Agencies (NACWA). Your pledged that, "for as long as [your] spouse works for NACWA, you will not participate personally and substantially in any particular matter that to [your] knowledge has a direct and predictable effect on [your] spouse's compensation or employment with NACWA." You further pledged that, "[You] will not participate personally and substantially in any particular matter involving specific parties in which [you] know [your] spouse's employer is a party or represents a party, unless [you are] first authorized to participate…"

a. Will you affirm, as one can reasonably infer from this pledge, that you promise not to participate in any matter in which NACWA has a direct financial interest?

In connection with the nomination process, I consulted with the Office of Government Ethics and the EPA's alternate designated agency ethics official to identify potential conflicts of interest. Any potential conflicts of interest will be resolved in accordance with the terms of an ethics agreement that I have entered into with the Agency's designated agency ethics official and that has been provided to this Committee. In the ethics agreement I submitted to the EPS's alternate designated agency ethics official, I identified my spouse as an employee of the National Association of Clean Water Agencies (NACWA), for which she receives a fixed annual salary and a bonus tied to her performance. I agreed not participate personally and substantially in any particular matter that to my knowledge has a direct and predictable effect on my spouse's compensation or employment with NACWA. I also agreed not participate personally and substantially in any particular matter involving specific parties in which I know my spouse's employer is a party or represents a party, unless I am first authorized to participate, pursuant to 5 C.F.R. § 2635.502(d).

b. As a national trade association of clean water agencies, NACWA represents the interests of its member organizations. In representing those interests, it adopts legislative and regulatory policy positions on a range of environmental issues and advocates for those policy positions before Congress and executive agencies, including EPA. As such, as an entity, NACWA may not itself have direct financial interests in matters that might come before you, but its member organizations may themselves have such an interest. As EPA Inspector General, will you commit to recusing yourself from working on, or making decisions about, any review, audit, examination, or investigation of EPA policy development or rulemaking that deals with alleged wrongdoing associated with the development or implementation of a policy or regulation that is the subject of NACWA's advocacy?[1]

In connection with the nomination process, I consulted with the Office of Government Ethics and the EPA's alternate designated agency ethics official to identify potential conflicts of interest. Any potential conflicts of interest will be resolved in accordance with the terms of an ethics agreement that I have entered into with the Agency's designated agency ethics official and that has been provided to this Committee. In the ethics agreement I submitted to the EPS's alternate designated agency ethics official, I identified my spouse as an employee of the National Association of Clean Water Agencies (NACWA), for which she receives a fixed annual salary and a bonus tied to

[1] One example of this type of wrongdoing would be if an EPA political official was alleged to have cut and pasted text provided by NACWA officials into a regulation promulgated by EPA over the objections of EPA career scientists or lawyers.

her performance. I agreed not participate personally and substantially in any particular matter that to my knowledge has a direct and predictable effect on my spouse's compensation or employment with NACWA. I also agreed not participate personally and substantially in any particular matter involving specific parties in which I know my spouse's employer is a party or represents a party, unless I am first authorized to participate, pursuant to 5 C.F.R. § 2635.502(d).

Senator Booker:

5. The EPA has allowed a concerning decline in enforcement of federal environmental laws in recent years.

   In 2018, total penalties collected by EPA dropped at least 55 percent compared with averages during the previous two decades.[2] Serious civil cases - judicial referrals to the Department of Justice – under the Trump administration in FY 2017 and 2018 are at the lowest they have been since 1976. The number of criminal defendants charged in 2018 was the lowest since 1991. In 2018, one-tenth the number of people were protected by Safe Drinking Water Act (SDWA) enforcement than have been on average in the preceding fourteen years. EPA annual inspections have dropped to the lowest number on record.[3]

   If confirmed as the Inspector General, what steps would you take to evaluate why the reductions in enforcement and inspections have occurred and what impacts on public health may have resulted?

   If I am confirmed as the Inspector General, I will continue the work of the Office of Inspector General (EPA OIG) as stated in its Strategic Plan 2019-2023. Specifically, the office identified, as one of its three goals, to "[c]ontribut[ing] to improved EPA and CSB programs and operations protecting human health and the environment, and enhancing safety." To this end, the office committed to "performing audits and evaluations that target the EPA's processes and procedures that undergird and provide a structure in which programs promoting human health, the environment and enhancing safety may thrive."

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[2] Eilperin, J. and Dennis, B. (2019). Civil penalties for polluters dropped dramatically in Trump's first two years, analysis shows. https://www.washingtonpost.com/national/health-science/civil-penalties-for-polluters-dropped-dramatically-in-trumps-first-two-years-analysis-shows/2019/01/24/7384d168-1a82-11e9-88fe-f9f77a3bcb6c_story.html.

[3] EDGI. (2019). *EPA Enforcement Record in the Trump Administration through Fiscal Year 2018*. https://envirodatagov.org/update-of-sheep-in-the-closet-report-epa-enforcement-record-in-the-trump-administration-through-fiscal-year-2018/

With respect to any specific program or operation, I will evaluate each potential audit, evaluations, or investigation based on the priorities and the resources of the office. These priorities include, as discussed above, improving programs and operations protecting human health and enhancing safety. And in evaluating each potential audit, evaluations, or investigation, I commit to do so in an independent and objective manner.

6. The EPA's Office of Inspector General has in the past conducted reviews of EPA's commitment to environmental justice (EJ).

   Most recently in 2015, the EPA IG published a programmatic review of the implementation of Executive Order 12898, measuring progress against the agency's Plan EJ 2014, which found that "Continued delays in issuing or finalizing EJ guidance limits the EPA's ability to broadly and consistently consider EJ during the rulemaking process, potentially impacting susceptible populations at high risk of suffering effects of environmental hazards."

   What steps would you take, if confirmed as Inspector General, to ensure that the EPA is adequately and effectively fulfilling its obligations under the new agency plan for environmental justice, the EJ 2020 Action Agenda?

   If I am confirmed as the Inspector General, I will continue the work of the Office of Inspector General (EPA OIG) as stated in its Strategic Plan 2019-2023. Specifically, the office identified, as one of its three goals, to "[c]ontribut[ing] to improved EPA and CSB programs and operations protecting human health and the environment, and enhancing safety." Among the criteria the Strategic Plan listed for identifying and selecting new discretionary assignments, it included "the known extent of the issue (e.g., sensitive or other populations impacted, area involved and environmental justice)." Furthermore, the office committed to, among other things, "performing audits and evaluations that target the EPA's processes and procedures that undergird and provide a structure in which programs promoting human health, the environment and enhancing safety may thrive" and "[p]roduc[ing] results that contribute to the identification, reduction or elimination of environmental risks and challenges."

   The EPA OIG has, in the past, evaluated how the agency how the EPA has incorporated its commitment to environmental justice in its rulemaking. For example, in 2015, the EPA OIG issued a report titled, "EPA Can Increase Impact of Environmental Justice on Agency Rulemaking by Meeting Commitments and Measuring Adherence to Guidance." This report provided a number of recommendations, which the agency accepted and resolved.

With respect to any specific program or operation, I will evaluate each potential audit, evaluation, or investigation based on the priorities and the resources of the office. These priorities include, as discussed above, producing reports that contribute to the indentificaiton, reduction, and elimination of environmental risks and challenges, including in overburdened communities. And in evaluating each potential audit, evaluation, or investigation, I commit to do so in an independent and objective manner.

7. Low-income communities, indigenous communities, and communities of color are disproportionately exposed to toxic pollution in America. Will you commit to investigating instances where EPA is failing to enforce environmental law in low-income communities, indigenous communities and communities of color?

If I am confirmed as the Inspector General, I will continue the work of the Office of Inspector General (EPA OIG) as stated in its Strategic Plan 2019-2023. Specifically, the office identified, as one of its three goals, to "[c]ontribut[ing] to improved EPA and CSB programs and operations protecting human health and the environment, and enhancing safety." To this end, the office committed to "performing audits and evaluations that target the EPA's processes and procedures that undergird and provide a structure in which programs promoting human health, the environment and enhancing safety may thrive." The office also committed to "significantly increas[ing] its *agility* to assess enhanced emerging environmental threats."

One particular area of note in the EPA OIG's Strategic Plan 2019-2023 was the agency's Strategic Plan, which focused on, among other things, "improve[ing EPA's] processes and reinvigorate the rule of law as it administers environmental regulations as Congress intended." To this end, the EPA's Strategic Plan commits the agency to "enforc[ing] the rule of law in a timely manner and take action against those that violate environmental laws to the detriment of human health or the environment." It also commits to "work[ing] closely with the U.S. Department of Justice, states, tribes, territories, and local agencies to ensure consistent and fair enforcement of all major environmental statutes."

With respect to any specific program or operation, I will evaluate each potential audit, evaluation, or investigation based on the priorities and the resources of the office. These priorities include, as discussed above and identified in the EPA OIG's Stategic Plan, producing reports that contribute to the indentificaiton, reduction, and elimination of environmental risks and challenges, including in overburdened communities. And in evaluating each potential audit, evaluation, or investigation, I commit to do so in an independent and objective manner.

8. Some have raised concerns that the process of developing the proposed Mercury and Air Toxics Standards (MATs) rule (84 Fed. Reg. 2670) in 2018 did not follow established protocol in incorporating feedback from the EPA Science Advisory Board. What steps would you take to determine that the EPA, in that instances and others, is following appropriate rulemaking procedure and fully incorporating the guidance of the Science Advisory Board?

   Section 4 of the Inspector General Act of 1978, as amended, assigns the Inspector General with the responsibility to, among other things, "conduct, supervise, and coordinate audits and investigations relating to the programs and operations of such establishment." In conducting any audit of any program or operation, if confirmed, I would ensure that the office follows the best practices of the Inspector General Community, including following established audit standards, policies, and procedures. Furthermore, I would ensure that the office make use of the tools provided by Congress, including timely access to all records, reports, audits, reviews, documents, papers, recommendations, or other materials. And for every audit, evaluation, or investigation conducted by the office, I would ensure that it was done in an independent and objective manner, guaranteeing fairness to all relevant stakeholders.

Senator Markey:

9. The Inspector General's job is to protect whistleblowers and promote a culture of safety for anyone speaking up about wrongdoing. We have already seen the backlash from the Trump Administration towards whistleblowers and attempts to expose their identity. Whistleblowers are key to ensuring proper conduct within an agency and preventing corruption. Will you commit to educating staff about their rights and responsibilities within the organization and demonstrate that you will protect whistleblowers, if confirmed? If yes, how would you propose to do that?

   Yes, if confirmed, I will commit to educating staff about their rights and responsibilities within the organization and demonstrate that I will protect whistleblowers. The Whistleblower Protection Enhancement Act of 2012 requires Inspector Generals to appoint a Whistleblower Protection Coordinator. In collaboration with this official, I will communicate to EPA staff their rights and responsibilities within the organization within one week of being sworn in. This communication will cover specific protections for whistleblowers, including the right to confidentiality protections against retaliation, and the rights and remedies available to those whistleblowers who have been relatiated against. I will also work with the Whistleblower Protection Coordinator to ensure that information about whistleblowing is communicated to EPA staff on a regular basis.

10. A number of EPA officials during the Trump Administration have violated their recusal agreements and became involved in work on policies that promote or relate to past employers. Will you commit to investigate all instances in which an appointed official is engaging in work that violates their recusal agreement? Will you commit to ensuring that EPA officials are abiding by their commitments to the public and Congress by avoiding any appearance of conflicts of interest in their work? If yes, how would you propose to do that?

    If I am confirmed as the Inspector General, I will commit to detecting and preventing waste, fraud, abuse, mismanagement, and misconduct in the agency's programs and operations. With respect to any specific allegation of misconduct or mismanagement by an EPA employee, I will evaluate each potential investigation based on the priorities and the resources of the office. Should the office undertake an investigation of an employee's alleged misconduct or mismanagement, I will ensure that it is done in an independent and objective manner, ensuring fairness and thoroughness to all parties involved.

Senator BARRASSO. Thank you so very much. Congratulations again. Welcome to your family.

Throughout this hearing and with the questions for the record, the Committee members are going to have an opportunity to learn more about your commitment to public service for our great Nation. I would like to ask that throughout this hearing, you please try to respond to the questions, and then afterwards, questions for the record which may be posed in writing after the hearing has ended.

I have to ask the following questions that we ask of all nominees on behalf of the Committee. Do you agree, if confirmed, to appear before this Committee or designated members of this Committee and other appropriate committees of the Congress and provide information, subject to appropriate and necessary security protection with respect to your responsibilities?

Mr. O'DONNELL. Yes, Senator.

Senator BARRASSO. Do you agree to ensure that testimony, briefings, documents, and electronic and other forms of information are provided to this Committee and its staff and other appropriate committees in a timely manner?

Mr. O'DONNELL. Yes.

Senator BARRASSO. Do you know of any matters which you may or may not have disclosed that might place you in any conflict of interest if you are confirmed?

Mr. O'DONNELL. No.

Senator BARRASSO. I would like to begin now with my round of questions.

Under Federal law, the qualifications to be Inspector General are stated as follows. An Inspector General shall be appointed solely on the basis of integrity and demonstrated ability in accounting, auditing, financial analysis, law, management analysis, public administration, or investigations.

Now, your distinguished record indicates that you meet all of these requirements. Can you just talk a little bit about maybe a few real life examples of how you have demonstrated these qualities?

Mr. O'DONNELL. Senator, two come to mind. First, with AUSA Cohen, I helped lead an investigation into a number of servicers of reverse mortgage loans. As you might know, reverse mortgage loans are an important financial instrument that allows elderly Americans to access equity in their homes, while allowing them to stay in place.

Based on complaints from whistleblowers and information we developed separately, we undertook a thorough investigation that uncovered a systemic pattern of misrepresentations made to FHA in the course of the servicing of those loans, costing the American taxpayers tens of millions of dollars. We were able to, in my time, resolve with a number of corporations, returning $130 million to the Treasury. But what I find is more important is that we ended up making significant impact on the industry. What we were told is that servicers were being more mindful of the obligations that they had in servicing these loans.

The other one, Senator, is one that is very recent. I helped lead an investigation of allegations of fraud involving $2 billion of loans to the Republic of Mozambique. The Republic of Mozambique is one

of the ten poorest countries in the world. It had come to the international capital markets seeking capital for what appeared to be maritime related projects.

Using a number of creative investigative tools, and really just sort of a dogged pursuit of truth, what we uncovered is alleged in an indictment that we unsealed in January, which alleges that a UAE based maritime company corrupted Mozambiquan officials with bribes of over $100 million in order to get business in the Republic of Mozambique. They did so by inflating the prices of the vessels, as was alleged in the indictment. But what we also discovered, again as alleged in the indictment, is that bankers of Credit Suisse were taking bribes, nearly $50 million in bribes.

The result is, I think, clear, the Republic of Mozambique thus far has defaulted on over $700 million in loans. The International Monetary Fund has suspended lending. The Republic of Mozambique has suffered the two terrible storms. And the harm that they have suffered as a result of this fraud is patent.

I can say thus far, the three bankers have plead guilty in the United States District Court in the Eastern District of New York. My colleagues up in Brooklyn are trying presently one of the individuals with the UAE based shipbuilder, unfortunately—or fortunately, because I am here—I could not join them, but I wish them the best of luck.

Senator BARRASSO. It is interesting. You have had a long and distinguished career in public service, no question about it. I was going to ask you the main reasons why you want to go and be the Inspector General at EPA, and maybe think about what the biggest challenges may be at that agency, quite different than some of the things you have really been successful at.

Mr. O'DONNELL. I think what I have seen in my experience with the IG is across the board a real commitment to fighting waste, fraud, and abuse, and mismanagement, and the willingness to use tools creatively, whether forensic, statutory, investigative, to help not just fight waste, fraud, and abuse, but help better government.

I think that the issues facing all IGs include the efficient use of resources and targeting priority issues, working with the agency in a constructive manner to help that agency, if you will, sharpen its mission. And of course, with respect to the EPA, its important mission with respect to the environment and public health.

Senator BARRASSO. Thank you.

Senator Carper.

Senator CARPER. Let me start off by saying I am pleased to hear you mention, not once, but several times, fighting waste, fraud, and abuse. We have just learned that the budget deficit for the fiscal year which concluded—oh, gosh, just days ago—was about $850 billion. We are told that the budget deficit for the new fiscal year is expected to reach $1 trillion, saddling your children, my children, grandchildren, with a lifetime of debt.

One of the things that we seek to do on this Committee and the other committee I serve on, Homeland Security and Governmental Affairs, we work with GAO, the Government Accountability Agency, we work with all the Inspectors General to try to figure out how to govern this country in ways that are more cost effective and fair.

So we welcome your passion for doing that, and believe me, the passion is felt on this side of the dais as well.

We know from EPA's Inspector General's semi-annual report that former Administrator Scott Pruitt was under IG investigation due to multiple allegations of misconduct. However, when Mr. Pruitt resigned, the IG investigations into his misconduct were declared inconclusive because he left the agency before investigators could interview him. And they closed most of the cases.

In my view, this sends the message that our Nation's most senior political officials can avoid accountability just by quitting before the IG has finished its work. Mr. O'Donnell, will you just briefly tell us how you would manage an investigation where the high level appointee who is the subject of the investigation leaves the agency before they can be interviewed? Would you give us your assurance that you will follow through on such investigations and reach the best conclusion you can, using other evidence available to you, regardless of the subject's attempts to avoid interviews?

Mr. O'DONNELL. Absolutely, Senator. I share your frustration. I think we have all seen that across the board, where it seems as if individuals can avoid scrutiny by leaving.

I think one of the hallmarks of my career has been a stubborn refusal to stop investigating, even when things get hard. I firmly intend to continue that, using the tools available to the Inspector General's office.

Senator CARPER. Thank you. Second question. There are offices within EPA, as you know, that are supposed to do oversight of the agency's ethics and other rules. However, when subjects of this kind of agency oversight are political appointees who oversee the offices that conduct the oversight, the system sometimes breaks down.

For example, almost 8 months ago, along with Senators Whitehouse and Markey and Congresswoman Eddie Bernice Johnson, I asked EPA's scientific integrity official to investigate whether EPA's political officials had violated EPA's scientific integrity policy when they suppressed the release of an EPA study that says formaldehyde causes leukemia.

I would ask, Mr. Chairman, unanimous consent to place into the record a copy of that letter at this time.

Senator BARRASSO. Without objection.

[The referenced information follows:]

United States Senate

WASHINGTON, DC 20510

March 4, 2019

Francesca T. Grifo, Ph.D.
Scientific Integrity Official
U.S. Environmental Protection Agency (EPA)
1301 Constitution Ave. NW
Washington, DC 20460

Dear Dr. Grifo:

We write to request that you determine whether actions by EPA political appointees that appear to have prevented the review and publication of the Environmental Protection Agency's (EPA's) Integrated Risk Information System (IRIS) program's formaldehyde health assessment constitute a violation of EPA's scientific integrity policy. This policy[1], among other measures, "prohibits all EPA employees, including scientists, managers, and other Agency leadership, from suppressing, altering, or otherwise impeding the timely release of scientific information."

Several Members of Congress have repeatedly[2] raised concerns with the long-delayed release of the formaldehyde health assessment, which has taken more than a decade and more than $10 million of taxpayer funds to undertake. The assessment, which has been ready to be peer reviewed for almost a year and a half and might have been ready for publication had EPA followed its typical review process and timelines, reportedly concludes that formaldehyde can cause nasopharyngeal cancer and leukemia, among other risks to human health.

While some of the efforts to delay the publication of this report by EPA political appointees have been publicly disclosed[3], a March 4, 2019 Government Accountability Office (GAO) report[4] further describes some of the circumstances surrounding EPA's decision not to finalize the formaldehyde health assessment, as well as other IRIS program delays, resource constraints and diversion of IRIS personnel to support other chemical safety efforts in the Agency. We have also obtained documents that indicate that Mr. Dunlap, who is recused from working on the formaldehyde health assessment, may have directed or participated in EPA's decision to reduce the number of chemicals that will be assessed under IRIS and cease work on the formaldehyde health assessment.

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[1] https://www.epa.gov/sites/production/files/2018-11/documents/sci_2018_external_factsheet.pdf
[2] https://www.markey.senate.gov/news/press-releases/senators-markey-whitehouse-and-carper-demands-epas-pruitt-stop-hiding-findings-of-key-study-on-health-impacts-of-toxic-formaldehyde
[3] https://www.politico.com/story/2018/07/06/epa-formaldehyde-warnings-blocked-696628
[4] GAO 19-270, "Chemical Assessments: Status of EPA's Efforts to Produce Assessments and Implement the Toxic Substances Control Act," https://www.gao.gov/products/GAO-19-270

Efforts to delay the publication of EPA's formaldehyde health assessment date back at least since 2004. At that time, Senator Inhofe asked that[5] EPA not begin its planned update to its 1989 formaldehyde health assessment until the National Cancer Institute (NCI) completed an update of one of its own formaldehyde studies. This NCI study was not completed until 2009,[6] and it provided more evidence of a link between exposure to formaldehyde and several types of cancer. In 2009, then-Senator Vitter refused[7] to allow the confirmation of an EPA nominee until EPA agreed[8] [9] to send its draft formaldehyde health assessment to the National Academy of Sciences (NAS) for review. The NAS review[10] took two more years to complete, and while it criticized some of EPA's methodologies, it did not refute[11] the linkage identified by EPA between exposure to formaldehyde and cancer. Efforts to refer other EPA IRIS health assessments and methodologies and delay their publication continued to be made through legislative provisions inserted into Congressional Appropriations bills[12] and oversight letters by then-Senator Vitter[13], Senator Inhofe and others.

In 2018, the NAS completed its most recent review[14] of the IRIS program, finding that "EPA has made 'substantial progress'" in implementing recommendations outlined in past reports," saying in its press release that "the changes in the IRIS program over such a short period of time are impressive." The draft of the formaldehyde assessment that has been stalled from being released for peer review and publication has incorporated applicable recommendations made by the NAS as well as any new scientific information that has been published during the lengthy delay.

After Andrew Wheeler was named Acting Administrator, several Members of the Environment and Public Works Committee asked him questions for the record at an August 1, 2018 hearing about the formaldehyde health assessment. His responses to these questions say that EPA "is currently developing a new approach of soliciting program input on current and future IRIS assessments, to ensure IRIS assessment activities are focused on the highest priority needs. The formaldehyde assessment will be included in this activity, which will inform our next steps."

Mr. Wheeler was also asked several questions on this topic for the record of his January 16, 2019 confirmation hearing, and stated that "[b]ecause IRIS assessments are major investments in both time and resources, in an August 10, 2018 Memorandum to Agency program offices I requested an update of top priorities for IRIS assessments. Formaldehyde was not identified as a top priority."

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[5] https://s3.amazonaws.com/propublica/assets/docs/leavitt_inhofe_letter_041105.pdf
[6] https://www.propublica.org/article/study-reinforces-links-between-formaldehyde-and-cancer-518
[7] https://www.scientificamerican.com/article/vitter-formaldehyde-epa/
[8] https://www.nola.com/politics/2009/12/sen_david_vitter_and_epa_reach.html
[9] http://www.documentcloud.org/documents/1598-documents-related-to-sen-vitter-and-formaldehyde-regulation.html#document/p9
[10] https://www.nap.edu/read/13142/chapter/1
[11] https://www.nrdc.org/experts/jennifer-sass/national-academy-sciences-formaldehyde-still-causes-cancer-humans
[12] https://www.nrdc.org/experts/daniel-rosenberg/cancer-causing-chemicals-have-more-friends-congress-you-do-part-one
[13] https://www.americanchemistry.com/Policy/Regulatory-Reform/Senators-Vitter-Inhofe-Crapo-Letter-Requesting-Greater-Clarity-on-Process-to-Assess-Chemicals.pdf
[14] http://www8.nationalacademies.org/onpinews/newsitem.aspx?RecordID=25086

Mr. Wheeler's response failed to fully describe the reason why formaldehyde was not identified as a top priority for the program offices. Specifically:

- A May, 2018 Draft EPA IRIS Program Outlook (attached) prepared by the program's Director indicated that the formaldehyde health assessment would be released for public comment (following inter- and intra-agency peer review) in the fourth quarter of FY 2019.
- An August, 2018 memo (attached) sent by Jennifer Orme-Zavaleta, Ph.D., the Principal Deputy Assistant Administrator in EPA's Office of Research and Development, requested that EPA Program offices describe their IRIS priorities, noting that the formaldehyde health assessment would be ready for review by other agencies by the fourth quarter of 2018. Her memo also noted that in the past, EPA's Office of Chemical Safety and Pollution Prevention, Office of Air and Radiation, Office of Water, Office of Children's Health Protection and Regions 2 and 5 all had expressed an interest in the completion of the formaldehyde health assessment.
- EPA's Office of Children's Health Protection, Office of Land and Emergency Management, Office of Water, and Region 4 all responded (Attached) to Dr. Orme-Zavaleta's memo saying that they had a need for the formaldehyde health assessment. The Office of Chemical Safety and Pollution Prevention did not indicate such a need in its response and noted different priorities, while the Office of Air and Radiation did not indicate a need for any IRIS assessments to be completed at all.
- In October, 2018, EPA political officials made a second request for EPA program offices to indicate what their IRIS priorities were, and this time the program offices were told to select fewer chemicals for assessment. According to GAO's records of interviews with IRIS program staff, "they said that the Administrator has his own political agenda, and that will determine their priorities. The Administrator said that he needed to make a decision on formaldehyde one way or another – it couldn't just stay in limbo forever." Furthermore, "IRIS officials said that the "priority" survey in late October was actually a request made in person at a senior political meeting, and came from David Dunlap…They think Mr. Dunlap asked Assistant Administrators to give ORD lists of their top three priority assessments."
- EPA program offices then re-submitted new lists (Attached) of priority chemicals for assessments, and this time, formaldehyde was not included on any office's priority list.
- On December 4, 2018, Jennifer Orme-Zavaleta, Ph.D., the Principal Deputy Assistant Administrator in EPA's Office of Research and Development, sent a new memo (Attached) entitled "Updated Priorities for IRIS Assessments" that did not include formaldehyde.

EPA's continued delay in publishing a report that describes the cancer risk associated with exposure to formaldehyde will do nothing to eliminate or reduce that risk. Moreover, delaying this scientific report, which has taken years to complete, may violate EPA's scientific integrity policy. We urge you to determine quickly whether that is in fact the case.

Thank you very much for your attention to this important matter. If you have any questions or concerns, please ask your staff to contact Michal Freedhoff of the Senate Environment and Public Works Committee staff at 202-224-8832, Priyanka Hooghan of the House Science, Space,

and Technology Committee staff at (202) 225-6375, Avenel Joseph of Senator Markey's office at (202) 224-2742, or Dan Dudis of Senator Whitehouse's office at (202) 224-2921.

Sincerely,

Tom Carper
Ranking Member
Environment and Public Works
Committee
U.S. Senate

Eddie Bernice Johnson
Chairwoman
Science, Space, and Technology
Committee
U.S. House of Representatives

Edward J. Markey
United States Senator

Sheldon Whitehouse
United States Senator

Senator CARPER. Thank you.

We have not received an answer yet. And we don't know why. But it could be because the EPA's scientific integrity official is being told by the very same public officials that she is not allowed to investigate what they have asked her to investigate.

Would you assure us that as Inspector General, you will take up the appropriate oversight activities that are normally tasked to other EPA offices when those offices do not have the independence necessary to fulfill their responsibilities?

Mr. O'DONNELL. Senator, in the situation that you described, I think it is entirely appropriate for the Inspector General to investigate mismanagement and abuse of authority, such as if an individual tasked with independent oversight is being ordered in some form or fashion to discontinue that. That would certainly be something I would be interested in looking at. If there are specific situations such as the one you mentioned, Senator, if confirmed, I am happy to go back to the career staff and discuss that with them and then meet with you and your staff again.

Senator CARPER. Thanks so much. And my third question is, it will be, I think a year tomorrow, that Senator Udall and I wrote to the Acting Inspector General to request that he initiate an audit into the EPA's proposal to repeal air emission standards for polluting glider trucks. We still have not seen the results of that audit. Perhaps because the White House Office of Management and Budget has been refusing to respond to the Acting Inspector General's request for information, in violation of the Inspector General Act of 1978.

The Acting Inspector General informed Congress of the OMB's refusal to cooperate in April of this year, as he was also required to do.

And Mr. Chairman, I just want to ask unanimous consent to put into the record a copy of that letter at this time, please.

Senator BARRASSO. Without objection.

[The referenced information follows:]

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

OFFICE OF
INSPECTOR GENERAL

APR 25 2019

The Honorable Mick Mulvaney
Director
Office of Management and Budget
725 17th Street, NW
Washington, D.C. 20503

RE: Request for Information Regarding the Glider Repeal Proposed Rule

Dear Director Mulvaney:

The U.S. Environmental Protection Agency (EPA) Office of Inspector General (OIG) is currently conducting an audit[1] in response to a congressional request to review activities related to the development of the proposed EPA rule titled "Repeal of Emission Requirements for Glider Vehicles, Glider Engines, and Glider Kits" (Glider Repeal Proposed Rule).[2] Starting in early December 2018, my office began requesting specific information from the Office of Management and Budget's (OMB's) Office of Information and Regulatory Affairs (OIRA) regarding its role in the development of the Glider Repeal Proposed Rule. With this letter, I bring to your attention that, to date, the OMB has not responded to our request for certain information—specifically, four questions put to the OMB on March 7, 2019.

I do not accept today's response from OMB that, while "very supportive of EPA OIG's work," it declines to support our work due to the supposed deliberative character of the sought information. If full and complete answers to these questions are not received by April 29, 2019, I intend to notify Congress immediately thereafter.

The Inspector General Act of 1978, as amended (IG Act),[3] authorizes each Inspector General "to request such information or assistance as may be necessary for carrying out the duties and responsibilities provided by this Act from any Federal, State, or local governmental agency or unit thereof."[4] The IG Act further provides that, in response to such requests, "the head of any Federal agency involved shall, insofar as is practicable and not in contravention of any existing statutory restriction or regulation of the Federal agency from which the information is requested, furnish to such Inspector General . . . such information or assistance."[5] Further, it provides that "[w]henever information or assistance requested

[1] See the Project Notification for Project No. OA&E-FY19-0053.
[2] 82 Fed. Reg. 53442 (Nov. 16, 2017).
[3] 5 U.S.C. app.
[4] IG Act § 6(a)(3).
[5] IG Act § 6(c)(1). Please note that section 12(5) of the IG Act defines "Federal agency" by reference to 5 U.S.C. § 552(f), which states that "'agency' as defined in section 551(1) of this title includes any executive department, military department,

under subsection ... (a)(3) is, in the judgment of the requesting Inspector General, unreasonably refused or not provided, the Inspector General shall report the circumstances to the head of the establishment involved without delay."[6]

As part of this audit, the EPA OIG seeks to understand what decisions and directives may have precipitated the possible modification of certain text pertaining to the Proposed Rule's significance determination. Since significance determinations involve not only EPA personnel but OIRA personnel, it was "necessary" under the IG Act for the EPA OIG to gather information from OIRA as well as EPA personnel.[7] The following timeline shows when and how we corresponded with OIRA personnel regarding this matter:

- December 10, 2018 – The OIG first contacted OMB personnel via email to arrange a meeting to discuss information related to the subject audit.
- December 12, 2018 – The OMB's Assistant General Counsel responded via email stating it is OMB protocol to manage requests for information through the OMB's Office of General Counsel, and requested that the EPA OIG send its request for information in the form of written questions.
- December 14, 2018 – The EPA OIG provided a set of six questions to the OMB Assistant General Counsel via email.
- December 18, 2018 – The EPA OIG project manager spoke with the OMB Assistant General Counsel via telephone. The OMB Assistant General Counsel stated he was working with the subject matter expert to provide written responses by December 21, 2018.
- January 28, 2019[8] – Having not received a response, the EPA OIG sent a second email to the OMB Assistant General Counsel. The OMB Assistant General Counsel informed the EPA OIG that their staff had just returned from the furlough and they would put this matter at the "top of our queue." The OMB Assistant General Counsel did not provide an estimated timeframe and told the EPA OIG to follow up in a week.
- February 5, 2019 – The EPA OIG sent a third email to the OMB Assistant General Counsel. The OMB Assistant General Counsel did not reply.
- February 11, 2019 – Having received no response or communication, the EPA OIG sent a fourth email to the OMB Assistant General Counsel. The OMB Assistant General Counsel said he would "touch base with the subject matter expert" but did not provide an estimated timeframe when the EPA OIG could expect a response.
- February 28, 2019 – The OMB Assistant General Counsel directed the OIG team to the record for a Senate hearing titled "Reviewing the Office of Information and Regulatory Affairs."[9] The OIG team reviewed the responses to the Questions for the Record and identified OIG questions that still remained unanswered.

Government corporation, Government controlled corporation, or other establishment in the executive branch of the Government (*including the Executive Office of the President*), or any independent regulatory agency." (Italics added for emphasis.)

[6] IG Act § 6(c)(2).

[7] IG Act § 6(a)(3).

[8] A partial federal government shutdown occurred from December 22, 2018, until January 25, 2019.

[9] Reviewing the Office of Information and Regulatory Affairs, Committee on Homeland Security and Governmental Affairs United States Senate, Subcommittee on Regulatory Affairs and Federal Management (Apr. 12, 2018). The record included

- March 7, 2019 – The EPA OIG provided a narrowed set of four questions (attached) to the OMB Assistant General Counsel, requesting a response by March 28, 2019.

As of today, the OMB has not answered any of our four revised questions. Such protracted delay constitutes a clear impediment to our audit. It undermines our ability to fully answer the congressional request that led to our audit. Accordingly, and as required by the IG Act in the event of information being requested by an Inspector General and being unreasonably refused or not provided, "the Inspector General shall report the circumstances to the head of the establishment involved without delay."[10] Please consider this letter my report to you of such circumstances.

Abiding also by IG Act direction to keep Congress "fully and currently informed,"[11] if the OMB fails to fully and completely answer our March 7, 2019, questions by April 29, 2019, I intend to report this failure to Congress immediately thereafter.

If you or your staff would like to discuss this matter further, please contact Eric Hanger, Acting Counsel to the Inspector General, at hanger.eric@epa.gov.

Sincerely,

Charles J. Sheehan

Charles J. Sheehan
Acting Inspector General

cc: Paul Ray, Acting Administrator, OIRA, OMB

Attachment

Questions for the Record with answers from then-OIRA Administrator Neomi Rao related to the Glider Repeal Proposed Rule.

[10] IG Act § 6(c)(2).

[11] IG Act § 4(a)(5).

Attachment: Questions Sent to OMB Assistant General Counsel on March 7, 2019

The following questions pertain to **RIN 2060-AT79**, "Repeal of Emission Requirements for Glider Vehicles, Glider Engines, and Glider Kits."

1.) In late October 2017, OIRA provided passback comments asking the EPA to explain how it arrived at the "economically significant" designation under EO 12866. OIRA also requested the EPA to include additional benefit/cost analysis in the proposed rule to support the suggested significance determination. Up until the day prior to signature by the EPA Administrator, the text of the proposed action contained a determination that the action was "economically significant."
   a. What information did the EPA provide to OIRA to address OIRA's comment requesting additional benefit/cost analysis to support the suggested significance determination?
   b. What information did OIRA use to make the determination that this proposed rule was significant rather than economically significant?

2.) The Notice of Proposed Rulemaking (NPRM) was approved and determined to be "Significant" by OIRA.
   a. What specific information did OIRA rely on to conclude that the requirements of EO 12866 Section 6(a)(3)(B)(i) and (ii) were met, particularly the costs and benefits requirements of Section 6(a)(3)(B)(ii)?

3.) For the Proposed Rule[12] stage, this action was listed as "Other Significant." For the Final Rule stage, it is listed as "Economically Significant" (Spring 2018[13]; Fall 2018[14]).
   a. When and why was this change in significant determination made?
   b. Was additional information presented in the public comments or elsewhere that led to this significant determination change? If so, please explain.

4.) On April 23, 2018, the EPA was told by OIRA that it would not review the draft final rule without a Regulatory Impact Analysis.
   a. Why was a Regulatory Impact Analysis determined necessary for the final rule when it does not appear that one was completed for the notice of proposed rulemaking?
   b. Our understanding is that by not including a Regulatory Impact Analysis during the NPRM stage, the public misses an opportunity to review and comment on this information allowing the agency to potentially avoid negative comments on the analysis. Is there an advantage in waiting until the draft final rule stage to do the Regulatory Impact Analysis?

[12] NPRM.
[13] Spring 2018.
[14] Fall 2018.

Senator CARPER. I would ask my question of Mr. O'Donnell, would you commit to us that you will promptly inform this Committee any time that political appointees at the EPA or the Chemical Safety Board or any other part of the Executive Office of the President that you are aware of refuse to provide you information or attempts to stonewall an audit or investigation?

Mr. O'DONNELL. Senator, I believe not only is the Inspector General obligated to do it, but I think that as provided independent oversight, I would feel an obligation to do exactly that.

Senator CARPER. Thank you so much.

Senator BARRASSO. Thank you, Senator Carper.

Senator Braun.

Senator BRAUN. Thank you, Mr. Chairman.

We discussed this in my office. In the short time I have been here—for me it always comes back to how you pay for things in a place like this. We have now gotten used to trillion dollar deficits; we shrug it off. I am on the Budget Committee, and I know that is soon going to approach $1.5 trillion 5, 6 years down the road. So in any agency, whatever one can do to try to improve that, it is important.

For me, in your role, I would like your opinion on where would a few places be that, from your depth of experience and what you see looming in terms of your responsibilities, a couple, three things where you would put time and effort.

Mr. O'DONNELL. Senator, I have seen that the office recently concluded a False Claims Act settlement, working collaboratively with other agencies on a grant matter. Just given my experience with the False Claims Act, Senator, I can tell you that that is exactly the sort of thing that I think is an important tool in fighting waste, fraud, and abuse, really returning money that was improperly given, returning that money to the taxpayers.

So I would see going forward the continued collaboration with other agencies, including the Department of Justice, and using tools like the False Claims Act, to make sure that the EPA is not defrauded with respect to grants or contracts. I think that is an important area of the ability to fight waste, fraud, and abuse.

And then of course, Senator, with respect to the audits, one focus of audits is always, I think, can be the efficient use of taxpayer dollars by the offices and entities in the EPA.

Senator BRAUN. Thank you. I would be derelict if I didn't ask you about what has beset my constituents more than any other aspect of EPA rules and regs, would be Waters of the U.S. As I saw that evolve, and I am one that is a staunch conservationist, and I believe—I always cite the fact that I remember so vividly as a teenager when the Cuyahoga River caught on fire. So we have really come so far in a short period of time.

When I was home for a recess visit, I had, I think, three small farmers in one small restaurant corner me after I was done eating, I knew the three of them, and telling me that they, in just doing basic, routine ditch maintenance, and ditches that generally have no water in them, other than a few months out of the years, and we are in a rainy part of the country. Waters of the U.S. looks to me like it is a confluence of the Army Corps of Engineers, the EPA, and then the in-State enforcement agencies. Sadly, in this case,

coming from a place like Indiana, which is normally pretty sane in all the things that it does, it would have been the Department of Natural Resources and the Indiana Department of Environmental Management that was out of kilter with, really, I think, what they were supposed to be doing.

Do you feel it is within your purview being able to not only interface with the Army Corps of Engineers, but especially the agencies that are generally responsible for implementing? And I know we have gone through a rule change, and many of my constituents and farmer friends are anxious to see that actually improve.

What would your opinion be in terms of your role to interface with some of the State agencies, that is where you really feel the impact in some cases of overreaching regulations here?

Mr. O'DONNELL. Senator, in my previous work, both on residential mortgage backed securities investigations and going into the False Claims Act work generally, I always felt we were our most effective when we were working with our State partners. With the RMBS investigations I worked with the State of California, the State of New York, the State of Maryland, and I believe the State of Illinois. And then that collaborative effort really allowed us to, I think, make a better case because we were not just responsive to the concerns inside the beltway, but concerns of the States.

So I think to the extent that it is available to the IG's Office of the EPA, I think it would be extremely useful.

Senator BRAUN. When you hit the ground running, I would appreciate it if you might keep in mind that particular issue in Indiana, and maybe check into it and get back with me to see what you think.

Mr. O'DONNELL. Thank you, Senator, yes.

Senator BRAUN. Thank you.

Senator BARRASSO. Thank you, Senator Braun.

Senator Duckworth.

Senator DUCKWORTH. Thank you, Mr. Chairman.

I just want to start by thanking Mr. O'Donnell's family for your support of his long tenure as a civil servant. Some serve this country in uniform by picking up a rifle, others serve by being a public servant, and that is just as honorable and just as giving. So thank you for supporting him in his work. He does very important work, as you can see by having all of us here today.

Welcome, Mr. O'Donnell.

Mr. O'DONNELL. Thank you, Senator.

Senator DUCKWORTH. Thank you for meeting with me yesterday. I was reassured to hear your thoughts on the importance of an independent Inspector General and whistleblower protections.

In July of this past year, July 11th, the Assistant Administrator for Enforcement and Compliance published a memo indicating a new approach to compliance, which would end a longstanding practice at the EPA of inspections that are unannounced. I am concerned that this new, no surprise policy will hinder EPA's ability to protect public health.

Mr. O'Donnell, if confirmed to be EPA's Inspector General, would you agree with this new approach to stop all unannounced activities of the EPA OIG personnel? In other words, would you adopt a no surprise policy to guide OIG investigations?

Mr. O'DONNELL. Senator, I am not privy to what was the reason for that decision. I would be interested, if confirmed, to meet with staff and understand why it is they thought it important to have a no surprise audit.

Senator DUCKWORTH. I think it is an agency-wide memo. I am asking, would you continue it, would you comply with that for the OIG office in terms of this policy of no surprise inspections?

Mr. O'DONNELL. I think as an independent office, it would be inappropriate for the EPA to dictate to the Office of Inspector General how they would conduct their audits. So with respect to any limitation on the ability of the IG to conduct those audits, I think again, I would confer and understand the scope of this new policy of which you speak. But it seems to me to be counterproductive to the role of the Office of Inspector General.

Senator DUCKWORTH. Thank you. I find your answer reassuring.

If confirmed, would you commit to investigate what motivated this change in policy, and whether EPA conducted a rigorous risk analysis of this no surprise policy? And finally, whether EPA developed this policy in consultation or partnership with regulated entities.

Mr. O'DONNELL. Again, Senator, I am not privy to the decision-making or the applicability of that rule. But what I will most certainly pledge is, if confirmed, to get better understanding of this rule, its applicability, and then determine whether it is appropriate to do an audit to determine if it is in fact an effective use of the audit ability of the agency.

Senator DUCKWORTH. Will you follow up with my office?

Mr. O'DONNELL. Absolutely.

Senator DUCKWORTH. Thank you.

Laws aren't worth the paper they are written on if agencies fail to enforce them. Region V, which I am proud to say is based in my home State of Illinois, is historically one that has led the Nation in enforcement. Enforcement begins with inspections. That is why I strongly support the EPA OIG's ongoing investigation into the alarming decline in EPA enforcement actions. In addition to enforcement, I am also concerned that the rate of EPA inspections is also dropping.

If confirmed to be EPA's Inspector General, will you commit to expanding the ongoing enforcement investigation to include why inspections have also dropped nationwide under the Trump administration?

Mr. O'DONNELL. Senator, I am pleased to hear that this has already started. If confirmed, I will pledge to meet with those auditors and understand the scope of their audit and I think if appropriate, most certainly to expand it.

Senator DUCKWORTH. Thank you. During our meeting yesterday, we discussed an issue facing an environmental justice community in Sauget, Illinois. My constituents are exposed to harmful emissions from a trash incinerator that accepts wastes such as propellants and explosives, reactive metals and poisonous materials for disposal. That is why the EPA, under the prior Administration, put in place rigorous requirements for monitoring and controlling heavy metal emissions from this plant.

The current Administration took an opposite approach, providing the polluters with access to the highest levels of leadership at EPA prior to dramatically weakening pollution control requirements on the plant. Unfortunately, this scenario is not an isolated incident, and my constituents in Illinois fear that similar political interference is harming the bipartisan Renewable Fuels Standard program, and letting plants that emit ethylene oxide off the hook.

If confirmed, will you commit to investigate this plant specifically, and this culture of political interference generally at EPA?

Mr. O'DONNELL. Senator, I understand that you sent a letter on this, I think, and I have reviewed it last night. What I pledge, Senator, is to, if confirmed, go to my colleagues at the Office of Inspector General, understand our position, and then get back to you as soon as possible.

Senator DUCKWORTH. Thank you for your answers. I look forward to working with you upon your confirmation.

Mr. O'DONNELL. Thank you, Senator. Me, too.

Senator DUCKWORTH. Thank you, Mr. Chairman.

Senator BARRASSO. Thank you, Senator Duckworth.

Senator Sullivan.

Senator SULLIVAN. Thank you, Mr. Chairman.

Mr. O'Donnell, thank you for your service and for that of your family. I always tell my wife and kids that it is a team effort, as Senator Duckworth was mentioning. Your kids are also really well behaved in this hearing. So that is also great. Thank you to the family for their willingness to let their dad do these important but sometimes time consuming and difficult jobs.

I am looking forward to supporting your confirmation. I think you have a really strong background for this important position. It is a big mission, the OIG. I am just looking at it.

One of the things that it focuses on is misconduct relating to the EPA. I want to tell you that during the 8 years of the Obama administration, my State lost confidence in the EPA in a huge way. A lot of it dealt with misconduct that really never was looked into. Some of it is going to be bygone; the former Administrator, Gina McCarthy, came up to Alaska, essentially consulted my constituents in the national media interview in a very demeaning, arrogant way, literally forgot that she actually represents the people and is supposed to serve the people.

Senator Braun talked about the WOTUS rule. I think as Inspector General—you are a good lawyer. When 31 States, Democrat led States, Republican led States, are suing the EPA, it is kind of time for a pause, right?

But let me talk about a couple other ones during that era of lawlessness at the EPA. There was a Supreme Court case called EPA v. Michigan. Gina McCarthy was actually on the Bill Maher show. She was talking about it, and she said, oh, we think we are going to win. That is fine. We have good lawyers. They didn't win, they lost six to three.

But then she said this, "Even if we don't win, it was 3 years ago that we implemented this rule," and I am quoting her. "Most of the companies and other people subject to this rule are already in compliance, have made investments, and they are going to have to

catch up. So we are still going to get at this issue of toxic pollution from these facilities."

Wow. You are a lawyer. Do you think that that kind of statement on national TV is the EPA showing the respect for the rule of law?

Mr. O'DONNELL. Senator, I don't have HBO, so I have not seen that.

Senator SULLIVAN. But I am quoting from the Administrator. I am sorry, I don't watch the show either, but it was her on the show essentially saying, I don't care what the Supreme Court said, because these suckers that were already making investments, are going to have to pay up anyway.

What do you think of that statement? You are an attorney. You are going to be the OIG. Is that an appropriate statement for the Administrator of the EPA to say on national TV? And does it show respect for rule of law? It is a pretty easy question.

Mr. O'DONNELL. Yes, Senator, what I would say is, and this is something we exercise at the Department of Justice all the time, is that the Department of Justice—I as a criminal prosecutor have tremendous power. I can limit someone's liberty, at least for a short time.

Senator SULLIVAN. Correct.

Mr. O'DONNELL. But I need to exercise that authority——

Senator SULLIVAN. What signal does it send to Americans, the head of an agency is really saying, I don't care what the Supreme Court—but even if we don't win, it was 3 years ago, most of them are already in compliance, and investments have been made.

Tell me what you think about that. It is actually an important question. Remember, your job is part of misconduct. Is that an appropriate statement by the head of the EPA?

Mr. O'DONNELL. Again, I didn't see the exact context, so I hate to comment, rush to judgment, and give you what I think is called nowadays a hot take. But I do believe that we should be judicious in our words and in our use of authority, because it is even the perception of a lack of integrity that harms the exercise——

Senator SULLIVAN. Maybe we can follow up in a—take a look at it, and I would like your views for the record on that.

Let me ask one final question. So in 2013, in a part of my State called Chicken, Alaska, we had placer miners who were out mining legally. And the EPA came to enforce what they believed was a Clean Water Act violation. They showed up in SWAT gear, assault rifles, body armor, ATVs. No notice to local law enforcement. And they scared some people in my State quite a lot. It looked like a small invasion. No violations were ever found, by the way.

This could have been a bad situation. A lot of Alaskans like to exercise their Second Amendment rights, when people show up on their property with assault rifles and body armor.

I have legislation that would disarm the EPA and require the EPA to give notice to local law enforcement when they are going to do these kinds of enforcement actions, essentially a military enforcement action.

If confirmed, will you sit down with me and take a look at this action, which I am not sure the OIG ever took a look at? But it is something—granted, it happened a while ago. But we don't want that kind of thing to happen again. And can I get your commitment

to take a look at that situation that occurred in my State that was very disturbing and was not supported by the people of Alaska?

Mr. O'DONNELL. Senator, if confirmed, I absolutely will be happy to meet with you and learn more about this situation and whether it is an appropriate area for the IG to investigate.

Senator SULLIVAN. And what we can learn from it in terms of the EPA going forward.

Mr. O'DONNELL. Absolutely.

Senator SULLIVAN. Thank you.

Thank you, Mr. Chairman.

Senator BARRASSO. Thanks, Senator Sullivan.

Senator Cardin.

Senator CARDIN. Thank you, Mr. Chairman.

Once again, welcome.

Mr. O'DONNELL. Thank you.

Senator CARDIN. Thank you for your willingness to take on this responsibility. As many of us have said, we really do want to have an independent Inspector General that will be supported. It is frustrating that when we look at some of the activities that have taken place within EPA, and the actions of the Inspector General, we need more transparency, we need more enforcement, we need more ability for us to work in closer concert.

Let me just give you one example. The two for one executive order that was issued, the Inspector General found that in fact, that order was not as transparent as it should be, was not being implemented the way it should have been, made certain recommendations. As I understand, those recommendations are still unresolved.

So I guess my first question to you, it is one thing to find areas that need to be improved. But what do you do if the agency doesn't respond? How do you enforce your recommendations? What steps would you take to make sure that your recommendations are not only adhered to, but if they are not, that there is a process which you can carry out your responsibilities to inform, particularly Congress?

Mr. O'DONNELL. Senator, I see every IG office as having effectively three customers. The first is the head of the agency. Really, these audits can inure to the benefit of those heads of the agencies, if they are willing to accept and listen to the Inspector General.

Another important customer are the American taxpayers and the public. The publishing of audits, I think, has a tremendous effect on the agencies. I agree with you, transparency is important. In everything I do, I believe that we should be as transparent as possible. Because as I have said before, when we are not, even if what we are doing is law abiding, people will assume the worst, and that undermines at least the perception of integrity at the agency.

And then the third customer, Senator, of course, is Congress. I think that the IG Act provides specific remedies, if you will, for reporting these instances, these failures to act on recommendations, whether it is semi-annual reports or audits, to Congress. I think that is probably one of the most important avenues available to the IG's office.

Senator CARDIN. You mentioned the three—the agency, hopefully, you have a working relationship so they understand the con-

cerns and they implement. If they don't, the transparency with the public operates as a check and balance, and the formal notification of Congress is critically important.

I might point out, sometimes it gets lost in the process, and that there needs to be an aggressiveness in the IG's office to make sure that the underlying reasons for the report are understood and accountability is there. So it sometimes takes more than just the legal requirements that you have by statute, but there is a mission that you have to make sure that we have that independence and that it is understood when there are a lot of conflicting issues within the agency and public attention and Congress.

So I just urge you to recognize that you have friends here on Capitol Hill, you have friends in the advocacy community. You don't want to be tied up in the politics of what we are doing here. But you are a factual determinant, and you want to make sure that that information gets the type of attention that it needs. That is going to require some courage and some innovation on your part to make sure in this environment that information can get out to the public and to the Congress. But first, the agency. And hopefully the agency—there are a lot of good professionals that want to do the right thing, and it is carried out in that regard.

So I wish you well. I thank you again for your willingness to serve.

Mr. O'DONNELL. Thank you, Senator.

Senator BARRASSO. Thank you, Senator Cardin.

Senator Whitehouse.

Senator WHITEHOUSE. Thank you, Chairman.

Mr. O'Donnell, welcome.

Among the responsibilities of an Inspector General are to investigate, protect against, simple defalcations, people taking stuff home that doesn't belong to them, you will have no hesitancy pursuing those sorts of matters?

Mr. O'DONNELL. No, Senator.

Senator WHITEHOUSE. Another issue for Inspectors General is to review the administration or maladministration of programs and of grants. Will you have any hesitancy in doing your duty with respect to those types of concerns as Inspector General?

Mr. O'DONNELL. No, Senator.

Senator WHITEHOUSE. Another concern is the, while you are not a judge reviewing an individual rulemaking, say, if there were systematic or regular Administrative Procedures Act violations that affected the integrity of the agency, would you have any hesitancy of exerting your Inspector General responsibilities to address those sorts of problems?

Mr. O'DONNELL. No, I think that would be appropriate, Senator.

Senator WHITEHOUSE. And because it is EPA, and because there are very, very big polluting interests who are constantly engaged with that agency, it is possible that you might embark on inquiries that create consternation among very big interests. Would you have any hesitancy in pursuing your duty against the wishes or the pressure of very big outside interests?

Mr. O'DONNELL. Senator, I have been doing that with respect to international financial institutions for many years. I don't think I have any hesitation with any other.

Senator WHITEHOUSE. Short answer is no?

Mr. O'DONNELL. No.

Senator WHITEHOUSE. Great. Will you remain a member of the Federalist Society in your Inspector General position, and if so, will you give the Federalist Society any special consideration should it take views on issues that are before you?

Mr. O'DONNELL. Senator, I am not a member of the Federalist Society. But I wouldn't give anyone any special consideration. I think it is important that all opinions be taken on their face, based on their validity.

Senator WHITEHOUSE. And you serve now in the Department of Justice, which is a place I also had the great honor to serve. In the Department of Justice, there is an Office of Professional Responsibility that is separate from the Inspector General that oversees the conduct or misconduct, as lawyers of lawyers in the Department of Justice. What is your role at EPA with respect to misconduct by lawyers in the EPA office, given that there is no OPR there?

Mr. O'DONNELL. I believe that the office will effectively have something akin to that role of OPR that you speak of at DOJ.

Senator WHITEHOUSE. The Inspector General office will?

Mr. O'DONNELL. Yes.

Senator WHITEHOUSE. So that would be something you would oversee, and you would have no hesitancy about pursuing problems with regard to lawyers?

Mr. O'DONNELL. Absolutely not. Being members of the bar, I think we need to be held to a higher standard. So absolutely not.

Senator WHITEHOUSE. And finally, thank you for your use of one of my favorite quotations from Justice Oliver Wendell Holmes, I love the turning square corners analogy.

Mr. O'DONNELL. Yes.

Senator WHITEHOUSE. I think it has a lot of bearing, as you point out, both for how the regulated entities must behave when they are dealing with the Government, but also to how the regulator must behave in making sure that they are doing things right, because they are, at the end of the day, accomplishing a larger and more important public purpose than just engaging with a particular industry.

Mr. O'DONNELL. Absolutely.

Senator WHITEHOUSE. Thanks.

Mr. O'DONNELL. Thank you.

Senator WHITEHOUSE. Good luck.

Mr. O'DONNELL. Thank you.

Senator BARRASSO. Thank you, Senator Whitehouse.

Senator Gillibrand.

Senator GILLIBRAND. Thank you, Mr. Chairman.

Thank you to your family who are here supporting you today. It is a big day to come to DC. You must be very proud of your dad, and you are very kind to give him the support he needs on this big day.

Mr. O'Donnell, as you know, the EPA Inspector General acts as an independent authority for the EPA, charged with protecting the integrity of the agency by exposing misconduct and ensuring that the agency and its leaders are following the law. As such, it is ab-

solutely critical that you personally uphold the highest levels of integrity and transparency.

If confirmed, will you conduct your investigations without the influence of political appointees at EPA, the White House, or any other Federal agency?

Mr. O'DONNELL. Absolutely, Senator.

Senator GILLIBRAND. Do you intend to seek any waivers or regulatory exemptions to engage in any matters for which you have a potential conflict of interest as described in your ethics agreement?

Mr. O'DONNELL. No.

Senator GILLIBRAND. Over the last 2 years, the Office of Inspector General has been asked to launch several investigations into EPA's leadership after receiving credible allegations of ethics violations and abuses of power. However, it appears that the Inspector General stopped his work on these investigations once the targets resigned from their positions and before the investigations could be completed, resulting in the Inspector General stating that the investigations were inconclusive.

This practice of abandoning investigations when the target resigns is troubling. If confirmed, will you commit to pursuing justice in conducting full investigations to their conclusive ends?

Mr. O'DONNELL. Yes.

Senator GILLIBRAND. Thank you.

Will you commit to reversing this malpractice of abandonment and ensure that these investigations are completed, even after the targets have resigned from their positions, in order to ensure there is full accountability?

Mr. O'DONNELL. Senator, I have every intention of doggedly pursuing truth regardless of the availability of witnesses.

Senator GILLIBRAND. And how do you plan to address these matters, if confirmed?

Mr. O'DONNELL. Senator, I think I bring a tremendous amount of experience in how to conduct investigations, and the Office of Inspector General has an Office of Investigations. It is one I will be working with closely, sharing with them my views, maybe some insight; they are all professionals and know what to do. I am hoping that maybe they will feel empowered because of my history of investigations to follow that pattern of dogged truth seeking.

Senator GILLIBRAND. Well, I wish you all the best and many blessings in your new job.

Mr. O'DONNELL. Thank you, Senator.

Senator BARRASSO. Thank you, Senator Gillibrand.

Senator Carper.

Senator CARPER. Let me just bring up an issue that has sort of reared its head in the last several days, and see if you would take a shot at it, please. It one of the issues that many of us on this Committee care about deeply, and it is reducing greenhouse gas emissions in general on our planet, but particularly in the transportation sector, but doing so in a way that creates economic opportunity and jobs.

Recently, four automakers entered into an industry agreement with California to reduce their exhaust emissions, as you may know. Our President was not happy with this deal, and as soon as he tweeted out his anger, EPA started to send the State of Cali-

fornia aggressive letters threatening them with loss of highway funding and other air and water violations.

Do you agree that the question of whether the EPA political leadership followed the President's directions and abused their powers is something that an IG should at least look at?

Mr. O'DONNELL. Senator, I am not privy to that specific instance. I am not in the EPA yet. But I can say that instances where statutory or regulatory authority are being abused for political ends would be something worthy of an Inspector General's investigation.

Senator CARPER. Thank you.

I think you said that your children are ages 7, 9, 11, and 13.

Mr. O'DONNELL. Yes, Senator.

Senator CARPER. When you think about our environment, what do you see as maybe the greatest threat to this earth that they are going to inhabit for the next 80, 90 years?

Mr. O'DONNELL. Senator, I think that those threats include pollution to water, pollution to the land.

I had an opportunity while in the Civil Fraud section to meet with our honeybee producers, who are pretty put upon by Chinese importers who evade our duties. They talked about how, in China, the land there is so polluted that they have to go to other countries to grow their food. It is a national security issue almost for them.

I would be concerned about that here, too, that our water has become so dirty and our land become so polluted that we can no longer function as a society on our own.

Senator CARPER. Our sons are 29 and 31. One lives in New York City; the other lives in California, San Francisco. Just north of San Francisco, they are having wildfires that feature hurricane force winds.

I used to live in California, not far from there, when I was a naval flight officer. I don't recall ever witnessing hurricane force winds or wildfires like this. Do you think something is going on there?

Mr. O'DONNELL. Senator, it is terrifying what is happening there. I remember, I think we were in Washington State, eastern Washington 2 years ago and there was a tremendous forest fire there that had blanketed the sky and made it difficult to breathe.

Senator CARPER. What State do you live in?

Mr. O'DONNELL. I live in Maryland now, but I am originally from Washington State.

Senator CARPER. Ever heard of a place called Ellicott City in Maryland?

Mr. O'DONNELL. Yes.

Senator CARPER. For your children, there is a term that is called like a 100-year flood, that means it is a flood that is severe enough that it occurs about every 100 years, and maybe another 100 years later you would get another one like that. There is also a term called a 1,000-year flood, which means that it is a flood that is so bad, like Noah's Ark, so bad that it only happens about every thousand years.

Ellicott City, which is not too far from where your family lives, has experienced two 1,000-year floods in an 18-month period. Two thousand-year floods in an 18-month period. Do you think something is going on there?

Mr. O'DONNELL. It strikes me as a statistical anomaly, Senator, and although I am not a scientist, it does certainly seem like something is happening.

Senator CARPER. All right. Let me close with this question. If you were to go to your—I go to schools all the time, Senator Barrasso goes to schools all the time, we have assemblies with kids young and old—not really old, but young and older. When I go to schools, 7 year olds, 9 year olds especially, they ask questions and say, what do you do? And I explain that along with Senator Barrasso and 98 other Senators, I help make the rules for the country.

And I say, do you have rules in your school, do you have rules on your bus, do you have rules at home? They say, yes. And I say, we have rules for our country, we call them laws. I get to help make them, with 99 other Senators, 435 Representatives, a President and Vice President.

Sometimes they will say, what else do you do? And I will say, I try to help people. And one of the best ways you can help somebody is to make sure they have a job.

We don't create jobs here, and I didn't create jobs when I was Governor. But a lot of jobs were created, and we helped create a nurturing environment for job creation, so that when entrepreneurs start a business, they can be successful.

If you are in a class of 7 year olds or 9 year olds and they ask you, what do you do, if you are confirmed for this position, how would you describe it to them in words that they could understand?

Mr. O'DONNELL. I would tell them that my job is to help the EPA make our environment better and protect our public health by pointing our problems and highlighting solutions.

Senator CARPER. Is that it?

Mr. O'DONNELL. I could certainly tell them about waste, fraud, and abuse. But I have coached children that age, and I can barely have 1 minute of talking to them before they are throwing dirt at me.

[Laughter.]

Mr. O'DONNELL. So I accept that my explanations always must be very concise.

Senator CARPER. All right. Well, thanks very much again. It was a pleasure meeting your family. I didn't know that was your dad sitting back there.

Mr. O'DONNELL. Yes, I had mentioned my father is a big fan of Senator Biden's.

Senator CARPER. Well, that's great. So are we. When you think of where your values came from to guide your life, what are the sources of those values?

Mr. O'DONNELL. Obviously, Senator, they come from my faith, my upbringing. I grew up in a working class family, and learned the dignity of work. You spoke of jobs and how important jobs are, the dignity of work.

My mother has passed away, she was very helpful. One of the most peculiar persons you will ever meet, but one of the most giving.

Senator CARPER. Good. Sounds like a mom I once knew. All right. Thanks so much.

Mr. O'DONNELL. Thank you.

Senator BARRASSO. Thanks, Senator Carper.

Just following up a little bit with what Senator Sullivan was talking about, with Gina McCarthy, previous Administrator of the EPA. Many of us on our side of the aisle felt that she had abused her power to say the ends justified the means.

Mr. O'DONNELL. Yes.

Senator BARRASSO. Coming out with a number of regulations that we felt clearly were illegal. And she was going to depend upon the inefficiency of the courts, so that people would have to comply with those regulations until the court finally—well, 3 years later. And then by then, as she would say, the results were obtained, and I would say the damage was done in terms of lost jobs and opportunities.

It is a continuing area of concern for people on both sides of the aisle, when people in power use that to say that justifies the means of what they have accomplished. So you may want to visit with Senator Sullivan about that, and realize it can go both ways.

Mr. O'DONNELL. I understand, Senator. And you know, all of us at the Department of Justice, particularly those who do white collar prosecutions, are intimately familiar with what happened with Arthur Andersen, and the consequences that can happen when we act what could appear to be cavalier. So while I might seem careful with my words, it is absolutely my conviction that in the exercise of authority, we need to temper justice with mercy and appropriate other controls.

Senator BARRASSO. Well, thank you again. Congratulations to you and to your family. We look forward to your additional service for our country. Thank you.

Mr. O'DONNELL. Thank you, Senator.

Senator BARRASSO. Before you leave, I forgot to mention, there will be additional questions submitted to you. So we ask that you respond to the questions by 4 p.m., Thursday, November 7th.

I want to thank you, and I have a couple things I am going to introduce into the record, without objection.

[The referenced information follows:]

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United States Senate

COMMITTEE ON
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS
WASHINGTON, DC 20510–6250

September 13, 2019

President Donald Trump
The White House
Washington D.C. 20500

Dear Mr. President:

We write to urge you to take swift action to address the vacant inspector general (IG) positions in the federal government. The Inspector General Act established IGs to promote economy, efficiency, and effectiveness in the administration and operation of the government.[1]

At present, we understand there are nine vacancies of presidentially-appointed, Senate-confirmed IGs with no nominations pending and two vacancies for agency-appointed IGs.[2] The currently vacant presidentially-appointed IG positions include the Central Intelligence Agency, the Department of Defense, the Office of Personnel Management, the Tennessee Valley Authority, the Environmental Protection Agency, the Department of Education, the Nuclear Regulatory Commission, the Department of Health and Human Services, and the Department of the Treasury.[3] Currently vacant agency-appointed IG positions are the Federal Election Commission and the Corporation for Public Broadcasting.[4] Many of these positions have been vacant for over one year or more, including the Central Intelligence Agency, which has been vacant for over four years.[5]

While many acting IGs have served admirably in the absence of permanent leadership, the lack of a permanent leader threatens to impede the ability of these offices to conduct the oversight and investigations necessary to ensure that taxpayer dollars are protected, public safety risks are identified, and that whistleblowers who expose waste, fraud, and abuse are protected. In addition, the lack of a permanent IG can create the potential for conflicts of interest and diminish the essential independence of IGs.

As you continue to submit nominations for your administration, we respectfully request that you move expeditiously to nominate permanent IGs for the presidentially-appointed positions and to ask agency heads to follow suit. We stand ready to work with you and the Council of the Inspectors General on Integrity and Efficiency to promptly identify qualified and capable candidates for these positions.

Thank you for your attention to this important matter.

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[1] 5 U.S.C. app. § 2 (1978).

[2] Project on Gov't Oversight, Inspector General Vacancy Tracker, *available at* https://www.pogo.org/database/inspector-general-vacancy-tracker/ (last accessed on September 12, 2019).

[3] *Id.*

[4] *Id.*

[5] *Id.*

President Donald Trump
September 13, 2019
Page 2 of 2

Sincerely,

Ron Johnson
Chairman
Committee on Homeland Security and
Governmental Affairs

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

Rob Portman
United States Senator

Tom Carper
United States Senator

Rand Paul, M.D.
United States Senator

Margaret Wood Hassan
United States Senator

James Lankford
United States Senator

Kamala D. Harris
United States Senator

Mitt Romney
United States Senator

Kyrsten Sinema
United States Senator

Michael B. Enzi
United States Senator

Jacky Rosen
United States Senator

ROBERT C. HINKLEY
821 Oronoco Street
Alexandria, Virginia 22314

Senator John Barrasso
Chairman
Senate Committee on Environment and Public Works
410 Dirksen Senate Office Building
Washington, DC 20510

October 22, 2019

Dear Senator Barrasso,

I am writing to you to recommend Sean O'Donnell for the post of Inspector General at the US Environmental Protection Agency. Our work on the Residential Mortgage Backed Securities Working Group brought us together in 2012. Sean was in the Civil Frauds unit of the Department of Justice. I was an Attorney Advisor in the Inspector General's Office of the Federal Housing Finance Agency. Sean led the investigation of a major US investment bank that resulted in a multibillion-dollar settlement for the Government. I was fortunate to work with him on that matter and get to observe him on an almost daily basis.

Sean is one of the best lawyers I have encountered in my 40-year career both in private practice (as a partner in two of America's largest law firms) and while working for the federal government. He is a consummate professional, has great judgment, is highly intelligent and of the highest integrity. He is also a pleasure to work with and a good manager of people.

These traits and his understanding of how to run an investigation make him ideally suited to be an Inspector General. Please feel free to reach out to me if you have any questions. I can be reached on 202-417-0759.

Sincerely,

Robert C. Hinkley

Trevor A. Levine

770 P Street NW, Apt. 320
Washington, DC 20001

(412) 841 3731
trevorlevine55@gmail.com

October 23, 2019

Senator John Barrasso
Chairman
Committee on Environment and Public Works
410 Dirksen Senate Office Building
Washington, DC 20510

Senator Tom Carper
Ranking Member
Committee on Environment and Public Works
456 Dirksen Senate Office Building
Washington, DC 20510

RE: Recommendation and Support for Sean O'Donnell to be Environmental Protection Agency Inspector General

Dear Chairman Barrasso and Ranking Member Carper:

I am writing to express my strong support for Sean O'Donnell to be the Inspector General of the Environmental Protection Agency. Personally, I owe much of my early development as an attorney to Mr. O'Donnell. I worked with Mr. O'Donnell for over a year at the Department of Justice Civil Frauds Division. I was an inexperienced contractor attorney and I was fortunate enough to land on one of Mr. O'Donnell's investigations into a large financial institution. I have since worked on a number of investigations as a private law firm attorney, and Mr. O'Donnell's ability to understand how complex facts fit into a broader investigation and to pursue those facts wherever they may lead is unmatched.

In addition to having top notch investigative skills, Mr. O'Donnell has the highest integrity. During the time I worked with him, Mr. O'Donnell never let the easy path dictate his strategy. He was always willing to raise an unpopular position to his superiors and defend that position if the facts supported it.

The Environmental Protection Agency would be incredibly well served with Mr. O'Donnell as its Inspector General.

Please feel free to contact me if you should have any questions.

Sincerely,

Trevor Levine

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Fort Myers, Florida 33901
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Ocala, Florida 34471
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Tampa, Florida 33602
813/274-6000
813/274-6358 (Fax)

300 N. Hogan Street, Suite 700
Jacksonville, Florida 32202
904/301-6300
904/301-6310 (Fax)

400 West Washington Street, Suite 3100
Orlando, Florida 32801
407/648-7500
407/648-7643 (Fax)

October 25, 2019

Senator John Barrasso
Chairman
Senate Committee on Environment and Public Works
410 Dirksen Senate Office Building
Washington, DC 20510

Re: Recommendation and Support for Sean O'Donnell

Dear Senator Barrasso:

It is my honor to support Sean O'Donnell for the position of Inspector General of the EPA. I first met Sean approximately six years ago when he was a trial attorney with the Department of Justice Civil Frauds division. In that position, Sean handled complex cases involving fraud against the taxpayers by financial institutions.

The case I worked alongside Sean arose from a *qui tam* concerning the servicing of Home Equity Conversion Mortgage (HECM) loans insured by the Federal Housing Administration (FHA). The complaint alleged that a prominent reverse mortgage servicing company Reverse Mortgage Solutions (RMS) engaged in a scheme to fraudulently obtain insurance payments from the FHA for debenture interest. As background, in order to claim debenture interest from the FHA when submitting an insurance claim to HUD for losses associated with government insured reverse mortgages, the Code of Federal Regulations required the reverse mortgage servicer to meet a number of event specific deadlines designed to ensure that the foreclosure proceeded as quickly as possible. If the reverse mortgage servicer failed to meet one of these deadlines, it was required to self-curtail its claim for debenture interest on the insurance claim form submitted to HUD.

Following a thorough investigation, it was determined that RMS deliberately avoided self-curtailing on the HUD claim form despite missing these required event specific deadlines. The lack of self-curtailment was not an accident or the result of a system that accidently failed to capture the right dates. Rather, the decision was management driven and based on nothing other than RMS' own bottom line and resulted in the FHA paying out millions in taxpayer money to RMS that it was not entitled to receive. As a result of Sean's

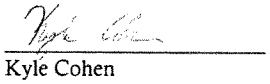
leadership in the investigation, the United States reached a settlement agreement with RMS' parent company, Walter Investments, for $29.63 million.

This settlement was the first major FCA action against a reverse mortgage servicer, and the result has sent shock waves through the industry. Numerous witnesses have told us that it was a "game changer" because it was the first time that there had been an enforcement action by the DOJ in the reserve mortgage industry. Following the RMS settlement, Sean and I were able to resolve similar claims against Financial Freedom for $89.27 million and Celink for $4.25 million. More importantly, this investigation resulted in an entire industry coming into compliance and, thereby, savings millions more in taxpayer money.

Sean was tenacious in his approach to this difficult investigation. Not only did he have to learn the facts, but the case required him to navigate through a complex regulatory environment. On a personal level, Sean is great to work with and has wonderful sense of humor.

Due to his relentless commitment in rooting out fraud, waste, and abuse of taxpayer money, Sean is an ideal candidate for an IG position. Please do not hesitate to reach out to me if you have any questions. My direct line is 239-461-2245.

Sincerely,



Kyle Cohen
Assistant United States Attorney
For the Middle District of Florida

Senator BARRASSO. With that, the hearing is adjourned.
[Whereupon, at 11:18 a.m., the hearing was adjourned.]

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