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4 PERMANENT SELECT COMMITTEE ON INTELLIGENCE,

5 joint with the

6 COMMITTEE ON OVERSIGHT AND REFORM

7 and the

8 COMMITTEE ON FOREIGN AFFAIRS,

9 U.S. HOUSE OF REPRESENTATIVES,

10 WASHINGTON, D.C.

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14 DEPOSITIONS OF: T. ULRICH BRECHBUHL AND RUSSELL VOUGHT

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Wednesday, November 6, 2019

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Washington, D.C.

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The depositions in the above matter were held in Room HVC-304,

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Capitol Visitor Center, commencing at 9:17 a.m.

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Present: Representative Schiff.

1 Appearances:

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4 For the PERMANENT SELECT COMMITTEE ON INTELLIGENCE:

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[REDACTED]

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[REDACTED]

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[REDACTED]

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[REDACTED]

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[REDACTED]

1           MR. GOLDMAN: Before we begin this deposition, I would like just  
2 to open the depositions for Russell Vought and Ulrich Brechbuhl, who  
3 both were noticed to appear at 9:30 this morning.

4           We were informed by each of those individuals that they will not  
5 appear. And, at this time, we will recess those matters until later  
6 in the day, when we will address them more fully.

7           [Recess.]

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1 [12:15 p.m.]

2 THE CHAIRMAN: Okay. Let's go back on the record.

3 We will now begin the deposition proceeding involving T. Ulrich  
4 Brechbuhl, Counselor to the Secretary of State, conducted by the House  
5 Permanent Select Committee on Intelligence, in coordination with the  
6 Committees on Foreign Affairs and Oversight and Reform, pursuant to  
7 the impeachment inquiry announced by the Speaker on September 24, 2019,  
8 and affirmed by House Resolution 660 on October 31, 2019.

9 On October 27, 2019, the committees sent a letter to Mr. Brechbuhl  
10 requesting that he voluntarily appear for a deposition as part of this  
11 inquiry. Through his counsel, Mr. Brechbuhl informed the committees  
12 that the State Department had directed him not to appear for a  
13 deposition and that Mr. Brechbuhl would follow that instruction.

14 On October 25, the Intelligence Committee served through  
15 Mr. Brechbuhl's attorney a duly authorized subpoena compelling  
16 Mr. Brechbuhl's appearance today.

17 Yesterday, November 5th, Mr. Brechbuhl's attorney sent a letter  
18 to the committee stating that, quote, "Mr. Brechbuhl has received a  
19 letter of instruction from the State Department directing that he not  
20 appear," unquote, based upon, quote, "significant executive branch  
21 interests," unquote, and asserting that the subpoena is invalid based  
22 on a purported analysis of the United States Department of Justice.

23 The committees requested a copy of the State Department's letter  
24 and the Department of Justice analysis, but Mr. Brechbuhl's attorney  
25 has not responded.

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1           While the letter from Mr. Brechbuhl's attorney provides only  
2 vague references to unidentified executive branch interests and a DOJ  
3 analysis as the basis for the State Department's blocking of Mr.  
4 Brechbuhl's testimony, the Department's latest obstruction of this  
5 inquiry appears to be predicated on the opinion issued by the Department  
6 of Justice Office of Legal Counsel just last Friday, November 1, well  
7 after the subpoena was issued to Mr. Brechbuhl.

8           It is noteworthy and telling that the OLC issued this opinion only  
9 after multiple State Department officials testified in this inquiry,  
10 both voluntarily and pursuant to subpoena, all without agency counsel  
11 present. Indeed, this morning, the third-highest-ranking official at  
12 the State Department, Under Secretary David Hale, appeared and has  
13 begun testifying in accordance with his legal obligations pursuant to  
14 a subpoena.

15           The Trump administration's drafting and reliance upon this  
16 self-serving OLC opinion should, therefore, be seen for what it is:  
17 a desperate attempt to staunch the continuing flow of incriminating  
18 testimony from executive branch officials about the President's abuse  
19 of power.

20           The administration's recently invented rationale, like the  
21 others it has used to attempt to block witnesses from appearing for  
22 depositions in this impeachment inquiry, has no basis in law or the  
23 Constitution. It is also a serious affront to decades of precedent  
24 in which Republicans and Democrats have used exactly the same  
25 procedures to depose executive branch officials without agency counsel

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1 present, including some of the most senior aides to multiple previous  
2 Presidents.

3 I would note for my Republican colleagues that this rule was  
4 supported by Acting White House Chief of Staff Mick Mulvaney when he  
5 served as a member of the Oversight Committee and by Secretary of State  
6 Mike Pompeo when he served as a member of the Benghazi Select Committee.

7 In fact, some of the same Members and staff currently conducting  
8 depositions as part of the President's impeachment inquiry  
9 participated directly in depositions without agency counsel present  
10 during the Clinton, Bush, and Obama administrations.

11 The basis for this process is straightforward. It ensures that  
12 the committees are able to depose witnesses and further our  
13 investigation without having representatives of the agency or office  
14 under investigation in the room to interfere or improperly learn  
15 details about the investigation.

16 The rule nevertheless protects the rights of witnesses by  
17 allowing them to be accompanied in the deposition by personal counsel,  
18 which was offered to Mr. Brechbuhl, who has personal counsel.

19 Other than the administration's objection to longstanding  
20 congressional practice, the committees are aware of no other valid  
21 constitutional privilege asserted by the State Department to direct  
22 Mr. Brechbuhl to defy the subpoena.

23 To the extent the Department believes that an issue could be  
24 raised at the deposition that may implicate a valid claim of privilege,  
25 the Department may seek to assert that privilege with the committee

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1 in advance of the deposition. To date, as has been the case in every  
2 other deposition that is part of this inquiry, the administration has  
3 not done so.

4 I am, therefore, entering into the record for the impeachment  
5 inquiry the following documents:

6 Exhibit 1 is the committees' letter dated September 27  
7 requesting Mr. Brechbuhl's voluntary deposition.

8 Exhibit 2 is the committees' letter dated October 25 to Mr.  
9 Brechbuhl's counsel transmitting a subpoena.

10 Exhibit 3 is the subpoena issued by the Intelligence Committee  
11 to Mr. Brechbuhl and served on his counsel on October 25 that commanded  
12 his appearance here today.

13 And exhibit 4 is the letter received from Brechbuhl's counsel on  
14 November 5 stating that Mr. Brechbuhl would not appear for his  
15 deposition, as instructed by the State Department.

16 [Majority Exhibit No. 1  
17 was marked for identification.]

18 [Majority Exhibit No. 2  
19 was marked for identification.]

20 [Majority Exhibit No. 3  
21 was marked for identification.]

22 [Majority Exhibit No. 4  
23 was marked for identification.]

24 THE CHAIRMAN: Mr. Brechbuhl has neither presented a valid  
25 constitutional reason to defy a duly authorized subpoena, nor have the

1 committees received a court order relieving him of his obligation to  
2 appear today.

3 Despite his legal obligations to appear, Mr. Brechbuhl is not  
4 present here today. The committees may therefore consider Mr.  
5 Brechbuhl's defiance of a duly authorized subpoena as evidence in a  
6 future contempt proceeding.

7 The subpoena remains in full force.

8 The committee reserves all of its rights, including the right to  
9 raise this matter at a future Intelligence Committee proceeding at the  
10 discretion of the chair of the committee.

11 One final note: While the administration's latest rationale for  
12 directing a State Department official not to appear even though  
13 multiple current and former State Department officials have already  
14 testified in this inquiry, including one today, may be a newly contrived  
15 justification to block witnesses from testifying, Mr. Brechbuhl is not  
16 absolved of responsibility here, as he is willfully abiding by this  
17 clearly deficient basis to defy a duly authorized subpoena.

18 Nevertheless, this effort by the President to attempt to block  
19 Mr. Brechbuhl from appearing can only be interpreted as a further effort  
20 by the President, the White House, and the State Department to obstruct  
21 the impeachment inquiry and Congress's lawful and constitutional  
22 functions.

23 Moreover, this obstruction does not exist in a vacuum. Over the  
24 past several weeks, we have gathered extensive evidence of the  
25 President's abuse of power related to pressuring Ukraine to initiate



1 investigations that would benefit the President personally and  
2 politically and sacrifice the national interest in attempting to do  
3 so.

4 Some of that evidence has revealed that Mr. Brechbuhl was aware  
5 of the shadow foreign policy being run by Rudy Giuliani and Ambassadors  
6 Volker and Sondland in Ukraine at the direction of President Trump.

7 The evidence also suggests that Mr. Brechbuhl would have  
8 information about the State Department's removal of Ambassador Marie  
9 Yovanovitch and the President's withholding of a coveted White House  
10 meeting and almost \$400 million in security assistance from Ukraine.

11 We can only infer, therefore, that the administration's effort  
12 to block Mr. Brechbuhl from testifying is to prevent the committees  
13 from learning additional evidence of Presidential misconduct and that  
14 Mr. Brechbuhl's testimony would corroborate and confirm other  
15 witnesses' accounts of such misconduct.

16 At this point, I'll yield to Mr. Nunes or, in his absence, any  
17 other Republican Member or to the minority staff.

18 MR. CASTOR: Nothing at this time. Thank you.

19 THE CHAIRMAN: That concludes the proceeding with respect to Mr.  
20 Brechbuhl.

1 [12:23 p.m.]

2 THE CHAIRMAN: We will now turn to the deposition of Mr. Vought.

3 This is the deposition of Acting Director of the Office of  
4 Management and Budget, Russell Vought, conducted by the House Permanent  
5 Select Committee on Intelligence, in coordination with the Committees  
6 on Foreign Affairs and Oversight and Reform, pursuant to the  
7 impeachment inquiry announced by the Speaker of the House on  
8 September 24, 2019, and affirmed by House Resolution 660 on October 31,  
9 2019.

10 On October 11, 2019, the committees sent a letter to Mr. Vought  
11 requesting that he voluntarily appear for a deposition on October 25,  
12 2019.

13 On October 21, 2019, the Office of Management and Budget informed  
14 the committees that Mr. Vought would not voluntarily appear at a  
15 deposition per the White House Counsel's October 8, 2019, letter.

16 As a result, on October 25, 2019, the committees issued a subpoena  
17 compelling Mr. Vought's mandatory appearance at a deposition today.

18 On Monday of this week, OMB reasserted its position that, quote,  
19 "as directed by the White House Counsel's October 8, 2019, letter, OMB  
20 will not participate in this partisan and unfair impeachment inquiry,"  
21 unquote. OMB argues that the impeachment inquiry lacks basic due  
22 process protections and relies on OLC opinion that the committee cannot  
23 lawfully bar agency counsel from depositions.

24 This new and shifting rationale from the White House, like the  
25 others it has used to attempt to block witnesses from appearing to

1 provide testimony about the President's misconduct, has no basis in  
2 law or the Constitution and is a serious affront to decades of precedent  
3 in which Republicans and Democrats have used exactly the same  
4 procedures to depose executive branch officials without agency counsel  
5 present, including some of the most senior aides to multiple previous  
6 Presidents.

7 I would note for my Republican colleagues that this rule was  
8 supported by Acting White House Chief of Staff Mick Mulvaney when he  
9 served as a member of the Oversight Committee and by Secretary of State  
10 Mike Pompeo when he served as a member of the Benghazi Select Committee.

11 In fact, some of the same Members and staff currently conducting  
12 depositions as part of the present impeachment inquiry participated  
13 directly in depositions without agency counsel during the Clinton,  
14 Bush, and Obama administrations.

15 The basis for this process straightforward. It ensures that the  
16 committees are able to depose witnesses in furtherance of our  
17 investigation without having representatives of the agency or office  
18 under investigation in the room to interfere or improperly learn  
19 details about the investigation.

20 The rule nevertheless protects the rights of witnesses by  
21 allowing them to be accompanied in the deposition by personal counsel,  
22 which was offered to Mr. Vought.

23 Other than the White House's objection to longstanding  
24 congressional practice, the committees are aware of no other or valid  
25 constitutional privilege asserted by the White House to direct Mr.

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1 Vought to defy the subpoena.

2 To the extent the White House believes that an issue could be  
3 raised at the deposition which may implicate a valid privilege, the  
4 White House may seek to assert that privilege with the committee in  
5 advance of the deposition. To date, as has been the case in every other  
6 deposition as part of this inquiry, the White House has not done so.

7 I am entering into the record for the impeachment inquiry the  
8 following documents:

9 Exhibit 1 is the committees' letter dated October 11 requesting  
10 Mr. Vought voluntarily appear for a deposition.

11 Exhibit 2 is a tweet by Mr. Vought dated October 21, 2019.

12 Exhibit 3 is the committees' cover letter to the subpoena dated  
13 October 25.

14 Exhibit 4 is the Intelligence Committee's subpoena to  
15 Mr. Vought, which was served on October 25.

16 Exhibit 5 is OMB's letter to the committees dated November 4  
17 stating that the White House instructed him not to appear.

18 [Majority Exhibit No. 1  
19 was marked for identification.]

20 [Majority Exhibit No. 2  
21 was marked for identification.]

22 [Majority Exhibit No. 3  
23 was marked for identification.]

24 [Majority Exhibit No. 4  
25 was marked for identification.]

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1 [Majority Exhibit No. 5  
2 was marked for identification.]

3 THE CHAIRMAN: Mr. Vought has neither presented a valid  
4 constitutional reason to defy a duly authorized subpoena, nor have the  
5 committees received a court order relieving him of his obligation to  
6 appear today.

7 Despite his legal obligations to appear, Mr. Vought is not present  
8 here today and has therefore defied a duly authorized congressional  
9 subpoena. The committees may therefore consider Mr. Vought's defiance  
10 of a subpoena as evidence in a future contempt proceeding.

11 The subpoena remains in full force.

12 The committees reserve all of their rights, including the right  
13 to raise this matter at a future Intelligence Committee proceeding at  
14 the discretion of the chair of the committee.

15 This effort by the President to attempt to block Mr. Vought from  
16 appearing can only be interpreted as a further effort by the President  
17 and the White House to obstruct the impeachment inquiry and Congress's  
18 lawful and constitutional functions.

19 Moreover, the obstruction does not exist in a vacuum. Over the  
20 past several weeks, we have gathered extensive evidence of the  
21 President's abuse of power related to pressuring Ukraine to initiate  
22 investigations that would benefit the President personally and  
23 politically and sacrifice the national interest in attempting to do  
24 so.

25 Some of that evidence has revealed that Mr. Vought was a

1 percipient witness to the President's misconduct, including President  
2 Trump's decision to place a hold on Ukraine security assistance and  
3 concerns about the legality of the hold.

4 We can only infer, therefore, that the White House's effort to  
5 block Mr. Vought from testifying is to prevent the committees from  
6 learning additional evidence of Presidential misconduct and that Mr.  
7 Vought's testimony would corroborate and confirm other witnesses'  
8 accounts of such misconduct, including Mr. Mulvaney's admission from  
9 the White House Briefing Room that the Ukraine military aid was frozen  
10 by the President in order to pressure Ukraine into initiating  
11 investigations into the Bidens and the 2016 election.

12 At this point, I will yield to Ranking Member Nunes or, in his  
13 absence, any other Republican Member or to minority counsel.

14 MR. CASTOR: Nothing to add. Thank you.

15 THE CHAIRMAN: That concludes the deposition proceeding  
16 involving Russell Vought, and we will now recess and shortly resume  
17 the deposition of Ambassador Hale.

18 [Whereupon, at 12:28 p.m., the depositions were concluded.]