

**U.S. Senate Committee on Energy and Natural Resources**  
**May 14, 2025 Hearing: The Brightbill, Pierce, Prochaska and Mamula Nominations**  
**Questions for the Record Submitted to Mr. Jonathan Brightbill**

**Questions for the Record from Ranking Member Martin Heinrich**

**Question 1:** Although Secretary Wright denies it, it is a fact that the DOE has cancelled, delayed, and withheld congressionally appropriated funds.

Do you believe this is unlawful or inconsistent with appropriations law?

Response: Since I am not currently at the Department, I do not know the facts and circumstances relating to these actions. Therefore, I am not in a position to analyze the internal assessments and justifications related to any funding decisions that have been made to date. My twenty-five years of legal experience and involvement in thousands of legal matters have taught me that facts matter when providing sound legal advice. My time at DOJ also taught me the importance of consulting with career subject-matter experts in the government's legal departments about important legal nuances before reaching conclusions. If confirmed, I commit to using this experience and apply this approach to giving clear and impartial legal counsel to Secretary Wright and other policy leaders to provide for their compliance with the law.

**Question 2:** The Office of Assistant General Counsel for Enforcement is responsible for ensuring manufacturers deliver products that meet energy and water conservation standards.

- Have you been consultation with the White House or any official representing the President regarding enforcing these rules and standards that are statutory required?
- How will you approach enforcing energy efficiency standards in your new role if confirmed?

Response: I have not had any consultations with the White House or officials from the Administration regarding any possible enforcement decisions. If confirmed, my responsibility will be to give clear, objective legal advice to ensure the Department carries out its statutory responsibilities in compliance with the law. As I did at the Department of Justice, my enforcement approach will be to consult with relevant career attorneys and investigators who have developed a case. I will assess the facts presented, the applicable law, agency priorities, the gravity of putative violations, the culpability of an actor, economic benefit from a violation, prior precedent, deterrence, and numerous other long-recognized considerations to federal law enforcement decisions.

**Question 3:** You know your job will be to ensure that the Department's decisions are legally sound and can hold up to scrutiny in court.

- Do you believe it is ever appropriate for the Department to defy court orders?
- Do you believe it is ever appropriate for the Department to defy a congressional subpoena?

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Response: If confirmed, I will provide objective legal counsel to ensure the Department appropriately meets its legal obligations. With regard to congressional subpoenas, I believe they must be taken seriously and handled with the utmost respect for Congress's oversight role. While there may be instances where legal questions arise -- such as executive privilege or the scope of a subpoena -- those issues will be addressed through proper legal channels and practice. There is established case law recognizing circumstances under which it can be appropriate for a Department or agency officials not to comply with court orders. I cannot speculate whether any of those precedents might apply to an issue that may arise should I be confirmed. If confirmed, I will use my experience to give clear and impartial legal counsel to Department leaders regarding their authorities and obligations under the law.

**Question 4:** During President Trump's first term, the administration sought to build a wall across the U.S. Mexico border. DOJ attorneys in the Environment and Natural Resources Division were tasked with sorting out ownership of the land to build the wall. You have been previously quoted as working on the project.

Is that accurate? What exactly was your role?

Response: During my service at the Department of Justice, I worked on a range of matters as part of my responsibilities within the Environment and Natural Resources Division. This included work relating to the government's exercise of eminent domain to acquire land for construction of the border barriers, as well as defending legal challenges to the execution of those programs. While I cannot discuss specific details due to legal obligations and confidentiality, I can confirm that I was not setting policy but rather providing counseling and supervising litigation for the Department of Homeland Security, Department of Defense, and other policymaking agencies consistent with my role as a Justice Department litigator.

**Question 5:** According to a February 26, 2025, Washington Post story, the EPA is reportedly considering repealing the Obama-era "Endangerment Findings." The same story mentions that you have reportedly advised the administration regarding this matter.

Is that accurate? If so, please describe in detail how you advised the administration on this matter.

Response: I am not currently in the administration, and I am not advising the administration regarding the Obama-era Endangerment Findings. Out of respect for attorney-client privilege and my ethical duty of confidentiality as an attorney, I cannot comment on legal advice I may have previously provided to others outside of government regarding the operation of the Clean Air Act. Should I be confirmed, my role will not be a scientific or policymaking position. As an attorney, I will use my knowledge and experience to give clear and impartial legal counsel to Department leaders regarding their authorities and obligations under the law.

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**Questions for the Record from Senator Steve Daines**

**Question 1:** Mr. Brightbill, if confirmed to be General Counsel of the Department of Energy, do you commit to working with Congress to implement responsible energy policy reforms across the Department to drive energy independence and ensure the security and prosperity of the American people?

Response: If confirmed, I look forward to working with Congress in a manner consistent with my role as the Department's chief legal advisor. I will advise the Secretary and other policymakers to ensure they understand their authority to implement energy policies lawfully, effectively and in support of the national interest. My focus will be on ensuring that DOE's actions to reform energy policy, advance energy independence, and ensure energy security are grounded in law.

**Questions for the Record from Senator John W. Hickenlooper**

**Question 1:** This administration has made its central goal to sharply reduce the number of federal workers under the guise of efficiency. Instead, the layoffs have been chaotic, haphazard, and ruled illegal in the courts. The administration has also frozen many Congressionally authorized funding programs, including at the Department of Energy. The impact of these firings and funding freezes has been felt in Colorado and across the U.S.

If nominated, you will serve as the legal counsel for the Department of Energy. What is your opinion on the legality of agencies freezing funds that have been approved by Congress? Will you work to restore funding where it has been halted?

Response: If confirmed, my role will be to ensure decisions by DOE leadership are made within the boundaries of the law and advance the mission of the Office of General Counsel to support the Secretary of Energy and the President. Since I am not currently at the Department, I do not know the facts and circumstances relating to employment actions. Therefore, I am not in a position to analyze the internal assessments and justifications related to any funding decisions that have been made to date. My twenty-five years of legal experience and involvement in thousands of legal matters have taught me that facts matter when providing sound legal advice. If confirmed, I commit to using this experience to provide clear, candid and consistent counsel to leadership regarding the Department's legal obligations and the impact that changes in funding could have on the mission of the Office of General Counsel.

**Question 2:** I am a strong proponent of bipartisan permitting reform that includes targeted litigation reforms. However, House Republicans have proposed a radical overhaul of our judicial review system by proposing a pay-for-play scheme. In the House proposal, if you pay 125% of the estimated cost of your environmental review, judicial review no longer applies.

- Do you believe allowing companies to pay for the right to avoid judicial scrutiny gives communities and tribes sufficient ability to amend, challenge, or block projects?

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- If a company breaks the law or an agency blatantly bypasses the Administrative Procedures Act, do you believe they should be held accountable, regardless of a payment to avoid such scrutiny?

Response: If confirmed, I look forward to working with Congress in a manner consistent with my role as the Department's chief legal advisor. I am not familiar with the legislation referenced, and what other provisions, public participation processes, conditions, and definitions may apply to the mechanism described. There are many statutes where Congress has determined it appropriate to bar judicial review, including in the context of infrastructure development, based on a variety of circumstances and conditions. I would need to study the specific litigation referenced and all such corollary provisions before I might appropriately comment with respect to one in isolation. If confirmed, my enforcement approach in the event a company breaks the law will be, like at the Department of Justice, to assess the facts presented, the applicable law, the gravity of putative violations, the culpability of an actor, and numerous other long-recognized considerations to federal law enforcement decisions. I will provide clear, objective legal advice to Department policymakers regarding their authorities and obligations under the law relevant to their decision making.