



Committee on Transportation and Infrastructure
U.S. House of Representatives
Washington DC 20515

Peter A. DeFazio
Chairman

Katherine W. Dedrick
Staff Director

Sam Graves
Ranking Member

Paul J. Sass
Republican Staff Director

September 8, 2020

Mr. James Springs
Inspector General
Office of Inspector General
National Archives and Records Administration
8601 Adelphi Road, Room 1300
College Park, MD 20740-6001

Dear Mr. Springs:

We are writing to express our serious concern regarding reports¹ that the U.S. Environmental Protection Agency (EPA) may have illegally destroyed records and intentionally deceived the National Archives and Records Administration (NARA) about their destruction. This report is disturbing, and it appears not to be an isolated incident at the Trump administration's EPA. It is our understanding that this destruction may have violated various U.S. laws and regulations, including the Federal Records Act (44 U.S.C. Chapter 31),² the Federal Records Disposal Act (44 U.S.C. Chapter 33)³ and the Emergency Authorization to Destroy Records of the Code of Federal Regulations (36 CFR Part 1229).⁴

As the Chair of the House Committee on Transportation and Infrastructure and Chair of the Subcommittee on Water Resources and Environment, we have a jurisdictional interest in a number of EPA programs, including the water quality protection of our Nation's rivers, lakes, streams, and other surface waters; clean-up of hazardous waste sites; assessment and clean-up of brownfields sites; and contingency planning requirements for spill prevention and control related to oil and hazardous substance spills. We are concerned that EPA's destruction of documents and records may leave Americans in the dark about the quality of their waterways and environment. Therefore, we

¹ Hajar Hammado, "EPA Destroys Water Quality Records, Deceives Archivist," Citizens for Responsibility and Ethics in Washington (CREW), August 7, 2020, accessed here: <https://www.citizensforethics.org/epa-destroys-water-quality-records-deceives-archivist/>

² "44 U.S.C. Chapter 31 - Records Management by Federal Agencies (Federal Records Act)," U.S. National Archives and Records Administration (NARA), accessed here: <https://www.archives.gov/about/laws/fed-agencies.html>

³ "44 U.S.C. Chapter 33 - Disposal of Records (Federal Records Disposal Act)," U.S. National Archives and Records Administration (NARA), accessed here: <https://www.archives.gov/about/laws/disposal-of-records.html>

⁴ "36 CFR Part 1229 - Emergency Authorization to Destroy Records of the Code of Federal Regulations," U.S. National Archives and Records Administration (NARA), accessed here: <https://www.archives.gov/about/regulations/regulations.html>

request that the NARA Office of the Inspector General (OIG) launch a comprehensive independent investigation into the destruction of these documents by the EPA.

According to documents obtained by Citizens for Responsibility and Ethics in Washington (CREW), in late 2019, 18 boxes of records related to the Kansas Water Quality Standards Rulemaking (from 1985-2000) were damaged because of a broken sprinkler before they were able to be transferred to NARA. On March 4, 2020, EPA submitted a request to NARA for approval to destroy the documents because they had become moldy, and then two days later EPA destroyed the documents before receiving approval from NARA. Further, based on the documents obtained by CREW, it appears the EPA intentionally deceived NARA about the status of the documents and then falsely blamed the coronavirus pandemic for the document destruction.

According to guidance on NARA's website, "NARA approval to destroy the contaminated records must be obtained prior to their destruction."⁵ In addition, "NARA will notify the agency of the approval to immediately destroy the records. If NARA does not agree that the menace must be eliminated by destruction of the records, NARA will advise the agency on remedial action to address the menace."⁶ It appears that the EPA willfully ignored these Federal requirements.

This incident is disturbing enough, but it seems to be a pattern of behavior at the Trump administration's EPA. In March 2019, the EPA Inspector General (IG) issued a management alert⁷ following EPA's refusal to turn over budget formulation documents pursuant to an EPA IG audit and its subsequent destruction of the documents under audit. Later that same year, there were reports^{8,9} that then-EPA Administrator Scott Pruitt's schedule and communications with lobbyists were improperly and routinely destroyed.

A NARA OIG investigation is necessary to inform the public and Congress about any EPA recordkeeping violations that have been allowed to persist as well as any Agency deceit in its communications with the Archivist. Further, an investigation will reveal if these were isolated incidents or a broader pattern under the Trump administration. A comprehensive investigation into EPA's destruction of documents will advance the NARA OIG mission to report waste, fraud, abuse and mismanagement, and should also produce recommendations that include corrective actions to guard against future improper document destruction.

Thank you for your prompt attention to this matter. Please respond as soon as possible, but no later than September 29, 2020. If you have any questions, please contact [REDACTED] at [REDACTED] or [REDACTED] at [REDACTED].

⁵ "Authority to Destroy Contaminated Records Constituting a Menace to Health, Life, or Property under Specific Conditions," U.S. National Archives and Records Administration (NARA), accessed here: <https://www.archives.gov/records-mgmt/essential-records/emergency-disposal>

⁶ Ibid.

⁷ "Management Alert: Destruction of a Document Used to Certify Security of EPA's Budget Formulation System," EPA Office of the Inspector General, accessed here: https://www.epa.gov/sites/production/files/2019-03/documents/_epa_oig_20190308-19-n-0085.pdf

⁸ Beitsch, R. (2019 November 8). Top EPA Official Under Investigation in Document Destruction. *The Hill*. Retrieved from <https://thehill.com/policy/energy-environment/469609-top-epa-official-under-investigation-in-document-destruction>

⁹ Lippman, D. (2019 November 7). EPA Chief of Staff Under Investigation in Document Destruction. *Politico*. Retrieved from <https://www.politico.com/news/2019/11/07/epa-ryan-jackson-documents-investigation-067566>

Sincerely,



PETER A. DEFAZIO
Chair



GRACE F. NAPOLITANO
Chair
Subcommittee on Water Resources
and Environment

cc: The Honorable Sam Graves, Ranking Member,
Committee on Transportation and Infrastructure

The Honorable Bruce Westerman, Ranking Member,
Subcommittee on Water Resources and Environment