



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

SEP 15 2017

OFFICE OF  
THE ADMINISTRATOR

**MEMORANDUM**

SUBJECT: Recusal Statement

FROM: Henry Darwin   
Assistant Deputy Administrator

TO: Ryan Jackson  
Chief of Staff

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 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 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 am precluded from participating personally and substantially in any determination, request or recommendation that specifically relates to or affects the salary or benefits of my spouse, Veronica Darwin. Therefore, pursuant to 18 U.S.C. § 208 and 5 C.F.R. § 2635.502, I am recusing myself from participating in any award, promotion or any other personnel or administrative matter that

involves my spouse as a specific party.

#### *OBLIGATIONS UNDER EXECUTIVE ORDER 13770*

Pursuant to Section 1, Paragraph 6 of the Executive Order, I understand that I have ethics obligations with respect to my former employer, the State of Arizona. The Executive Order provides more restrictions than the federal ethics rules, but I am advised by OGC/Ethics that the additional restrictions contained in the Executive Order regarding former employer do not apply to me. The definition of "former employer" in the Executive Order excludes state government.<sup>1</sup> Therefore, OGC/Ethics has confirmed that I am not subject to the additional Executive Order restrictions regarding former employers.

#### *OBLIGATIONS UNDER THE IMPARTIALITY PROVISIONS*

Pursuant to federal ethics rules, I understand that I have a one-year cooling off period with my former employer. For one year after my resignation from the State of Arizona, I will not participate personally and substantially in any particular matter involving specific parties in which the State of Arizona is a party or represents a party, unless I am first authorized by OGC/Ethics to participate, pursuant to 5 C.F.R. § 2635.502(d). I understand that my recusal lasts until July 4, 2018 and this federal ethics limitation does not extend to particular matters of general applicability, such as rulemaking. During my recusal period, any questions about my ability to participate in specific party matters involving the State of Arizona should be directed to OGC/Ethics without my participation or knowledge.

#### *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.

#### *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: Justina Fugh, Senior Counsel for Ethics

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<sup>1</sup> See Exec. Order 13,770, Section 2(j), which provides that "'former employer' does not include ... State government."