

BARBARA BOXER, CALIFORNIA, CHAIRMAN

MAX BAUCUS, MONTANA
THOMAS R. CARPER, DELAWARE
BENJAMIN L. CARDIN, MARYLAND
BERNARD SANDERS, VERMONT
SHELDON WHITEHOUSE, RHODE ISLAND
TOM UDALL, NEW MEXICO
JEFF MERKLEY, OREGON
KIRSTEN GILLIBRAND, NEW YORK
CORY A. BOOKER, NEW JERSEY

DAVID VITTER, LOUISIANA
JAMES M. INHOFE, OKLAHOMA
JOHN BARRASSO, WYOMING
JEFF SESSIONS, ALABAMA
MIKE CRAPO, IDAHO
ROGER WICKER, MISSISSIPPI
JOHN BOOZMAN, ARKANSAS
DEB FISCHER, NEBRASKA

United States Senate

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

WASHINGTON, DC 20510-6175

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

April 8, 2014

The Honorable Arthur A. Elkins, Jr.
Inspector General
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Dear Mr. Elkins:

As you are aware, the Senate Committee on Environment and Public Works (EPW) minority staff has been conducting an investigation into the circumstances surrounding the case of former Environmental Protection Agency (EPA) official and convicted felon, John Beale. In an effort to get to the bottom of the Beale matter, my staff has conducted a thorough and independent review of documents provided by the EPA Office of Inspector General (OIG). These documents contributed to several memoranda¹ and a staff report, *EPA's Playbook Unveiled: A Story of Fraud, Deceit, and Secret Science*,² that raise serious questions about the OIG's involvement in and characterization of the Beale matter. I am glad to hear that you believe "[t]he work of [the OIG] is made more valuable when Members of Congress take an active interest in it" and appreciate your willingness to "assist the Committee with its independent review."³ Accordingly, I write to seek further clarification from you on these matters.

In the first instance, documents the OIG provided to the Committee indicate that in January 2011, EPA Administrator Gina McCarthy became aware that Beale was receiving unauthorized bonuses and that, as a result, his salary repeatedly exceeded the statutorily

¹ Memorandum from Republican Staff to Republican Members of the S. Comm. on Env't & Pub. Works, Questions Relating to EPA Negligence in Responding to Beale Fraud (Additional Individuals) (Feb. 7, 2014) (on file with Committee); Memorandum from Republican Staff to Republican Members of the S. Comm. on Env't & Pub. Works, Additional Facts Regarding EPA Negligence in Responding to Beale Fraud (Robert Brenner) (Feb. 6, 2014) (on file with Committee); Memorandum from Republican Staff to Republican Members of the S. Comm. on Env't & Pub. Works, Additional Questions Relating EPA Negligence in Responding to Beale Fraud (Bob Perciasepe) (Feb. 5, 2014) (on file with Committee); Memorandum from Republican Staff to Republican Members of the S. Comm. on Env't & Pub. Works, Additional Questions Regarding EPA Negligence in Responding to Beale Fraud (Feb. 4, 2014) (on file with Committee).

² S. COMM. ON ENV'T & PUB. WORKS MINORITY STAFF, *EPA'S PLAYBOOK UNVEILED: A STORY OF FRAUD, DECEIT, AND SECRET SCIENCE* (2014), available at http://www.epw.senate.gov/public/index.cfm?FuseAction=Files.View&FileStore_id=b90f742e-b797-4a82-a0a3-e6848467832a.

³ Letter from Hon. Arthur A. Elkins Jr. to Sen. David Vitter 1 (Jan. 14, 2014).

mandated cap.⁴ Yet Beale's bonus was not cancelled until February 2013, after he received more than \$573,364 in erroneous payments.⁵ McCarthy confirmed these facts in testimony before the Committee.⁶ Further, McCarthy attempted to explain the two-year delay by claiming that she was merely complying with orders to "stand down" from Assistant Administrator for the Office of Administration and Resource Management Craig Hooks.⁷ However, in his sworn testimony before the House Committee on Oversight and Government Reform, Hooks denied that he ever advised McCarthy to stand down.⁸ Moreover, Hooks explained that at the time in question, he and then-Assistant Administrator for the Office of Air and Radiation McCarthy held equal rank, and that he had no authority to stop her from taking actions against Beale.⁹ Despite this long delay, McCarthy maintained before the EPW Committee: "I did pursue [the Beale bonus] issue effectively, and I think the agency was addressing it effectively."¹⁰

The OIG has also characterized McCarthy's leadership as the driving force behind bringing an end to Beale's fraud.¹¹ For example, Assistant Inspector General for Investigations Patrick Sullivan testified that "[t]he first executive that ever questioned [Beale] working for the CIA was in fact Gina McCarthy. Beyond her suspicions, everyone else [OIG] interviewed flat-out believed he worked for the CIA."¹² However, Hooks testified that the only reason he believed that Beale had a CIA connection was because McCarthy affirmatively represented to him that Beale had a CIA connection.¹³

Hooks' testimony also revealed that you spoke about the Beale matter with him after one of the Administrator's weekly staff meetings.¹⁴ Hooks explained that the regular attendees of such meetings include "[a]ll of the Assistant Administrators, Deputy Assistant Administrators, Associate Administrators and senior officials close to the Administrator. . . . by that . . . mean[ing] all of the political leadership of the Agency. . . . includ[ing] the . . . Inspector General."¹⁵

⁴ See Memorandum from Scott Monroe to Gina McCarthy, John Beale Retention Pay (Jan. 12, 2011) (on file with Committee).

⁵ *Oversight of the Environmental Protection Agency's Fiscal Year 2015 Budget, Hearing Before the S. Comm. on Env't & Pub. Works*, 113th Cong. (Mar. 26, 2014) (testimony of Hon. Gina McCarthy).

⁶ *Id.* (citing Memorandum from Scott Monroe to Gina McCarthy, John Beale Retention Pay (Jan. 12, 2011) (on file with Committee)).

⁷ Robert Adachi, Administration Workpaper to document meeting held on November 14, 2013, @ 3:00pm EST with Gina McCarthy, EPA Administrator (Nov. 18, 2013) (on file with Committee).

⁸ Transcript of Interview of Craig Eugene Hooks at 119–20, 142, 152, H. Comm. on Oversight & Gov't Reform, 113th Cong. (Mar. 24, 2014) (on file with Committee).

⁹ *Id.* at 152.

¹⁰ *Oversight of the Environmental Protection Agency's Fiscal Year 2015 Budget, Hearing Before the S. Comm. on Env't & Pub. Works*, 113th Cong. (Mar. 26, 2014) (testimony of Hon. Gina McCarthy).

¹¹ See *Environmental Protection Agency Office of Inspector General on the John Beale Investigation: Briefing Before the S. Comm. on Env't & Pub. Works*, 113th Cong. (Sept. 30, 2013) (statements and testimony of Hon. Arthur Elkins and Patrick Sullivan).

¹² See *Secret Agent Man? Oversight of EPA's IG Investigation of John Beale: Hearing Before the H. Comm. on Oversight & Gov't Reform*, 113th Cong. (Oct. 1, 2013) (testimony of Patrick Sullivan).

¹³ Transcript of Interview of Craig Eugene Hooks at 36–37, 54, H. Comm. on Oversight & Gov't Reform, 113th Cong. (Mar. 24, 2014) (on file with Committee).

¹⁴ *Id.* at 29.

¹⁵ *Id.* at 14.

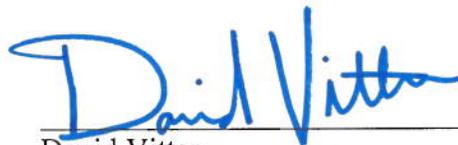
As you have previously stated, the Beale matter demands thorough review as we work towards the shared goal of rooting out waste, fraud, and abuse at the EPA. The aforementioned information has raised several discrepancies that require your attention. To allay these concerns, please provide complete and thorough responses to the following questions no later than April 23, 2014:

1. McCarthy asserted that she was told by Hooks to “stand down” and that she complied. Hooks, though, has not only challenged any notion that he told McCarthy to “stand down,” but has noted that he was then serving with equal rank to McCarthy and had no authority to give her orders.
 - a. Is Hooks correct in asserting that he has never had the authority to issue orders to Administrator McCarthy?
 - b. How did the OIG come to the conclusion that McCarthy’s version of events was accurate and Hooks’ was not?
2. Hooks asserted that he only advised to proceed with “cautio[n]” because of the supposed involvement of the CIA. Hooks further testified that the only reason he believed Beale had a CIA connection was because McCarthy represented to him that Beale had a CIA connection. Why did the IG misrepresent Hooks’ belief with regard to Beale’s CIA status?
3. Hooks testified that you attend a weekly meeting with other “senior officials close to the Administrator” that constitute “the political leadership of the Agency.”
 - a. Do you attend a weekly meeting with the Administrator and her senior officials?
 - b. Do you consider yourself to be a “senior official[] close to the Administrator”?
 - c. Do you consider yourself to be part of the “political leadership of the Agency”?
 - d. Even if you do not view yourself as a “senior official[] close to the Administrator” or part of the “political leadership of the Agency,” have you considered the impression of others in assessing your independence as the IG?
 - e. Has any aspect of the Beale matter been discussed in these meetings? If so, did you recuse yourself?
 - f. How often are matters involving ongoing OIG investigations discussed during these meetings?
 - g. How frequently do you recuse yourself during these meetings?

The Honorable Arthur Elkins
April 8, 2014
Page 5 of 5

I appreciate your prompt attention to this matter and look forward to your timely response.

Sincerely,

A handwritten signature in blue ink that reads "David Vitter". The signature is written in a cursive style with a large initial "D" and a long horizontal stroke at the end.

David Vitter
Ranking Member
Committee on Environment and Public Works