

January 16, 2017

Dear Chairman Barrasso, Ranking Member Carper, and members of the Senate Environment and Public Works Committee:

As former heads of state environmental protection agencies, we have had the honor – and the responsibility – of ensuring that our states’ residents enjoy clean air, safe water, and access to conservation land. We write to express our views on the nomination of Scott Pruitt to be Administrator of the United States Environmental Protection Agency (EPA) – and thank the Committee for this opportunity.

While we have worked under both Republican and Democratic Governors, reflect a range of political views, and come from diverse states, we share a common concern about Mr. Pruitt’s nomination. His record, particularly as a litigator against many EPA rules, causes us to question whether he: 1) appropriately respects science-based decision making, and 2) understands the important role that EPA must play in the “cooperative federalism” model that undergirds our nation’s environmental laws.

Respect for Science

As heads of state environmental protection agencies, all of us have had to make difficult judgment calls. Good science must be the touchstone for those and all regulatory decisions. The fundamental mission of protecting public health, safety, and the environment requires that science not be ignored and that regulatory decisions build on the best available data and rigorous analysis.

Based on his record, it appears that Mr. Pruitt does not share this view. One example which troubles us greatly is his legal challenge to EPA’s finding in 2009 that greenhouse gases endanger public health and welfare. In this lengthy finding, the EPA reviewed the extensive scientific literature, including reports on climate change issued by the Intergovernmental Panel on Climate Change (IPCC, established by the United Nations, which synthesizes the work of thousands of scientists), the U.S. Climate Change Science Program (CCSP, a Bush administration body of 13 federal agencies that issued 21 reports on climate change), and the National Research Council (NRC, the research arm of the National Academy of Sciences). All of these bodies affirmed that climate change is occurring and that the primary cause is fossil fuel combustion. EPA also relied upon multiple lines of additional evidence that all point to the same conclusion.

While this finding was wholly unremarkable from a science perspective, it provided the foundation for a number of regulations to reduce emissions from various greenhouse gas sources. It also inspired legal challenges from the oil and gas industry in concert with Attorney General Pruitt.

Despite the thorough record supporting this conclusion (and the overwhelming consensus of scientists), in an unsuccessful lawsuit, Attorney General Pruitt and others argued that this finding was “arbitrary and capricious.” The primary argument he advanced is that EPA should not have relied upon the multiple reports issued by the IPCC and other scientific bodies, and that there was too much lingering uncertainty to draw any hard conclusions about climate change.

We find this deeply troubling. EPA did what any reasonable science-based agency would have done — review the scientific literature to determine whether the most credible experts on the subject had arrived at a consensus, and perform its own independent review to determine whether the consensus view was supported by verifiable, replicable evidence. The fact that Attorney General Pruitt attacked

this finding suggests a lack of understanding as to how environmental protection agencies make science-based decisions or, even worse, an inclination to set science aside when the outcome is at odds with his predetermined political point of view.

The Role of Federal and State Regulators

Attorney General Pruitt has often justified his many lawsuits against EPA as an effort to protect states' rights against EPA overreaching.

As state regulators, we are justifiably proud of the work that our agencies perform. However, we also understand that there is a need for regulation at the federal level, and we see EPA as our partner in the important work of protecting environmental public health and ecosystem vitality. For example, pollutants do not know or respect state borders, yet states have limited ability to reduce air and water pollution that emanate from other states. Thus, federal regulation is necessary at a minimum to address the problem of interstate air and water pollution, put in place national standards that prevent a race to the bottom of environmental protection, and help to create a level playing field in which all states enjoy the benefits of clean water, air and land – and pay their fair share of pollution control costs. We also have learned first-hand that states alone often do not have the resources to independently address the complex environmental challenges we all face. By sharing scientific and technical resources among the states and federal government, we can reduce the cost and increase the effectiveness of states' pollution control efforts. EPA plays a critical role in supporting the states by coordinating these important state/federal environmental protection efforts.

We are concerned that Mr. Pruitt does not seem to appreciate this critical role that EPA plays. In fact, he has filed multiple lawsuits seeking to stop EPA from addressing interstate air pollution. For example, he led the fight against the cross-state air pollution rule, which was rejected on a 6-2 vote at the Supreme Court. Similarly, he unsuccessfully challenged the regional haze rule, which seeks to ensure that our national parks, monuments, and most pristine lands are not compromised by interstate air pollution. He also challenged federal rules that create minimum standards, such as the Mercury and Air Toxics rule which sought to ensure that approximately forty percent of lagging coal plants met the same emission control standards as the other sixty percent.

Rather than EPA acting as our partner in state-led efforts to ensure clean air and water for our residents, we fear that an EPA under Mr. Pruitt would undermine the rules that help to make sure that our state regulations are successful.

For all these reasons, we respectfully recommend that this Committee reject Mr. Pruitt's nomination.

Sincerely,

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California Environmental Protection Agency

Winston H. Hickox
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