



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

OFFICE OF  
CONGRESSIONAL AND  
INTERGOVERNMENTAL  
RELATIONS

DEC 12 2017

**MEMORANDUM**

SUBJECT: Recusal Statement

FROM: Troy Lyons  
Associate Administrator

A handwritten signature in black ink, appearing to read "Troy Lyons", written over the printed name and title.

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.

*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 employers, **Hess Corporation** and **BP America**, is a party or represents a party. I understand that my recusal lasts until April 2, 2019, which is 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.

Pursuant to Section 1, Paragraph 7 of the Executive Order, since I was a registered lobbyist within the two years prior to joining federal service, I understand that I am also prohibited from participating in any particular matter on which I lobbied within the previous two years and prohibited from participating in the specific issue area in which that particular matter falls. I am advised by OGC/Ethics that the Executive Order defines “participate” to mean “participate personally and substantially”<sup>1</sup> and that the term “specific issue area” means a “particular matter of general applicability.”<sup>2</sup>

Within the previous two years, I lobbied Congress on the Renewable Fuel Standards program, crude oil exports, offshore air emissions, and methane emissions. While my Lobbying Disclosure Act reports indicate that I also engaged in other lobbying activities, these are the only issues on which I personally lobbied that may arise at EPA. Upon joining EPA, I consulted with OGC/Ethics and was advised them that my current duties in the Office of Congressional and Intergovernmental Relations do not involve my participation in the strategy, development or implementation in any of these specific issue areas. OGC/Ethics therefore concludes that, given my duties, it is unlikely that I will be participating at a level deemed to be “personally and substantially”<sup>3</sup> in these specific issue areas. However, if my EPA duties or involvement with these matters change to a more substantive role, I will consult with OGC/Ethics before taking any action.

### *SCREENING ARRANGEMENT*

<sup>1</sup> See Exec. Order 13770, Section 2(t), which states that “participate” means to participate personally and substantially.

<sup>2</sup> See Office of Government Ethics Legal Advisory LA-17-03 (March 20, 2017).

<sup>3</sup> To participate “personally” means to participate directly, either individually or in combination with other persons, or through the direct and active supervision of any person an employee supervises. 5 C.F.R. § 2641.201(i)(2). To participate “substantially” means that the employee’s involvement is of significance to the matter, and includes decision-making, review or recommendation as to an action being taken, signing or approving a final document, and/or participating in a final decision briefing. “Participation in peripheral aspects of a matter or in aspects not directly involving the substantive merits of a matter (such as reviewing budgetary procedures or scheduling meetings) is not substantial.” 5 C.F.R. § 2641.201(i)(3).

In order to ensure that I do not participate in matters relating to any of the entities listed above, I will instruct Robin Richardson, Principle Deputy Associate Administrator for the Office of Congressional and Intergovernmental Relations, to assist in screening EPA matters directed to my attention that involve the Hess Corporation or BP America. All inquiries and comments involving the Hess Corporation or BP America should be directed to Robin Richardson without my knowledge or involvement until after my recusal period ends.

If Robin Richardson determines that a particular matter will directly involve the Hess Corporation or BP America, then s/he will refer it for action or assignment to another, without my knowledge or involvement. In the event that s/he is unsure whether an issue is a particular matter from which I am recused, then s/he 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, I will provide a copy of the revised recusal statement to you, OGC/Ethics, and any principal subordinates.

cc: Robin H. Richardson, Principal Deputy Associate Administrator  
Justina Fugh, Senior Counsel for Ethics