

United States Senate
WASHINGTON, DC 20510

May 22, 2020

VIA ELECTRONIC TRANSMISSION

President Donald J. Trump
The White House
1600 Pennsylvania Avenue NW
Washington, D.C. 20500

Dear President Trump:

As Ranking Member of the Senate Subcommittee on Transportation and Safety, which has jurisdiction over the U.S. Department of Transportation (USDOT) and the Pipelines and Hazardous Materials Safety Administration (PHMSA), I write to express my strong opposition to your removal of the Acting Inspector General (IG) for the USDOT Office of Inspector General (OIG) without adequate cause or notice.

I also strongly object to your appointment of the PHMSA Administrator to be Acting USDOT IG. This official should be giving undivided attention to leading PHMSA, a critical USDOT component agency with a vital safety mission. Accordingly, I call on you to immediately return both of these officials to the roles they held immediately prior to May 15, 2020 until the Senate has fully considered your nominee to be the permanent USDOT IG.

Over the past two months, you have removed or fired five long-time public servants from critical oversight positions leading their agencies' respective inspector general offices without adequate cause. These actions appear to be an effort to shield yourself and your political allies from public scrutiny and contrary to the statutory goals of the Inspector General Act of 1978.

Congress enacted this landmark law to make sure that every agency contains an independent and objective unit to conduct and supervise audits and investigations relating to the programs and operations of the agency. Importantly, the statute provides a means for keeping Congress fully and currently informed about problems and deficiencies relating to the administration of such programs and operations and the necessity for and progress of corrective action.

Simply put, Congress authorizes, appropriates and entrusts the USDOT OIG with the vital statutory mission of auditing and investigating Federal programs and operations at risk of significant mismanagement or outright waste, fraud and abuse. Removing the head of a Federal agency OIG, whether permanent or acting, is a drastic measure that should only be taken when absolutely necessary to achieve the goals of the authorizing statute. Merely stating that the President is authorized to hire and fire Executive Branch personnel, as you have asserted, does not render the action appropriate or warranted.

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Both USDOT IG and PHMSA Administrator positions are full time jobs whose portfolios demand the full attention of officeholders and whose responsibilities should not be shifted to less qualified individuals in order to accommodate political headwinds. By removing Mr. Mitchell Behm as the Acting USDOT IG and replacing him with PHMSA Administrator, Howard “Skip” Elliott, a political appointee who leads a USDOT component agency, you undermine the independence and legitimacy of the USDOT OIG.

A system where USDOT Acting IG Skip Elliott is charged with auditing and investigating the actions of PHMSA Administrator Skip Elliott makes a mockery of the entire system of independent Federal agency inspectors general.

The PHMSA Administrator provides direction to the agency’s nearly 500 employees across the country who are working to advance more than a dozen significant rulemakings, including five mandated by Congress. This is in addition to PHMSA’s daily enforcement of existing regulations to ensure the safe operation of our Nation’s 2.8 million mile pipeline transportation system and the nearly one million daily shipments of hazardous materials.

You have created a tremendous conflict of interest for Mr. Elliott as Acting Inspector General and PHMSA Administrator and you undermine the safety and security of our national pipeline and hazardous material system. Even if Acting Inspector General Elliott recuses himself from matters related to PHMSA Administrator Elliott, this would not correct the appearance of a conflict of interest – nor will it guarantee that a real conflict of interest does not develop.

To be clear, your decision to remove Mr. Behm and to give the PHMSA Administrator a second job serving as the USDOT IG undermines transparency, accountability and safety. I strongly urge you to immediately reverse your recent decisions and reinstate Mr. Behm to be Acting USDOT IG, while freeing Administrator Elliott to focus all his energy on leading PHMSA.

Sincerely,



Tammy Duckworth
Ranking Member
Subcommittee on Transportation and Safety
Senate Committee on Commerce, Science
and Transportation