

United States Senate

WASHINGTON, DC 20510-0803

December 28, 2016

The Honorable Scott Pruitt
Attorney General of Oklahoma
Oklahoma Attorney General's Office
313 NE 21st Street
Oklahoma City, OK 73105

Dear Mr. Pruitt,

Since the EPA was created by President Richard Nixon forty-six years ago, our country's air and water have grown cleaner for all Americans. In fact, our nation's environment has improved while we have grown our economy and put over tens of millions Americans to work since 1970. Despite nearly a half-century of progress, just as we know that more should be done to continue to strengthen the longest running economic recovery in American history, we also know that more must be done to safeguard public health and ensure that we leave both a stronger economy and a cleaner, safer environment for our children and grandchildren. This is especially true when it comes to tackling climate change.

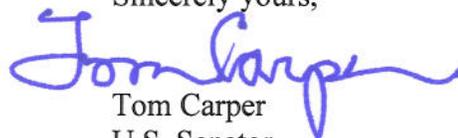
As you know, the task of leading the EPA is no easy one. An EPA Administrator must be committed to following and implementing bipartisan federal laws – such as the Clean Air Act and Clean Water Act - that are intended to preserve and protect public health and the environment for all citizens. In doing so, an EPA Administrator must make decisions that are supported and guided by sound science and must be able to find consensus among states, industry AND public health organizations.

My Democratic EPW colleagues and I are committed to a full and fair confirmation process; however, it should come as no surprise that we are deeply troubled by some of your past actions and comments. In order to clarify your position - and in the spirit of moving the nomination process forward – I have included in this letter a number of preliminary questions that we request that you answer before your nomination hearing. We request your responses to these questions by January 9, 2017.

Over the coming weeks, my colleagues and I will continue to review your record and will likely have follow-up questions. I look forward to the upcoming confirmation process and to hearing directly from you on these, and other, important issues.

With best personal regards, I am,

Sincerely yours,



Tom Carper
U.S. Senator

Questions for Oklahoma Attorney General Scott Pruitt from Senator Tom Carper
December 28, 2016

- Please define the Environmental Protection Agency (EPA)'s mission and the role you believe that sound science plays in fulfilling that mission?
- What is your definition of sound science?
- Prior to your nomination, how have you acquired scientific information relevant to the missions of the EPA? And since your nomination?
- Please list all undergraduate and postgraduate science courses that you have taken. Please describe any other science education that you have completed over the years beyond high school?
- What degree of scientific certainty should the EPA have about a potential health or environmental threat before acting to protect people from that threat?
- Please provide a list of the skills and experiences you bring to the EPA Administrator position and why you believe that you would be a good fit for the position.
- Please provide a list of all financial contributors to your attorney general and state senate campaigns, including their total donations and affiliations.
- Please provide the dates and the name of every event you attended as attorney general that was hosted by energy companies, energy representatives, energy lobbyists, or political action committees (PACs) that have energy donors.
- Please list all public speeches or presentations you have made that included references to any issue related to energy or the environment since 1998, and please provide copies (written, audio or video) of any such speeches or presentations. Please also indicate whether you received compensation for any such speech or presentation (whether stipend, travel or lodging expenses or other form of remuneration) along with the name of the entity that provided such compensation and the amount thereof.
- Please provide a list of all the cases, briefs and other legal actions that your office has filed while you have served as attorney general.
- How many legal cases have you filed, or joined others in filing, against the EPA? Please provide a full list with the outcome of each case, including those cases in which the court disagreed with your argument, agreed with your argument, and those in which the court refused to hear the matter.
- It is my understanding that you currently have nine cases pending against the EPA on behalf of the State of Oklahoma. Is this correct? Will you recuse yourself from

participation in these cases if you are confirmed? If not, why not? Will you recuse yourself from settlement discussions? If not, why not? Will you recuse yourself from decision making on altering or revising the regulations that are impacted by these pending cases? If not, why not? What are the recusal requirements of the Oklahoma Bar Association governing similar situations?

- For each listed matter in which the State of Oklahoma has been a litigant or petitioner against the EPA, please provide any and all documents (including any and all written or electronic correspondence, audiotapes, electronic records, videotapes, photographs, telephone messages, voice mail messages, e-mails, facsimiles, daily agendas and calendars, information about meetings and/or discussions, whether in-person or over the telephone, agendas, minutes and a list of participants for those meetings and/or discussions, and transcripts and notes of any such meetings and/or discussions) from the date on which your office first began to prepare the litigation at hand, to the date of this letter, between you (or other employees of your office) and each representative of each non-governmental entity with whom you (or your office) communicated about the litigation.
- How much money have fossil fuel interests given to the Republican Attorneys Generals Association during the duration of your service in the leadership of that organization?
- At a time of state budget cuts in Oklahoma, why did the attorney general's office expenditures increase from \$28 million to \$37.5 million under your leadership?
- If confirmed, do you plan on proposing or advocating for budget cuts to the EPA's FY 2018 budget? If so, in which programs would you reduce funding? Would you target the EPA's research programs? Are there areas of agency action where you believe additional financial resources are needed?
- Of the total outlays from the Attorney General's office during your tenure, what percentage of your office's expenditures in Oklahoma went toward suing the federal government or challenging federal regulations?
- Why did you initially refuse a formal, independent audit of your office's finances from the Oklahoma State Auditor and Inspector as mandated by Oklahoma law? Please provide a copy of the findings of the 2016 audit?
- Do you know Mr. Fount Holland of A.H. Strategies? If so, what is your relationship?
- Do you know Continental Resources CEO Harold Hamm and if so, what is your relationship with him?
- The EPA promulgated phase two of the heavy-duty vehicles greenhouse gas emissions standards in August 2016, which is within the time period for the rule to be subject to the Congressional Review Act (CRA). As Administrator, would you support the President signing into law a CRA resolution of disapproval that would reject these new

standards? What is your view of whether the EPA would be able to re-issue any heavy-duty vehicle greenhouse gas emission standards given the CRA's language that would prohibit the agency from issuing regulations that are "substantially similar?"

- The EPA updated the Cross-State Air Pollution Rule in September 2016, which is within the time period for the rule to be subject to the Congressional Review Act (CRA). As Administrator, would you support the President signing a CRA resolution of disapproval that would reject these new standards?
- It is my understanding that prior to you taking office, there was an Environmental Protection Unit within the Oklahoma Attorney General's office. Is that correct?
- It is my understanding that after you took office, the Environmental Protection Unit within the Oklahoma Attorney General's office was eliminated. Is that correct? Can you explain why the work of this unit was discontinued? Did the work continue in another section of your office? If so, who continued to do that work and for what period of time?
- How many legal cases did your predecessor bring against industry in Oklahoma or other states for violating federal or state environmental protections? How many similar cases have you brought during your tenure? Please identify each such case brought under your tenure, the nature of the violation alleged, and the result achieved, including any penalties assessed and collected.
- Every year during your tenure as Oklahoma Attorney General, the American Lung Association gave Oklahoma counties a failing grade for not meeting ozone air pollution health standards. In fact, your home town of Tulsa is ranked 18th out of 228 metropolitan areas for high alert ozone days. Are you concerned about the impacts of soot and smog pollution on Oklahoma citizens? What efforts have you undertaken as Oklahoma Attorney General to protect Oklahomans from soot and smog pollution?
- Do the Oklahoma Strong PAC and Liberty 2.0 Super PAC continue to operate from your state campaign headquarters in Tulsa? What is your connection to either of these political action committees? Do any of your former campaign employees work for either of these political action committees, if so, who and for what period of time?
- In your cases against the EPA's Mercury and Air Toxics Rule, who served as your scientific advisor for the case?
- Who serves or has served as your scientific advisor for climate change related issues during your time as attorney general? Please provide their name, their title and when they served as your science advisor.
- If confirmed, do you commit to protecting scientific research conducted and funded by the EPA? Will you continue EPA's long-standing practice of protecting the confidentiality of health records of individual patients that participate in scientific studies?

- Do you agree with the *Whitman v. American Trucking Associations, Inc.*, 531 U.S. 457 (2001) decision written by Justice Antonin Scalia that states that the EPA cannot consider implementation costs when setting primary and secondary National Ambient Air Quality Standards? If you do not agree, please explain.
- Please provide your definition of cooperative federalism.
- Provide examples of times the EPA has intervened and required a state to do more than the state intended and you supported the EPA's actions.
- You are quoted in an interview this past November saying "we hope there is going to be regulatory rollback... Well when you look at the EPA, and the role it's played over the last several years, there's going to be substantial change in that agency." Which EPA regulations do you believe should be rolled back? What changes do you believe should occur in the EPA? Which EPA regulations should be maintained?
- In your testimony before the Senate Environment and Public Works Committee in May 2015, you stated that the EPA "has played an important role in addressing water and air quality issues that transverse state lines." Since you became attorney general, hasn't your state sued against EPA regulations that address cross-state air and water pollution? What are the most significant sources of interstate pollution and what are the most important actions the EPA can take to address them?
- Do you believe the EPA has, in your words "exceeded the constraints placed upon the agency by Congress" by issuing the Mercury and Air Toxics Rule? If so, please explain.
- Do you support states taking further public health protective actions beyond those required by EPA regulations?
- Do you agree with the EPA's legal interpretation of the Clean Water Act and share the view the agency has federal jurisdiction over wetlands and streams that impact the health of downstream navigable waters? If you do not agree, please explain.
- In 2013, you argued that the EPA's decision to impose a Federal Implementation Plan on Oklahoma to address Regional Haze would cost more than \$1 billion over five years. It is three years later. Do you still agree with this cost assessment? If not, why not?
- In 2015, you stated that in implementing the tighter ozone NAAQS, the EPA "failed to achieve the goals to protect air quality; the agency did not "articulate how the rule would further protect public health"; and was another "attempt by the administration to use executive agencies like the EPA to bypass Congress." Can you please explain what you meant by these statements?

- Do you agree with this statement from NASA: “97 percent or more of actively publishing climate scientists agree: Climate-warming trends over the past century are extremely likely due to human activities.” If not, please explain why you do not agree.
- Would you explain the basis for your recent challenges to EPA’s finding that it is appropriate and necessary to regulate the emissions of carbon dioxide and hazardous air pollutants from power plants?
- As attorney general, what types of environmental justice cases have you pursued? Please provide a list of cases and outcomes. What is your view of EPA’s mission in regard to environmental justice?
- In a 2013 press statement, you stated “the evidence is clear that the current ethanol fuel mandate is unworkable.” Would you explain what you meant at this time?
- Do you support legislative efforts to change the independent nature of the EPA’s Science Advisory Board? If so, please explain why.
- In your joint brief against the Mercury and Air Toxics Standards, it stated “human exposure to methylmercury resulting from coal fired EGUs (Electric Generating Units) is exceedingly small.” What is the scientific basis for this statement? Do you continue to agree with this assessment?
- As you are well aware, on April 2, 2007, in *Massachusetts v. EPA*, 549 U.S. 497 (2007), the Supreme Court determined that sufficient information existed then for EPA to make an endangerment finding with respect to the combined emissions of six greenhouse gases from new motor vehicles and new motor vehicle engines under CAA section 202(a). On December 7, 2009, the Administrator determined that those gases/sources contribute to greenhouse gas air pollution that endangers public health and welfare. How do you plan to execute your legal authority to protect the public health and welfare from greenhouse gas pollution?
- The EPA is responsible for administering two of the nation's most important infrastructure investment programs- the Clean Water and Safe Drinking Water State Revolving Loan Funds (SRFs). Unfortunately, water and sewer infrastructure in this country continues to deteriorate and investment is sorely needed. The American Society of Civil Engineers rates our wastewater and drinking water infrastructure a “D.” If confirmed, what will you do to ensure that the federal government is adequately investing in our nation’s wastewater and drinking water infrastructure?
- Do you believe that federal agencies like the EPA have an obligation to consult Native American tribes when actions by the agencies could impact tribal sovereignty or the tribal trust relationship?
- Last Congress, our committee worked together to pass the Frank R. Lautenberg Chemical Safety for the 21st Century Act, a bill overhauling the toothless Toxic Substances Control

Act, that was signed into law earlier this year. EPA is now responsible for implementing the law, which will require a significant amount of resources. If confirmed, do you commit to ensuring EPA will prioritize implementation and has sufficient resources to comply with the requirements and timelines established by Congress

- In a 2006 article in The Oklahoman, you were described as someone that “believes in negotiating, but not compromising.” Do you feel this continues to be an accurate description of you? If so, why?