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United States Senate

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

WASHINGTON, DC 20510-6175

RICHARD M. RUSSELL, MAJORITY STAFF DIRECTOR
MARY FRANCES REPKO, MINORITY STAFF DIRECTOR

August 24, 2018

The Honorable Charles E. Grassley
Chairman
Committee on the Judiciary
United States Senate
224 Dirksen Senate Building
Washington, DC 20510

Dear Chairman Grassley:

We write to respectfully request that you provide us with copies of all records under your control, and all records that have not yet been produced, pertaining to Judge Brett Kavanaugh's involvement in matters that relate to the environment during his tenure at the White House as Staff Secretary and White House Counsel. We also request that you provide any records related to environmental matters from the National Archives regarding Judge Kavanaugh's time as White House Staff Secretary and as White House Counsel.

In recent years, decisions made by the Supreme Court have had a significant impact on the laws and regulations that effect the air we breathe, the water we drink, and the climate we leave to future generations. The fate of these landmark decisions, though settled law, may very well fall to Justice Anthony Kennedy's successor. The American public, and the United States Senators who are constitutionally obligated to provide advice and consent on the President's nominee, deserve a fulsome understanding of that nominee's complete environmental record before he is considered—much less confirmed—for a lifetime appointment as Associate Justice on the Supreme Court of the United States.

A cursory review of Judge Kavanaugh's legal writings reveals a jurist who has consistently read statutory and regulatory language in the manner most adverse to environmental protections. He sought to block rules regulating air pollution across state lines. He argued that the cost to polluters should be considered when determining whether to regulate mercury pollution from power plants. He questioned the U.S. Environmental Protection Agency's authority to regulate greenhouse gas emissions. He voted to renew plans to store nuclear waste at Yucca Mountain. He held that the potential damage to the horse slaughter industry was greater than the damage to slaughtered horses when considering a pending regulation banning the practice. He has revealed an outward hostility toward sustainable fuel sources. And, he has repeatedly denied citizens, small businesses, and farmers the legal standing they need to hold powerful corporate interests accountable.

As you know, the Senate Environment and Public Works Committee is tasked with overseeing environmental issues ranging from clean air and clean water to toxic chemicals and climate change. It is therefore essential that this Committee be provided with complete access to Judge Kavanaugh's records on matters related to our environment, particularly records from his time as the White House Staff Secretary and as White House Counsel. When asked at Marquette University in 2015 what prior legal experience was most instructive or informative to his preparation for becoming a judge, Judge Kavanaugh responded, "My five-and-a-half years at the White House and, especially my three years as staff secretary for President George W. Bush, were the most interesting and formative for me."

Without access to Judge Kavanaugh's environmental records during these "formative years" the members of this Committee—and the Senate at large—lack the information necessary to responsibly perform our constitutional obligation to advise, and if appropriate, provide consent for the President's nominee.

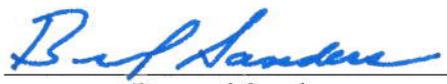
Any confirmation hearing or vetting process that fails to include and consider Judge Kavanaugh's complete environmental record, specifically his time as White House Staff Secretary and White House Counsel, is a hearing that would be uninformed, illegitimate, and an abdication of our constitutional duties.

Please ask the appropriate member(s) of your staff to contact the Minority Chief Counsel on the Senate Environment and Public Works Committee, Andrew Rogers, at [REDACTED] with any questions they might have.

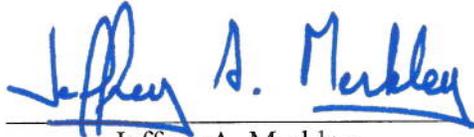
With best personal regards,


Tom Carper
Ranking Member


Benjamin L. Cardin
United States Senator


Bernard Sanders
United States Senator

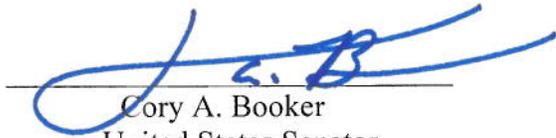

Sheldon Whitehouse
United States Senator



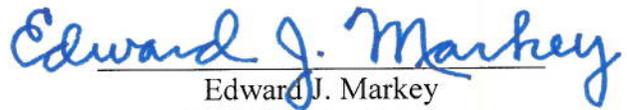
Jeffrey A. Merkley
United States Senator



Kirsten Gillibrand
United States Senator



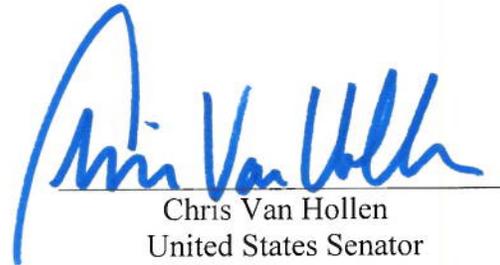
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United States Senator



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