

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

CITIZENS FOR RESPONSIBILITY & ETHICS IN WASHINGTON	)	
	)	
Plaintiff,	)	
	)	Civil Action No. 18-cv-2400
v.	)	
	)	
U.S. ENVIRONMENTAL PROTECTION AGECNY, et al.	)	
	)	
Defendants.	)	
	)	

**DEFENDANTS' ANSWER TO COMPLAINT**

Defendants, by undersigned counsel, respond as follows to the Complaint in this action.

**FIRST DEFENSE**

The Complaint fails to state a claim upon which relief may be granted.

**SECOND DEFENSE**

The claims in the Complaint should be dismissed to the extent Plaintiff has failed to exhaust administrative remedies as to the Defendant.

**THIRD DEFENSE**

The Complaint should be dismissed to the extent the Court determines that it lacks subject matter jurisdiction over this action.

**SPECIFIC RESPONSES**

Defendants respond to the numbered paragraphs of the Complaint as follows:

1. The allegations contained in this paragraph assert legal conclusions to which no response is required. To the extent any response is required, the allegations are denied.
2. Defendants admit that Administrator Pruitt resigned in or about July 2018. To the extent the remaining allegations in this paragraph purport to quote from a public financial report, Defendants refer the Court to that report for a complete and accurate statement of its contents and deny the allegations to the extent inconsistent with the contents of the report. The remaining allegations consist of Plaintiff's characterization of its legal argument in this case and legal conclusions, to which no response is required. To the extent any response is required, those allegations are denied.
3. The allegations in this paragraph are legal conclusions to which no response is required. To the extent any response is required, Defendants deny that Plaintiff has accurately stated EPA's position, which is set forth in emails from EPA to Plaintiff, including emails dated September 13, 2018 and September 30, 2018. EPA refers the Court to those emails for a complete and accurate statement of their contents, and denies the allegations in this paragraph to the extent inconsistent with the content of those emails.
4. This paragraph contains conclusions of law to which no response is required.

**Jurisdiction and Venue<sup>1</sup>**

5. The allegations contained in this paragraph assert legal conclusions to which no response is required.

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<sup>1</sup> Defendants have included the headings listed in the Complaint simply to assist in reading the pleadings and do not admit the accuracy of those headings to the extent that they can be construed as asserting allegations of fact.

6. The allegations contained in this paragraph assert legal conclusions to which no response is required.

**Parties**

7-11. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in these paragraphs. To the extent any response is required, the allegations are denied.

12-13. Defendants admit that EPA is a federal agency within the meaning of 5 U.S.C. § 701, 5 U.S.C. app. 4 §§ 105, 109, and that its acting Administrator is Andrew Wheeler. The remaining allegations in these paragraphs assert legal conclusions to which no response is required.

**The Ethics in Government Act**

14-28. The allegations contained in these paragraphs consist of Plaintiff's interpretation and selective quotation from various statutory and regulatory provisions, and from certain documents issued by the Office of Government Ethics ("OGE"). Consequently, the allegations in these paragraph assert legal conclusions to which no response is required. To the extent that any such response is required, Defendants refer the Court to the referenced statutes, regulations, and OGE documents for a complete and accurate statement of their contents and deny the allegations to the extent inconsistent with those statutes, regulations and documents.

**The Administrative Procedure Act**

29-31. The allegations in these paragraphs assert legal conclusions to which no response is required. To the extent that any such response is required, Defendants refer the Court

to the referenced statutory provisions for a complete and accurate statement of their contents.

**Facts Giving Rise to Plaintiff's Claim**

32. Admitted.

33. The allegations in this paragraph consist of Plaintiff's characterization of media reports and Congressional correspondence cited in the corresponding footnote. As such, Defendants refer the Court to the documents cited in the footnote for a complete and accurate statement of their contents in terms of what was subject of the referenced media "reports." To the extent any further response is required, the allegations are denied.

34. Admitted.

35. Admitted that Mr. Pruitt filed his annual public financial disclosure report (the "PFD Report") on or about August 13, 2018, and that the PDF Report appears on the docket as ECF No. 3 under an errata designating it as Exhibit 1 to the Complaint. In further response, Defendants refer the Court to the PDF Report for a complete and accurate statement of its contents and denies the allegations in this paragraph to the extent inconsistent with the content of the PDF Report.

36. In response to the allegations in this paragraph, Defendants refer the Court to the PDF Report for a complete and accurate statement of its contents and denies the allegations in this paragraph to the extent inconsistent with the content of the PDF Report.

37. In response to the allegations in this paragraph, Defendants refer the Court to the PDF Report for a complete and accurate statement of its contents and denies the allegations in this paragraph to the extent inconsistent with the content of the PDF Report.

38. Defendants admit that Plaintiff submitted an OGE Form 201 request to EPA by email dated September 13, 2018, and refer the Court to the referenced email for a complete and accurate statement of its contents. Defendants deny the allegations in this paragraph to the extent inconsistent with the content of the referenced email.

39. Defendants admit that EPA responded to Plaintiff's September 13, 2018 email by email dated September 13, 2018. Defendants refer the Court to the referenced email for a complete and accurate statement of its contents, and deny the allegations in this paragraph to the extent inconsistent with the content of the referenced email.

40. Defendants admit that Plaintiff and EPA exchanged additional emails on September 13, 2018, refer the Court to the referenced emails of that date for a complete and accurate statement of their contents, and deny the allegations in this paragraph to the extent inconsistent with the content of those emails.

41. Defendants admit that Plaintiff and EPA exchanged additional emails on September 13, 2018, refer the Court to the referenced emails of that date for a complete and accurate statement of their contents, and deny the allegations in this paragraph to the extent inconsistent with the content of those emails

42. Defendants admit that Plaintiff and EPA exchanged additional emails on September 13, 2018, refer the Court to the referenced emails of that date for a complete and accurate statement of their contents, and deny the allegations in this paragraph to the extent inconsistent with the content of those emails.

43. Defendants admit that Plaintiff and EPA exchanged additional emails on September 13, 2018, refer the Court to the referenced emails of that date for a complete

and accurate statement of their contents, and deny the allegations in this paragraph to the extent inconsistent with the content of those emails.

44. Defendants admit that, on September 30, 2018, EPA provided a further response to Plaintiff by email. Defendants refer the Court to the referenced email for a complete and accurate statement of its contents, and deny the allegations in this paragraph to the extent inconsistent with the content of the referenced email.

### **CLAIM ONE**

45. Defendants incorporate their responses set forth above in paragraphs 1 to 44 as if fully set forth herein.

46. In response to the allegations in this paragraph, Defendants refer the Court to the PDF Report for a complete and accurate statement of its contents and denies the allegations in this paragraph to the extent inconsistent with the content of the PDF Report.

47-48. The allegations in these paragraphs assert conclusions of law to which no response is required. To the extent any response is required, the allegations are denied.

49. In response to the allegations in this paragraph, EPA states that its response to Plaintiff's request is set forth in emails from EPA to Plaintiff, including emails dated September 13, 2018 and September 30, 2018. EPA refers the Court to those emails for a complete and accurate statement of their contents, and denies the allegations in this paragraph to the extent inconsistent with the content of those emails.

50-55. The allegations in these paragraphs assert conclusions of law to which no response is required. To the extent any response is required, the allegations are denied.

**REQUESTED RELIEF**

Pursuant to Rule 8(b) of the Federal Rules of Civil Procedure, Defendants assert a general denial as to those allegations contained in the Complaint that are not specifically admitted herein. The remainder of the Complaint sets forth Plaintiff's prayer for relief to which no response is required. To the extent a response is deemed required, Defendants deny that Plaintiff is entitled to the relief for which Plaintiff prays, or to any other relief as to Defendants.

WHEREFORE, having fully answered, Defendants respectfully request that the Complaint be dismissed with prejudice, and that this Court award Defendants such other and further relief as the Court may deem just and proper.

Respectfully submitted,

JESSIE K. LIU, D.C. BAR # 472845  
United States Attorney

DANIEL F. VAN HORN, D.C. BAR # 924092  
Civil Chief

By: \_\_\_\_\_/s/\_\_\_\_\_  
JEREMY S. SIMON, D.C. BAR #447956  
Assistant United States Attorney  
Civil Division  
555 4th Street, N.W.  
Washington, D.C. 20530  
(202) 252-2528  
Jeremy.Simon@usdoj.gov

Counsel for Defendants