



June 20, 2017

Administrator Scott Pruitt  
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Washington, DC 20460

Arthur A. Elkins, Jr.  
Inspector General  
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1200 Pennsylvania Avenue, NW  
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Kevin Minoli  
Designated Agency Ethics Official  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460

Dear Administrator Pruitt:

In 1983, Administrator William Ruckelshaus underscored the importance of Environmental Protection Agency (EPA) transparency in his “Fishbowl Memo,” which vowed that EPA would “operate in a fishbowl” and “attempt to communicate with everyone from the environmentalists to those we regulate and we will do so as openly as possible.”<sup>1</sup>

This iconic directive was issued immediately following the tenure of EPA Administrator Anne Gorsuch—a tenure punctuated by an array of serious scandals that did deep damage to public confidence, precipitated a leadership crisis including numerous senior official resignations, and eventually led to President Ronald Reagan’s reappointment of Ruckelshaus, EPA’s first Administrator, as well as institution of reforms to regain public trust in America’s foremost environmental protection agency. Concerns regarding Administrator Gorsuch’s leadership were exacerbated by the lack of transparency regarding important EPA decision-making.

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<sup>1</sup> William Ruckelshaus, Fishbowl Memo, May 19, 1983, available at: <https://www.regulationwriters.com/downloads/EPA-Fishbowl-Memo-05-19-1983-Ruckelshaus.pdf>.

Administrator Ruckelshaus' Fishbowl Memo adopted as EPA policy a number of specific activities that are the hallmark of fair and transparent government. In particular, Administrator Ruckelshaus—the original EPA Administrator—included a commitment to share senior management schedules with the public as the Memo's very first transparency directive:

In order to make the public fully aware of my contacts with interested persons, I have directed that a copy of my appointment calendar for each week be placed in the Office of Public Affairs and made available to the public at the end of the week. The Deputy Administrator, and all Assistant Administrators, Associate Administrators, Regional Administrators, and Staff Office Directors shall make their appointment calendars available in a similar manner.<sup>2</sup>

This commitment to transparency and public access to EPA senior management calendars has continued across administrations.<sup>3</sup> For example, Administrator Lisa Jackson echoed this commitment upon her arrival, writing that “[t]o keep the public fully informed of my contacts with interested persons,” she would make available to the public, every day via the EPA website, “a working copy of my appointment calendar, showing meetings with members of the public.”<sup>4</sup> She directed her senior staff to do the same. Administrator Gina McCarthy and Acting Administrator Catherine McCabe similarly continued this practice.

During Scott Pruitt's confirmation process for the position of EPA Administrator, Senator Sheldon Whitehouse explicitly asked him to continue this practice: “Under your predecessors, senior EPA managers' schedules have been available to the public. If confirmed, do you agree to make senior managers' schedules available as well?” Pruitt's answer did not indicate that he would end this commitment: “If confirmed, I will commit to following applicable laws concerning the public availability of schedules for senior managers.”<sup>5</sup>

Yet Administrator Pruitt has ended the foundational transparency measure of making his and his senior managers' schedules readily available to the public. Just a glance at the EPA website immediately demonstrates that this practice is no more: the respective “Senior Manager Schedules” tab on the Administrator's homepage has been deleted (see appendix).

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<sup>2</sup> *Id.*

<sup>3</sup> See, e.g., Lee M. Thomas, Memorandum: Contacts with Persons Outside the Agency, May 31, 1985, available at pg. 5 of: <https://nepis.epa.gov/Exe/ZyPURL.cgi?Dockey=9100UH18.TXT>; William Reilly, Memorandum: Conduct of the Agency's Business, Feb. 27, 1989, available at pg. 261 of: <https://nepis.epa.gov/Exe/ZyPURL.cgi?Dockey=94000H2U.txt>; Carol M. Browner, Memorandum: Serving the Public Interest, 1993, available at: <https://nepis.epa.gov/Exe/ZyPDF.cgi/500016NQ.PDF?Dockey=500016NQ.PDF>.

<sup>4</sup> Lisa P. Jackson, Memorandum: Transparency in EPA Operations, April 23, 2009, available at: [https://www.epa.gov/sites/production/files/2014-02/documents/transparency\\_in\\_epas\\_operations.pdf](https://www.epa.gov/sites/production/files/2014-02/documents/transparency_in_epas_operations.pdf).

<sup>5</sup> Senate Environment and Public Works Committee Hearing entitled, “Nomination of Attorney General Scott Pruitt to be Administrator of the U.S. Environmental Protection Agency,” January 18, 2017, Questions for the Record for the Honorable E. Scott Pruitt, available at: [https://www.epw.senate.gov/public/\\_cache/files/6d95005c-bd1a-4779-af7e-be831db6866a/scott-pruitt-qfr-responses-01.18.2017.pdf](https://www.epw.senate.gov/public/_cache/files/6d95005c-bd1a-4779-af7e-be831db6866a/scott-pruitt-qfr-responses-01.18.2017.pdf).

What little information the public is able to glean on Administrator Pruitt's activities causes substantial concern:

- **Calendar “filled” with industry meetings:** Last week, the first five weeks of Administrator Pruitt's calendar were released as a result of a Freedom of Information Act request. This release showed a steady stream and heavy tilt towards meetings with major industry representatives, including from the coal, oil and gas, utility, and automotive sectors.<sup>6</sup> While this release provided insight into the beginning of Administrator Pruitt's tenure—through March 31<sup>st</sup>—it only heightened concern that the public has no access to his more recent calendar and those of his senior managers, let alone the contemporaneous access necessary for meaningful transparency.
- **Impermissible partisan fundraising.** As emerged in the press, Administrator Pruitt agreed to participate in a partisan political fundraiser that actively promoted access to him and his role at EPA, contrary to Hatch Act requirements. Administrator Pruitt withdrew from participation in this impermissible political activity only after news reports on his commitment to attend—a forceful reminder of the importance of transparency in scheduled events.
- **Speaking at a Republican Attorneys General Association major donors dinner.** Administrator Pruitt's long, intertwined relationship with the Republican Attorneys General Association (RAGA) and its political contributors is well documented.<sup>7</sup> Administrator Pruitt attended the RAGA major donors dinner just days after his confirmation as EPA Administrator—and immediately prior to his receipt and compliance with a request from several RAGA members to withdraw an EPA measure to obtain information on oil and gas pollution. Meanwhile, his Administration has not fulfilled numerous requests for records regarding communications with RAGA-related interests.
- **Meeting with the National Mining Association on the Paris Agreement.** News reports indicate that Administrator Pruitt personally attended a meeting of the National Mining Association's executive committee in April, and an EPA spokesperson confirmed that as part of Administrator Pruitt's visit he “discussed the problems with the Paris Agreement.”<sup>8</sup> Just one day later, the Association voted to support exiting the Paris Agreement, raising substantial questions in the press about whether Administrator Pruitt lobbied the organization to oppose the climate change accord.
- **Substantial travel expenses.** Reporting on EPA budget issues has highlighted that Administrator Pruitt “has been a prolific traveler, frequently jetting to events in various states, including his home state of Oklahoma” and noted that additional EPA budget has

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<sup>6</sup> Kevin Bogardus, Meetings with energy chiefs filled Pruitt's calendar, E&E News, June 15, 2017, available at <https://www.eenews.net/greenwire/stories/1060056130/>.

<sup>7</sup> Eric Lipton, Energy Firms in Secretive Alliance with Attorneys General, NY Times, Dec. 6, 2014, available at [https://www.nytimes.com/2014/12/07/us/politics/energy-firms-in-secretive-alliance-with-attorneys-general.html?\\_r=0](https://www.nytimes.com/2014/12/07/us/politics/energy-firms-in-secretive-alliance-with-attorneys-general.html?_r=0).

<sup>8</sup> Andrew Restuccia, Mining group to support pulling out of Paris after meeting with Pruitt, Politico, April 25, 2017, available at: <http://www.politico.com/story/2017/04/25/paris-climate-agreement-scott-pruitt-miners-237595>.

been set aside to pay for associated travel costs.<sup>9</sup> Without information on the character and content of these trips, there is insufficient public accountability to assure that EPA's limited funds are being expended appropriately.

EPA has an important job to do on behalf of the American public—protecting our health and welfare from dangerous pollution. Without contemporaneous information on the activities and schedule of Administrator Pruitt and his senior staff, the public cannot have full confidence that EPA's leadership is working on their behalf. This lack of transparency raises serious questions about potential abuse of the EPA's limited resources for activity that contravenes important legal restrictions, including Hatch Act and anti-lobbying requirements, as well as activity that is in serious tension with pertinent ethics agreements and recusals.<sup>10</sup>

We call on Administrator Pruitt to carry out this fundamental transparency practice, followed by EPA administrations of both parties. Administrator Pruitt's schedule, and that of his senior officials, should immediately be made available to the public on a contemporaneous and widely accessible platform. We are simultaneously submitting a Freedom of Information Act request to obtain this information—a public record—in order to assure that the public at least obtains more up to date information on Administrator Pruitt's activities.

Sincerely yours,

Martha Roberts

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Environmental Defense Fund  
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<sup>9</sup> Alex Guillén, EPA got \$12M for early buyouts, retirements, PoliticoPro, May 18, 2017, available at: <https://www.politicopro.com/energy/whiteboard/2017/05/epa-got-12m-for-early-buyouts-retirements-087976>.

<sup>10</sup> This letter is also addressed to EPA Inspector General Arthur Elkins and EPA Acting General Counsel and Designated Agency Ethics Official Kevin Minoli in light of their equities in these issues.

## Appendix: EPA Administrator Schedule Availability

As a glance at EPA's website shows, EPA Administrator Scott Pruitt is no longer making his or his staff's schedules available to the public.

- Jan 19 epa.gov snapshot website, [https://19january2017snapshot.epa.gov/aboutepa/epas-acting-administrator\\_.html](https://19january2017snapshot.epa.gov/aboutepa/epas-acting-administrator_.html)

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## EPA's Acting Administrator

### Catherine McCabe

Catherine R. McCabe is EPA's Acting Administrator. Previously, she served as the Deputy Regional Administrator of EPA's Region 2 in New York City. In this position, she assisted the Regional Administrator in overseeing the Region's operations and regional implementation of all EPA programs in the States of New York and New Jersey, in the Commonwealth of Puerto Rico and the U.S. Virgin Islands. She has also been a member of the national EPA's Executive Management Council.

Ms. McCabe previously served as a judge on EPA's Environmental Appeals Board (2011-2014) and as the Deputy Assistant Administrator of EPA's Office of Enforcement and Compliance Assurance (2005-2011) in Washington, D.C. She came to EPA after a 22-year career at the U.S. Department of Justice,

#### Catherine McCabe

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What We Do

## EPA's Administrator

### Scott Pruitt



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On February 17, 2017, the United States Senate confirmed Scott Pruitt as the 14th Administrator of the U.S. Environmental Protection Agency.

Administrator Pruitt believes that promoting and protecting a strong and healthy environment is among the lifeblood priorities of the government, and that EPA is vital to that mission.

As Administrator, Mr. Pruitt's overarching goal is to lead EPA in a way that our future generations inherit a better and

#### Scott Pruitt

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