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HEARING ON THE NOMINATION OF ROBERT J. FEITEL, OF MARYLAND, TO BE INSPECTOR GENERAL OF THE NUCLEAR REGULATORY COMMISSION

HEARING

BEFORE THE

SUBCOMMITTEE ON CLEAN AIR
AND NUCLEAR SAFETY

OF THE

COMMITTEE ON
ENVIRONMENT AND PUBLIC WORKS

UNITED STATES SENATE

ONE HUNDRED SIXTEENTH CONGRESS

FIRST SESSION

DECEMBER 3, 2019

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HEARING ON THE NOMINATION OF ROBERT J. FEITEL, OF MARYLAND, TO BE INSPECTOR GENERAL OF THE NUCLEAR REGULATORY COMMISSION

TUESDAY, DECEMBER 3, 2019

U.S. SENATE,
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS,
SUBCOMMITTEE ON CLEAN AIR AND NUCLEAR SAFETY,
Washington, DC.

U.S. Senate Committee on Environment and Public Works Subcommittee on Clean Air and Nuclear Safety Washington, DC.

The committee met, pursuant to notice, at 3:08 p.m. in room 406, Dirksen Senate Office Building, Hon. Mike Braun (chairman of the committee) presiding.

Present: Senators Braun, Carper, Cardin, Boozman, Ernst, Gillibrand.

OPENING STATEMENT OF HON. MIKE BRAUN, U.S. SENATOR FROM THE STATE OF INDIANA

Senator BRAUN. Good afternoon. Thanks to everyone for being here today. This hearing is called to order.

Today, we will be considering the nomination of Robert Feitel to be Inspector General of the Nuclear Regulatory Commission. If confirmed as Inspector General, Mr. Feitel will lead an independent office within the NRC to ensure the agency maintains its world-renowned reputation for safety, efficiency and program integrity.

As you know, the NRC not only regulates the American commercial nuclear sector, which is the largest in the world, with 96 licensed reactors, but it also serves as a global model or gold standard in the safe regulation of nuclear technology. The United States' nuclear power plants currently represent the largest fleet of reactors in the world. These reactors supply about 20 percent of our Nation's electricity.

Importantly, this nuclear power is the most reliable and one of the most cost-effective sources of clean baseload electricity. As the committee recently heard, U.S. nuclear plants are operating at historically high levels of safety and performance. This is a testament to the commitment and dedication of nuclear power plant operators. NRC's regulations provide the assurance that public health and safety are protected.

However, maintenance and operational issues still might occur. Occasionally over the last four decades, reactors have temporarily shut down due to corroded pipes, cracks in critical equipment, and

for a few other reasons. The industry learns valuable lessons each time from one of these incidents.

Today, the American civilian nuclear industry is facing another challenge. Abundant natural gas and wind and solar subsidies are placing significant economic pressure on nuclear power. The NRC plays a vital role in this regard. We all know that the industry needs a stringent, independent regulatory structure to ensure safe operation.

However, safety regulations must be risk-based. An inflexible and burdensome regulatory framework may result in the agency regulating the nuclear industry out of business.

The NRC is also facing challenges with staff retention and turnover, like many other businesses. This issue is a high priority for the commission itself, but also should be a priority for the next Inspector General.

If confirmed, Mr. Feitel will be the first new appointment for the NRC IG in over 25 years. If Mr. Feitel serves the same length of time, he will be the Inspector General for the relicensing or closure of nearly every currently operating nuclear plant.

Mr. Feitel's appointment comes at a pivotal time for both the industry and the NRC. The next Inspector General will be tasked with safeguarding the NRC's impressive track record. This means ensuring that the agency never strays from its primary objective of overseeing the safe operation of our nuclear fleet. This is why it is critically important that the NRC Inspector General is a person of integrity and independence.

I am pleased that President Trump has nominated Mr. Feitel for this position. The Chief of the DOJ's Capital Case Section, Richard Burns, noted in his letter to this committee that Mr. Feitel has exhibited the ability to provide a fair-minded, independent assessment of each case, to scrupulously adhere to his ethical obligations, and to follow the facts and evidence wherever they lead. These characteristics are necessary for any inspector general, but particularly in the NRC.

The committee also received a letter of support from Mr. Patrick Martin, the Chief of the Criminal Division in the D.C. U.S. Attorney's Office, who said, "Without a doubt, Mr. Feitel was one of the most conscientious and talented colleagues with whom I have had the pleasure to work with during my time in this office."

Mr. Feitel's character and service make him an ideal candidate for the NRC's Inspector General. I look forward to hearing his testimony today and to considering the nomination.

Now I would like to recognize Senator Cardin to introduce.

OPENING STATEMENT OF HON. BENJAMIN L. CARDIN, U.S. SENATOR FROM THE STATE OF MARYLAND

Senator CARDIN. Thank you, Mr. Chairman. After your acknowledgement of Robert Feitel, maybe I should just quit while we are ahead right now.

But let me, if I might, take the prerogative as the Senator from Maryland with pride to introduce Mr. Feitel to our committee and to welcome him and his family, and thank him for his public service.

I also have a connection in that the NRC's headquarters is located in Maryland. We take great pride that the NRC represents the global gold standard for nuclear safety. But it is critically important that the men and women who work at the NRC in carrying out this mission that the IG has their back to make sure that they can operate in an independent, non-partisan manner.

When you look at Mr. Feitel's record, it gives you great confidence that he has that ability to carry out this responsibility. As the Chairman said, the last IG was there for 20 some years. So they are big shoes to fill.

Mr. Feitel has extensive experience in public service, as Assistant General Counsel to the FBI, Assistant U.S. Attorney here in the District. Also Special Assistant U.S. Attorney in Washington and Virginia, tribal attorney for the Department of Justice, the Capital Case Section. He served on the President's Task Force to review the Gitmo Bay Detainees, the Department of Justice Counterterrorism Unit. You can see a wide range of experience. He started all his legal training at the University of Maryland Law School, which shows his good judgment in the selection of the law school that he attended.

I talk frequently about the fact that here in the United States, we are blessed with an incredible group of public servants who work as a Federal work force. It is really somewhat of a hidden national asset, because they don't get the credit that they deserve. I think that Mr. Feitel represents the very best of public service represented by our Federal work force. So I am very proud to introduce him.

One last point, if I just might say, as you pointed out. The work of the NRC is critically important for public safety. We need to have an IG who will be non-partisan, who will deal with the most critical charge of rooting out misconduct, waste, fraud, theft, abuse, and mismanagement. And they must be beyond reproach.

Looking at Mr. Feitel's background, it gives me great confidence that he has the experience and he has the know-how to carry out this very important responsibility. I thank him for his willingness to serve in this capacity.

Senator BRAUN. Senator Carper, for opening comments.

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

Senator CARPER. Thanks, Mr. Chairman.

Mr. Feitel, welcome. Thank you for your willingness to take this on.

I would just say to the family members of yours in the audience, it is not uncommon for, at nomination hearings, for family to come. Sometimes it is a spouse. Sometimes it is a son, sometimes it is a daughter, it could be a parent, an aunt or uncle, brother or sister.

Just looking at this audience, as I look over your left shoulder, to my right, I have never seen a witness come before us who had three women who look they could be his wife, and all look just alike.

[Laughter.]

Senator CARPER. They really do. We rarely have a situation when I say, which one is the mom.

[Laughter.]

Senator CARPER. We are happy that you are here, we are happy that your family is here as well, and other friends, too. We appreciate your willingness, again, to serve as the IG at the Nuclear Regulatory Commission.

Since coming to the Senate almost 19 years ago, I have worked with both Republicans and Democrats on this committee to strengthen what we call the culture of safety within the U.S. nuclear industry. That includes making sure that the NRC is an independent and transparent regulator, one that prioritizes safety above all other issues.

In part due to our collective oversight efforts and in part due to the NRC's dedicated staff, some of whom are here today, the U.S. nuclear industry remains one of the safest in the world, maybe the safest in the world. The NRC, we believe, is the world gold standard for nuclear regulatory agencies.

Today, there are still 96 nuclear reactors that are in operation in our Country. They are operating more efficiently, as has been noted already by the Chairman, more efficiently than ever before. And they are producing more than 50 percent of our Nation's carbon-free electricity. I will say that again. They are producing more than 50 percent of our Nation's carbon-free electricity.

As our Nation and other nations look to nuclear energy to help address the climate crisis, we cannot be complacent when it comes to nuclear safety. Now perhaps more than ever, the NRC and the nuclear industry must continue to be held to the highest standard. That means having a strong and independent NRC Inspector General.

If Mr. Feitel is confirmed, he will serve as one of the first lines of defense against fraud, against waste, against abuse, against mismanagement, and misconduct across the NRC. If Mr. Feitel is confirmed, he will track and determine whether the NRC has the tools necessary to keep our Country's nuclear power the safest in the world. And if Mr. Feitel is confirmed, my colleagues in Congress and I will depend on him to keep us informed about the serious issues that may arise related to the NRC's program and to its operations.

Put simply, if confirmed as the NRC's Inspector General, Mr. Feitel will serve as watchdog for the safety of the American people, no small responsibility. In order to fill this critical role, I believe Mr. Feitel must bring integrity, independence, and transparency to the job every day. And we look forward today to hearing Mr. Feitel's testimony to get a better sense of his understanding of the important job for which he has been nominated and some of the values that he brings to the job.

We want to thank you again, Mr. Feitel, for joining us all here today. A special thank you to your family for their willingness to serve you with the American people. Thank you.

Senator BRAUN. Thank you, Senator Carper.

Now I am going to recognize you, Mr. Feitel, for 5 minutes of opening statements and to introduce any of your family here, and go forward with that. We look forward to your testimony.

STATEMENT OF ROBERT J. FEITEL, OF MARYLAND, TO BE INSPECTOR GENERAL OF THE NUCLEAR REGULATORY COMMISSION

Mr. FEITEL. Thank you, Senator.

Good afternoon, Chairman Braun, Ranking Member Carper, and distinguished members of this subcommittee. I am humbled and honored to come before you as the nominee to be the Inspector General of the United States Nuclear Regulatory Commission.

I am grateful to the President for nominating me to such an important position, I am grateful to all of you and your staff, for considering my nomination, and for taking the time to meet with me prior to this hearing, and I am thankful that my family and friends could join me here today.

Seated behind me is my amazing wife of 25 years, Caroline.

Senator CARPER. Would you ask your wife to raise her hand?

[Laughter.]

Mr. FEITEL. And my two beautiful daughters, Grace and Camilla, who are quickly growing up to be such accomplished young women. I am incredibly proud of them. Also with me here today is my brother, Dave, my sister-in-law, Lorie, my niece, Alex, and several of my dear friends who were kind enough to join me. Thank you to you all.

I would like to begin by saying that I see the Inspector General role as critical for effective, efficient, and fair government. The Inspector General is literally on the front lines in the fight against waste, fraud, abuse, and mismanagement.

The Inspector General must be non-partisan, and apolitical, as I am. I have worked through four administrations, two Democrat and two Republican.

The Inspector General must by unmoved by ever-changing political winds and constantly evolving threats of undue influence. It requires a person with the utmost integrity, honesty, independence, and fairness.

I believe that I possess each of these characteristics, as well as the substantive skill sets required of a government watchdog for the American people. I have been a lawyer for 29 years, and nearly 25 of those 29 years, I have been in public service, which for me is truly a calling, not just an occupation.

When I first entered Federal service in 1995, I was thrilled to be joining what is still the Nation's preeminent law enforcement organization, the Federal Bureau of Investigation. As one might imagine, the legal issues confronting the FBI on a daily basis were, and continue to be, considerable and challenging. The experience I gained there would prove to be very beneficial as I embarked on a career as a Federal prosecutor.

As a Special Assistant U.S. Attorney at the U.S. Attorney's Office for the Eastern District of Virginia, my felony work focused on white collar fraud cases, and I was fortunate enough to be able to bring two of those cases to jury trial. Afterwards, I served as an Assistant U.S. Attorney at the U.S. Attorney's Office for the District of Columbia, where I spent 12 years honing my investigative, writing, and trial advocacy skills, working on matters ranging from bank fraud to the most violent of offenses, and everything in between.

During my tenure there, I enhanced my national security bona fides, through my assignment to the President's Executive Order Task Force for the Review of Guantanamo Bay Detainees. This task force was a massive undertaking, a comprehensive audit and investigation of over 200 detainees, effectively an in-depth assessment of human capital from a range of perspectives.

It was a bipartisan, collaborative, inter-agency effort across the U.S. Government, bringing together diverse interests, competing agendas, and varied political ideologies. Yet, despite all of these profound differences, the Task Force fulfilled its audit and investigative mission effectively and on time, producing a comprehensive report for Congress, to facilitate the most informed decisionmaking going forward.

No matter where I have worked, however, and no matter how tremendous the responsibility, I never lost sight of the need for strict compliance with constitutional norms, candor with the tribunal, and strict compliance with the rule of law. Indeed, I see myself as a servant of the law. To me, this means doggedly pursuing the truth, wherever that road may lead, unfazed by fear or favor, not swayed by passion or prejudice, and unwavering in my commitment to justice and fairness.

Most recently, I have been working for the Capital Case Section, perhaps the smallest litigating section in the Department of Justice in terms of size, but certainly one of the largest in the context of ethical weight and responsibility. In this role, I am an advisor to the Attorney General of the United States and his Review Committee, ensuring fairness and consistency in the decisionmaking process on the appropriateness of seeking capital punishment in Federal cases across the Country.

On occasion, I present these cases to juries, who must make the most difficult choice any juror ever faces. Thus, I am no stranger to working on issues that are exceedingly complex, and which draw fervent, passionate, competing views, because they are truly life and death issues.

Senators, I hope you will agree that my extensive experience and background, born of a quarter century of service to this Country, make me a promising candidate for the Inspector General position.

I am seeking your support, and I look forward to your questions. Thank you.

[The prepared statement of Mr. Feitel follows:]

Chairman Braun, Ranking Member Carper, and distinguished members of this subcommittee, I am humbled and honored to come before you as the nominee to be the Inspector General of the United States Nuclear Regulatory Commission. I am grateful to the President for nominating me to such an important position, I am grateful to all of you and your staff, for considering my nomination, and for taking the time to meet with me prior to this hearing, and I am thankful that my family and friends could join me here today.

Seated behind me is my amazing wife of 25 years, Caroline, who is truly the love of my life, and my two beautiful daughters, who are quickly growing up to be such accomplished young women; I'm incredibly proud of them. Also with me here today, my brother, my sister-in-law, and several of my dear friends who were kind enough to join me---thank you to you all.

I'd like to begin by saying that I see the Inspector General role as critical, for effective, efficient, and fair government. The Inspector General is literally on the front lines in the fight against waste, fraud, abuse, and mismanagement. The Inspector General must be non-partisan, and a-political, as I am. I've worked through four administrations, two Democratic, and two Republican. The Inspector General must by unmoved by ever changing political winds and constantly evolving threats of undue influence. It requires a person with the utmost integrity, honesty, independence, and fairness. I believe that I possess each of these

character traits, as well as the substantive skill sets required of a government watchdog for the American people.

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certainly one of the largest in the context of ethical weight and responsibility. In this role, I am an advisor to the Attorney General of the United States and his Review Committee, insuring fairness and consistency in the decision making process on the appropriateness of seeking capital punishment in federal cases across the country. And on occasion, I present these cases to juries, who must make the most difficult choice any juror ever faces. Thus, I'm no stranger to working on issues that are exceedingly complex, and which draw fervent, passionate, competing views, because they are truly life-and-death issues.

Senators, I hope you will agree that my extensive experience and background, born of a quarter century of service to this country, make me a promising candidate for the Inspector General position. I'm seeking your support, and I look forward to your questions. Thank you.

Senate Committee on Environment and Public Works
Subcommittee on Clean Air and Nuclear Safety
Hearing entitled, *"Hearing on the Nomination of Robert J. Feitel, of Maryland, to be Inspector General of the Nuclear Regulatory Commission"*
December 3, 2019
Questions for the Record for Mr. Feitel

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?

   If confirmed, I agree to provide complete, accurate, and timely responses to lawfully authorized requests for information submitted by any Member of the Environment and Public Works Committee.

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.

   I appreciate and have great respect for the oversight system, and the Freedom of Information Act. If confirmed, I agree to provide materials responsive to lawful and appropriate oversight letters in a timely fashion.

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 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 ... 11 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?

If confirmed, I will 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.

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?

I understand, appreciate and support the importance of protecting anonymity with respect to individuals who bring information regarding misconduct within the federal government to the Office of Inspector General. The statute (IG Act) indicates that the IG may not disclose the identity of a whistleblower, except when disclosure is "unavoidable during the course of the investigation." If confirmed, I would follow the rule of law and apply it to the facts of the individual case involved. I'm strongly in favor of whistleblower protections, strongly in favor of protecting whistleblower identity, and strongly against any chilling effect of or from whistleblower disclosures.

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?

If confirmed, I will 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.

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

If confirmed, I will commit to communicate employee's whistleblower rights to all OIG employees in a timely manner, and in an efficient fashion.

Senator Braun:

4. How do you view the role of the inspector general at the Nuclear Regulatory Commission?

My view of the of the Inspector General's role at the Nuclear Regulatory Commission is that he/she must be the leader in the OIG's core mission to prevent and root out fraud, waste, abuse, and mismanagement within the organization, accomplished by conducting and supervising audits and investigations of NRC operations, suggesting corrective action, and keeping the Chairman of the NRC and Congress fully informed about deficiencies in NRC programs. The Inspector General plays a pivotal role in leading the OIG and its staff, carefully and efficiently directing these audits and investigations, insuring the independence of the OIG from outside influence, protecting whistleblowers from reprisal and threat of reprisal, reporting to Congress, and keeping the American people fully informed.

5. What specific background, experience, and attributes qualify you to be the NRC Inspector General?

   I have spent the bulk of my career (~25 years) investigating wrongdoing and seeking redress for victims of such wrongdoing, including individuals and the United States. As an Assistant U.S. Attorney in Washington, D.C. for twelve years, and a Trial Attorney at Main Justice for over five years subsequent to that, I have led complex investigations, directing and managing countless federal, state and local law enforcement officers in the performance of their duties to enhance the success of the investigation, interviewing witnesses, managing complex forensic aspects of investigations, managing voluminous document intensive aspects of cases, formulating legal arguments, writing briefs, arguing motions before state and federal courts, and trying dozens of complex cases before judges and juries, on the most sensitive and difficult matters in courts across our nation, including capital cases and matters of national security. As a member of the President's Executive Order Task Force for the Review of Guantanamo Bay Detainees, I was deeply involved in matters of considerable national security importance, dealing directly with our nation's efforts to battle global terror groups and cells. I am also only one of a small group of attorneys to make multiple, formal appearances before the Foreign Intelligence Surveillance Court in relation to applications under the Foreign Intelligence Surveillance Act for court-authorized electronic surveillance and physical search of facilities used by terrorism suspects and agents of foreign powers. I've also been involved in the monitoring of intelligence and counter-intelligence activities to ensure conformity with applicable laws and regulations, including the Attorney General's Guidelines for Domestic FBI operations. As an Assistant General Counsel at the FBI's Office of General Counsel, I counseled senior FBI management in high profile, crisis situations such as the 1996 Summer Olympics bombing, and the crash of TWA Flight 800. I advised and assisted the Chief Division Counsel of all FBI field offices with their civil litigation and investigative matters. I also served on the FBI's Pre-Publication Review Committee, Criminal Undercover Operations Review Committee, and worked on FBI Office of Professional Responsibility issues, dealing with allegations of misconduct against Special Agents. All of these positions have provided me with the experience of handling cases that pertain to life and death, and entail the mustering of law enforcement resources to insure that justice is done. I submit that this experience, coupled with my strong commitment to public service and the rule of law, qualifies me to be the Inspector General for the Nuclear Regulatory Commission.

6. If confirmed, how would you seek to balance the need to issue high quality OIG reports and the need to issue those reports in a timely manner to ensure findings and recommendations remain relevant?

   I've spent the bulk of my career maintaining the delicate balance of quality work product with pressing time deadlines. Such a balance goes hand in hand with complex criminal litigation, and complex civil litigation, and I'm quite comfortable remaining focused and thorough in the face of extreme urgency.

Senator Duckworth:

7. As you are aware, a bipartisan majority in Congress passed Section 629 of the Energy Policy Act of 2005 (Public Law 109-58) to amend Section 211 of the ERA to expand whistleblower protections under that law to include employees of NRC and DOE. Specifically, Section 5851 of title 42, United States Code, provides a statutory definition of the term "employer" to include the NRC and DOE.

   The U.S. Department of Labor (DOL) published a final rule in 2011 implementing the 2005 law that stated: "The August 2005 amendments revised the definition of "employer" to extend coverage to employees of contractors and subcontractors of the Commission; the Commission; and the Department of Energy." This final rule is partially codified at 29 Code of Federal Regulations Part 24, Appendix A, "Your Rights Under the Energy Reorganization Act," which includes the following passage:

   "The Energy Reorganization Act (ERA), makes it illegal to discharge or otherwise retaliate against an employee because the employee or any person acting at an employee's request engages in protected activity.

   Employers covered by the ERA are:

   - The Nuclear Regulatory Commission (NRC)
   - A contractor or subcontractor of the NRC
   - A licensee of the NRC or an agreement state, and the licensee's contractors and subcontractors
   - An applicant for a license, and the applicant's contractors and subcontractors
   - The Department of Energy (DOE)
   - A contractor or subcontractor of the DOE under the Atomic Energy Act (AEA)"

   However, in response to *ongoing* litigation, the U.S. Nuclear Regulatory Commission (NRC) acted in 2017 to modify training materials for NRC employees by eliminating references to NRC employee whistleblower protections pursuant to Section 211 of the Energy Reorganization Act (ERA).

   The decision by NRC to eliminate references to existing legal whistleblower protections for NRC employees is at odds with the plain text of the statute, congressional intent of Section 629 of the Energy Policy Act of 2005 and related implementing regulations. It also contradicts the NRC's written response provided to the U.S. House of Representatives' Committee on Energy and Commerce in 2012, which affirmed to Congress:

   "The same whistleblower protections that apply to NRC licensee employees also apply to NRC employees and contractors. ***Section 629 of the Energy Policy Act of 2005 included NRC employees within the population of individuals covered under the Energy Reorganization Act (ERA) employee protection statute (Section 211).*** *It is illegal for the NRC to discriminate against an NRC employee or contractor who raises safety issues or*

otherwise engages in protected activities covered under section 211 of the 1974 ERA, as amended [emphasis added]."

It appears that NRC took this action to eliminate references to whistleblower protections under section 211 of the ERA because of an Administrative Law Review board decision that is being litigated.

Congress could quickly solve this matter by simply reiterating that sovereign immunity is waived under Section 211 by defining the term "person" in the ERA.

Please describe the public policy benefit of restoring enforceable section 211 whistleblower protection rights.

At this juncture, as a nominee, and neither an NRC nor NRC OIG employee, I am not familiar with the ongoing litigation referenced in this question, nor am I familiar with the purported modification of training materials in 2017 referenced in this question, nor am I familiar with purported action the NRC took to eliminate references to whistleblower protections under section 211 of the ERA ostensibly because of an Administrative Law Review board decision that is being litigated, that is referenced in this question. If I am honored with confirmation, I look forward to becoming familiar with each of these issues after a thorough review of the facts and the law. That being said, it is my opinion that there are public policy benefits associated with whistleblower protection rights. Whistleblowers provide an essential and effective means to identify and root out malfeasance, and whistleblower confidentiality is important because it promotes a greater willingness on the part of the whistleblower to come forward in the first place without concerns over being ostracized by co-workers and/or supervisors, and promotes a greater willingness to tell the whole truth, without fear of reprisal or retaliation. If confirmed, I will make sure that the NRC is aware of the legal protections that exist for whistleblowers. Respect for the law should be fostered through employee education and official actions consistent with the law. I further believe that transparency is very important. An absence of transparency breeds cynicism, fear, paranoia and low morale. NRC OIG employees, NRC employees, Congress and the American people all need to be assured that their government agency is being honest and forthright with them, that there are no efforts to hide or shade the truth, that their health and safety are being protected, and that their tax dollars are being applied with fiscal prudence.

8. Do you believe that Congress intended to provide enforceable whistleblower protection rights when it passed Section 629 of the Energy Policy Act of 2005? Please explain your response.

   As I previously indicated, I'm strongly in favor of whistleblower protections, strongly in favor of protecting whistleblower identity, and strongly against any chilling effect of or from whistleblower disclosures. That being said, if honored with confirmation, I look forward to working closely with Congress, but I believe it would be inappropriate for me to speculate about Congressional intent at this time.

9. I am concerned by surveys of NRC employees that reveal an unacceptably high percentage of staff that are afraid of reprisal and unwilling to contradict the agency's official conclusions. Specifically, NRC workers may formally disagree with a final position taken by the NRC under the agency's Differing Professional Opinion (DPO) Program and there appears to be a reluctance to issue DPOs.

   What will you do to improve the workplace atmosphere for NRC employees who file a DPO?

   At this juncture, as a nominee, and neither an NRC nor NRC OIG employee, it is difficult to accurately assess the workplace atmosphere for NRC employees who file a DPO, as I do not have all the facts before me, nor do I have access to these surveys and NRC workers referenced herein, nor the various final positions taken by the NRC. That being said, if honored with confirmation, I will support and foster a workplace atmosphere which gives fair and appropriate recognition to dissenting voices and encourages constructive critical dialogue from everyone, including but not limited to those who issue DPOs or wish to issue DPOs.

10. In 2018, the NRC published its own report on a chilling work environment and made several recommendations on how to address this issue.

    Do you support these recommendations and will you commit to implementing them?

    As with the previous question, at this juncture, as a nominee, and neither an NRC nor NRC OIG employee, I am not familiar with the 2018 report referenced in this question or its recommendations. If I am honored with confirmation, I look forward to becoming familiar with this report and its recommendations, and I further look forward to helping foster the most optimal work environment possible at the NRC and NRC OIG.

Senator Inhofe:

11. Mr. Feitel, earlier this year, President Trump signed into law the Nuclear Energy Innovation and Modernization Act or NEIMA Act (P.L.115-439). I was proud to co-author this legislation introduced by Senator Barrasso. As you likely know, this law modernizes the NRC's functions by establishing a new budget and fee structure to ensure greater transparency for Americans. These are important auditing and accounting reforms. You mention in your testimony your experience conducting an audit of Guantanamo Bay Detainees. I appreciate your experiences as a DOJ trial attorney, but I would like to hear you speak further on your auditing and accounting experience.

    a. Mr. Feitel, will you speak to any accounting experience you have?

    I was enrolled in an accounting course during my undergraduate education, and I was enrolled in several corporate tax, individual tax, and business organizations courses during my law school education. If honored with confirmation, I will rely not only on my own accounting ability, however, but also that of the experienced, career NRC

OIG professional examiners and auditors, who are undoubtedly proficient in such matters.

b. If confirmed, would you work with the NRC Commissioner to ensure NEIMA is implemented effectively?

Yes. If confirmed, I will work with the NRC Commissioner to ensure NEIMA is implemented effectively. I believe it is an important piece of legislation.

Senator BRAUN. Thank you, Mr. Feitel. Before we take questions from members of the subcommittee, I have to ask a few 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. FEITEL. Yes, Senator, I do.

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

Mr. FEITEL. Yes, Senator, I do.

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

Mr. FEITEL. No, Senator, I do not.

Senator BRAUN. Great. I appreciate those responses. I will begin by recognizing myself for 5 minutes of questions.

As we discussed in my office, reducing our Nation's debt, I think, should be a concern for all of us that serve in this body. As an entrepreneur and CEO, I look at the bureaucracy in Washington and see a lot of room for improvement. The NRC is primarily funded through fees to its licensees. My Indiana constituents helped pay for the NRC for energy purchased from the D.C. Cook Nuclear Plant just across the Indiana-Michigan border.

If confirmed, how you would approach the Inspector General's role in ensuring that the NRC is accountable in how the agency manages its finances in an efficient and transparent manner?

Mr. FEITEL. Well, Senator, if confirmed, I believe as the Inspector General I would have the programmatic ability to assess how that money is being spent. Obviously, if there is waste going on, or mismanagement of how it is being spent, that is a classic IG responsibility for investigation, inquiry and reporting to the Chair and Congress about what my findings would be in that situation.

Senator BRAUN. In your opening statement, you noted your service on the President's Executive Order Task Force for the Review of Guantanamo Bay Detainees. Can you describe for the committee how you will use that experience if confirmed?

Mr. FEITEL. Well, Senator, I found that experience to be not only rewarding, but also quite frankly, inspiring. Because it was such a diverse group of political ideologies and competing agendas, and different agencies across the U.S. Government. Yet we all came together because we had a focused mission, which was to accurately audit and investigate and assess each of these detainees, so that the decisionmakers could make their best decision.

That involved an in-depth assessment of intelligence, a de novo review of intelligence, if you will, it was not taking everything at face value as it was coming in, but rather looking at it all over again with a fresh set of eyes. We did that, and we looked at all the detainees from a standpoint of their actual threat assessment to this Country, high level versus low level, their likelihood of recidivism, their likelihood of being able to repatriate into their home

country, the likelihood that they could be relocated to a third party country, all these various factors that the decisionmakers needed.

That was this bipartisan collaborative effort, and I think that is a tremendous lesson for me to show that, working in a collaborative fashion, we can get effective answers quickly and on time. That is what an IG really should be doing for the Chair and for this Congress, in my opinion, Senator.

Senator BRAUN. When I toured the Cook facility in Michigan, I was impressed by all the stigma that has been associated with nuclear plants. I think in our own Country, Three Mile Island. But to me, it looked like they had raised the level of scrutiny and safety to where I asked them, how many incidents did you have and so forth. I was very impressed.

I think that plants are operating at safer and safer levels. Our next conversation was well, what are you doing, are you going to apply for an additional 20 years and then maybe 20 years beyond that, and to note that it is 20 percent of our baseload supply.

I guess in any business you are constantly trading off risk associated with something and then trying to mitigate it. There could not be anything that personifies that more, I think, than maybe the task ahead for you.

So let me ask it in this way. A risk-based approach allows nuclear power plants to use innovation to prioritize and incentivize nuclear safety activities in a cost-competitive manner. If confirmed, will you build on the IG's previous work to balance the appropriate use of risk while preserving the focus on nuclear safety? How difficult do you think that balance will be?

Mr. FEITEL. Well, Senator, the short answer is, yes, I will strive to achieve that balance. Obviously, as I am a nominee and on the outside, I am not privy to the details of the risk-informed decisionmaking that the chair of the NRC and her commissioners are involved in.

But if confirmed, I would certainly, to the extent that that process needed a closer look or a first look or a second look, I would be more than willing to do that as the Inspector General, yes.

Senator BRAUN. Thank you. Senator Carper.

Senator CARPER. Thanks. Again, thank you for joining us today. I would just say to our audience, especially to your wife and daughters, there aren't a lot of members sitting here on this side of the dais. That is a good thing. Because usually when there are a lot of us here, you are in trouble, or your nomination is. I think you should be encouraged by this modest turnout. We are happy to be here.#

I want to just talk to you for a moment. My staff was nice enough to prepare a couple of questions that I will ask you.

But I just want to ask you one right from my heart. That is, if you will think out loud for us about the values that guide you in your life that you think helped prepare you for this responsibility, where do those values come from? Where do they emanate from? How have you passed them on to others, including your own daughters, your own children? Please.

Mr. FEITEL. Senator, I believe that my values came from two primary sources, family and faith.

Senator CARPER. Two of my favorite F words. There you go. I say Thanksgiving is my favorite holiday, it has all my favorite F words, including family, faith, football, friends. It is just the best. Go ahead.

Mr. FEITEL. Thank you. My parents, who unfortunately are both deceased, raised three very solid young men, if I may say. Not so young anymore, I guess. But they instilled their values early on, and coupled with our faith, I think they raised honest gentlemen with integrity and compassion. They really did a lot for us. And I think of course, my faith did as well. But that is where I think it derives from, at least with respect to me.

Senator CARPER. And the second half of my question is, how have you passed on those values to your own children?

Mr. FEITEL. Well, I think my wife and I have done our best to instill those values, to keep it going, if you will. I think we have done a fairly good job. Sitting before you now are two very sweet, honest, hard-working, accomplished young women. I think the proof is in the pudding, as they say. The installation of the values seems to have taken hold, so I am very pleased about that.

Senator CARPER. Good. In your career, have you ever taken an action that comes to mind, or maybe a couple of examples, that at the time were not politically popular, that you just felt that they were the right thing to do, and you did it even though they were not popular, they were not expedient, not easy. Can you give us a couple examples of that?

Mr. FEITEL. Certainly. With respect to the first comment there, Senator, political popularity in my world is of no moment. The reason for that is I cannot——

Senator CARPER. I can't say the same for us.

[Laughter.]

Mr. FEITEL. As a prosecutor, as an FBI attorney, as a trial attorney in Justice, I cannot let politics factor into prosecutorial decisions and into investigative decisions and into charging decisions. That is not proper, and I wouldn't do it even if it were somehow allowed, but it is not.

With respect to overall decisions that I have made, though, that are just generally unpopular, I was known, when I was Assistant U.S. Attorney in Washington, DC, as someone who did not hesitate to dismiss a case where I felt in my prosecutorial discretion that the evidence was either insufficient to go forward or was so lacking as to, if we went forward, the cost benefit analysis was such that it just wasn't worth it, because justice wouldn't be done there.

So I have always put justice first. I have never focused on whether the case is winnable or should be won. That never factored or will factor into my decision as a prosecutor. It is always about doing the right thing, as you say, Senator. I have tried to make that a guidepost for my life and also for my career.

Senator CARPER. One more. In your experience, what are the hallmarks of independent oversight that inspectors general are sworn to conduct?

Mr. FEITEL. The first hallmark, Senator, I would say, is not being swayed by any sort of political interference, but rather, going back to my prior point, always doing the right thing, always doing the right thing by the American people. Looking at the Nuclear Regu-

latory Commission to make sure that safety, safety, safety is our mantra, and that whatever I can do as an IG if confirmed enhances that mindset.

Independence, I have always been independent. I have never been moved by the winds of political change or what have you. I don't intend on doing that if confirmed.

Senator CARPER. OK. How will you ensure that the work of the Office of Inspector General maintains its independence?

Mr. FEITEL. Well, I will instill that as a top-down culture, if confirmed, from the moment I get in. I will let everyone know if I am made to be the IG that we are not going to be anything but independent. That is a hallmark of the inspector general's office, of an OIG. I would insist on that from a top-down standpoint.

Senator CARPER. I don't ask a lot of yes or no questions, or true of false questions. I am going to ask you a yes or no question. The question is this. Will you commit for us, if confirmed, that you will promptly inform this committee any time the commissioners at the Nuclear Regulatory Commission or any part of the Executive Office of the President refuse to provide you and your team with information or attempts to stonewall an audit or investigation? Will you commit to doing that?

Mr. FEITEL. Senator, if those folks are doing something unlawful or inappropriate, I will absolutely let this body know. I am all about following the rule of law. If anyone that I am looking at, if confirmed as IG, is not complying with the rule of law, that is something I would definitely bring to your attention, yes.

Senator CARPER. All right, thank you. Thanks very much.

Senator BRAUN. Before the hearing started, you were talking about being born on the west coast and then moving to Maryland within close distance of the NRC, now, where you will be the Inspector General. What was your general impression of what you saw of it, living nearby, and just out of curiosity, in your wildest dreams, did you ever thing you would be up for a nomination to be its Inspector General?

Mr. FEITEL. It is a difficult question, Senator. I am not certain if I ever saw myself as being nominated as an inspector general. I definitely saw myself as a lifelong public servant. I am not sure I was able to discern in what specific role that would be, but I always saw myself as serving the American people.

I think the slight pivot, if you will, to the Inspector General role is, I have realized, I think it was a good one for me to make. I am hopeful for it. But I definitely always wanted to serve.

Growing up in Rockville, I have certainly seen the changes, the dramatic increase in population density and traffic and all the things that go along with that. I actually remember when the Nuclear Regulatory Commission headquarters was built. I think at that time it was the tallest building in that general area. Maybe it is still today, I don't know.

I think that is about it, Senator.

Senator BRAUN. How far away is the closest nuclear facility? Because you do have some near you, right?

Mr. FEITEL. Yes, I believe the closest one is Calvert Cliffs, which I believe is in Calvert County, in Maryland, maybe, I would say about a 40-minute drive in traffic.

Senator BRAUN. And you have lived there in your proximity to the NRC facility for how long?

Mr. FEITEL. More or less my whole life.

Senator BRAUN. So since you are near the Regulatory Commission building, and you are near a facility, what is your general sense, just as a citizen, of what the feeling would be among fellow citizens about safety of nuclear power and possibly finding ways to extend its lifetime with facilities that are looking at extending licenses in your own backyard? What do you sense?

Mr. FEITEL. Candidly, Senator, I am fine with that. I think the NRC, as one of your colleagues said earlier today, is the gold standard of global regulatory frameworks for the civilian use of radioactive materials. I, if confirmed, would like to build on that and do my best to ensure that gold standard title is maintained.

Senator BRAUN. Very good. Senator Carper.

Senator CARPER. Senator Braun and I and Senator Cardin and I have the opportunity from time to time to go to schools, and to talk sometimes at elementary schools, sometimes it is a college, sometimes it is a junior college.

I like to tell a story about one particular elementary school, it was a kindergarten through grade five, I think there weren't any kindergarten kids in the assembly, but grades one through five. I spoke to them for about 10 minutes about what I do, what we do here.

This one little girl in the third grade raised her hand and said, what do you do? I explained that we get to help make the rules for our Country. I asked her, do you have rules at school? She said yes. I said, do you have rules at home? She said yes. I said, do you have rules on your school bus? She said yes.

I said, we have rules for our Country, and we call them laws. Along with 99 other Senators and 435 Representatives and a President and Vice President, I get to help make the rules for the Country. She said, OK.

The little boy sitting next to her raised his hand and said, what else do you do?

[Laughter.]

Senator CARPER. And I said, we help people. We help people in a lot of different ways.

There has been a fair amount of attention lately about putting a man or a woman on the moon again. I will never forget the story I heard years and years ago, when we were trying to do that. A fellow had an appointment to meet with somebody at Cape Canaveral, where they were going to do the launch for the Apollo mission. He got there late, most people had left for the day, it was after business hours. He was just trying to find the office where he was going to meet somebody.

It is a pretty big complex, and as he was going along, he came across a janitor. And he said to the janitor, told him what he was there for, but he said to the janitor, what do you do? The janitor said, I am helping to put a man on the moon. I am helping to put a man on the moon.

You in your responsibilities and those that you will surround yourself with if confirmed and the people that work at the NRC are doing more than just trying to make sure that we run our nuclear

power plants safely and efficiently. The biggest challenge we face right now, I think, on this planet, has to do with our atmosphere, all the carbon in our atmosphere. So you actually get to help, not put a man or woman on the moon, but you will have a chance to help preserve this planet as we know it. I just want to ask you to think out loud about that responsibility.

Mr. FEITEL. Yes, Senator, if one is serious about climate change concerns, one must be serious about nuclear energy and what it can offer in a diverse energy mix in this Country. It is a wonderful, low-carbon emission source.

I think when viewed in the context of all the other energy sources that we have, it is certainly one that we should value and continue to work with to ensure safety, of course, but also to push forward as this body has done with the Innovation and Modernization Act, things of that nature to continue with the pursuit of nuclear energy as part of that diverse mix.

Senator CARPER. One last thing I want to add, just maybe a couple words of advice, that if you are confirmed, you may want to keep in mind going forward. I love to talk to young people. Sometimes it is at a service academy, sometimes schools in Delaware, sometimes a Civil Air Patrol group or Boy Scouts or Girl Scouts. I love to talk to them about leadership.

I am a retired Navy captain, Vietnam veteran, last one actually in the Senate. I think a lot about leadership. I have probably made every mistake a leader can make, almost. And I have learned from my mistakes.

One of the things I have learned along the way is to figure out what, when in a quandary, when you are facing tough decisions, asking, and you said these words already, what is the right thing to do, not what is easy or what is expedient. What is the right thing to do.

The other probably comes from your faith as well. If you look at every major religion in the world, every one of them, I don't care if it is Christianity, Judaism, Islam, Buddhism, Hindu, all of them, have in their sacred scriptures the golden rule, to treat other people the way you want to be treated, love thy neighbor as thyself. You can never go wrong by sticking to that one.

A third thing that I have learned is that good leaders focus on excellence in everything that they do. They like to say, if it isn't perfect, let's make it better. A really good leader surrounds himself with a terrific team of the best people that he or she can find. And when the team does well, the team gets the credit. And when the team falls short, the leader takes the blame.

I always surround myself with people smarter than me. My wife says it is not hard to find them.

[Laughter.]

Senator CARPER. She actually does say that.

I think the last piece of advice is, when you know you are right, you are sure you are right, don't give up. Just don't give up.

Mr. FEITEL. Yes, Senator.

Senator CARPER. If you do those things, you will be OK.

I give the shortest high school commencement and college commencement speeches that they have ever heard in Delaware. I use like ten words in my commencement speeches. When I am about

to address the graduates, I have them stand up. And they finally stand up, reluctantly, but they stand up. I say, I am going to give you the shortest commencement speech you have ever heard. They start applauding. Then their parents applaud.

I say, ten words in my speech. They applaud some more. Then I say, the first two words are aim high. And I have them repeat that, aim high. The second two words are work hard. I have them repeat work hard. Then I say, it gets more complex, now there are four words. Those four words are, embrace the golden rule. I will have them say that.

Then I say, the last two words are don't quit. I say that. So we do it again, aim high, work hard, embrace the golden rule, don't quit. And I have them repeat that for like 20 minutes. Then we let their parents do that.

People I meet years later remember, they actually remember that. That is really good advice for all of us, in ten words.

So I don't know that you need any of that, but you might. And hopefully if you get confirmed, and I hope you will, those words will be of some help to you along the way.

Again, our thanks to your parents. Sometimes when we have sons and daughters come with their mom or their dad who has been nominated, every now and then I will be watching them, and they will be rolling their eyes as their parents are speaking, or responding to questions. That is always a bad sign.

I just want to note that your daughters did not roll their eyes, even once.

Mr. FEITEL. Outstanding.

Senator CARPER. Although they smiled a lot, which I think is a good thing. Good luck. Thank you all.

Mr. FEITEL. Thank you, Senator.

Senator BRAUN. Thank you, Senator Carper.

Before we conclude, I want to read three brief letters of support. Circuit Judge Vincent Chiu, who worked with Mr. Feitel when he served as an Assistant U.S. Attorney sent this committee a letter of support stating, "Robert is hard-working and a dedicated public servant who has given his career to the cause of justice."

Andrew Lelling, the U.S. Attorney for the District of Massachusetts, worked with Mr. Feitel in the U.S. Attorney's Office, states, "He has a strong reputation for being fair, having a strong work ethic, and exercising good judgment. His wise counsel is never clouded by extraneous personal views."

And Hope Olds [phonetically], who served with Mr. Feitel on the President's Executive Order Task Force for Review of Guantanamo Bay Detainees, in 2009, said, "Robert skillfully navigated the participants' differences and competing agendas to find common ground." I think that is important. "He was a gifted advocate for the Department's positions based on his own careful research and good judgment."

I ask unanimous consent to enter these letters into the record.

Senator CARPER. I object.

[Laughter.]

Senator CARPER. I don't really.

[The referenced information follows:]

U.S. Department of Justice

Criminal Division

Capital Case Section

Washington, D.C. 20530

November 15, 2019

Chairman Mike Braun
Subcommittee on Clean Air and Nuclear Safety
Committee on Environment and Public Works
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

I write to support Robert J. Feitel's nomination to become the Inspector General for the United States Nuclear Regulatory Commission. I have known Mr. Feitel since he joined the Justice Department's Capital Case Section as a Trial Attorney in 2014, and have had the opportunity to work with him as a fellow Trial Attorney and, later, after I became Chief of the Section.

The Capital Case Section's overarching mission is to ensure fairness and consistency in the use of capital punishment pursuant to the Federal Death Penalty Act, passed into law in 1994. To achieve that goal, the Department created a rigorous case review protocol, culminating in the Attorney General personally deciding whether to seek capital punishment in each potential case. One of Mr. Feitel's responsibilities is to work closely with the Attorney General's Review Committee in order to move cases through that protocol. This includes gathering facts and evidence from both the U.S. Attorney's Office prosecuting the case, and defense counsel representing the accused, conducting an independent legal and factual analysis of that information and determining whether it establishes the requisite statutory criteria for a capital case, and drafting memoranda for the Attorney General recommending whether capital punishment should be authorized in a given case.

Mr. Feitel's other primary responsibility here is to manage the teams investigating and litigating those cases authorized for capital trial. In that role, he has directed law enforcement agents in conducting witness interviews, organized investigative efforts, assessed all evidence for relevance to the charged crimes, conducted legal research to evaluate applicable law, and exercised his sound legal judgment in determining what evidence to offer at trial. He works frequently with both lay and expert witnesses, presents their testimony at trial, cross-examines the opposing party's witnesses, and presents persuasive arguments to the jury, both at the guilt and penalty phases of a capital trial.

Prosecuting capital cases is a weighty responsibility, requiring the prosecutor to possess unassailable integrity to ensure that the law is followed. For the prosecutor, that means developing the case in careful accord with his professional ethical obligations and his duty to represent the community he serves, while also doing his utmost to afford the defendant every legal right. To do his job well, he must see and understand the issues from differing

perspectives. As is often said, the prosecutor's job is not to secure a conviction, but to see that justice is done. That obligation takes on heightened meaning in capital cases, where so much is at stake.

Mr. Feitel fulfills every aspect of his role as a capital prosecutor in truly exemplary fashion. I trust him completely to provide a fair-minded, independent assessment of each case he handles; to scrupulously adhere to his ethical obligations; to follow the facts and evidence wherever they lead; to work collegially with law enforcement agencies, the courts, and across the aisle with defense counsel; to respect the legal process by which capital prosecutions must be run; and, perhaps above all, to exercise careful and sound judgment.

I can think of no better candidate than Robert J. Feitel for the Inspector General position at the United States Nuclear Regulatory Commission.

Sincerely,

Richard E. Burns
Chief, Capital Case Section
U.S. Department of Justice

cc:
The Honorable Sheldon Whitehouse
Ranking Member, Subcommittee on Clean Air and Nuclear Safety,
Committee on Environment and Public Works
United States Senate
Washington, D.C. 20510

November 19, 2019

Chairman Mike Braun
Subcommittee on Clean Air and Nuclear Safety
Committee on Environment and Public Works
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

Please accept this recommendation in favor of Robert J. Feitel's nomination to become the Inspector General for the United States Nuclear Regulatory Commission (NRC).

During my tenure as an Assistant United States Attorney for the Middle District of Florida, I had the occasion to work with Robert on a difficult capital case involving novel issues of law and significant mental health litigation. Although the case has not yet gone to trial, Robert and I spent considerable time together working through extensive pre-trial litigation. Robert was a valuable guide as we progressed through the extensive oversight involved in federal capital case litigation, and showed a remarkable grasp of the public policies behind many of the Department of Justice's regulations.

Robert is a gifted attorney with unimpeachable integrity and vast experience. Robert is hard-working and dedicated public servant who has given his career to the cause of justice. As Inspector General, I believe Robert would serve the NRC with both the investigative vigor and independence required of such a position. I cannot recommend him highly enough for the position.

Sincerely,

Vincent S. Chiu
Circuit Judge
Florida Ninth Judicial Circuit Court

cc:
The Honorable Sheldon Whitehouse
Ranking Member, Subcommittee on Clean Air and Nuclear Safety,
Committee on Environment and Public Works
United States Senate
Washington, D.C. 20510

U.S. Department of Justice

Andrew E. Lelling
United States Attorney
District of Massachusetts

Main Reception: (617) 748-3100

John Joseph Moakley United States Courthouse
1 Courthouse Way
Suite 9200
Boston, Massachusetts 02210

November 23, 2019

Chairman Mike Braun
Subcommittee on Clean Air and Nuclear Safety
Committee on Environment and Public Works
United States Senate
Washington, D.C. 20510

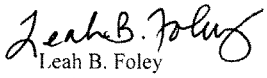
Dear Mr. Chairman:

I write to strongly support Robert J. Feitel's nomination to become the Inspector General for the United States Nuclear Regulatory Commission. I have known Robert since 2002, when we began our careers as federal prosecutors in the United States Attorney's Office in the District of Columbia. Over the years, I have gotten to know Robert on both a professional and personal level. I can attest that he is one of the finest litigators I have ever seen in or outside of the courtroom. Robert's unwavering quest for justice drives his decision making process in every case he handles. He always places his dedication to those principles of justice above simply winning a case. He has a strong reputation for being fair, having a strong work ethic, and exercising good judgment. There have been many times over the course of my 17 year career as a federal prosecutor that I have sought his advice when I had to make critical decisions in an important case. His wise counsel is never clouded by extraneous personal views, but rather is anchored by his deep commitment to the rule of law and making sure that outcomes, whether good or bad, are just.

On a personal level, Robert is a dedicated husband and father. He has raised two remarkable daughters who look up to, love, and respect him. Likewise, he is a great friend who goes out of his way to help anyone who needs assistance. He is also a pretty good joke teller.

In sum, Robert possesses the most important qualities that I believe you are looking for in an Inspector General. He is honest to a fault, dedicated to truth and justice, and committed to serving his country with honor. It is hard to imagine someone more qualified and competent to hold this position.

Sincerely,



Leah B. Foley
Assistant United States Attorney

cc:
The Honorable Sheldon Whitehouse
Ranking Member, Subcommittee on Clean Air and Nuclear Safety,
Committee on Environment and Public Works
United States Senate
Washington, D.C. 20510

ROSCOE C. HOWARD, JR.
5904 Mount Eagle Drive, Unit 507
Alexandria, VA 22303

November 19, 2019

Chairman Mike Braun
Subcommittee on Clean Air and Nuclear Safety
Committee on Environment and Public Works
United States Senate
Washington, D.C. 20510

Re: Robert J. Feitel, Esquire

Dear Mr. Chairman:

I write to you today in support of the nomination of Robert J. Feitel as the next Inspector General for the United States Nuclear Regulatory Commission. I found myself in 2002 in the position in which you are today, considering Mr. Feitel for a position of trust, and great responsibility that demands superior intelligence to be paired with attention to detail. Mr. Feitel brings all of these characteristics, and more, to every job.

While I am currently the managing partner of the Washington, D.C. Office of Barnes & Thornburg, LLP, I served as The United States Attorney for the District of Columbia from 2001 through 2004. During that time I was able to bring ninety nine new Assistant United States Attorneys into the U.S. Attorney's Office, which included Mr. Feitel. All of these hires were outstanding, and while some were his equal, none was better than Mr. Feitel. Mr. Feitel is an attorney of outstanding integrity, brilliant mind and superior collegiality. I remain extremely proud of hiring him.

Mr. Feitel's record while at the Department of Justice, at both the U.S. Attorney's Office for twelve years and the Capital Case Section, bears out what he demonstrated in his interview with me in 2002: a tireless work ethic, command of complicated matters and trust from his colleagues as well as his superiors. I can think of no better prepared man or woman for the position of Inspector General at the Nuclear Regulatory Commission. My educated guess is that person does not exist.

Mr. Feitel comes to you with my unconditional support. You will find, as I have, that you will forever be proud of confirming Mr. Feitel as the NRC Inspector General.

Sincerely,

Roscoe C. Howard, Jr.

cc:
The Honorable Sheldon Whitehouse
Ranking Member, Subcommittee on Clean Air and Nuclear Safety
Committee on Environment and Public Works
United States Senate
Washington, D.C. 20510

U.S. Department of Justice

Jessie K. Liu
United States Attorney

District of Columbia

Judiciary Center
555 Fourth St., N.W.
Washington, D.C. 20530

November 22, 2019

Chairman John Barrasso
307 Dirksen Senate Office Building
Washington, DC 20510

Ranking Member Thomas R. Carper
513 Hart Senate Office Building
Washington, DC 20510

Dear Chairman Barrasso and Ranking Member Carper:

It is my distinct pleasure to recommend Robert Feitel for the position of Inspector General, United States Nuclear Regulatory Commission (NRC). I was a fellow Assistant United States Attorney with Robert while working in the Homicide Section of the United States Attorney Office for the District of Columbia from 2008-2009. Based on my personal familiarity with Robert and his work, as well as his general reputation in our office, I am certain that he would make an outstanding Inspector General for the NRC.

As a senior Homicide prosecutor, Robert regularly showcased the intellectual aptitude, internal drive, and overall dedication to rooting out the truth in complicated and dynamic factual and legal criminal investigations. In addition to successfully investigating and bringing to closure a seemingly endless number of fresh and "cold" homicides, Robert displayed unrelenting persistence and ingenuity in doing so. By way of example, he successfully charged and tried a homicide case utilizing a very novel factual and legal theory. In that case, the defendant had intentionally shot a firearm in the direction of his human target but into the air, causing the victim to fear for his life and run into a busy street, where he was struck and ultimately killed by a hit-and-run driver. Law enforcement was never able to identify the driver. Although the defendant's shots themselves did not actually strike the victim, Robert nonetheless sought a grand jury indictment for second degree murder, based on case law supporting the notion that it was reasonably foreseeable that such conduct by the defendant would cause the victim's flight into the street and resulting death. Few prosecutors would have conceived of such a legal theory, much less convinced a petit jury of the same. Robert did so, in no small part due to his tenacity

and internal fortitude to always do right by the victim even under the most difficult of circumstances. Although I have had less personal contact with Robert over the last several years, I know that he always enjoyed a reputation in our office and beyond for willingly accepting the most difficult criminal investigations, and resolving them in a thorough, fair, and impartial manner.

In addition, in my personal interactions with Robert, he has always exhibited sound judgment and an incredibly high degree of professionalism and integrity. Within the Homicide Section, he was held in high regard for his considered judgment both in pursuing his investigative strategies and making charging decisions. Moreover, he was extremely thoughtful in applying the facts of a well-investigated case to the applicable legal standards in recommending that persons be charged, or not. Without a doubt, he was one of the most conscientious and talented colleagues with whom I have had the pleasure to work during my time in this office.

In short, I have no doubt that Robert will prove to be a fair and effective Inspector General for the NRC if given the opportunity. I therefore recommend him enthusiastically and without reservation.

Should you have any questions, please do not hesitate to contact me at (202) 252-7732.

Sincerely,

T. Patrick Martin
Chief
Criminal Division
United States Attorney's Office
for the District of Columbia

U.S. Department of Justice

Criminal Division

Human Rights and Special Prosecutions Section *Washington, D.C. 20530*

November 22, 2019

Chairman Mike Braun
Subcommittee on Clean Air and Nuclear Safety
Committee on Environment and Public Works
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

I write to strongly support Robert J. Feitel's nomination to become the Inspector General for the United States Nuclear Regulatory Commission.

I have known Robert Feitel for over a decade. We met when we served together on the President's Executive Order Task Force for Review of Guantanamo Bay Detainees in 2009. During this experience, we had the benefit of working closely with individuals representing a handful of agencies and from opposing political ideologies. Despite these challenges, the Task Force was committed to an effective interagency process, requiring any recommendation regarding a detainee to be unanimous among the participating agencies. Robert skillfully navigated the participants' differences and competing agendas to find common ground. He was a gifted advocate for the Department's positions, based on his own careful research and good judgment. We both found the experience of this bipartisan collaboration inspiring.

After Robert and I returned to our respective Department of Justice positions, he remained a trusted colleague, one that I do not hesitate to turn to for his opinion and advice. For all of these reasons, not the least of which, Robert's proven commitment to justice and the rule of law, I highly recommend him for the role of Inspector General.

Very truly yours,

Hope S. Olds
Acting Principal Deputy Chief

cc:
The Honorable Sheldon Whitehouse
Ranking Member, Subcommittee on Clean Air and Nuclear Safety,
Committee on Environment and Public Works
United States Senate
Washington, D.C. 20510

U.S. Department of Justice

David J. Freed
United States Attorney
Middle District of Pennsylvania

Website: www.justice.gov/usao/pam/
Email: usapam.contact@usdoj.gov

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Herman T. Schneebeli Federal Building
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(570) 326-1935
FAX (570) 326-7916

Please respond to: Scranton

November 9, 2019

Ranking Member Thomas R. Carper
U.S. Senate Committee on Environment and Public Works
513 Hart Senate Office Building
Washington, DC 20510

RE: Robert J. Feitel's Nomination for Inspector General, U.S.NRC

Dear Senator Carper:

I write to strongly recommend Robert J. Feitel for the position of Inspector General of the Nuclear Regulatory Commission (NRC).

I am an Assistant U.S. Attorney for the Middle District of Pennsylvania. I have known Robert Feitel for three years, but I came to know him very well when together we prosecuted a four-month-long capital trial in the Middle District of Pennsylvania in 2017.

In the weeks leading up to that trial and during the trial itself, I spent long hours every day with Robert, and got to know how he thinks about and approaches important legal issues, and witnessed first-hand his incredible grasp of the relationship between law and public policy.

Robert's most important personal and professional qualities are his integrity and independence—which I believe are essential for the position of Inspector General of the NRC. It was those same qualities which recommended

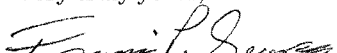
Robert for positions as an attorney-advisor to the Justice Department's Office of Intelligence, Counter-Terrorism Unit, Office of General Counsel for the FBI, membership on the President's Executive Order Task Force for Review of Guantanamo Bay Detainees, and his current position where he assists the Attorney General of the United States in evaluating potential capital cases for prosecution throughout the country.

Robert is a consummate professional with an extremely talented legal mind. I saw first-hand his commitment to truth and justice—not as abstract ideals—but as practical realities in the courtroom and in decision-making processes outside the courtroom.

The responsibilities of the NRC are vast and important to the public safety and health of all Americans. The Office of Inspector General serves as a watchdog to detect and prevent waste, fraud, abuse, and mismanagement in NRC operations and programs, and to study and review directives, regulations and legislation pertaining to those operations and programs.

Robert Feitel's extensive experience and commitment to justice, his independence, and his unimpeachable integrity make him an ideal candidate for the position of Inspector General of the NRC. I highly recommend him.

Very truly yours,



FRANCIS P. SEMPA
Assistant United States Attorney
Middle District of Pennsylvania

U.S. Department of Justice

David J. Freed
United States Attorney
Middle District of Pennsylvania

Website: www.justice.gov/usao/pam/
Email: usapam.contact@usdoj.gov

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Please respond to: Scranton

November 9, 2019

Chairman John Barrasso
U.S. Senate Committee on Environment and Public Works
307 Dirksen Senate Office Building
Washington, DC 20510

RE: Robert J. Feitel's Nomination for Inspector General, U.S.NRC

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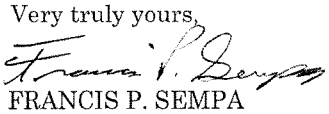
Very truly yours,



FRANCIS P. SEMPA
Assistant United States Attorney
Middle District of Pennsylvania

Jeffrey A. Taylor
1117 Chautauqua Boulevard
Los Angeles, CA 90272

November 16, 2019

The Honorable Mike Braun
Chairman
Subcommittee on Clean Air and Nuclear Safety
Committee on Environment and Public Works
United States Senate
Washington, DC 20510

The Honorable Sheldon Whitehouse
Ranking Member
Subcommittee on Clean Air and Nuclear Safety
Committee on Environment and Public Works
United States Senate
Washington, DC 20510

Re: Nomination of Robert J. Feitel to be Inspector General for the United States Nuclear Regulatory Commission

Dear Chairman Braun and Ranking Member Whitehouse:

I write in strong support of the nomination of Robert J. Feitel to be Inspector General for the United States Nuclear Regulatory Commission (NRC). I served with Robert for many years in the United States Department of Justice, including several at the United States Attorney's Office for the District of Columbia during which I had almost daily interaction with him. He is an esteemed professional colleague and valued friend, and I have no doubt he would be a superb Inspector General for the Nuclear Regulatory Commission.

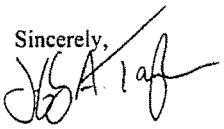
Robert's career has provided him the experience, skills, and judgment that make him particularly well-suited to serve as an inspector general. His tenure with the Justice Department has equipped him with the ability to conduct investigations, analyze complicated legal issues, fairly assess evidence, and make policy judgments. In addition, Robert's public service has given him a deep understanding of the intricacies of a large and complex federal agency, which is particularly helpful for an inspector general. Finally, his long and distinguished tenure has been marked by a commitment to integrity, impartiality, and the judicious use of government power. It is not by accident that Robert has been assigned sensitive and demanding roles in the Capital Case Section, the National Security Division, and the Guantanamo Bay Detainee Task Force. As Inspector General, his steady hand, acumen, independence, and sound judgment would serve the NRC and the nation well.

If confirmed, Robert will be able to use the skills and experiences he has gained serving in key roles in our government to serve our national interest, while discharging

The Honorable Mike Braun
The Honorable Sheldon Whitehouse

the duties of the office to which he has been nominated with honor and dedication. Given this, and mindful of the critical role the Senate plays in the nomination process, I respectfully urge the members of the Subcommittee on Clean Air and Nuclear Safety, the Committee on Environment and Public Works, and the Senate, to swiftly consider—and approve—Robert's nomination to be Inspector General for the NRC.

Sincerely,



Jeffrey A. Taylor
United States Attorney for the District of Columbia
(2006-2009)

Senator BRAUN. No more questions for today. Members may also submit followup questions for the record by 4 p.m. on Thursday, December 5th.

Mr. Feitel, please respond to those written questions by noon on Monday, December 9th, if there are any. I want to thank you for coming here to testify today. This hearing is adjourned.

[Whereupon, at 3:51 p.m., the hearing was adjourned.]