

**From:** [Gustafson, Adam](#)  
**To:** [Griffo, Shannon](#)  
**Cc:** [Payne, James \(Jim\)](#); [Fugh, Justina](#)  
**Subject:** RE: Updated Recusal Statement for your review  
**Date:** Tuesday, January 12, 2021 10:39:53 PM  
**Attachments:** [2020.6.17 Gustafson Waiver Signed.pdf](#)  
[Gustafson Impartiality Waiver.pdf](#)

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Shannon,

Under the ethics waiver I received, I'm allowed to participate in "any other potential cases arising at EPA where [my former client] CEI is a party and [I] did not previously participate personally and substantially while serving as an attorney for CEI or any other party."

In this context, does "case" include an administrative petition for reconsideration? CEI petitioned EPA to reconsider a regulatory action, and I have been asked whether I can work on the Agency's response.

Here is what my updated recusal statement says:

On June 17, 2020, the White House granted me a limited waiver of the provisions of Section 1, Paragraph 6, for one of my former clients, the Competitive Enterprise Institute (CEI). This waiver permits me to participate in specific party matters in which CEI is a party, provided that I was not previously involved in that matter. To address my "covered relationship" with CEI under the federal impartiality standards, EPA's Designated Agency Ethics Official issued me an impartiality determination on that same day. See attachments. I am now authorized to participate personally and substantially in *American Lung Association v. EPA*, No. 19-1140 (D.C. Cir.) and any other potential cases arising at EPA in which my former client, CEI, is a party, provided that I did not previously participate personally and substantially in that same matter for CEI or any other party. I may participate personally and substantially, including meetings or communications related to such cases even if CEI is present. But I understand that I must remain recused from any specific party matters in which my former client is a party if I participated personally and substantially previously.

I will send a separate request to schedule a one-on-one as you suggest. Maybe we can kill two birds with one stone.

**Adam Gustafson**

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