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United States Senate

COMMITTEE ON HEALTH, EDUCATION,
LABOR, AND PENSIONS

WASHINGTON, DC 20510–6300

April 5, 2022

The Honorable Joseph R. Biden
President of the United States
1600 Pennsylvania Avenue NW
Washington, D.C. 20500

Dear President Biden:

We have been reliably informed about a number of concerning allegations pertaining to the conduct of Arthur Traynor, Chairman of the Federal Mine Safety and Health Review Commission (FMSHRC). The allegations regarding Chairman Traynor's conduct are of such a disturbing nature that, in order to preserve the independence and legitimacy of the Commission, Chair Traynor should be removed from office.

The allegations against Chair Traynor range from retaliating against a potential whistleblower to bullying and intimidating behavior. First, we are aware that Chair Traynor recently put a long-time career employee on leave after this employee refused the Chair's instruction to secretly change FMSHRC's forty-year case assignment process. The employee informed the Chair that the change was likely outside the Chair's statutory authority and told other FMSHRC officials about the Chair's plan. These officials agreed the Chair didn't have such unilateral authority as it would allow Chair Traynor to personally assign the lead attorney in every case, creating at a minimum the appearance of bias.

Shortly thereafter, this employee filed a complaint against Chair Traynor with the Office of Special Counsel and informed the Chair he did so. Subsequently, the employee received a letter from Chair Traynor that informed the employee they were being placed on investigative leave. The notice contained no specific allegations of wrongdoing, no information on the entity leading the investigation, no citation to any authority to be placed on leave, or any right to appeal.

In addition, we have been made aware Chair Traynor put another senior level, career employee on leave also for unexplained reasons. While the circumstances around this situation are less clear, there is reason to believe this individual was put on leave after a directive was given by the Chair to withhold a damaging personnel memo from another, previously terminated employee's physical personnel file which detailed that pornographic material that was found on this person's work computer after they were terminated.

Attempts by officials at FMSHRC and our staff to understand the circumstances behind both instances of these individuals being placed on leave have been ignored by Chair Traynor.

Finally, it has been brought to our attention that Chair Traynor's behavior is, at times, inappropriate, demeaning, and threatening. In a virtual public meeting, on April 8, 2021, that is available on the Commission's website, Chair Traynor publically disclosed the confidential work-product of the two other commissioners, threated to disclose confidential emails, called one of the commissioners a "moron," referred to both of them as "rogue," and abruptly and unexpectedly left FMSHRC's public Zoom meeting without adjourning it. This is one of many reported examples of a hostile work environment perpetuated by Chair Traynor.

FMSHRC lacks an Office of Inspector General to review these matters which exacerbates the need for immediate and swift action. Further, you have promised to fire any political appointee who engages in campaigns of bullying "on the spot."[1] Therefore, we request that Chair Traynor be immediately fired.

Respectfully,

Richard Burr

Mike Braun

[1] "I am not joking when I say this: If you're ever working with me and I hear you treat another colleague with disrespect or talk down to someone, I promise you, I will fire you on the spot-on the spot. No ifs ands or buts…Everybody is entitled to be treated with decency and dignity." President Joe Biden, Inauguration Day Swearing-In ceremony of presidential appointees.