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United States Senate

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

WASHINGTON, DC 20510-6175

May 13, 2008

The Honorable Stephen Johnson
Administrator
Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Dear Administrator Johnson:

As Members of the Senate Committee on Environment and Public Works ("the Committee"), we are writing to request information about the allegedly forced resignation of Mary Gade as the Environmental Protection Agency's (EPA) Region 5 Administrator. News outlets have reported that individuals in your office forced Ms. Gade to resign after she decided to protect public health by forcing the Dow Chemical Corporation to clean up a heavily-contaminated Superfund site.

We are writing to request from you full information of the circumstances surrounding Ms. Gade's departure. As you know, Congress and the American people expect EPA to enforce vigorously our public health protections – and to preserve the integrity of the enforcement program by excluding politics from such activities. We are troubled by reports suggesting that there was a link between her efforts to assure an aggressive cleanup by Dow and her allegedly forced departure, and are seeking answers from you to key questions.

A May 2 story in the *Chicago Tribune* states that Ms. Gade:

has been locked in a heated dispute with Dow about long-delayed plans to clean up dioxin-saturated soil and sediment that extends 50 miles beyond its Midland, Mich., plant into Saginaw Bay and Lake Huron. The company dumped the highly toxic and persistent chemical into local rivers for most of the last century.

The news report also states that Ms. Gade:

invoked emergency powers last summer to order the company to remove three hotspots of dioxin near its Midland headquarters. She demanded more dredging in November, when it was revealed that dioxin levels along a park in Saginaw were 1.6 million parts per trillion, the highest amount ever found in the U.S. Dow then sought to cut a deal on a more comprehensive cleanup. But Gade ended the negotiations in January, saying Dow was refusing to take action necessary to

protect public health and wildlife. Dow responded by appealing to officials in Washington....

The article says that Ms. Gade:

drew fire from officials in Washington after she sent contractors to test soil in a Saginaw neighborhood where Dow had found high dioxin levels. The levels in one Saginaw yard were nearly six times higher than the federal cleanup standard, and 65 times higher than what Michigan considers acceptable.

According to media reports, she received "high marks" from EPA officials in her last performance review. However, we are also aware of more recent suggestions that there may have been other circumstances that contributed to her leaving; we are seeking answers to get to the bottom of this issue.

Against the backdrop of allegations of political intervention in EPA decision-making that have been aired at recent hearings before this Committee, as well as similar allegations that we have heard from EPA staff and seen widely reported in the media, it is important for there to be a full explanation of the circumstances surrounding Ms. Gade's allegedly forced resignation. Under the Committee's due and proper authority to inquire and investigate into the administration of environmental laws, we ask that you furnish responses to the following questions (attached) no later than May 23, 2008, unless otherwise noted. If you have any questions, please contact Carlos Angulo or Brad Crowell with Senator Whitehouse at (202) 224-2921, or Erik Olson or Grant Cope with the Committee, (202) 224-8832.

Sincerely,



Barbara Boxer
Chairman



Sheldon Whitehouse
United States Senator

QUESTIONS

1. What is Ms. Gade's current status at EPA? How long will she stay in that status?
2. Was Ms. Gade asked or encouraged to resign, or told that if she did not resign by a date certain that she would be terminated? What exactly was she told?
3. If Ms. Gade was asked or encouraged to resign, please provide the names and titles of each individual who communicated to Ms. Gade the Agency's position that she would be asked or encouraged to resign, and if a date certain was provided by which she was asked or encouraged to resign, what was that date?
4. What was the basis for EPA's decision to ask or encourage Ms. Gade to resign?
5. What basis for EPA's decision was given to Ms. Gade?
6. Did you yourself approve or discuss any decision to ask for or encourage Ms. Gade's resignation? If so, what were the circumstances giving rise to your involvement, and what were the reasons for your decision or views on this matter?
7. Who else at EPA agreed to or was aware of the Agency's decision to ask or encourage Ms. Gade to resign?
8. Did anyone from the White House have any involvement in the decision to ask or encourage Ms. Gade's resignation? If so, who, and what were the circumstances surrounding that involvement?
9. When was the White House informed of the decision to ask for or encourage Ms. Gade's resignation?
10. Did you or anyone at EPA discuss the possibility of Ms. Gade's removal, resignation, or disciplining at any time with any agent, employee or representative of Dow? If the answer to this question is yes, who participated in these discussions and when did those conversations take place?
11. Did you or anyone at EPA discuss the possibility of Ms. Gade's removal, resignation, or disciplining at any time with anyone from the White House? If the answer to this question is yes, who participated in these discussions and when did these conversations take place?
12. To your knowledge, did anyone at the White House discuss the possibility of Ms. Gade's removal, resignation, or disciplining with any agent, employee or representative of Dow? If the answer to this question is yes, who participated in these discussions and when did those discussions take place?

13. Please identify and describe any discussions of which you are aware between EPA officials in the Agency's Washington office(s) and any White House officials since May 15, 2007, regarding cleanup of dioxin contamination in Saginaw Bay or Lake Huron.
14. Please identify any discussions of which you are aware between EPA officials in the Agency's Washington office(s) and any agent, employee, or representative of Dow since May 15, 2007, regarding cleanup of dioxin contamination in Saginaw Bay or Lake Huron.
15. Please identify and describe any discussions of which you are aware between anyone from the White House and any agent, employee, or representative of Dow since May 15, 2007, regarding cleanup of dioxin contamination in Saginaw Bay or Lake Huron.
16. Who at EPA signed Ms. Gade's most recent performance evaluation? When was that evaluation delivered?
17. Did you review or approve Ms. Gade's most recent performance evaluation?
18. Please furnish us with a copy of Ms. Gade's most recent performance evaluation.
19. During your tenure as Administrator at EPA, please describe any other instance in which a Regional Administrator was disciplined in any way for decisions made in the discharge of his or her duties.
20. Please furnish us, no later than May 27, 2008, with all documents in the possession of the Agency, whether stored electronically or in hard copy, that discuss, reflect, evidence or are in any way related to your responses to questions 1-20, above.
21. Please furnish us, no later than May 27, 2008, with all documents (1) referencing or authored by Ms. Gade, and (2) associated with Ms. Gade's actions to enforce the clean-up of dioxin pollution associated with Dow Chemicals Co.'s Midland, Michigan plant.