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United States Senate

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

WASHINGTON, DC 20510-6175

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September 30, 2013

The Honorable Barbara Boxer
Chairman
Committee on Environment and Public Works
United States Senate
410 Dirksen Senate Office Building
Washington, DC 20510-6175

Dear Chairman Boxer:

I write to express my interest in a Senate Committee on Environment and Public Works (Committee) hearing on the fraudulent activity of former U.S. Environmental Protection Agency (EPA) senior official, John C. Beale.¹ A hearing is timely in light of Beale's guilty plea to government theft of \$886,186, on September 27, 2013.² While I appreciate the Committee briefing with the EPA Office of Inspector General (OIG) scheduled for this afternoon, I believe a comprehensive hearing with both OIG and EPA witnesses is necessary to fulfill the Committee's oversight responsibilities. Initial indication from your office that such will occur is noted.

As you are aware, the scope of Beale's fraud is much greater than reflected in his plea agreement and demonstrates clear breakdowns in EPA's operations. According to EPA Inspector General Arthur Elkins, "[the] absence of even basic internal controls at the EPA allowed [Beale] to commit multiple frauds over a long period of time."³ Moreover, it has been revealed that the mismanagement and lack of due diligence practiced by some EPA officials enabled Beale to engage in fraudulent activities, which may include current Administrator Gina McCarthy and Deputy Administrator Bob Perciasepe. As such, I view both individuals as essential witnesses in this inquiry and should be invited to testify before the Committee.

The excess salary and bonuses subject to Beale's guilty plea were approved by Deputy Administrator Perciasepe when he served as Assistant Administrator for the Office of Air and Radiation. Indication is that Perciasepe improperly awarded Beale a Retention Incentive Bonus in June 2000. At the time, it was discovered that Beale erroneously received the bonuses from 1994 to 2000 without any supporting documentation. While EPA's Retention Incentive Bonus is awarded for a three-year period and designed to retain competitive federal employees, Perciasepe failed to correct the error and authorized a new award without proper certification. Moreover, the bonuses should have ended in 2003, but Beale continued to receive the bonuses uninterrupted until February 2013.

¹ See *United States v. Beale*, No. 1:13-cr-00247-ESH (D. D.C. filed Aug. 23, 2013).

² Press Release, U.S. Dep't of Justice, *Former EPA Senior Policy Advisor Pleads Guilty to Theft in Scheme that Cost Government Nearly \$900,000* (Sept. 27, 2013), <http://www.justice.gov/usao/dc/news/2013/sep/13-339.html>.

³ *Id.*

Less than two months after Perciasepe approved Beale's bonus, Beale received a promotion to Senior Level ("SL") employee, which made him among the highest paid, non-elected federal government employees. Beginning in 2009, Beale's unjustified bonus in addition to his SL pay level elevated his annual salary to exceed the statutory maximum until 2012. Under 5 U.S.C. § 530, SES employees' aggregate annual salary is limited to the pay of the Vice President's salary.⁴ However, under the direct supervision of Administrator McCarthy when she served as Assistant Administrator for the Office of Air and Radiation, Beale was ostensibly the highest paid EPA official.

While it is true that Administrator McCarthy eventually reported her suspicions of Beale to the Office of General Counsel (OGC), this occurred only after several obvious infractions. Critically, from June 2011 to December 2012, Beale did not show up for a single day of work at EPA; yet he continued to receive his EPA salary as well as the Retention Incentive Bonus. Over this period of time, Beale provided a number of reasons for his absence: alleged work for the Central Intelligence Agency (CIA), CIA debriefing process, EPA annual leave, travel for EPA projects, as well as retirement. Despite these incredulous claims, McCarthy failed to report her suspicions of Beale until November 2012. As it turned out, McCarthy's decision to contact the OGC, who subsequently reached out to the Office of Homeland Security (OHS), materially impaired the OIG's investigation.

Finally, the OIG has indicated that Beale's fraudulent activities extended well beyond the false impersonation of a CIA officer. Additional conduct as an extension of the false identity included time card fraud, travel voucher fraud, wire fraud and misuse of an official government passport. While these activities occurred over the course of Beale's twenty-year career at EPA, Administrator McCarthy and Deputy Administrator Perciasepe are in the best position to explain the circumstances surrounding Beale's fraud, as well as the Agency's corrective actions to prevent this from happening again.

Accordingly, I request that you invite both Administrator McCarthy and Deputy Administrator Perciasepe to testify at a Committee hearing on this matter.

Sincerely,



David Vitter
Ranking Member
Environment and Public Works

⁴ See Memorandum from John Berry, Director, U.S. Office of Personnel Management, *Executive Order for 2012 Pay Schedules* (Dec. 21, 2011), available at <http://www.chcoc.gov/transmittals/TransmittalDetails.aspx?TransmittalID=4499>.