



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

THE ADMINISTRATOR

November 5, 2019

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

Re: Seven Day Letter – Full story

Dear Administrator Wheeler:

I have neither delayed nor refused to fully cooperate with the EPA's Inspector General (OIG). On August 29, 2019, I met with OIG staff for thirty minutes at their request, answered their questions, and provided them with written material and emails concerning their inquiry into the House Science, Space, and Technology Committee hearing testimony matter. On July 24, 2019, I met with OIG investigators for over an hour and answered their questions on administrative and personnel matters. I have repeatedly advised the OIG that I would respond to them concerning their questions on these matters or any others when I have information concerning the topics they wish to discuss. In every previous meeting of the at least twenty-seven times I have met with the OIG, they have provided me with what they would like to talk about. I have also offered to respond in writing to any questions they wish to submit to me. The OIG has only advised me they would like to discuss personnel matters. Since joining the EPA two and a half years ago, I have been involved in a few hundred personnel matters. I would simply like to have the opportunity to prepare in order to have an accurate and informed response. The OIG has not accepted my offers.

I am writing to respond to the letter you have received from Acting Inspector General Sheehan contending that I have presented delays and refuse to cooperate with his office. Although Mr. Sheehan's letter creates a narrative, I would like to provide the full account of both matters with as much explanation, documentation, and full email discussion as I have been able to find.

Over the past two and a half years as an employee of the EPA, I have either met directly with the former Inspector General and Acting Inspector General or met with OIG staff at least twenty-seven times that I can find in my calendar. With very limited exceptions, all have been at the OIG's request. In each of those instances, the OIG has advised me of the purpose for their meeting request. Attachment A demonstrates how the OIG has contacted me, provided an explanation either by email or over the phone, and often provided a memorandum outlining their inquiry. In each instance, I have either responded in writing, in a personal interview, or both.

As you know, when any new Administrator begins their service at the EPA, they regularly issue agency-wide memorandums highlighting their priorities. When Administrator Pruitt began his tenure at

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the EPA, I coordinated a memorandum from him to the agency encouraging cooperation with the OIG. Attachment B includes the emails leading to his agency-wide memorandum.

Likewise, when you began your service as Administrator, you asked me to coordinate a memorandum from you to the agency to encourage employees' cooperation with the OIG and to report fraud, waste, and abuse to the OIG for review. Attachment C includes the emails leading to your agency-wide memorandum.

Cooperation with the OIG and all EPA offices is something I not only take seriously, it is something I have worked to enforce. When I joined the EPA, I discovered that the OIG and EPA's Office of Homeland Security failed to share information with each other and failed to have any kind of a productive working relationship. For years, this conflict had been the subject of Congressional inquiries, a Government Accountability Office investigation, an inspector general investigation from outside the EPA, and the subject of directives from at least one former Obama Administration EPA Administrator and a former Obama Administration Deputy EPA Administrator to both offices to work together. I have installed new personnel at the EPA's Office of Homeland Security who have changed that office and developed a new working relationship with the OIG.

### **First matter**

On August 29, 2019, OIG staff included me on an email to EPA's Assistant Deputy Administrator asking to meet with him concerning an audit the OIG was beginning based on a request from Members of Congress. I knew that the OIG staff would ultimately contact me concerning this audit due to the June 26, 2017 letter, which may be found in Attachment D. When I did not hear from the OIG, I emailed the OIG on September 11, 2019, that I was eager to speak with them. OIG staff did not set up a meeting with me until October 3, 2019. When the OIG set up the meeting, OIG staff also sent a memorandum describing what they intended to discuss. Attachment E demonstrates the email conversation, my calendar entry, and OIG memorandum.

The meeting lasted approximately thirty minutes, and I provided the OIG with the training all employees receive at EPA including whistleblower training. Attachment F contains what I provided the OIG. I provided the OIG with emails from 2017 demonstrating my work attempting to coordinate an agency-wide memorandum from the former EPA Administrator concerning employees' whistleblower rights. Attachment G contains those emails. I also provided the OIG with emails from 2018 demonstrating my work coordinating the agency-wide memorandum you sent advising EPA employees of their whistleblower rights. Attachment H contains those emails and your memorandum. Finally, I provided a full explanation to the OIG of this situation which I am pleased to also provide in this letter.

This situation involved an invitation by the House Science, Space, and Technology Committee Democratic staff for the chairwoman of EPA's Board of Scientific Counselors to provide testimony at a May 23, 2017, Environment Subcommittee hearing. The Environment Subcommittee hearing was titled, "Expanding the Role of States in EPA Rulemaking." The hearing included a total of three witnesses. Republican staff invited the other two witnesses who were the directors of the Arizona and Arkansas Departments of Environmental Quality.



Although you do not need this explanation, for the purposes of this letter, I would like to explain that EPA's Board of Scientific Counselors is one of more than two dozen various committees of volunteers, whose expenses the EPA compensates, to help advise the EPA's offices on any number of matters. The members on these committees serve terms of two-years or three-years at a time with an opportunity for renewal. EPA has no obligation to renew an individual's term once it has expired. In fact, EPA has no obligation to continue a committee member's service even mid-term.

In the Spring of 2017, the former Acting Assistant Administrator for the Office of Research and Development requested that the former EPA Administrator reappoint 46 members of the Board of Scientific Counselors to a second three-year term. The Administrator chose instead to open the competition for these seats to the general public. In May 2017, EPA placed notices in the *Federal Register* requesting applications from individuals who would like to serve on the Board of Scientific Counselors. Placing notices in the *Federal Register* for individuals to serve in these capacities is the regular EPA procedure.

When the EPA opened the competition for seats on the Board of Scientific Counselors and at least two other EPA committees around the same time, I understand that the EPA received over 700 applications from the public to serve on these boards.

By June 2017, of those 46 positions on the Board of Scientific Counselors, 37 reapplied, 27 were reappointed, and 10 were not reappointed. By the end of 2017, over 40 additional members joined the Board of Scientific Counselors. In fact, since that time the EPA Office of Research and Development has instituted a new plan to ensure that more seats on the Board of Scientific Counselors are appointed on a staggered basis instead of so many at one time. Attachment I contains the chart I provided the OIG outlining the process and timeline. EPA's Office of Research and Development prepared this chart for me.

I believe that when invited to testify before Congress in May 2017, the Board of Scientific Counselors chairwoman disagreed with competing these seats. I also believe our former Acting Assistant Administrator for the Office of Research and Development was angry that the former Administrator did not simply reappoint 46 members for another three-year.

Prior to the May 23, 2017 subcommittee hearing, the Board of Scientific Counselors chairwoman had already been in the news saying that EPA was dismissing half of the Board of Scientific Counselors when the membership of the Board of Scientific Counselors had not been finalized. All except eleven seats were being competed because eleven members were serving in the middle of their terms.

I came to understand the board chairwoman advised the former Acting Assistant Administrator of the Office of Research and Development that she was testifying at the subcommittee hearing. Ignoring EPA practices, the former Acting Assistant Administrator never informed EPA's Office of Congressional and Intergovernmental Relations about the EPA board chairwoman's upcoming testimony before Congress. When I was informed the EPA's board chairwoman was testifying, I attempted to contact her and provide her with information about EPA's plans. I had a copy of her written testimony when I tried to contact her. She refused to call me so I emailed her. Attachment J contains what I believe are the full conversations before her testimony and what I provided her by email.

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As a manager at the EPA, I believe I have an obligation to ensure that the EPA's actions are accurately represented to the public. In this case, I believed I had an obligation to ensure that our Board of Scientific Counselors chairwoman was fully informed.

I would be fooling myself if I thought that the board chairwoman would offer testimony which was different than what she had been saying in media accounts only a couple of weeks previously. Contacting the board chairwoman, providing information, having her testimony, and identifying what I believed to be incorrect information in her testimony is my job. I explained this to the OIG.

### **Second matter**

On July 23, 2019, two OIG investigators came to my office asking to speak with me. My assistant was not immediately available, so they went into the immediately adjacent office of the agency's deputy chief of staff advising him that they had a meeting with me and that I was not in my office. However, they did not have a meeting with me. They arrived unannounced. My assistant returned to his desk and advised the two investigators that I was in your office. The investigators informed my assistant that they did not believe him because they saw that I was available for the next two hours through EPA's Outlook email system. My assistant again informed the investigators that I was in your office. The investigators then asked if I keep an accurate calendar since the Outlook email system indicated that I was free. My assistant explained to the investigators that I am frequently in and out of your office throughout the day whether initially planned or not. The investigators proceeded to argue with my assistant for nearly an hour. The investigators insisted that my assistant call me twice on my cell phone. However, the entire time I was in your office.

When I left your office, my assistant advised me about what happened. Although, frankly, I was disturbed over this account, I asked my assistant to set up an appointment with the two investigators for the next day. The appointment was set for 3pm, July 24, 2019. They had requested a thirty minute meeting. I asked what they wanted to talk about, and the investigators told me they wanted to talk to me about a time and attendance matter regarding a particular EPA employee. I spoke to the investigators initially for a little over thirty minutes. Attachment K is my calendar entry and emails concerning the meeting.

The investigators then changed the topic of their questions entirely asking me about situations more than two years old. However, because I believed the OIG investigators simply wanted a thirty minute meeting, I began to answer their additional questions thinking I was cooperating with only a few additional questions. However, over thirty minutes later, they were continuing to ask questions. I had already made an EPA Assistant Administrator wait while I answered the OIG investigators' questions. He had a prescheduled meeting with me. I realized that the OIG investigators were trying to take advantage of a situation where I had not had the opportunity to review information or refresh my recollection on situations and matters from more than two years ago. I ended the meeting and told the OIG staff that they needed to leave.

On October 8, 2019, a supervisor of the OIG investigators, emailed asking me for a meeting about an ongoing administrative investigation. I informed that supervisor of this entire account and what occurred on July 23 and 24, 2019. He informed me he "categorically denied my characterizations"



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without asking me, my assistant, the EPA deputy chief of staff, the EPA Assistant Administrator who waited for me, and I assume his own staff anything further about it. Despite always having some knowledge and an opportunity to be prepared and have a meaningful conversation with the OIG about matters of importance to them, the OIG continues to refuse to provide any information on what they would like to talk to me about beyond personnel matters. As you are aware, I have been involved in a few hundred personnel matters over the past two and a half years. I have repeatedly advised the OIG that I would meet with them if I can have an opportunity to prepare for what they would like to question me about. Attachment L provides the entire email conversation.

### **Conclusion**

I have neither delayed nor refused to fully cooperate with the OIG. In both of these matters, I have already met with the OIG. Although I have repeatedly advised the OIG that I would respond to them concerning their questions on these matters or any others when I have information concerning the topics they wish to discuss as they have provided me every time previously and offered to respond to questions in writing, the OIG has not accepted.

I am grateful for the opportunity to explain how I have demonstrated that I take the work of the OIG seriously. I have worked to ensure all offices within the EPA have a productive working relationship with the OIG. The OIG has an important role assisting the agency find waste, fraud, and abuse so that it can be corrected for the benefit of the EPA. I am also grateful to have the opportunity to fully explain both matters the Acting Inspector General raised to you. I believe that these full accounts demonstrate that an accusation that I have delayed or refused the OIG is simply wrong.

Thank you for the opportunity to respond.

Sincerely,



Ryan Jackson  
Chief of Staff