



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Washington, D.C. 20460

OFFICE OF
GENERAL COUNSEL

SEP 29 2018

The Honorable Sheldon Whitehouse
United States Senate
Washington, D.C. 20510

Dear Senator Whitehouse:

On behalf of the U.S. Environmental Protection Agency (EPA), I am writing in response to your letters of April 25, 2018 and September 4, 2018, in which you sought information regarding the recusal statement of EPA's Assistant Administrator for Air and Radiation, William L. Wehrum.

I want to assure you that EPA has taken diligent steps to ensure that Mr. Wehrum has been advised of his ethics obligations. Following Mr. Wehrum's initial ethics training on November 14, 2017, my staff in the Ethics Law Office in the Office of General Counsel (OGC/Ethics) and I have met with Mr. Wehrum in person, communicated with him via email correspondence and the telephone, and coordinated with his staff about his ethics obligations. As part of these discussions and consistent with our responsibilities found at 5 C.F.R. §§ 2638.305(f)(2) and (3), OGC/Ethics explained his recusal obligations, the importance of a recusal statement, and the other commitments contained in Mr. Wehrum's ethics agreement. OGC/Ethics also counseled Mr. Wehrum about his ethics obligations pursuant to Executive Order 13770 and the Trump Ethics Pledge, which he signed on November 14, 2017. Our counsel included guidance on paragraph 6 of the Pledge, which states that he cannot "participate in any particular matter involving specific parties that is directly and substantially related to [his] former employer or former clients, including regulations and contracts." We have provided him with advice consistent with that offered by the Office of Government Ethics (OGE), including OGE Advisories DO-09-011 (3/26/09) and DO-09-020 (5/26/09), which apply to Exec. Order 13770 pursuant to OGE Legal Advisories LA-17-02 & LA-17-03 (3/20/17).

Since he re-joined EPA, OGC/Ethics has worked with Mr. Wehrum and his staff on a written recusal statement. In my role as the Designated Agency Ethics Official, I personally communicated with Mr. Wehrum about the importance of signing a recusal statement. Mr. Wehrum initially chose to use other tools that he deemed effective in helping him comply with the ethics requirements, such as use of a screening official. OGC/Ethics continued to work with him and his staff and recently Mr. Wehrum completed and signed the enclosed recusal statement. His statement formally memorializes Mr. Wehrum's understanding of his obligation to recuse himself from certain matters involving his former employer or former clients.

To date, Mr. Wehrum has not received any waivers or authorizations issued pursuant to Executive Order 13770, 18 U.S.C. § 207(b)(1), or 5 C.F.R. § 2635.502(d). As described in his

recusal statement, for meetings or invitations involving his former employer or former clients, Mr. Wehrum's staff coordinates with OGC/Ethics, particularly when paragraph 6 of the Ethics Pledge might be implicated. When OGC/Ethics is consulted by Mr. Wehrum or his staff on meetings involving his former employer or former clients, we provide appropriate counsel and case-specific advice based on the subject matter of the meeting, the attendees, the location, the purpose, the capacity under which the individuals or entities are present, and any other relevant information.

Mr. Wehrum filed a Certification of Ethics Agreement Compliance with the OGE dated December 7, 2017. Originally, he answered "no" in response to the form's query on recusals related to financial conflicts of interest. He made a clarifying edit to the form on December 19, 2017, changing his response from "no" to "N/A." Enclosed is a further-updated version of that form that includes a comment Mr. Wehrum added on September 27, 2018, explaining that at the time he signed the form he did not have any financial conflicts of interest from which to recuse, so he did not believe that answering "no" was sufficient to explain his situation. Because he has no existing financial conflicts, nor does he expect to have any in the future, he explains that his answer meant that this question does not apply to his individual situation. My staff provided the recently-updated form to OGE.

With respect to the documents that you requested, EPA has a centralized search currently underway that it expects to yield documents responsive to your request. The agency anticipates releasing those documents to you on a rolling basis, as they become available.

Finally, I have resigned from EPA and my role as the Designated Agency Ethics Official, effective September 30, 2018, to pursue a career transition to the private sector. If I can be of assistance after that date, however, you may contact me through the agency's Office of Congressional and Intergovernmental Affairs. I appreciate your sustained interest in, and support of, a strong ethics program at EPA. If you have further questions for EPA, please contact Kristien Knapp in the Office of Congressional and Intergovernmental Relations at (202) 564-3277 or Knapp.Kristien@epa.gov.

Sincerely,

A handwritten signature in green ink that reads "K-S Minoli".

Kevin S. Minoli
Designated Agency Ethics Official &
Principal Deputy General Counsel

Enclosures

cc: The Honorable John Barrasso
Chairman, Senate Environment and Public Works Committee