

# Congress of the United States

Washington, DC 20515

March 18, 2013

Mr. Jared Blumenfeld  
Administrator, Region 9  
U.S. Environmental Protection Agency  
75 Hawthorne Street  
San Francisco, CA 94105

Dear Mr. Blumenfeld:

We write to inquire about your use of a non-official e-mail account to conduct government business as the Region 9 Administrator for the EPA. We are concerned that your use of a personal e-mail account, other than your official account, is demonstrative of a larger problem at EPA. Our Committees have uncovered several attempts to circumvent disclosure of federal records and documents responsive to Freedom of Information Act (FOIA) requests or congressional requests. Accordingly, we call on you as a Regional Administrator to stand up for the interest of transparency and cooperate with our ongoing investigation into the inappropriate use of non-official e-mail accounts to conduct Agency business.

As you are aware, EPA policy explicitly prohibits the use of non-EPA e-mail accounts instructing employees: “do not use any outside e-mail system to conduct official Agency business. If, during an emergency, you use a non-EPA e-mail system, you are responsible for ensuring that any e-mail records and attachments are saved in your office's recordkeeping system.”<sup>1</sup> Failure to follow this explicit protocol increases the possibility that the agency and its employees will violate the Presidential Records Act<sup>2</sup> (PRA) and the Federal Records Act<sup>3</sup> (FRA). Moreover, such actions complicate agency compliance with FOIA requests and Congressional requests.<sup>4</sup> Despite the clear policy prohibiting use of personal emails, we understand that several high ranking EPA officials, including Acting Administrator Percaisepe, have used their personal e-mail account for official purposes.

It has come to our attention that you used a non-official e-mail account to send a message that related to your official duties to then-Administrator Lisa Jackson's Richard Windsor alias account.<sup>5</sup> There does not appear to be any emergency circumstances justifying the use of a non-official e-mail account. Moreover, the fact that the e-mail was sent to Administrator Jackson's alias account heightens our concern.

While it is possible that you may have a valid reason for using your personal account to send this particular email, it is unclear whether this is an isolated incident or whether you used

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<sup>1</sup> ENVTL. PROT. AGENCY, *Frequent Questions about E-Mail and Records*  
<http://www.epa.gov/records/faqs/emails.htm> (last accessed Feb. 27, 2013).

<sup>2</sup> See 44 U.S.C. § 2201.

<sup>3</sup> See 44 U.S.C. § 31.

<sup>4</sup> See 5 U.S.C. § 552.

<sup>5</sup> See <http://www.epa.gov/epafoia1/docs/Second-Release-Part-P.pdf> (last accessed Feb. 27, 2013).

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your personal account for other official business. Therefore, to clarify the record and to assist the Committees' oversight of EPA email practices and compliance with the Federal Records Act, we respectfully request that you personally certify, in writing, whether in addition to this email you ever used a non-official email account to conduct official business.

We request that you provide the Committees with this personal certification no later than April 1, 2013.

Thank you for your prompt attention to this matter. If you have any questions, please contact Kristina Moore with the Senate Committee on Environment and Public Works at (202) 224-6176 or Tyler Grimm at House Oversight and Government Reform at (202) 225-5074.

Sincerely,



Darrell E. Issa  
Chairman  
House Committee on Oversight and  
Government Reform



David Vitter  
Ranking Member  
Senate Committee on Environment  
and Public Works

cc: The Honorable Elijah E. Cummings, Ranking Member  
Committee on Oversight and Government Reform

The Honorable Barbara Boxer, Chairman  
Committee on Environment and Public Works