June 19, 2018

United States Senate
Washington, DC 20510

RE: Oppose Peter Wright's Nomination to lead U.S. Environmental Protection Agency's Office of Land and Emergency Management

Dear Senator:

We, the undersigned groups, represent people across the United States who are deeply concerned about releases of toxic chemicals from facilities in their communities, and the associated health, safety, and environmental harms. We are writing to urge you to oppose the confirmation of Dow Chemical Company's managing counsel, Mr. Peter C. Wright, to serve as the Assistant Administrator of the U.S. Environmental Protection Agency (EPA) Office of Land and Emergency Management (OLEM).[1] Due to his nearly two decades of work protecting the interests of a corporation with a striking record of hazardous chemical releases and toxic waste sites, Mr. Wright should not be granted the responsibility and decision-making authority to lead OLEM, which would require him to implement and enforce vital health, safety, and environmental laws against his current employer and others like it.

Having spent the bulk of his legal career working on behalf of chemical companies from the inside, Mr. Wright should never have been considered for this position, much less nominated. For almost twenty years, Mr. Wright has represented Dow, now DowDuPont, Inc., one of the world's largest chemical companies and a member of the American Chemistry Council (ACC).[2] The ACC is an industry trade association that has long fought against protections from toxic chemicals.[3]

DowDupont's recent SEC Form-10K reports over 100 Superfund sites between Dow and DuPont.[4] An April 2018 EPA document connects Dow, DuPont and their subsidiaries to more than 150 toxic waste sites throughout the country under the federal Superfund program—in states ranging from CT, DE, NJ, NY, PA, RI, and VT in the New England/Northeast corridor, to AZ, CA, CO, WA, and even HI, in the West, throughout the Gulf and many other Southern states, and in many Midwestern states including KS, IL, IN, MO, MN, and OH.[5] Should Mr. Wright run OLEM, he will oversee that program, as well as the federal hazardous waste regulatory program that Dow and ACC have sought to weaken for decades.[6]

The White House's nomination announcement states that Mr. Wright "has led Dow's legal strategies regarding Superfund sites and other Federal and State-led remediation matters."[7] A 2016 description of Mr. Wright's work, published by THG Advisors, highlights as one example: "Dow's largest and most significant environmental matter,"[8] the dioxin contamination at Dow's Midland, Michigan facility.[9] In addition, *The Intercept* reports that Dow stated that Mr. Wright has been directly involved in negotiations on 14 Superfund sites, but the names of those sites and other similar matters have not been publicly disclosed.[10] Alarmingly, during his time at Dow,

Mr. Wright has questioned well-established, peer-reviewed scientific data and the U.S. EPA's expert evaluation finding that exposure to dioxins poses a serious threat to human health.[11]

As the head of OLEM, Mr. Wright would also be charged with implementing the Risk Management Program (RMP), including the most recent update to modernize chemical facility safety in the United States via the Chemical Disaster Rule that Administrator Pruitt has suspended and is now under reconsideration.[12] The ACC filed a lawsuit challenging this new rule and is part of a case in which it is defending EPA's sudden delay of life-saving protections, and calling for the weakening of that rule and program, which regulates 12,500 chemical facilities, including over 50 DowDupont and subsidiary facilities.[13] From 2004 to 2016, EPA data show that Dow, DuPont, and their subsidiaries together averaged 7 chemical disaster incidents per year, for a total of 99 fires, explosions, or other hazardous releases under the existing RMP.[14] According to EPA's data, these incidents led to the deaths of 6 workers, injured or caused over 200 people to be hospitalized or seek medical treatment, forced over 12,000 people to shelter-in-place or evacuate, and caused over $67.5 million in property damage.[15]

To allow Mr. Wright to take control of these critical programs would be a grave violation of the public trust. At a minimum, it would create an appearance of partiality in favor of the chemical industry that would undermine the foundation of good government. We need someone at the helm of OLEM who can be expected to vigorously protect the health and safety of millions of Americans—including those living in low-income communities and communities of color that face extreme environmental injustices—from the mismanagement of wastes and toxic chemicals.

From the Love Canal and Bhopal tragedies to the current lists of hazardous waste sites and chemical disasters, there is no shortage of proof that companies handling toxic chemicals must be *more* not less strictly regulated for the protection of our health and environment. Given his long history of representing one of the polluting companies he would now be charged with regulating, Mr. Wright is the wrong person for this job. As in-house counsel to a major chemical company whose activities are regulated by OLEM, Mr. Wright has not shown that he has a commitment to serving the public and protecting health, as is required to lead this important part of EPA.

At the very least, we ask you to insist and ensure, through all available oversight mechanisms, that if Mr. Wright is confirmed, he must publicly disclose all matters involving OLEM in which he has ever had any involvement and all matters involving OLEM in which he or his former employers and clients have any current interest. He also should be required to recuse himself from all such matters, as well as any matters (including rulemakings) where there is an appearance of partiality on his part in favor of the chemical industry or other regulated parties. Thank you for your time and for considering our concerns.

Respectfully,

350 New Orleans (LA)
Action for a Livable Future
Alaska Community Action on Toxics (AK)
Altamaha Riverkeeper (GA)

American Legion Post 6 (CA)
Apostolic Faith Center (CA)
As You Sow
Black Warrior Riverkeeper (AL)
Breast Cancer Prevention Partners
California Communities Against Toxics (CA)
California Kids IAQ (CA)
California Safe Schools (CA)
Cease Fire Campaign
Center for Biological Diversity
Center for Environmental Health
Citizens for Safe Water - CSWAB.org
Citizens' Environmental Coalition (TX)
Clean Water Action
Climate Law & Policy Project
ClimateMama
Coalition For A Safe Environment (CA)
Coming Clean
Comité Diálogo Ambiental, Inc (PR)
Community Dreams (CA)
Del Amo Action Committee (CA)
Desert Citizens Against Pollution (CA)
Don't Waste Arizona (AZ)
Downwinders at Risk (TX)
Dr. Whyte Pediatrics (GA)
Earth Action
Earthjustice
Emerge (CA)
Empire State Consumer Project, Inc. (NY)
Endangered Species Coalition
Environmental Advocates of New York (NY)
Environmental Health Strategy Center
Environmental Integrity Project
Environmental Justice and Health Alliance for Chemical Policy Reform
Environmental Working Group
Farmworker Association of Florida (FL)
Food & Water Watch
Gas Free Seneca (NY)
Good Neighbor Steering Committee (CA)
Grand Riverkeeper/LEAD Agency, Inc. (OK)
Green America
Green Army
Greenaction for Health and Environmental Justice
Greenpeace
Headwater LLC (WI)
Health Care Without Harm

Healthy Building Network
Institute of Neurotoxicology and Neurological Disorders (INND)
International POPs Elimination Network (IPEN)
Ironbound Community Corporation (NJ)
JustPeace
Kentucky Environmental Foundation (KY)
Labadie Environmental Organization (LEO) (MO)
League of Conservation Voters
Learning Disabilities Association of Maine (ME)
Louisiana Bucket Brigade (LA)
Made Safe
Maryland Pesticide Education Network (MD)
MELA (Mothers of East Los Angeles) (CA)
Midwest Environmental Justice Organization
Moms Clean Air Force
Montana Environmental Information Center (MT)
NAACP San Pedro-Wilmington Branch #1069 (CA)
National Nuclear Workers for Justice
Natural Resources Defense Council
New Jersey Work Environment Council (NJ)
NJ Environmental Justice Alliance (NJ)
North Louisiana for Earth and Water Justice (LA)
Nuclear Information and Resource Service
Operation SPLASH (NY)
OVEC-Ohio Valley Environmental Coalition (WV)
Peace Farm
People Concerned About Chemical Safety (WV)
Pesticide Action Network
PFOA Project New York (NY)
Physicians for Social Responsibility
Physicians for Social Responsibility - Arizona Chapter (AZ)
Physicians for Social Responsibility - Greater Boston (MA)
Physicians for Social Responsibility - Iowa Chapter (IA)
Physicians for Social Responsibility - Maine Chapter (ME)
Physicians for Social Responsibility - Oregon (OR)
Physicians for Social Responsibility - Philadelphia Chapter (PA)
Physicians for Social Responsibility - San Francisco Bay Area Chapter (CA)
Physicians for Social Responsibility - TN Chapter (TN)
PLAN - People for Land And Nature (CA)
Potomac Riverkeeper Network
Public Citizen
Safe Energy Rights Group, Inc.
San Luis Obispo Mothers for Peace (CA)
San Pedro & Peninsula Homeowners Coalition (CA)
Seneca Lake Guardian (NY)
Sierra Club

St. Philomena Social Justice Ministry (CA)
t.e.j.a.s. (Texas Environmental Justice Advocacy Services) (TX)
Texas Campaign for the Environment (TX)
Toxics Action Center Campaigns
Tri-Valley CAREs (Communities Against a Radioactive Environment) (CA)
Tribal Environmental Watch Alliance
Union of Concerned Scientists
Valley Watch, Inc
Veterans for Common Sense
Vietnam Veterans of America
Voluntary Cleanup Advisory Board
Volunteers for Environmental Health and Justice (TN)
Warminster Toxic Waste (PA)
WE ACT for Environmental Justice
Wilmington Improvement Network (CA)
Women's Energy Matters
Women's Voices for the Earth

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[1] EPA, About the Office of Land & Emergency Mgmt., https://www.epa.gov/aboutepa/about-office-land-and-emergency-management.

[2] White House Announcement (Mar. 2, 2018), https://www.whitehouse.gov/presidential-actions/president-donald-j-trump-announces-intent-nominate-personnel-key-administration-posts-38/; About ACC, https://www.americanchemistry.com/Membership/MemberCompanies/.

[3] Union of Concerned Scientists, Bad Chemistry: How the Chemical Industry's Trade Association Undermines the Policies That Protect Us (2015), https://www.ucsusa.org/center-science-and-democracy/fighting-misinformation/american-chemistry-council-report#.Ws5xgojwaUk; *see* also cases cited in notes 6, 13, below.

[4] *See* DowDupont Inc., U.S. Securities and Exchange Commission Form 10-K (for the fiscal year ended Dec. 31, 2017), p. 73, *available at* http://s21.q4cdn.com/813101928/files/doc_financials/2017/q4/DowDuPont-Q4Y17-Form-10K.pdf.

[5] U.S. EPA FOIA-011 Noticed Parties at SEMS Sites (Run Date: 5/13/2018), *available at* https://semspub.epa.gov/work/HQ/201045.pdf (sorted by region, state, site name, party name) (last checked 6/19/18). *See also* Union of Concerned Scientists, Peter Wright's Nomination Means Superfund Conflicts in Almost All 50 States, https://blog.ucsusa.org/genna-reed/peter-wrights-nomination-superfund-conflicts-of-interest; Report of EPA Superfund Program, Noticed Parties at CERCLIS Sites (List-11), Version 1.02 (Oct. 28, 2013), https://web.archive.org/web/20170612202749/https://www.epa.gov/sites/production/files/2015-09/documents/list-11.pdf (sorted by region, state, site name, party name) (document available by request from signers); U.S. EPA, List 11- Responsible Parties at CERCLIS Sites, https://web.archive.org/web/20170105001216/https:/www.epa.gov/superfund/list-11-responsible-parties-cerclis-sites (explaining that "[t]he List 11 lists responsible parties at Superfund sites that have received Special or General Notice letters from EPA.").

[6] *See, e.g., NRDC v. EPA*, 755 F.3d 1010 (D.C. Cir. 2014) (vacating a 1998 regulatory exemption for hazardous waste burning, *see* 63 Fed. Reg. 33,782, that Dow sought and ACC defended);

ACC v. EPA, 337 F.3d 1060 (D.C. Cir. 2003) (rejecting ACC's challenge to a hazardous waste regulation); *Cement Kiln Recycling Coalition v. EPA*, 255 F.3d 855 (D.C. Cir. 2001) (rejecting challenges by Dow and ACC *et al*. to regulations for hazardous waste burning facilities); *see also* Union of Concerned Scientists, Peter Wright's Nomination Means Superfund Conflicts in Almost All 50 States, https://blog.ucsusa.org/genna-reed/peter-wrights-nomination-superfund-conflicts-of-interest.

[7] White House Announcement, note 2.

[8] The Horinko Group, Ask the Experts- RCRA 2040 (July 11, 2016), https://web.archive.org/web/20180310115732/http://www.thehorinkogroup.org/featured_column/2016/07/11/ask-the-experts-rcra-2040/.

[9] EPA, Superfund Site: Tittabawassee River, Saginaw River & Bay Midland, MI Cleanup Activities, https://cumulis.epa.gov/supercpad/SiteProfiles/index.cfm?fuseaction=second.Cleanup&id=0503250#Status; *see also* Lerner, S., *The Intercept,* March 29, 2018, *Trump's Nominee To Oversee Superfund Program Spent Decades Fighting EPA Cleanups On Behalf Of Polluters*, https://theintercept.com/2018/03/29/epa-superfund-scott-pruitt-peter-wright/ (cited and linked by Albeck-Ripka L. *et al.*, America Before Earth Day: Smog and Disasters Spurred the Laws Trump Wants to Undo, Apr. 21, 2018, *NY Times*, https://www.nytimes.com/2018/04/21/climate/environmental-disasters-earth-day.html ("some people nominated for key positions have direct links to polluting industries")).

[10] Lerner, *The Intercept*, note 9.

[11] Wright, Peter C. *et al.* Twenty-five Years of Dioxin Cancer Risk Assessment, *Nat'l Res. & Env't* Vol. 19 No. 4, pp. 31-35 (Spring 2005), https://www.jstor.org/stable/40924608?seq=1#page_scan_tab_contents.

[12] EPA, Final Amendments to the Risk Management Program (RMP) Rule, https://www.epa.gov/rmp/final-amendments-risk-management-program-rmp-rule; *see also* Report of BlueGreen Alliance *et al.*, A Disaster In The Making (Apr. 3, 2018; updated June 12, 2018), https://earthjustice.org/features/toxic-catastrophes-texas-national-chemical-disaster-rule.

[13] *See Am. Chemistry Council v. EPA*, D.C. Cir. No. 17-1085; Brief of American Chemistry Council *et al.*, *Air Alliance Houston v. EPA*, No. 17-1155 (consol. with No. 17-1181), ECF No. 1715777 (filed Jan. 31, 2018); EPA, 2016 Risk Management Plan (RMP) National Database files (non-OCA) Version, https://www.regulations.gov/document?D=EPA-HQ-OEM-2015-0725-0311.

[14] EPA, OLEM, Risk Management Plan (RMP) Facility Accident Data, 2004-2013 (Feb. 2016), https://www.regulations.gov/document?D=EPA-HQ-OEM-2015-0725-0002 (searchable, filterable, and sortable by company); EPA, OLEM, Risk Management Plan (RMP) Facility Accident Data, 2014-2016 (Apr. 2018), https://www.regulations.gov/document?D=EPA-HQ-OEM-2015-0725-0909 (searchable, filterable, and sortable by company).

[15] EPA Facility Accident Data 2004-2013, *supra* note 14; EPA Facility Accident Data 2004-2013, *supra* note 14.