



# **DIRTY BUSINESS AT THE EPA**

**A REPORT ASSESSING THE ADMINISTRATIVE FAILURES  
THAT ENABLED THE FRAUD OF JOHN C. BEALE**

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*“Because [EPA] relies so heavily on science to meet our mission on behalf of the American people, it must be conducted in ways that are **transparent, free from bias and conflicts of interest, and of the highest quality, integrity, and credibility.**” – EPA Administrator Gina McCarthy, before the House Science Committee, Nov. 14, 2013<sup>1</sup>*

*“To meet our mission, EPA must maintain and attract the workforce of the future, modernize our business practices, and take advantage of new tools and technologies . . . **[W]ith each and every transaction that is conducted within EPA . . . value must be added to our workforce.**” – EPA’s Themes: Meeting the Challenge Ahead<sup>2</sup>*

## **INTRODUCTION**

The Environmental Protection Agency, a behemoth federal regulator with more than 16,000 employees, is authorized by Congress “to protect human health and the environment.” Critical to accomplishing this mission is a relationship of trust with the American people, as former EPA Administrator Lisa Jackson stated in an agency-wide memorandum in April 2009:

“The success of our environmental efforts depends on earning and maintaining the trust of the public we serve. The American people will not trust us to protect their health or their environment if they do not trust us to be transparent and inclusive in our decision-making. To earn this trust, we must conduct business with the public openly and fairly.”<sup>3</sup>

Recent events involving massive fraud at the highest levels of the EPA, the failure of senior EPA officials to effectively supervise and hold accountable a suspected fraudster, and the unwillingness of some congressional leaders to conduct a thorough investigation of administrative malfeasance, potential cover-up, and politicized decision making at the EPA serve to undermine the public trust.

At a time when the EPA has adopted an aggressive regulatory agenda, writing rules that affect the sources of energy used by all American families, the threshold of public trust is greater. Yet EPA’s failures to prevent massive fraud within the agency raise questions about basic administrative competence, not only in supervision of employees but also in the crafting of environmental regulations.

This report seeks to assess the loss of public trust and quantify that loss by utilizing documents recently made available by federal investigators and the courts. To date, EPA’s disclosures remain incomplete; however, warranting additional document production by the EPA to congressional investigators and the public. In this respect, the Institute for

Energy Research has filed request under the Freedom of Information Act (FOIA) to obtain documents related to the discovery, investigation and administrative handling of John Beale's fraud.<sup>4</sup>

## **WHO IS JOHN BEALE?**

Over a period of at least 13 years, John C. Beale perpetuated the largest known fraud in the history of the EPA, bilking American taxpayers out of nearly \$900,000 since 2000, though the full loss to taxpayers likely exceeds even this shocking sum.

Indeed, Beale's fraud was so massive, it requires us to ask some hard questions of Beale's supervisors and colleagues who missed numerous opportunities to suspect, report and expose Beale's theft, deceit and abuse of taxpayer dollars. From 2000 through 2012, Beale skipped out on work for at least 616 days, but it wasn't until he didn't show up for work for over a year and a half, while still collecting a paycheck, that his fraud was exposed, despite many warning signs and other violations of EPA employment policies that should have been addressed by both career and political personnel.

In the end, current EPA Administrator Gina McCarthy was Beale's supervisor who presided over his exposure, yet the public record of EPA's handling of Beale's case leaves questions about her management practices and supervisory competence. Indeed, Beale was allowed unauthorized absences from work for extended periods of time while he was one of the EPA's highest paid employees, and all during a time of strict budgetary constraints. This massive fraud calls McCarthy's judgment into question. If McCarthy's oversight of employees is so lax that someone can get paid without showing up for work for over a year then how can the American people trust the other pronouncements from McCarthy's EPA?

## **BACKGROUND**

On August 23, 2013, the U.S. Justice Department charged John Beale, a high-ranking official in the EPA's Office of Air and Radiation (OAR), with stealing nearly \$900,000 from U.S. taxpayers and posing fraudulently as a CIA agent.<sup>5</sup> Over a period of at least 13 years, Beale falsely told his supervisors and colleagues at EPA that he was working on secret missions with the CIA to account for his extended absences and lavish expenses. Additionally, Beale fabricated a diagnosis of malaria, for which he received free preferential parking and an undisclosed number of sick leave days to receive treatment and/or doctor-prescribed rest.

The charges prompted Sen. David Vitter, Ranking Member on the Senate Environment and Public Works Committee, and Chairman Darrell Issa of the House Committee on Oversight and Government Reform to begin an investigation into the EPA's handling of the Beale

fraud.<sup>6</sup> The EPA's Inspector General issued a report on December 11, which found that a "lack of internal controls" at EPA allowed Beale to perpetuate his fraud against U.S. taxpayers for more than a decade.<sup>7</sup>

Meanwhile, Beale pleaded guilty in federal court on September 27 to theft of government property and admitted to lying about being a CIA agent.<sup>8</sup> In fact, Beale never had any affiliation with the CIA, but invented the fantasy to account for his extended absences from work, which went unchallenged for more than a decade. On Oct. 1, Beale appeared before the House Oversight Committee, where he invoked his Fifth Amendment right against self-incrimination.<sup>9</sup>

On December 18, Beale was sentenced to 32 months in federal prison and forced to pay \$1.3 million in restitution and forfeiture.<sup>10</sup> The next day, House Oversight investigators conducted a thorough deposition in which Beale testified under oath that "greed" was a large motivator of his actions.<sup>11</sup> Though this may be true, it does not begin to account for the lack of oversight and supervisory competence at the highest levels of EPA. Indeed, each of Beale's supervisors bears some responsibility for allowing Beale's actions to continue for more than a decade.

## **BEALE'S CAREER AT EPA**

John Beale began working for the EPA as a consultant in 1987. In 1988, he became a full-time consultant for EPA, and in 1989 he took a staff position advising the OAR on policy issues. Rob Brenner, a long-time friend and classmate of Beale's and Deputy Director of the Office of Policy Analysis and Review (OPAR), recruited Beale to OPAR.

Beale worked on several landmark projects throughout his long career at EPA, as detailed in the sentencing memorandum filed on December 9, 2013.<sup>12</sup> In early 1989, Beale was appointed Chairman of the Clean Air Workgroup, an inter-office group responsible for drafting the president's proposed amendments to the Clean Air Act (CAA). Beale was awarded the EPA's Gold Medal Award for Exceptional Service in Dec. 1989 for his work on the CAA amendments, which Congress would pass in 1990 as the first major changes to the CAA since 1977.

When President George H.W. Bush signed the CAA amendments into law in November 1990, Beale and OAR began the "exciting and challenging"<sup>13</sup> work of implementing the amendments. Given Beale's role in crafting the amendments, in late 1991 Rob Brenner submitted to Bill Rosenberg, then Assistant Administrator for OAR, a formal request for Beale to receive a Retention Incentive Allowance equal to 25 percent of his annual salary for a period of three years, with the possibility of extension.<sup>14</sup> In a recent report on

Brenner's role in the Beale fraud, Senate EPW Republicans assert that Brenner's 2000 recommendation contained a material falsehood, namely that Brenner certified that Beale had received no prior retention bonus when, in fact, he had.<sup>15</sup>

According to court documents, Beale's retention incentive should have expired after three years, but instead continued for the next nine years. During this time, Beale continued to work on high-profile projects as a policy analyst in OPAR. In the late-1990s, Beale worked on the development of National Ambient Air Quality Standards (NAAQS), reporting directly to the EPA Administrator, Carol Browner.<sup>16</sup> Beale also worked on the National Low-Emission Vehicle Program and international climate issues, among other assignments.

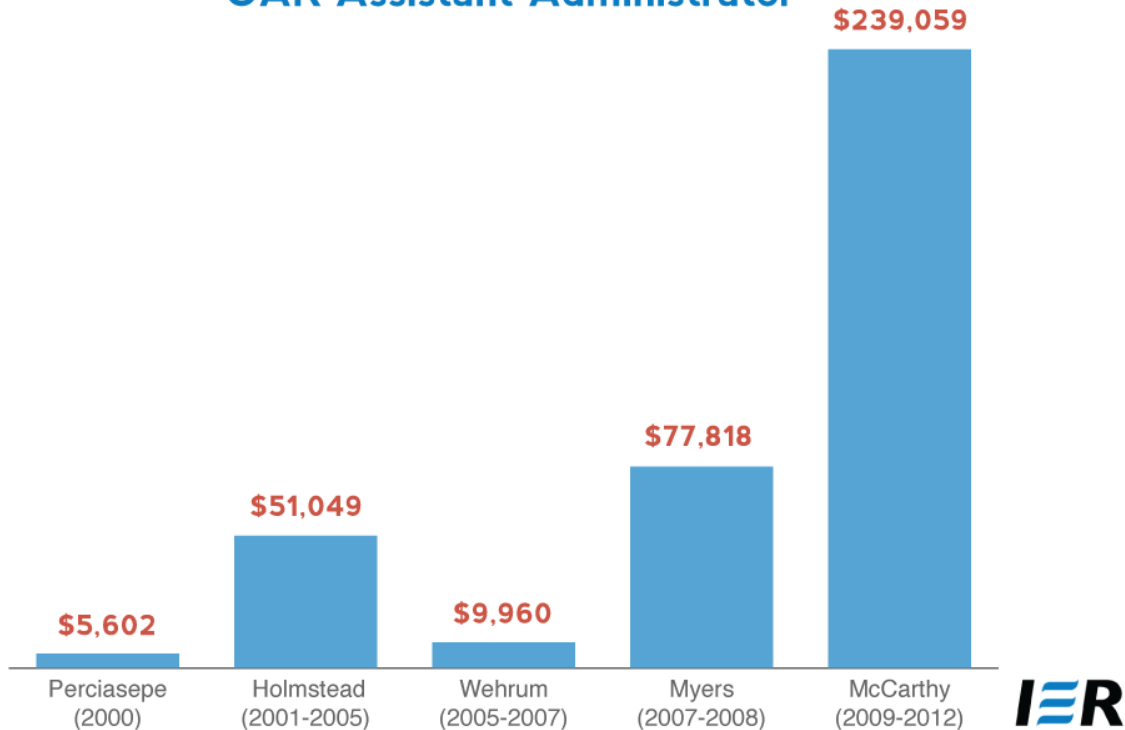
In recognition of his achievements, EPA Administrator Carol Browner and Assistant Administrator Bob Perciasepe promoted Beale to Senior Policy Advisor in August 2000. This promotion made the OAR Assistant Administrator Beale's direct supervisor. It was around this time that Beale admits he began engaging in time and attendance fraud and lying about both his malaria diagnosis and his work as a CIA agent to cover his tracks.

#### **BEALE'S TIME AND ATTENDANCE FRAUD**

In 2000, Beale "began to engage in a pattern of time and attendance fraud,"<sup>17</sup> according to the sentencing memorandum, claiming he was conducting secret missions for the CIA as an excuse to skip work. At the time, Beale's supervisor was Bob Perciasepe, followed by Jeff Holmstead from 2001–2005, Bill Wehrum from 2005–2007, Bob Myers from 2007–2008, and finally Gina McCarthy from 2009–2012.

The following chart, derived from court documents, shows Beale's time and attendance fraud under each OAR Assistant Administrator. A review of the data reveals that Beale committed 107 days of time fraud between 2000 and 2007. In 2008, Beale's time fraud "grew far worse": Beale was absent from work for the entire six months between June and Dec. 2008, according to the sentencing memorandum. As the sentencing memorandum explains, "the scale of [Beale's] fraud and deception then became even more egregious" beginning in June 2011, when for the next eighteen months, Beale continued to claim he was on special assignment with the CIA so he could "receive his salary and other benefits from the EPA for absolutely no work on behalf of the government."

## John Beale's Time and Attendance Fraud by OAR Assistant Administrator



It should be noted that the above figures are derived from multiplying the number of days Beale missed due to time and attendance fraud by an estimate of Beale's daily pay. We estimated Beale's daily pay using his 2008 salary data as reported in the sentencing memorandum. Moreover, we used Beale's 2008 salary as a proxy because we do not have annual salary information for each year between 2000 and 2012. As such, the amount of time fraud for years preceding 2008 may represent a higher-bound estimate, while the amount of time fraud for years following 2008 may represent a lower-bound estimate. In any event, neither the Courts nor the Inspector General have assessed the amount of time Beale took in bogus "sick leave" due to his feigned malaria. Until the full extent of his fraudulent leave is public, taxpayers have little assurance that they have been repaid for their losses due to Beale's extensive fraud.

For reference, the number of days attributed to time and attendance fraud in Beale's sentencing memorandum can be found below:

<u>Year</u>	<u>Time Fraud</u>
2000	9 days
2001	15 days
2002	22 days
2003	14 days

2004	18 days
2005	25 days
2006	3 days
2007	1 day
2008	125 days (approximately)*
2009	4.5 days (approximately)**
2010	4.5 days (approximately)
2011	125 days (approximately)***
2012	250 days (approximately)

*\*The sentencing memorandum states that Beale was absent from work for the entire six months between June and December 2008. We estimate 125 work days over a six-month time period.*

*\*\*According to the sentencing memorandum, Beale missed 9 days due to fictitious CIA work between January 2009 and May 2011. It does not state how the absences were distributed. Thus, we estimate that half were missed in 2009 and half were missed in 2010.*

*\*\*\*The sentencing memorandum states that Beale fraudulently missed work for a full 18 months between June 2011 and December 2012. We estimate 125 work days for the six months of absence in 2011 and 250 work days for all of 2012.*

## **RETENTION BONUSES AND OTHER FRAUD**

In addition to time and attendance fraud, as noted above Beale also abused his retention incentive. For his high-profile and diligent work in his early years at the EPA, Beale was regarded as an “essential” employee who made “significant contributions” to OAR. As a result, Bill Rosenberg (then-OAR Assistant Administrator) recommended Beale for a Retention Incentive Allowance in 1991.<sup>18</sup>

Beale’s retention bonus should have expired after three years absent a written request for extension from his supervisor. But as Beale’s attorney notes in the sentencing memorandum, Beale continued to receive a retention incentive throughout the 1990s even though his supervisors submitted little to no paperwork justifying an extension:

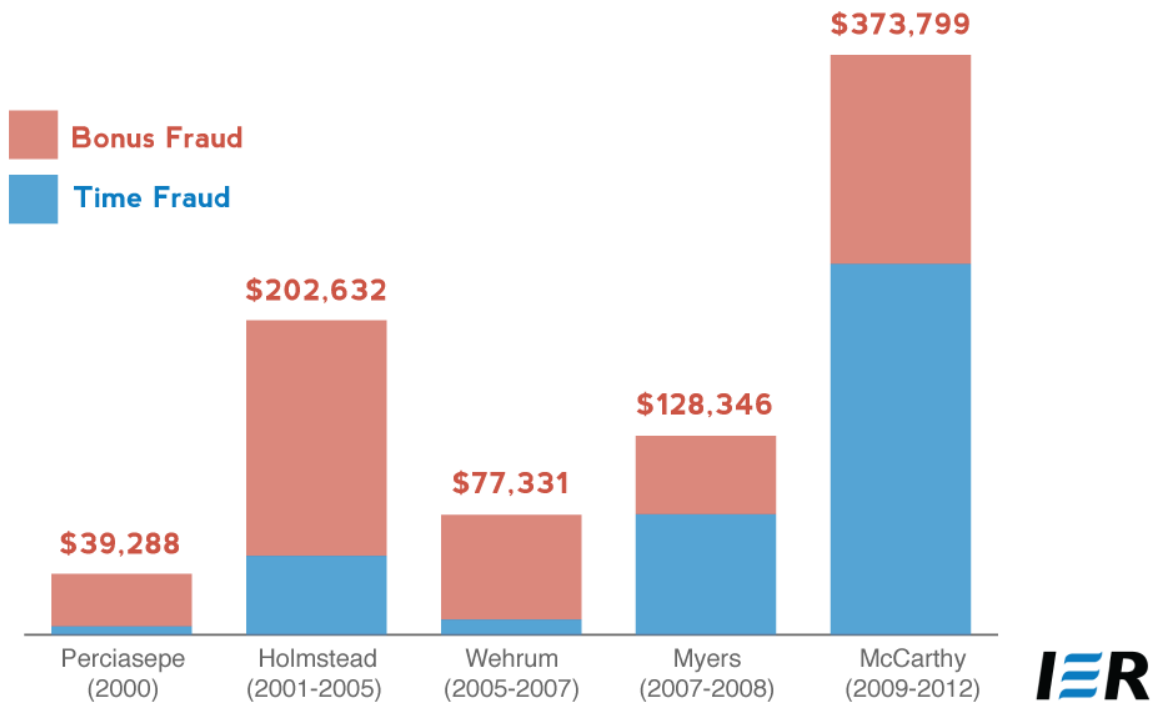
The paperwork in support of the Air Office’s periodic reauthorization of Mr. Beale’s retention incentive exists for 1993, see Exhibit 10, and 2000. See Exhibit 11. Neither Mr. Beale nor the EPA has been able to locate the paperwork that the Air Office presumably submitted in the 1996-1997 time frame. The 1993 and 2000 paperwork appears to have been prepared with less detail than the original 1991 paperwork, and lacks any specifics regarding the continuing outside employment opportunities that presented themselves.

In 2000, OAR Assistant Administrator Bob Perciasepe authorized another retention bonus

for Beale, which was approved despite the fact that he had already received improper bonuses for the greater part of the decade. According to the sentencing memorandum, “Once Mr. Beale began stealing time from the EPA in 2000, he no longer met the Agency’s eligibility requirements to receive a retention incentive.” Instead, due to EPA administrative failures, Beale continued to collect the retention incentive until early 2013.

The following chart shows the amount of combined time, attendance, and retention incentive fraud committed by Beale between 2000 and 2012 under each OAR Assistant Administrator—Beale’s direct supervisor. Based on court documents, Beale committed more than \$800,000 worth of time, attendance, and retention incentive fraud over a period of 13 years.

### John Beale Time, Attendance, and Bonus Fraud by OAR Assistant Administrator



On top of time, attendance, and bonus fraud, Beale also fraudulently billed EPA \$57,235 for five trips to California that were unrelated to his work at EPA, as well as \$8,000 in parking fraud—for a total of \$886,186.<sup>19</sup> It should be noted that these figures represent the fraud for which Beale pleaded guilty. These figures do not account for the questionable extensions of Beale’s retention incentive in the 1990s.



## **LAX OVERSIGHT 'ENABLED' BEALE'S FRAUD**

According to the Inspector General report, "EPA management actions in dealing with Beale while he was working at the EPA enabled Beale's fraud." Specifically, the IG notes that "agency managers did not take timely, effective action to address Beale's retention bonus" and that the "EPA's internal controls over timekeeping facilitated Beale's time and attendance abuses."

Beale's retention incentive bonus, for instance, was supposed to expire after three years unless his supervisor petitioned for a renewal. However, Beale received the bonus from 1991 through early 2013 despite "serious concerns" about whether Beale should have continued receiving a retention incentive.<sup>20</sup>

As OAR Assistant Administrator, Gina McCarthy was John Beale's direct supervisor between 2009 and 2012, during which time Beale admits his fraud and deceit intensified. In an interview with the EPA Inspector General, McCarthy claimed she raised concerns about Beale when she first joined EPA, yet she failed to act on those concerns.<sup>21</sup> Indeed, she even allowed Beale to take the lead on OAR's international work and wrote in a December 2010 email that she was "very excited to finally get the opportunity to work closely with [Beale]."<sup>22</sup>

McCarthy failed to act when her own staff insisted that Beale's bonus be suspended. Internal emails show that an OAR official attempted to prevent Beale's bonus from taking effect for 2011, but McCarthy did not act to discontinue the bonus for more than two years.<sup>23</sup> As Senate Environment and Public Works Republicans have highlighted, the OAR official sent McCarthy a January 2011 memo "informing her that Beale's salary exceeds the statutory threshold and that he and the Office of General Counsel recommended she cancel Beale's bonus."<sup>24</sup>

McCarthy developed a close working relationship with Beale as Beale was perpetuating massive fraud against U.S. taxpayers. According to Beale, over lunch he and McCarthy discussed their expectations of the work he was to do under McCarthy. As Beale explains in the Oversight Committee deposition, he and McCarthy discussed an ambitious, three-phase project to "modify the DNA of the capitalist system."<sup>25</sup>

Beale's fraud accelerated at the same time McCarthy's OAR was working on some of the costliest clean air rules in history—notably Utility MACT and New Source Performance Standards. EPA projects that its Utility MACT final rule, which was promulgated in 2011, will require \$35 billion in up-front capital spending and will cost the economy \$9.6 billion on an annual basis.<sup>26</sup> Similarly, the EPA's rule governing carbon dioxide emissions from

new power plants is expected to shutter 226 coal-fired generating units and destroy up to 250,000 related jobs.<sup>27</sup> Such effects doubtlessly serve to modify the economic system of the United States.

Beale missed at least 18 consecutive months of work on McCarthy's watch, defrauding American taxpayers out of more than \$239,000 in time fraud alone. In fact, Beale's combined time and bonus fraud made him among one of the highest paid EPA employees with compensation that exceeded statutory limits.<sup>28</sup> The failure of McCarthy to adequately supervise a man she claims to have suspected of fraud raises questions about the Administrator's managerial competence and care to prevent waste, fraud and abuse in the agency she now leads. Furthermore, it is telling that none of Beale's case was disclosed publicly during the course of McCarthy's confirmation process to succeed EPA Administrator Lisa Jackson, though congressional investigators have received emails that reveal White House involvement in managing the potential political fallout from the Beale fraud.<sup>29</sup>

## CONCLUSION

Beale's massive fraud cost taxpayers at least \$900,000 and spanned multiple presidential administrations. Though Beale's demise occurred under McCarthy's watch, Beale perpetrated by far the most fraud against U.S. taxpayers when McCarthy was his direct supervisor. In the case of time and attendance fraud, Beale's fraud under McCarthy amounted to more than his previous four bosses combined.

Recent revelations concerning McCarthy's close ties to Beale pose additional questions about what the EPA Administrator knew, when she knew it, and why she failed to act for more than two years to stop Beale's fraud against American taxpayers. That such a blatant act of fraud could go unaddressed for so long raises serious doubts about administrative competence of EPA leaders at the highest level, particularly while the EPA was issuing some of the most costly regulations in American history.

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<sup>1</sup> <http://science.house.gov/sites/republicans.science.house.gov/files/documents/HHRG-113-SY-WState-GMcCarthy-20131114.pdf>

<sup>2</sup> <http://www2.epa.gov/aboutepa/epas-themes-meeting-challenge-ahead>

<sup>3</sup> [http://www.eenews.net/features/documents/2009/04/24/document\\_gw\\_01.pdf](http://www.eenews.net/features/documents/2009/04/24/document_gw_01.pdf)

<sup>4</sup> <http://www.instituteforenergyresearch.org/2014/02/11/epa-fraudsters-records-sought-in-foia-request/>

<sup>5</sup> See *United States of America v. John C. Beale*,

[http://www.epw.senate.gov/public/index.cfm?FuseAction=Files.View&FileStore\\_id=05d12943-8742-442a-8602-970ad854b2cd](http://www.epw.senate.gov/public/index.cfm?FuseAction=Files.View&FileStore_id=05d12943-8742-442a-8602-970ad854b2cd)

<sup>6</sup> Senate Committee on Environment and Public Works, *Letter to EPA Inspector General Arthur A. Elkins, Jr.*, [http://www.epw.senate.gov/public/index.cfm?FuseAction=Files.View&FileStore\\_id=91c2cb13-179c-449a-bbc1-d3e25b372a25](http://www.epw.senate.gov/public/index.cfm?FuseAction=Files.View&FileStore_id=91c2cb13-179c-449a-bbc1-d3e25b372a25)

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- <sup>7</sup> EPA Office of Inspector General, *Early Warning Report: Internal Controls and Management Actions Concerning John C. Beale Pay Issues*, [http://www.epw.senate.gov/public/index.cfm?FuseAction=Files.View&FileStore\\_id=965ce551-b0d5-44f7-8002-6d6ce643a8b9](http://www.epw.senate.gov/public/index.cfm?FuseAction=Files.View&FileStore_id=965ce551-b0d5-44f7-8002-6d6ce643a8b9)
- <sup>8</sup> U.S. Department of Justice, *Former EPA Senior Policy Advisor Pleads Guilty To Theft in Scheme That Cost Government Nearly \$900,000*, <http://www.justice.gov/usao/dc/news/2013/sep/13-339.html>
- <sup>9</sup> House Committee on Oversight & Government Reform, *Secret Agent Man? Oversight of EPA's IG Investigation of John Beale*, <http://oversight.house.gov/hearing/secret-agent-man-oversight-of-epas-ig-investigation-of-john-beale>
- <sup>10</sup> POLITICO, *EPA's fake spy John Beale gets 32 months in prison*, <http://www.politico.com/story/2013/12/epa-john-beale-fake-spy-cia-prison-101289.html>
- <sup>11</sup> House Committee on Oversight & Government Reform, *Deposition of John C. Beale*, <http://oversight.house.gov/wp-content/uploads/2014/01/Beale-Deposition.pdf>
- <sup>12</sup> U.S. District Court for the District of Columbia, *Sentencing Memorandum of John C. Beale*, [http://www.instituteforenergyresearch.org/wp-content/uploads/2014/02/Beale-Sentencing-Memorandum\\_12-9-13-2.pdf](http://www.instituteforenergyresearch.org/wp-content/uploads/2014/02/Beale-Sentencing-Memorandum_12-9-13-2.pdf)
- <sup>13</sup> *Ibid*, 8
- <sup>14</sup> *Ibid*, 9
- <sup>15</sup> Senate Committee on Environment and Public Works, *Eye on the EPA: Robert Brenner's Role in John Beale Saga*, [http://www.epw.senate.gov/public/index.cfm?FuseAction=Minority.Blogs&ContentRecord\\_id=58e4b368-cdc9-65b1-5810-d54eec320962&Issue\\_id=](http://www.epw.senate.gov/public/index.cfm?FuseAction=Minority.Blogs&ContentRecord_id=58e4b368-cdc9-65b1-5810-d54eec320962&Issue_id=)
- <sup>16</sup> *Ibid*, 13
- <sup>17</sup> *Ibid*, 16
- <sup>18</sup> *Ibid*, 9
- <sup>19</sup> *Ibid*, 21
- <sup>20</sup> *Ibid*, 11
- <sup>21</sup> Senate Committee on Environment and Public Works, *Eye on the EPA: Gina McCarthy's Role in John Beale Saga*, [http://www.epw.senate.gov/public/index.cfm?FuseAction=Minority.Blogs&ContentRecord\\_id=f0b4633d-b9d0-9c23-24b3-f3f31e0ccb62&CFID=104897424&CFTOKEN=63225343](http://www.epw.senate.gov/public/index.cfm?FuseAction=Minority.Blogs&ContentRecord_id=f0b4633d-b9d0-9c23-24b3-f3f31e0ccb62&CFID=104897424&CFTOKEN=63225343)
- <sup>22</sup> The Wall Street Journal, *John Beale's EPA*, <http://online.wsj.com/news/articles/SB10001424052702303773704579266022892025230>
- <sup>23</sup> *Op. Cit. EPW McCarthy's Role*
- <sup>24</sup> *Ibid*.
- <sup>25</sup> Institute for Energy Research, *Beale Reveals EPA's Plan to 'Modify DNA of the Capitalist System'*, <http://www.instituteforenergyresearch.org/2014/01/23/beale-reveals-epas-plan-to-modify-the-dna-of-the-capitalist-system>
- <sup>26</sup> Environmental Protection Agency, *Regulatory Impact Analysis for the Final Mercury and Air Toxics Standards*, <http://www.epa.gov/mats/pdfs/20111221MATSfinalRIA.pdf>
- <sup>27</sup> Senate Committee on Environment and Public Works, *A Closer Look at Gina McCarthy*, [http://www.epw.senate.gov/public/index.cfm?FuseAction=Files.View&FileStore\\_id=b5c719a7-ed97-41d1-8e72-63617e129731](http://www.epw.senate.gov/public/index.cfm?FuseAction=Files.View&FileStore_id=b5c719a7-ed97-41d1-8e72-63617e129731)
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- <sup>29</sup> [http://www.epw.senate.gov/public/index.cfm?FuseAction=Minority.Blogs&ContentRecord\\_id=f0b4633d-b9d0-9c23-24b3-f3f31e0ccb62&Issue\\_id=](http://www.epw.senate.gov/public/index.cfm?FuseAction=Minority.Blogs&ContentRecord_id=f0b4633d-b9d0-9c23-24b3-f3f31e0ccb62&Issue_id=)