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# United States Senate

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

WASHINGTON, DC 20510-6175

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January 30, 2017

The Honorable John Barrasso  
Chairman  
U.S. Senate Committee on Environment & Public Works  
410 Dirksen Senate Office Building  
Washington, D.C. 20510

Dear Mr. Chairman:

  
I write today on behalf of the other EPW Committee Democrats and myself, to request that you postpone the consideration of the nomination of Oklahoma Attorney General Scott Pruitt to be Administrator of the U. S. Environmental Protection Agency (EPA). The Committee Democrats are deeply concerned about the lack of thoroughness of Mr. Pruitt's responses to our questions for the record. I share their concerns. On their behalf, I ask you to direct Mr. Pruitt to disclose information requested by Democratic members with the same level of transparency that this Committee has required of past nominees.

While Committee Democrats acknowledge that Mr. Pruitt did submit responses to many questions, too many of his answers fail to provide requested documents, substance, and clarity needed about his potential conflicts of interest. Below are just a few examples, and there are many more not cited in this letter:

- **Failure to Respond to Document Requests.** This Committee has long emphasized the need for greater transparency when it comes to reviewing the record of public officials, especially when it comes to their emails and correspondence with outside groups. My Democratic colleagues and I asked Mr. Pruitt several times for copies of his emails and other correspondence he sent while serving as Oklahoma's Attorney General. For example, Senator Cardin asked Mr. Pruitt to "provide all communications you had with representatives of agricultural and other companies regarding water quality litigation between Arkansas and Oklahoma." This was a request to a public official to disclose documents he possesses on a settlement he touted as a success in verbal testimony before the Committee. Mr. Pruitt responded: "Such communications can be requested from the Oklahoma Office of the Attorney General through a request made to that office pursuant to the Oklahoma Open Records Act." Mr. Pruitt provided this answer 19 times in response to questions several Democrats posed on a variety of matters. We are deeply concerned that Senators are being directed by a nominee to obtain information on his record outside of the confirmation process — especially given that the Oklahoma Office of the Attorney General has a two-year backlog on such record requests. Mr. Pruitt should promptly provide the data that Senators have requested.

- **Lack of Substantive Responses.** My Democratic colleagues and I are also concerned about the scores unanswered questions with respect to Mr. Pruitt's record and views on matters before the agency. Statements Mr. Pruitt made in the hearing with respect to the cases he has participated in — such as the Illinois River case — or positions on regulations — such as regulating mercury and air toxic emissions from power plants — lack substance. We asked a series of questions for the record seeking to obtain additional detail. For example, I asked him to “describe how high levels of ozone could damage my lungs if I were to take a long run during a code orange day.” Mr. Pruitt did not answer. I also asked him to name any EPA regulation on the books today that he supports. Mr. Pruitt could not name one. He responded: “I have not conducted a comprehensive review of existing EPA regulations.” Based on the lack of substance with respect to many of his answers, it is unclear whether Mr. Pruitt supports any clean air or clean water federal regulations or if he understands the science that is the underpinning the agency's actions to protect public health.
- **Uncertainty over the Resolution of Possible Conflicts of Interest.** Committee Democrats have asked Mr. Pruitt whether he will recuse himself from agency matters dealing with pending litigation he initiated, or in which he participated, on behalf of the State of Oklahoma. His responses have not answered whether or not he will do so. In a question for the record, Senator Cardin asked: “Of the lawsuits filed against the EPA in which you participated personally and substantially as Attorney General for Oklahoma, do you intend to recuse yourself from decision making regarding litigation in which you represented the State of Oklahoma as an adversarial party? Do you intend to recuse yourself for the entirety of each case?” Instead of answering Senator Cardin's question, Mr. Pruitt replied: “As a lawyer, I am bound by the rules of professional conduct not to “switch sides” in any litigation in which I represented the State of Oklahoma, unless my former client gives its informed consent.” Senators Cardin, Markey, and I asked multiple follow-up questions for the record regarding recusals and received the same answer.

Senator Markey sought further clarification about the actions Mr. Pruitt would take if confirmed in a question for the record: “If you are confirmed, you will also have the ability to accomplish through regulation as EPA Administrator what you have been seeking to accomplish through litigation as Attorney General... Will you commit to recuse yourself from working on the revision or elimination of any regulation regarding issues on which you have sued the EPA? If not, why not?” Mr. Pruitt failed to answer this question directly. Instead, he replied: “It is my understanding under federal ethics rules that regulatory rulemaking of general applicability does not create a conflict.” Mr. Pruitt should be clear with the Committee about whether he has already sought consent from the State of Oklahoma to recuse himself or when he will do so. The Committee members should have certainty that Mr. Pruitt would be able to conduct his duties as Administrator in a fair and impartial manner without being bound to or entangled in positions he has previously taken as Attorney General.

The Honorable Chairman Barrasso

January 30, 2017

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Committee Democrats and I sent many questions and document requests to Mr. Pruitt over a month ago. We believe these inquiries, and our questions for the record, elicit information from the nominee that he possesses and that he should be able to provide to the Committee. Failure on his part to do so is not only an affront; it also denies Democratic Committee members, and all members of the Senate, information necessary to judge his fitness to assume the important role of leading the EPA.

I realize that Committee Republicans also have previously confronted similar information challenges when our Committee has considered nominees. In those instances, the former Chairmen agreed to postpone a business meeting until the nominee could respond more fully. In that spirit, I request that you delay the Committee's consideration of Mr. Pruitt's nomination until he provides complete answers our questions. Thank you very much.

With best personal regards, I am,

Sincerely yours,



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Tom Carper  
U.S. Senator