

United States Senate

WASHINGTON, DC 20510

February 16, 2017

The Honorable Scott Pruitt
Attorney General of Oklahoma
Oklahoma Attorney General's Office
313 NE 21st Street
Oklahoma City, OK 73105

Dear Mr. Pruitt:

We write to request your commitment to recuse yourself from participating personally and substantially in any matter (including regulations) related to the litigation that you pursued as the Attorney General of Oklahoma for the entirety of your tenure at the Environmental Protection Agency (EPA), and without seeking any waiver, should you be confirmed by the United States Senate. In light of your lengthy record that sought to weaken or repeal a multitude of regulations intended to protect public health by reducing harmful air and water pollution, it is difficult for a reasonable person to conclude that you could be an objective participant in decisions related to these matters.

In your current capacity, you have repeatedly sued EPA to overturn regulations that seek to protect Americans from the effects of soot, ozone, greenhouse gases, mercury, arsenic and other air and water pollutants. These regulations, taken together, are projected to save tens of thousands of lives each year, and avoid cardiovascular disease, asthma and missed days of school and work. Of the 19 cases you have filed, eight remain pending before the courts.

Your Ethics Agreement¹ states that because you have a conflict of interest due to your current role as the Oklahoma Attorney General, for a one-year period, you “will seek authorization to participate personally and substantially in particular matters involving specific parties in which I know the State of Oklahoma is a party or represents a party.” Some of the pending legal proceedings will take longer than a year to resolve even if the EPA ethics officials who will report to you at EPA deny you the authorizations you say you will seek. Moreover, as EPA Administrator, even if you were recused from participating in decision-making on the litigation itself, you may attempt to use your authority to direct EPA personnel to change EPA

¹[https://extapps2.oge.gov/201/Presiden.nsf/PAS+Index/1D30B3387FC4E8C0852580A1002C7D1E/\\$FILE/Pruitt,%20Edward%20Scott%20%20%20finalEA.pdf](https://extapps2.oge.gov/201/Presiden.nsf/PAS+Index/1D30B3387FC4E8C0852580A1002C7D1E/$FILE/Pruitt,%20Edward%20Scott%20%20%20finalEA.pdf)

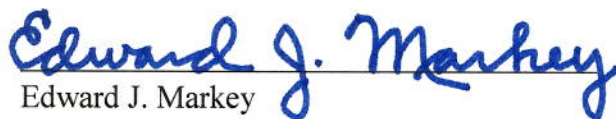
regulations to accomplish exactly the same outcome your lawsuits sought to accomplish. Such an action would be a clear attempt to bypass the spirit of the conflict of interest regulations.

Federal regulations require a federal official to recuse himself from matters where “the circumstances would cause a reasonable person with knowledge of the relevant facts to question his impartiality in the matter.”² It is simply impossible for you to meet that test if you switch from plaintiff in your current capacity (in which you were a principal decision-maker on the part of those litigating against EPA), to defendant as EPA Administrator (in which you would be the principal decision-maker on the responses to the lawsuits you filed). It is also impossible for you – or any action you may take as EPA Administrator – to be viewed as impartial if that action consists of the repeal or weakening of environmental protections through regulation that you originally sought to accomplish through litigation.

By contrast, when Carol Browner was EPA Administrator, she promised to recuse herself from matters she personally and substantially worked on for the State of Florida for her entire tenure at EPA. Moreover, the Citizens for Responsibility and Ethics in Washington (CREW) has stated that you should be required to “be recused from any participation in these lawsuits.”³

The American people must have the utmost confidence that members of the Trump administration are exclusively serving our national interests. Until you agree to recuse yourself from all matters (including regulations) related to your litigation against the EPA for the duration of your time in office, they will lack that confidence.

Sincerely,



Edward J. Markey
United States Senator



Thomas R. Carper
United States Senator




Tammy Duckworth
United States Senator




Al Franken
United States Senator

² 5 CFR 2635.502


³ <http://s3.amazonaws.com/storage.citizensforethics.org/wp-content/uploads/2017/01/17183250/Letter-to-EPA-ethics-counsel-re-Pruitt-FINAL.pdf>



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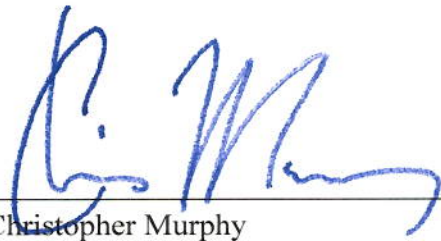
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