

Congress of the United States

House of Representatives

COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY

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May 14, 2015

The Honorable Ernest Moniz
Secretary
U.S. Department of Energy
1000 Independence Avenue, SW
Washington, D.C. 20585

Dear Secretary Moniz,

The Committee on Science, Space, and Technology continues its oversight relating to the use of electronic communications by federal employees to avoid transparency and accountability. Information obtained by the Committee shows that former Department of Energy (DOE) official Michael Goo used text messages and personal e-mail during his time at the Environmental Protection Agency (EPA) to communicate with third party groups attempting to influence the Administration's agenda. In 2013, Mr. Goo left the EPA Office of Policy for a similar position with the newly established DOE Office of Energy Policy and Systems Analysis.¹ In order to determine whether Mr. Goo used similar means of communication during his time at DOE, the Committee requests relevant electronic communications.

According to documents reviewed by the Committee, officials in the EPA Office of Policy used text messages and personal e-mail addresses to conduct official government business in an apparent attempt to avoid transparency. Documents show that in 2011, then-EPA Associate Administrator for Policy Michael Goo apparently used his private e-mail account to routinely communicate with outside groups regarding agency policy. In one e-mail sent from a personal e-mail account to a lobbyist, he writes **"ok I will call number on text message."** Another e-mail sent from the Sierra Club to Mr. Goo's private e-mail account states, **"[a]ttached is a memo I didn't want to send in public."** Mr. Goo was complicit in the lack of transparency by complying with the Sierra Club's request because he failed to disclose the e-mail for two years. Indeed, personal e-mails were not captured by EPA e-mail servers until Mr. Goo forwarded e-mails to his official government account in August 2013. Mr. Goo's actions are troubling because it creates the appearance of secrecy. For two years, his communications with the Sierra Club and other outside groups were hidden from Congressional inquiries and Freedom of Information Act (FOIA) requests—potentially violating the Federal Records Act.

¹ Robin Bravender, *Policy Chief Moves to DOE*, E&E NEWS, Oct. 29, 2013, available at <http://www.eenews.net/greenwire/stories/1059989604>.

News reports highlight Mr. Goo's efforts to skirt transparency and his ties to environmental groups attempting to influence the Administration's agenda. **Mr. Goo reportedly arranged meetings "at the Starbucks in the JW Marriott hotel on Pennsylvania Avenue, close to the EPA" in an effort to prevent participants of meetings from signing in at the EPA building and creating public records.**² In addition, according to the *New York Times*, Mr. Goo was a member of the Natural Resources Defense Council "mafia" where he served as legislative director for 18 months.³ What is concerning is that as a senior official at the EPA, Mr. Goo "was charged with overseeing regulations going through White House reviews and providing policy advice."⁴ Then, after serving from 2011 to 2013 at EPA, he reportedly was one of the "cool kids" who joined the DOE policy shop that was labeled an "Ivory Tower."⁵

Mr. Goo's senior-level position with DOE appears to be similar to the role he played at EPA. Indeed, DOE's Office of Energy Policy and Systems Analysis and EPA's Office of Policy seemingly serve the same function—setting agency policy. Consequently, third party groups are likely to contact the policy office in hopes of affecting the outcome of agency decisions. While third party groups are expected to petition the government, it is a serious matter for government officials to prevent those contacts from being subjected to public scrutiny. Given Mr. Goo's history of communicating with third party groups at EPA through private e-mail and text messages, and his efforts to schedule meetings outside of the agency, the Committee is concerned that Mr. Goo used similar practices during his time with DOE, particularly given recent instances of other DOE officials utilizing private e-mail accounts to conduct official business.

Previous Congressional investigations determined that DOE officials routinely used non-official email to conduct agency work, at times with the explicit intent of concealing that work from public scrutiny or Congressional oversight. For example, on August 21, 2011, former DOE Loan Program Office Director Jonathan Silver used his Yahoo! e-mail account to send a message to another official within the Loan Program Office stating:

Don't ever send an email on doe email with private email addresses. That makes them subpoenaable.⁶

Congressional investigations found that at least fourteen DOE officials regularly used non-government accounts to communicate about DOE business. These communications were not limited to discussions between DOE officials; rather other e-mails reveal that DOE officials

² John Roberts, 'Secret Dealing? Emails Show Cozy Relationship Between EPA, Environmental Groups, FOX NEWS, Jan. 22, 2014, available at <http://www.foxnews.com/politics/2014/01/22/emails-show-cozy-relationship-between-epa-environmental-groups-on-keystone-coal/>.

³ Darren Samuelsohn, *NRDC Mafia Finding Homes on Hill, EPA*, N.Y. TIMES, Mar. 6, 2009, available at <http://www.nytimes.com/gwire/2009/03/06/06greenwire-nrdc-mafia-finding-homes-on-hill-in-epa-10024.html>.

⁴ Robin Bravender & Katherine Ling, *Cool Kids Jump to Moniz's New Policy Shop*, E&E NEWS, Nov. 12, 2013, available at <http://www.eenews.net/greenwire/stories/1059990330>.

⁵ *Id.*

⁶ E-mail from Jonathan Silver to Morgan Wright (August 21, 2011).

communicated via private e-mail accounts with White House officials about official work subject to federal recordkeeping statutes.⁷

In order to ascertain whether Michael Goo used electronic communications to avoid transparency during his time at DOE, and pursuant to Rule X of the U.S. House of Representatives, the Committee requests the following documents and information as soon as possible, but not later than noon on May 28, 2015.

All document and communications, including text messages, personal e-mail and government e-mail, sent or received by Michael Goo from 2013 to 2014, referring or relating to outside groups, including but not limited to the White House, Sierra Club, League of Conservation Voters, and the Natural Resources Defense Council.

When producing documents to the Committee, please deliver production sets to the Majority Staff in Room 2321 of the Rayburn House Office Building and the Minority Staff in Room 394 of the Ford House Office Building. The Committee prefers, if possible, to receive all documents in electronic format.

If you have any questions about this request, please contact Committee Staff at 202-225-6371. Thank you for your attention to this matter.

Sincerely,



Lamar Smith
Chairman

cc: The Honorable Eddie Bernice Johnson, Ranking Minority Member

⁷ Letter from Chairman Darrell E. Issa, Rep. Jim Jordan, and Rep. Trey Gowdy, House Committee on Oversight and Government Reform, to Energy Secretary Steven Chu, August 14, 2012.