

To: Dravis, Samantha[dravis.samantha@epa.gov]
From: NDPC
Sent: Fri 3/31/2017 8:41:59 PM
Subject: NDPC Letter to EPA Administrator Scott Pruitt
[NDPC LTR to Scott Pruitt 3.31.2017.pdf](#)
[ND vs EPA.pdf](#)



NORTH DAKOTA
PETROLEUM
COUNCIL

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March 31, 2017

Environmental Protection Agency
Mr. Scott Pruitt, Administrator
Mail Code 28221T
1200 Pennsylvania Ave. NW
Washington, DC 20460

Dear Mr. Pruitt;

Congratulations on your appointment as Administrator of the Environmental Protection Agency. I am the President of the North Dakota Petroleum Council (NDPC) and wanted to take this opportunity to tell you about the overreach of the prior administration that continues to affect NDPC members. Under the previous administration, EPA initiated sweeping Clean Air Act (CAA) Section 114 information requests and threatened company-ending sanctions under the CAA against oil companies operating in North Dakota. EPA's style and process were often contrary to the North Dakota Department of Health's (NDDoH) alternative approach to Clean Air Act Enforcement. In the one consent decree that EPA completed before the election, North Dakota refused to sign the final decree, even though NDDoH had participated fully in months of EPA driven negotiations with the operator. The North Dakota approach produced industry-wide results that immediately benefitted the environment in a shorter timeframe, with substantially less cost and included continued future compliance opportunities. Unfortunately, despite the successful North Dakota effort, we continue to see EPA focused on an aggressive, federal-only approach adopted under the earlier administration.

We respectfully request, consistent with your recent internal directive and President Trump's March 28, 2017 Executive Order, *Promoting Energy Independence and Economic Growth*, that you promptly review EPA's ongoing enforcement activities in North Dakota to determine whether they are consistent with your and the Trump Administration's approach to environmental protection and regulation.¹ We also ask that you seriously consider EPA's adoption of the NDDoH approach to Clean Air Act enforcement and take steps to amend, with court approval, the existing federal consent decree to add North Dakota (ND) so that the state continues to play an important role in protecting its environment. The attached documents describe the EPA Section 114 enforcement process, and contrasts it with the approach that North Dakota utilized. The information provided will show that ND achieved industry-wide compliance plus (above current regulations) in one-third of the time required by EPA to negotiate a settlement with one ND operator. NDPC believes that you will find this information of interest as you seek to make EPA a more effective and efficient agency, which works with states to implement, enforce and adopt resolutions that directly benefit the environment.

Please call or email with any questions you may have. We welcome the opportunity to discuss this with you and would be available to travel to Washington, DC if you feel it would be beneficial.

Thank you for your time and consideration.

Sincerely,

Ron Ness
President

cc: President Donald Trump
ND Governor Doug Burgum
Senator John Hoeven
Senator Heidi Heitkamp
Senator Cory Gardner
Congressman Kevin Cramer

¹ We understand that, on March 2, 2017, EPA Headquarters Assistant Administrators (AAs) and Regional Administrators (RAs) were notified that the Administrator was retaining approval authority for actions having significant regulatory and enforcement effect. The AAs and RAs were directed to "identify and send upward any proposed decisions or final agency actions for the Administrator's review" those items that "would limit the flexibility of the States, limit energy resource use, impose significant costs on industry or commerce, or otherwise likely result in significant public attention on the proposed decisions or final agency actions." See *Pruitt Withdraws Decision-Making Powers From Senior Officials*, <https://insideepa.com/daily-news/pruitt-withdraws-decision-making-powers-senior-officials-email-shows>.

A COMPARATIVE CASE STUDY

The State of North Dakota and the U.S. Environmental Protection Agency under the Obama Administration employed substantially different regulatory approaches to oil and gas development in North Dakota.

NORTH DAKOTA

"FIND & FIX"

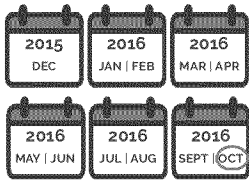
Embrace compliance, prevention and innovation for future efficiencies industry-wide. Through this process, regulators and industry work together to identify the issue, find solutions, and fix the issue, resulting in Day 1 compliance that quickly benefits the environment.

THE U.S. EPA

"SUE OR SETTLE"

Emphasis is on penalties and compliance through intimidation. This method embraces bureaucracy and expensive legal pursuits that forces compliance through intimidation rather than focusing on problem-solving. Action is also done one company at a time, meaning very little to no benefit to the environment during the process.

PROCESS DURATION & PARTICIPANTS



10 MONTHS

working with Industry to identify solutions & an agreement issued Oct. 2016. Meanwhile, companies were voluntarily inspecting and modifying equipment.



3 STATE EMPLOYEES

including 2 from Dept. of Health and 1 from Attorney General's Office.



X 30

30 COMPANIES

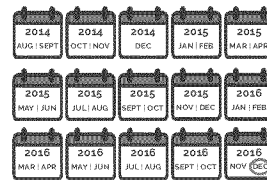
producing 93% of ND's oil and the North Dakota Petroleum Council participated in finding solutions.



X 130

130 INDUSTRY EMPLOYEES

participated in the Task Force, consolidating time, effort and expertise.



30 MONTHS

to resolve 1 case with 6 still pending.



12 FEDERAL EMPLOYEES

including 5 EPA Attorneys, 2 Dept. of Justice Attorneys and 5 EPA scientists



1 COMPANY

that produces about 2.5% of North Dakota's oil had its case resolved.



500 PAGES

of documentation, plus more than 10,000 data points of information requested and filed.

COST IN TIME AND MONEY



3K

3,000+ MANHOURS

spent by 30 companies for industry-wide standard.



\$255,000 to \$616,000

in estimated industry employee time.



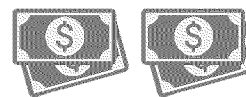
\$29,200

in estimated government employee time for industry-wide plan.



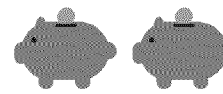
\$4.1 MILLION

in equipment inspection and modification.



\$1.2 MILLION

in industry employee time and contractor fees for *one* company.



\$186,900 and \$560,700

in estimated federal employee time alone, plus thousands for mileage and travel.

RESULTS



19 CONSENT DECREES

signed, covering 69% of ND's oil production & affecting 7500 wells.



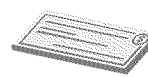
FUTURE COMPLIANCE

Prevention and even new, leak-proof equipment were created.



1 CONSENT DECREE

signed, with 170 wells modified into compliance.



\$4.1 MILLION

spent on fines and mitigation projects that do not assist in resolving issue.

CONCLUSION. North Dakota's inclusive approach consolidates time and effort, allowing for collaborative education, new technologies and designs for enhanced compliance *industry-wide* that are beneficial early in the process and well into the future.

CONCLUSION. The U.S. EPA's approach addresses the issue one company at a time at a pace three times slower than the "Find and Fix" approach. This means more resources are depleted with very little return to the environment.