

Congress of the United States
House of Representatives

COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY

2321 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6301

(202) 225-6375
www.science.house.gov

July 3, 2020

The Honorable Wilbur L. Ross
Secretary
U.S. Department of Commerce
1401 Constitution Ave. NW
Washington, D.C. 20230

Dear Secretary Ross,

I write with great concern regarding the memorandum sent to you on July 1, 2020, by Inspector General Gustafson.¹ The memorandum describes the Department of Commerce's efforts to obstruct the Office of Inspector General (OIG) from publishing a completed report. The report, due to be published on June 29, 2020, is an examination of the circumstances surrounding a September 6, 2019 unsigned statement by the National Oceanic and Atmospheric Administration (NOAA) rebuking a tweet sent by the Birmingham National Weather Service forecast office, which communicated Hurricane Dorian forecast information that conflicted with previous statements by President Trump. It is imperative that weather information coming from the Federal government can be trusted, and the OIG's report on this unfortunate incident is vital to rebuilding this trust during the current above-average hurricane season.

The memorandum asserts that the Department was provided a copy of the report on June 26, 2020. The Department was provided 48 hours to inform the OIG of any specific areas of privilege. Instead of engaging in a good faith conversation to work towards a product that would be acceptable for all parties, the Department made a vague, blanket claim of privilege on the report. This obstructs the OIG from fulfilling its duty under Section 8M of the IG Act.

The OIG's request to you is simple: the Department must either assert any specific privilege that it wishes to claim regarding the report, or positively affirm that it does not seek any privilege redactions and will not object to the publication of the unredacted report. Despite the Department's unwillingness to engage thus far, the OIG has offered to accommodate this process by delaying the deadline for privilege assertion until July 9, 2020. It is imperative that the Department comply with the OIG's deadline. Without the Department's cooperation on this matter, the OIG will continue to be hindered in its ability to publicly release the report, which evaluates an incident that is a subject of substantial importance to the public. Unfortunately, the Department's July 2 response only deepens my concern that the Department may be attempting

¹ Memorandum from Inspector General Peggy E. Gustafson to Secretary Wilbur Ross, "The Department is Actively Preventing OIG from Completing an Evaluation," July 1, 2020, accessed here: https://www.oig.doc.gov/OIGPublications/2020-07-01_IG_Memorandum_to_Secretary_Ross_re_OIG-20-031-I_%28SECURED%29.pdf

to delay or obstruct the release of the OIG's report, and undermine the independence of the OIG.²

Pursuant to House Rule X, the Committee on Science, Space, and Technology has legislative and oversight jurisdiction over the National Weather Service.³ If the OIG's report fails to be released in a reasonable amount of time, the Committee may utilize compulsory means to secure its release to the American people and to determine the nature of the Department's obstruction. It is my hope that such compulsory steps will not be necessary due to the Department's cooperation from this point forward.

Additionally, the Department must not, under any circumstances, retaliate against the OIG for fulfilling its statutory requirement to make this finished report available to the public. I will strongly condemn any retaliatory actions and will be prepared to investigate such actions as a breach of the essential foundation of the OIG system. I urge you to respect that system, and the independent oversight that it guarantees, by ceasing any obstruction with this report and cooperating with its publication.

Sincerely,



EDDIE BERNICE JOHNSON
Chairwoman
Committee on Science, Space, and Technology

cc

FRANK LUCAS
Ranking Member
Committee on Science, Space, and Technology

PEGGY E. GUSTAFSON
Inspector General
Department of Commerce

² Memorandum from Acting Deputy General Counsel Sean B. Brebbia and NOAA General Counsel John Luce to Inspector General Peggy E. Gustafson, "Response to your Memorandum Regarding the Department's Involvement in an Office of Inspector General Evaluation," July 2, 2020

³ Rule X, Organization of Committees, U.S. House of Representatives