



## *Meeting Request Form for Administrator Scott Pruitt*

**Today's Date:**

June 12, 2018

**Meeting Date:**

Mid-July, or at the Administrator's earliest convenience

**Meeting Time:**

TBD

**Requested Location (if offsite, please list address, parking instructions, etc.):**

EPA Headquarters

**Requestor:**

Interstate Natural Gas Association of America

**Purpose of the Meeting:**

To discuss how EPA can promote the implementation of Clean Water Act Section 401 by federal agencies and States in a manner consistent with the statutory purpose and language in light of recent misuse of the program, applicable case law, Administration guidance, and the significance of Section 401 to maintaining and expanding domestic infrastructure.

**Background on the Meeting:**

Clean Water Act Section 401 provides States the authority to certify that any discharges to regulated waters from infrastructure projects will comply with applicable water quality standards. The statutory scheme reflects a commitment to "cooperative federalism" in which federal and State governments have distinctive roles appropriate to each.

EPA's written guidance on Section 401 is a handbook that is a holdover from 2010 that was never finalized. It presents an expansive scope of Section 401 that conflicts with the statutory language of Section 401 and recent case law. Despite its interim status and conflicts with the statute, some federal agencies have viewed the handbook as authoritative, resulting in inconsistent implementation of Section 401 by federal agencies. Moreover, the handbook aids the minority of states that are using Section 401 to block energy infrastructure in an attempt to dictate national energy and environmental policy. This misuse and the associated unpredictability of the Section 401 process impairs industry's ability to develop needed energy infrastructure.

EPA should re-affirm key principles of Section 401 concerning the State's period of review, the scope of a State's review, and waiver of the certification requirements. Doing so will add predictability to

the certification process and help safeguard that Section 401 is implemented consistent with its statutory purpose.

**Role of the Administrator:**

To provide insight to the interstate natural gas pipeline industry on EPA's role in providing predictability to the Clean Water Act Section 401 process.

**Attendees:**

Representatives from INGAA's Board of Directors and key INGAA staff and consultants

**Point of Contact:**

**Christine Wyman, Senior Counsel, Bracewell LLP**

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