

# Congress of the United States

## House of Representatives

COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY

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June 26, 2019

The Honorable Andrew Wheeler  
Administrator  
Environmental Protection Agency  
1301 Constitution Ave. NW  
Washington, D.C., 20460

Dear Administrator Wheeler,

On March 6, 2019, the House Committee on Science, Space and Technology sent a letter to you formally requesting “all documents... prepared or received by EPA officials in relation to the decision to prevent the NASA Atmospheric Tomography Mission from participating in post-Hurricane [Harvey] response.”<sup>1</sup> The same day, we sent letters to the Administrator of the National Aeronautics and Space Administration (NASA) and the Director of the Texas Commission on Environmental Quality’s Toxicology Division (TCEQ) requesting comparable documents from each agency.<sup>23</sup>

The purpose of these requests was to understand why EPA and TCEQ declined an offer of assistance from NASA in the immediate aftermath of Hurricane Harvey, which devastated the Houston area in late August and early September of 2017. NASA offered to redirect an advanced flying chemistry laboratory known as a DC-8 plane to the Houston region to help obtain more accurate air quality samples. Readings from the DC-8 aircraft would have been particularly useful because it was equipped with more precise technology than EPA’s equivalent aircraft, and could therefore have analyzed a broader range of chemical compounds.<sup>4</sup>

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<sup>1</sup> Letter from the House Science, Space and Technology Committee to EPA. March 6, 2019. Available here: <https://science.house.gov/imo/media/doc/3.6.19%20Letter%20to%20Andrew%20Wheeler.pdf>.

<sup>2</sup> Letter from the House Science, Space and Technology Committee to NASA. March 6, 2019. Available here: <https://science.house.gov/imo/media/doc/3.6.19%20Letter%20to%20James%20Bridenstine.pdf>.

<sup>3</sup> Letter from the House Science, Space and Technology Committee to TCEQ. March 6, 2019. Available here: <https://science.house.gov/imo/media/doc/3.6.19%20Letter%20to%20Dr.%20Honeycutt.pdf>.

<sup>4</sup> Los Angeles Times. “Post-Hurricane Harvey, NASA tried to fly a pollution-spotting plane over Houston. The EPA said no.” March 5, 2019. Accessed here: <https://www.latimes.com/local/california/la-me-nasa-jet-epa-hurricane-harvey-20190305-story.html>.

Unfortunately, EPA has failed to provide documents that are responsive to the Committee's requests. While NASA and TCEQ were able to provide comprehensive responses in an appropriate period of time, EPA missed every deadline and chose to offer irrelevant and unrelated documents rather than complying with the clearly defined terms outlined by the Committee. We are deeply troubled by EPA's non-responsiveness, which appears to be part of a pattern of uncooperative behavior with the Committee's lawful oversight activities.

In our March 6 letter requesting EPA documents related to NASA's offer of assistance after Hurricane Harvey, we detailed the scope of our request, which included "any documents...related to the offer, receipt of the offer, and consideration of the offer to divert the [Atmospheric Tomography] mission to Houston." We explicitly identified "any deliberations or communications between or among the State of Texas, EPA, and NASA" as part of our request and set a deadline of March 20 for the Agency's response.<sup>5</sup>

TCEQ and NASA provided responses that were complete, TCEQ on March 19 and NASA on March 29. When EPA finally replied on April 5, the Agency did not provide a single document responsive to our request. Instead, EPA sent only a three-page letter from then-Associate Administrator for Office of Congressional and Intergovernmental Relations Troy M. Lyons that presented an overview of EPA's actions during Hurricane Harvey.

In light of this inadequate response, we sent you a second letter on April 10. We pointed out that EPA's reply "did not provide any responsive documents per our original request letter" and noted that "the Committee does not consider the original request from March 6 to be complete." We established a new deadline of April 12 for EPA to provide the appropriate documents to the Committee. Once again, EPA missed our deadline, only responding a week later on April 19 despite another follow-up email from Committee staff on April 12. In that response, EPA did provide thousands of pages of documents to the Committee. However, the overwhelming majority of the documents depicted unrelated aspects of EPA's response to Hurricane Harvey. Even the few documents that mentioned NASA's offer of assistance merely did so to record that the offer had been extended, with no further detail on EPA's response to the offer. EPA transmitted another batch of documents on May 17, but again, not one of those documents addressed the specific issues that we raised in our initial request.

We know that EPA is in possession of documents responsive to our request, because we obtained those documents from other agencies. In the responses we received from NASA and TCEQ, both agencies submitted relevant email correspondence from the immediate aftermath of Hurricane Harvey that included EPA employees. We would remind EPA that agency compliance with Congressional oversight is not optional. That EPA itself did not submit any of the following documents in its response to the Committee illustrates the Agency's failure to respond to our request:

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<sup>5</sup> Letter from the House Science, Space and Technology Committee to EPA. March 6, 2019. Available here: <https://science.house.gov/imo/media/doc/3.6.19%20Letter%20to%20Andrew%20Wheeler.pdf>.

<b>Date</b>	<b>Document Type</b>	<b>Participants</b>	<b>Source Agency</b>
Sept 8, 2017	Email	Arturo Blanco (EPA); Barry Lefer (NASA)	NASA
Sept 8, 2017	Email	Terry Keating (EPA); Barry Lefer (NASA)	NASA
Sept 8, 2017	Email	Arturo Blanco (EPA); David Gray (EPA); Sam Coleman (EPA); Richard Hyde (TCEQ); Erin Chancellor (TCEQ); Bryan Shaw (TCEQ)	TCEQ
Sept 9, 2017	Email	David Gray (EPA); Albert Kelly (EPA); Jon Rauscher (EPA); Ronnie Crossland (EPA); Michael Honeycutt (TCEQ); Richard Hyde (TCEQ); Thomas Zurbuchen (NASA)	NASA and TCEQ
Sept 10, 2017	Email	David Gray (EPA); Michael Honeycutt (TCEQ); Barry Lefer (NASA)	NASA and TCEQ
Sept 11, 2017	Email	David Gray (EPA); Michael Honeycutt (TCEQ); Barry Lefer (NASA)	NASA and TCEQ
Sept 11, 2017	Email	David Gray (EPA); Albert Kelly (EPA); Jon Rauscher (EPA); Ronnie Crossland (EPA); Michael Honeycutt (TCEQ); Richard Hyde (TCEQ); Ramiro Garcia (TCEQ); Kelly Cook (TCEQ); Thomas Zurbuchen (NASA); Barry Lefer (NASA); Michael Freilich (NASA); Lawrence Friedl (NASA)	NASA and TCEQ
Sept 11, 2017	Email	Eric Koglin (EPA); Barry Lefer (NASA); Gregory Sayles (EPA); Terry Keating (EPA)	NASA

This list reflects only some of the examples of documents that we received from other agencies that we would have expected to see in EPA's document production for the Committee.

It appears that EPA acted willfully to frustrate the Committee's constitutionally-mandated oversight responsibilities on this issue. We are disturbed by EPA's refusals to cooperate with our inquiries and its refusals to explain its actions in the wake of Hurricane Harvey. Harvey was devastating for Houston and its surrounding communities; the Committee requested information from EPA in good faith. The Committee's interest in this topic has discrete policy relevance that should concern all Americans: ensuring that federal agencies are deploying all available resources to inform the public and protect public health in the wake of a natural disaster. EPA's refusal to respond to Congress on this issue suggests EPA may also fail to learn from its mistakes after Harvey and take more appropriate steps in the future.

Hurricane Harvey first made landfall in the US on August 25, 2017. The Director of NASA's Applied Sciences program reached out to EPA on September 8, offering to redirect the DC-8 aircraft to the Houston region to collect air quality information.

For context, there is precedent for NASA to deploy chemical-sensing aircraft over areas exposed to concentrated pollutant releases. After the Deepwater Horizon oil spill in 2009, NASA deployed the CalNEX aircraft from California to survey the spill site and the northern Gulf of Mexico. According to the documents that NASA provided to the committee, though there was sensitivity among EPA officials about another agency joining in their efforts to monitor air

quality, with careful communication and continuously briefing EPA during the mission, NASA was able to conduct the flyover and gathered useful data about environmental conditions. EPA officials expressed appreciation to NASA for its contributions after the fact.”<sup>6</sup>

In its letter to the Committee responding to our request for documents, TCEQ asserted that it coordinated with EPA Region 6 to turn away the NASA DC-8 flight because the flight would not produce scientifically helpful data. However, NASA and TCEQ documents indicate that, in the words of one TCEQ official, “the flight was scrapped for reasons unrelated to science.”<sup>7</sup>

Internal NASA email chains document that, in fact, EPA and TCEQ officials were “worried that NASA will run with this dataset to the press and in the process, make EPA and TCEQ look bad.” They describe TCEQ Director Michael Honeycutt as noting that TCEQ had “received numerous open records requests and that he sees this as opening up his agency to more negative scrutiny.”<sup>8</sup> Another email chain described “consternation owing to media reports”<sup>9</sup> at EPA and TCEQ.

We agree that state and federal agencies should take care that communications with the public about scientific information that relates to human health are conducted with sensitivity. The documents we received from NASA and TCEQ demonstrate a concerted effort on NASA’s part to ease EPA concerns about how the data from DC-8 would be communicated:

- NASA agreed not to take the dataset to the press.<sup>10</sup>
- NASA agreed to gain approval from TCEQ and EPA before issuing any press releases.<sup>11</sup>
- NASA officials instructed staff not to post any information about the DC-8 flight on social media.<sup>12</sup>
- NASA designated a single point of contact for staff to direct any public inquiries about the DC-8 flight.<sup>13</sup>
- NASA assured EPA that the data from the DC-8 flight would only become public after NASA’s quality assurance/quality control process.<sup>14</sup>

However, EPA and TCEQ still refused NASA’s offer of assistance. EPA and TCEQ stated unambiguously to NASA that they did not wish the flight over Houston to take place.<sup>15</sup>

This decision to turn away the NASA DC-8 flight obstructed information-gathering that would have helped Houstonians, particularly those in low-income communities near industrial facilities,

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<sup>6</sup> From documents provided to the Committee from NASA, page 162

<sup>7</sup> From documents provided to the Committee from TCEQ, page 311.

<sup>8</sup> From documents provided to the Committee from NASA, page 18-19

<sup>9</sup> Ibid, page 29

<sup>10</sup> Ibid, page 18-19

<sup>11</sup> Ibid, page 18-19

<sup>12</sup> Ibid, page 5

<sup>13</sup> Ibid, page 5

<sup>14</sup> Ibid, page 18-19

<sup>15</sup> Ibid, page 251 and documents provided to the Committee from TCEQ, page 304.

make decisions about how to protect their health during an environmental crisis.<sup>16</sup> We have reason to believe that had the DC-8 mission flown, it would have provided evidence that EPA's public declarations about air quality after the storm were overly optimistic. Air monitoring data from multiple other sources, including a City of Houston mobile monitoring unit and contractors for the Environmental Defense Fund, showed alarming concentrations of benzene near industrial facilities in the immediate aftermath of the Hurricane that were not reported by EPA or TCEQ.<sup>17</sup><sup>18</sup> Benzene exposure can cause headaches and nausea, and long-term exposure increases the risk of cancer.

The assertion that the flight would not have yielded scientifically helpful data is dubious. NASA's DC-8 instrument is designed to detect such plumes of benzene. The DC-8 flight that NASA offered to EPA and TCEQ would have informed where fence-line measurements should be taken and would have detected pollutants in areas not accessible to mobile units. The airborne surveillance capabilities TCEQ and EPA used to survey Harvey's impacts, which spanned forty-one counties, were apparently only one Airborne Spectral Photometric Environmental Collection Technology (ASPECT) aircraft and one helicopter.<sup>19</sup>

In conclusion, we believe that EPA made a decision in the wake of Hurricane Harvey to prioritize its appearance in the press over public safety in Houston. EPA should always welcome and evaluate additional information about environmental conditions that may threaten public health. EPA officials should have coordinated with other agencies whose capabilities complemented their own. EPA also should have worked to coordinate with the stakeholders whose data contradicted their own statements and figure out the cause of these discrepancies, rather than working to cover up the problem.

It is also apparent that we need to restate the Committee's oversight authority on EPA matters like this one. The Committee may compel EPA to turn over all pertinent documents and correspondence described in our March 6 and April 10 requests. That authority extends to all matters over which the Committee has jurisdictional authority. If necessary, we are prepared to exercise compulsory measures to ensure that Congressional oversight functions properly.

If you have any questions or would like to discuss compliance with this request, please contact Ms. Janie Thompson at 202-225-6375.

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<sup>16</sup> NPR.org. "Air Pollution from Industry Plagues Houston in Harvey's Wake." September 14, 2017. Accessed here: <https://www.npr.org/sections/health-shots/2017/09/14/550472740/air-pollution-from-industry-plagues-houston-in-harveys-wake>

<sup>17</sup> Craft, Elena. Environmental Defense Fund Blog. "Hurricane Harvey wreaked havoc on people's health – Texas should be better prepared next time." March 6, 2018. Accessed here: <http://blogs.edf.org/texascleanairmatters/2018/03/06/hurricane-harvey-wreaked-havoc-on-peoples-health-texas-should-be-better-prepared-next-time/>.

<sup>18</sup> Propublica.org. "Independent Monitors Found Benzene Levels After Harvey Six Times Higher Than Guidelines." September 14, 2017. Accessed here: <https://projects.propublica.org/graphics/harvey-manchester>

<sup>19</sup> From documents provided to the Committee from TCEQ, page 25

Sincerely,

A handwritten signature in blue ink that reads "Eddie Bernice Johnson". The signature is fluid and cursive, with a long horizontal stroke at the end.

EDDIE BERNICE JOHNSON

Chairwoman

Committee on Science, Space, and Technology

A handwritten signature in blue ink that reads "Lizzie Fletcher". The signature is cursive and somewhat stylized.

LIZZIE FLETCHER

Chair

Subcommittee on the Environment

A handwritten signature in blue ink that reads "Mikie Sherrill". The signature is cursive and somewhat stylized.

MIKIE SHERRILL

Chairwoman

Subcommittee on Investigations and Oversight