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House of Representatives

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Opening Statement
Ranking Member Stacey Plaskett
Subcommittee on the Interior, Energy and Environment
Hearing on "Examining 'Sue and Settle' Agreements: Part I"
May 24, 2017

Mr. Chairman, thank you for calling today's hearing and bringing attention to this issue regarding sue and settle practices.

As Members of Congress, it is our duty to ensure the safety and rights of the American people. It is important that our citizens are able to bring suit against the government.

It is one of the essential factors in our rule making process.

We must hold our government agencies accountable, and this is exactly what this committee and citizen suits are designed to do.

The concept of "sue and settle" in environmental litigations to bypass requirements and normal statutory process is simply a fantasy.

Agencies must comply with the law as written by Congress, including the requirements for notice and comment provided in the Administrative Procedure Act (APA) (5 U.S.C. §553).

While agencies can commit to a schedule for performing their mandatory duties, agencies cannot settle litigation by making commitments concerning the substance of final regulations they will issue.

There already are long-established procedures that prevent federal agencies from entering into consent decrees and settlement agreements that circumscribe these rulemaking procedures.

These safeguards include:

- standing requirements that require concrete adverseness among litigants;
- the need to obtain judicial approval of settlements; and
- requirements of the Administrative Procedure Act (APA) that preclude agencies from making commitments concerning the substance of future rules.

The GAO reported on the so-called sue and settle phenomenon in 2014 and largely put to rest many of the claims of impropriety in the process.

Under President Trump's administration, private companies will benefit substantially from the concept of "sue and settle."

Private companies will be able to use the concept of "sue and settle" in order to roll back agency regulations protecting our environment.

President Trump and his Administration have made it clear with his budget proposal that protecting our environment is not a priority. President Trump proposed to cut EPA by 31.4%. President Trump's main focus is taking care of the oil and chemical industries.

We should not further burden federal courts and agencies with new obstacles to settlements that will result in more protracted litigation.

I look forward to discussing this topic more in depth.

Thank you Mr. Chairman.

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