



SUBMITTED ELECTRONICALLY
Via FOIA Online

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

September 5, 2019

Re: Freedom of Information Act Request

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:

- Communications between (a) Lynn Dekleva (or anyone acting on her behalf) and (b) any employee or representative of the American Chemistry Council, Dow Chemical, DuPont, DowDuPont, Bergeson & Campbell, P.C., Keller & Heckman LLP, Wiley Rein LLP, or any affiliates of those entities.
- Communications between (a) Lynn Dekleva and (b) Alexandra Dapolito Dunn, Nancy Beck, Charlotte Bertrand, Erik Baptist, David Fischer, Jeffery Morris, Tala Henry, Cathy Fehrenbacher, or Greg Schweer that involved:
 - a) any section 5 submission by, or correspondence with, Dow Chemical, DuPont, DowDuPont, or any affiliates of those entities; or
 - b) consent orders, not likely determinations, significant new use rules, and exemption applications under TSCA section 5.

Please provide all responsive records from the date of Lynn Dekleva's date of first employment by the Agency, to the date the search is conducted.¹ In any response to this request, please indicate the date the search was conducted.

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

¹ EDF has previously requested a subset of these records from a portion of this time period, see EPA-HQ-2019-001517. EDF has expanded the request to include additional organizations and personnel at the agency, which is why there is some overlap. However, EDF only received eight records of communications in response to the initial request, so there should be little overlap and those records need not be provided again.

record or portion thereof, sufficient to identify the record and the particular exemption(s) claimed.

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 issues of considerable public interest: the nomination and appointment of individuals to EPA with numerous conflicts of interest.² See 15 U.S.C. § 2605(b)(4). More specifically, the public has shown great interest in understanding how EPA officials have complied with ethics requirements and what outside interests might be influencing EPA's decision-making on important policy matters.³ Especially in regards to EPA's implementation of the recently amended Toxic Substances Control Act, the public has been greatly concerned with the officials who have been nominated and appointed to implement the law and protect human health and the environment against dangerous chemicals.⁴

EDF is well-positioned to disseminate the records to the public, as we engage in extensive, daily efforts to inform the public about matters involving environmental policy through press releases, action alerts, reports, analyses, blogs, and other public outreach materials.⁵ EDF has also

² See, e.g., Ken Silverstein, *Government Watchdog Fears EPA's New Climate Scientists Are Not Vetted And Have Conflicts of Interest*, FORBES (Jul. 17, 2019), <https://www.forbes.com/sites/kensilverstein/2019/07/17/government-watchdog-fears-epas-new-climate-scientists-are-not-vetted-and-have-conflicts-of-interest/#582565e82eb5>; Maxine Joselow, *Air chief worried about conflicts of interest — emails*, E&E NEWS (Feb. 12, 2019), <https://www.eenews.net/stories/1060120341>; Hiroko Tabuchi & Tryggvi Adalbjornsson, *From Dow's 'Dioxin Lawyer' to Trump's Choice to Run Superfund*, NY TIMES (Jul. 28, 2018), <https://www.nytimes.com/2018/07/28/climate/dow-epa-superfund.html>; Eric Lipton, *Why Has the E.P.A. Shifted on Toxic Chemicals? An Industry Insider Helps Call the Shots*, NY TIMES (Oct. 21, 2017), <https://www.nytimes.com/2017/10/21/us/trump-epa-chemicals-regulations.html>; Michael Dourson's Work for Chemical Industry Sponsors, NY TIMES (Oct. 16, 2017), <https://www.nytimes.com/interactive/2017/10/16/science/document-Michael-Dourson-Research-Papers-on-Chemicals.html>; Sheila Kaplan & Eric Lipton, *Chemical Industry Ally Faces Critics in Bid for Top E.P.A. Post*, NY Times (Sept. 19, 2017), <https://www.nytimes.com/2017/09/19/science/epa-chemical-industry-dourson.html>.

³ See, e.g., FOIA Request, Nancy Beck (Feb. 12, 2018), <https://www.citizensforethics.org/foia/foia-request-environmental-protection-agency-nancy-beck/>.

⁴ See, e.g., Eric Lipton, *Why Has the E.P.A. Shifted on Toxic Chemicals? An Industry Insider Helps Call the Shots*, NY TIMES (Oct. 21, 2017), <https://www.nytimes.com/2017/10/21/us/trump-epa-chemicals-regulations.html>; Michael Dourson's Work for Chemical Industry Sponsors, NY TIMES (Oct. 16, 2017), <https://www.nytimes.com/interactive/2017/10/16/science/document-Michael-Dourson-Research-Papers-on-Chemicals.html>; Sheila Kaplan & Eric Lipton, *Chemical Industry Ally Faces Critics in Bid for Top E.P.A. Post*, NY Times (Sept. 19, 2017), <https://www.nytimes.com/2017/09/19/science/epa-chemical-industry-dourson.html>.

⁵ See, e.g., Richard Denison, *Trump EPA caves again to industry demands on new chemicals, and workers pay the price*, EDF Health Blog (Aug. 8, 2019), <http://blogs.edf.org/health/2019/08/08/trump->



published a number of blogs detailing potential conflicts of interests at EPA, including blogs that relied on materials released through FOIA.⁶ Moreover, in addition to its own capacity to convey information to the public, EDF shares important data with journalists to help enhance public knowledge.⁷ We fully intend to disseminate newsworthy information received in response to this request. In particular, the documents requested would shed light on how EPA addresses conflicts of interest in its chemical program. The release of these documents would also significantly enhance the public's understanding of how outside interests are influencing EPA's decisions on new chemicals reviewed under TSCA.

Accordingly, we respectfully request that the documents be furnished without charge. 5 U.S.C. § 552(a)(4)(A)(iii).

Conclusion

For ease of administration and to conserve resources, we will accept documents produced in a readily accessible electronic format. **Please provide records on a rolling basis**; EPA's search for, or deliberations concerning, certain records should not delay the production of others that EPA has already retrieved and elected to produce. 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) 572-3535 or by email at sschwarz@edf.org.

Respectfully submitted,

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[epa-caves-again-to-industry-demands-on-new-chemicals-and-workers-pay-the-price/](#); Sam Lovell, New Report: Toxic Consequences – Trump's Attacks on Chemical Safety Put Our Health at Risk (June 17, 2017), <http://blogs.edf.org/health/2019/06/17/new-report-toxic-consequences-trumps-attacks-on-chemical-safety-put-our-health-at-risk/>.

⁶ See, e.g., Richard Denison, *Dourson emails show he was paid by and worked closely with ACC when providing states "advice" on chemicals made by ACC members*, EDF BLOG (Dec. 21, 2017), <http://blogs.edf.org/health/2017/12/21/dourson-emails-show-he-was-paid-by-and-worked-closely-with-acc-when-providing-states-advice-on-chemicals-made-by-acc-members/>.

⁷ Ellen Knickmeyer & Seth Borenstein, *A Trump Official Consulted With Climate-Change Deniers, Emails Show*, TIME (June 14, 2019), <https://time.com/5607109/william-happer-trump-official-emails-climate-change-rejecters/>; Nicole Goodkind, *Trump Administration Official Repeatedly Consulted With Climate Change Deniers On Climate Policy*, NEWSWEEK (June 14, 2019), <https://www.newsweek.com/donald-trump-climate-change-nasa-1444145>.