



**citizens for responsibility  
and ethics in washington**

March 30, 2016

By Facsimile: 202-566-0870

National Freedom of Information Officer  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, NW (2822T)  
Washington, DC 20460

**Re: Freedom of Information Act Request**

Dear Freedom of Information Officer:

Citizens for Responsibility and Ethics in Washington ("CREW") makes this request for records pursuant to the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, and Environmental Protection Agency ("EPA") regulations.

Specifically, CREW seeks records of all communications from December 8, 2016 to the present between Administrator Scott Pruitt and EPA's designated agency ethics officer.

Please search for responsive records regardless of format, medium, or physical characteristics. We seek records of any kind, including paper records, electronic records, audiotapes, videotapes, photographs, data, and graphical material. Our request includes without limitation all correspondence, letters, emails, text messages, facsimiles, telephone messages, voice mail messages, and transcripts, notes, or minutes of any meetings, telephone conversations, or discussions. Our request also includes any attachments to emails and other records.

If it is your position any portion of the requested records is exempt from disclosure, CREW requests that you provide it with an index of those documents as required under *Vaughn v. Rosen*, 484 F.2d 820 (D.C. Cir. 1973). In the event some portions of the requested records are properly exempt from disclosure, please disclose any reasonably segregable non-exempt portions of the requested records. See 5 U.S.C. § 552(b). If it is your position that a document contains non-exempt segments, but that those non-exempt segments are so dispersed throughout the document as to make segregation impossible, please state what portion of the document is non-exempt, and how the material is dispersed throughout the document. See *Mead Data Central v. U.S. Dep't of the Air Force*, 566 F.2d 242, 261 (D.C. Cir. 1977).

**Fee Waiver Request**

In accordance with 5 U.S.C. § 552(a)(4)(A) and EPA regulations, CREW requests a waiver of fees associated with processing this request for records. The subject of this request concerns the operations of the federal government, and the disclosures will likely contribute to a better understanding of relevant government procedures by CREW and the general public in a significant way. See 5 U.S.C. § 552(a)(4)(A)(iii). Moreover, the request primarily and

fundamentally is for non-commercial purposes. See, e.g., *McClellan Ecological v. Carlucci*, 835 F.2d 1282, 1285 (9th Cir. 1987).

President Trump's selection of Scott Pruitt to head EPA has been controversial since it was first announced on December 8, 2016. As attorney general for Oklahoma, Mr. Pruitt pushed hard against EPA regulations, and joined 14 lawsuits challenging the plan of the Obama administration to reduce greenhouse gas emissions. Publication of his financial disclosure report (Form 278) prompted nine senators to write to Walter Schaub, Jr., director of the Office of Government Ethics, raising concerns about the potential ethical issues then-nominee Pruitt would face.<sup>1</sup>

In a letter dated January 3, 2017, Mr. Pruitt advised EPA's designated agency ethics official of the steps he would take to avoid any actual or apparent conflict of interest. He committed to first obtaining a written waiver before participating "personally and substantially in any particular matter in which I know I have a financial interest directly or predictably affected by the matter." Notwithstanding this commitment, President Trump through an executive order directed Administrator Pruitt to review the Clean Water Rule and propose a final rule that would revise or rescind it. This has raised concerns about whether, consistent with his promised recusal, Administrator Pruitt properly may carry out President Trump's directive, which overlaps with a lawsuit he joined in his capacity as Oklahoma attorney general.<sup>2</sup>

The requested records would shed light on the extent to which Administrator Pruitt is complying with his recusal pledge. The records would also increase public knowledge about whether and the extent to which the administrator is acting based on ethics advice provided him by EPA's designated agency ethics official. The public interest in the requested records is heightened by the concern already expressed publicly by members of Congress and environmental groups that Administrator Pruitt's ability to serve EPA is hampered significantly by multiple conflicts of interest issues.

CREW is a non-profit corporation, organized under section 501(c)(3) of the Internal Revenue Code. CREW is committed to protecting the public's right to be aware of the activities of government officials, to ensuring the integrity of those officials, and to highlighting and working to reduce the influence of money on politics. CREW uses a combination of research, litigation, and advocacy to advance its mission. CREW intends to analyze the information responsive to this request and to share its analysis with the public through reports, press releases, or other means. In addition, CREW will disseminate any documents it acquires from this request to the public through its website, [www.citizensforethics.org](http://www.citizensforethics.org), and through [www.scribd.com](http://www.scribd.com). The release of information obtained through this request is not in CREW's financial interest.

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<sup>1</sup> The January 12, 2017 letter is available at <http://www.politico.com/f/?id=00000159-9466-d7fb-a5df-fce78c260001>.

<sup>2</sup> This concern was addressed more fully in a letter to Administrator Scott sent by six senators on March 21, 2017, which is available at <https://www.epw.senate.gov/public/cache/files/0b1700be-0108-43bf-9dbd-558334de610a/carper-leads-call-for-pruitt-to-address-conflict-of-interest-in-clean-water-rule-review.pdf>.

CREW further requests that it not be charged search or review fees for this request pursuant to 5 U.S.C. § 552(a)(4)(A)(ii)(II) because CREW qualifies as a member of the news media. See *Nat'l Sec. Archive v. U.S. Dep't of Defense*, 880 F.2d 1381, 1386 (D.C. Cir. 1989) (holding non-profit a "representative of the news media" and broadly interpreting the term to include "any person or organization which regularly publishes or disseminates information to the public").

CREW routinely and systematically disseminates information to the public in several ways. CREW's website receives tens of thousands of page views every month. The website includes a blog that reports on and analyzes newsworthy developments regarding government ethics, corruption, and money in politics, as well as numerous reports CREW has published to educate the public about these issues. In addition, CREW posts all documents it receives under the FOIA at [www.scribd.com](http://www.scribd.com), and those documents have been visited hundreds of thousands of times.

Under these circumstances, CREW satisfies fully the criteria for a fee waiver.

### Conclusion

If you have any questions about this request or foresee any problems in fully releasing the requested records, please contact me at (202) 408-5565 or [aweismann@citizensforethics.org](mailto:aweismann@citizensforethics.org). CREW also welcomes the opportunity to discuss with you whether and to what extent this request can be narrowed or modified to better enable the EPA to process it within the FOIA's deadlines. In addition, if CREW's request for a fee waiver is not granted in full, please contact our office immediately upon making such a determination.

Where possible, please produce records in electronic format. Please send the requested records to me either at [aweismann@citizensforethics.org](mailto:aweismann@citizensforethics.org) or at Anne Weismann, Citizens for Responsibility and Ethics in Washington, 455 Massachusetts Ave., N.W., 6th Floor, Washington, D.C. 20001. Thank you for your assistance in this matter.

Sincerely,



Anne L. Weismann  
Chief FOIA Counsel