

MEMORANDUM

TO: JAMES PAYNE
DEPUTY GENERAL COUNSEL FOR ENVIRONMENTAL MEDIA AND
REGIONAL LAW OFFICES, AND
DESIGNATED AGENCY ETHICS OFFICIAL
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

FROM: SCOTT F. GAST
DEPUTY COUNSEL AND DEPUTY ASSISTANT TO THE PRESIDENT
THE WHITE HOUSE

DATE: June 17, 2020

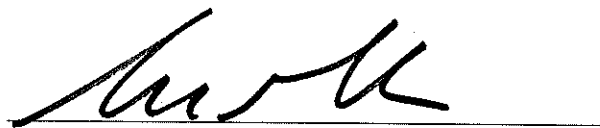
SUBJECT: Limited Waiver of Section 1, Paragraph 6 of Executive Order 13770

Official: Adam Gustafson
Deputy General Counsel
United States Environmental Protection Agency

After reviewing your limited waiver request memorandum, I hereby provide a limited waiver of the requirements of Section 1, paragraph 6 of Executive Order 13770 to Mr. Adam Gustafson to allow him to participate in specific party matters, including *American Lung Association v. EPA*, No. 19-1140 (D.C. Cir.), despite the involvement of his former client, the Competitive Enterprise Institute (CEI). I have determined that it is in the public interest to grant this limited waiver because of Mr. Gustafson's extensive experience in Clean Air Act regulation and litigation, the fact that he did not previously participate in the *American Lung Association* litigation, and the importance of his involvement in this specific party matter to assist with the Administration's defense of the Affordable Clean Energy (ACE) Rule.

In light of the importance of the aforementioned efforts to the Trump Administration and to the United States Environmental Protection Agency, a limited waiver of the provisions of paragraph 6 of the Ethics Pledge (contained in Section 1 of Executive Order 13770) is justified for Mr. Gustafson so that he can effectively carry out his duties as Deputy General Counsel and ably advise the EPA Administrator and senior leadership. Accordingly, I authorize Adam Gustafson to be able to participate personally and substantially in *American Lung Association v. EPA*, No. 19-1140 (D.C. Cir.), and any other potential cases arising at EPA where CEI is a party and Mr. Gustafson did not previously participate personally and substantially while serving as an attorney for CEI or any other party. He will be allowed to participate in those specific party matters, including meetings or communications related to such cases where CEI is present. However, he will remain recused from those specific party matters in which his former client is a party if he had himself participated personally and substantially previously.

This limited waiver does not affect the application of any other provision of law, including any other provision of the Ethics Pledge; the Standards of Ethical conduct for Employees of the Executive Branch (5 C.F.R. Part 2635); or the criminal bribery, graft and conflict of interest statutes (18 U.S.C. §§ 201-209; or the Hatch Act (5 U.S.C. § 7323).



Scott F. Gast

Deputy Counsel and Deputy Assistant to the President

Dated: 6/17/2020