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United States Senate

COMMITTEE ON APPROPRIATIONS

WASHINGTON, DC 20510-6025

<http://appropriations.senate.gov>

April 9, 2019

The Honorable Andrew Wheeler
Administrator
U.S. Environmental Protection Agency
William Jefferson Clinton Building
1200 Pennsylvania Avenue, N.W.
Mail Code: 1101A
Washington, D.C. 20460

Dear Mr. Administrator:

I am writing in response to the November 8, 2018 letter from then-Associate Deputy Administrator and Chief of Operations Henry Darwin related to a proposed reorganization of the Environmental Protection Agency's (EPA) regional offices. As you are aware, pursuant to longstanding Congressional direction, all reprogrammings and reorganizations must be submitted to the House and Senate Committees on Appropriations for approval.

The November 8, 2018 letter from Mr. Darwin made important commitments related to the outcomes of the proposed regional reorganization. Specifically, Mr. Darwin committed that the reorganization would "maintain our 10 regional offices" and would "not move staff geographically; reduce staff, including through VERA/VSIP; demote staff; or downsize/close/move regional offices or laboratories, or make any changes to specific regional or geographic programs." Subsequently, EPA staff agreed to additional commitments, including to not require EPA staff to re compete for their positions, to provide the Committee with quarterly staffing data and updates upon request, to provide the Committee with quarterly compliance and enforcement data, including enforcement travel budgets, and to continue to provide detailed information to, and solicit and incorporate feedback from, EPA staff, states, and tribes. I feel strongly that EPA must fully and completely carry out all of these commitments. Based on those commitments and subsequent materials provided to the Committees, I did not object to the proposed regional reorganization.

However, while I acknowledge that the goal of the reorganization is to improve the operations of the agency, I continue to be deeply concerned with the ongoing efforts of this administration to dismantle the EPA. The time and expense spent on reorganizing and renaming existing offices stand in stark contrast to the agency's devastating staffing shortage and failure to meet minimal milestones for mission-critical activities such as environmental enforcement. I strongly recommend that EPA's leadership turn its attention to these crises rather than on organizational exercises that do not focus on the real problems facing public health and the environment.

I also cannot ignore that the agency's reorganization goals conflict with repeated requests to cut the agency's budget by one-third and fire thousands of EPA scientists, engineers, and researchers. The most recent budget request, for fiscal year 2020, would cut research by 43 percent, eliminate all investments in fighting climate change, and eliminate more than 37 longstanding programs with proven records at improving environmental outcomes. I continue to strongly oppose these budget cuts because, as a member of the Appropriations Committees, I know from experience that important missions require dedicated investments. If this administration wants to make serious impacts on improving EPA's operations, I recommend it change course and seek the resources the agency genuinely needs to meet its mission.

As you and your leadership team know, Congress has rejected such drastic cuts to EPA for three years in a row. In fact, our Appropriations subcommittee has not made any funding cuts to any EPA program – yet, the agency has lost 8 percent of its workforce since fiscal year 2016. Certain EPA offices have suffered even larger losses. The Office of Enforcement and Compliance Assurance has lost 19 percent of its staff. Region 6, which provides services to several states including New Mexico, has lost 12 percent of its staff. For EPA to turn around this staffing crisis, agency leadership must follow the direction of Congress by focusing on hiring and retaining qualified staff rather than allowing such drastic staffing losses.

For those reasons, I expect the EPA to promptly undertake the following activities to make a serious, results-oriented effort to improve the EPA's efforts to meet its mission to protect public health and the environment:

- Workforce Planning. For each region and each headquarters office, develop a comprehensive workforce plan and implementation timeline to achieve the staffing levels provided for in the fiscal year 2019 enacted appropriations, consistent with Congressional directives.
- Prioritize Enforcement. Prioritize hiring of enforcement and compliance personnel and ensure that enforcement travel and other support budgets are provided at levels sufficient for current and future staff to fully perform work requirements such as inspections.
- Prioritize Communication with EPA Staff, States, and Tribes. As EPA leadership considers future reorganizations and other changes impacting states, tribes, and/or EPA staff, develop and execute comprehensive communication plans for informing and also soliciting and incorporating feedback from these groups.
- Fully Implement Agreements with Staff and Unions. In implementing changes that impact EPA employees, ensure commitments to employees and unions are carried out consistent with signed agreements, for example, agreements related to training, schedules, and performance assessments.

The Honorable Andrew Wheeler
April 9, 2019
Page 3

Please provide a written response detailing the agency's plans to address the items on the list above no later than April 24, 2019.

Finally, I understand that the agency plans to submit additional reorganization proposals to the House and Senate Appropriations Committees for approval. I remind the agency of the requirement to continue to follow Congressional direction related to all reorganizations of all size and scope. I note that responding to questions and requests for information from both Chairs and Ranking Members in a timely and complete fashion can minimize the time the Committees need to complete the approval process.

Sincerely,

A handwritten signature in blue ink that reads "Tom Udall". The signature is written in a cursive, flowing style. The first letter "T" is large and loops around the "o".

Senator Tom Udall

Ranking Member, Subcommittee on the Department of the
Interior, Environment, and Related Agencies
United States Senate