

U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON SCIENCE AND TECHNOLOGY

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June 11, 2008

Ms. Susan Dudley
Administrator
Office of Information and Regulatory Affairs
Office of Management and Budget
The New Executive Office Building
Room 5001
725 17th Street, NW
Washington, DC 20503

Dear Ms. Dudley,

As you know, the Subcommittee has been working to understand the process by which the Office of Information and Regulatory Affairs (OIRA) at the Office of Management and Budget manages proposed entries to the Environmental Protection Agency's (EPA) Integrated Risk Information System (IRIS). At our hearing on May 21, 2008 you portrayed OIRA's role as one of simply coordinating an interagency process.¹ However, documents that have come to the Subcommittee suggest that OIRA plays a direct role in examining and challenging the science that informs EPA's proposed IRIS entries. I would like to assess exactly how much involvement OIRA has in discussions surrounding the science of IRIS proposals.

Because so many of the agencies that seek involvement in the IRIS interagency process may have clean-up or process issues at stake, it is hard to believe that interagency discussions are solely about the science. This is especially so since those agencies that may have pollution or workplace safety issues that would be implicated in IRIS data are not experts in the science of health or the environment. It is hard to see what expertise the National Aeronautics and Space Administration, to choose just one agency, brings to a discussion surrounding the health hazards associated with exposure to trichloroethylene. It would be very useful to the work of the Congress and the Committee to have a sense of what kinds of information is shared through the interagency process.

Finally, the interagency process OIRA manages is secret. The public has no insight into who is being invited to discuss what, when. The public has no way of getting at materials associated with those discussions because the pre-decisional exemption of the Freedom of Information Act (FOIA) applies to all of those materials.

¹ "EPA's Restructured IRIS System: Have Polluters and Politics Overwhelmed Science?" Subcommittee on Investigations and Oversight, Committee on Science and Technology, U.S. House of Representatives, May 21, 2008.

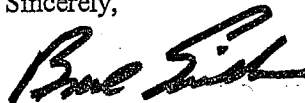
The bottom line is that if the interagency discussion taking place is solely about science, there is no reason why that discussion and all communications surrounding it, cannot survive the light of exposure to the public. The only reason to hide a discussion about science is if the discussion is actually not about science, but about other things that are being used to trump the science. In your testimony before my subcommittee last week, the language you quoted from the National Academies of Science on "deliberative" discussions expressly excludes "gathering information" and thus is inapplicable to interagency discussion.

The Committee on Science and Technology has, under Rules X and XI of the U.S. House of Representatives, responsibility for the programs at the Office of Research and Development in the Environmental Protection Agency and also oversight jurisdiction over all non-military research and development. It is my view that the only way to clarify what is really happening in this interagency "science" process is for the Subcommittee to look at the materials produced in that process. By this letter I ask that you deliver to the Subcommittee all records (as defined in the attachment) in the possession of the Office related to trichloroethylene (TCE). The materials the Subcommittee seeks should be inclusive of all records since January 1, 2003 regarding:

1. All records related to EPA's proposed IRIS entry on TCE in any form, these records should include any contacts with parties outside the Federal government relating to a proposed IRIS entry on TCE;
2. All records related to work by the Centers for Disease Control and Prevention or the Agency for Toxic Substances and Disease Registry on TCE;
3. All records related to Camp Lejeune and clean up of pollution at that Camp, including records related to TCE;
4. All records related to Moffitt Field and clean up of pollution at that site, including records related to TCE;
5. All records related to efforts by EPA to establish a vapor intrusion model that could be useful in dealing with TCE pollution;
6. All records related to the 2006 National Academy of Science/National Research Council report on TCE.

Please produce these records by Friday, June 27, 2008. To discuss delivery of these materials, or if you have any questions, please contact Dr. Dan Pearson (202-225-4494) of the Subcommittee staff.

Sincerely,



BRAD MILLER
Chairman
Subcommittee on Investigations
And Oversight

Cc: The Honorable F. James Sensenbrenner
Ranking Member
Subcommittee on Investigations
and Oversight

Attachment

ATTACHMENT

1. The term "records" is to be construed in the broadest sense and shall mean any written or graphic material, however produced or reproduced, of any kind or description, consisting of the original and any non-identical copy (whether different from the original because of notes made on or attached to such copy or otherwise) and drafts and both sides thereof, whether printed or recorded electronically or magnetically or stored in any type of data bank, including, but not limited to, the following: correspondence, memoranda, records, summaries of personal conversations or interviews, minutes or records of meetings or conferences, opinions or reports of consultants, projections, statistical statements, drafts, contracts, agreements, purchase orders, invoices, confirmations, telegraphs, telexes, agendas, books, notes, pamphlets, periodicals, reports, studies, evaluations, opinions, logs, diaries, desk calendars, appointment books, tape recordings, video recordings, e-mails, voice mails, computer tapes, or other computer stored matter, magnetic tapes, microfilm, microfiche, punch cards, all other records kept by electronic, photographic, or mechanical means, charts, photographs, notebooks, drawings, plans, inter-office communications, intra-office and intra-departmental communications, transcripts, checks and canceled checks, bank statements, ledgers, books, records or statements of accounts, and papers and things similar to any of the foregoing, however denominated.
2. The terms "relating," "relate," or "regarding" as to any given subject means anything that constitutes, contains, embodies, identifies, deals with, or is in any manner whatsoever pertinent to that subject, including but not limited to records concerning the preparation of other records.