

Congress of the United States
Washington, DC 20510

November 4, 2019

The Honorable Steven T. Mnuchin
Secretary
Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, D.C. 20220

Dear Secretary Mnuchin,

We write concerning a recent news article, which suggests that favoritism and political pressure may have played a role in the designation of “qualified opportunity zones” in Nevada.¹ According to the New York Times, the Department of the Treasury (“Treasury”) accepted the designation of Storey County, Nevada as a “qualified opportunity zone,” even though it did not otherwise meet the eligibility criteria in the Tax Code. A similar report was published last year by The Washington Post, which claimed that the Internal Revenue Service (“IRS”) “decided to adjust its process” for Storey County and that it was “the only census tract that was able to use the different measurement.”² The allegations in both news articles, if true, are deeply troubling and threaten to undermine the intended goals of the Opportunity Zone program.

The New York Times also released an internal memorandum from a career IRS official, which warned about the negative impact that this designation would have on the Opportunity Zone program.³ Among other things, the memorandum stated that the decision to allow Nevada to “deviate from” the established eligibility criteria “creates serious potential risks to both the IRS and the opportunity zone program,” is “demonstrably unfair to every other state (and the taxpayers and investors in those states),” and “call[s] into question the legitimacy of the process by which designations were made.” Despite these objections, Treasury allowed for the designation of Storey County.

So that we may better understand the designation process for qualified opportunity zones, including the decision to designate Storey County, please provide answers to the following by no later than November 25, 2019:

¹ Eric Lipton and Jesse Drucker, “Symbol of ‘80s Greed Stands to Profit From Trump Tax Break for Poor Areas,” N.Y. Times (Oct. 26, 2019), <https://www.nytimes.com/2019/10/26/business/michael-milken-trump-opportunity-zones.html>.


² Damian Paletta, “After Nevada GOP push, Treasury changed lucrative policy benefiting one county,” Wash. Post (June 22, 2018), https://www.washingtonpost.com/business/economy/after-nevada-gop-push-treasury-quietly-changed-policy-benefiting-one-county/2018/06/22/d142acfc-74c5-11e8-b4b7-308400242c2e_story.html.


³ “2018 05 16 IRS Objection Memo Re Nevada Request,” <https://www.documentcloud.org/documents/6521520-2018-05-16-IRS-Objection-Memo-Re-Nevada-Request.html>.

1. Following the passage of the Tax Cuts and Jobs Act, Treasury compiled a list of more than 42,000 census tracts that were eligible for designation as qualified opportunity zones based on statutory criteria. More than 8,700 tracts subsequently were designated. How many qualified opportunity zones were not on Treasury's initial list of eligible tracts?
2. For each qualified opportunity zone that was not on Treasury's initial list, please (a) identify the census tract, (b) explain why it was not on Treasury's initial list, (c) explain why it subsequently was allowed to be designated, and (d) provide all records concerning such designation.
3. Please provide the names and titles of all IRS and Treasury staff who were involved in the decision to allow Storey County to be eligible for designation as a qualified opportunity zone. Please also explain Treasury's rationale for this allowance.
4. Did anyone at Treasury or IRS discuss the prospect of Storey County being a qualified opportunity zone with Michael Milken or his representatives?
5. Did anyone at Treasury or IRS speak with former-Governor Brian Sandoval, former-Senator Dean Heller, or any other elected representatives or officials from Nevada about the designation of qualified opportunity zones in Nevada? If so, was Storey County discussed?
6. Please provide all Treasury and IRS records (including all emails) concerning the eligibility of Storey County, Nevada to be designated as a qualified opportunity zone.
7. The IRS memorandum discussed above references a meeting scheduled to take place on the afternoon of May 16, 2018. Please provide (a) the names and titles of all attendees, (b) a summary of what was discussed, (c) a list of any decisions made, and (d) any materials that were circulated in connection with this meeting (either in advance of the meeting, at the meeting, or following the meeting).

Thank you for your prompt attention to this matter.

Sincerely,


Richard E. Neal
Chairman
Committee on Ways & Means
United States House of Representatives


Ron Wyden
Ranking Member
Committee on Finance
United States Senate