

ONE HUNDRED FOURTEENTH CONGRESS
Congress of the United States
House of Representatives

COMMITTEE ON ENERGY AND COMMERCE

2125 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6115

Majority (202) 225-2927
Minority (202) 225-3641

December 17, 2015

The Honorable Gina McCarthy
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Dear Administrator McCarthy,

We write to seek information regarding the use of social media platforms by the Environmental Protection Agency (EPA) to promote the Clean Power Plan.

On December 14, 2015, the Government Accountability Office (GAO) found that EPA engaged in illegal “covert propaganda” and grassroots lobbying when it utilized social media to support the “Waters of the United States” Clean Water Rule.¹

According to GAO, EPA engaged in “covert propaganda” through its use of a Thunderclap campaign supporting the Waters of the United States (WOTUS) rule when it concealed from the target audience its role in creating the material.² EPA used Thunderclap, a “crowdspeaking platform,” to increase support for the WOTUS rule on social media, and actively promoted its Thunderclap campaign. While those who directly supported the campaign knew of EPA’s involvement in the campaign, EPA’s intended recipients—social media followers of those who supported the campaign—did not. GAO found that “it is not enough that an agency disclose its role to the conduit of such material if it has not taken measures to identify its role to the intended recipient.”³

EPA also engaged in illegal grassroots lobbying, according to GAO, when, using an official EPA blog post, it linked to external websites containing clear appeals to contact Congress in support of the proposed WOTUS rule while “several bills were pending that would prevent implementation of the rule.”⁴ EPA’s blog post linked to the website of the Natural

¹ Letter from Susan Poling, Gen. Counsel, U.S. Gov’t Accountability Office, to Hon. James Inhofe, Chairman, S. Comm. on Env’t and Public Works at 11 (Dec. 14, 2015) (B-326944).

² *Id.* at 12.

³ *Id.*

⁴ *Id.* at 17.

Resources Defense Council and to a Surfrider Foundation blog post, both of which made clear appeals to the public to contact Congress in support of the proposed rule. According to GAO, “EPA associated itself with the linked content when it chose to hyperlink to those webpages within its official blog post.”⁵ Not only did GAO expressly reject EPA’s contention that it had no responsibility for the content on these linked webpages, but it further found that “EPA is responsible for the message it continues to endorse, rather than just the message as it may have existed at a single point in time.”⁶

Finally, GAO found that EPA violated the Antideficiency Act when it obligated and expended appropriated funds in violation of the statutory prohibitions against publicity or propaganda and grassroots lobbying contained in the relevant fiscal year 2014 and 2015 appropriations acts.⁷

EPA’s actions potentially undermined the integrity of the rulemaking process concerning WOTUS, and call into question the use of social media to promote other rulemaking activity. For example, EPA undertook an extensive social media messaging campaign in support of its Clean Power Plan, authoring blog posts, and posting messages on Facebook and Twitter. The agency also used one of its primary Clean Power Plan hashtags (#ActonClimate) in another Thunderclap campaign that potentially reached over 2.6 million individuals.⁸

Accordingly, pursuant to Rules X and XI of the U.S. House of Representatives, and in order for the Committee to determine whether EPA similarly engaged in “covert propaganda” or grassroots lobbying relating to the Clean Power Plan rulemaking, please provide the following documents as soon as possible, but no later than December 29, 2015:

1. All social media and web postings, referring or relating to the Clean Power Plan, including but not limited to any edits or other changes made to social media or web postings;
2. All communications between or among EPA, other federal agencies, or third parties referring or relating to social media or web postings on the Clean Power Plan; and
3. An accounting of the federal funds spent by EPA on soliciting comments in support of the Clean Power Plan, including through social media and web postings.

In addition, we request that you certify in writing that EPA has not engaged in covert propaganda or grassroots lobbying when promoting the Clean Power Plan by December 29, 2015.

⁵ *Id.*

⁶ *Id.* at 23, 24.

⁷ *Id.* at 26; *see also* Pub. L. No. 113-76, div. E, title VII, §§ 715, 718, 128 Stat. 5, 234 (Jan. 17, 2014), Pub. L. No. 113-235, div. E, title VII, §§ 715, 718, 128 Stat. 2130, 2382-83 (Dec. 16, 2014).

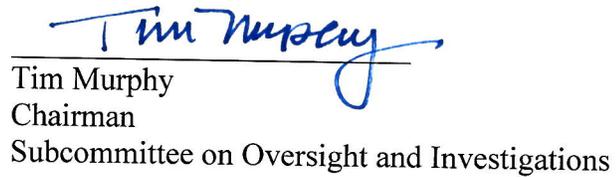
⁸ Thunderclap Campaign, “On Earth Day, #ActOnClimate!” *available* at <https://www.thunderclap.it/projects/10319-on-earth-day-actonclimate?locale=en> (last accessed Dec. 15, 2015).

We appreciate your prompt attention to this request. Instructions for responding to the Committee's document requests are included as an attachment to this letter. Should you have any questions, please contact Jennifer Barblan of the majority committee staff at (202) 225-2927.

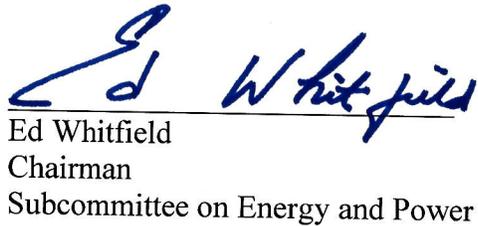
Sincerely,



Fred Upton
Chairman



Tim Murphy
Chairman
Subcommittee on Oversight and Investigations



Ed Whitfield
Chairman
Subcommittee on Energy and Power

Attachment

cc: The Honorable Frank Pallone Jr., Ranking Member

The Honorable Diana DeGette, Ranking Member
Subcommittee on Oversight and Investigations

The Honorable Bobby L. Rush, Ranking Member
Subcommittee on Energy and Power