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HEARING ON THE NOMINATIONS OF BETH HARWELL AND BRIAN NOLAND TO BE MEMBERS OF THE BOARD OF DIRECTORS, AND KATHERINE CRYTZER TO BE INSPECTOR GENERAL, OF THE TENNESSEE VALLEY AUTHORITY

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

SECOND SESSION

MAY 19, 2020

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COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

ONE HUNDRED SIXTEENTH CONGRESS

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HEARING ON THE NOMINATIONS OF BETH HARWELL AND BRIAN NOLAND TO BE MEMBERS OF THE BOARD OF DIRECTORS, AND KATHERINE CRYTZER TO BE INSPECTOR GENERAL, OF THE TENNESSEE VALLEY AUTHORITY

TUESDAY, MAY 19, 2020

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 3:02 p.m. in room 406, Dirksen Senate Office Building, Hon. Mike Braun (Chairman of the Subcommittee) presiding.

Present: Senators Braun, Whitehouse, Sullivan, Boozman, Wicker, Ernst, and Carper.

Senator BRAUN. Good afternoon. This hearing of the Clean Air and Nuclear Safety Subcommittee is called to order.

Today we will be considering three nominations for the TVA. This afternoon we will be hearing from Beth Harwell, Brian Noland, who President Trump has nominated to the TVA Board of Directors; and Katherine Crytzer, who has been nominated to the position of Inspector General of the TVA.

I would like to welcome you all here today.

In compliance with the Senate's social distancing guidelines, our members have the option of attending virtually. This is a first for this Subcommittee to do so, so please pardon any technical issues. It seems to have been going pretty well, though, so far, in other hearings.

If confirmed, each of you will be tasked with ensuring that the TVA's broad strategies, goals, objectives, are adequate for ratepayers in the region, and that TVA pursues an agenda that is in the best interest of the United States.

This afternoon, we are honored to be joined by both Senator Alexander and Senator Blackburn, who wanted to be here today to introduce the President's nominees.

So, Senator Alexander, you are coming from afar. You may proceed.

STATEMENT OF HON. LAMAR ALEXANDER, U.S. SENATOR FROM THE STATE OF TENNESSEE

Senator ALEXANDER. Thank you, Mr. Chairman, and to Ranking Member Whitehouse and to my colleague Senator Blackburn.

I am delighted today to have a chance to introduce to the Committee and to the Senate President Trump's nominees for the TVA board, Elizabeth Harwell and Brian Noland.

As the Chairman indicated, TVA is a big and important institution. It is a $10 billion a year business and serves residents in seven States by providing electricity, and a majority of those are in Tennessee.

In my opinion, the TVA has been on a good track for the last few years. The scoreboard for TVA is its rates. According to TVA, its residential rates are in the bottom 25 percent, the cheapest 25 percent residential rates, and its business rates are in the cheapest 10 percent of business rates in the country. It has been reducing its debt, strengthening its pension fund.

Of special interest I think to Senator Braun and Senator Whitehouse, during this period of reduced demand, TVA officials tell us that they produce 85 percent of their electricity using emission-free nuclear power and hydropower.

I am especially delighted that these two individuals, Beth Harwell and Brian Noland, have been nominated to serve on the TVA board. They are two of our State's most distinguished residents.

I have admired Beth Harwell's leadership, her style of leadership, ever since she was first elected to the Tennessee House of Representatives in 1988. Her constituents liked what she did, and so did her colleagues, because they eventually elected her speaker of the house. She was the first female speaker in the history of our State.

She taught at Belmont University, has been active in a variety of enterprises in Nashville, which is her hometown. She knows Tennessee from Memphis to Mountain City which is where 70 percent of the TVA ratepayers live.

Speaking of Mountain City, the other nominee, Brian Noland, is distinguished in a different way; He lives in that part of the State that we call upper east Tennessee. He is president of East Tennessee State University, one of the largest universities in our State. He formerly has been president of the West Virginia Higher Education Association. His colleagues in higher education have honored him by electing him to the board of directors of the American Council on Education. So he knows administration, we [inaudible] on the board of such a large entity.

One other thing I should say is that these two seats are vacant today. Their predecessors' terms expired a year ago. The previous occupants left their seats in December. So I am especially grateful to the Committee for moving these nominees ahead. I hope they will be considered on the floor very quickly.

There is one other person I want to mention today, a person with some Tennessee background, Katherine Crytzer, who is nominated to be Inspector General of TVA. She is a native of east Tennessee, she [inaudible] Tennessee State University. She worked at the De-

partment of Justice in more than one capacity, and she was Assistant U.S. Attorney in Kentucky.

So thank you very much for allowing me this time to express my support of two nominees for the board of the TVA, two of the most important positions in our State.

Thank you very much.

Senator BRAUN. Thank you, Senator.

Senator Blackburn, you are now recognized.

STATEMENT OF HON. MARSHA BLACKBURN, U.S. SENATOR FROM THE STATE OF TENNESSEE

Senator BLACKBURN. Thank you, Mr. Chairman.

It is really truly a pleasure and an honor to join Senator Alexander to introduce to the Committee two nominees for the board, and also the third nominee, which is to be the Inspector General for the TVA.

These seats on the board have been vacant for some time, as Senator Alexander just said. So it is a pleasure to bring forward these three Tennesseans.

TVA is the largest public power provider in the United States. Their mission is to provide reliable, low cost power to the people of the seven State Tennessee Valley region. With that comes great responsibility to defend the actions that are scrutinized by the public, much more so than other large investor owned utilities. The board's mission is to help guide TVA in a way that helps Tennesseans thrive, especially in rural areas.

These nominees have had extensive and unique careers that will provide valuable insight to the TVA board. Dr. Beth Harwell has nearly three decades of legislative experience, and most recently made history, being elected as the first female speaker of the house in the Tennessee General Assembly. Her work in the legislature with the State's budget will prove invaluable when making decisions regarding TVA's debt load and their bond ratings.

As speaker of the house, she helped lead the State of Tennessee to balanced budgets and a fully funded pension. Also, she helped lead to a Triple A bond rating.

Dr. Harwell graduated from Lipscomb University and received her master's and Ph.D. from Vanderbilt University. She previously taught at Belmont University and is now a visiting professor at Middle Tennessee State University.

Dr. Harwell, it is such an honor to introduce you.

Brian Noland, who has experience running one of Tennessee's public universities, will also be a valuable asset on the TVA board. He became the ninth president of East Tennessee State University in January 2012, after serving for 6 years as chancellor of the West Virginia Higher Education System. Under his leadership, ETSU has undertaken numerous construction projects across their campus. Past and current major projects include the construction of a performing arts center, [inaudible], creation of a research and education center, and extensive renovation to the university center.

For an industry with massive capital investment, like that of utilities, his experience in the area will undoubtedly prove to be an asset for Tennessee. And it is such an honor to bring him forward.

Katie Crytzer will bring valuable expertise as a Federal prosecutor to the TVA Inspector General position. After growing up in Knoxville, she attended Middle Tennessee State University and received her J.D. magna cum laude from Antonin Scalia Law School at George Mason University. She went on to clerk for the U.S. Court of Appeals for the Eighth Circuit, and then practiced law in our Nation's capital.

Katie then joined the Department of Justice, first as an assistant U.S. attorney, where she successfully led multiple complex fraud investigations. She focused on the prosecution of computer fraud and drug crimes to tackle the opioid epidemic.

She now serves our country as the Acting Deputy Assistant Attorney General in the Office of Legal Policy. I am delighted that she is taking over this challenge at TVA. She has great potential to bring discipline, accountability, and integrity to the highest levels of leadership at the TVA.

Their debt currently stands at $22 billion, an amount that has slowly [inaudible] in recent years. I hope the agency continues to work toward fiscal responsibility and makes more efforts to reduce that debt under the steadfast leadership of its new and current TVA leadership.

So thank you, Mr. Chairman, for giving me the opportunity to introduce these Tennesseans.

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

Senator BRAUN. Thank you, Senator Blackburn.

In June 2019, William Kilbride came before this Subcommittee as we reviewed his nomination for the board of directors. At the time, I noted my desire to see the TVA continue to accomplish its dual mandate to serve the best interests of its customers, also the best interests of the American people as a whole.

Today the TVA is executing this dual mission by securing one of the NRC's first early site permits to build a demonstration small module nuclear reactor at the utility's Clinch River nuclear site.

Just last month the TVA signed a nuclear research memorandum of understanding with the University of Tennessee on advanced reactor technologies. This MOU follows similar agreements between TVA and Oak Ridge Laboratory.

These developments are encouraging, could be laying the foundation for what lies ahead in terms of carbon-free electric generation. If done right, it will hold the potential to substantially reduce cost and burn more sustainably fuels that will help the environment.

At the same time, small module reactors promise to operate more safely than our Nation's already impressive record of accomplishment in nuclear performance.

However, in order to make sure the TVA stays on track, it needs a fully staffed, qualified board of directors and a Senate confirmed inspector general with the independence to ask hard questions. Accountability, ensuring transparency.

As I highlighted when Mr. Kilbride was before this Subcommittee, the TVA continues to face challenges with whistleblower reporting. It is particularly troubling that recently whistleblowers noted that the TVA has violated numerous workplace safe-

ty requirements and downplayed safety complaints raised by employees.

Whistleblowers also accuse the TVA of inappropriately retaliating against those who file such complaints. The NRC is investigating these incidents, and complaints like these make it even more critical that the TVA has a Senate confirmed inspector general.

All of the innovation and investment being made to achieve market competitive advanced nuclear technology could be threatened by one safety incident. We cannot take that chance.

I am pleased that the Senate has returned to process your nominations. In the case of Ms. Crytzer, she has been nominated to fill an inspector general position that has been vacant for more than 2 years. It is hard to believe, more than 2 years.

Given both the enormous opportunities and challenges facing the TVA today, I look forward to today's hearing and getting each of you confirmed and in place as quickly as possible.

Now I would like to recognize Ranking Member Senator Whitehouse for his opening statement.

Senator.

OPENING STATEMENT OF HON. SHELDON WHITEHOUSE, U.S. SENATOR FROM THE STATE OF RHODE ISLAND

Senator WHITEHOUSE. Thank you, Mr. Chairman.

To all the members of the Subcommittee and to the nominees, welcome.

Last Congress, this Subcommittee helped clear five new members onto the Tennessee Valley Authority. This Congress, we have already filled one board vacancy, and today we hear from two additional nominees to fill the final two vacancies. We will also hear from the nominee to fill the important role of Inspector General.

In these challenging times, public utilities, including the TVA, have a big role to play in ensuring that the American people have affordable electricity. The TVA has been providing cheaper and cleaner energy for its customers during the economic fallout of this pandemic. In fact, the TVA notes that energy costs for consumers were 4 percent lower in the first part of this year compared to last. The Authority's chief financial officer reports most of this decline in cost is attributable to the TVA adopting clean sources of energy, like renewables and nuclear.

I am very glad to work with Chairman Braun on the NRC issues that have helped pave the way for new nuclear technologies.

What TVA has done is no small feat. Nearly 60 years ago, the TVA derived more than two-thirds of its power from coal. In the first half of this year, that proportion had fallen to 12 percent. That means that TVA got more power from renewables than coal during the first 3 months of 2020. At one point, TVA actually shut down all its coal plants, because it didn't need them.

The Institute of Energy, Economics, and Financial Analysis has observed this trend across the United States during the pandemic: Electricity from clean energy sources exceeding that of coal for a record 40 straight days. And contrary to what some think will happen as we expand renewables on our grid, there has been no significant interruption in service for consumers.

This brings me to my two points today. First, the Authority must remain a non-partisan and independent regulator. In recent years, the TVA has voted to close its old, polluting resources despite political pressure from the Trump administration and Kentucky Republicans to keep them open. The TVA must be guided by the facts and the interests of its consumers, not by political pressure.

I hope to hear a strong commitment from the nominees today that your regulatory decisions will honor those priorities.

Second, given the Authority's history and unique public charter, it should take particular care to avoid the fossil fuel industry's anti-climate efforts. I would like to hear a commitment that the nominees will work to ensure that the Authority won't fall victim to the fossil fuel industry's long campaign against climate action and clean air regulations.

I note that President Noland is here from East Tennessee State University, where they don't just believe in climate change, they teach climate science. So I appreciate that very much.

The push toward clean, cheap energy requires independent and clear thinking. As the Nation's largest public utility, the Authority leads the way, and it should continue to do so. Regulators are there to ensure that prices are fair to consumers, and rates and rules are not compromised in the service of special interests.

I look forward to hearing from the witnesses, and thank you, Chairman Braun.

Senator BRAUN. Thank you, Senator.

I will now recognize each of you for 5 minutes of your opening statement. I want to remind you that your written testimony will be part of the record. We look forward to the testimony.

Dr. Harwell, you may begin.

STATEMENT OF BETH HARWELL, NOMINEE TO BE A MEMBER OF THE BOARD OF DIRECTORS, TENNESSEE VALLEY AUTHORITY

Ms. HARWELL. Chairman Braun, Ranking Member Whitehouse, and distinguished members of the Committee, my name is Beth Harwell, and I have the great honor of being nominated by President Trump to the Tennessee Valley Authority Board of Directors.

As a young girl growing up in Pennsylvania, I became fascinated with the televised Watergate hearings. I would watch them for hours with my grandmother. It was during that time that I became interested in government and public service. Never, though, did I dream that one day I would be sitting before a U.S. Senate committee myself. So it is an honor and privilege to be here today, and I thank you for giving me this opportunity.

I especially want to thank Senator Lamar Alexander and Senator Marsha Blackburn of my home State of Tennessee for supporting my nomination to the TVA board.

By way of introduction, I have lived in Nashville, Tennessee, since the age of 16 when I moved there to attend David Lipscomb University. In the following decades, I worked as a faculty member at a local university, ran for a seat in the State House, raised a family, served as the chair of the Tennessee Republican Party, and ultimately was elected speaker of the Tennessee House of Representatives. As speaker, I worked every day to improve the lives

of Tennesseans, very similar to the mission of TVA, "to make life better for the people of the Tennessee Valley."

In fact, the three areas of focus of the TVA—energy, environment, and economic development—are ones in which I have worked and led on throughout my time in the Tennessee legislature.

I have traveled our great State many times over, and I have seen firsthand TVA's impact on counties and cities. I know what it means to residents of a rural county in west Tennessee to land a new business thanks to TVA's assistance.

For many years, my family and I have enjoyed boating on TVA lakes, thanks to TVA's commitment to clean and safe water. I have attended meetings at the TVA headquarters and always come away with a greater understanding of and appreciation for the scope of the organization's work.

With my deep knowledge of State government and an extensive network of contacts across Tennessee and other TVA States, I am confident I could be helpful in the board's work.

Before closing, I would like to pivot to one other point that I think is important for you to know. At my core, I am a fiscal conservative. I firmly believe that strong fiscal management is a path to investment and opportunities.

As speaker, I presided over eight consecutive balanced budgets. When we discovered that our pension plan was not financially sustainable, we reformed the system, and today, the Tennessee Consolidated Retirement System is regarded as one of the healthiest pension plans in the Nation.

I share these experiences with you because I will bring that same sense of fiscal responsibility to my work as a TVA board member. The 9 million people in the Tennessee Valley should expect and deserve no less than this from a board member.

TVA plays an important role in the States in which it operates, and I would be grateful for the opportunity to work with other board members to advance its work during these very challenging times.

Thank you again for this opportunity to be with you today and for your consideration of my nomination. I would be happy to answer any questions.

[The prepared statement of Ms. Harwell follows:]

Statement of Beth Harwell
Nominee to the Tennessee Valley Authority Board of Directors
U.S. Senate Environment and Public Works Committee
Subcommittee on Clean Air and Nuclear Safety
May 19, 2020

Chairman Braun, Ranking Member Whitehouse and distinguished members of the committee, my name is Beth Harwell, and I have the great honor of being nominated by President Trump to the Tennessee Valley Authority Board of Directors.

As a young girl growing up in Pennsylvania, I became fascinated with the televised Watergate hearings. I would watch them for hours with my grandmother, who lived with us. It was during that time that I became interested in government and public service. Never, though, did I dream that I would one day be sitting before a U.S. Senate committee myself, so it is an honor and privilege to be here today, and I thank you for giving me this opportunity. I also would like to thank Sen. Lamar Alexander and Sen. Marsha Blackburn of my home state of Tennessee for supporting my nomination to the TVA board.

By way of introduction, I have lived in Nashville, Tennessee, since the age of 16 when I moved there to attend college at Lipscomb University. In the following decades, I worked as a faculty member at Belmont College, ran for a seat in the state House, raised a family, served as chair of the Tennessee Republican Party, and ultimately was elected Speaker of the Tennessee House of Representatives.

As Speaker, I worked every day to improve the lives of Tennesseans, very similar to the mission of TVA "to make life better for the people of the Tennessee Valley." In fact, the three areas of focus of the TVA – energy, environment and economic development – are ones in which I have worked and led on throughout my time in the Tennessee Legislature.

I have traveled our great state many times over, and I have seen firsthand TVA's impact on counties and cities. I know what it means to residents of a rural county in West Tennessee to land a new business with TVA's assistance. For many years, my family and I have enjoyed boating on TVA lakes, thanks to TVA's commitment to clean and safe water. I have attended meetings at TVA's headquarters and always came away with a greater understanding of and appreciation for the scope of the organization's work. With my deep knowledge of state government and an extensive network of contacts across Tennessee and in other TVA states, I am confident I could be helpful in the board's work.

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I share these examples with you because I will bring that same sense of fiscal responsibility to my work as a TVA board member. The 10 million people in the Tennessee Valley should expect and deserve no less from their TVA board members.

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Senate Committee on Environment and Public Works
Subcommittee on Clean Air and Nuclear Safety
Hearing entitled, *"Hearing on the Nominations of Beth Harwell and Brian Noland to be Members of the Board of Directors, and Katherine Crytzer to be Inspector General, of the Tennessee Valley Authority."*
May 19, 2020
Questions for the Record for Dr. Beth Harwell

Chairman Braun:

1. As TVA continues to modernize its generation assets, do you believe that local economic impacts need to be considered in any decisions regarding the closure of generation plants or the shift away from fossil generation? Does the board consider the regional economic impacts these decisions have on local jobs and tax revenues?

   Yes, TVA should always assess the local economic impact as well as the impact on the rates of the Tennessee Valley customers in any decision regarding the closure of a facility. If confirmed as a board member, I would consider the impact on the local community.

Senator Carper:

Please provide a response with the requested specificity to each question, ***including each sub-part.***

2. In your work history, please specifically describe any interactions with the Tennessee Valley Authority (TVA) or with other energy companies.

   As the former speaker of the Tennessee House of Representatives, TVA staff would visit to explain current initiatives. I interacted with local officials concerning TVA projects in their districts. TVA worked closely with the Tennessee Department of Economic and Community Development to recruit industry to the state.

3. Consistent with my continuing encouragement that TVA be an industry leader on clean energy and energy efficiency, TVA has made commitments to retiring old, dirty coal power plants and investing in clean energy. These investments have resulted in cleaner air and new economic opportunities for the people of the Tennessee Valley and surrounding areas. They are also important in efforts to combat climate change. Federal agencies continue to report dire predictions on the threats of climate change. For example, in 2018, thirteen federal agencies and over three hundred scientists issued the Fourth National Climate Assessment, which described the dire economic and health consequences Americans will face if we do not take meaningful action to address climate change.[1] Last year, the Government Accountability Office (GAO) included climate change on its "High Risk List,"[2] warning that this Administration's actions, such as

[1] https://nca2018.globalchange.gov/
[2] https://www.gao.gov/highrisk/limiting_federal_government_fiscal_exposure/why_did_study

revoking President Obama's Federal flood risk management standard, "potentially increases the federal government's fiscal exposure to climate change."

a. Do you agree with our nation's leading scientists who have concluded that climate change is real, is caused by humans, and is impacting the nation's environment and infrastructure? If not, why not?
Yes. The climate is always changing and certainly humans along with other factors contribute to that change.

b. Do you question the conclusions of the Fourth National Climate Assessment and GAO High Risk List that our economy is at risk if we do not take climate actions? If so, please specifically describe what you disagree with and why.
I do not have the expertise to speak to the specifics, but my understanding is that there are respected scientists with differing opinions on the degree of this issue.

Regardless of that debate, if confirmed, I do plan on vigorously making sure TVA maintains a diverse portfolio of energy sources to ensure it is fulfilling its mission of environmental stewardship. This portfolio will include an increase of renewable sources such as solar.

c. During the hearing, I asked you whether if you are confirmed, you would commit to fostering and supporting solar investments in the Tennessee Valley and at TVA? And if so, I asked you to specifically explain how you would do so. You responded that, "Well, I think it is new, it depends on the geography, the area that we are talking about. But I certainly think that I would commit to encouraging the staff to look into the possibilities of expanding solar energy." Please provide a more detailed answer to this question regarding how you would foster and support solar investments in the Tennessee Valley and at TVA.
If confirmed as a board member, I would thoroughly review the existing solar energy plan. It is my understanding that TVA's 2019 Integrated Resource Plan recommendation is anywhere between 1,500 and 8,000 MW of solar by 2028 and up to potentially 14 GW of solar additions over the next 20 years. If confirmed, I would monitor TVA's attainment of that goal. I would also encourage and support TVA leadership's continued solar planning.

d. If you are confirmed, what actions will you take on the TVA Board of Directors to ensure that the Tennessee Valley and TVA's infrastructure and other assets are more resilient in the face of a new climate change reality and properly managed, including but not limited to the steps that may be needed to help prevent dam breaches such as the recent breaches in Midland, Michigan and coal ash spills such as the coal-ash spill at the Kingston Fossil Power Plant.
One of TVA's greatest challenges is maintaining and upgrading infrastructure. If confirmed as a board member I commit to support the finances necessary to improve the existing infrastructure. I am keenly aware

of the Kingston power plant disaster in Tennessee. It was an unfortunate situation that can never happen again.

e. Please specifically describe how you would use your authority as a TVA Board Member to ensure that TVA uses the best available information to determine the amount of investments in energy efficiency that are an effective option for TVA to meet its mandate to be a national leader in technological innovation, low-cost power, and environmental stewardship.
If confirmed as a board member, I would work to ensure that the strategic direction and financial plans of TVA would include a review of all possible sources of energy and efficiency measures.

I would commit to working with TVA staff to better understand the technology available in certain areas of generation and efficiency so that as technologies change, TVA could potentially adjust its fuel mix to better meet its mandate of environmental stewardship.

f. Do you agree that entities like TVA need to make significant investments to help address climate change? If not, why not?
Since I am not currently on the board, I do not know the details of TVA's investments. I looks forward to learning more about TVA's investments to address issues such as climate change.

g. Do you commit to this committee that, if confirmed, you will not attempt to directly or indirectly interfere or undermine climate science as a TVA Board Member? If not, why not?
I commit to upholding all applicable laws governing climate change as a TVA Board member.

4. Do you agree that TVA should continue to keep coal in its portfolio? If so,

a. Should TVA continue running its existing coal plants or do you believe TVA should be building more efficient coal plants for the future?
Since I am not currently on the board, I do not know all of the details that go into decisions to build new generation or retire generation assets. I look forward to learning more about these decisions if confirmed.

b. If the existing coal plants are no longer economical, because they are all about sixty years old, should TVA continue to run them?
Since I am not currently on the board, I do not know all of the details that go into decisions to retire generation assets. If confirmed, I look forward to learning more about these decisions and ensuring that TVA always do what fulfills their mission as established by Congress– Provide clean, reliable, low-cost energy.

c. Do you support TVA's decision to shut down Paradise Fossil Plant and Bull Run Fossil Plant?
I wasn't on the board when that decision was made. If confirmed, I look forward to learning what factors go into asset retirement decisions.

d. Would you insist on the use of carbon capture and sequestration technologies on any i) new or ii) existing coal plant and, if not, why not?
If confirmed, I would look forward to working with TVA staff to better understand the technologies available to ensure that TVA is fulfilling its mission and environmental duties.

e. Do you agree that TVA should focus on reducing emissions from its coal-fired power plants? If not, why not?
Since I am not currently on the board, I do not know all of the details of TVA's efforts to reduce emissions. I looks forward to learning more about TVA's efforts to reduce emissions from its power plants.

5. As Speaker of the Tennessee House of Representatives, you voted in favor of the so-called "Monkey Bill"[3] that requires teachers to permit a discussion of alternative theories to evolution, global warming, and other scientific subjects because they "can cause controversy."

   a. Please explain why you voted in favor of the legislation and whether you would support a similar bill today.
   I believe all sides of the issue should be discussed. Any school of thought should not be afraid of debate, so I would support the legislation today.

   b. Do you believe there is a scientific basis for concluding that human activity during the last century is NOT the dominant cause of the climate change crisis we face today? If so, please explain.
   I believe the climate is always changing and certainly humans along with other factors contribute to that change.

6. Do you agree that it is essential that in making decisions, TVA must be shielded from political influence and spared even the appearance of being subject to political influence or considerations? If not, why not?
I agree that TVA must be shielded from inappropriate political influence and interference.

7. Despite opposition from top state environmental officials, you voted in 2018 to support ending Tennessee's vehicle emissions testing requirement, arguing that "we really have clean air in this state" and that the state was already in compliance with EPA air quality standards. You also told the Times Free Press that emissions testing is a "hassle" and it

[3] https://legiscan.com/TN/text/HB0368/2011

"doesn't make sense" to retain such requirements if every county in the state does not participate.[4]

a. Do you still believe that Tennessee has "really clean air" warranting reduced or no additional environmental protection requirements? What additional relaxations of current environmental regulations, if any, do you support?
I am unaware of any specific changes to environmental regulations that are warranted.

b. Do you support environmental protection requirements that impose some burden on Tennessee Valley residents and businesses? If not, why not? If so, under what circumstances? Under what circumstances do you consider such requirements a "hassle," warranting elimination?
I am unaware of any such environmental protection requirements.

8. Being an industry leader also means being the gold standard for workforce safety. And promoting worker safety demands a culture that protects whistleblowers and provides accurate data to safety regulators. I am troubled by reports about workforce safety concerns at TVA's nuclear and coal plants and about harassment and retaliation against whistleblowers who raised safety concerns.[5,6]

a. If confirmed, what will you do to ensure TVA has a culture of safety across its workforce?
I believe that the safety of a company's workforce is paramount. If confirmed, I would want to understand what the culture of safety at TVA is and what TVA leadership is doing to ensure that the workforce understands the importance.

b. Do you agree, if confirmed as a TVA Board Member, to supporting protection for whistle blowers as required by law? If not, why not?
Yes.

c. Do you agree, if confirmed as a TVA Board Member, to refrain from supporting any harassment, retaliation, or other adverse action, against a protected whistleblower? If not, when and why not?
Yes.

d. Will you commit to ensuring TVA is transparent with all federal regulators, including the Nuclear Regulatory Commission?
Yes, consistent with law.

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[4] https://www.timesfreepress.com/news/business/aroundregion/story/2020/mar/10/nrc-cites-tva-providing-inaccurate-info-about-watts-bar-problem/517808/

[5] https://www.timesfreepress.com/news/business/aroundregion/story/2020/mar/10/nrc-cites-tva-providing-inaccurate-info-about-watts-bar-problem/517808/

[6] https://www.knoxnews.com/story/news/crime/2020/03/06/tva-trouble-nuclear-regulators-over-whistleblower-treatment/4963871002/

9. What does environmental justice mean to you? What more should TVA be doing to support low-income, minority and indigenous communities who often live downstream and downwind from dangerous pollution, and, too frequently, have their concerns and challenges take a back seat to their neighbors?
TVA has a mandate to make the lives of the 10 million people in the Tennessee Valley better. If confirmed as a board member, I will commit that all communities are treated with respect and that all legal rights are addressed.

10. Every community in this country is being affected by the COVID-19 pandemic. Many Americans are out of a job and are uncertain when they will see their next paycheck.

    a. To meet these needs in a manner that is consistent with TVA's economic development mission, what ideas will you bring to the Board to help the people of the Tennessee Valley get back on their feet economically, and what could and should TVA be doing in rural communities?
    As Speaker of the Tennessee House of Representatives, I saw first-hand the importance of the economic development that TVA brings to the 95 counties across Tennessee. If confirmed, I will work with TVA leadership to ensure that TVA continues to fulfill its mission to bring economic development to communities across the Tennessee Valley. This mandate is even more important today in the wake of economic distress from COVID-19. Additionally, TVA's commitment to keeping rates steady is of utmost importance. TVA needs to give flexibility to local providers to adjust bills and rates for those affected by COVID-19.

    b. Local power companies purchase power from TVA and distribute it throughout the Tennessee Valley. During the pandemic, TVA is deferring a portion of these local power company's monthly payments to help cover COVID-19 costs. However, some of the municipalities are still disconnecting customers that can no longer pay their bills due to the pandemic. Do you support TVA's actions, if not, why not, and what more should TVA do to ensure the millions of people served by TVA continue to have power during this crisis?
    If confirmed to the TVA Board, I would need to learn more about this matter. However, I will say that it is vitally important that TVA keep rates constant as it has committed to over the coming decade as the economy recovers and work with their customers that are facing financial hardship.

11. Describe the specific steps that you will take to conduct oversight on TVA's management of its fiscal and personnel resources to ensure that the Authority meets its mandate to be a national leader in technological innovation, low-cost power, and environmental stewardship.
If confirmed I will be diligent in oversight of fiscal and personnel decisions. Specifically, I will ask for a quarterly report on technological advancements that TVA is pursuing.

12. Describe the specific actions that you will undertake to ensure that TVA's Board and management operates with increased transparency and accountability when the Authority invests its resources in new infrastructure or to maintain or rebuild existing infrastructure.
From my experience in state government, I know how important transparency is for a governmental entity. If confirmed, I will want to be informed of what steps TVA is taking to be transparent and how it can make improvements to ensure it is accountable to the public.
13. According to information from the International Federation of Professional & Technical Engineers (IFPTE), TVA in January 2020 notified 108 of its Local 1937 union workers – many of them long-time, loyal employees – that their information technology (IT) infrastructure and software jobs would be outsourced and that one of the three entities chosen to replace the TVA workers is CapGemini, a French IT consulting and technology service company.[7] Moreover, IFPTE asserts that the outsourcing was done with little to no transparency, and not in accordance with TVA's own contracting decision processes. It claims that TVA failed to provide the union with required information used in its decision to outsource the work, that no companies were compared against TVA's IT workforce, and that TVA identified no savings by outsourcing.

    a. Do you agree that this outsourcing is inconsistent with TVA's mission to assist state and local governments with economic development, job creation and prosperity to the Tennessee Valley? If not, why not?
    I was not on the board at the time of this decision, so I do not know all the circumstances and therefore can't speak to the decision. Should I be confirmed, I would like to learn what factors led to this decision.

    b. Do you agree that this outsourcing in part to a French company may compromise the safety and security of TVA's IT infrastructure and lead to these jobs being sent overseas? If not, why not?
    I was not on the board at the time of this decision, so I do not know all the circumstances and therefore can't speak to the decision. Should I be confirmed, I would work to ensure that any work that TVA outsources will not compromise the safety and security of TVA's IT infrastructure.

    c. Do you agree, if you are confirmed as a TVA Board Member, to do everything in your power to ensure that any TVA actions impacting workers are transparent, that TVA follows its own contracting process, that TVA provides workers with all required information, and that the best economic decisions are made? If not, why not?
    Yes, as legally appropriate.

14. Do you agree, if confirmed as a TVA Board Member, 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

[7] http://www.ifpte.org/news/details/IFPTE-Opposes-IT-Outsourcing-at-TVA-Sends-Letter-to-Board-of-Directors

protection, with respect to your responsibilities as a TVA Board Member? If not, why not?
Yes, as legally appropriate.

15. Do you agree to ensure that testimony, briefings, documents, and electronic and other forms of communication of information are provided to this Committee and its staff and other appropriate committees in a timely manner? If not, why not?
Yes, as legally appropriate.

16. According to TVA's own reporting, the 7 million tons of coal ash that was spilled into the local community in 2008 from the Kingston Fossil Plant, contained high levels of toxic heavy metals that are known to cause cancer, liver damage and neurological complications, among other health problems. Recent data has shown that the coal ash was much more toxic than first estimated.[8] A federal jury in the U.S. District Court for the Eastern District of Tennessee found that the contractor used by TVA to clean-up the Kingston coal ash spill, Jacobs Engineering Group Inc, did not adhere to worker safety or health requirements, potentially causing sickness and death. During the trial, there were troubling testimonies from workers that called into question TVA's conduct during and after the clean-up efforts. The court's decision allows families of the workers affected to seek compensation for medical treatments and damages. If confirmed, will you commit to ensuring TVA is a good actor and is transparent to the employees and families that are impacted by this issue? Will you commit to ensuring TVA employees and those contracted by TVA work in a safe environment at all times?
Yes to both, consistent with law.

17. 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 as a TVA Board Member?
No.

18. Given that you appointed three of Tennessee's Public Utility Commission (PUC) members (including its Chairman) and the Executive Director and because the PUC sets TVA's rates, what steps will you take if confirmed to avoid an actual or apparent conflict of interest, bias, or undue influence involving these appointees?
I am no longer in a position to make these appointments and do not believe that the Tennessee PUC sets TVA's rates.

Senator Sanders:

19. According to a recent article in *The Intercept*, the Tennessee Valley Authority (TVA) recently informed 120 of its information technology employees that they will be laid off. Additionally, the TVA recently notified the Engineering Association/International Federation of Professional and Technical Engineers (EA/IFPTE) Local 1937 that the TVA will likely eliminate 100 more jobs in the near future. The TVA acknowledged to

[8] https://www.knoxnews.com/story/news/local/tennessee/tvacoalash/2020/05/17/duke-testing-shows-kingston-coal-ash-uranium-triple-report-levels/5035210002/

EA/IFPTE that cost savings are not the principal reason for eliminating these jobs. Furthermore, EA/IFPTE claims that these jobs will likely be shifted to companies that are based overseas and employ an outsourcing model.

a. In your testimony, you stated that the TVA's mission is to improve the quality of life for the people of the Tennessee Valley. Do you consider the act of outsourcing jobs currently held by Tennessee Valley residents to be in line with that mission, especially given that cost savings are not the principal reason for eliminating these jobs?
I was not on the board at the time of this decision, so I do not know all the circumstances and therefore can't speak to this matter. Should I be confirmed, I would like to learn more about the factors led to this decision.

b. If confirmed, will you commit to:

   i. Reversing or opposing these decisions to lay off American workers?
   I was not on the board at the time of this decision, so I do not know all the circumstances and therefore can't commit to any staffing decisions at this time. Should I be confirmed, I would like to learn more about the factors that led to this decision.

   ii. Reversing or opposing any future proposals that would lead to the elimination, contracting out, or outsourcing of American jobs at the TVA?
   I was not on the board at the time of this decision, so I do not know all the circumstances and therefore can't commit to any staffing decisions at this time. Should I be confirmed, I would like to learn more about the factors that led to this decision.

   I can say that I will commit, consistent with law, to considering all reasonable efforts to keep all work in the United States while prioritizing jobs, based on expertise, in the Valley.

   iii. Opposing any future proposals that would lead to the TVA paying guest workers below median wages?
   I am not yet a member of the board and would want to study this issue further before considering making a policy statement. Consistent with law, I would generally support appropriately paying market value for services.

20. President Trump has suggested in the past that climate change is a hoax. Do you believe that climate change is a hoax?
While I am not aware of the President's comments regarding climate change, I do believe that the climate is always changing and certainly humans along with other factors contribute to that change.

21. During this hearing, you were asked whether you questioned the conclusions of the Fourth National Climate Assessment (Assessment). You responded by saying that you believe the climate is changing and that the issue requires further study. Do you accept the Assessment's conclusions in regard to the following specific findings? If not, please describe the specific methodology used in the Assessment with which you disagree:

    a. Climate change is caused by human activity, primarily the burning of fossil fuels.
    Yes, to the extent supported by the Assessment. As an American and most importantly a mother, I care about our environment. If confirmed, I will direct the TVA to protect our environment; to require anything less would harm human life, the environment, and our economy.

    b. Climate change will cost hundreds of billions of dollars of damage each year in this country alone, unless we take action now to drastically reduce our greenhouse gas emissions.
    See answer for 21a.

    c. Climate change will cause thousands of premature deaths each year in this country alone unless, we take action now to drastically reduce our greenhouse gas emissions.
    See answer for 21a.

22. During this hearing, you committed to encouraging your staff to look into the possibility of expanding the TVA's renewable energy resource portfolio. However, merely "looking into" expanding the TVA's renewable energy resources is not sufficient to avoid the disastrous impacts of climate change established by the Fourth National Climate Assessment. The TVA currently generates 45 percent of its electricity from coal or natural gas, and according to the U.N. Intergovernmental Panel on Climate Change, we must aggressively transition away from such fossil fuel resources to renewable sources of power if we are to avoid the worst impacts of climate change. Furthermore, according to Lazard's 2019 Levelized Cost of Energy report, renewables like solar and wind are the cheapest forms of new energy generation.

    a. Given that the use of fossil fuels is a primary driver of climate change, which will significantly worsen the quality of life for the people of the Tennessee Valley and that you can reduce TVA ratepayers' energy expenses by switching to renewables, please outline your specific plan, including an aggressive timeline, for upholding the TVA's mission by eliminating use of fossil fuels and transitioning to renewable sources of power.
    If confirmed, I would prioritize learning from TVA staff the data and factors that have gone into the organization's asset portfolio planning as well as prioritize discussing with the relevant staff any opportunities to add increased renewables in the Valley prior to the current schedule.

Senator BRAUN. Thank you, Dr. Harwell.

Dr. Noland.

STATEMENT OF BRIAN NOLAND, NOMINEE TO BE A MEMBER OF THE BOARD OF DIRECTORS, TENNESSEE VALLEY AUTHORITY

Mr. NOLAND. Chairman Braun, Ranking Member Whitehouse, and members of the Committee, thank you very much for the opportunity to appear before you today.

I am honored to have been nominated by the President to serve on the Tennessee Valley Authority Board of Directors. I would like to thank Senator Alexander, as well as Senator Blackburn, for their support, and to all of you for taking the time today to consider my nomination.

In 2012, I had the privilege of moving my family to east Tennessee, back to an area where our family has deep roots, to serve as the president of East Tennessee State University. Having spent my entire professional career in higher education, I was honored to be given the opportunity to serve a university community in its chief executive officer position, providing strategic vision for that institution.

Not only was I drawn to ETSU because of our connection to the region, but I was also drawn by our school's founding mission in 1911 to improve the quality of life for the people of the Appalachian Highlands, a segment of TVA's service area.

In 1933, when TVA was formed, it also had a similar mission to improve the quality of life for the people of the Tennessee Valley. Watching this mission play out on a daily basis across my region gives me promise for the opportunities on the horizon for TVA to continue to fulfill its mission to improve the lives of the more than 10 million individuals in our service area. This shared mission and the understanding of how this mission can be implemented has provided me with integral insights into setting a strategic vision for the TVA as a member of its Board of Directors.

As I look across my region of east Tennessee, it is evident that TVA has been committed to this mission throughout its history, and has honed its mission as things have evolved. With longstanding ties to the region in which I live, I have witnessed the firsthand the impact TVA has on its citizenry, not only in terms of providing energy resources, but through river and land management, recreational activities, and economic development.

Having lived and worked in the State of West Virginia, a State with similar rural communities with similar challenges, I can attend to the benefits that the TVA has provided to the rural communities in our State and each of the States that the TVA calls home. For TVA, economic development is an inherent part of its mission.

Economic development is also an inherent part of the mission of higher education, for we are a driver to train and educate the work force. I was called into a career in higher education, because I believe deeply in the value that education can provide our society to better all. That passion goes simply beyond providing an education, but it is ensuring that students have the opportunity to practice their newly developed skills in fulfilling and rewarding careers. This happens through the work of economic development.

Through TVA's investments of more than $11 billion, they have created 65,000 jobs in 2019 alone. That is a testament to the continued work in this space.

Another privilege of serving in higher education is that I have been able to gain a deep appreciation of the impact that research and innovation can have on our society. Research and innovation drives businesses, industries, healthcare facilities, production companies, and energy providers. Research is the innate work of higher education, for it helps to advance our society and continues to improve the lives of others.

This work is no different in the energy sector in which we continually seek ways to improve energy production, develop new energy sources, and enhance the use of energy. TVA is instrumental in energy enterprise research and technology across the Tennessee Valley.

Serving as president of a major public university and engaging with colleagues across the State, I have gained a deep appreciation and insight into the needs of Tennesseans, and Tennessee encompasses TVA's largest single service area by State.

I believe my background and experience has prepared me for the challenge and responsibility of joining the TVA board.

Mr. Chairman and members of this Committee, I welcome the opportunity to be considered to serve on the TVA Board of Directors and to assist the TVA to continue to fulfill its mission of service to the people of the Tennessee Valley.

I appreciate your consideration of my nomination, and thank you, once again, for the opportunity to be here today. I look forward to the opportunity to address questions.

Thank you, Mr. Chair.

[The prepared statement of Mr. Noland follows:]

Statement of Brian E. Noland
Nominee to the Tennessee Valley Authority Board of Directors
U.S. Senate Environment and Public Works Committee
Subcommittee on Clean Air and Nuclear Safety
May 19, 2020

Chairman Braun, Ranking Member Whitehouse, and Members of the Committee, thank you for the opportunity to appear before you today. I am honored to have been nominated by President Trump to serve on the Tennessee Valley Authority Board of Directors. I would like to thank Senator Alexander from my home state of Tennessee who brought my name to the attention of the President, Senator Blackburn for her support, and all of you for taking time to consider my nomination.

In 2012, I had the privilege of moving my family to east Tennessee, back to an area where our family has deep roots, to serve East Tennessee State University as its ninth president. Having spent my entire professional career in higher education, I was honored to be given the opportunity to be back on a university campus serving in the roll of the Chief Executive Officer providing strategic visioning for the institution.

Not only was I drawn to ETSU because of our connection to the region, but also because of the school's founding mission in 1911 to improve the quality of life for the people of the Appalachian Highlands – a segment of TVA's service area. In 1933 when TVA was formed, it also had a similar mission to improve the quality of life for the people of the Tennessee Valley. Watching this mission play out daily across my region gives me promise for the opportunities on the horizon for TVA to continue fulfilling its same mission to improve the lives of the more than 10 million individuals in its service area. This shared mission and the understanding of how this

mission can be implemented has provided me with integral insight into setting the strategic vision for the Tennessee Valley Authority given the opportunity to serve as a member of the Board of Directors.

As I look across my region of east Tennessee, it is evident that TVA has been committed to its mission from its inception and, in TVA's near century of being, has honed in on how that mission takes shape. With longstanding ties to the region in which I live, I have witnessed first-hand the impact TVA has on its citizenry not only from the provision of energy resources, but also through river and land management, recreational activities, and economic development opportunities. Having also lived and worked in West Virginia and with largely rural communities that do not have the benefit of being served by the Tennessee Valley Authority, I have seen the tangible bearing TVA has on rural communities and the challenges that can come without such an entity.

For TVA, economic development comes inherent with a mission of service to the Tennessee Valley. In higher education, economic development also remains a key driver as we seek to educate and train our future workforce. I was called into a career in higher education because I believe deeply in the value education can provide our society for the betterment of all. This passion goes beyond simply providing education, but also ensuring that students are afforded the opportunity to practice their newly-developed skills in a fulfilling and rewarding career. This happens only through the work of economic development. TVA's investment of more than $11 billion and the creation of over 65,000 jobs in 2019 alone is a testament to that continued work.

Another privilege of serving in higher education has been to gain a deeper appreciation for the impact research and innovation can have on our society. Research and innovation drive our businesses, industries, healthcare facilities, production companies, and energy providers. Research is innate in the work of higher education helping to advance our society and continue to improve the lives of our citizens. This work is no different in the energy sector as we continually seek ways to improve energy production, develop new energy sources, and enhance the use of energy. TVA is instrumental in energy enterprise research and technology innovation for the Tennessee Valley.

Serving as the President of a major public university and being connected to eight additional public universities, two special purpose institutes, thirteen community colleges, twenty-seven colleges of applied technology, and numerous private institutions have given me great insight into the needs across the state of Tennessee – which encompasses TVA's largest single service area by state. Along with my connections across the state with other higher education institutions, I was honored to be invited to participate in a state-wide initiative called Leadership Tennessee, which provided an in-depth examination of the state as well as issues facing our citizens. This deeper understanding of the Tennessee Valley area has shown the numerous benefits that can come to this region and beyond through the work of TVA.

I believe my background and experience have prepared me for the challenge and responsibility of joining the TVA board. Mr. Chairman and members of this committee, I welcome this opportunity to be considered to serve on the TVA Board of Directors and to help TVA continue to fulfill its mission of service to the people of the Tennessee Valley. I appreciate your consideration of my nomination and thank you, once again, for the opportunity to be here today.

Senate Committee on Environment and Public Works
Subcommittee on Clean Air and Nuclear Safety

Hearing entitled, *"Hearing on the Nominations of Beth Harwell and Brian Noland to be Members of the Board of Directors, and Katherine Crytzer to be Inspector General, of the Tennessee Valley Authority."*

May 19, 2020

Questions for the Record for Dr. Brian Noland

Chairman Braun:

1. As TVA continues to modernize its generation assets, do you believe that local economic impacts need to be considered in any decisions regarding the closure of generation plants or the shift away from fossil generation? Does the board consider the regional economic impacts these decisions have on local jobs and tax revenues?

   One of the primary responsibilities of a board member is to ensure that management actualizes decisions that balance their fiduciary responsibilities within lens of the organizational mission. As outlined in the Tennessee Valley Authority Strategic Plan, the TVA was created by Congress in 1933 and charged with a unique mission – to improve the quality of life in the Tennessee Valley through the integrated management of the region's resources. As the TVA helped to lift the seven-state region out of the Great Depression, TVA built dams for flood control, provided affordable power and commercial navigation routes, restored depleted lands and raised the standard of living. As times have changed, TVA has changed with them, meeting new challenges and bringing new opportunities. Today, the TVA continues to serve the people of the Tennessee Valley through its work in three areas: energy, environment, and economic development (TVA Strategic Plan 2018-22 pg. 3).

   In addition to this tri-partite mission, the TVA is also actively working to sharpen its focus on innovation across its fleet of deliverables and services. Members of the TVA Board of Directors must ensure that any decision to close a plant, which could subsequently have a negative impact on the local economy, must be carefully and cautiously examined. Irrespective of the generational source, plant closures that result in job loss, especially in rural areas, would be of concern. If successfully confirmed to the Board of Directors, I would strive to ensure that management protects and promotes the historic mission of the TVA to improve the lives of the people of the region.

Senator Carper:

Please provide a response with the requested specificity to each question, ***including each sub-part.***

2. In your work history, please specifically describe any interactions with the Tennessee Valley Authority (TVA) or with other energy companies.

   In my capacity as the president of East Tennessee State University (ETSU), I have worked with the staff of the TVA as well as our local power distributor (Brightridge) on a number of community and economic development initiatives. In particular, I have worked with Brightridge to enhance programming for the arts in our region, promote STEM education, and support local charitable organizations. Additionally, we have partnered with Brightridge and the TVA to expand the presence of solar and other renewable energy sources on the ETSU campus. For example, several buildings across the ETSU campus have been outfitted with solar panels that reduce energy costs. Furthermore, these efforts have been incorporated into master classes in which our students are active participants in the management of these resources.

3. Consistent with my continuing encouragement that TVA be an industry leader on clean energy and energy efficiency, TVA has made commitments to retiring old, dirty coal power plants and investing in clean energy. These investments have resulted in cleaner air and new economic opportunities for the people of the Tennessee Valley and surrounding areas. They are also important in efforts to combat climate change. Federal agencies continue to report dire predictions on the threats of climate change. For example, in 2018, thirteen federal agencies and over three hundred scientists issued the Fourth National Climate Assessment, which described the dire economic and health consequences Americans will face if we do not take meaningful action to address climate change.[1] Last year, the Government Accountability Office (GAO) included climate change on its "High Risk List,"[2] warning that this Administration's actions, such as revoking President Obama's Federal flood risk management standard, "potentially increases the federal government's fiscal exposure to climate change."

   a. Do you agree with our nation's leading scientists who have concluded that climate change is real, is caused by humans, and is impacting the nation's environment and infrastructure? If not, why not?

      I recognize that climate change has both short- and long-term implications for the nation's environment and infrastructure.

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[1] https://nca2018.globalchange.gov/

[2] https://www.gao.gov/highrisk/limiting_federal_government_fiscal_exposure/why_did_study

b. Do you question the conclusions of the Fourth National Climate Assessment and GAO High Risk List that our economy is at risk if we do not take climate actions? If so, please specifically describe what you disagree with and why.

I recognize the significant and substantial economic implications associated with climate change. As outlined in the TVA's 2018-22 Strategic Plan, TVA staff have diversified the portfolio of deliverables, reduced operating costs, enhanced efficiencies, and committed to hold rates constant through the remainder of this decade. If successfully confirmed to the Board of Directors, I look forward to learning more about these initiatives and to ensuring that the commitment to realizing the Board's strategic planning goals remains constant.

c. If confirmed, what actions will you take on the TVA Board of Directors to ensure that the Tennessee Valley and TVA's infrastructure and other assets are more resilient in the face of a new climate change reality and properly managed, including but not limited to, what steps may be needed to help prevent dam breaches such as the recent breaches in Midland, Michigan and coal ash spills such as the coal-ash spill at the Kingston Fossil Power Plant?

As outlined in the TVA Act of 1933, the Board of Directors is charged by statute to establish the broad goals and objectives of the TVA, and to providing assistance to the chief executive officer to achieve those goals, objectives, and policies. Concurrent with this charge is the responsibility of the board to ensure TVA leadership is following the proper procedures to protect the health and safety of both our employees and the communities they call home. Over the past decade, TVA has taken active steps to enhance and modernize its infrastructure. As a member of the Board of Directors, I would commit to supporting these and other initiatives that modernize TVA's infrastructure and promote safety and security.

d. Please specifically describe how you would use your authority as a TVA Board Member to ensure that TVA uses the best available information to determine the amount of investments in energy efficiency that are an effective option for TVA to meet its mandate to be a national leader in technological innovation, low-cost power, and environmental stewardship.

According to Section 1.9 of the bylaws of the Tennessee Valley Authority, board members bear responsibility to establish the broad strategies, goals, objectives, long-range plans, and policies of the Corporation in a manner consistent with the missions set forth in the TVA Act and to ensure that those are achieved by the Chief Executive Officer. Consistent with those responsibilities, I would actively strive to ensure that the staff take the appropriate and necessary action to meet its mandate to be a national leader in technological innovation, low cost power, and environmental stewardship.

e. Do you agree that entities like TVA need to make significant investments to help address climate change? If not, why not?

If successfully confirmed to the TVA Board of Directors, I would commit to ensuring that the TVA continue to make progress toward diversifying its portfolio of deliverables, maintain efficiencies, and reduce it carbon footprint. For example, TVA has launched new research to enhance its energy storage technologies that act as a buffer between electricity demand and supply. Such initiatives play a central role in harnessing the potential of solar energy, electric transportation, and other emerging technologies. In addition to research focused on making batteries more technologically and economically practical, TVA is exploring avenues to incorporate more solar energy in its portfolio (https://www.tva.com/Energy/Technology-Innovation). As an energy producer with a history of innovation, I look forward to participating in efforts to promote and enhance this legacy.

f. Do you commit to this committee that, if confirmed, you will not attempt to directly or indirectly interfere or undermine climate science as a TVA Board Member? If not, why not?

If confirmed to the Board of Directors, I commit to taking no action to interfere with or undermine scientific research on climate change or any other issue that would prevent the TVA from meeting its mission of energy production, environmental stewardship, or economic development.

4. Do you agree that TVA should continue to keep coal in its portfolio? If so,

Yes, I believe that TVA should maintain a diversified energy production portfolio.

a. Should TVA continue running its existing coal plants or do you believe TVA should be building more efficient coal plants for the future?

If confirmed to the board, I look forward to learning more about existing plans to modernize and diversify the portfolio as well as to create opportunities across all production sectors (coal, gas, nuclear, hydro, solar, etc.) that maximize efficiency, minimize costs, and produce safe and reliable energy for TVA's customers.

b. If the existing coal plants are no longer economical, because they are all about sixty years old, should TVA continue to run them?

Given that I am not an active member of the TVA Board of Directors, I have not had the opportunity to learn of the background, due diligence, and research that informs operational decisions by the staff. Subsequently, I cannot speculate on the condition and operational infrastructure of TVA's production fleet.

c. Do you support TVA's decision to shut down Paradise Fossil Plant and Bull Run Fossil Plant?

The actions of the board to close the power generation facilities at the Paradise and Bull Run plants were made prior to my tenure on the board. I have not been afforded the opportunity to review the detailed background research and decision frameworks that informed this outcome. If confirmed to the TVA Board of Directors, I will review the background materials that informed these actions in the event that other facilities may undergo a similar review in the near and distant future.

d. Would you insist on the use of carbon capture and sequestration technologies on any i) new or ii) existing coal plant and, if not, why not?

If confirmed, I would work with staff as appropriate to ensure that carbon capture and sequestration technologies were maximized across the production fleet. I look forward to learning more about the efforts emerging from the TVA's recent partnership with the U.S. Department of Energy's National Carbon Capture Center, a nationally recognized entity that advances technologies that reduce greenhouse gas emissions from fossil-based power plants.

e. Do you agree that TVA should focus on reducing emissions from its coal-fired power plants? If not, why not?

I believe that the TVA should take actions to promote the efficient utilization of its entire production fleet, which includes the diminution of emissions from coal fired plants.

5. Do you agree that it is essential that in making decisions, TVA must be shielded from political influence and spared even the appearance of being subject to political influence or considerations? If not, why not?

As a member of the Board of Directors, I would strive to ensure that the actions of the TVA remain independent from inappropriate political influence and interference.

6. Being an industry leader also means being the gold standard for workforce safety. And promoting worker safety demands a culture that protects whistleblowers and provides accurate data to safety regulators. I am troubled by reports about workforce safety

concerns at TVA's nuclear and coal plants and about harassment and retaliation against whistleblowers who raised safety concerns.[3,4]

a. If confirmed, what will you do to ensure TVA has a culture of safety across its workforce?

Yes, I commit to ensuring that the staff maintain a culture of safety across all facets of the TVA.

b. Do you agree, if confirmed as a TVA Board Member, to supporting protection for whistle blowers as required by law? If not, why not?

If confirmed, I would ensure that the Board's existing whistleblower protection policies are upheld and that the Board remains diligent in its efforts to support a culture of transparency and accountability across all aspects of the TVA.

c. Do you agree, if confirmed as a TVA Board Member, to refrain from supporting any harassment, retaliation, or other adverse action, against a protected whistleblower? If not, when and why not?

If confirmed, I commit to ensuring that the Board maintain a culture of transparency, accountability, and financial stewardship across all facets of the organization. Such activity includes the protection of staff against harassment, retaliation, and adverse actions associated with the execution of their official capacities.

d. Will you commit to ensuring TVA is transparent with all federal regulators, including the Nuclear Regulatory Commission?

If confirmed, I commit to ensuring that a culture of transparency and accountability is protected and promoted among the members of the Board and the staff.

7. Dr. Noland, you testified your interest in TVA's economic development mission, especially what TVA could and should be doing in rural communities. What actions would you want to take if confirmed?

Throughout its history, the TVA has been actively engaged in efforts to support the growth, expansion, and develop of the communities that comprise its service area. Serving nearly 10 million people in parts of seven southeastern states, TVA receives no taxpayer funding, deriving virtually all of its revenues from sales of electricity. In

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[3] https://www.timesfreepress.com/news/business/aroundregion/story/2020/mar/10/nrc-cites-tva-providing-inaccurate-info-about-watts-bar-problem/517808/

[4] https://www.knoxnews.com/story/news/crime/2020/03/06/tva-trouble-nuclear-regulators-over-whistleblower-treatment/4963871002/

addition to operating and investing its revenues in its electric system, TVA provides flood control, navigation and land management for the Tennessee River system, and assists local power companies and state and local governments with economic development and job creation.

If confirmed, I look forward to engaging with the staff in efforts that promote the economic development mission of the TVA. Working in concert with regional, state and community organizations, the TVA offers site selection services, incentives, research and technical assistance to help companies locate and expand existing operations in the Tennessee Valley. Given my role as a college president, I am particularly interested in learning more about TVA's efforts to prepare future generations for employment in the STEM fields. Across the Tennessee Valley, more than $600,000 in STEM Grants were awarded during the 2019-2020 academic year to promote and expand STEM education.

8. What does environmental justice mean to you? What more should TVA be doing to support low-income, minority and indigenous communities who often live downstream and downwind from dangerous pollution, and, too frequently, have their concerns and challenges take a back seat to their neighbors?

   The TVA provides services to a geographic service area whose population exceeds ten million individuals. Of these, a significant number live below the poverty line. Over the course of the past decade, the TVA has brought new jobs to the region and facilitated efforts that increased the scope and diversification of businesses expanding their footprint among the rural areas of the Tennessee Valley. Having lived in West Virginia, a state with similar economic and demographic challenges to those counties that comprise the Tennessee Valley, I have witnessed firsthand the positive impact that the TVA has on the region that I call home. If confirmed to the TVA Board of Directors, I would work to ensure that TVA continues to focus on its mission of making life better for all of the approximately 10 million people in its service territory.

9. Every community in this country is being affected by the COVID-19 pandemic. Many Americans are out of a job and are uncertain when they will see their next paycheck.

   a. To meet these needs in a manner that is consistent with TVA's economic development mission, what ideas will you bring to the Board to help the people of the Tennessee Valley get back on their feet economically, and what could and should TVA be doing in rural communities?

      The COVID-19 outbreak has touched every facet of our society and represents the most significant disruption to the nation's economy since the Great Depression. To date, millions of Americans have lost their jobs and many businesses may permanently closed as a result of the economic shutdown. These issues are pronounced in rural communities that lack the economic

diversification present in metro areas. As rural America attempts to recover from the economic hardships brought on by the Covid-19 outbreak, entities such as the TVA can support these communities by affording prioritized site selection, rate protections, and other actions aligned with TVA's existing efforts to target industries in Advanced Manufacturing, Aerospace and Defense, Data Centers, Consumer Products, Industrial Products, and Transportation-Related Manufacturing.

b. Local power companies purchase power from TVA and distribute it throughout the Tennessee Valley. During the pandemic, TVA is deferring a portion of these local power company's monthly payments to help cover COVID-19 costs. However, some of the municipalities are still disconnecting customers that can no longer pay their bills due to the pandemic. Do you support TVA's actions, if not, why not, and what more should TVA do to ensure the millions of people served by TVA continue to have power during this crisis?

In response to the COVID-19 outbreak, TVA initiated actions to support increased flexibility for local power companies as they attempt to respond to urgent community and customer needs. In March, the TVA announced that it will provide $1 billion of credit support to local power companies through the deferral of wholesale power payments based on the needs of individual local power companies. This initiative builds on actions by the TVA to provide regulatory flexibility to allow local power companies to halt disconnection of electric service and respond quickly to their customers' immediate needs. I recognize the significance of these actions by the TVA and respect the distributed relationship between the TVA and the local service providers that deliver electricity to the 10 million individuals within the TVA service area.

10. Describe the specific steps that you will take to conduct oversight on TVA's management of its fiscal and personnel resources to ensure that the Authority meets its mandate to be a national leader in technological innovation, low-cost power, and environmental stewardship.

The basic responsibilities of any governing board are to establish/affirm the mission and purpose of the organization; coordinate strategic planning; select/support/evaluate the chief executive; monitor and strengthen operational programs/services; promote financial stewardship and provide financial oversight; and, ensure legal and ethical integrity across the organization. If successfully confirmed to the TVA Board of Directors, I will duly and faithfully act in a manner that supports the activities of the Board to fulfill the public mission of the TVA which includes, but is not limited to, ensuring that TVA is a national leader in technological innovation, low-cost power, and environmental stewardship.

11. Describe the specific actions that you will undertake to ensure that TVA's Board and management operates with increased transparency and accountability when the Authority invests its resources in new infrastructure or to maintain or rebuild existing infrastructure.

    In addition to the governance elements outlined in the above response, the Board of Directors also bears the responsibility to create, support, and nurture a culture of transparency and accountability across the organization. In light of the heightened expectations for TVA to diversify its production fleet, modernize its infrastructure, and respond to public expectations related to climate change, the Board must be informed of such elements in the environment and develop a vision, mission, and strategic goals/tactics that responds to the environment while concurrently demonstrating the values of the TVA. If successfully confirmed to the Board, I look forward to participating in, and supporting, such efforts across all facets of the TVA.

12. According to information from the International Federation of Professional & Technical Engineers (IFPTE), TVA in January 2020 notified 108 of its Local 1937 union workers – many of them long-time, loyal employees – that their information technology (IT) infrastructure and software jobs would be outsourced and that one of the three entities chosen to replace the TVA workers is CapGemini, a French IT consulting and technology service company.[5] Moreover, IFPTE asserts that the outsourcing was done with little to no transparency, and not in accordance with TVA's own contracting decision processes. It claims that TVA failed to provide the union with required information used in its decision to outsource the work, that no companies were compared against TVA's IT workforce, and that TVA identified no savings by outsourcing.

    a. Do you agree that this outsourcing is inconsistent with TVA's mission to assist state and local governments with economic development, job creation and prosperity to the Tennessee Valley? If not, why not?

       Given that I am not an active member of the TVA Board of Directors, I have not had the opportunity to review any of the materials associated with the decision to divest certain information technology positions to a third-party provider. If successfully confirmed to the Board of Directors, I commit to learning more about this matter and to ensuring that future decisions align with the Board's strategic plan.

    b. Do you agree that this outsourcing in part to a French company may compromise the safety and security of TVA's IT infrastructure and lead to these jobs being sent overseas? If not, why not?

       Given that I am not an active member of the TVA Board of Directors, I have not had the opportunity to review any of the materials associated with the

[5] http://www.ifpte.org/news/details/IFPTE-Opposes-IT-Outsourcing-at-TVA-Sends-Letter-to-Board-of-Directors

decision to divest certain information technology positions to a third-party provider. If successfully confirmed to the Board of Directors, I commit to learning more about this matter and to ensuring that TVA is not inappropriately outsourcing jobs.

c. Do you agree, if confirmed as a TVA Board Member, to do everything in your power to ensure that any TVA actions impacting workers are transparent, that TVA follows its own contracting process, that TVA provides workers with all required information, and that the best economic decisions are made? If not, why not?

If confirmed, I commit to ensuring, consistent with law, that the actions of the Board of Directors are transparent; that the TVA follows its contracting processes as outlined in policy; that staff provides employees with relevant, pertinent, and timely information about decisions that impact their employment status; and, that the Board of Directors faithfully executes its responsibility of financial stewardship.

13. Do you agree, if confirmed as a TVA Board Member, 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 as a TVA Board Member? If not, why not?

If successfully confirmed, I would be honored to appear before all appropriate committees of Congress and provide requested information and testimony consistent with my responsibilities as a member of the TVA Board of Directors and as legally appropriate.

14. Do you agree to ensure that testimony, briefings, documents, and electronic and other forms of communication of information are provided to this Committee and its staff and other appropriate committees in a timely manner? If not, why not?

If successfully confirmed, I will ensure that all testimony, briefings, documents, and other requested information is provided to all appropriate committees of Congress consistent with my responsibilities as a member of the TVA Board of Directors and as legally appropriate.

15. According to TVA's own reporting, the 7 million tons of coal ash that was spilled into the local community in 2008 from the Kingston Fossil Plant, contained high levels of toxic heavy metals that are known to cause cancer, liver damage and neurological complications, among other health problems. Recent data has shown that the coal ash was

much more toxic than first estimated.[6] A federal jury in the U.S. District Court for the Eastern District of Tennessee found that the contractor used by TVA to clean-up the Kingston coal ash spill, Jacobs Engineering Group Inc, did not adhere to worker safety or health requirements, potentially causing sickness and death. During the trial, there were troubling testimonies from workers that called into question TVA's conduct during and after the clean-up efforts. The court's decision allows families of the workers affected to seek compensation for medical treatments and damages. If confirmed, will you commit to ensuring TVA is a good actor and is transparent to the employees and families that are impacted by this issue? Will you commit to ensuring TVA employees and those contracted by TVA work in a safe environment at all times?

If confirmed, I commit to ensuring that the TVA is transparent in its efforts to ensure that all employees work within a safe and protected environment. While I am not privy to all of the actions associated with the Kingston coal ash spill and cannot speak to any legal issues, I am generally aware of its impact on the families and communities proximate to the spill and stand ready to work with the staff to ensure that all appropriate steps are taken to maximize the safety of TVA affiliated facilities.

16. 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 as a TVA Board Member?

To the best of my knowledge, I am not aware of any matters that would present a conflict of interest if confirmed as a member of the TVA Board of Directors.

Senator Sanders:

17. According to a recent article in *The Intercept*, the Tennessee Valley Authority (TVA) recently informed 120 of its information technology employees that they will be laid off. Additionally, the TVA recently notified the Engineering Association/International Federation of Professional and Technical Engineers (EA/IFPTE) Local 1937 that the TVA will likely eliminate 100 more jobs in the near future. The TVA acknowledged to EA/IFPTE that cost savings are not the principal reason for eliminating these jobs. Furthermore, EA/IFPTE claims that these jobs will likely be shifted to companies that are based overseas and employ an outsourcing model.

    a. In your testimony, you stated that the TVA's mission is to improve the quality of life for the people of the Tennessee Valley. Do you consider the act of outsourcing jobs currently held by Tennessee Valley residents to be in line with that mission, especially given that cost savings are not the principal reason for eliminating these jobs?

[6] https://www.knoxnews.com/story/news/local/tennessee/tvacoalash/2020/05/17/duke-testing-shows-kingston-coal-ash-uranium-triple-report-levels/5035210002/

Given that I have not been privy to the factors that influenced this matter, I am limited in my ability to assess the variables that influenced the Board's decision. If confirmed to the Board of Directors, I commit to learning more about this issue and to ensuring that TVA is not inappropriately outsourcing jobs.

b. If confirmed, will you commit to:

i. Reversing or opposing these decisions to lay off American workers?

As noted above, I have not had the opportunity to review the variables that influenced the Board's decision. Subsequently, it would not be appropriate to make formal statements regarding the reversal of a Board decision.

ii. Reversing or opposing any future proposals that would lead to the elimination, contracting out, or outsourcing of American jobs at the TVA?

As noted above, I have not had the opportunity to review the variables that influenced the Board's decision. Subsequently, it would not be appropriate to take firm positions regarding the reversal of a Board decision. I recognize that the TVA Board of Directors has committed to enhance efficiencies and hold rates constant for the remainder of this decade. Subsequently, the Board must be granted the latitude to exercise decisions that maximize the objectives of the Strategic Plan.

iii. Opposing any future proposals that would lead to the TVA paying guest workers below median wages?

As outlined in my prior response, I am not of an informed opinion regarding TVA personnel actions and decisions. Subsequently, I commit to learning more about the Board's decision calculus and dedicate myself to supporting the employees across the TVA system who depend upon their jobs to support their families.

18. President Trump has suggested in the past that climate change is a hoax. Do you believe that climate change is a hoax?

Based upon the research that I have reviewed to date, I believe that climate change is one of the major short- and long-term challenges facing our nation. I also believe that the power of the industrial world and its reliance upon fossil fuels has quickened the pace of change; left undeterred, climate change will significantly disrupt the lives of future generations of Americans.

19. In November 2018, the U.S. Global Change Research Program released the Fourth National Climate Assessment (Assessment), which found that human activity is the primary cause of climate change and that climate change will cost hundreds of billions of dollars and cause thousands of premature deaths each year in this country alone unless we take action now to drastically reduce our greenhouse gas emissions. Do you accept the Assessment's conclusions in regard to the following specific findings? If not, please describe the specific methodology used in the Assessment with which you disagree:

    I recognize the significant and substantial economic implications associated with climate change. As outlined in the 2019 Integrated Resource Plan, TVA has diversified its portfolio of deliverables, reduced costs, enhanced efficiencies, and committed to hold rates constant through the remainder of this decade. If successfully confirmed to the Board of Directors, I look forward to learning more about these initiatives and to ensuring that the progress to realize strategic planning goals remains constant.

    a. Climate change is caused by human activity, primarily the burning of fossil fuels.

       I do not disagree with this statement, to the extent supported by the Assessment.

    b. Climate change will cost hundreds of billions of dollars of damage each year in this country alone, unless we take action now to drastically reduce our greenhouse gas emissions.

       While I concur that there are immense costs associated with climate change, I cannot provide firm statements regarding the economic implications of climate change.

    c. Climate change will cause thousands of premature deaths each year in this country alone, unless we act now to drastically reduce our greenhouse gas emissions.

       While I concur that climate change is a contributing factor to shifting mortality rates, I cannot provide a firm declaration regarding the scale, scope, or direct impact of climate change on mortality rates at a micro or macro level. If successfully confirmed, I will strive to learn more about these issues in an effort to inform my decision-making process as a member of the TVA Board of Directors.

20. During this hearing, you committed to expanding the TVA's renewable energy resource portfolio. However, merely expanding the TVA's renewable energy resources is not sufficient to avoid the disastrous impacts of climate change established by the Fourth National Climate Assessment. The TVA currently generates 45 percent of its electricity from coal or natural gas. According to the U.N. Intergovernmental Panel on Climate Change, we must aggressively transition away from such fossil fuel resources to renewable sources of power if we are to avoid the worst impacts of climate change.

Furthermore, According to Lazard's 2019 Levelized Cost of Energy report, renewables like solar and wind are the cheapest forms of new energy generation.

a. Given that the use of fossil fuels is a primary driver of climate change, which will significantly worsen the quality of life for the people of the Tennessee Valley and that you can reduce TVA ratepayers' energy expenses by switching to renewables, please outline your specific plan, including an aggressive timeline, for upholding the TVA's mission by eliminating use of fossil fuels and transitioning to renewable sources of power.

   As outlined in the statutory charge for the Board, TVA board members bear responsibility for developing a strategic plan for the organization. As a member of the Board of Directors, I would ensure that staff continue to endeavor upon their existing efforts to diversify the footprint of deliverables, enhance efficiencies, reduce costs, and meet the aggressive goals as outlined in the TVA Strategic Plan for 2018-22. The operational aspects of this plan are detailed in the TVA's Integrated Resource Plan (2019) which calls for the decommissioning of many of the oldest coal-fired units in the TVA portfolio to allow for more efficient forms of power production.

   As outlined in the IRP, by FY 2030, more than 61% of all energy produced by the TVA will be derived from carbon free sources and will be realized through the following: there is a need for new capacity in all scenarios to replace expiring or retiring capacity; solar expansion plays a substantial role in all futures; gas, storage and demand response additions provide reliability and/or flexibility; no baseload resources (designed to operate around the clock) are added, highlighting the need for operational flexibility in the resource portfolio; additional coal retirements occur in certain futures; energy efficiency (EE) levels depend on market depth and cost-competitiveness; wind could play a role if it becomes cost-competitive; and in all cases, TVA will continue to provide for economic growth in the Tennessee Valley (Integrated Resource Plan, Executive Summary, pg. 2).

   This transition is consistent with TVA's historic mission of providing reliable, low-cost energy for the Tennessee Valley. If confirmed to the TVA Board of Directors, I will support the staff in their efforts to implement the operational aspects of the Integrated Resource Plan.

Senator BRAUN. Thank you.
Ms. Crytzer.

STATEMENT OF KATHERINE CRYTZER, NOMINEE TO BE INSPECTOR GENERAL, TENNESSEE VALLEY AUTHORITY

Ms. CRYTZER. Chairman Braun, Ranking Member Whitehouse, and distinguished members of this Committee, thank you for the opportunity to appear before you today and for making today's hearing possible under the circumstances.

I would also like to thank the President for nominating me to serve as the Inspector General of the Tennessee Valley Authority. I am honored.

I am grateful to Senator Alexander and Senator Blackburn for their support of my nomination. For decades, Senator Blackburn and Senator Alexander have fought hard for Tennesseans, and it is both humbling and inspiring that they have placed their trust in me to do the same.

I would also like to thank my family, friends, and colleagues for their support. First and foremost, I want to thank my husband, Joe Oliveri. Joe is a brilliant lawyer and my rock.

I also specifically want to thank my mother, Karen Crytzer, who is watching this hearing electronically from our family home in Knoxville, Tennessee. My mom is a strong woman, and she is the most bighearted person I know.

I also want to recognize my father, Jim Crytzer, who passed away unexpectedly 6 years ago. My father was an auditor, first for the Army and then for the Office of Inspector General at the Department of Energy in Oak Ridge, Tennessee.

My family moved to Tennessee 25 years ago, and no matter how far I have traveled away since then, I have always come home to east Tennessee.

Growing up, my parents instilled in me and my siblings a respect for service, the importance of integrity and fair dealing, and a steadfast appreciation for precision and details. Those are important values that continue to guide my life and work today.

For the last 6 years, I have had the privilege of serving at the Department of Justice. For me, public service is a higher calling. The day I was sworn in as an Assistant United States Attorney is one I will not forget. That day, in front of my colleagues, I took a solemn oath to support and defend the Constitution of the United States. I committed to doing justice.

Every day in my work at the Department, I strive to be independent and objective, to do justice. As an AUSA, I led criminal and civil fraud investigations and audits in a fair, impartial, and meticulous fashion. We followed the facts where they led us and applied the relevant law to the facts as we found them, without interference or favor.

In my office at the Justice Department, I keep a piece of paper posted above my computer. That piece of paper reads: "Far and away the best prize that life offers is the chance to work hard at work worth doing." President Theodore Roosevelt delivered these words in 1903, before the Tennessee Valley Authority was created, but they still ring true today. Those words stand as a constant reminder to seek out the hard work that is truly worth doing.

That is what led me to serve at the Department of Justice, and it is what brings me here today. In the Tennessee Valley Authority Act, Congress charged the TVA with a unique mission, to improve the quality of life for the people of the Tennessee Valley through technical innovation, the provision of low cost power, and environmental stewardship. TVA's effectiveness depends on public trust. That trust must be earned and maintained. It can be lost forever on any day, at any moment.

By conducting rigorous oversight, the Office of Inspector General plays a critical role in ensuring that the TVA continues to foster and earn the public's trust. I would be honored to lead the Office of Inspector General's crucial work to prevent and detect waste, fraud, and abuse within TVA.

If I am fortunate enough to be confirmed, I will remain independent and impartial in my undertakings, including audits, evaluations, and investigations. I will act with integrity and be a fair and honest dealer. I am committed to the rule of law.

I promise to work hard to make the Tennessee Valley Authority more efficient, effective, and accountable, so that it can make life better for the people of the Tennessee Valley, my family included. To return to the words of President Roosevelt, that is certainly work worth doing.

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

[The prepared statement of Ms. Crytzer follows:]

Statement of Katherine A. Crytzer
Nominee to be Inspector General, Tennessee Valley Authority
before the U.S. Senate Committee on Environment and Public Works
Subcommittee on Clean Air and Nuclear Safety
May 19, 2020

Chairman Braun, Ranking Member Whitehouse, and distinguished Members of this Committee, thank you for the opportunity to appear before you today and for making today's hearing possible under the circumstances. I would also like to thank the President for nominating me to serve as the Inspector General of the Tennessee Valley Authority. I am honored. And I am grateful to Senator Alexander and Senator Blackburn for their support of my nomination. For decades, Senator Blackburn and Senator Alexander have fought hard for Tennesseans, and it is both humbling and inspiring that they have placed their trust in me to do the same.

I would also like to thank my family, friends, and colleagues for their support. First and foremost, I want to thank my husband Joe Oliveri. Joe is a brilliant lawyer and my rock. I also specifically want to thank my mother Karen Crytzer, who is watching this hearing electronically from our family home in Knoxville, Tennessee. My mother is a strong woman and the most bighearted person I know. I also want to recognize my father Jim Crytzer who passed away unexpectedly six years ago. My father was an auditor, first for the Army and then for the Office of Inspector General at the Department of Energy in Oak Ridge, Tennessee. My family moved to Tennessee nearly 25 years ago, and no matter how far I've traveled away since then, I have always come home to East Tennessee. Growing up, my parents instilled in me and my siblings a respect for service, the importance of integrity and fair dealing, and a steadfast appreciation for precision and details. These are important values that continue to guide my life and work today.

For the last six years, I have had the privilege of serving at the Department of Justice. For me, public service is a higher calling. The day I was sworn in as an Assistant United States Attorney is one I will never forget. That day, in front of my colleagues, I took a solemn oath to "support and defend the Constitution of the United States." I committed to doing justice. Every day, in my work at the Department, I strive to be independent and objective—to do justice. As an AUSA, I led criminal and civil fraud investigations and audits in a fair, impartial, and meticulous fashion. We followed the facts where they led us and applied the relevant law to the facts as we found them, without interference or favor.

In my office at the Justice Department, I keep a piece of paper posted above my computer. That piece of paper reads: "Far and away the best prize that life offers is the chance to work hard at work worth doing." President Theodore Roosevelt delivered these words in 1903, before the Tennessee Valley Authority was created, but they still ring true today. Those words stand as a constant reminder to seek out the hard work that is truly worth doing. That is what led me to serve at the Department of Justice, and it is what leads me here today.

In the Tennessee Valley Authority Act, Congress charged the TVA with a unique mission—to improve the quality of life for the people of the Tennessee Valley through "technical innovation," the provision of "low-cost power," and "environmental stewardship." TVA's effectiveness depends on public trust. That trust must be earned and maintained. It can be lost forever on any

day, at any moment. By conducting rigorous oversight, the Office of Inspector General plays a critical role in ensuring that the Tennessee Valley Authority continues to foster and earn the public's trust.

I would be honored to lead the Office of Inspector General's crucial work to prevent and detect waste, fraud, and abuse within the TVA. If I am fortunate enough to be confirmed, I will remain independent and impartial in my undertakings, including audits, evaluations, and investigations. I will act with integrity and be an honest and fair dealer. I am committed to the rule of law. I promise to work hard to make the Tennessee Valley Authority more efficient, effective, and accountable, so that it can make life better for the people of the Tennessee Valley—my family included. To return to the words of President Roosevelt, that is certainly "work worth doing."

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

Senate Committee on Environment and Public Works
Subcommittee on Clean Air and Nuclear Safety
Hearing entitled, *"Hearing on the Nominations of Beth Harwell and Brian Noland to be Members of the Board of Directors, and Katherine Crytzer to be Inspector General, of the Tennessee Valley Authority."*
May 19, 2020
Questions for the Record for Ms. Katherine Crytzer

Chairman Braun:

1. 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?

   It is crucial that the Tennessee Valley Authority Office of Inspector General produce reports that are both timely and high quality. If I am fortunate enough to be confirmed, I will strive to prioritize staff and resources in an efficient way to maximize the Office of Inspector General's ability to produce timely, high quality, and robust reports.

Senator Carper:

Please provide a response to each question, ***including each sub-part.***

2. In your work history, what has your interaction, if any, been with the Tennessee Valley Authority (TVA) or with other energy companies?

   While in private practice, I represented a Fortune 500 energy company. Prior to my nomination, I had not had the opportunity to work with the Tennessee Valley Authority (TVA) in a professional capacity, however, I am generally familiar with the TVA through its operations in the Tennessee Valley. If I am fortunate enough to be confirmed, I look forward to bringing a distinct perspective and my outside legal and investigatory experience to TVA.

3. Describe the specific steps that you will take to conduct oversight on TVA's management of its fiscal and personnel resources to ensure that the Authority meets its mandate to be a national leader in technological innovation, low-cost power, and environmental stewardship.

   The Tennessee Valley Authority Act charged the Tennessee Valley Authority (TVA) with the objective and mission of being a national leader in technological innovation, low-cost power, and environmental stewardship. The TVA Office of Inspector General, in turn, is charged with independent and objective oversight of the programs and operations of the TVA to promote economy, efficiency, and effectiveness and prevent and detect waste, fraud, and abuse. If I am fortunate enough to be confirmed, I will fully and faithfully execute this mission by conducting and supervising robust

and thorough audits, evaluations, and investigations and keeping Congress and the Tennessee Valley Authority Board of Directors fully and currently informed.

4. I am troubled by recent reports about workforce safety concerns at TVA's nuclear and coal plants and harassment and retaliation against whistleblowers who raised safety concerns.[1] If confirmed, what will you do to ensure TVA has a culture of safety across its workforce?

   It is critically important that the Tennessee Valley Authority (TVA) has adequate processes and procedures in place for workers to report safety concerns at nuclear and coal plants. If confirmed, I will work diligently to ensure that such processes and procedures are in place so that TVA maintains a culture of compliance and safety across its workforce.

5. In our conversation before your confirmation hearing, you informed me that one of your responsibilities within the Office of Legal Policy was to assist then-Judge Kavanaugh in his Senate confirmation process to become a Supreme Court justice.

   a. As part of this work, you said you reviewed requests made by Congress for information about Judge Kavanaugh's legal decisions and other materials and determined which of requested materials could be produced to Congress. Did you recommend the withholding of any of Judge Kavanaugh's materials from Congress? If so, please briefly describe what those materials were, and what your rationale was for recommending that they be withheld?

      I served on a team of attorneys at the Department of Justice that facilitated the Senate's consideration of then-Judge Brett M. Kavanaugh to serve on the Supreme Court. As part of that process, the Senate Judiciary Committee requested, under the Presidential Records Act (PRA), 44 U.S.C. § 2201(2), (3), certain Presidential records related to Justice Kavanaugh's service as Associate Counsel and Senior Associate Counsel in the White House Counsel's Office during the Administration of President George W. Bush and Justice Kavanaugh's nomination to the U.S. Court of Appeals for the District of Columbia Circuit.[2] I was part of a team that reviewed these records for production to the Senate Judiciary Committee, consistent with the terms of the request by the Senate Judiciary Committee and the requirements of the PRA and relevant privileges. A description of documents the White House determined were necessary to withhold pursuant to applicable privileges and the basis for their withholding was provided to the Senate Judiciary Committee in a letter dated August 31, 2018, from William Burck, as counsel

[1] https://www.knoxnews.com/story/news/crime/2020/03/06/tva-trouble-nuclear-regulators-over-whistleblower-treatment/4963871002/
[2] https://www.archives.gov/files/foia/07.27.2018-grassley-to-bush-library-re-kavanaugh.pdf.

to former President George W. Bush (to whom the Senate Judiciary Committee had directed its document request).[3]

b. Can you confirm that Justice Kavanaugh was the only judicial nominee whom you actively assisted with the Senate confirmation process during your time at the Office of Legal Policy? If you did actively assist other nominees, please list them and describe the nature of your involvement in their nomination(s).

The Office of Legal Policy (OLP) has a team of staff whose job duties primarily entail assisting the Attorney General with responsibilities in recommending candidates for federal judgeships and coordinating the judicial nomination and confirmation process with the White House and Senate. I have not been a member of that nominations team. During my time as Chief of Staff for OLP, my job duties included managing the various workstreams and operations of staff in the office. As such, as a general matter, my substantive involvement in judicial nominations work was limited, with the exception of my work on the confirmation of Justice Kavanaugh.

6. 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 ... 11 In addition, pursuant to 18 U.S.C. §1505, it is against federal law to interfere with a Congressional inquiry.

a. If you are confirmed, will you commit to protect the rights of all Tennessee Valley Authority career employees to make lawful disclosures, including their right to speak with Congress?

If I am fortunate enough to be confirmed as Inspector General of the Tennessee Valley Authority (TVA), within the scope of my work as Inspector

[3] https://www.judiciary.senate.gov/imo/media/doc/2018-08-31%20Burck%20to%20Grassley%20-%20Accounting%20of%20Kavanaugh%20WHCO%20Records.pdf.

General, I will protect the rights of all TVA employees to make lawful disclosures.

b. Will you commit that you 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?

If I am fortunate enough to be confirmed as Inspector General of the Tennessee Valley Authority, within the scope of my work as Inspector General, I will uphold the rights of individuals who disclose information regarding misconduct within the federal government, consistent with the Inspector General Act and relevant law.

c. 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?

If I am fortunate enough to be confirmed as Inspector General of the Tennessee Valley Authority, within the scope of my work as Inspector General, I will protect the rights of individuals who disclose information regarding misconduct within the federal government to remain anonymous, consistent with the Inspector General Act and relevant law.

d. 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?

Please see my response to 6(a) above.

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

If I am fortunate enough to be confirmed, I commit to sending an email about employee whistleblower rights to all Tennessee Valley Authority Office of Inspector General employees within one week of starting my duties.

7. In recent months, President Trump has attacked several Inspectors General across the federal government, because they have issued reports that have been critical of the President and his administration or they have released information that is inconsistent with the President's preferred narrative. In many cases, he has executed personnel actions, either firing IGs or replacing Acting IGs in order to incapacitate their offices' ability to conduct independent oversight into the Trump Administration. When I asked you for your views on these matters during your confirmation hearing, you stated that you didn't "know the full situation for each of those instances that you have mentioned" and that you were "not familiar with all the facts in the situation that you have just mentioned." I expect you will have sufficient time to evaluate any information you may

not have previously had time to review. A failure to respond with the requested specificity would raise significant concerns associated with your suitability to serve as an Inspector General.

Late last year, Inspector General of the Department of Justice Michael Horowitz released a report on the FBI's investigation of Russian interference in the 2016 election. The report found that while there were "significant inaccuracies and omissions" in some FBI surveillance applications, the FBI's investigation of Trump campaign officials was not influenced by "political bias or improper motivation." In response to this report, President Trump tweeted, "As bad as the I.G. Report is for the FBI and others, and it is really bad, remember that I.G. Horowitz was appointed by Obama. There was tremendous bias and guilt exposed, so obvious, but Horowitz couldn't get himself to say it. Big credibility loss. Obama knew everything"

On April 3, the President fired Michael Atkinson, the Inspector General of the Intelligence Community, because he informed Congress of the existence of a whistleblower complaint, as required by law, which led to impeachment proceedings against the President. When asked why he fired Mr. Atkinson the President said, "He did a terrible job, absolutely terrible. He took a fake report and he brought it to Congress with an emergency, OK? Not a big Trump fan, that I can tell you."

Also on April 3, the Office of Inspector General of the Department of Health and Human Services, led by Principal Deputy Inspector General Christi Grimm, released a report highlighting supply shortages and testing delays at hospitals during the coronavirus pandemic. On April 7th, President Trump tweeted, "Why didn't the I.G., who spent 8 years with the Obama Administration (Did she Report on the failed H1N1 Swine Flu debacle where 17,000 people died?), want to talk to the Admirals, Generals, V.P. & others in charge, before doing her report. Another Fake Dossier!" In fact, Ms. Grimm is a career veteran of the federal IG community, with over 20 experience serving under the Clinton, Bush, Obama and Trump administrations. On May 1, the White House announced the nomination of an HHS Inspector General to take over leadership on the office.

On April 7, the President replaced Glenn Fine as the Acting Inspector General of the Department of Defense. This move made Mr. Fine ineligible to serve on the Pandemic Response Accountability Committee, to which he had recently been elected Chairman by his colleagues on the committee. As a result, that panel was left without a permanent chairperson.

Most recently, on May 15, the President fired the Department of State Inspector General Steve Linick, reportedly because he had opened an investigation into whether Secretary Pompeo and his wife were using State Department officials to run personal errands and an investigation in the Trump Administration's decision to approve an arms sale to Saudi Arabia.

a. Was it wrong for President Trump to fire Mr. Atkinson and Mr. Linick for independently pursuing evidence of wrongdoing within the highest levels of the Trump Administration? If not, why not?

Under the Inspector General Act, an Inspector General "may be removed from office by the President." If an Inspector General "is removed from office or is transferred to another position or location within an establishment, the President shall communicate in writing the reasons for any such removal or transfer to both Houses of Congress, not later than 30 days before the removal or transfer."

I am not privy to the information that the President considered in making his decision to remove Mr. Atkinson or Mr. Linick, and it would thus be inappropriate for me to speculate.

b. With respect to Mr. Horowitz and Ms. Grimm, do you agree with the President's view that reports issued by Inspectors General who have served under multiple administrations are not credible - in his word "fake" - or the implication that inspectors general who were not appointed by the current president are biased? If so, why?

If I am fortunate enough to be confirmed, I will perform my work in an independent, objective, and unbiased fashion. I am not privy to the information that the President considered in making his tweets, and it would thus be inappropriate for me to comment.

c. Do you believe that it is appropriate for President Trump to attack Inspectors General or the credibility of their work when their findings are inconsistent with the President's preferred narrative? If so, why?

I am not privy to the information that the President considered in making his remarks, and it would thus be inappropriate for me to comment.

d. Do you have concerns that the President's personal attacks on Inspectors General within the federal government are damaging the IG community's ability to conduct independent oversight of federal agencies or harming the public credibility of the IG community? Please fully explain your response.

The Inspector General Act charges each Inspector General with conducting independent oversight of the relevant agency or organization, and I have no reason to doubt any Inspector General's commitment to fully and faithfully perform his or her duties under the Inspector General Act.

8. The Council of the Inspectors General on Integrity and Efficiency (CIGIE[4]) is "comprised of all Inspectors General whose offices are established under section 2 or

[4] https://ignet.gov/

section 8G of the Inspector General Act of 1978 (5 U.S.C. App.), those that are Presidentially-appointed/Senate Confirmed and those that are appointed by agency heads (designated federal entities)." If you are confirmed, you will be a part of this council. Its mission is to "address integrity, economy, and effectiveness issues that transcend individual Government agencies." Please provide a response to each of the following questions. Although you claimed a lack of familiarity with some high-profile events during your confirmation hearing, I expect you will have sufficient time to evaluate any information you may not have previously had time to review. A failure to respond with the requested specificity would raise significant concerns associated with your suitability to serve as an Inspector General.

a. On April 4, 2020, Michael Horowitz, CIGIE's chair, issued a statement[5] following the removal of the IG of the Intelligence Community: "Inspector General Atkinson is known throughout the Inspector General community for his integrity, professionalism, and commitment to the rule of law and independent oversight. That includes his actions in handling the Ukraine whistleblower complaint, which the then Acting Director of National Intelligence stated in congressional testimony was done "by the book" and consistent with the law. The Inspector General Community will continue to conduct aggressive, independent oversight of the agencies that we oversee. This includes CIGIE's Pandemic Response Accountability Committee and its efforts on behalf of American taxpayers, families, businesses, patients, and health care providers to ensure that over $2 trillion dollars in emergency federal spending is being used consistently with the law's mandate."

   Do you agree with this statement, and if not, what specifically do you disagree with and why?

   I do not currently serve as a member of the Inspector General community, and I do not possess sufficient information or facts to attest to Michael Atkinson's reputation in the Inspector General community.

b. On March 5, 2020, CIGIE sent a letter to Senator Schumer[6] regarding whistleblowers. That letter described the role and responsibilities of IGs to "protect and empower whistleblowers who shine a light on government misconduct." Is there any element in this letter with which you disagree? If so, which specific element(s) do you disagree with, and why?

   The March 5 letter from the Council of the Inspectors General on Integrity and Efficiency provides "information on the IG community's collective efforts to empower and protect whistleblowers." I do not currently serve as a member of the Inspector General community and do not have sufficient information or facts to attest to each of the efforts of the community discussed in the letter. However, when I was an Assistant United States Attorney, I worked with

[5] https://ignet.gov/sites/default/files/files/Statement%20--%20CIGIE%20Chair%20Horowitz.pdf
[6] https://ignet.gov/sites/default/files/files/CIGIE-Response-to-Schumer-3_05_2020.pdf

whistleblowers and ensured that their rights were protected. If I am fortunate enough to be confirmed, I commit to protecting the rights of whistleblowers consistent with federal law.

c. On October 22, 2019, CIGIE wrote a letter[7] to Assistant Attorney General Steven Engel regarding the DOJ Office of Legal Counsel's memorandum[8] to the Intelligence Community's Inspector General. The letter was co-signed by dozens of IGs and Acting IGs, including TVA's. That letter included the following statements:

"That memorandum effectively overruled the determination by the ICIG regarding an "urgent concern" complaint under the Intelligence Community Whistleblower Protection Act (ICWPA) that the ICIG concluded appeared credible and therefore needed to be transmitted to Congress."

"This letter from the Council of the Inspectors General on Integrity and Efficiency, on behalf of the undersigned federal Inspectors General (IG), expresses our support for the position advanced by the ICIG and our concern that the OLC opinion, if not withdrawn or modified, could seriously undermine the critical role whistleblowers play in coming forward to report waste, fraud, abuse, and misconduct across the federal government."

"Further, as addressed in detail below, OLC's interpretation regarding the ICWPA procedure in question, which mirrors the procedure that Congress included in Section 5(d) of the Inspector General Act of 1978 (IG Act), has the potential to undermine IG independence across the federal government."

"As an initial matter, we find the arguments and concerns raised by the ICIG in his September 17, 2019 response to the OLC memorandum compelling."

"In his response, by describing and citing to the DNI's relevant legal authorities, the ICIG showed that the DNI has a broad legal mandate to address intelligence matters related to national security, as well as the specific responsibility to assess instances of possible foreign interference in United States elections and identify, to the maximum extent possible, the methods used and persons and foreign governments involved in the interference. These responsibilities support the ICIG's conclusion that the protection of federal elections from foreign interference is squarely within the DNI's 'operations'."

"The legal authorities cited in his letter also support the ICIG's determination that the whistleblower raised a claim of a serious or flagrant problem that relates to an intelligence activity within the DNI's jurisdiction. It surely cannot be the case that the DNI has responsibilities related to foreign election interference but is prohibited from reviewing the cause of any such alleged interference."

[7] https://ignet.gov/sites/default/files/files/CIGIE_Letter_to_OLC_Whistleblower_Disclosure.pdf
[8] https://ignet.gov/sites/default/files/files/OLC_Memorandum_on_Urgent_Concern.pdf

"We further note that the DNI has jurisdiction over the handling of classified and other sensitive information. As a result, the whistleblower's allegation that certain officials may have misused an intelligence system also raises an additional claim of a serious or flagrant problem that relates to the operations of the DNI and therefore may properly be considered an urgent concern under the statute."

"The OLC memorandum also confuses whether the ICIG has jurisdiction to investigate alleged foreign interference with U.S. elections with the question of whether the DNI has the responsibility to address that issue."

"The two cases cited in the OLC opinion, which narrowly question an IG's authority to conduct specific regulatory compliance investigations on behalf of its establishment agency, are distinguishable from the ICIG's ability to accept, review, and transmit whistleblower allegations related to DNI responsibilities. They do not undermine the responsibility, under the ICWPA, for the DNI to transmit to Congress what the ICIG determined to be an urgent concern related to the DNI's jurisdiction."

"We also share the ICIG's concern that the OLC opinion could seriously impair whistleblowing and deter individuals in the intelligence community and throughout the government from reporting government waste, fraud, abuse, and misconduct. Whistleblowers play an essential public service in coming forward with such information, and they should never suffer reprisal or even the threat of reprisal for doing so."

"It would be wholly inconsistent with the IG Act, and undermine IG independence, if the agency head – instead of forwarding the IG's concerns to Congress as the law requires – sought OLC's advice so that OLC could consider, and then potentially second guess, the IG's determination (a) that the problem, abuse, or deficiency was a 'serious' or 'flagrant' one, or (b) that it related to the administration of agency programs and operations."

"In this matter, OLC did not find that production to Congress was limited due to a valid constitutional concern. Rather, OLC substituted its judgment and reversed a determination the statute specifically entrusted to the ICIG because of its independence, objectivity, and expertise to credibly assess the information. In our view, the OLC's opinion undermines the independence of the ICIG and wrongly interprets the respective roles and responsibilities of IGs and agency heads under the ICWPA. Further, the opinion potentially creates space for agency heads across government to make their own determinations related to IG jurisdiction or reporting. Such a result would be contrary to IG independence and congressional intent in requiring IGs to maintain independent legal counsel and may impede the ability of Congress and taxpayers to obtain the objective and independent oversight they rely on from IGs."

"Perhaps most concerning to the IG community, we believe that the OLC opinion creates uncertainty for federal employees and contractors across government about the scope of whistleblower protections, thereby chilling whistleblower disclosures. As the ICIG noted in his letter to OLC, "because OLC's opinion determined that the DNI is not required to transmit the complaint to the intelligence committees, a question has arisen about whether the Complainant has the statutory protections against a reprisal, or threat of reprisal, for submitting the disclosure pursuant to the 'urgent concern' process." Given their importance to accountability in government, it is critical that the protection of whistleblowers from retaliation not be diminished by OLC's narrow interpretation of the ICPWA."

"For these reasons, we agree with the ICIG that the OLC opinion creates a chilling effect on effective oversight and is wrong as a matter of law and policy. We urge you to reconsider the conclusions of the OLC opinion and withdraw or modify it."

Do you fully agree with every statement from the October 22 letter pasted above? If not, please indicate which element(s) of which statement(s) you disagree with, and why. Would you have co-signed this letter had you been serving in the role you now seek to be confirmed for? If not, why not?

The October 22 letter from members of the Council of the Inspectors General on Integrity and Efficiency expresses "concern" with a legal opinion issued by the Office of Legal Counsel at the Department of Justice and urges the Department of Justice to "reconsider the conclusion of the OLC opinion and withdraw or modify it." In my current capacity, I serve as a lawyer for the Department of Justice. As such, it would not be appropriate for me to opine on my agreement or disagreement with an opinion issued by the Department of Justice.

9. Do you agree, if confirmed as the TVA Inspector General, 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? If not, why not?

   Yes, as legally appropriate.

10. Do you agree to ensure that testimony, briefings, documents, and electronic and other forms of communication of information are provided to this Committee and its staff and other appropriate committees in a timely manner? If not, why not?

    Yes, as legally appropriate.

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

    If I am confirmed, I commit to complying with the Inspector General Act and all other applicable laws and regulations governing disclosure to keep the Senate fully and currently informed and to provide related materials to the Senate promptly.

12. In order to protect the independence the office of Inspector General, will you commit that if confirmed you will not communicate with officials from the Executive Office of the President or political appointees within this or subsequent administrations about any substantive matter regarding the Tennessee Valley Authority, prior to publishing your findings on the matter, unless you are compelled to do so in an investigative capacity as part of an investigation or audit?

    If I am fortunate enough to be confirmed, I commit to remaining independent and impartial in my undertakings, including investigations, audits, and evaluations. And I will not allow any undue influence to affect the operations of the Tennessee Valley Authority Office of Inspector General.

13. 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 as the TVA Inspector General?

    In connection with the nomination process, I have consulted with the Office of Government Ethics and the Tennessee Valley Authority's Designated Agency Ethics Official to identify potential conflicts of interest. I am not aware of any matter that may present a conflict of interest if I am confirmed as the Tennessee Valley Authority Inspector General.

14. Has anyone assisted you in the preparing answers to these questions or reviewed your answers or will review your answers prior to submitting them to the Committee on Environment and Public Works? If so, please explain who provided assistance and what assistance they provided.

    The answers contained in this document are my own. I consulted with appropriate officials from the Tennessee Valley Authority, White House, and Department of Justice who reviewed the answers prior to submission to the Committee on Environment and Public Works.

Senator BRAUN. Thank you.

Before we take questions from members of the Subcommittee, 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?

Ms. HARWELL. Yes, sir.

Ms. CRYTZER. I do.

Mr. NOLAND. I do.

Senator BRAUN. 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 of jurisdiction in a timely manner?

Ms. HARWELL. Yes, sir.

Mr. NOLAND. Yes, sir, I will.

Ms. CRYTZER. 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?

Ms. HARWELL. No, sir.

Mr. NOLAND. No, sir.

Ms. CRYTZER. No.

Senator BRAUN. Thank you for the responses.

I will begin the questioning by recognizing myself for 5 minutes.

The first question will be for Dr. Harwell, after I go through this opener.

As I noted during my opening statement, the TVA has received one of the first early site permits from the U.S. Nuclear Regulatory Commission to construct a small modular nuclear reactor. This permit marks a milestone in our Nation's efforts to deploy advanced nuclear technologies.

Question for Dr. Harwell. How should the TVA, as a Federal organization, support innovative Federal infrastructure projects while providing reliable, affordable, clean energy to TVA ratepayers?

Ms. HARWELL. Sir, thank you for the question. TVA does in fact have a very diverse portfolio. As you mentioned, nuclear energy plays a very important role in that. You mentioned the permits that have been issued, and I think they continue to lead the way in not only investment but innovation to bring new technology and also make sure that technology is safe, always within the back of their minds what is best for the ratepayers.

Senator BRAUN. Thank you.

Dr. Noland, do you believe that the TVA has an obligation to continue leading the energy sector in making these investments?

Mr. NOLAND. Mr. Chair, I do. I feel that it is important that the TVA continue work to diversify its portfolio deliverables. Central to that is work within the nuclear space. There are a number of innovations that are underway. You have referenced the opportunity for modular reactors. If confirmed to the board, I look forward to the opportunity to help lead those efforts and be a part of that strategic perspective envisioned from the board.

Senator BRAUN. A follow up question for each one of you before I get to Ms. Crytzer. How long do you envision until we will have the first modular advanced nuclear reactor up and running in your grid?

Ms. HARWELL. Senator, I appreciate the question. I am not sure that I am capable of answering that question. But I know that the sooner, the better.

Mr. NOLAND. Mr. Chair, I concur with that response. I do not have the particulars related to that matter. But I am confident that staff will push forward with due speed.

Senator BRAUN. Very good.

Ms. Crytzer, the TVA Inspector General is a unique role, as a nominee is tasked with ensuring the agency is meeting both the needs of local ratepayers, but also serving the best interests of the Nation as a whole. Your experience prosecuting fraud cases as the Assistant U.S. Attorney in Kentucky gives you a perspective from the other side of these investigations. The first question is, how does your experience as an Assistant U.S. Attorney prepare you particularly for this role?

Ms. CRYTZER. Senator, one of the most important things about the Inspector General position is its transparency, its objectiveness, and its independence. As an Assistant United States Attorney, I was able to practice all three of those qualities in working investigations through indictment and ultimately to prosecution.

Senator BRAUN. Are there any particular cases in your span of time that come to mind that would be especially applicable to what you see ahead in this role?

Ms. CRYTZER. Senator, one investigation, it was actually the last case that I tried before coming to the Department of Justice to work, was the case United States v. Lonnie Hubbard. I think it is a good example of how in the U.S. Attorney's office, you have a multidisciplinary approach. For that investigation, we had auditors, investigators, we had special agents. We even had folks from the pharmacy board working with us.

We took that case from a large set of facts, spreading really from Ohio down to Florida, and figured out how to put that case together, how to charge that case, and how to be effective in stopping the bad conduct that was ongoing.

Senator BRAUN. Thank you.

Senator Whitehouse.

Senator WHITEHOUSE. Thanks, Chairman Braun, and thanks to all the witnesses for being here. I appreciate it.

To follow up on Senator Braun's questions about nuclear power, one of our goals—as you may know, this is the Environment and Public Works Committee—that has pushed very hard and worked in very bipartisan fashion to reform the Nuclear Regulatory Commission, so that innovative nuclear strategies can be approved and cleared and brought online safely.

One of our goals in doing this together has been to work toward technologies that present the prospect of allowing us to re-use nuclear waste, spent nuclear fuel. Now, because the TVA has had old line nuclear plants online for some time, it has nuclear waste stored at two of its facilities. I wanted to flag for both President Noland and for Speaker Harwell that I think in most accounting,

that would be a pretty significant liability as you are developing nuclear technologies for TVA and encouraging the development of those technologies.

I hope that you will keep an eye on the prospect for the latest generation of nuclear technologies, to actually take that waste on your facilities and turn them into a valuable electricity providing product.

Ms. HARWELL. I would certainly do that, to be committed to that.

Mr. NOLAND. I would also be committed to that, and look forward to learning more about that technology.

Senator WHITEHOUSE. Another concern that I have is that particularly around the State House and around Congress, the fossil fuel industry kind of can't help itself but to try to meddle politically, even in market decisions. I would like to have both of the two board members' assurances that if the fossil fuel industry comes peddling political schemes that are not in the best interests of the TVA ratepayers, do not contribute to security and low rates, that they will not be treated favorably by you as a board member.

Ms. HARWELL. I will commit to that, sir.

Mr. NOLAND. You also have my commitment, and would note the fact that TVA has pledged to hold rates constant through the close of this decade. Much of their ability to do so is their focus on efficiencies and a diversified portfolio.

Senator WHITEHOUSE. Yes, and I think the risks that come with continuing to release carbon emissions are ones that will have effect throughout the TVA service area if we don't get ahead of it. It is usually kept off the books, it is what is called a negative externality in economics talk. But I hope that as board members, you will be aware of negative externalities as well as things that are formally on your books.

Ms. HARWELL. Yes, sir.

Mr. NOLAND. Yes, sir.

Senator WHITEHOUSE. And Ms. Crytzer, welcome. I did a few years in the Department of Justice as our United States Attorney. So I am glad to see somebody from the Department of Justice in this position.

Unfortunately, in this Administration, we are seeing a very, to me, concerning view of what an inspector general is supposed to be. As soon as one becomes the least bit difficult or controversial, they seem to be run out the door, sending a message to all inspectors general to go along to get along.

It is not my view that the role of inspectors general that they are there to go along to get along, particularly politically. They are there to do a hard job, answer difficult questions, investigate fairly, and get good results for the ratepayers and for the board.

Do you agree with that sentiment, and do you have any concerns about the way the Administration is treating inspectors general, specifically when you allow that treatment to pull you back in the performance of your duties?

Ms. CRYTZER. Senator, as I mentioned earlier to Chairman Braun, one of the most important qualities for an inspector general is that he or she be independent and objective. It is right there in the Inspector General Act. If I were fortunate enough to be con-

firmed, I intend to do my job independent and objectively, without any undue influence.

Senator WHITEHOUSE. Let me close out my time with a word about Senator Alexander, who supported all of your nominations. He has been instrumental in all of the TVA nominations during the 10-plus years that I have been in the Senate. I suspect, given the timing, that you will be the last TVA nominees that Senator Alexander has this role in supporting, because of his announced retirement from the Senate.

I just wanted to take a moment to say that it has been a pleasure working with him. He is a man of great honor and dignity. I think he has served the country and the TVA well with people who he has recommended and supported. So on this occasion, for Senator Alexander, a compliment from his friend, and best wishes.

Senator BRAUN. Thank you, Senator.

Senator Boozman.

Senator BOOZMAN. Thank you, Mr. Chairman. I want to echo what my friend, Senator Whitehouse, said about Senator Alexander and the fact that he has worked so hard in regard to this agency. It is so important for that region of the country.

Coming from Arkansas, adjacent, I understand the significance in everything it does. Again, I also want to commend Senator Alexander for all he has done through the years in a very, very positive way. Not only with that issue, but so many others.

Ms. Harwell, tell me, now, my experience is that things work best when the Federal Government gets along with the people they serve, local government and all the stakeholders. You have had a lot of experience in State government. Tell me how you feel like that you are in a position to do that in a good way.

Ms. HARWELL. Thank you, Senator. Indeed, my experience as both a House member and then speaker of the House led me to understand just how important it is to have a good working relationship with not only Federal officials, but certainly other State officials, and then that government that is closest to the people, the county and city officials.

So throughout my time in service in State government, I have prided myself on having a good working relationship with my colleagues in government.

Senator BOOZMAN. Good.

Ms. Harwell, Mr. Noland, TVA has a responsibility to the region it serves to continue to provide reliable, affordable electricity. That is balanced out, though, with maintaining high standards with regard to the environment, continuing to manage all the resources under their care in a professional, responsible manner.

How do you see TVA balancing keeping rates low, while still providing safe and reliable electricity?

Mr. NOLAND. Senator, I think the work that TVA has put in place over the course of the past couple of years chart a path forward for the future. TVA has made a commitment to ensure that it does not increase rates for the remainder of the decade. It has also put in place a series of accountability and stewardship elements that are central to the activities of the board.

As board members, we help to frame and shape a vision for the organization, and then to hold its executives accountable for mov-

ing in that direction. I look forward to being a part of that, to learning more about those opportunities.

But I have also had the direct opportunity to see the benefits of TVA up close and personal. The economic development work that occurs in our area is central to the future of rural communities all across the south. I also have had the chance to benefit personally from the amenities of many of the recreational opportunities that affords.

All those elements together create an entity that is vital for the future of our region of this country.

Senator BOOZMAN. Thank you.

Ms. Crytzer, I really don't have any questions for you, but I did enjoy visiting with you and talking to you at length about your responsibilities in the future. I appreciate you, I appreciate Ms. Harwell and Mr. Noland, for your willingness to serve.

This is something that, these aren't glamorous positions. But they are so, so very important, and really the underpinning of our economy, the underpinning of the region, of that part of the country.

So we do appreciate your service and your willingness to serve, and look forward to supporting all of you as we go forward through the process.

Ms. CRYTZER. Thank you, Senator.

Senator BOOZMAN. Thank you.

Senator BRAUN. Thank you, Senator Boozman.

Senator Carper.

Senator CARPER. Thanks, Mr. Chairman.

I can just barely see you out there.

[Laughter.]

Senator CARPER. Any of you from Tennessee, is that what I understand?

My wife grew up in Boone, North Carolina, in western North Carolina. She owns, we own, a farm in Zionville, North Carolina. If you drive west out of Boone, you drive into Tennessee, turn around and come back into North Carolina, you go to her farm. She went to Appalachia State as an undergraduate and University of Tennessee for graduate school. So we feel some kinship to all of you.

I thank you for your willingness to take on these responsibilities, which I think are important responsibilities. I must say, in terms of the kind of progress that has been made at TVA with respect to the mix of energy sources that they rely upon, and they still produce some electricity, as we know, with coal and fossil fuels, but a whole lot with hydro and a growing amount, still quite a bit with nuclear, which I think is appropriate. But some growing commitment and investment in renewables, too.

Let me just ask, if I can, Ms. Harwell, I feel like I should call you Speaker. People ask me what they should call me, I have been a treasurer, Congressman, Governor, Senator, and retired Navy captain. People ask me what they should call me, and I say, "Excellency."

[Laughter.]

Senator CARPER. So what should people call you?

Ms. HARWELL. Senator, Ms. Harwell is just fine.

Senator CARPER. All right, Ms. Harwell. If you had to say there is one overarching goal that you would have if confirmed to serve, what would be something you would be thrilled to be able to accomplish as a member of this body?

Ms. HARWELL. Well, I think it would mean a great deal to me to ensure that TVA keeps heading in the right direction, trending the right way when it comes to its fiscal house. If you don't have your financial house in order, it is hard for you to live up to your other opportunities that would exist.

So I am pleased that they have a plan both for debt reduction and to reform their pension program. It would be my commitment as a board member to monitor that, and I would be very pleased to see TVA continue to get sounder footing in its financial conditions.

Senator CARPER. Dr. Noland, same question. What would be, at least initially, your greatest desire to accomplish, be part of accomplishing?

Mr. NOLAND. Senator, thank you for that question. I enjoyed our conversation the other day, with the story of your "Excellency" title.

Senator CARPER. As did I.

Mr. NOLAND. With respect to an overarching goal, it would be the opportunity to play a small role in the continuation of the mission of the TVA to improve the quality of life for the people of our region.

As you look across the rural south, there are communities that are being left behind in a rapidly changing economic world. The opportunity for TVA to play a role in economic development, job recruitment, and business expansion in rural areas of the south is something that I would look forward to the opportunity to play a small role in.

Senator CARPER. All right, thank you.

Ms. Crytzer, if I could, how are you today? Welcome. Very nice to see you.

In recent weeks, our President has fired or removed, I think, a number of inspectors general who were investigating his Administration. His actions, for me at least, send a troubling message to the remaining inspectors general that we have. They play an important role, as you know, in the system of checks and balances on which literally our democracy relies.

In the last 2 months, I think the President has fired the IG for the Intelligence Committee, Michael Atkinson, for his involvement with the Ukraine whistleblower complaint. He has replaced the Acting Defense Department IG, Glenn Fine, who was highly regarded. He was voted, in fact, by his peers to chair the Watchdog Panel overseeing the COVID-19 stimulus funds, but he fired him.

The President has replaced the Acting Inspector General for the Department of Health and Human Services, Christi Grimm, soon after she released her report on COVID-19 hospital supply shortages and testing delays. And he announced, just this past Friday night, he was firing the Inspector General of the State Department, Steve Linick, reportedly for opening an investigation into whether Secretary Pompeo and his wife were using State Department employees inappropriately.

So I would have a question for you, not a trick question, but just looking for an honest answer. I have these core values that sort of guide me in my life, you probably do, too. And for me, the first one is, figure out the right thing to do, and not what is easy, not what is expedient, but what is right, and just try to do what is right.

The second is, embrace the Golden Rule, treat other people the way we want to be treated. The third is focus on excellence in everything we do, if it isn't perfect, make it better. Finally, just don't give up. Just don't give up.

And with respect to—different people have different views of what is right or wrong, but I would—I don't mean to put you on the spot, but honestly tell us, do you think it is OK to remove inspectors general from their jobs simply because they aggressively and independently pursue evidence of wrongdoing, even if that wrongdoing is conducted at the highest political levels?

Ms. CRYTZER. Senator, the most important aspect of an inspector general is that someone be independent and objective. I don't know the full situation for each of those instances that you have mentioned. But what I can commit to you today is that if I am fortunate enough to be confirmed, I will do my job to the best of my abilities, consistent with the Inspector General Act, and that includes independence and objectivity.

Senator CARPER. Good. Just another similar question, just to go down that path a little further. Do you think it is OK for the President to subject inspectors general to public attacks on their credibility, on their independence, on their professionalism, simply because the report information that is inconsistent with the President's narrative?

Ms. CRYTZER. Senator, again, I am not familiar with all the facts in the situation that you have just mentioned. But what I can tell you is that if I were fortunate enough to be confirmed, I would do this job objectively and with independence. And I wouldn't let undue influence affect the way that I do my work.

Senator CARPER. OK.

Back to Dr. Harwell and Dr. Noland. I have been on this Committee now for 19 years. I have always encouraged folks who have been nominated to serve on TVA to endeavor to make TVA an industry leader when it comes to clean energy, energy efficiency, and safety.

Last year, TVA reported that it was on target to reduce carbon emissions by 70 percent from 2005 levels by 2030, without "impacting reliability or adversely increasing power rates." That is a laudable goal.

But I challenge TVA to go even further. Our Nation needs to be at what we describe as net zero emissions by no later than 2050, or we are not going to meet the climate goals that are set for us and for our planet.

I don't ask a lot of yes or no questions, but I will ask both of you a yes or no question. That would be, if confirmed, do you commit to continuing clean energy investments and ensuring that TVA is a national leader in technological innovation and environmental stewardship? Yes or no.

Ms. HARWELL. Yes, sir, I will.

Senator CARPER. Thanks very much.

Mr. NOLAND. Senator, yes, sir, I will.

Senator CARPER. All right, thanks very much. TVA's 2019 integrated resource plan calls for a significant expansion in solar energy of up to 14 gigawatts by 2038. You all will still be serving, I am sure, on the TVA then. So this is germane. If confirmed, do you commit to fostering and supporting solar investments in the Tennessee Valley and at TVA? And if so, how might you do that?

Dr. Noland, would you like to go first?

Mr. NOLAND. Senator, thank you for that question. I would echo your comments regarding the positive directions of that commitment. In fact, there was a story in the Johnson City Press earlier this week that talked about the first TVA solar farm in Washington County, which is the county that I call home.

At our institution, there are more than five buildings on our campus that have solar panels on the roofs, so that demonstrates my personal commitment to renewable energy, all of which have been installed during my tenure as president. I would look forward to taking those local initiatives across the areas served by the TVA.

Senator CARPER. OK.

Same question for Dr. Harwell.

Ms. HARWELL. Yes, sir, I would commit to that, with always, in the back of my mind, concern for the ratepayers.

Senator CARPER. How would you go about doing that? I appreciate the commitment. But how might you go about doing that?

Ms. HARWELL. Well, I think the TVA has taken the first step by holding rates steady for a decade, especially during this very challenging time. That is important.

Senator CARPER. When I say doing that, I asked you if you would be committed to fostering and supporting solar investments in the Tennessee Valley, TVA, that is what I asked. The question was, how would you go about doing that?

Ms. HARWELL. Well, I think it is new, it depends on the geography, the area that we are talking about. But I certainly think that I would commit to encouraging the staff to look into the possibilities of expanding solar energy.

Senator CARPER. All right, thank you.

Dr. Harwell, let me just ask one more question. Dr. Harwell, do you question the conclusions of the issued Fourth National Climate Assessment, and also GAO reports that state our economy is at risk if we do not take climate actions? And if so, why?

Ms. HARWELL. I do believe that the climate is changing, and I do think that we need to be aware of it, and further scientific study needs to be enacted. But I am committed, as I believe the TVA is, to lower their emissions.

Senator CARPER. All right, thank you.

Mr. Chairman, I think my time has expired.

What do you think, more than expired?

Senator BRAUN. I gave you a lot of time.

Senator CARPER. You really did, I am grateful. Thanks so much. I owe you one.

Senator BRAUN. You are welcome.

Senator CARPER. Thank you all.

Thank you.

[The prepared statement of Senator Carper follows:]

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

Thank you, Mr. Chairman, for convening this hearing and continuing the conversation we began during our hearing on this very topic in April 2018, less than a year ago. The subject is particularly timely now, given recent actions by the Trump administration.

The Clean Air Act requires EPA to partner with States to address air pollution, especially air pollution that crosses State borders. The Act ensures all States are good neighbors when it comes to clean air.

These protections are critical for my home State of Delaware because our State is located at the end of what I call "America's tailpipe." This means that other States' dirty emissions from cars and power plants drift east into our State and other downwind States. This cross-State air pollution makes it impossible for Delaware to meet national health air pollution standards without the cooperation of upwind States and the EPA.

However, instead of working with States on solutions to our clean air problems, Administrator Wheeler's EPA has actually made it more difficult for States, especially downwind States, to meet clean air goals.

For example, Wheeler's EPA has rejected 126 Clean Air Act petitions filed by three States—Delaware, Maryland, and Connecticut—that ask EPA to require upwind power plants to install, or consistently operate already installed, pollution controls.

Furthermore, Administrator Wheeler's EPA is cutting State air program funding, weakening enforcement and rolling back critical clean air protections that will exacerbate the ongoing air pollution confronting our States. Here are just three examples of such rollbacks.

First, Administrator Wheeler told members of this Committee in January that, "no one wants a 50-State deal more than I do," when asked about negotiating a "win-win" compromise on vehicle fuel economy and greenhouse gas standards with California. But 2 weeks ago, EPA walked away from even the pretense of negotiations, despite being asked by every single automaker, utilities, auto parts suppliers, and others to strike a deal.

Second, last September, Administrator Wheeler signed a proposal at the behest of the oil and gas industry to repeal basic rules requiring them to control leaking methane gas. Administrator Wheeler's own proposal states the rollback would increase leaking methane by 380,000 short tons, increase leaking volatile organic compounds by 100,000 tons, and also result in 3,800 tons of leaking hazardous air pollution.

The proposal says EPA "expects [the proposal] may degrade air quality and adversely affect health and welfare," but EPA has declined to quantify the negative health effects or determine how many people will be affected. EPA has also declined to determine how this proposal will affect States' ability to meet air quality standards.

So EPA is admitting its methane rollbacks will increase air pollution, but leaves States in the dark on how this additional pollution will harm their constituents and whether it will push them into nonattainment or not.

Third, in the eleventh hour before the Government shutdown in December 2018, Administrator Wheeler signed a proposal that guts the legal foundation of the Mercury and Air Toxics Standards—also known as the MATS rule. Using outdated data, EPA decided that some benefits, like reductions in cancer, birth defects, and asthma attacks, are no longer important for the agency to count, and proposed action that puts the MATS rule in legal jeopardy. Undermining the MATS rule could result in installed mercury and air toxic control technology to be turned off, putting downwind States at particular risk.

Every stakeholder—from the coal fired utilities who comply with the rules, to religious leaders, to health experts, to environmental organizations, to the Chamber of Commerce—have urged this Administration not to take this step. Administrator Wheeler has so far ignored these pleas to keep the MATS rule in place and effective.

These are just three examples of EPA's rollbacks of clean air regulations that will likely result in increased air pollution across this country. There are many more that I've not mentioned today. It's clear that these rollbacks harm our air quality and public health, yet EPA refuses to model any of those negative effects.

So we have a situation in which Administrator Wheeler's EPA is denying downwind States' efforts to hold upwind States accountable for their own air pollution and expanding air pollution that crosses State borders, while taking away critical financial tools and programs that help States address pollution.

Cooperative federalism means cooperation between the Federal Government and the States to solve problems. As we will hear today, many States are not receiving much cooperation from this Administration. Instead, States are finding themselves without a Federal partner in addressing these serious problems.

We may have changed Administrators, but clearly, we have not eliminated the problems with this Administration.

I look forward to today's hearing.

Senator BRAUN. If there are no further questions for today, members may also submit follow up questions for the record by 4 p.m. on Friday the 22nd. The nominees should respond to those written questions by 4 p.m. on Thursday, May 28th.

I want to thank you all for the willingness to appear before this Subcommittee today.

This hearing is adjourned.

[Whereupon, at 3:59 p.m., the hearing was adjourned.]