December 12, 2017

Ms. Kathleen Hartnett White  
Texas Public Policy Foundation  
901 Congress Avenue  
Austin, TX 98701

Dear Ms. White:

We write to request additional information about your responses to questions for the record\(^1\) sent to you by Members of the Environment and Public Works Committee after your confirmation hearing. In at least 18 instances (attached), your responses to these questions included language that also appeared verbatim in responses to questions for the record received from EPA Administrator Scott Pruitt\(^2\), and EPA’s Assistant Administrator for Air and Radiation, Bill Wehrum\(^3\).

For example, when asked a question about EPA’s Mercury and Air Toxics (MATS) rule, you stated:

> “The quantifiable monetized benefits of the HAP reductions predicted to occur under MATS measured only a few million dollars. I understand that EPA has recalculated the benefits attributable to MATS in response to the Supreme Court remand. I am not familiar with the new estimates and I cannot prejudge any decision that might be made by EPA as it conducts its ongoing review of the rule.”

Mr. Wehrum stated the following in response to a similar question:

> “The quantifiable monetized benefits of the HAP reductions predicted to occur under MATS measured only a few million dollars. I understand that EPA has recalculated the benefits attributable to MATS in response to the Supreme Court remand. I am not familiar with the new estimates. If confirmed, I intend to consider them objectively.”

Similarly, in response to five questions about climate change submitted to you by Senators Merkley, Sanders and Whitehouse, you stated:

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\(^1\) [https://www.epw.senate.gov/public/_cache/files/a/1/a15d7d8c-572f-46ba-864f-15109d911f5ef9990828e4533be5492230ca6a32a1cd3.white-qfr-carper-responses.pdf](https://www.epw.senate.gov/public/_cache/files/a/1/a15d7d8c-572f-46ba-864f-15109d911f5ef9990828e4533be5492230ca6a32a1cd3.white-qfr-carper-responses.pdf)


\(^3\) [https://www.epw.senate.gov/public/_cache/files/d/e/de778b35-e2eb-453d-abde-9e4da1ae227/b9f1b1208ca3b95eaf5087b097345.epa-nominee-responses-to-senator-carper-questions-for-the-record.pdf](https://www.epw.senate.gov/public/_cache/files/d/e/de778b35-e2eb-453d-abde-9e4da1ae227/b9f1b1208ca3b95eaf5087b097345.epa-nominee-responses-to-senator-carper-questions-for-the-record.pdf)
“If confirmed, I will work to ensure that any regulatory actions are based on the most up to date and objective scientific data, including the ever-evolving understanding of the impact that increasing greenhouse gases have on our changing climate.”

Mr. Pruitt responded to a similar question as follows:

“If confirmed, I will work to ensure that any regulatory actions are based on the most up to date and objective scientific data, including the ever-evolving understanding of the impact increasing greenhouse gases have on our changing climate. I will also adhere to the applicable statutory authorities to fulfill EPA’s mission to protect human health and the environment consistent with the process and rule of law established by Congress. I also believe the Administrator has an important role when it comes to the regulation of carbon dioxide, which I will fulfill consistent with Massachusetts v. EPA and the agency’s Endangerment Finding on Greenhouse Gases respective of the applicable statutory framework established by Congress. I believe the most effective path towards achieving these objectives is through close partnership with the states granting them regulatory leeway as ascribed by the rule of law.”

We are troubled that it appears that you have cut and pasted from the written answers of other nominees in your responses to questions that were submitted to you. We request that you promptly provide responses to the following questions:

1. Please list each response to a question for the record submitted to you by any Member of the Environment and Public Works Committee for which you either plagiarized someone else’s work or that you did not write part or all of the answer yourself.

2. For each item listed in your response to question 1, please list the source or person from which you derived part or all of your response.

3. Please submit a new answer to each such item that represents your own views and effort.

Thank you very much for your attention to this important matter. Please provide your response no later than close of business on Friday December 22, 2017. If you have any questions or concerns, please contact Michal Freedhoff on the Environment and Public Works Committee staff at 202-224-8832.

Sincerely,

[Signature]
Thomas R. Carper
Ranking Member

[Signature]
Benjamin L. Cardin
United States Senator
Bernard Sanders
United States Senator

Sheldon Whitehouse
United States Senator

Jeffrey A. Merkley
United States Senator

Kirsten Gillibrand
United States Senator

Cory A. Booker
United States Senator

Edward J. Markey
United States Senator

Tammy Duckworth
United States Senator

Kamala D. Harris
United States Senator
## Comparison of Kathleen Hartnett White’s QFR Answers to Prior Trump Administration Nominees

<table>
<thead>
<tr>
<th>OTHER NOMINEE’S QFR RESPONSES</th>
<th>MS. WHITE’S QFR RESPONSES</th>
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| **Senator Booker’s Question to Mr. Pruitt QFR 6:**  
How do you define “environmental justice”? Do you think it’s a serious issue? | **Senator Sanders’s Question to Ms. White QFR 96:**  
As you may know, low-income and minority communities are disproportionately impacted by climate change. People in these communities are more likely to live near petrochemical facilities and be exposed to carcinogenic emissions and toxic waste discharge. Latino farmworkers, who make up the majority of agricultural workers in the U.S., are exposed to pesticides at a far higher rate than the general U.S. population. Latino children are twice as likely as non-Latino children to die from asthma. From 2012-2014, African American children had a death rate ten times that of non-Latino white children. African American children are three times as likely to suffer an asthma attack. If confirmed, how will you address growing issues associated with environmental justice? |

Mr. Pruitt’s Answer:  
I am familiar with the concept of environmental justice. As I testified, the Administrator plays an important role regarding environmental justice. I agree that it is important that all Americans be treated equally under the law, including the environmental laws.  

Ms. White’s Answer:  
I am familiar with the concept of environmental justice. I agree that it is important that all Americans be treated equally under the law, including the environmental laws. Low-income and minority communities are disproportionately exposed to air pollutants because they live near industry, where housing is often cheaper. Unnecessary regulations often increase consumer prices, also disproportionately impacting low-income and minority communities.
### OTHER NOMINEE’S QFR RESPONSES

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<tr>
<th>Senator Carper’s Question to Mr. Wehrum QFR 39:</th>
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<td>In a 2016 Law 360 article, you are quoted as saying, “The reason this [the Mercury and Air Toxics Standards Rule] was such a big issue for us is because the hazardous air pollutant reductions this rule would achieve, the costs vastly outweigh the benefits. So from our perspective, it’s a regulation that made no sense and wasn’t justified.” In April 2017, the EPA asked the D.C. Circuit Court of Appeals to delay oral arguments scheduled the Mercury and Air Toxics Standards (MATS) as it reviews the rule.</td>
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<td>Senator Carper’s Question to Ms. White QFR 28:</td>
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<td>Do you agree that the EPA’s recent consideration of the costs of the Mercury and Air Toxics Standards Rule shows that the agency has met the “necessary and appropriate” criteria Congress provided under 112(n) to direct the EPA to regulate power plant mercury (and other air toxic) emissions under Section 112, and more specifically under Section 112(d)? If not, why not?</td>
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| a. It is clear from this statement you already have a formed view of the validity of the Mercury and Air Toxics Standard going into the agency. Will you commit to this Committee that you will recuse yourself from the review and any possible rewriting of the Mercury and Air Toxics Rule? If not, why not? |

<p>| b. Do you continue to believe the Mercury and Air Toxics Standards is a regulation that made no sense and wasn’t justified? If so, why? |</p>
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<td><strong>Senator Cardin’s Question to Mr. Pruitt QFR77:</strong></td>
<td><strong>Senator Carper’s Question to Ms. White QFR 17(a):</strong></td>
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<td>Do you accept the scientific consensus that should average global temperatures reach or exceed +2 degrees Celsius that many regions of the world will very likely experience catastrophic changes in the environment that may very likely impact the safety and prosperity of many people?</td>
<td>Do you continue to reject the evidence that carbon dioxide pollution is causing the earth to warm, that human activity is responsible for that warming, and that with increased warming comes an increased frequency and intensity of extreme flooding, hurricanes and wildfires?</td>
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<td>• Do you believe that uncertainty in climate science warrants greater study before the U.S. takes significant action to reduce greenhouse gas pollution?</td>
<td>If so, please fully document the basis for such rejection.</td>
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<td>• If so, are you aware that the portion of the scientific community that claims there is uncertainty in the science is limited to limited to about 5% of climate science communities?</td>
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<td>• If you believe that the very small portion of the world’s climate science community who hold outlier opinions on the severity of climate change justifies inaction, why wouldn’t you give similar credence to other outlying opinions in the climate science community that hold that global average temperatures may exceed 10 degrees Celsius and that catastrophic events may occur as soon as five or ten years?</td>
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<td>The climate is changing and human activity impacts our changing climate in some manner. The ability to measure with precision the degree and extent of that impact, and what to do about it, are subject to continuing debate and dialogue. If confirmed, I will work to ensure that any regulatory actions are based on the most up to date and objective scientific data.</td>
<td>The climate is changing and human activity impacts our changing climate in some manner. The ability to measure with precision the degree and extent of that impact, and what to do about it, are subject to continuing debate and dialogue. If confirmed, I will work to ensure that any regulatory actions are based on the most up to date and objective scientific data.</td>
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<td>(Also used exact same language in answers for QFRs 17(b), 26, 51, 52, 54, 55, 105(b), 105(c), and 105(d)).</td>
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OTHER NOMINEE'S QFR RESPONSES

Senator Markey's Question to Mr. Pruitt QFR 23

The greenhouse gas effect traps outgoing longwave radiation causing a radiative imbalance of Earth, ultimately leading to the warming of the globe. The fundamental physics of climate change are well settled.

- Are you aware of the theory of radiative balance of the Earth? Can you briefly describe it?
- Do you understand Planck's law and the difference between shortwave vs. longwave radiation, and how that relates to Earth's energy balance?
- Do you agree that disturbances to this equilibrium can warm or cool the Earth?
- Are you aware of the atmospheric circulation and oceanic currents that transport heat from the Equator to the poles?
- Due to the complexity of the climate system, there are lag times between changes in certain conditions, such as the amount of carbon dioxide in the atmosphere, and other observable changes, such as the temperature of the deep ocean. If an action by the United States or world today, could positively or negative benefit the future, say 50 to 100 years down the road, is that an important consideration?
- Are you aware that there is less ice on land in such places as Antarctica and Greenland than in previous years since the Industrial Revolution? What do you believe is causing this decrease in mass of ice on land?
- To where do you believe the water from ice melt on land goes, and do you believe that could cause global sea levels to rise?
- Do you disagree that additional greenhouse gases in Earth's atmosphere, such as carbon dioxide, will cause a smaller magnitude outgoing longwave radiation to escape to space? Please explain.
- Do you disagree that the burning of fossil fuels, such as oil or natural gas, cause carbon dioxide to be released into the atmosphere? Please explain.
- Do you disagree that if fossil fuels were not extracted and burned, less carbon dioxide would be released into the atmosphere? Please explain.
- Therefore, is it possible, if not probable, that humans releasing greenhouse gases into the atmosphere could cause more heat to be trapped by the atmosphere? Please explain.
- Do you understand that the concept address is the previous question is the basis of human-caused climate change? Please explain.

MS. WHITE'S QFR RESPONSES

Senator Merkley's Question to Ms. White QFR 57:

You told me during the confirmation hearing that if confirmed, climate change would be one of your top three priorities. One of the responsibilities of the Council on Environmental Quality is to oversee the implementation of the National Environmental Policy Act. Do you think the government should consider greenhouse gases and their impacts on climate change when analyzing and permitting infrastructure projects?

a. If not, do you think the courts have gotten this issue wrong for decades as the courts have consistently ruled for nearly 20 years that the federal government are required to consider climate change in its environmental reviews?
If not human burning of fossil fuels, how do you explain the observed increase in carbon dioxide in atmosphere?

What is a safe level of carbon dioxide in the atmosphere? Please provide this number in parts per million. Please explain.

If states want to individually take measures to curb greenhouse gas emissions will you allow them to do so? If yes, how will you support them? If not, why does the EPA have the authority to stop a state from implementing measures to curb greenhouse gases?

Mr. Pruitt's Answer:
If confirmed, I will work to ensure that any regulatory actions are based on the most up to date and objective scientific data, including the ever-evolving understanding of the impact increasing greenhouse gases have on our changing climate. I will also adhere to the applicable statutory authorities to fulfill EPA's mission to protect human health and the environment consistent with the process and rule of law established by congress. I also believe the Administrator has an important role when it comes to the regulation of carbon dioxide, which I will fulfill consistent with Massachusetts v. EPA and the agency's Endangerment Finding on Greenhouse Gases respective of the applicable statutory framework established by Congress. I believe the most effective path towards achieving these objectives is through close partnership with the states granting them regulatory leeway ascribed by the rule of law.

Ms. White's Answer:
If confirmed, I will work to ensure that any regulatory actions are based on the most up to date and objective scientific data, including the ever-evolving understanding of the impact that increasing greenhouse gases have on our changing climate.

(Same language used to answer QFRs 68, 69, 101(a) and 101(b))
OTHER NOMINEE'S QFR RESPONSES

Senator Carper’s Question to Mr. Pruitt QFR 36
As you may remember, we had three exchanges over the issue of whether EPA should regulate toxic air emissions, including mercury, from power plants, specifically through the provisions authorized under Section 112 of the Clean Act. We also discussed your lawsuits, one pending, against the recent EPA rule that again addresses regulation of power plant mercury and other toxic air emissions under Section 112. Below is a direct quote from our second exchange, when I asked you directly about regulating power plant toxic air emissions:

“Senator, I actually have not stated that I believe the EPA should not move forward on regulating mercury or adopting rulemaking in that regard. Our challenge was with regard to the process that was used in that case and how it was not complicit with statutes as defined by congress. So there is not a statement or belief that I have that mercury is something that shouldn’t be regulated under section 112 as a hazardous air pollution. A HAP.”

These statements conflict directly with the language in the brief that you filed on June 2012 in White Stallion Energy, et al v EPA: which says:

“Finally, the record does not support EPA’s findings that mercury, non-mercury HAP metals, and acid gas haps pose public health hazards.”

These statements also conflict directly with language in the brief in the pending case that you filed April 25, 2016 with Murray Energy Corporation, et al v EPA: "EPA cannot properly conclude that it is "appropriate and necessary to regulate HAPs under Section 112."

These written statements quite clearly directly contradict your statements before our committee. Which statement is false, the verbal before our committee or the legal documents you filed pending in court? If confirmed, will you recuse yourself from any involvement in questions or cases related to regulating air toxic emission from power plants under Section 112(d) of the Clean Air Act?

MS. WHITE'S QFR RESPONSES

Senator Carper’s Question to Ms. White QFR 5(c)
Even though industry has achieved near universal compliance with the Mercury and Air Toxics Standards and electricity prices have gone down, not up, Administrator Pruitt is currently reviewing whether it is “appropriate and necessary” to issue the standards in the first place. Do you agree that the EPA should be conducting this review, and if so, why?
Mr. Pruitt's Answer:
As I stated in my testimony, mercury is listed as a hazardous air pollutant under Section 112 of the Clean Air Act and is subject to regulation from listed source categories of hazardous air pollutants. Electric utility steam generating units are subject to regulation under Section 112 only upon a lawful showing that their regulation is appropriate and necessary. In Michigan v. EPA, the Supreme Court agreed with Oklahoma's legal position when it concluded that EPA interpreted Section 112(n) unreasonably by failing to consider costs in its appropriate and necessary determination. That challenge was made by Oklahoma on the specific administrative record before the court in that matter and all statements regarding the sufficiency of regulation in that case relate only to the material in the record before the Agency. If I am confirmed as Administrator, I will apply the Clean Air Act faithfully in all matters before me and will follow the advice of the EPA Ethics Counsel in determining any recusals.

Ms. White's Answer:
Mercury is listed as a hazardous air pollutant under Section 112 of the Clean Air Act and is subject to regulation from listed source categories of hazardous air pollutants. Electric utility steam generating units are subject to regulation under Section 112 only upon a lawful showing that their regulation is appropriate and necessary. In Michigan v. EPA, the Supreme Court concluded that EPA interpreted Section 112(n) unreasonably by failing to consider costs in its “appropriate and necessary” determination. Therefore, I believe it is entirely appropriate for the Administrator to be conducting review of that finding.