

For Immediate Release

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EPA PETITIONED TO PROTECT CIVIL LIBERTIES OF BUSINESSES

Today, the Washington Legal Foundation (WLF) filed a formal petition for rulemaking with the Environmental Protection Agency (EPA) that would require the EPA to provide regulated companies and businesses with a "Statement of Rights of Owners and Operators" before any EPA agents can enter and inspect the premises for possible violations of the myriad environmental laws and regulations administered by the EPA. In addition, a similar "Statement of Rights of Employees and Witnesses" must be provided to those company employees and witnesses who have been selected by the EPA to be interviewed or questioned.

WLF's proposal, which is part of WLF's Business Civil Liberties Project, would require EPA agents to provide a company or business with written "Miranda"- type warnings before EPA agents can inspect the premises or question employees or officials. Company officials would be advised, among other things, that they have a right to insist on a search warrant before EPA agents may inspect the premises; the right to consult with counsel; the right to accompany the inspectors and videotape them; and the right to receive "split samples" of any effluent or other sample taken.

Employees and witnesses must be similarly notified that they may refuse to answer any questions; that they have a right to counsel; that anything they say may be used against them, their fellow employees or the company; and that they may not be interviewed at home. Any evidence obtained by the EPA in violation of these rights would be inadmissible in any enforcement proceeding.

WLF's petition noted that there have been a number of complaints of EPA's enforcement abuse. In one such case, *United States v. Knott*, a federal judge referred to EPA's 1997 raid on the small company in Massachusetts as being conducted by a "virtual SWAT team" of numerous armed EPA agents. WLF is representing the company and its president in a lawsuit against the EPA for violating their constitutional rights and for malicious prosecution. When conducting searches, armed EPA agents often threaten and intimidate company employees at work and at their homes in the evenings.

WLF's petition also attached a recruiting brochure for EPA Special Agents that features photographs of armed EPA's agents aiming their loaded weapons at unarmed "suspects" allegedly committing a simulated regulatory offense. Yet another photograph

prominently features an agent aiming his weapon in the firing position under the caption: "The future of our environment is so vital that we, the people of the United States, have decided to protect it...for ourselves, our children and future generations." The obvious message is that EPA is training its agents to be able to shoot and kill presumably innocent citizens and to treat those who may have committed a regulatory offense as violent criminals.

"The last thing we need in America is armed federal EPA agents running around the country threatening hard-working business owners and their employees simply because of suspected regulatory offenses," said Paul Kamenar, WLF's Senior Executive Counsel. "Unfortunately, for years, the EPA and the Department of Justice have abused their prosecutorial discretion and have chosen to criminalize regulatory conduct that is better handled as administrative or civil matters, especially where there is no harm to the environment," Kamenar added. In many criminal cases, the EPA even obtains pre-trial rulings forbidding company owners from introducing any evidence showing that the regulatory offense, including paperwork violations, caused no harm to the environment.

WLF is a non-profit public interest law and policy center based in Washington, D.C., with supporters nationwide. WLF intends to file similar petitions with the Occupational Safety and Health Administration (OSHA) and the Food and Drug Administration (FDA).

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