



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

OFFICE OF
AIR AND RADIATION

MEMORANDUM

SUBJECT: Recusal Statement

FROM: David S. Harlow
Senior Counsel

TO: William L. Wehrum
Assistant Administrator

DATE: December 28, 2017

I have previously 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 obligations 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 13770 and the Trump Ethics Pledge that I signed, as well as my own bar obligations.

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

OBLIGATIONS UNDER EXECUTIVE ORDER 13770

Pursuant to Section 1, Paragraph 6 of the Executive Order, I understand that I am

prohibited from participating in any particular matter involving specific parties in which my former employer, **Hunton & Williams LLP**, or any former client to whom I provided legal services during the past two years is a party or represents a party. I understand that my recusal lasts for two years from the date that I joined federal service.

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 five or more parties. Set forth below are my former clients identified in consultation with OGC/Ethics that have or may have environmental interests that could potentially arise with respect to my duties here at EPA.¹

RECUSAL LIST In effect until October 1, 2019	
FORMER EMPLOYER: Hunton & Williams LLP	
FORMER CLIENTS: ² Agrium Inc.; Nu-West Industries, Inc. Chevron Corporation DTE Energy Company LG&E and KU Energy, LLC	National Stone, Sand and Gravel Association Sunflower Electric Power Corporation, Inc. Utility Air Regulatory Group

ATTORNEY BAR OBLIGATIONS

Pursuant to my obligations under my bar rules, I recognize that I am obliged to protect the confidences of my former clients. I also understand that I cannot participate in any matter that is the same as or substantially related to the same specific party matter that I participated in personally and substantially while in private practice, unless my bar provides for and I first obtain informed consent and notify OGC/Ethics. Attached is a list of cases I am recused from given my participation at Hunton & Williams LLP.

SCREENING ARRANGEMENT

In order to ensure that I do not participate in matters relating to any of the entities listed above, I will instruct Josh Lewis, Chief of Staff, and Mandy Gunasekara, Principal Deputy

¹ For my former clients who are not listed, I understand that I am personally obliged not to participate in specific party matters for the duration of my ethics obligations.

² One confidential client is not listed. This client has a written confidentiality agreement expressly prohibiting disclosure.

Assistant Administrator, to assist in screening EPA matters directed to my attention that involve these entities. All inquiries and comments involving the entities on my recusal list should be directed to Josh and Mandy without my knowledge or involvement until after my recusal period ends.

If Josh or Mandy determine that a particular matter will directly involve any of the entities listed on my "specific party" recusal list, then he/she will refer it for action or assignment to another, without my knowledge or involvement. In the event that he/she is unsure whether an issue is a particular matter from which I am recused, then he/she will consult with OGC/Ethics for a determination. I will provide a copy of this memorandum to my principal subordinates with a copy to Justina Fugh, Senior Counsel for Ethics.

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 to my recusal or screening arrangement, I will provide a copy of the revised recusal statement to you and OGC/Ethics.



David S. Harlow
Senior Counsel

cc: Elizabeth Shaw, Deputy Assistant Administrator
Justina Fugh, Senior Counsel for Ethics

David S. Harlow
RECUSAL LIST – ATTORNEY BAR OBLIGATIONS

CASE NAME:	CITATION:
Utility Air Regulatory Group v. EPA	No. 12-1166 (D.C. Cir.) (consolidated with No. 12-1100)
American Petroleum Institute v. EPA	No. 13-1063 (D.C. Cir.) (consolidated with No. 11-1309)
Utility Air Regulatory Group v. EPA	No. 15-1370 (D.C. Cir.) (consolidated with No. 15-1363)
LG&E and KU Energy v. EPA	No. 15-1418 (D.C. Cir.)
Utility Air Regulatory Group v. EPA	No. 17-1018 (D.C. Cir.) (consolidated with No. 17-1015)