U.S. ENVIRONMENTAL PROTECTION AGENCY

OFFICE OF INSPECTOR GENERAL

A Look at the Recent Work of the Office of Inspector General, U.S. Environmental Protection Agency

Statement of Arthur A. Elkins Jr.
Inspector General

Before the Committee on Oversight and Government Reform
U.S. House of Representatives

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Good morning Chairman Issa, Ranking Member Cummings and Members of the Committee. I am Arthur Elkins, Inspector General of the U.S. Environmental Protection Agency (EPA). I am pleased to appear before you today to discuss some of the recent important work of the Office of Inspector General (OIG). In particular, I will highlight the audit work that ensued as a direct result of the OIG's criminal investigation of former EPA employee John C. Beale. The EPA's Assistant Inspector General for Investigations, Patrick Sullivan, whose testimony will follow mine, will provide more specific details of the investigation. Thank you for allowing me the opportunity to share with you the OIG's various efforts to safeguard the EPA and the U.S. Chemical Safety and Hazard Investigation Board (CSB) from fraud, waste and abuse through independent oversight of their programs and operations.

Before I begin, I would like to commend the expertise, dedication, diligence and professionalism of the OIG staff whose exceptional work serves as the foundation of my testimony this morning. Once my office learned about the serious allegations made against Mr. Beale, the OIG's Office of Investigations immediately launched and quickly completed a successful investigation of what you will certainly agree to be an egregious and almost unbelievable case. As a result of this investigation, the OIG's Office of Audit has mobilized to aggressively assess the various internal control issues at the EPA that allowed this highly troubling scenario to occur.

Overview of the EPA OIG

The OIG is an independent and objective office within the EPA that is uniquely charged to conduct audits and investigations related to programs and operations at the agency to prevent and detect fraud and abuse. Although we are a part of the EPA, the agency's senior leaders can neither prevent nor prohibit us from conducting our work. In accordance with the Inspector General Act of 1978, as amended, the OIG's mission is to: conduct independent and objective audits and evaluations; prevent and detect waste, fraud and abuse; promote economy, effectiveness and efficiency; review pending legislation and regulation; and keep the agency head and Congress fully and currently informed. We fulfill our mission by primarily issuing audit and evaluation reports that include recommendations for corrective action, by conducting investigations, and by referring criminal cases to the United States Attorney General for prosecution.

For fiscal year (FY) 2013, the OIG operated on a post-sequestration budget of $49.125 million. Our funded full-time equivalent (FTE) for FY 2013 was 338.

Within the OIG are three offices (Audit, Evaluation and Investigations) that perform our mission-related work. The Office of Audit designs and implements long-term, nationwide audit plans to improve the economy, efficiency and effectiveness of agency programs and prevent fraud, waste and mismanagement. It also leads and participates in multi-agency projects to address government-wide management issues. The Office of Program Evaluation manages, coordinates and has overall responsibility for leading the design and implementation of program evaluations within the OIG. Its evaluations use design and methodology strategies that maximize innovation, identify new issues, and focus on increased understanding of EPA programs. The Office of Investigations manages, sets policy, coordinates, and has overall responsibility for criminal investigations of allegations, including financial fraud involving EPA programs or funds and employee misconduct. In addition, it is responsible for the OIG Hotline, which receives complaints of fraud, waste and abuse in EPA programs and operations. The Office of Investigations maintains vital working relationships with the Department of Justice; the Federal Bureau of Investigation; other OIGs; and federal, state and local law enforcement agencies.

Recent Work of the EPA OIG

From April 1, 2008, through March 31, 2013, we issued 390 reports, processed 2,015 hotline cases, and performed 492 investigations. We have made recommendations having the potential to save the EPA approximately $793 million by preventing fraud, waste and other abuses in mandatory programs.

Here are several examples from the OIG's most recent body of work:

- In May 2013, the OIG's Office of Audit issued a report (Report No. 13-P-0272, *Early Warning Report: Main EPA Headquarters Warehouse in Landover, Maryland, Requires Immediate EPA Attention*) that raised significant concerns about a lack of agency oversight of personal property and warehouse space at the facility. We found, among other things, that the warehouse contained multiple unauthorized and hidden personal spaces that included such items as televisions and exercise equipment; numerous potential security and safety hazards existed at the warehouse, including unsecured personally identifiable information (such as passports); and deplorable conditions existed at the warehouse; corrosion, vermin feces, mold and other problems were pervasive.

- In November 2012, a corporation and owners of a Florida septic tank company pled guilty to a fraud scheme that targeted the elderly throughout the United States and resulted in 12 arrests and convictions. The defendants had knowingly participated in a scheme to fraudulently market and sell an unnecessary septic treatment product to customers throughout the continental United States from March 2009 through October 2010. The OIG's Office of Investigations led this investigation that resulted in the guilty pleas.

- In January 2013, British Petroleum Exploration and Production Inc. pled guilty in the U.S. District Court, Eastern District of Louisiana, to 14 criminal counts of illegal conduct involving the 2010 Deepwater Horizon disaster, and was sentenced to pay $4 billion in criminal fines and penalties—the largest criminal resolution in U.S. history. The spill caused 11 deaths and extensive environmental damage. The OIG's Office of Investigations was part of the Deepwater Horizon Task Force that led to this guilty plea.

- In February 2013, the OIG's Office of Audit issued a report (Report No. 13-P-0152, *EPA Could Improve Contingency Planning for Oil and Hazardous Substance Response*) which found that while EPA regions have expanded contingency planning for responding to oil spills and hazardous substance releases by creating additional plans and materials, regions cannot maintain this large volume of information with their limited resources. We recommended that the EPA issue guidance to regions on how to use the most efficient method available to address National Contingency Plan requirements, require regions to keep critical planning information up to date and avoid unnecessary duplication, and develop a process to regularly incorporate lessons learned from national exercises.

- In February 2013, the OIG's Office of Program Evaluation issued a report (Report No. 13-P-0161, *EPA Needs to Improve Air Emissions Data for the Oil and Natural Gas Sector*) which found that EPA has limited directly measured air emissions data for air toxics and criteria pollutants generated by several important oil and natural gas sector processes and sources. We recommended that the EPA develop and implement a comprehensive strategy for improving air emissions data for the oil and gas production sector, prioritize which oil and gas production emission factors need to be improved, develop additional emission factors, and ensure the National Emissions inventory data for oil and gas production are complete.

- In September 2013, the OIG's Office of Program Evaluation issued a report (Report No. 13-P-0387, *EPA Can Better Document Resolution of Ethics and Partiality Concerns in Managing Clean Air Federal Advisory Committees*) which found that EPA had adequate procedures for identifying potential ethics concerns, including financial conflicts of interest, independence issues and appearances of a lack of impartiality. However, the EPA can better document its decisions on selecting members with independence and partiality concerns. We also identified one instance where agency procedures involving a potential conflict of interest were not followed and an instance where peer review was not conducted in accordance with Office of Management and Budget and EPA guidance. We recommended that EPA instruct staff on the proper process for addressing potential conflicts of interest, develop procedures to document decisions and mitigating actions regarding independence and partiality concerns, and implement a process to determine whether its scientific work products are influential

scientific information that require peer review in accordance with Office of Management and Budget and EPA guidance.

Further details on these audits and investigations, as well as other examples of the OIG's work, may be found in our *Semiannual Report to Congress* and/or our website.

EPA Management Challenges for FY 2013

Our work is also highlighted in the EPA's FY 2013 Management Challenges, which was issued on July 1, 2013, as mandated by the Reports Consolidation Act of 2000. The major management challenges are programs or management functions, within or across agencies, that have greater vulnerability to waste, fraud, abuse and mismanagement, and a failure to perform well that could seriously affect the ability of an agency or the federal government to achieve its mission or goals. We used audit, evaluation and investigative work, as well as additional analysis of agency operations, to identify challenges and weaknesses. This report, which was included in the Agency's Financial Report, is available to the public in its entirety on the OIG's website.

The following are the five areas we determined were the key management challenges facing the EPA for FY 2013:

- Oversight of Delegations to States.
- Safe Reuse of Contaminated Sites.
- Enhancing Information Technology Security to Combat Cyber Threats.
- The EPA's Framework for Assessing and Managing Chemical Risks.
- Workforce Planning.

While the EPA has made progress, we repeated the five management challenges reported from last year (although we changed the title of the challenge on cyber security). As will be clearly evident in my testimony ahead, additional challenges and weaknesses may exist in areas that we have not yet reviewed, and other significant findings could result from additional work.

OIG's Criminal Investigation of John Beale

The remainder of my testimony will briefly cover the OIG's Office of Investigations criminal investigation of former EPA employee John Beale that led to his guilty plea on September 27, 2013. I will also detail the subsequent work that will be conducted by the OIG's Office of Audit as a result of the investigation. As I mentioned at the beginning of my testimony, the Assistant Inspector General for Investigations, Patrick Sullivan, will be providing more specific details of the investigation. I would like to note that during the course of our investigation, we uncovered criminal facts that date back nearly 25 years. While John Beale pled guilty to charges dating from 2000, as negotiated by the U.S. Attorney's Office, all the facts that the OIG uncovered from 1988 to the present are relevant in my testimony.

On February 11, 2013, the Office of Investigations received information regarding John Beale, who was a former Senior Policy Advisor at the Office of Air and Radiation (OAR) at the EPA. Gina McCarthy, who was the EPA Assistant Administrator of OAR at the time, provided the information. The information alleged that John Beale had engaged in employee misconduct, including theft of government money, time and attendance fraud, and travel voucher fraud, by perpetrating a lie that he worked for the Central Intelligence Agency.

Once the OIG learned of the allegations, we immediately launched an investigation that was conducted by our special agents. That investigation revealed that, in 1988, John Beale was hired by the EPA as a consultant by his friend, Robert Brenner. We discovered numerous misleading and false statements on several of John Beale's applications for federal employment. The investigation also revealed that, due to administrative errors and lack of internal controls within the EPA, John Beale was erroneously paid a retention incentive bonus for 16 years that cost the government more than $500,000. In fact, his base pay and retention incentive bonus exceeded the statutory pay cap for federal employees at his pay grade for 4 years. We also found that John Beale was absent from work at EPA for long periods of time under the guise that he was working for the CIA. Also, while employed at the EPA, John Beale took many first-class domestic and international trips at the expense of the government.

The former Assistant Administrator for OAR, Gina McCarthy, referred her concerns about John Beale's potential criminal misconduct to the EPA's Office of General Counsel (OGC) on or about November 1, 2012. No one at the agency notified the OIG at that point. Rather, the OGC requested that the EPA's Office of Homeland Security (OHS), which is located within the Office of the Administrator, conduct an investigation into John Beale's alleged status as a CIA undercover agent. This request resulted in a significant delay in reporting the misconduct to the OIG, since we did not receive notice until February 11, 2013. We began our investigation shortly thereafter.

In March 2013, we presented the case to the Department of Justice (DOJ), U.S. Attorney's Office, District of Columbia, for potential criminal prosecution. DOJ made the determination to pursue criminal prosecution for actions taken by John Beale during his employment with the EPA. He entered into a plea agreement with DOJ that included the admission of theft of government money from 2000 through 2013. John Beale agreed to pay EPA approximately $890,000 in restitution and approximately $500,000 to DOJ in criminal forfeiture.

On September 27, 2013, John Beale pled guilty, and his sentencing hearing will be scheduled in the near future.

OIG's Audit Response to Investigation of John Beale

As a result of the Beale investigation, the ranking member of the Senate Environment and Public Works committee requested that the OIG immediately launch an investigation into the agency's policies and processes that facilitated Beale's fraud, and to make

recommendations to ensure that this does not happen again. Also, the Assistant Inspector General for Investigations, Patrick Sullivan, requested audit assistance to address seven areas identified as potential EPA systematic weaknesses during the investigation of John Beale. The seven areas related to:

- EPA's retention bonuses.
- Statutory annual pay limit.
- EPA's first-class travel.
- EPA's process for approval of foreign travel.
- EPA's vetting process for new employees.
- Time-and-attendance issues.
- Referrals of potentially criminal allegations to the OIG; authority of EPA's Office of Homeland Security.

The Office of Audit was assigned to look into all the areas listed in Sullivan's request. On September 11, 2013, a notification letter was sent to the agency stating that the OIG plans to begin preliminary research on various administrative areas as a result of recent actions taken against a former EPA employee. We are also currently performing work to address the first part of the Ranking Member's request to look into the policies and procedures that had facilitated Beale's fraud.

We have reviewed the OIG's Office of Investigations case file to determine:

- How the fraud took place.
- What internal controls existed.
- What controls may need strengthening.
- What controls were compromised, circumvented or overridden.

We are conducting interviews and reviews with OAR and Office of Administration and Resources Management personnel to acquire any additional information that was not included in the Office of Investigations case file. We are coordinating this with the Office of Investigations so that we do not compromise any active investigations.

Upon completion of interviews and reviews, we will provide a letter to the Ranking Member, as requested in his August 27, 2013, letter, which will address the facts concerning how the Beale fraud occurred. The estimated date for the issuance of this letter will be October 31, 2013, barring any delays due to the possible shutdown of the government and the cooperation of the EPA.

We just started our preliminary research on this audit, and the timeframe for completing the second part of the congressional request will vary depending on its scope and complexity. Typically, it takes 3 to 6 months to issue the preliminary results of the audits, and it takes 9 to 12 months for the final report to be issued. However, if significant issues are discovered, the issuing of the final report may take longer. We will keep the Committee updated on the audit's estimated completion.

Further, our audit may uncover other issues that I have not detailed this morning, and, in fact, we have noted some indicators that suggest additional probable issues. Accordingly, we expect to issue early warning reports to the EPA concerning the internal controls surrounding the Beale matter. At this time, we expect to issue early warning reports on time-and-attendance and travel as it relates to John Beale.

Conclusion

Again, the investigation of John Beale resulted in several reviews that will assess the adequacy of internal controls at the EPA, and examine the system of failure that permitted an individual to commit multiple frauds at the EPA over a period spanning more than two decades. This investigation has also resulted in several investigations related to administrative matters. As these are ongoing investigations, I am unable at this juncture to discuss them, but will do so when I can.

My testimony today highlights the OIG's commitment to continue to shine a light on EPA and the CSB and to guarantee that our tax dollars are being well spent, so that a scenario, such as the Beale case, should not happen again. Funding to the OIG clearly represents a great value to the American taxpayer. I ask the Committee to please keep in mind that additional budget cuts may force us to focus on statutory work and reduce discretionary work, such as requests from Congress to investigate agency programs or actions.

In conclusion, I would like to reaffirm the OIG's commitment to add value and assist the agency in accomplishing its mission of safeguarding the health of the American people and protecting the environment. We take very seriously our mandate to promote economy, efficiency and effectiveness; and prevent and detect fraud, waste and abuse through independent oversight of the EPA's programs and operations.

Mr. Chairman, this concludes my prepared statement. I will be pleased to answer any questions you or the Members may have.