

Congress of the United States
Washington, DC 20515

October 22, 2019

The Honorable Adam Smith
Chairman
House Armed Services Committee
2216 Rayburn House Office Building
Washington, D.C. 20515

The Honorable James M. Inhofe
Chairman
U.S. Senate Committee on Armed Services
Russell Senate Building, Room 228
Washington, D.C. 20510

The Honorable Mac Thornberry
Ranking Member
House Armed Services Committee
2216 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Jack Reed
Ranking Member
U.S. Senate Committee on Armed Services
Russell Senate Building, Room 228
Washington, D.C. 20510

Dear Chairman Smith, Chairman Inhofe, Ranking Member Thornberry, and Ranking Member Reed:

As you work to finalize the Fiscal Year (FY) 2020 National Defense Authorization Act (NDAA) conference report, it is critical we come together to include important cleanup provisions that will safeguard the public and our environment from the harms of per- and polyfluoroalkyl (PFAS) chemicals. Meaningful PFAS provisions were adopted in both the House and Senate authorization bills that we should be able to find common ground on. We cannot, in good conscience, however, support a defense authorization that fails to significantly address ongoing and legacy contamination from PFAS chemicals.

We know PFAS chemicals pose grave dangers to human health and our environment. Across this nation, including military bases, federal facilities, and industrial sites, we are finding a growing number of sites with PFAS contamination in drinking water systems, ground water, and surface water. In March 2018, the Department of Defense (DOD) provided a report to Congress that identified 401 active or closed military installations with known or suspected releases of PFAS chemicals.¹ Since then, the Environmental Working Group has also separately identified 297 military sites with known PFAS contamination.²

The House voted favorably to amend the FY2020 NDAA to designate PFAS chemicals as hazardous substances under CERCLA—the Superfund law—and to regulate PFAS as discharges under the Clean Water Act. As you know, the DOD has repeatedly refused to clean up legacy PFAS contamination, citing the absence of a hazardous substance designation by the U.S.

¹ Lepore, Brian J. and Gomez, J. Alfredo. 2018. *DRINKING WATER: Status of DOD Efforts to Address Drinking Water Contaminants Used in Firefighting Foam*. GAO-18-700T. Washington, D.C.: United States Government Accountability Office. (P. 5)

² "Pentagon Data Show Widespread Drinking Water Contamination on U.S. Bases." Environmental Working Group, 11 September 2019, <https://www.ewg.org/release/new-pfas-detections-reported-90-additional-army-installations>

Environmental Protection Agency (EPA). Despite claims by then Administrator Scott Pruitt that the EPA would be taking steps to address PFAS contamination, including a CERCLA listing, the EPA has done nothing. It is also critically important we also include a provision to control discharges of PFAS through Clean Water Act permits to prevent those who are still discharging these chemicals into our nation's waterways from doing so into the future.

Companies and regulators alike have understood the risks posed by these harmful, "forever chemicals" for decades but have failed to protect the American people. Our communities have waited long enough, especially communities near military installations whose drinking water has been poisoned from these pollutants. Under CERCLA and the Clean Water Act, we have long-tested and proven laws that effectively protect public health and our environment from harmful pollution that also holds polluters responsible. We believe this year's defense authorization must include a CERCLA designation provision and ensure PFAS discharges into drinking water supplies are regulated under the Clean Water Act so the Department of Defense will remediate legacy PFAS contamination at military installations and communities like ours can jumpstart the clean-up process at the same time.

It's time for Congress to act. There is also precedent for Congress stepping in when regulators fail to do so. Congress has designated chemicals as hazardous in the past, and, despite what some in industry might claim, such a designation does not prohibit commercial use of these substances. In fact, there are hundreds of chemicals deemed "hazardous substances" that are still used in commerce. To claim that a CERCLA designation for some of the worse offending PFAS compounds, such as PFOA and PFOS, would threaten our national security, the use of life-saving medical devices, or other products vital to our economy is patently absurd and does nothing more than to stoke fear and further delay the necessary cleanup of contaminated communities.

In the FY2020 NDAA, we have the opportunity to take serious action and accelerate the clean-up process where PFAS contamination exists. While we remain open to good faith negotiations and finding common ground, this must be taken seriously. The health of all Americans, our servicemembers, and the environment, now and for future generations, is at stake.

Sincerely,


DEBBIE DINGELL
Member of Congress

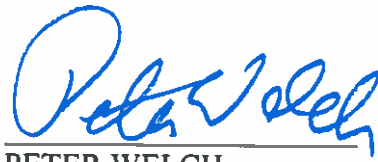

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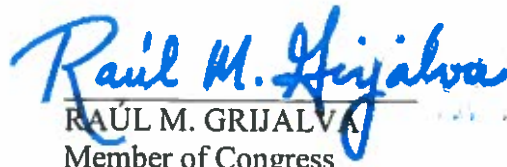
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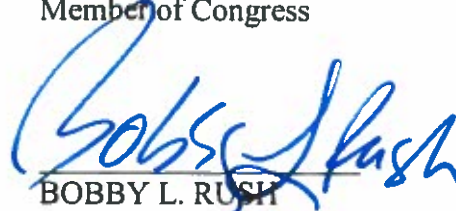

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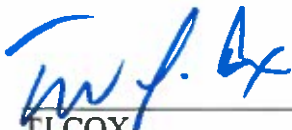

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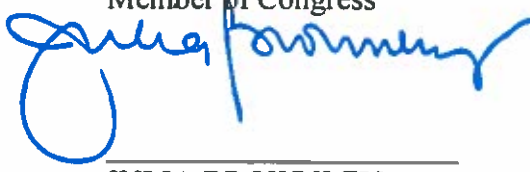

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