

# Congress of the United States

Washington, DC 20510

November 8, 2013

The Honorable Ernest Moniz  
Secretary of Energy  
U.S. Department of Energy  
1000 Independence Ave., SW  
Washington, DC 20585

Dear Secretary Moniz:

The Northwest Congressional delegation stands united in support of two principles that will enable the region to overcome the severe damage caused by the Bonneville Power Administration's (BPA) systematic violation of U.S. law requiring hiring preference for qualified veterans. While we support the need for BPA and the Department of Energy (DOE) to take remedial actions, DOE's involvement should be both temporary and limited.

We agree, first and foremost, that justice must be done for any veterans who were turned down for a job through the unlawful manipulation of the personnel process by BPA. It is also essential that BPA employees are able to bring to light illegal, unethical, or other inappropriate activity at work without fear of retaliation. Whistleblowers must be protected.

It is unacceptable that our veterans, many of whom have put their lives on the line in defense of our nation, were treated in an unfair and illegal manner when applying for jobs at BPA. It is also very unfortunate that BPA appears to have taken inappropriate retaliatory action against BPA employees who raised concerns with management and the DOE Inspector General.

BPA and DOE must move forward to implement solutions to these violations of federal hiring rules, including veterans' preference, in a swift yet careful manner. We request that BPA and DOE provide to all concerned, as soon as possible, a full description of the process to be used to work through each case and the overall timeline for resolution. BPA and DOE should make the process as transparent as possible within the limitations of privacy and confidentiality rules. We are hopeful that the resolution process developed by BPA and DOE works well. However, to date, BPA and DOE have not provided even partial answers to any of these questions.

Second, we believe that it is imperative for DOE to refrain from using this matter as a lever to diminish regional control of BPA. DOE needs to understand that BPA is an agency within DOE, not a DOE field office and should not be treated as one. BPA's unique organizational status is repeatedly affirmed by federal law.

For example, under the Northwest Power Act, there is a four-state legal compact that created an interstate entity, the Northwest Power and Conservation Council, to provide guidance to BPA. No other region of the country has such a structure. The Federal Columbia River Transmission System Act establishes BPA as a self-financing agency independent of annual appropriations. Consequently, BPA ratepayers, not federal taxpayers, bear the burden of the costs

of fixing the many problems caused by the agency's unlawful actions. Moreover, the Department of Energy Organization Act requires that BPA be maintained as a "separate and distinct" entity within the DOE. These are just a few of the provisions in federal law giving BPA considerable autonomy that must be recognized by DOE.

BPA decisions must be made in the Northwest for the benefit of the Northwest. While DOE deserves credit for uncovering BPA's violation of veterans' preference and other federal hiring rules, on many BPA matters DOE simply has neither the expertise nor the resources to effectively manage the day-to-day operations.

While many of us received assurances from Deputy Secretary Daniel Poneman that it is not the intent of the DOE to take control of BPA's statutory policy and administrative responsibilities, the Deputy Secretary's memorandum issued on October 24, 2013 heightened our concerns regarding loss of regional control. The new reporting requirements to DOE headquarters would undercut the Acting BPA Administrator and his ability to take charge of the current hiring situation and other critical matters facing BPA and the Northwest. This reporting structure is inconsistent with the basic management principle that authority and responsibility must be in alignment. At a time like this, the Acting Administrator needs to be empowered, not hobbled by convoluted reporting relationships.

We are particularly concerned that the Poneman memorandum requires the BPA Office of General Counsel to report to DOE headquarters Office of General Counsel (DOE GC) rather than to the Acting BPA Administrator. The memorandum places no limits on the scope of BPA matters that the DOE General Counsel may take over. In fact, the memorandum could even be construed as providing authority to DOE GC to impose aspects of the "Chu memorandum" on the Power Marketing Administrations through DOE filings at the Federal Energy Regulatory Commission. It is worth noting that DOE continues to refuse to disavow the Chu memorandum in writing.

We are also concerned that this new reporting relationship does not have an end date. The Poneman memorandum states that DOE headquarters General Counsel and the BPA Administrator will report on the results of these efforts in six months. We respectfully request that DOE report to the Northwest Congressional delegation on a monthly basis as well. In the event that this reporting relationship is still in effect after six months, we request that DOE explain to the Northwest Congressional delegation in writing why this arrangement is still in place.

We also question the new requirement for a review of the application of all DOE directives to BPA by the Senior Advisor to the Secretary. BPA and DOE should focus their efforts solving the many difficult problems caused by BPA's violation of veterans' preference. A review of the applications of all DOE directives could be a distraction. Nevertheless, if the DOE believes such a review is necessary, it should be time-limited, rather than open-ended.

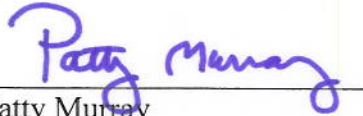
In closing, we respectfully request that you and Deputy Secretary Poneman clarify that it is not your intent to extend DOE headquarters day-to-day oversight of BPA beyond that necessary to remedy the acknowledged failures of the BPA personnel system.

Thank you for your consideration.

Sincerely,



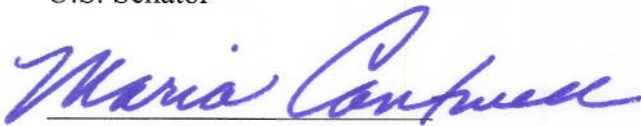
Ron Wyden  
U.S. Senator



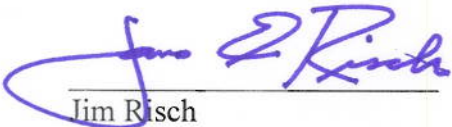
Patty Murray  
U.S. Senator



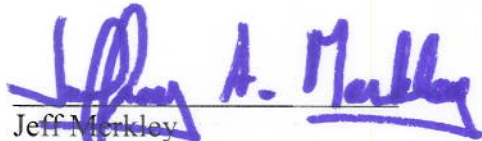
Mike Crapo  
U.S. Senator



Maria Cantwell  
U.S. Senator



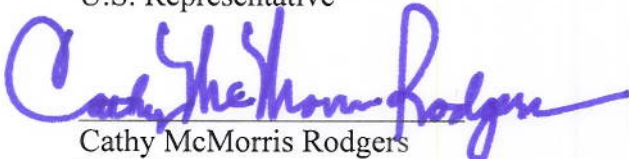
Jim Risch  
U.S. Senator



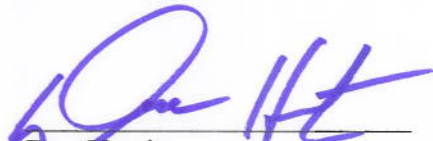
Jeff Merkley  
U.S. Senator



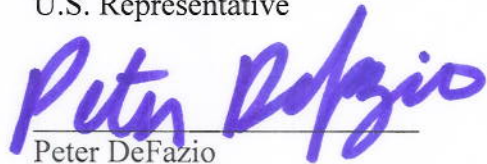
Greg Walden  
U.S. Representative



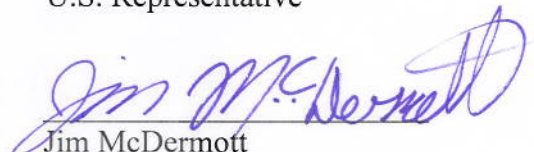
Cathy McMorris Rodgers  
U.S. Representative



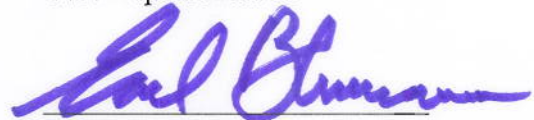
Doc Hastings  
U.S. Representative



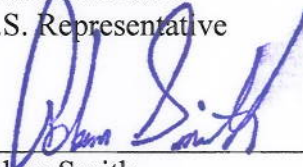
Peter DeFazio  
U.S. Representative



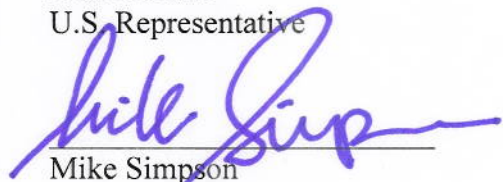
Jim McDermott  
U.S. Representative



Earl Blumenauer  
U.S. Representative



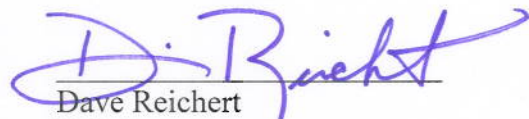
Adam Smith  
U.S. Representative



Mike Simpson  
U.S. Representative



Rick Larsen  
U.S. Representative



Dave Reichert  
U.S. Representative



Kurt Schrader  
U.S. Representative



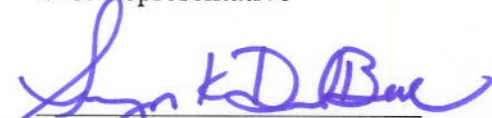
Jaime Herrera Beutler  
U.S. Representative



Raúl Labrador  
U.S. Representative



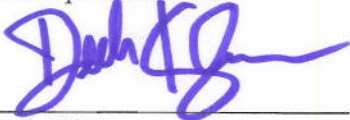
Suzanne Bonamici  
U.S. Representative



Suzan DelBene  
U.S. Representative



Denny Heck  
U.S. Representative



Derek Kilmer  
U.S. Representative