

To: Pruitt, Scott[Pruitt.Scott@epa.gov]
Cc: Minoli, Kevin[Minoli.Kevin@epa.gov]; Baptist, Erik[baptist.erik@epa.gov]; Schwab, Justin[Schwab.Justin@epa.gov]; Fotouhi, David[Fotouhi.David@epa.gov]; Packard, Elise[Packard.Elise@epa.gov]; NTEU 280 Board[NTEU280Board@epa.gov]; Joe Edgell, NTEU Chapter 280 Senior VP[joe@nteu280.org]; Jackson, Ryan[jackson.ryan@epa.gov]
From: Edgell, Joe
Sent: Fri 10/27/2017 7:57:15 PM
Subject: Concerns About the Adhering to Fundamental Principles of Due Process, Rule of Law, and Cooperative Federalism in Consent Decrees and Settlement Agreements Memorandum
[NTEU Response to Sue-Settle Memo--2017 Oct 27.pdf](#)

hard copy attached

Administrator Scott Pruitt
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, Northwest
Washington, DC 20460
sent via email

Dear Administrator Pruitt,

I write on behalf of the attorney members of the National Treasury Employees Union (NTEU), Chapter 280, to express deep concerns regarding attacks on their integrity, as well as factual inaccuracies in your “Adhering to Fundamental Principles of Due Process, Rule of Law, and Cooperative Federalism in Consent Decrees and Settlement Agreements” memorandum. As your career staff, the attorneys intend to faithfully carry out your directives, as they have throughout past administrations. Nonetheless, your unsubstantiated allegations that agency staff conducted unlawful collusive activities, as well as other inaccuracies in the memorandum are deeply troubling and must be corrected.

For example, the memorandum’s inaccuracies misrepresent the litigation policies and

practices of both Republican and Democrat administrations at the U.S. Environmental Protection Agency (EPA) and U.S Department of Justice (DOJ), which date to at least the Reagan Administration. The U.S. Government Accountability Office (GAO) analyzed these policies and practices in 2014 and found no legal violations at EPA or DOJ. See GAO-15-3.

Ballentine's law dictionary defines collusion as an "agreement between two or more persons to defraud another of his rights by the forms of law or to secure an object forbidden by law." The memorandum's statement that litigation settlements "appear to be the result of collusion" alleges unlawful activity by agency staff that has not occurred, as confirmed by the GAO. Our attorney members are legitimately concerned that your statements could be perceived as allegations of professional misconduct or could be used to gain a strategic litigation advantage.

EPA's attorneys are professional civil servants. In their capacity as legal counsel to the EPA, they serve you and the American people every day through the implementation, defense, and enforcement of our federal environmental statutes. While it is your prerogative to set the policy direction of the agency, it is not acceptable to falsely accuse your staff of unlawful or unethical behavior when it simply did not occur. For these reasons, we respectfully request that you correct the record by amending your memorandum and directive to remove the inaccuracies and false allegations.

We also request a facilitated meeting with you to share the specific corrections we believe are necessary to ensure our members' protection and protection of the agency. Please have your staff contact the undersigned at edgell.joe@epa.gov to arrange for the requested face-to-face meeting.

Sincerely,

Joe Edgell

Joe Edgell

Senior Vice President & Attorney-Adviser

NTEU Chapter 280 & EPA Office of General Counsel

joe@nteu280.org

202-564-5514



October 27, 2017

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Sincerely,

A handwritten signature in black ink, appearing to read "Joe Edgell".

Joe Edgell
Senior Vice President & Attorney-Adviser
NTEU Chapter 280 & EPA Office of General Counsel