Opening Statement of Ranking Member Whitehouse
Senate Environment and Public Works Committee Hearing: "The U.S. Environmental Protection Agency's Proposed Fiscal Year 2026 Budget."
May 21, 2025

We are here this morning to discuss the proposed Fiscal Year 2026 Budget for the Environmental Protection Agency.

Administrator Zeldin — thank you for being here today. You pledged during your confirmation process that you would respond promptly and substantively to Congressional requests from both sides of the aisle.

Since your confirmation, I have sent 12 letters, many signed by all Democrats on this dais. I have received 3 non-response "responses"—and one of those, purporting to answer 3 separate letters, just arrived on Monday.

Under oath, you told the Senate Appropriations Committee last week that you thought you had responded to all the Congressional letters you've received.

Of course, real responses would be challenging. Your actions make families worse off, ignore science, and erode America's trust in your agency. The ongoing destruction at EPA violates legal contracts, tramples on the Constitution, ignores the rule of law, and flouts many court orders.

Thousands of EPA grantees at this point have received strikingly similar letters informing them that their work "no longer aligns with administration priorities." I don't know what "administration priorities" oppose clean drinking water; child health research; home renovations that reduce household energy bills; flood mitigation projects; safer school buses; or community centers where seniors and families can go during heat waves and dangerous storms.

One particularly flagrant action your agency has taken is the freezing and attempting to terminate the Greenhouse Gas Reduction Fund. GGRF is a $20 billion investment created and appropriated by Congress to fund community clean energy and disaster resilience activities across the country.

President Trump claims, falsely, that climate change is a hoax, so these GGRF funds became a target.

The President lacks the authority to cancel this already authorized and appropriated spending, absent some showing of wrongdoing, so you had to invent wrongdoing.

How so? Enter Trump's corrupt Justice Department: Acting Deputy Attorney General Emil Bove, and Ed Martin, then-interim U.S. attorney for the District of Columbia.

Martin had publicly criticized GGRF even before he came to DOJ. He and Bove pushed career staff at the U.S. Attorney's Office to open a criminal investigation so they could assert that the ongoing investigation justified the freeze.

Their problem: they couldn't point to evidence of any crime.

The criminal division chief, a veteran prosecutor at the U.S. Attorney's Office, pointed out that launching a criminal investigation without evidence of a crime—what prosecutors call predication—is a violation of prosecutorial ethics and Department of Justice policy. That warning from the career prosecutors was Red flag one.

Martin responded by demanding her resignation; Red flag two.

With the criminal division chief gone, Martin still couldn't find one staff prosecutor in his office to pursue the matter. Not one. Red flag three.

Martin then proceeded in his own name. Red flag four. As a former U.S. attorney, I can assure you there is almost always a career attorney's signature on every pleading filed.

No surprise—when Martin then presented his request to the Federal magistrate judge, the judge denied the petition. Red flag five, and a massive, flapping red flag.

Federal prosecutors never want this to happen; they triple-check and backstop every application to ensure that they are ironclad. In my U.S. Attorney's Office, a Federal judge shooting down one of our warrant applications would have set off internal reviews.

That series of disasters didn't stop this scheme. Somebody started shopping the case to other U.S. Attorney's Offices, hoping that some other office would try again in a different district.

Shopping a case around U.S. attorney's offices, after the matter has been shot down in court, was Red flag six.

It seems no other U.S. attorney's office has been willing to go before any court with this hot mess, but somehow, a Federal prosecutor down in Florida ordered Washington-based FBI agents to question EPA employees about the grant program.

Separately, GGRF grantees sued EPA about the freeze, which Mr. Zeldin defended with the same pretext of fraud, even citing to the sham investigation.

The federal judge asked EPA for evidence of fraud. The agency was unable to produce any; the judge noted in her decision in favor of the grantees that EPA could produce—her words—"no evidence to support that claim." So a second Federal judge shoots down the scheme; we are up to Red flag seven.

Compounding this prosecutorial fiasco, Martin and Administrator Zeldin simultaneously unleashed a barrage of misleading public comments, flooding the information zone with public

accusations of fraud that they knew to be unfounded—and that career prosecutors, a magistrate judge, and eventually a federal district judge would determine to be unfounded.

Unfounded accusations of fraud are what lawyers call ''defamatory per se.''

Baseless accusations of fraud, removing career officials who stand up for the rule of law, proceeding without a career attorney, getting shot down by a magistrate judge, forum shopping, deploying FBI agents to harass career civil servants, having no evidence in court. This is what weaponization of government looks like.

And all the while, hundreds of worthy community projects go unfinished.

Elsewhere, EPA pursues what I like to call the "fog bank" strategy of contumacy. A federal judge rules a freeze is illegal or unconstitutional or both, and EPA retreats into a fog bank of deception. EPA's rationales shift, apparently false claims of "individualized review" are made, grant programs can't get straight answers. All this deception; and a relentless focus on MAGA forbidden words like "climate" and "equity"—a heresy hunt.

Enough is enough. The Constitution demands faithful execution of the laws and that fundamentally means a willingness to take direction from Congress. We want to do big bipartisan things in this Committee, but that can't happen as long as this administration continues to usurp Congress's Article I powers.