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Committee on Environment  
and Public Works Washington, D.C.

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HEARING ON THE NOMINATION OF SEAN O'DONNELL TO BE INSPECTOR  
GENERAL OF THE ENVIRONMENTAL PROTECTION AGENCY

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United States Senate

Committee on Environment and Public Works

Washington, D.C.

The committee met, pursuant to notice, at 10:08 a.m. in room 406, Dirksen Senate Office Building, the Honorable John Barrasso [chairman of the committee] presiding.

Present: Senators Barrasso, Carper, Capito, Braun, Rounds, Sullivan, Ernst, Cardin, Whitehouse, Gillibrand, Markey, Duckworth, Van Hollen.

STATEMENT OF THE HONORABLE JOHN BARRASSO, A UNITED STATES  
SENATOR FROM THE STATE OF WYOMING

Senator Barrasso. Good morning. I call this hearing to order.

Today, we are going to consider the nomination of Sean O'Donnell to be Inspector General of the Environmental Protection Agency. Mr. O'Donnell is a very well-qualified individual and will bring a wealth of experience and expertise to this critically important position. I applaud President Trump's nomination of such an experienced and dedicated public servant.

The Office of the Inspector General is an independent office within the EPA. It is charged with conducting independent audits, evaluations, and investigations of agency programs and of operations. It is tasked with preventing and detecting fraud, waste, abuse, mismanagement, and misconduct, relating to the EPA and the U.S. Chemical Safety and Hazard Investigation Board. It makes evidence-based recommendations to promote efficiency and effectiveness in agency programs and operations.

Twice a year, the Office of the Inspector General provides a report to Congress profiling its accomplishments. The report identifies significant deficiencies at the agency and proposes corrective actions.

Although a part of the EPA, Congress provides the Office of Inspector General with funding separate from the agency to ensure its independence. The Office of Inspector General's work assists Congress and the public in holding the agency accountable.

The EPA's Office of Inspector General currently lacks Senate-confirmed leadership. Earlier this month, Arthur Elkins, who has served as Inspector General since 2010, retired. Mr. O'Donnell has the right experience to replace him.

For nearly 20 years, Mr. O'Donnell has devoted his career to public service. Since 2005, he has served as a trial attorney for the U.S. Department of Justice. He currently works in the Criminal Division Bank Integrity Unit. Previously, he worked for the Civil Fraud Section and the Federal Programs Branch of the Civil Division. He also was a part of the Civil Rights Division's Voting Section.

He has handled civil and criminal matters, such as those relating to financial and government program fraud and public corruption. Mr. O'Donnell is familiar with the use of sophisticated investigative and forensic tools. He has managed large investment teams of attorneys, of analysts and of investigators. And he has worked with agents and auditors from half a dozen offices of inspectors general.

He has received numerous honors and awards for his work at

the Department of Justice. In 2017, he received the Attorney General's award for distinguished service, the second highest honor awarded by that department. That year, he also received the Executive Office for United States Attorneys Director's Award for superior performance by a -- I guess a team of litigators, but there is a different word for it. Yes, a team of litigators. During the Obama Administration, he received the Civil Division's Special Achievement Award and numerous annual quality service awards.

Mr. O'Donnell's commitment to public service extends to his personal life. From 2011 to 2014, he was the chair of the Ethics Commission for the City of College Park, Maryland. The Commission is charged with encouraging high ethical standards of conduct by city officials and employees.

Kyle Cohen, who is the United States Assistant Attorney for the Middle District of Florida, worked with Mr. O'Donnell when he was with the Department of Justice's Civil Fraud Division. He wrote in support of this nomination. He said, "Due to his relentless commitment in rooting out fraud, waste, and abuse of taxpayer dollars, Sean is an ideal candidate for an Inspector General's position."

Mr. O'Donnell's background and experience make him an ideal candidate to serve as the Environmental Protection Agency's Inspector General, and I look forward to hearing Mr. O'Donnell's

testimony today and to moving his nomination expeditiously through the confirmation process.

I would now turn to the Ranking Member, Senator Carper, for his statement.

[The prepared statement of Senator Barrasso follows:]

STATEMENT OF THE HONORABLE THOMAS R. CARPER, A UNITED STATES  
SENATOR FROM THE STATE OF DELAWARE

Senator Carper. Thanks so much, Mr. Chairman, and thanks for holding today's hearing on our nominee, Sean O'Donnell. My only regret, Mr. O'Donnell, in your nomination is that it did not come about a year sooner. My staff is going to give me the name of the Acting, who has just retired, I think the Chair just mentioned, Arthur Elkins, who was our Acting IG for a while. And we appreciate his service.

We are glad that you have been nominated by the Administration. I want to thank your family, your wife, four children. Is that all the children you have, just four? Okay.

[Laughter.]

Senator Barrasso. Thirteen, 11, 9 and 7.

Senator Carper. That is every two years, then.

Senator Barrasso. Pretty close.

Senator Carper. That is pretty good. And is that a sister-in-law, over your right shoulder? Is that your sister-in-law? We are all glad that you are here. Thank you to your wife and children for sharing you with our Country and your willingness to share, and you specifically, with the Environmental Protection Agency in the oversight role that, if confirmed, you will play.

The mission of the EPA is to protect human health and our

environment. Our Country relies on EPA to safeguard communities from hazardous waste, from toxic chemicals, from greenhouse gas emissions, and other harmful air and water pollutants. EPA's dedicated career staff works every day to ensure that we have clean air, safe drinking water, and a healthy environment.

However, in order for EPA to protect all of us in this Country, the agency itself must be protected from the kinds of misconduct that can impair its important mission. This responsibility falls in no small part to the EPA's Inspector General.

As EPA's principal oversight official, the IG is charged with detecting and preventing fraud, preventing waste, abuse, mismanagement and misconduct across EPA and the U.S. Chemical Safety and Hazard Investigation Board. The Inspector General is a watchdog for the American people and provides an independent voice of integrity.

Unfortunately, as we know, the EPA has been without a confirmed Inspector General for more than a year, way too long. So needless to say, we are pleased to be able to consider your nomination today, Mr. O'Donnell.

If confirmed, you will have a big job ahead of you. We want to be supportive. The Office of Inspector General has completed some valuable audits of EPA's programs and activities in recent days. Just last month, the IG released a report

evaluating EPA's efforts to ensure that public drinking water systems notified the public when unsafe levels of water contamination are detected, as required by the Safe Drinking Water Act. As a result of that audit and evaluations, EPA has agreed to undertake recommended improvements to bolster the systems that protect Americans' drinking water.

Under the Trump administration, however, we have seen far too many breaches of ethics and abuses and authority among the political leaders at EPA. I have read too many stories, too many headlines, too many investigations that more than, frankly, I want to count. Many ethics violations committed by former Administrator Scott Pruitt have been well-documented, but those violations bear repeating today, and I will do so briefly.

These include Mr. Pruitt's acceptance of below-market rental housing from the wife of a lobbyist with business before the EPA, Mr. Pruitt's use of his position to try to acquire a Chick-Fil-A franchise and other employment opportunities for his wife, and Mr. Pruitt's practice of using a security detail to run personal errands.

More recently, former Assistant Administrator Bill Wehrum had his deputy appear to have helped reverse EPA's position in a power plant enforcement case involving their former industry clients. Senator Whitehouse, House Energy and Commerce Chairman Pallone and I referred this matter to the Office of Inspector

General in February of this year. In May and July of this year, Senator Whitehouse and I provided additional referrals after we uncovered more evidence.

In addition to detecting and preventing waste and fraud within EPA's programs, it is critical that one of your highest priorities as EPA IG will be to ensure that these kinds of flagrant violations of public trust are documented and that those responsible for the violations are held accountable, even when they leave the agency.

Regrettably, over the past two years, many of my colleagues on this committee and I have been frustrated by what seems to be the Office of Inspector General's reluctance or even refusal to investigate ethics breaches and abuses of powers by EPA political leadership. In particular, last year, after Mr. Pruitt resigned, I was very discouraged to learn that the Office of Inspector General halted multiple ongoing investigations into allegations of abuse, and decided their efforts were inconclusive because they could not interview Mr. Pruitt. To me, that sends the wrong signal to the agency and to our Country that public servants at the highest levels can avoid accountability for their misconduct simply by leaving the job before an investigation is completed.

The whole truth really does matter. The next Inspector General, which I hope will be you, must do all that you can do

to ensure that the whole truth is revealed, that those responsible for misconduct will face appropriate consequences for their actions.

It is also important for the next Inspector General to understand that part of the job is to protect the integrity of internal oversight functions within EPA. Across the agency, there are offices with responsibility to support and enforce the agency's ethics and other rules. However, these offices cannot fulfill their oversight responsibilities when the subjects of that oversight are their bosses who wield power over their positions. When this happens, the Office of Inspector General is responsible for ensuring that oversight is indeed conducted.

So, Mr. O'Donnell, we look forward to hearing your views on these matters. Your experience at the Department of Justice indicates that you have the ability to doggedly pursue financial crimes and public corruption investigations. We hope you are ready to use those skills to investigate corruption at EPA and pursue investigations wherever the facts may lead.

Thank you. Good luck.

[The prepared statement of Senator Carper follows:]

Senator Barrasso. Thank you, Senator Carper.

Senator Cardin.

Senator Cardin. Thank you, Mr. Chairman. Thank you for giving me the opportunity to introduce to the committee Sean O'Donnell. Thank you, Chairman Barrasso and Ranking Member Carper.

Sean O'Donnell is a resident of College Park, Maryland. That is where the University of Maryland's principal campus is located. I don't know that you get too many quiet nights, but it is nice to have a Marylander who is here.

Mr. O'Donnell has served as a civil servant for nearly 20 years, most recently as a trial attorney at the Criminal Division of the Department of Justice. He has handled some of the more challenging matters under the Department of Justice. He handled election issues from 2005 through 2008. In 2013, he handled the residential mortgage backed security predatory investigations. So he has widespread experience in regard to civil matters and commercial and governmental fraud corruption and national security matters which will stand him well in the position he has been nominated to.

I want to point out a couple of other things about his background that really impress me. Because local politics can be extremely challenging. Mr. O'Donnell served as chairman and commissioner on the City of College Park's Ethics Commission,

and also on the City of College Park's Redistricting Commission. Why anybody would want to serve on that, I don't know. But he has taken on some very challenging issues in his career. He is well qualified, as both the Chairman and Ranking Member have pointed it.

It is really important that we have a confirmed, experienced, independent Inspector General for the EPA. We desperately need to have that. I want to thank Mr. O'Donnell, I want to thank his family, because the family very much is a part of this, for his willingness to step forward and serve in this position.

Senator Barrasso. Thank you very much, Senator Cardin.

Now I would like to welcome our nominee to the committee. Sean O'Donnell, nominee to be the Inspector General for the Environmental Protection Agency. I want to remind you that your full written testimony will be made a part of the record. I look forward to hearing your testimony. I don't know if you want to start by introducing your family to the committee and then proceeding with your testimony.

STATEMENT OF SEAN O'DONNELL, NOMINEE TO BE INSPECTOR GENERAL,  
ENVIRONMENTAL PROTECTION AGENCY

Mr. O'Donnell. Chairman Barrasso, Ranking Member Carper, and distinguished Members of the Committee, thank you for the opportunity to appear before you today as the nominee for the Inspector General of the Environmental Protection Agency and the Chemical Safety Board. It is a profound honor.

I would also like to thank Senator Cardin for his introduction and his acknowledgement of the many sleepless nights we have in College Park due to the proximity of the University of Maryland.

[Laughter.]

Mr. O'Donnell. I am also grateful to the President and to Administrator Wheeler for the confidence they have shown in me for this important position. I am also grateful for the time the members of this committee and their staff made to meet with me as part of my nomination.

I would like to thank my family, friends, and colleagues for the support they have shown. With me today is my wife of nearly 25 years, Dr. Cynthia Finley. I have known Cynthia since seventh grade, when we first met in first period English class. Actually, I think it might have been second period. You remain the smartest, most wonderful person I know. And you have made me the luckiest.

Also here with me today are my four children, Brigid, Fintan, Molly, and Aine. You bring so much joy to my life and I am incredibly proud of each of you.

Also joining me is my father, Sean, and his wife, Andrea, and my sister-in-law Cheryl. Thank you for coming.

Being here today represents a milestone in a long journey. I grew up far away from Washington, D.C., in the northwestern part of Washington State. I am the proud grandson, son, brother, and uncle of four generations of O'Donnells who have worked at the Port of Seattle. Growing up in a family of stevedores instilled in me the value of hard work and plain speaking.

I have always believed that public service is a high calling. This is why, 15 years ago, I jumped at the opportunity to work at the U.S. Department of Justice and to represent the United States of America. During my time in the department, I have had the privilege to work on some of the most interesting and complex matters facing our Nation.

But what I have always found most rewarding is seeing how my cases can make the lives of our fellow Americans better. One of the first matters I handled at the department was United States v. Euclid, a Voting Rights Act case. Despite having a significant African American population, the city of Euclid had never elected an African American preferred candidate.

My colleagues and I worked tirelessly to vindicate the voting rights of black voters, developing a compelling case by following the facts and listening to local voters, candidates, and government officials. The results speak for themselves. Since the United States prevailed, the City has elected a diverse and far more representative city council. When you see the good that government can do, it washes away the cynicism that seems so prevalent nowadays.

I have always strived to lead investigations in a fair, objective, and thorough manner, going where the facts lead no matter how uncomfortable the results or how difficult the task. For example, in 2013, I joined the Residential Mortgage Backed Security Working Group, which was formed to bring some measure of justice to those who had participated in one of the biggest frauds in our history.

To do so, we used creative statutory and investigative tools to dive deep into highly complex securities. At its height, our investigative team consisted of approximately 30 attorneys, agents, and analysts from a variety of agencies, including two inspector general offices.

In less than two years, our team reviewed nearly 10 million documents, analyzed gigabytes of data, and interviewed scores of individuals. We untangled a mess of deals to uncover a pattern of making false and misleading statements about the quality of

the mortgage loans underlying the securities. And we ultimately held that investment bank to account with a multi-billion dollar fine and a statement of facts that clearly and plainly set out the basis for that fine.

In my work at the Department of Justice, I often have occasion to ponder Justice Holmes' words in *Rockland Island*, that people must turn square corners when dealing with the Government. For me, it has come to have two meanings. First, it means that the government depends on the integrity and honesty of those who deal with it. It also means that we in the government must be fair and honest when we deal with the public.

I firmly believe that the best way we instill confidence in those we have the honor of serving is by conducting our business with integrity. In my experience, the OIG auditors, agents, and attorneys I have had the privilege of working with exemplify this commitment to integrity. To a person, I have found that they share a passion for fighting waste, fraud, abuse and mismanagement. And I have found that they are equally committed to providing independent and objective oversight of their departments and agencies.

For this reason, I come before you today seeking your support to become the Environmental Protection Agency's Inspector General. The EPA serves a critical role as steward of our environment. To this end, it has been entrusted with the

most important statutes enacted to improve the quality of our lives and protect our public health. The result of the EPA's work is evident in the air we breathe and the water we drink. Every year, my children and I see the impact of EPA's work in our own neighborhood, as we fish in the Anacostia River and we see the water become cleaner and the fish healthier.

It would be an honor to lead the EPA's Office of Inspector General as it contributes to the Agency's important mission. If confirmed, I will strive to continue the office's work in eliminating waste, fraud, and abuse. I will also focus the Office's efforts to promote the efficient and effective use of the authority you have granted the EPA. I will do so while maintaining a positive relationship with you and the rest of Congress.

Thank you for the opportunity to appear before you today. I sincerely appreciate your consideration of my nomination and I look forward to answering your questions. Thank you.

[The prepared statement of Mr. O'Donnell follows:]

Senator Barrasso. Thank you so very much. Congratulations again. Welcome to your family.

Throughout this hearing and with the questions for the record, the committee members are going to have an opportunity to learn more about your commitment to public service for our great Nation. I would like to ask that throughout this hearing, you please try to respond to the questions, and then afterwards, questions for the record which may be posed in writing after the hearing has ended.

I have to ask the following questions that we ask of all nominees on behalf of the committee. Do you agree, if confirmed, that to appear before this committee or designated members of this committee and other appropriate committees of the Congress and provide information, subject to appropriate and necessary security protection with respect to your responsibilities?

Mr. O'Donnell. Yes, Senator.

Senator Barrasso. Do you agree to ensure that testimony, briefings, documents, and electronic and other forms of information are provided to this committee and its staff and other appropriate committees in a timely manner?

Mr. O'Donnell. Yes.

Senator Barrasso. Do you know of any matters which you may or may not have disclosed that might place you in any conflict

of interest if you are confirmed?

Mr. O'Donnell. No.

Senator Barrasso. I would like to begin now with my round of questions.

Under federal law, the qualifications to be Inspector General are stated as follows. An Inspector General shall be appointed solely on the basis of integrity and demonstrated ability in accounting, auditing, financial analysis, law, management analysis, public administration, or investigations. Now, your distinguished record indicates that you meet all of these requirements. Can you just talk a little bit about maybe a few real-life examples of how you have demonstrated these qualities?

Mr. O'Donnell. Senator, two come to mind. First, with AUSA Cohen, I helped lead an investigation into a number of servicers of reverse mortgage loans. As you might know, reverse mortgage loans are an important financial instrument that allows elderly Americans to access equity in their homes, while allowing them to stay in place.

Based on complaints from whistleblowers and information we developed separately, we undertook a thorough investigation that uncovered a systemic pattern of misrepresentations made to FHA in the course of the servicing of those loans, costing the American taxpayers tens of millions of dollars. We were able

to, in my time, resolve with a number of corporations, returning \$130 million to the Treasury. But what I find is more important is that we ended up making significant impact on the industry. What we were told is that servicers were being more mindful of the obligations that they had in servicing these loans.

The other one, Senator, is one that is very recent. I helped lead an investigation of allegations of fraud involving \$2 billion of loans to the Republic of Mozambique. The Republic of Mozambique is one of the ten poorest countries in the world. It had come to the international capital markets seeking capital for what appeared to be maritime related projects.

Using a number of creative investigative tools, and really just sort of a dogged pursuit of truth, what we uncovered is alleged in an indictment that we unsealed in January, which alleges that a UAE based maritime company corrupted Mozambique officials with bribes of over \$100 million in order to get business in the Republic of Mozambique. They did so by inflating the prices of the vessels, as was alleged in the indictment. But what we also discovered, again as alleged in the indictment, is that bankers of Credit Suisse were taking bribes, nearly \$50 million in bribes.

The result is, I think, clear, the Republic of Mozambique thus far has defaulted on over \$700 million in loans. The International Monetary Fund has suspended lending. The Republic

of Mozambique has suffered the two terrible storms. And the harm that they have suffered as a result of this fraud is patent.

I can say thus far, the three bankers have plead guilty in the United States District Court in the Eastern District of New York. My colleagues up in Brooklyn are trying presently one of the individuals with the UAE based shipbuilder, unfortunately, or fortunately, because I am here, I could not join them, but I wish them the best of luck.

Senator Barrasso. It is interesting. You have had a long and distinguished career in public service, no question about it. I was going to ask you the main reasons why you want to go and be the Inspector General at EPA, and maybe think about what the biggest challenges may be at that agency, quite different than some of the things you have really been successful at.

Mr. O'Donnell. I think what I have seen in my experience with the IG is across the board a real commitment to fighting waste, fraud, abuse, and mismanagement, and the willingness to use tools creatively, whether forensic, statutory, investigative, to help not just fight waste, fraud, and abuse, but help better government.

I think that the issues facing all IGs include the efficient use of resources and targeting priority issues, working with the agency in a constructive manner to help that

agency, if you will, sharpen its mission. And of course, with respect to the EPA, its important mission with respect to the environment and public health.

Senator Barrasso. Thank you. Senator Carper.

Senator Carper. Let me start off by saying I am pleased to hear you mention, not once, but several times, fighting waste, fraud, and abuse. We have just learned that the budget deficit for the fiscal year which concluded, oh, gosh, just days ago, was about \$850 billion. We are told that the budget deficit for the new fiscal year is expected to reach \$1 trillion, saddling your children, my children, grandchildren, with a lifetime of debt.

One of the things that we seek to do on this committee and the other committee I serve on, Homeland Security and Governmental Affairs, we work with GAO, the Government Accountability Agency, we work with all the Inspectors General to try to figure out how to govern this Country in ways that are more cost effective and fair. So we welcome your passion for doing that, and believe me, the passion is felt on this side of the dais as well.

We know from EPA's Inspector General's semi-annual report that former Administrator Scott Pruitt was under IG investigation due to multiple allegations of misconduct. However, when Mr. Pruitt resigned, the IG investigations into

his misconduct were declared inconclusive because he left the agency before investigators could interview him. And they closed most of the cases.

In my view, this sends the message that our Nation's most senior political officials can avoid accountability just by quitting before the IG has finished its work. Mr. O'Donnell, will you just briefly tell us how you would manage an investigation where the high-level appointee who is the subject of the investigation leaves the agency before they can be interviewed? Would you give us your assurance that you will follow through on such investigations and reach the best conclusion you can, using other evidence available to you, regardless of the subject's attempts to avoid interviews?

Mr. O'Donnell. Absolutely, Senator. I share your frustration. I think we have all seen that across the board, where it seems as if individuals can avoid scrutiny by leaving.

I think one of the hallmarks of my career has been a stubborn refusal to stop investigating, even when things get hard. I firmly intend to continue that, using the tools available to the Inspector General's office.

Senator Carper. Thank you. Second question. There are offices within EPA, as you know, that are supposed to do oversight of the agency's ethics and other rules. However, when subjects of this kind of agency oversight are political

appointees who oversee the offices that conduct the oversight, the system sometimes breaks down.

For example, almost eight months ago, along with Senators Whitehouse and Markey and Congresswoman Eddie Bernice Johnson, I asked EPA's scientific integrity official to investigate whether EPA's political officials had violated EPA's scientific integrity policy when they suppressed the release of an EPA study that says formaldehyde causes leukemia. I would ask, Mr. Chairman, unanimous consent to place into the record a copy of that letter at this time.

Senator Barrasso. Without objection.

[The referenced information follows:]

Senator Carper. Thank you.

We have not received an answer yet. And we don't know why. But it could be because the EPA's scientific integrity official is being told by the very same public officials that she is not allowed to investigate what they have asked her to investigate. Would you assure us that as Inspector General, you will take up the appropriate oversight activities that are normally tasked to other EPA offices when those offices do not have the independence necessary to fulfill their responsibilities?

Mr. O'Donnell. Senator, in the situation that you described, I think it is entirely appropriate for the Inspector General to investigate mismanagement and abuse of authority, such as if an individual tasked with independent oversight is being ordered in some form or fashion to discontinue that. That would certainly be something I would be interested in looking at. If there are specific situations such as the one you mentioned, Senator, if confirmed, I am happy to go back to the career staff and discuss that with them and then meet with you and your staff again.

Senator Carper. Thanks so much. And my third question is, it will be, I think a year tomorrow, that Senator Udall and I wrote to the Acting Inspector General to request that he initiate an audit into the EPA's proposal to repeal air emission standards for polluting glider trucks. We still have not seen

the results of that audit. Perhaps because the White House Office of Management and Budget has been refusing to respond to the Acting Inspector General's request for information, in violation of the Inspector General Act of 1978.

The Acting Inspector General informed Congress of the OMB's refusal to cooperate in April of this year, as he was also required to do. And Mr. Chairman, I just want to ask unanimous consent to put into the record a copy of that letter at this time, please.

Senator Barrasso. Without objection.

[The referenced information follows:]

Senator Carper. I would ask my question of Mr. O'Donnell, would you commit to us that you will promptly inform this committee any time that political appointees at the EPA or the Chemical Safety Board or any other part of the Executive Office of the President that you are aware of refuses to provide you information or attempts to stonewall an audit or investigation?

Mr. O'Donnell. Senator, I believe not only is the Inspector obligated to, but I think that as provided independent oversight, I would feel an obligation to do exactly that.

Senator Carper. Thank you so much.

Senator Barrasso. Thank you, Senator Carper. Senator Braun.

Senator Braun. Thank you, Mr. Chairman.

We discussed this in my office. In the short time I have been here, for me it always comes back to how you pay for things in a place like this. We have now gotten used to trillion-dollar deficits; we shrug it off. I am on the Budget Committee, and I know that is soon going to approach \$1.5 trillion five, six years down the road.

So in any agency, whatever one can do to try to improve that, it is important. For me, in your role, I would like your opinion on where would a few places be that, from your depth of experience and what you see looming in terms of your responsibilities, a couple, three things where you would put

time and effort.

Mr. O'Donnell. Senator, I have seen that the Office recently concluded a False Claims Act settlement, working collaboratively with other agencies on a grant matter. Just given my experience with the False Claims Act, Senator, I can tell you that that is exactly the sort of thing that I think is an important tool in fighting waste, fraud, and abuse, really returning money that was improperly given, returning that money to the taxpayers.

So I would see going forward the continued collaboration with other agencies, including the Department of Justice, and using tools like the False Claims Act, to make sure that the EPA is not defrauded with respect to grants or contracts. I think that is an important area of the ability to fight waste, fraud, and abuse.

And then of course, Senator, with respect to the audits, one focus of audits is always, I think, can be the efficient use of taxpayer dollars by the offices and entities in the EPA.

Senator Braun. Thank you. I would be derelict if I didn't ask you about what has beset my constituents more than any other aspect of EPA rules and regs, would be Waters of the U.S. As I saw that evolve, and I am one that is a staunch conservationist, and I believe, I always cite the fact that I remember so vividly as a teenager when the Cuyahoga River caught on fire. So we

have really come so far in a short period of time.

When I was home for a recess visit, I had, I think, three small farmers in one small restaurant corner me after I was done eating, I knew the three of them, and telling me that they, in just doing basic, routine ditch maintenance, and ditches that generally have no water in them, other than a few months out of the years, and we are in a rainy part of the Country. Waters of the U.S. looks to me like it is a confluence of the Army Corps of Engineers, the EPA, and then the in-State enforcement agencies. Sadly, in this case, coming from a place like Indiana, which is normally pretty sane in all the things that it does, it would have been the Department of Natural Resources and the Indiana Department of Environmental Management that was out of kilter with, really, I think, what they were supposed to be doing.

Do you feel it is within your purview being able to not only interface with the Army Corps of Engineers, but especially the agencies that are generally responsible for implementing? And I know we have gone through a rule change, and many of my constituents and farmer friends are anxious to see that actually improve.

What would your opinion be in terms of your role to interface with some of the State agencies that is where you really feel the impact in some cases of overreaching

regulations?

Mr. O'Donnell. Senator, in my previous work, both on residential mortgage backed securities investigations and going into the False Claims Act work generally, I always felt we were our most effective when we were working with our State partners. With the RMBS investigations I worked with the State of California, the State of New York, the State of Maryland, and I believe the State of Illinois. And then that collaborative effort really allowed us to, I think, make a better case because we were not just responsive to the concerns inside the beltway, but concerns of the States.

So I think to the extent that it is available to the IG's Office of the EPA, I think it would be extremely useful.

Senator Braun. When you hit the ground running, I would appreciate it if you might keep in mind that particular issue in Indiana, and maybe check into it and get back with me to see what you think.

Mr. O'Donnell. Thank you, Senator, yes.

Senator Braun. Thank you.

Senator Barrasso. Thank you, Senator Braun. Senator Duckworth.

Senator Duckworth. Thank you, Mr. Chairman.

I just want to start by thanking Mr. O'Donnell's family for your support of his long tenure as a civil servant. Some serve

this Country in uniform by picking up a rifle, others serve by being a public servant, and that is just as honorable and just as giving. So thank you for supporting him in his work. He does very important work, as you can see by having all of us here today. Welcome, Mr. O'Donnell.

Mr. O'Donnell. Thank you, Senator.

Senator Duckworth. Thank you for meeting with me yesterday. I was reassured to hear your thoughts on the importance of an independent Inspector General and whistleblower protections.

In July of this past year, July 11th, the Assistant Administrator for Enforcement and Compliance published a memo indicating a new approach to compliance, which would end a longstanding practice at the EPA of inspections that are unannounced. I am concerned that this new, no surprise policy will hinder EPA's ability to protect public health.

Mr. O'Donnell, if confirmed to be EPA's Inspector General, would you agree with this new approach to stop all unannounced activities of the EPA OIG personnel? In other words, would you adopt a no surprise policy to guide OIG investigations?

Mr. O'Donnell. Senator, I am not privy to what was the reason for that decision. I would be interested, if confirmed, to meet with staff and understand why it is they thought it important to have a no surprise audit.

Senator Duckworth. I think it is an agency-wide memo. I am asking, would you continue it, would you comply with that for the OIG office in terms of this policy of no surprise inspections?

Mr. O'Donnell. I think as an independent office, it would be inappropriate for the EPA to dictate to the Office of Inspector General how they would conduct their audits. So with respect to any limitation on the ability of the IG to conduct those audits, I think again, I would confer and understand the scope of this new policy of which you speak. But it seems to me to be counterproductive to the role of the Office of Inspector General.

Senator Duckworth. Thank you. I find your answer reassuring.

If confirmed, would you commit to investigate what motivated this change in policy, and whether EPA conducted a rigorous risk analysis of this no surprise policy? And finally, whether EPA developed this policy in consultation or partnership with regulated entities.

Mr. O'Donnell. Again, Senator, I am not privy to the decision making or the applicability of that rule. But what I will most certainly pledge is, if confirmed, to get better understanding of this rule, its applicability and then determine whether it is appropriate to do an audit to determine if it is

in fact an effective use of the audit ability of the agency.

Senator Duckworth. Will you follow up with my office?

Mr. O'Donnell. Absolutely.

Senator Duckworth. Thank you.

Laws aren't worth the paper they are written on if agencies fail to enforce them. Region V, which I am proud to say is based in my home State of Illinois, is historically one that has led the Nation in enforcement. Enforcement begins with inspections. That is why I strongly support the EPA OIG's ongoing investigation into the alarming decline in EPA enforcement actions. In addition to enforcement, I am also concerned that the rate of EPA inspections is also dropping.

If confirmed to be EPA's Inspector General, will you commit to expanding the ongoing enforcement investigation to include why inspections have also dropped nationwide under the Trump Administration?

Mr. O'Donnell. Senator, I am pleased to hear that this has already started. If confirmed, I will pledge to meet with those auditors and understand the scope of their audit and I think if appropriate, most certainly to expand it.

Senator Duckworth. Thank you. During our meeting yesterday, we discussed an issue facing an environmental justice community in Sauget, Illinois. My constituents are exposed to harmful emissions from a trash incinerator that accepts wastes

such as propellants and explosive, reactive metals and poisonous metals for disposal. That is why the EPA, under the prior Administration, put in place rigorous requirements for monitoring and controlling heavy metal emissions from this plant.

The current Administration took an opposite approach, providing the polluters with access to the highest levels of leadership at EPA prior to dramatically weakening pollution control requirements on the plant. Unfortunately, this scenario is not an isolated incident, and my constituents in Illinois fear that similar political interference is harming the bipartisan Renewable Fuels Standard program, and letting plants that emit ethylene oxide off the hook.

If confirmed, will you commit to investigate this plant specifically, and this culture of political interference generally at EPA?

Mr. O'Donnell. Senator, I understand that you sent a letter on this, I think, and I have reviewed it last night. What I pledge, Senator, is to, if confirmed, go to my colleagues at the Office of Inspector General, understand our position and then get back to you as soon as possible.

Senator Duckworth. Thank you for your answers. I look forward to working with you upon your confirmation.

Mr. O'Donnell. Thank you, Senator. Me too.

Senator Duckworth. Thank you, Mr. Chairman.

Senator Barrasso. Thank you, Senator Duckworth. Senator Sullivan.

Senator Sullivan. Thank you, Mr. Chairman.

Mr. O'Donnell, thank you for your service and for that of your family. I always tell my wife and kids that it is a team effort, as Senator Duckworth was mentioning. Your kids are also very well behaved in this hearing. So that is also great. Thank you to the family for their willingness to let their dad do these important but sometimes time-consuming and difficult jobs.

I am looking forward to supporting your confirmation. I think you have a really strong background for this important position. It is a big mission, the OIG. I am just looking at it. One of the things that it focuses on is misconduct relating to the EPA. I want to tell you that during the eight years of the Obama Administration, my State lost confidence in the EPA in a huge way. A lot of it dealt with misconduct that really never was looked into. Some of it is going to be bygone, the former Administrator, Gina McCarthy, came up to Alaska, ostensibly consulted my constituents in the national media interview in a very demeaning, arrogant way, literally forgot that she actually represents the people and is supposed to serve the people.

Senator Braun talked about the WOTUS rule. I think as

Inspector General; you are a good lawyer. When 31 States, Democrat led States, Republican led States, are suing the EPA, it is kind of time for a pause, right? But let me talk about a couple other ones during that era of lawlessness at the EPA. There was a Supreme Court case called EPA v. Michigan. Gina McCarthy was actually on the Bill Maher show. She was talking about it and she said, oh, we think we are going to win. That is fine. We have good lawyers. They didn't win, they lost six to three.

But then she said this, "Even if we don't win, it was three years ago that we implemented this rule," and I am quoting her. "Most of the companies and other people subject to this rule are already in compliance, have made investments, and they are going to have to catch up. So we are still going to get at this issue of toxic pollution from these facilities."

Wow. You are a lawyer. Do you think that that kind of statement on national TV is the EPA showing respect for the rule of law?

Mr. O'Donnell. Senator, I don't have HBO so I have not seen that.

Senator Sullivan. But I am quoting from the Administrator. I am sorry, I don't watch the show either, but it was her on the show essentially saying, I don't care what the Supreme Court said, because these suckers that were already making investments

are going to have to pay up anyway. What do you think of that statement? You are an attorney. You are going to be the OIG. Is that an appropriate statement for the Administrator of the EPA to say on national TV? And does it show respect for rule of law. It is a pretty easy question.

Mr. O'Donnell. Senator, what I would say is, and this is something we exercise at the Department of Justice all the time, is that the Department of Justice, I as a criminal prosecutor have tremendous power. I can limit someone's liberty, at least for a short time.

Senator Sullivan. Correct.

Mr. O'Donnell. But I need to exercise that authority --

Senator Sullivan. What signal does it send to Americans, the head of an agency is really saying, I don't care what the Supreme Court -- but even if we don't win, it was three years ago, most of them are already in compliance and investments have been made. Tell me what you think about that. It is actually an important question. Remember, your job is part of misconduct. Is that an appropriate statement by the head of the EPA?

Mr. O'Donnell. Again, I didn't see the exact context, so I would hate to comment, rush to judgment and give you what I think is called nowadays a hot take. But I do believe that we should be judicious in our words and in our use of authority,

because it is even the perception of a lack of integrity that harms the exercise --

Senator Sullivan. Maybe we can follow up in a -- take a look at it and I would like your views for the record on that.

Let me ask one final question. So in 2013, in a part of my State called Chicken, Alaska, we had placer miners who were out mining legally. And the EPA came to enforce what they believed was a Clean Water Act violation. They showed up in SWAT gear, assault rifles, body armor, ATVs. No notice to local law enforcement. And they scared some people in my State quite a lot. It looked like a small invasion. No violations were ever found, by the way.

This could have been a bad situation. A lot of Alaskans like to exercise their Second Amendment rights, when people show up on their property with assault rifles and body armor. I have legislation that would disarm the EPA and require the EPA to give notice to local law enforcement when they are going to do these kinds of enforcement actions, essentially a military enforcement action.

If confirmed, will you sit down with me and take a look at this action, which I am not sure the OIG ever took a look at? But it is something, granted, it happened a while ago. But we don't want that kind of thing to happen again. And can I get your commitment to take a look at that situation that occurred

in my State that was very disturbing and was not supported by the people of Alaska?

Mr. O'Donnell. Senator, if confirmed, I absolutely will be happy to meet with you and learn more about this situation and whether it is an appropriate area for the IG to investigate.

Senator Sullivan. And what we can learn from it in terms of the EPA going forward.

Mr. O'Donnell. Absolutely.

Senator Sullivan. Thank you. Thank you, Mr. Chairman.

Senator Barrasso. Thanks, Senator Sullivan. Senator Cardin.

Senator Cardin. Thank you, Mr. Chairman.

Once again, welcome.

Mr. O'Donnell. Thank you.

Senator Cardin. Thank you for your willingness to take on this responsibility. As many of us have said, we really do want to have an independent Inspector General that will be supported. It is frustrating that when we look at some of the activities that have taken place within EPA, and the actions of the Inspector General, we need more transparency, we need more enforcement, we need more ability for us to work in closer concert.

Let me just give you one example. The two for one executive order that was issued, the Inspector General found

that in fact, that order was not as transparent as it should be, was not being implemented the way it should have been, made certain recommendations. As I understand, those recommendations are still unresolved.

So I guess my first question to you, it is one thing to find areas that need to be improved. But what do you do if the agency doesn't respond? How do you enforce your recommendations? What steps would you take to make sure that your recommendations are not only adhered to, but if they are not, that there is a process which you can carry out your responsibilities to inform, particularly Congress?

Mr. O'Donnell. Senator, I see every IG office as having effectively three customers. The first is the head of the agency. Really, these audits can inure to the benefit of those heads of the agencies, if they are willing to accept and listen to the Inspector General.

Another important customer are the American taxpayers and the public. The publishing of audits, I think, has a tremendous effect on the agencies. I agree with you, transparency is important. In everything I do, I believe that we should be as transparent as possible. Because as I have said before, when we are not, even if what we are doing is law-abiding, people will assume the worst and that undermines at least the perception of integrity at the agency.

And then the third customer, Senator, of course, is Congress. I think that the IG Act provides specific remedies, if you will, for reporting these instances, these failures to act on recommendations, whether it is semi-annual reports or audits, to Congress. I think that is probably one of the most important avenues available to the IG's office.

Senator Cardin. You mentioned the three, the agency, hopefully, you have a working relationship so they understand the concerns and they implement. If they don't, the transparency with the public operates as a check and balance, and the formal notification of Congress is critically important.

I may point out, sometimes it gets lost in the process, and that there needs to be an aggressiveness in the IG's office to make sure that the underlying reasons for the report are understood and accountability is there. So it sometimes takes more than just the legal requirements that you have by statute, but there is a mission that you have to make sure that we have that independence and that it is understood when there are a lot of conflicting issues within the agency and public attention and Congress.

So I just urge you to recognize that you have friends here on Capitol Hill, you have friends in the advocacy community. You don't want to be tied up in the politics of what we are doing here. But you are a factual determinant, and you want to

make sure that that information gets the type of attention that it needs. That is going to require some courage and some innovation on your part to make sure in this environment that information can get out to the public and to the Congress. But first, the agency. And hopefully the agency, there are a lot of good professionals that want to do the right thing, and it is carried out in that regard.

So I wish you well. I thank you again for your willingness to serve.

Mr. O'Donnell. Thank you, Senator.

Senator Barrasso. Thank you, Senator Cardin. Senator Whitehouse.

Senator Whitehouse. Thank you, Chairman.

Mr. O'Donnell, welcome. Among the responsibilities of an Inspector General are to investigate, protect against, simple defalcations, people taking stuff home that doesn't belong to them, you will have no hesitancy pursuing those sorts of matters?

Mr. O'Donnell. No, Senator.

Senator Whitehouse. Another issue for Inspectors General is to review the administration or maladministration of programs and of grants. Will you have any hesitancy in doing your duty with respect to those types of concerns as Inspector General?

Mr. O'Donnell. No, Senator.

Senator Whitehouse. Another concern is the, while you are not a judge reviewing an individual rulemaking, say, if there were systematic or regular Administrative Procedures Act violations that affected the integrity of the agency, would you have any hesitancy of exerting your Inspector General responsibilities to address those sorts of problems?

Mr. O'Donnell. No, I think that would be appropriate, Senator.

Senator Whitehouse. And because it is EPA, and because there are very, very big polluting interests who are constantly engaged with that agency, it is possible that you might embark on inquiries that create consternation among very big interests. Would you have any hesitancy in pursuing your duty against the wishes or the pressure of very big, outside interests?

Mr. O'Donnell. Senator, I have been doing that with respect to international financial institutions for many years. I don't think I have any hesitation with any other.

Senator Whitehouse. Short answer is no?

Mr. O'Donnell. No.

Senator Whitehouse. Great. Will you remain a member of the Federalist Society in your Inspector General position, and if so, will you give the Federalist Society any special consideration should it take views on issues that are before you?

Mr. O'Donnell. Senator, I am not a member of the Federalist Society. But I wouldn't give anyone any special consideration. I think it is important that all opinions be taken on their face, based on their validity.

Senator Whitehouse. And you serve now in the Department of Justice, which is a place I also had the great honor to serve. In the Department of Justice, there is an Office of Professional Responsibility that is separate from the Inspector General that oversees the conduct or misconduct, as lawyers of lawyers in the Department of Justice. What is your role at EPA with respect to misconduct by lawyers in the EPA office, given that there is no OPR there?

Mr. O'Donnell. I believe that the Office will effectively have something akin to that role of OPR that you speak of at DOJ.

Senator Whitehouse. The Inspector General office will?

Mr. O'Donnell. Yes.

Senator Whitehouse. So that would be something you would oversee, and you would have no hesitancy about pursuing problems with regard to lawyers?

Mr. O'Donnell. Absolutely not. Being members of the bar, I think we need to be held to a higher standard. So absolutely not.

Senator Whitehouse. And finally, thank you for your use of

one of my favorite quotations from Oliver Wendell Holmes, I love the turning square corners analogy.

Mr. O'Donnell. Yes.

Senator Whitehouse. I think it has a lot of bearing, as you point out, both for how the regulated entities must behave when they are dealing with the government, but also to how the regulator must behave in making sure that they are doing things right, because they are, at the end of the day, accomplishing a larger and more important public purpose than just engaging with a particular industry.

Mr. O'Donnell. Absolutely.

Senator Whitehouse. Thanks.

Mr. O'Donnell. Thank you.

Senator Whitehouse. Good luck.

Mr. O'Donnell. Thank you.

Senator Barrasso. Thank you, Senator Whitehouse. Senator Gillibrand.

Senator Gillibrand. Thank you, Mr. Chairman.

Thank you to your family who are here supporting you today. It is a big day to come to D.C. You must be very proud of your dad, and you are very kind to give him the support he needs on this big day.

Mr. O'Donnell, as you know, the EPA Inspector General acts as an independent authority for the EPA, charged with protecting

the integrity of the agency by exposing misconduct and ensuring that the agency and its leaders are following the law. As such, it is absolutely critical that you personally uphold the highest levels of integrity and transparency.

If confirmed, will you conduct your investigations without the influence of political appointees at EPA, the White House or any other federal agency?

Mr. O'Donnell. Absolutely, Senator.

Senator Gillibrand. Do you intend to seek any waivers or regulatory exemptions to engage in any matters for which you have a potential conflict of interest as described in your ethics agreement?

Mr. O'Donnell. No.

Senator Gillibrand. Over the last two years, the Office of Inspector General has been asked to launch several investigations into EPA's leadership after receiving credible allegations of ethics violations and abuses of power. However, it appears that the Inspector General stopped his work on these investigations once the targets resigned from their positions and before the investigations could be completed, resulting in the Inspector General stating that the investigations were inconclusive.

This practice of abandoning investigations when the target resigns is troubling. If confirmed, will you commit to pursuing

justice in conducting full investigations to their conclusive ends?

Mr. O'Donnell. Yes.

Senator Gillibrand. Thank you.

Will you commit to reversing this malpractice of abandonment and ensure that these investigations are completed, even after the targets have resigned from their positions, in order to ensure there is full accountability?

Mr. O'Donnell. Senator, I have every intention of doggedly pursuing truth regardless of the availability of witnesses.

Senator Gillibrand. And how do you plan to address these matters, if confirmed?

Mr. O'Donnell. Senator, I think I bring a tremendous amount of experience in how to conduct investigations, and the Office of Inspector General has an Office of Investigations. It is one I will be working with closely, sharing with them my views, maybe some insight, they are all professionals and know what to do. I am hoping that maybe they will feel empowered because of my history of investigations to follow that pattern of dogged truth seeking.

Senator Gillibrand. Well, I wish you all the best and many blessings in your new job.

Mr. O'Donnell. Thank you, Senator.

Senator Barrasso. Thank you, Senator Gillibrand.

Senator Carper.

Senator Carper. Let me just bring up an issue that has sort of reared its head in the last several days, and see if you would take a shot at it, please. It is an issue that many of us on this committee care about deeply, and it is reducing greenhouse gas emissions in general on our planet, but particularly in the transportation sector, but doing so in a way that creates economic opportunity and jobs

Recently, four automakers entered into an industry agreement with California to reduce their exhaust emissions, as you may know. Our President was not happy with this deal, and as soon as he tweeted out his anger, EPA started to send the State of California aggressive letters threatening them with loss of highway funding and other air and water violations.

Do you agree that the question of whether the EPA political leadership followed the President's directions and abused their powers something that an IG should at least look at?

Mr. O'Donnell. Senator, I am not privy to that specific instance. I am not in the EPA yet. But I can say that instances where statutory or regulatory authority are being abused for political ends would be something worthy of an Inspector General's investigation.

Senator Carper. Thank you. I think you said that your children are ages 7, 9, 11, and 13.

Mr. O'Donnell. Yes, Senator.

Senator Carper. When you think about our environment, what do you see as maybe the greatest threat to this earth that they are going to inhabit for the next 80, 90 years?

Mr. O'Donnell. Senator, I think that those threats include pollution to water, pollution to the land. I had an opportunity while in the Civil Fraud section to meet with our honeybee producers, who are pretty put upon by Chinese importers who evade our duties. They talked about how, in China, the land there is so polluted that they have to go to other countries to grow their food. It is a national security issue almost for them. I would be concerned about that here, too, that our water has become so dirty and our land become so polluted that we can no longer function as a society on our own.

Senator Carper. Our sons are 29 and 31. One lives in New York City, the other lives in California, San Francisco. Just south of San Francisco, they are having wildfires that feature hurricane force winds. I used to live in California, not far from there, when I was a naval flight officer. I don't recall ever witnessing hurricane force winds or wildfires like this. Do you think something is going on there?

Mr. O'Donnell. Senator, it is terrifying what is happening there. I remember, I think we were in Washington State, eastern Washington two years ago and there was a tremendous forest fire

there that had blanketed the sky and made it difficult to breathe.

Senator Carper. What State do you live in?

Mr. O'Donnell. I live in Maryland now, but I am originally from Washington State.

Senator Carper. Ever heard of a place called Ellicott City in Maryland?

Mr. O'Donnell. Yes.

Senator Carper. For your children, there is a term that is called like a 100-year flood, that means it is a flood that is severe enough that it occurs about every 100 years, and maybe another 100 years later you would get another one like that. There is also a term called a 1,000-year flood, which means that it is a flood that is so bad, like Noah's Ark, so bad that it only happens about every 1,000 years.

Ellicott City, which is not too far from where your family lives, has experienced two 1,000-year floods in an 18-month period. Two 1,000-year floods in an 18-month period. Do you think something's going on there?

Mr. O'Donnell. It strikes me as a statistical anomaly, Senator, and although I am not a scientist, it does certainly seem like something is happening.

Senator Carper. All right. Let me close with this question. If you were to go to your -- I go to schools all the

time, Senator Barrasso goes to schools all the time, we have assemblies with kids young and old, not really old, but young and older. When I go to schools, seven-year olds, nine-year olds especially, they ask questions and say, what do you do? And I explain that along with Senator Barrasso and 98 other Senators, I help make the rules for the Country.

And I say, do you have rules in your school, do you have rules on your bus, do you have rules at home? They say, yes. And I say, we have rules for our Country, we call them laws. I get to help make them, with 99 other Senators, 435 Representative, a President and Vice President. Sometimes they will say, what else do you do? And I will say, I try to help people. And one of the best ways you can help somebody is to make sure they have a job. We don't create jobs here, and I didn't create jobs when I was governor. But a lot of jobs were created, and we helped create a nurturing environment for job creation, so that when entrepreneurs start a business, they can be successful.

If you are in a class of seven-year olds or nine-year olds and they ask you, what do you do, if you are confirmed in this position, how would you describe it to them in words that they could understand?

Mr. O'Donnell. I would tell them that my job is to help the EPA make our environment better and protect our public

health by pointing our problems and highlighting solutions.

Senator Carper. Is that it?

Mr. O'Donnell. I could certainly tell them about waste, fraud, and abuse. But I have coached children that age, and I can barely have one minute of talking to them before they are throwing dirt at me.

[Laughter.]

Mr. O'Donnell. So I accept that my explanations always must be very concise.

Senator Carper. All right. Well, thanks very much again. It was a pleasure meeting your family. I didn't know that was your dad sitting back there.

Mr. O'Donnell. Yes, I had mentioned my father is a big fan of Senator Biden's.

Senator Carper. Yes, so are we. When you think of where your values came from to guide your life, what are the sources of those values?

Mr. O'Donnell. Obviously, Senator, they come from my faith, my upbringing. I grew up in a working-class family, and learned the dignity of work. You spoke of jobs and how important jobs are, the dignity of work. My mother has passed away, she was very helpful. One of the most peculiar persons you will ever meet, but one of the most giving.

Senator Carper. Good. Sounds like a mom I once knew.

Thanks so much.

Mr. O'Donnell. Thank you.

Senator Barrasso. Thanks, Senator Carper.

Just following up a little bit with what Senator Sullivan was talking about, with Gina McCarthy, previous Administrator of the EPA. Many of us on our side of the aisle felt that she had abused her power to say the ends justified the means.

Mr. O'Donnell. Yes.

Senator Barrasso. Coming out with a number of regulations that we felt clearly were illegal. And she was going to depend on the inefficiency of the courts, so that people would have to comply with those regulations until the court finally, well, three years later. And then by then, as she would say, the results were obtained, and I would say the damage was done in terms of lost jobs and opportunities.

It is a continuing area of concern for people on both sides of the aisle, when people in power use that to say that justifies the means of what they have accomplished. So you may want to visit with Senator Sullivan about that, and realize it can go both ways.

Mr. O'Donnell. I understand, Senator. And you know, all of us at the Department of Justice, particularly those who do white collar prosecutions, are intimately familiar with what happened with Arthur Andersen, and the consequences that can

happen when we act what could appear to be cavalier. So while I might seem careful with my words, it is absolutely my conviction that in the exercise of authority, we need to temper justice with mercy and appropriate other controls.

Senator Barrasso. Well, thank you again. Congratulations to you and to your family. We look forward to your additional service to our Country. Thank you.

Mr. O'Donnell. Thank you, Senator.

Before you leave, I forgot to mention, there will be additional questions submitted to you. So we ask that you respond to the questions by 4:00 p.m., Thursday, November 7th. I want to thank you and I have a couple things I am going to introduce into the record, without objection.

[The referenced information follows:]

Senator Barrasso. With that, the hearing is adjourned.

[Whereupon, at 11:18 a.m., the hearing was adjourned.]