

July 6, 2018

The Honorable Andrew Wheeler
Acting Administrator
U.S. Environmental Protection Agency (EPA)
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Dear Andrew:

I write to congratulate you on being named Acting Administrator of the EPA and to ask you to do all that you can to restore the American people's confidence in the agency's mission, which is the protection of human health and our environment.

Scott Pruitt's record of corruption, wasteful spending on himself while attempting to slash the EPA budget and workforce, secrecy, retaliation against those who dared object, and legally questionable rulemaking proposals have been well-documented.

They say that history doesn't always repeat itself, but it often rhymes. A review of a different chapter in EPA's history reveals the truth of that adage. Mr. Pruitt's tenure at the agency brings to mind the tenure of former EPA-Administrator Anne Gorsuch, which was described as "marked by sharp budget cuts, rifts with career EPA employees, a steep decline in cases filed against polluters and a scandal over the mismanagement of the Superfund cleanup program that ultimately led to her resignation in 1983....She filled various departments at EPA with subordinates recruited from the very industries the agency was supposed to be regulating."^[1]

When Ms. Gorsuch was forced to resign, President Reagan nominated William Ruckelshaus, who had served as the nation's first EPA Administrator, and who had since that time also worked on behalf of many companies regulated by EPA, to serve as Ms. Gorsuch's replacement. Much like your nomination to serve as EPA's Deputy Administrator, Mr. Ruckelshaus's industry ties^[2] led to considerable skepticism^[3] when his nomination was considered by the Environment and Public Works Committee.

In his opening statement (attached), he observed that the opposition to his nomination during the two days of hearings that preceded his appearance gave him "a sense that I was witnessing my own lynching." During his confirmation hearing, Mr. Ruckelshaus committed to following and enforcing environmental laws, said he would request and use the advice provided to him by EPA's career staff, and also said: "There will be no hit list. There will be no "Big P" political decisions, there will be no sweetheart deals.... I will seek help from scientists, from environmentalists, from economists, from industrialists and from the general public...

^[1] https://www.washingtonpost.com/news/energy-environment/wp/2017/02/01/neil-gorsuchs-mother-once-ran-the-epa-it-was-a-disaster/?utm_term=.1417a04c3592

^[2] <https://www.nytimes.com/1983/03/26/us/ruckelshaus-s-ties-split-environmental-leaders.html>

^[3] https://www.washingtonpost.com/archive/politics/1983/05/04/wildlife-federation-endorses-ruckelshaus-other-groups-neutral/b649ff6f-c7aa-4fee-896c-6324974f52a0/?utm_term=.13b427678ce7

Recognizing the important oversight function that Congress must play, a better dialogue and increased trust between the legislative and administering authorities in this area will be a high priority of mine.”

After he was nominated, the Washington Post reported (attached) that he received “an emotional hero’s welcome” from the beleaguered EPA employees as he promised that “the atmosphere of the demoralized agency will change dramatically.” Within a week after he re-assumed the helm of the agency, Mr. Ruckelshaus authored the ‘fishbowl memo’ (attached) to establish strong transparency and ethics procedures at EPA. When he resigned in 1985, The New York Times said^[4] that “he has widely been credited with restoring the morale of the career employees at the agency, bringing in a cadre of competent, experienced assistant administrators and restoring much of the agency’s will and capacity to carry out the environmental laws. He also insisted that the agency’s enforcement staff step up its operations against violators of the environmental laws.”

Mr. Ruckelshaus recently opined,^[5] of Scott Pruitt’s EPA, that the “EPA should have no natural constituency but the public whose health it is mandated to protect.... the consequence of such conduct is the slow, destructive erosion of public trust in the EPA. Once trust is lost and warnings of unsafe air or contaminated water are ignored, Americans will pay the price. Without that trust, not only will people question whether they can believe their government but also business and industry will face public backlash.”

Andrew, you have been granted an enormous challenge and responsibility, but an even greater opportunity. The damage Scott Pruitt has done to the Agency will not easily be undone. While you and I have not always agreed, and will not always agree, on every environmental policy matter, it is my hope and expectation that you will carefully consider the lessons of the past as you prepare to chart the Agency’s future. My staff and I stand ready to help, and to that end, I request a meeting in the near future to discuss what we feel are some of the most important near-term steps you could take to restore confidence in the Environmental Protection Agency (attached).

With best personal regards, I am,

Sincerely yours,

Tom Carper
Ranking Member

^[4] <https://www.nytimes.com/1984/11/29/us/ruckelshaus-resigning-post-as-chief-of-the-epa.html>

^[5] https://www.washingtonpost.com/opinions/pruitt-is-turning-his-back-on-transparency-at-the-epa/2017/11/01/cd2c1b84-bd88-11e7-8444-a0d4f04b89eb_story.html?utm_term=.67fb14489d0a

Restoring Trust in the EPA

This is a non-exhaustive list that does not include all EPA actions that are of concern. Rather, this list represents ways to remedy some of Administrator Pruitt's most egregious proposals, practices and missed opportunities.

Restore transparency, trust and accountability

1. Provide daily, more detailed information about the activities of confirmed and other senior unconfirmed EPA officials.
2. Ensure that all policy and other decisions are properly documented in writing.
3. Respond to Freedom of Information Act requests in a complete, minimally redacted, and timely manner.
4. Respond to Congressional oversight letters in a complete, accurate, and timely manner.
5. Cease efforts to dramatically shrink, exclude, or retaliate against members of the EPA workforce.
6. Restore scientific information that was removed from EPA's website.
7. Advocate in support of a budget that appropriately reflects the agency's needs and responsibilities.
8. Ensure that environmental laws are enforced through enabling the detection and deterrence of potential violations and requiring appropriate monetary and/or environmental remedies.

Abandon legally questionable policies and proposals

1. Withdraw EPA's proposal to repeal air emission standards for glider trucks, which appears to largely benefit a single company while being opposed by the vast majority of industry, and was influenced by an industry-funded "study" that is currently the subject of an official investigation into research misconduct for failing to adhere to basic scientific standards.
2. Withdraw EPA's "secret science" proposal, which will require EPA—when developing rules—to rely only on scientific studies where the underlying data have been made public and are available to be reproduced. Such a policy would likely violate several laws that mandate the use of "best available science," including the Toxic Substances Control Act and Safe Drinking Water Act because it would require EPA to ignore some of the "best" scientific studies, and would also likely run afoul of the Administrative Procedure Act, which requires agencies to consider and respond to all information presented to it pursuant to a rulemaking.
3. Abandon efforts to complete the draft proposed rule that seeks to dramatically weaken vehicle fuel economy and greenhouse gas tailpipe standards and preempt California's authority to set and enforce its own greenhouse gas tailpipe standards (as well as that of the 12 additional states, including Delaware, that have adopted them). Instead, work to negotiate a 'win-win' solution on federal fuel economy and tailpipe emissions standards that can be supported by both the automobile industry and the State of California.

4. Implement the near-unanimously enacted Toxic Substances Control Act in a manner consistent with Congressional intent that new and existing chemical safety reviews be conducted for all uses of a chemical substance, and additionally, that proposed bans for some uses of three chemical substances be quickly finalized.
5. Follow the law when revising, implementing and enforcing rules to limit air pollution under the Clean Air Act, abandon efforts to weaken existing mercury and air toxics and ozone rules, and live up to the responsibility to protect downwind states from air pollution blown in from upwind states.

###