



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

OFFICE OF THE
ADMINISTRATOR

MEMORANDUM

SUBJECT: Updated Recusal Statement

FROM: Dan Utech
Chief of Staff

TO: Michael S. Regan
Administrator

I have 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 13989 and President Biden's Ethics Pledge that I signed. This recusal statement supersedes my April 12, 2021 recusal statement.

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. I will remain vigilant and notify OGC/Ethics immediately should my financial situation change.

OBLIGATIONS UNDER EXECUTIVE ORDER 13989

Pursuant to Section 1, Paragraph 2 of the Executive Order, I understand that I am prohibited from participating in any particular matter involving specific parties in which my former employer – **Yale University** -- or any of my former clients -- the **Energy Foundation**,

the **Center for Applied Environmental Law and Policy**, and **Clean Wisconsin** -- is a party or represents a party. For the purposes of the Executive Order, I had no other “former clients” to whom I provided consulting services while self-employed as a consultant, and my consultancy is in abeyance and not taking on any new clients. I understand that my recusals regarding Yale University; the Energy Foundation; the Center for Applied Environmental Law and Policy; and Clean Wisconsin will last for two years from the date that I joined federal service. These recusals will end after January 20, 2023.

I have been advised by OGC/Ethics that, for the purposes of this pledge obligation, the term “particular matters involving specific parties” is broadened to include any meetings or other communication relating to the performance of my official duties, unless the communication applies to a particular matter of general applicability and participation in the meeting or other event is open to all interested parties. I am further advised that the term “open to all interested parties” means that the meeting should include a multiplicity of parties. If, for example, there is “a meeting with five or more stakeholders regarding a given policy or piece of legislation, [then I] could attend such a meeting even if one of the stakeholders is a former employer or former client.”¹ Should a question arise as to whether a specific forum qualifies as “open to all interested parties,” then I will consult with OGC/Ethics.

SCREENING ARRANGEMENT

In order to ensure that I do not participate in matters relating to any of the entities listed above, I will instruct Alison Cassady, Deputy Chief of Staff for Policy, to assist in screening EPA matters directed to my attention that involve my former employer or my former clients. All inquiries and comments involving the entities or issue areas on my recusal list should be directed to the Deputy Chief of Staff for Policy without my knowledge or involvement.

If the Deputy Chief of Staff for Policy determines that a particular matter will directly involve any of the entities on my recusal list, then she will refer it for action or assignment to another, without my knowledge or involvement. In the event that she is unsure whether an issue is a particular matter from which I am recused, then she will consult with OGC/Ethics for a determination. I will provide a copy of this memorandum to my principal subordinates and a copy to Justina Fugh, Director, Ethics Office.

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. In the event of any changes, I will provide a copy of the revised recusal statement to you and OGC/Ethics.

cc: Alison Cassady, Deputy Chief of Staff for Policy
Dorien Blythers, Deputy Chief of Staff for Operations
Wes Carpenter, Acting Deputy Chief of Staff
Justina Fugh, Director, Ethics Office