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United States Senate

COMMITTEE ON SMALL BUSINESS & ENTREPRENEURSHIP

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June 30, 2015

The Honorable Gina McCarthy
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Dear Administrator McCarthy:

I write to you today regarding the Environmental Protection Agency's (EPA) recent response to my May 26, 2015, letter in which you broadly deny any wrong-doing in last year's aggressive, taxpayer-funded public relations campaign to build public support for the now-final waters of the United States (WOTUS) rule. Your agency's June 11 response failed to adequately provide responsive answers to my original requests. As I stated in my initial letter, EPA's close coordination with far-left environmental organizations, such as the Sierra Club and others with deep ties to the Obama administration and President Obama's reelection campaign, is wholly unprecedented for a federal agency and completely inappropriate. Moreover, EPA's scheme to influence the public's opinion of the WOTUS rule came at a time when both the U.S. Senate and House of Representatives were considering legislation to block the rule, which possibly implicates a violation of the Anti-Lobbying Act.

I know EPA is familiar with the Regulatory Flexibility Act (RFA), which requires federal agencies to properly consult with small businesses when considering a major regulation. According to the Small Business Administration's (SBA) Office of Advocacy during a May 2015 Senate Small Business and Entrepreneurship Committee hearing, EPA failed to follow its obligations under the RFA during the WOTUS rulemaking process. Without a comprehensive analysis from the small business community, EPA decided independently that the WOTUS rule would not have a significant economic impact on a substantial number of small entities.

Even more concerning is the fact that EPA sent a letter identical to the one I received to Senate Environment and Public Works Committee Chairman Jim Inhofe (R-Okla.) in response to his letter raising entirely separate issues related to EPA's conduct during the WOTUS rulemaking process.¹ Your agency's form letter response to two Senate Committee Chairmen makes me question your dedication to thoroughly responding to Congressional inquiries, especially when vocalized on behalf of American small businesses. Accordingly, I again request that you promptly provide adequate responses to the below requests no later than Monday, July 13, 2015:

¹ Letter from Thomas Reynolds, Associate Administrator Office of Public Affairs, Environmental Protection Agency, to James Inhofe, U.S. Senator (June 11, 2015)(on file with the Committee).

1. You have stated that the website promoting comment to EPA and Congress was open to all. Which stakeholders, among those opposed to this proposed regulation, did you work with to promote access to this website? Please provide all communications, emails, and other documents showing that those opposed to the WOTUS rule were equal partners in developing messaging and tools that promoted comments to EPA and Congress.
2. Please produce all documents, information and emails between EPA employees and employees or associates of Organizing for Action discussing the proposed WOTUS rule from February 2014 to the present.
3. Please produce all emails, documents, and other information among EPA employees discussing outreach, messaging, publicity, and/or strategy related to the proposed WOTUS rule, and the involvement of Organizing for Action.
4. Please produce a list of all environmental nonprofits and constituent groups that EPA met with, consulted with, worked with or was otherwise involved with in the promotion, outreach, strategy, and/or messaging regarding the proposed EPA WOTUS rule.
5. Please produce all emails and documents to or from Thomas Reynolds regarding the messaging, outreach, strategy, and/or promotion underlying the proposed WOTUS rule.

Please direct responses to my staff on the Committee on Small Business and Entrepreneurship, Senate Russell Office Building, Room 428A. If you have any questions, please call (202) 224-5175.

Sincerely,



David Vitter

Chairman

Senate Small Business and Entrepreneurship Committee