

U.S. Senator Maria Cantwell

Senate Commerce Committee Hearing Nominations Hearing Q&A

Witnesses: Joel Szabat, of Maryland, to be Under Secretary of Transportation for Policy, U.S. Department of Transportation; Michael P. O’Rielly, of New York, to be a Member of the Federal Communications Commission; Nancy B. Beck, of New York, to be a Commissioner and Chairman of the Consumer Product Safety Commission; Michael J. Walsh, Jr., of Virginia, to be General Counsel of the U.S. Department of Commerce; and Mary A. Toman, of California, to be Under Secretary of Commerce for Economic Affairs, U.S. Department of Commerce

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CANTWELL: Thank you, Mr. Chairman, and I thank the witnesses. I have a lot of questions, and not probably enough time to go through all of them, so if you could be succinct on your answers I’d certainly appreciate it.

I want to start with you, Dr. Beck. Obviously the Consumer Product Safety Commission in its important responsibilities to protect the public—I mean literally these rules are about life and death. An overwhelmingly bipartisan 2016 Toxic Substance Control Act, TSCA, requires the EPA to study the risk of chemicals and then step up to protect people against those risks.

One of those chemicals being studied is TCE, a chemical used for decades as a grease remover and dry cleaning solvent. It was found at hundreds of Superfund sites, in every single state, in drinking waters all across America, it was poisonous. Documents in another Trump report show that when the Trump Administration EPA rejected industry science, designed to downplay the risks of birth defects and those chemical causes, and the White House overruled EPA’s own scientists. So Dr. Beck, yes or no, were you involved or responsible for the direction of the White House that it gave to EPA to edit the risks of TCE to remove the cardiac birth defects from those documents?

BECK: Senator Cantwell, I think you’re referring to an inter-agency review process, which is standard practice. During that process, the lead agency has the authority—they have the pen. They decide which comments are accepted, which comments are rejected, and whether or not any changes are made to the assessment. So the draft assessment that was released is as reflection of the EPA.

CANTWELL: So did you advocate for the removal of cardiac birth defect risks from those documents? Did you advocate for that?

BECK: So the inter-agency review process, which I have participated in for many years, 15 years now, is a very important process that allows for frank and candid and deliberative discussion within an agency and across an agency.

CANTWELL: Yes or no, did you advocate? Yes or no? That’s all I’m asking.

BECK: Senator, what you're asking for is deliberative information.

CANTWELL: And so you're saying at this point, you don't know whether you believe that TCE information about cardiac birth defects is important?

BECK: Information about cardiac birth defects, with TCE or any chemical, is very, very important.

CANTWELL: So did you participate, you personally, in asking for that to be removed?

BECK: So the inter-agency process is designed to protect deliberative information—

CANTWELL: Okay, we're going to go on to the next question. Senator Carper has been a lead obviously in his EPA role. In 2015, the Obama Administration proposed a rule that was designed to restrict the use of the most dangerous PFAS chemicals in consumer products. And Senator Carper has indicated that you personally repeated to delay and weaken a proposed rule. Senator Carper, as part of the White House review—when you left EPA, you tried repeatedly to weaken the rule by allowing companies that continue to include PFAS chemicals in consumer products have a safe harbor from enforcement. If they said they didn't know, they were supposed to have ensured that PFAS was removed. So yes or no, did you participate in that process?

BECK: Senator, I can assure you that I did not weaken or delay any PFAS rules. The PFAS—I think it's the SNUR that you're referring to, is a draft document that was released by EPA. EPA has the pen on that document, and EPA decides what is in and what is not in that draft document.

CANTWELL: So, do you believe that the companies should have a safe harbor?

BECK: I'm not prepared to answer that question.

CANTWELL: Okay. Well here's what my constituents are prepared for: this report. This report that basically is from the Agency for Toxic Substance and Disease Registry. And it is about the assessment in the Spokane community about the unacceptable levels of PFAS. Okay? That is what is beyond acceptable. I can't support your nomination when you can't answer these questions.

When I go to this report, and I look on page 4 of the report, and it says, "PFAS levels in tap water: Collected and tested water samples from participating households: The PFAS levels for all 19 tap water samples were below all federal and applicable state guidelines for PFAS in drinking water." I can't tell my constituents that I supported you, because you can't tell me about this important thing to not have a safe harbor for these people. So, listen, this issue is well known in Spokane, it's well known in Fairchild Air Force Base, I know our colleagues have tried to deal with this issue.

But I have to just bring up the Ligado issue if I could really quickly because it's such an important issue, and we have 3 people here that could also say something about it. Obviously the Ligado issue—with the FCC's recent approval, you're putting into competition, in my mind, this GPS system, which threatens the safety and security from civil aviation and military operations to weather forecasting. And I just want to know what the witnesses, Mr. Szabat, Walsh, and

Toman, whether you have any comments about that, and Mr. O’Rielly if I have a minute left. Or have a few comments, I guess I could wait another round.

SZABAT: Thank you, Senator, for the question. The Ligado issue and its predecessor, the light squared issue, was in fact a very difficult issue to grasp with. The Department of Transportation, I think we have an easier way forward than our colleagues do at the FCC, our mandate is to look out for the interests of the GPS system, as you pointed out. Our testing has indicated that Ligado system, if deployed, would interfere with GPS, and therefore we have remained opposed to its deployment.

CANTWELL: Okay, my time has run out, Mr. Chairman. So I will put in for the record, if I could, to let the rest of the witnesses answer that question. But I also am going to put into the record a question to Ms. Beck about COVID-19 guidelines for the White House. There’s also questions about your role in basically trying to deny the release of information that would’ve been helpful. We had a horrific accident in Washington as people convened in Skagit County to sing in a choir, and so many people from that event got COVID. So I want to understand whether you participated in anything in suppressing information that would’ve been helpful in that.

So thank you, Mr. Chairman.