



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JUL 18 2014

THE INSPECTOR GENERAL

The Honorable Thomas Coburn
United States Senate
Washington, D.C. 20515

Dear Senator Coburn:

Thank you for your letter of May 8, 2014, regarding the U.S. Environmental Protection Agency (EPA) Office of Inspector General's (OIG's) hydraulic fracturing review. We are in the preliminary research phase of our review to determine what is known about the impacts of hydraulic fracturing, the regulatory framework, and how suspected cases of water contamination are investigated. Once we complete our preliminary research, the OIG will decide on the need and scope for further work or reporting. Any final report on our work will be published on our website: www.epa.gov/oig. Our work is being conducted according to the U.S. Government Accountability Office's generally accepted government auditing standards designed to assure competency and objectivity among the staff assigned to this review. In conducting our work, we seek to obtain information from past studies or reports and interview diverse and relevant stakeholders, including state agencies, so that we are well informed and aware of the issues, and do not duplicate current or ongoing work.

The mandated functions and discretionary authorities of the OIG are to promote economy, efficiency and effectiveness; and to detect waste, fraud and abuse through independent oversight of the EPA's programs and operations. The Inspector General Act of 1978 accords broad discretion to Inspectors General to conduct reviews and issue reports relating to the administration of government programs and operations as are, in the judgment of the Inspector General, necessary or desirable. The EPA's OIG adheres diligently to its legislative mandate.

Responses to the questions in your May 8, 2014, letter, are provided below:

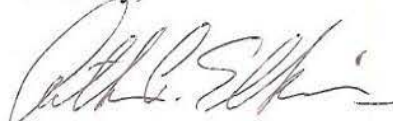
Question	OIG Response
<p>1. Before launching this inquiry, did the OIG consider DOJ's legal opinion cited in this letter? Please provide all documents referring or related to the scope of the OIG's mission as it relates to this inquiry. As Inspector General of EPA, how do you interpret the scope of EPA OIG authority, and do you disagree with DOJ's legal opinion cited in this letter?</p>	<p>We agree with the U.S. Department of Justice's opinion. The opinion (starting on p. 66 of http://www.justice.gov/olc/docs/op-olc-13.pdf) is that OIGs have "...an oversight rather than a direct role in investigations conducted pursuant to regulatory statutes." (p. 67 of 399). The opinion further states, "All we conclude here is that the Act does not give the Inspector General the authority to assume these regulatory investigative responsibilities himself" (p. 77 of 399). We agree with this principle, and it guides the work of the EPA OIG.</p>

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<p>2. Who requested the OIG conduct this investigation? When was the initial request made?</p>	<p>This project is self-initiated by OIG and is included in our fiscal year 2014 annual work plan: http://www.epa.gov/oig/reports/2014/EPA_OIG_FY_2014_Annual_Plan.pdf, p. 18).</p>
<p>3. Has the OIG estimated a budget for this inquiry? If so, how much will this investigation cost? How much time and money has already been spent? How many staff have been assigned to this investigation? Please provide the names and titles of all OIG staff who have been assigned to this inquiry. How does the OIG justify expending this time and money while indicating that the office does not have sufficient funds for investigating fraud, waste, and abuse at EPA?</p>	<p>The OIG develops projected budgets for preliminary research. Complete project budgets are determined after preliminary research if further work is needed. As of July 15, the project costs were approximately \$184,000. The OIG has assigned personnel from its Office of Program Evaluation to this project. In addition to possessing extensive experience evaluating government programs, the personnel hold a variety of advanced degrees in scientific and policy fields. Like all OIG projects, this report will be supported by the Office of Counsel and Congressional and Public Affairs, and other components of the OIG. The work we are conducting is within OIG authority and the discretion of the Inspector General, and supports strategic goals that the OIG is accountable for under the Government Performance and Results Act (and amendments) for which it receives federal funding. The OIG's Strategic Plan can be found at: http://www.epa.gov/oig/reports/2012/EPA_OIG_Strategic_Plan_2012-2016.pdf.</p>
<p>4. Which states does the OIG plan on investigating? How exactly does the OIG plan to investigate them? How many states does the OIG plan to investigate, and if more than nine states are selected, when does the OIG plan to file an information collection to the Office of Management and Budget?</p>	<p>The OIG is speaking to a diverse group of stakeholders, especially the state agencies that develop and implement oil and gas regulations. We are not auditing the groups that we speak to, including states in this case. Rather, the OIG regularly collects information and obtains perspective from the stakeholders, participants and those who execute programs in order to be informed and aware of the conditions we evaluate. Due to Paperwork Reduction Act requirements, the OIG is unable to speak to more than nine states. To date, we have spoken with representatives from Pennsylvania, Colorado and Arkansas.</p>
<p>5. Has the EPA OIG already started to collect information from any states? If so, which states? Did the OIG inform states they were under investigation when they were contacted? Were the proper state notice procedures followed?</p>	<p>As indicated above, we have spoken with representatives from Pennsylvania, Colorado and Arkansas. The states are not under investigation. The OIG initially contacted the states by email and telephone. Our emails included a description of our project and a copy of the notification memo.</p>

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I appreciate your continued interest in the work of the OIG. Identical letters are being sent to Senators Vitter, Inhofe, Cornyn and Cruz. If you should have any questions about this or any other matter, please contact Alan Larsen, Counsel to the Inspector General, at (202) 566-2391.

Sincerely,



Arthur A. Elkins Jr.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JUL 18 2014

THE INSPECTOR GENERAL

The Honorable John Cornyn III
United States Senate
Washington, D.C. 20515

Dear Senator Cornyn:

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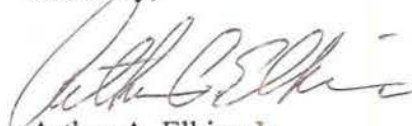
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Sincerely,



Arthur A. Elkins Jr.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

JUL 18 2014

THE INSPECTOR GENERAL

The Honorable Ted Cruz
United States Senate
Washington, D.C. 20515

Dear Senator Cruz:

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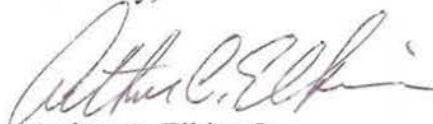
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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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JUL 18 2014

THE INSPECTOR GENERAL

The Honorable James M. Inhofe
United States Senate
Washington, D.C. 20515

Dear Senator Inhofe:

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Table with 2 columns: Question and OIG Response. The question asks about DOJ's legal opinion on the OIG's mission and authority. The response states agreement with the DOJ opinion and provides a quote from a DOJ report.

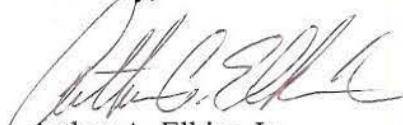
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THE INSPECTOR GENERAL

The Honorable David Vitter
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Dear Senator Vitter:

Thank you for your letters of May 8 and May 16, 2014, regarding the U.S. Environmental Protection Agency (EPA) Office of Inspector General's (OIG's) hydraulic fracturing review. We are in the preliminary research phase of our review to determine what is known about the impacts of hydraulic fracturing, the regulatory framework, and how suspected cases of water contamination are investigated. Once we complete our preliminary research, the OIG will decide on the need and scope for further work or reporting. Any final report on our work will be published on our website: www.epa.gov/oig. Our work is being conducted according to the U.S. Government Accountability Office's generally accepted government auditing standards designed to assure competency and objectivity among the staff assigned to this review. In conducting our work, we seek to obtain information from past studies or reports and interview diverse and relevant stakeholders, including state agencies, so that we are well informed and aware of the issues, and do not duplicate current or ongoing work.

The mandated functions and discretionary authorities of the OIG are to promote economy, efficiency and effectiveness; and to detect waste, fraud and abuse through independent oversight of the EPA's programs and operations. The Inspector General Act of 1978 accords broad discretion to Inspectors General to conduct reviews and issue reports relating to the administration of government programs and operations as are, in the judgment of the Inspector General, necessary or desirable. The EPA's OIG adheres diligently to its legislative mandate.

Responses to the questions in your May 8, 2014, letter, are provided below:

Question	OIG Response
<p>1. Before launching this inquiry, did the OIG consider DOJ's legal opinion cited in this letter? Please provide all documents referring or related to the scope of the OIG's mission as it relates to this inquiry. As Inspector General of EPA, how do you interpret the scope of EPA OIG authority, and do you disagree with DOJ's legal opinion cited in this letter?</p>	<p>We agree with the U.S. Department of Justice's opinion. The opinion (starting on p. 66 of http://www.justice.gov/olc/docs/op-olc-13.pdf) is that OIGs have "...an oversight rather than a direct role in investigations conducted pursuant to regulatory statutes." (p. 67 of 399). The opinion further states, "All we conclude here is that the Act does not give the Inspector General the authority to assume these regulatory investigative responsibilities himself" (p. 77 of 399). We agree with this principle, and it guides the work of the EPA OIG.</p>

Question	OIG Response
<p>2. Who requested the OIG conduct this investigation? When was the initial request made?</p>	<p>This project is self-initiated by OIG and is included in our fiscal year 2014 annual work plan: (http://www.epa.gov/oig/reports/2014/EPA_OIG_FY_2014_Annual_Plan.pdf, p. 18).</p>
<p>3. Has the OIG estimated a budget for this inquiry? If so, how much will this investigation cost? How much time and money has already been spent? How many staff have been assigned to this investigation? Please provide the names and titles of all OIG staff who have been assigned to this inquiry. How does the OIG justify expending this time and money while indicating that the office does not have sufficient funds for investigating fraud, waste, and abuse at EPA?</p>	<p>The OIG develops projected budgets for preliminary research. Complete project budgets are determined after preliminary research if further work is needed. As of July 15, the project costs were approximately \$184,000. The OIG has assigned personnel from its Office of Program Evaluation to this project. In addition to possessing extensive experience evaluating government programs, the personnel hold a variety of advanced degrees in scientific and policy fields. Like all OIG projects, this report will be supported by the Office of Counsel and Congressional and Public Affairs, and other components of the OIG. The work we are conducting is within OIG authority and the discretion of the Inspector General, and supports strategic goals that the OIG is accountable for under the Government Performance and Results Act (and amendments) for which it receives federal funding. The OIG's Strategic Plan can be found at: http://www.epa.gov/oig/reports/2012/EPA_OIG_Strategic_Plan_2012-2016.pdf.</p>
<p>4. Which states does the OIG plan on investigating? How exactly does the OIG plan to investigate them? How many states does the OIG plan to investigate, and if more than nine states are selected, when does the OIG plan to file an information collection to the Office of Management and Budget?</p>	<p>The OIG is speaking to a diverse group of stakeholders, especially the state agencies that develop and implement oil and gas regulations. We are not auditing the groups that we speak to, including states in this case. Rather, the OIG regularly collects information and obtains perspective from the stakeholders, participants and those who execute programs in order to be informed and aware of the conditions we evaluate. Due to Paperwork Reduction Act requirements, the OIG is unable to speak to more than nine states. To date, we have spoken with representatives from Pennsylvania, Colorado and Arkansas.</p>
<p>5. Has the EPA OIG already started to collect information from any states? If so, which states? Did the OIG inform states they were under investigation when they were contacted? Were the proper state notice procedures followed?</p>	<p>As indicated above, we have spoken with representatives from Pennsylvania, Colorado and Arkansas. The states are not under investigation. The OIG initially contacted the states by email and telephone. Our emails included a description of our project and a copy of the notification memo.</p>

Question	OIG Response
<p>6. The Project notification memorandum states that the EPA OIG "will contact environmental groups." What is the purpose for the OIG's contact with such groups? What groups does the OIG plan to contact? Has the OIG already contacted such groups, if so, which ones? What criteria and processes were used to select such groups?</p>	<p>Our purpose in meeting with environmental groups is to determine what their views are of the impacts of hydraulic fracturing and the management of the impacts. We have contacted four groups: Earthworks, the Arkansas Public Policy Panel, the Environmental Defense Fund and the Natural Resources Defense Council. The OIG contacted these groups because they have expressed knowledgeable views and opinions about the topics we are reviewing. We have also met with the American Natural Gas Association, the American Petroleum Institute and the Independent Petroleum Association of America. The American Petroleum Institute also convened a meeting where we met with a large number of oil and gas trade associations and corporations.</p>
<p>7. Since the EPA OIG has no authority or technical expertise to determine whether the EPA or the states has the ability to properly manage hydraulic fracturing; and since the issues surrounding the risks and safety of hydraulic fracturing have been examined by the EPA, the states and other entities; this study appears to use taxpayer dollars to duplicate work that has already been conducted. As such, please explain how this study by the EPA OIG is an effective use of the OIG's apparently scarce resources and does not itself constitute waste?</p>	<p>This review is consistent with the OIG's responsibilities to oversee the programs of the EPA under Section 4(a)(1) of the Inspector General Act. The OIG has the discretion to independently review matters it believes are in the scope of its authority. Evaluating these issues does not presume that there are or are not deficiencies in existing regulations or states' management of this area.</p> <p>The OIG does not consider its evaluation as a duplication of prior or ongoing work. We take very seriously our obligation to be good stewards of taxpayer dollars and we work with clear purpose to avoid duplication in our work.</p> <p>The OIG is not conducting independent scientific evaluations, laboratory studies or toxicological studies. The OIG will not undertake a review of those matters that the EPA's Office of Research and Development is currently assessing.</p>

I appreciate your continued interest in the work of the OIG. Similar letters are being sent to Senators Inhofe, Coburn, Cornyn and Cruz. If you should have any questions about this or any other matter, please contact Alan Larsen, Counsel to the Inspector General, at (202) 566-2391.

Sincerely,



Arthur A. Elkins Jr.