

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

_____	)	
CITIZENS FOR RESPONSIBILITY	)	
AND ETHICS IN WASHINGTON,	)	
	)	
<i>Plaintiff,</i>	)	
	)	
v.	)	Civil Action No. 21-cv-610-KBJ
	)	
U.S. DEPARTMENT OF TRANSPORTATION,	)	
OFFICE OF THE INSPECTOR GENERAL	)	
	)	
U.S. DEPARTMENT OF TRANSPORTATION	)	
	)	
PIPELINE AND HAZARDOUS MATERIALS	)	
SAFETY ADMINISTRATION	)	
	)	
<i>Defendants.</i>	)	
_____	)	

**ANSWER**

Defendants, the Office of the Inspector General of the U.S. Department of Transportation (“DOT OIG”), the U.S. Department of Transportation (“DOT”), and the Pipeline and Hazardous Materials Safety Administration (“PHMSA”), an operating administration of the DOT, by and through undersigned counsel, hereby answer the Complaint (ECF No. 1) (“Complaint”) filed by Plaintiff Citizens for Responsibility and Ethics in Washington (“CREW”) on March 8, 2021, in this Freedom of Information Act (“FOIA”) action as follows, in correspondingly numbered paragraphs:

1. Admitted that DOT OIG was investigating allegations involving then-Secretary of Transportation Elaine Chao. The remainder of this paragraph sets forth Plaintiff’s characterization of this lawsuit and legal conclusions, to which no response is required. To the extent a response is deemed required, Defendants deny the allegations in Paragraph 1.

2. This paragraph sets forth Plaintiff's characterization of this lawsuit and legal conclusions, to which no response is required. To the extent a response is deemed required, Defendants deny the allegations in Paragraph 2.

3. This paragraph consists of Plaintiff's legal conclusions regarding jurisdiction and venue, to which no response is required.

4. This paragraph consists of Plaintiff's characterization of itself and its work, to which no response is required and about which Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations.

5. Admitted that Defendant DOT is an agency of the federal government and that Defendant DOT OIG is an operating administration within DOT. The second sentence constitutes Plaintiff's legal conclusion, to which no response is required.

6. Admitted that Defendant DOT is an agency of the federal government and that Defendant PHMSA is an operating administration within DOT. The remaining allegations constitute Plaintiff's legal conclusions, to which no response is required.

7. Admitted that DOT OIG began a review. Defendants respectfully refer the Court to the cited article, which is the best evidence of its contents. The remainder of this paragraph contains Plaintiff's characterization of its claims and legal conclusions, to which no response is required. Otherwise, to the extent a response is deemed required, Defendants deny the remaining allegations in Paragraph 7.

8. The allegations in the first sentence are admitted. Admitted that Mitch Behm served as DOT Acting Inspector General. Otherwise, the allegations in the second sentence of this paragraph constitute Plaintiff's legal conclusions, to which no response is required.

9. Admitted that on May 15, 2020, President Trump announced the intention to nominate Eric Soskin to serve as DOT IG. Otherwise, Defendants respectfully refer the Court to the cited article, which is the best evidence of its contents, and deny all allegations inconsistent therewith.

10. Defendants respectfully refer the Court to the cited article, which is the best evidence of its contents, and deny all allegations inconsistent therewith.

11. The allegations in this paragraph constitute legal conclusions, to which no response is required. To the extent a response is required, Defendants respectfully refer the Court to the cited article, which is the best evidence of its contents, and deny all allegations inconsistent therewith.

12. Defendants respectfully refer the Court to the cited document, which is the best evidence of its contents, and deny all allegations inconsistent therewith.

13. Admitted.

14. Admitted.

15. Defendants respectfully refer the Court to the cited FOIA request, which is the best evidence of its contents, and deny all allegations inconsistent therewith. The remaining allegations in the second sentence constitute legal conclusions and Plaintiff's characterization of its claims, to which no response is required.

16. Defendants respectfully refer the Court to the cited document, which is the best evidence of its contents. To the extent a response is required, the allegations in this paragraph are admitted.

17. Defendants respectfully refer the Court to the cited document, which is the best evidence of its contents. To the extent a response is required, the allegations in this paragraph are admitted.

18. Admitted.

19. Defendants respectfully refer the Court to the cited documents, which are the best evidence of their contents. To the extent a response is required, admitted.

20. Defendants respectfully refer the Court to the cited document, which is the best evidence of its contents. To the extent a response is required, admitted.

21. Defendants respectfully refer the Court to the cited document, which is the best evidence of its contents. To the extent a response is required, the allegations in this paragraph are admitted.

22. Defendants respectfully refer the Court to the cited document, which is the best evidence of its contents. To the extent a response is required, the allegations in this paragraph are admitted.

23. Defendants deny the allegation that DOT OIG has not responded to CREW's request for a fee waiver. Defendants aver that DOT OIG granted CREW's request for a fee waiver, as stated in the March 18, 2020, correspondence acknowledging receipt of the request. Defendants deny that CREW has not received the pages referred to the Office of the Secretary of Transportation ("OST") for review. Defendants aver that by letter dated September 30, 2020, Defendants produced the responsive pages which DOT OIG referred to the DOT OST, in response to the request numbered OST-2020-0268. Defendants admit the remainder of the allegations in this paragraph.

24. Defendants respectfully refer the Court to the cited document, which is the best evidence of its contents, and deny all allegations inconsistent therewith.

25. Defendants respectfully refer the Court to the cited document, which is the best evidence of its contents. To the extent a response is required, the allegations in this paragraph are admitted.

26. Admitted.

27. Defendants respectfully refer the Court to the cited document, which is the best evidence of its contents, and deny all allegations inconsistent therewith.

28. Defendants respectfully refer the Court to the cited document, which is the best evidence of its contents, and deny all allegations inconsistent therewith.

29. Admitted.

30. Defendants incorporate by reference their responses to paragraphs 1-29.

31. This paragraph contains Plaintiff's legal conclusions and characterization of its claims, to which no response is required. To the extent a response is required, Defendants respectfully refer the Court to the cited document, which is the best evidence of its contents.

32. This paragraph contains Plaintiff's legal conclusion and characterization of its claim, to which no response is required.

33. This paragraph contains Plaintiff's legal conclusion and characterization of its claim, to which no response is required.

34. This paragraph contains Plaintiff's legal conclusions and request for relief, to which no response is required.

35. Defendants incorporate by reference their responses to paragraphs 1-34.

36. This paragraph contains Plaintiff's legal conclusions and characterization of its claims, to which no response is required. To the extent a response is required, Defendants respectfully refer the Court to the cited document, which is the best evidence of its contents.

37. This paragraph contains Plaintiff's legal conclusions and characterization of its claims, to which no response is required.

38. This paragraph contains Plaintiff's legal conclusions and characterization of its claims, to which no response is required.

39. This paragraph contains Plaintiff's legal conclusions and request for relief, to which no response is required.

The remaining paragraphs of the Complaint contain Plaintiff's request for relief, to which no response is required. To the extent a response is required, Defendants deny that Plaintiff is entitled to any of the relief requested in paragraphs (1) through (6) of the Requested Relief, or to any other relief.

Defendant hereby denies all allegations in the Complaint not expressly admitted or denied.

### **DEFENSES**

1. Plaintiff has failed to state a claim upon which relief can be granted.
2. Plaintiff is not entitled to compel production of records exempt from disclosure by one or more exemptions to the FOIA, 5 U.S.C. § 552.
3. The Court lacks jurisdiction to award any requested relief that exceeds the relief authorized by the FOIA, 5 U.S.C. § 552.

Dated: April 14, 2021

Respectfully submitted,

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