

United States Senate

WASHINGTON, DC 20510

August 4, 2020

Mark Menezes
Deputy Secretary of Energy
United States Department of Energy 1000 Independence Ave
Washington DC, 20585

Dear Mr. Menezes,

As you begin your new job as Deputy Secretary at the Department of Energy (DOE), we wanted to continue the dialogue that we had started with our phone call on June 22nd. We also want to thank you for responding to our inquiry with your letter on July 2nd regarding how the DOE scores petitions for Small Refiner Exemptions (SREs) in its statutory role as advisor to the Environmental Protection Agency (EPA).

Since your last correspondence, we have learned of six more petitions for SREs that EPA has asked DOE to score. Granting these petitions would increase the pain facing the biofuels industry and the rural communities that biofuels support. These petitions threaten to undercut the RFS and fail to meet the standard set by the 10th Circuit Court of Appeals Decision on the use of SREs. The EPA's decision to send them to DOE for a technical analysis erodes the public's trust in the rule of law and the ability for the EPA and DOE to faithfully implement the Renewable Fuel Standard (RFS).

You stated in your July 2nd response that you were reviewing petitions already reviewed by DOE. We are concerned DOE wasted valuable time and resources to score these petitions again. We now understand that all petitions have been sent back to EPA and that this was a demand from oil-state senators for your nomination to be considered. We have concerns this process is not transparent and does not promote accountability in government. Given the remaining questions about how and why these petitions were scored, we could not support your nomination when it came before the Senate.

In previous years, Confidential Business Information (CBI) has been used as a rationale to avoid public disclosure of the decisions taken by DOE and EPA. However, this rationale cannot be used to shield Congress from conducting oversight responsibilities and we ask for a more transparent and collaborative process going forward.

While you state that specific company names, number of petitions, and the year of the petition are considered CBI, we would ask that you provide a legal opinion on how providing such basic information could cause damage outweighing the public's right to know about decisions its government is making. Regardless, we ask that you work to provide a confidential setting for our staff to review past year petition analysis along with current year analysis to allow us to conduct our congressional oversight duties.

We also request that you provide the public with information on DOE's score of each petition and when the score recommendation was transmitted back to EPA.

Having previously worked at a company with a large footprint in Iowa, you understand that Iowa helps fuel and power the world. We look forward to working with you in your new role and ask that you uphold the law and bring accountability and transparency back to the administration of the RFS.

Sincerely,



Joni K. Ernst
United States Senator



Chuck Grassley
United States Senator