



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**  
Washington, D.C. 20460

OFFICE OF  
THE ADMINISTRATOR

**MEMORANDUM**

SUBJECT: Recusal Statement

FROM: Sarah Greenwalt *Sarah Greenwalt 11/8/17*  
Senior Advisor for Water and Cross-Cutting Initiatives

TO: Ryan Jackson  
Chief of Staff

I have previously consulted with the Office of General Counsel/Ethics (OGC/Ethics) and been advised about my ethics obligations. This memorandum formally notifies you of my continuing obligation to recuse myself from participating personally and substantially in certain matters in which I have a financial interest, or a personal or business relationship. I also understand that I have obligations pursuant to Executive Order 13770 and the Trump Ethics Pledge that I signed, as well as my own bar obligations.

*FINANCIAL CONFLICTS OF INTEREST*

As required by 18 U.S.C. § 208(a), I will not participate personally and substantially in any particular matter in which I know that I have a financial interest directly and predictably affected by the matter, or in which I know that a person whose interests are imputed to me has a financial interest directly and predictably affected by the matter, unless I first obtain a written waiver, pursuant to 18 U.S.C. § 208(b)(1), or qualify for a regulatory exemption, pursuant to 18 U.S.C. § 208(b)(2). I understand that the interests of the following persons are imputed to me: any spouse or minor child of mine; any general partner of a partnership in which I am a limited or general partner; any organization in which I serve as officer, director, trustee, general partner or employee; and any person or organization with which I am negotiating or have an arrangement concerning prospective employment.

I have consulted with OGC/Ethics and been advised that I do not currently have any financial conflicts of interest but will remain vigilant and notify OGC/Ethics immediately should my financial situation change.

*OBLIGATIONS UNDER EXECUTIVE ORDER 13770*

Pursuant to Section 1, Paragraph 6 of the Executive Order, I understand that I have ethics obligations with respect to my former employer and my former client, the State of Oklahoma. The Executive Order provides more restrictions than the federal ethics rules, but I am advised by OGC/Ethics that the additional restrictions contained in the Executive Order regarding former employer and former client do not apply to me. The definition of “former employer” in the Executive Order excludes state government,<sup>1</sup> and the Office of Government Ethics has determined that this same exclusion applies to the definition of “former client.”<sup>2</sup> Therefore, OGC/Ethics has confirmed that I am not subject to the additional Executive Order restrictions regarding former employers or former clients.

*OBLIGATIONS UNDER THE IMPARTIALITY PROVISIONS*

Pursuant to federal ethics rules, I understand that I have a one-year cooling off period with my former employer and former client. For one year after my resignation from the Office of the Oklahoma Attorney General, I will not participate personally and substantially in any particular matter involving specific parties in which the State of Oklahoma is a party or represents a party, unless I am first authorized by OGC/Ethics to participate, pursuant to 5 C.F.R. § 2635.502(d). I understand that my recusal lasts until March 2, 2018, and this federal ethics limitation does not extend to particular matters of general applicability, such as rulemaking.

*ATTORNEY BAR OBLIGATIONS*

Pursuant to my obligations under my bar rules, I recognize that I am obliged to protect the confidences of my former clients. I also understand that I cannot participate in any matter that is the same as or substantially related to the same specific party matter that I participated in personally and substantially while in private practice, unless my bar provides for and I first obtain informed consent and notify OGC/Ethics.

*RECUSAL LIST*

While at the EPA, I will not participate in any active cases in which Oklahoma is a party, petitioner or intervenor, which includes the following:

Case Name	Citation
American Petroleum Institute, <i>et al.</i> v. EPA	No. 13-1108 (D.C. Cir.)
Clean Air Council <i>et al.</i> v. E. Pruitt	No. 17-1145 (D.C. Cir.)

<sup>1</sup> See Exec. Order 13,770, Section 2(j), which provides that “‘former employer’ does not include ... State government.”

<sup>2</sup> See Office of Government Ethics Legal Advisory 17-02 (February 6, 2017), which states that, “[w]ith respect to Executive Order 13770, ethics officials and employees may continue to rely on OGE’s prior guidance regarding Executive Order 13490 to the extent that such guidance addresses language common to both orders,” and Office of Government Ethics Legal Advisory DO-09-011 (March 26, 2009), which states that “based on discussions with the White House Counsel’s office, OGE has determined that the definition of former client is intended to exclude the same governmental entities as those excluded from the definition of former employer.”

Florida <i>et al.</i> v. EPA	No. 15-1267 (D.C. Cir.)
Murray Energy, <i>et al.</i> v. EPA	No. 15-3751 (6 <sup>th</sup> Cir.)
Murray Energy, <i>et al.</i> v. EPA	No. 15-1385 (D.C. Cir.) (consolidated with 15-1392, 15-1490, 15-1491 & 15-1494)
Murray Energy Corp. v. EPA	No. 16-1127 (D.C. Cir.)
Oklahoma <i>ex rel.</i> Pruitt v. EPA	No. 15-cv-00381 (10 <sup>th</sup> Cir.)
National Association of Manufacturers, <i>petitioner</i> , v. U.S. Department of Defense, <i>respondent</i>	No. 16-299 (S. Ct.)
Oklahoma <i>ex rel.</i> Pruitt v. EPA appeal pending <i>sub nom.</i> State of Oklahoma <i>ex rel.</i> Hunter, No. 16-5039 (10 <sup>th</sup> Cir.)	No. 4:15-cv-381 (N.D. Okla.)
Public Service Company of Oklahoma, d.b.a. AEP v. EPA	No. 12-1023 (D.C. Cir.)
<i>In Re</i> Volkswagen “Clean Diesel” Marketing, Sales, Practices, And Products Liability Litigation (extends to criminal case too)	No. 2672 MDL CRB (JSC) (N.D. Cal.) Criminal case: E.D. Michigan
State of North Dakota v. EPA	No. 15-1381 (D.C. Cir.) (joined with No. 15-1399, then consolidated with No. 15-1381)
State of West Virginia, <i>et al.</i> v. EPA	No. 15-1363 (D.C. Cir.)
Walter Coke Inc. v. EPA	No. 15-1166 (D.C. Cir.)
Wildearth Guardians v. EPA	No. 13-cv-02748 (D.C. Colo.)

I understand that this commitment is longer than is required by federal impartiality standards, but I am taking this action to avoid the appearance of any impropriety under federal ethics or professional responsibility obligations.

With respect to cases involving EPA in which Oklahoma joined other states in filing an amicus brief, I understand that Oklahoma was not a party to the litigation itself. The Designated Agency Ethics Official (DAEO) was informed that Oklahoma itself neither authored the amici briefs nor otherwise participated in the litigation in any way. Most of those cases are resolved, except for *Building Industry Association of the Bay Area, et al. v. Department of Commerce, et al.* (the U.S. Supreme Court denied *certiorari*); *Sierra Club et al., plaintiffs-appellees v. Regina McCarthy in her capacity as Administrator of the United States Environmental Protection Agency, defendants-appellees*; *State of Arizona et al, intervenor-plaintiff-appellants*, No. 15-15894 (9<sup>th</sup> Cir.), on appeal from N.D. Cal., No. 13-cv-03953-SI (this case is fully argued and briefed is awaiting decision only); and *Wyoming v. EPA*, Nos. 14-9512 and 14-9514 (10<sup>th</sup> Cir.) (the standard of review argument advanced in the amicus brief that Oklahoma joined was uncontested on review).

Thus far, I have not participated in any of the cases listed in this recusal statement and will continue to recuse for now. In the event that I wish to participate, I will seek an ethics determination from the DAEO, who will apply the federal impartiality standard set forth at 5 C.F.R. § 2635.502. I understand that my professional responsibility obligations may impose consent requirements in order to participate. I will provide notification of such consent, if sought and obtained, to EPA’s ethics officials.

*UPDATE AS NECESSARY*

In consultation with OGC/Ethics, I will revise and update my recusal statement whenever warranted by changed circumstances, including changes in my financial interests, changes in my personal or business relationships, or any changes to my EPA duties.

cc: Kevin S. Minoli, Designated Agency Ethics Official  
Justina Fugh, Senior Counsel for Ethics