

August 1, 2017

**SUBMITTED ELECTRONICALLY**

National Freedom of Information Officer  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, NW (2822T)  
Washington, DC 20460  
(202) 566-1667

**Re: Freedom of Information Act Request for Correspondence with the Heartland Institute**

Dear National Freedom of Information Officer:

Environmental Defense Fund (“EDF”) respectfully requests records, as that term is described at 5 U.S.C. § 552(f)(2) of the Freedom of Information Act (“FOIA”), of the U.S. Environmental Protection Agency (“EPA” or the “Agency”). Specifically, EDF requests copies of all correspondence that included among its sender(s) or recipient(s):

(i) any one or more of the following EPA employees<sup>1</sup>:

- E. Scott Pruitt,
- Ryan Jackson,
- Henry Darwin,
- Byron Brown,
- Kevin Chmielewski,
- Alex Dominguez,
- Nicholas Falvo,
- Hayley Ford,
- Sarah Greenwalt,
- Mandy Gunasekara,
- Michelle Hale,
- Millan Hupp,
- Albert “Kell” Kelly,
- Forrest McMurray,
- Madeline Morris,
- Charles Munoz,
- Ken Wagner,
- Samantha Dravis,
- Brittany Bolen,
- Daisy Letendre,

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<sup>1</sup> Other than Administrator Pruitt and Chief of Staff Jackson, these employees were all listed in Mr. Jackson’s June 27, 2017 memo to EPA employees entitled “Introducing EPA Political Appointees,” available at [https://www.eenews.net/assets/2017/07/06/document\\_cw\\_01.pdf](https://www.eenews.net/assets/2017/07/06/document_cw_01.pdf). Please consult that memo in the event of any ambiguity over the identities of the employees listed.

- Will Lovell,
- George Sugiyama,
- Troy Lyons,
- Layne Bangerter,
- Tate Bennett,
- Preston Cory,
- Christian Palich,
- Aaron Ringel,
- Christian Rodrick,
- Kaitlyn Shimmin,
- Liz Bowman,
- Lincoln Ferguson,
- Amy Graham,
- James Hewitt,
- John Konkus,
- Jahan Wilcox,
- Holly Greaves,
- Kristopher Green,
- Patrick Traylor,
- Erik Baptist,
- David Fotouhi,
- Justin Schwab,
- Lee Forsgren,
- Patrick Davis,
- Veronica Darwin,
- Dr. Nancy Beck, or
- Dr. Richard Yamada, and

(ii) the Heartland Institute, including any of the Heartland Institute's staff, fellows, experts, board members, management, contractors, or anyone representing the Heartland Institute in any capacity.

Correspondence includes hard-copy and electronic correspondence including, but not limited to, emails, voice mails, text messages, and correspondence transmitted through any other electronic platform. This request includes correspondence for which any of the listed EPA employees and anyone at the Heartland Institute were among the sender(s) and recipient(s), collectively, regardless of whether the correspondence also included any other sender(s) or recipient(s).

EDF respectfully seeks records produced, modified, or transmitted since January 20, 2017 that exist as of the date that EPA begins searching for records responsive to this request.

If any of the information sought in this request is deemed by EPA to be properly withheld under a FOIA exemption, 5 U.S.C. § 552(b), please provide EDF with an explanation, for each such record or portion thereof, sufficient to identify the record and the particular exemption(s) claimed.

### *Request for Expedited Processing*

EDF respectfully seeks expedited processing pursuant to 5 U.S.C. § 552(a)(6)(E)(i) and 40 C.F.R. § 2.104(e)(1)(ii), which applies when there is “[a]n urgency to inform the public about an actual or alleged Federal government activity, if the information is requested by a person primarily engaged in disseminating information to the public.” With respect to five other FOIA requests, EPA recently recognized EDF’s eligibility for expedited processing on this basis.<sup>2</sup> In support of this request for expedited processing, I certify that the following information is true and correct to the best of my knowledge and belief:

- (1) EDF engages in extensive, daily efforts to inform the public about matters involving environmental policy. For example, EDF has multiple channels for distributing information to the public, including through direct communication with its more than 2 million members, press releases, blog posts, active engagement on social media, and frequent appearances by staff in major media outlets.<sup>3</sup>
- (2) Reports indicate that EPA has contacted the Heartland Institute for help conducting a red team/blue team review of climate science. Heartland Institute spokesman Jim Lakely has said, “The White House and the Environmental Protection Agency have reached out to the Heartland Institute to help identify scientists who could constitute a red team, and we’ve been happy to oblige.”<sup>4</sup>
- (3) EPA’s potential red team/blue team exercise has garnered significant media coverage and elicited concerns from a wide range of stakeholders and observers.<sup>5</sup>

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<sup>2</sup> See Letter from Larry F. Gottesman (EPA) to Benjamin Levitan (EDF) re: Request Tracking Number EPA-HQ-2017-003545 (Feb. 23, 2017); Letter from Larry F. Gottesman (EPA) to Benjamin Levitan (EDF) re: Request Tracking Number EPA-HQ-2017-005587 (Apr. 12, 2017); Letter from Larry F. Gottesman (EPA) to Benjamin Levitan (EDF) re: Request Tracking Number EPA-HQ-2017-008622 (July 7, 2017); Letter from Larry F. Gottesman (EPA) to Benjamin Levitan (EDF) re: Request Tracking Number EPA-HQ-2017-009283 (July 13, 2017); Letter from Larry F. Gottesman (EPA) to Benjamin Levitan (EDF) re: Request Tracking Number EPA-HQ-2017-009579 (July 26, 2017).

<sup>3</sup> See, e.g., Martha Roberts, *Scott Pruitt Keeps Americans in the Dark on His Activities*, EDF Climate 411 Blog (June 20, 2017), <http://blogs.edf.org/climate411/2017/06/20/scott-pruitt-keeps-americans-in-the-dark-on-his-activities/>; EDF Associate Vice President Jeremy Symons, *Did Trump’s EPA Chief Just Rewrite the EPA’s Mission?*, Huffington Post (Apr. 20, 2017), <http://www.huffingtonpost.com/entry/58efe8b7e4b0156697224dab>.

<sup>4</sup> John Siciliano, *Trump Administration Lining Up Climate Change ‘Red Team’*, Wash. Examiner (July 24, 2017), <http://www.washingtonexaminer.com/trump-administration-lining-up-climate-change-red-team/article/2629124>; Hannah Northey, *Pruitt Eyes Former Obama DOE Official to Lead Climate Review*, E&E News (July 24, 2017), <https://www.eenews.net/greenwire/stories/1060057816/>.

<sup>5</sup> See, e.g., Amy Harder, *Attacks on EPA’s Climate Debate Go Beyond Usual Suspects*, Axios (July 27, 2017), <https://www.axios.com/pruitts-climate-debate-idea-faces-bipartisan-criticism-2465935280.html>; John P. Holdren, *The Perversity of the Climate Science Kangaroo Court*, Op-Ed, Boston Globe (July 25, 2017), <https://www.bostonglobe.com/opinion/2017/07/24/the-perversity-red-teaming-climate-science/VkT05883ajZaTPMbrP3wpJ/story.html>; David Schnare, *Schnare, Former Transition Official, On His Departure, EPA Climate Science Review*, Guest Perspective, Inside EPA (July 25, 2017), <https://insideepa.com/daily-news/schnare-former-transition-official-his-departure-epa-climate-science-review>; Brad Plumer & Coral Davenport, *E.P.A. to Give Dissenters a Voice on Climate, No Matter the Consensus*, N.Y. Times (June 30, 2017), [https://www.nytimes.com/2017/06/30/climate/scott-pruitt-climate-change-red-team.html?\\_r=0](https://www.nytimes.com/2017/06/30/climate/scott-pruitt-climate-change-red-team.html?_r=0); Benjamin Santer, Kerry Emanuel, & Naomi Oreskes, *Attention Scott Pruitt: Red Teams and Blue Teams Are No*

- (4) The public currently has no way of knowing whether EPA has interacted with the Heartland Institute on other issues that are, or may come, before the Agency. The public also has no way to forecast the timeframe of EPA's potential red team/blue team exercise—including when its members may be selected—or any other issues about which EPA has solicited input from, or otherwise engaged with, the Heartland Institute.
- (5) It is urgent that the public understand the extent and nature of correspondence between EPA and the Heartland Institute before the Agency takes further action on issues that the correspondence addresses. The public must be able to assess the Heartland Institute's access to Agency decision-makers, compared to the access afforded to the general public. Denying expedited processing could conceal inequitable access until key actions have been taken or decisions have been finalized.

*Request for Fee Waiver*

As a non-partisan, non-profit organization that provides information that is in the public interest, EDF respectfully requests a waiver of fees associated with this request. We are not seeking information for any commercial purpose and the records received will contribute to a greater public understanding of an issue of considerable public interest: whether EPA is actively granting preferential access to a particular stakeholder on the most important environmental policy decisions facing our nation today. 5 U.S.C. § 552(a)(4)(A)(iii). EDF is well positioned to disseminate the records to the public, as we routinely issue press releases, action alerts, reports, analyses, and other public outreach materials. We fully intend to disseminate newsworthy information received in response to this request. Accordingly, we respectfully request that the documents be furnished without charge. 5 U.S.C. § 552(a)(4)(A)(iii).

For ease of administration and to conserve resources, we will accept documents produced in a readily accessible electronic format. In the event EDF's request for a fee waiver is denied or if you have any questions about this request, please contact me immediately by telephone at (202) 572-3318 or by email at [blevitan@edf.org](mailto:blevitan@edf.org).

Respectfully submitted,

Benjamin Levitan  
Environmental Defense Fund  
1875 Connecticut Avenue, NW  
Suite 600  
Washington, DC 20009

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*Way to Conduct Climate Science*, Op-Ed, Wash. Post (June 21, 2017), [https://www.washingtonpost.com/news/capital-weather-gang/wp/2017/06/21/attention-scott-pruitt-red-teams-and-blue-teams-are-no-way-to-conduct-climate-science/?utm\\_term=.cd7233385663](https://www.washingtonpost.com/news/capital-weather-gang/wp/2017/06/21/attention-scott-pruitt-red-teams-and-blue-teams-are-no-way-to-conduct-climate-science/?utm_term=.cd7233385663).