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House of Representatives

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Opening Statement
Ranking Member Val Demings
Subcommittee on Intergovernmental Affairs
Hearing on "Examining 'Sue and Settle' Agreements: Part I"
May 24, 2017

Thank you, Mr. Chairman.

While this is the first hearing on so-called "sue and settle" agreements in the 115th Congress, it is the fourth hearing that departs from the false premise that federal regulations only harm economic development and America's spirit of enterprise. If you begin with that false premise, every environmental protection regulation is harmful.

The chemical industry would have us believe that the Obama administration EPA scientists colluded with environmental groups to issue regulations intended to harm industry. That is a notion that the Government Accountability Office has rejected time and again.

In the last hearing the Committee held on legal settlements of environmental lawsuits, a 2011 GAO report found no discernable trend that would indicate' collaboration or collusion in lawsuits against the EPA. A December 2014 GAO report confirmed this assessment, and found that from May 2008 to June 2013, EPA only issued nine rules resulting from settlements, for rules that were between 10 months and 23 years delinquent under the mandatory statutory deadlines. Each of these was subject to robust public comment before the final rule was issued.

Let me be clear, Congress passes a law, and federal agencies issue a rule or regulation. If EPA, or another federal agency, fails to perform a mandatory duty under that law, they are susceptible to a legal challenge *for violating the law that Congress passed*. The 2014 GAO report found that the majority if not all EPA settlements are under the decades-old law, the Clean Air Act.

Another false premise is the inaccurate notion that environmental groups are behind most of the litigation against the government. In fact, industry trade associations and private companies initiated nearly one-half of all cases filed against the EPA from 1995 to 2010.

I have not heard my Republican colleagues demonstrate equal concern about these industry lawsuits.

For a successful, vibrant, and modern economy, economic development must go hand-in-hand with environmental protection and conservation.

When the government is in violation of the law, settlement agreements can prevent prolonged trials and staggering legal expenses, particularly at agencies already struggling to carry out their missions on ever shrinking budgets.

I thank our witnesses for sharing their testimony today, and I look forward to continuing this important discussion on stakeholder input for environmental rulemaking.

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