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# United States Senate

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

WASHINGTON, DC 20510-6175

RYAN JACKSON, *MAJORITY STAFF DIRECTOR*  
BETTINA POIRIER, *DEMOCRATIC STAFF DIRECTOR*

July 28, 2015

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

Dear Administrator McCarthy:

As the principal oversight committee in the U.S. Senate with jurisdiction over the Environmental Protection Agency (EPA or Agency), the Committee on Environment and Public Works (EPW) has been investigating EPA's development of rules regulating greenhouse gas emissions from new, existing, and modified power plants. I am writing to object to the ongoing delays and lack of transparency regarding two of the EPW Committee's oversight requests.

In the course of this oversight, a letter was sent to EPA on April 17, 2015, seeking three categories of information and documents no later than May 11, 2015: (1) emails and other documents concerning communications with certain individuals and environmental groups related to these rulemakings; (2) information about contractors EPA has hired; and (3) documents about EPA's internal procedures for developing these rules. It was requested that EPA respond by May 11, 2015. Although EPA has produced documents on a rolling basis over the past three months, EPA has been unwilling to provide detailed information about the overall number of responsive documents that have not yet been provided and has refused to say when it will finish its document production. Questions also remain about the adequacy of EPA's search and its efforts to locate non-electronic copies of Agency records or responsive documents sent or received by EPA staff using personal email accounts.

A separate letter, sent jointly with the House Committee on Natural Resources on June 15, 2015, sought answers to two questions and four categories of documents about EPA's compliance with the Endangered Species Act in development of these rules. This bicameral letter requested a response by June 22, 2015. Although EPA provided a cursory response to the committees' questions on July 13, 2015, EPA's response letter did not even address the outstanding document request. In fact, EPW Committee staff was told on July 17, 2015, that EPA had not yet completed its search and it could not provide an estimate of the number of documents at issue or when it would complete its response.

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Our frustrations with these ongoing delays and lack of timely responsiveness to the Committee's document requests have been brought directly to the attention of EPA's Office of Congressional and Intergovernmental Relations and to the Chief Information Officer, Ann Dunkin, who has been nominated to serve as the Assistant Administrator for the Office of Environmental Information. However, EPA still has not provided any documents related to the ESA request and has not providing any updates regarding the status of the search and estimated date of completion for the April 17 request.<sup>1</sup>

EPA's lack of timely and complete responses and the ongoing uncertainty over its document searches, frustrate Congress' ability to fulfill its constitutional duty to perform oversight of the Executive Branch to ensure its actions are executed in accordance with the laws as written by Congress.<sup>2</sup>

As both the April 17 and June 15 requests are overdue, it is expected that EPA will provide the requested information in full without further delay. I appreciate your attention in resolving this matter.

Sincerely,



James M. Inhofe,  
Chairman

CC: Rob Bishop, Chairman  
Committee on Natural Resources  
U.S. House of Representatives

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<sup>1</sup> EPA staff has been vague and noncommittal in communications with EPW staff, saying only that an undetermined number of ESA related documents would begin to be provided sometime during the week of July 27 with still no target date for a full response. See, July 17, 2015 email from B. Brown to K. Aarons & T. Dickerson, subject: ESA Letter Follow Up.

<sup>2</sup> For example, the House Committee on Natural Resources is scheduled to hold a hearing on EPA's compliance with ESA in development of the power plant rules on July 29, 2015. To date, EPA has refused to provide any of the requested documents or to make an Agency official available to testify at this hearing. See, <http://www.eenews.net/eedaily/2015/07/27/stories/1060022421>.