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JEFF MERKLEY, OREGON
KIRSTEN GILLIBRAND, NEW YORK
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DAVID VITTER, LOUISIANA
JAMES M. INHOFE, OKLAHOMA
JOHN BARRASSO, WYOMING
JEFF SESSIONS, ALABAMA
MIKE CRAPO, IDAHO
ROGER WICKER, MISSISSIPPI
JOHN BOOZMAN, ARKANSAS
DEB FISCHER, NEBRSAS

BETTINA POIRIER, MAJORITY STAFF DIRECTOR ZAK BAIG, REPUBLICAN STAFF DIRECTOR

## United States Senate

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS
WASHINGTON, DC 20510–6175

September 12, 2013

Dr. Linda S. Birnbaum, Ph.D., D.A.B.T., A.T.S. Director, NIEHS & NTP
P.O. Box 12233
Mail Drop B2-01
Research Triangle Park, NC 27709

Dear Dr. Birnbaum:

It has come to my attention that your recent involvement in various matters related to U.S. chemical safety policy may be creating confusion and misperceptions about the views and positions of the National Institute of Environmental Health Sciences (NIEHS) and the National Toxicology Program (NTP). Specifically, I am concerned about your intention to speak at a panel discussion September 19, 2013, for the screening of "Unacceptable Levels" in Washington, DC, and your authorship of a recently-published article regarding chemicals and health. Both the film and the article convey a biased, one-sided approach regarding chemical safety, which is in stark contrast to the National Toxicology Program's (NTP) stated mission of maintaining an "objective, science-based approach" when evaluating potential public health concerns. I

As Director of the NIEHS and NTP, your involvement in a panel entitled "Environmental Exposure and Cancer: Asking Questions and Taking Action," creates an appearance that your Agency endorses the positions on human health risks expressed by the film makers. Yet NTP's mission is to use the best science available to "identify both what the effects of chemicals are and at what levels of exposure they may become hazardous to humans." Clearly, NTP scientific studies and reviews indicate there are exposures to chemicals that do not have harmful effects on humans as well as exposure levels that are not hazardous. Contrary to NTP's position, the director of "Unacceptable Levels" wrote in a recent article that "acceptable levels' of toxic chemicals is an oxymoron."

About the NTP, http://ntp.niehs.nih.gov/?objectid=7201637B-BDB7-CEBA-F57E39896A08F1BB

<sup>&</sup>lt;sup>3</sup> Ed Brown, 10 Things I Wish All Americans Knew About Toxins August 6, 2013, http://www.mindbodygreen.com/0-10504/10-things-i-wish-all-americans-knew-about-toxins.html

As you are likely aware, this unquestionably biased film features interviews with numerous anti-industry activists and relies heavily on the use of emotion and scare tactics. The film's promotional site reads, "Over 80,000 chemicals flow through our system of commerce, and many are going straight into our bodies. Even our unborn children are affected." However, NTP claims that out of the more than 80,000 registered chemicals in the United States, "relatively few chemicals are thought to pose a significant risk to human health." Furthermore, the Centers for Disease Control states that the presence of an environmental chemical in human body fluids does not by itself mean that the chemical causes disease. For these reasons, I believe it is a conflict of interest for you to participate in an activist event such as the "Unacceptable Levels" tour.

Additionally, in an article you published recently in the journal *Trends in Endocrinology* and *Metabolism*, you made broad generalizations about the relationship between chemical exposure and rising disease rates. Proper citation for several of your claims was not provided in the article. Some of your statements against the efficacy of current chemical safety tests gave the impression that the NIEHS is at odds with the way in which other U.S. government agencies review and regulate chemicals.

As you know, articles published by a government employee must include "a reasonably prominent disclaimer satisfactory to the agency stating that the views expressed in the article do not necessarily represent the views of the agency or the United States." The article was not only a reflection of poor science, but of poor judgment on your part not to include the appropriate disclaimer to ensure the NIEHS could not be held responsible for your claims.

As has been demonstrated by work within the United States Senate on the bipartisan Chemical Safety Improvement Act of 2013, there is a serious effort underway to reform our outdated federal chemical policy. Despite the ongoing efforts of one quarter of the Senate, it is further discouraging that this meaningful endeavor has been summarily dismissed by the director of the very film your panel participation will promote with seemingly no substantive analysis.<sup>7</sup>

<sup>&</sup>lt;sup>4</sup> Unacceptable Levels, A film about chemicals in our bodies and how they got there. http://www.unacceptablelevels.com/about/

<sup>&</sup>lt;sup>5</sup> About the NTP, http://ntp-server.niehs.nih.gov/?objectid=7201637B-BDB7-CEBA-F57E39896A08F1BB

<sup>&</sup>lt;sup>6</sup> Fourth National Report on Human Exposure to Environmental Chemicals, available at www/cdc.gov/exposurereport/pdf/FourthReport.pdf, at page 8.

<sup>&</sup>lt;sup>7</sup> Non-toxic Kids, *Interview with Ed Brown, Creator of the film Unacceptable Levels* August 14, 2013, http://www.non-toxickids.net/2013/08/interview-with-ed-brown-creator-of-film.html

Should you choose to participate in this event, please clarify: are you doing so representing NIEHS, the National Institutes of Health, NTP, and/or the Department of Health and Human Services, or on your own as a private citizen? As stated above, I feel your participation in such an event and your publishing of unsubstantiated articles stands in sharp contradiction to your organization's mission, and indicates a strong bias on your part.

Sincerely,

David Vitter

Ranking Member

cc: Ms. Kathleen Sebelius, Secretary, U.S. Department of Health and Human Services

Dr. Francis Collins, Director, National Institutes of Health

Dr. Lawrence A. Tabak, Principal Deputy Director, National Institutes of Health