

# United States Senate

WASHINGTON, DC 20510

May 25, 2017

The Honorable Scott Pruitt  
Administrator  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460

Dear Administrator Pruitt:

In light of the recent D.C. Circuit decision in *Waterkeeper v. EPA*, the EPA should take immediate action to prevent the waste of federal, state, and local resources designated for emergency response programs. Therefore, we urge you to challenge the D.C. Circuit decision and to provide America's farmers and ranchers with regulatory relief through agency directive and rulemaking.

As you know, the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) was enacted in 1980 in response to serious environmental and health risks posed by industrial pollution. CERCLA has two primary objectives: to give the federal government the tools necessary for prompt response to problems resulting from hazardous waste disposal and to hold polluters financially responsible for cleanup. The Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA) was enacted to ensure proper notice to relevant authorities in cases of accidental spills, chemical plant explosions, and release of hazardous chemicals from sinking ships or train derailments. Congress never imagined the normal odors and emissions (including low-level concentrations of ammonia and hydrogen sulfide) of livestock, poultry, and egg production would somehow be captured.

In 2008, EPA finalized a rule to clarify the exemption of farms from CERCLA and EPCRA reporting requirements. This rule provided that all Animal Feeding Operations (AFOs) and Concentrated Animal Feeding Operations (CAFOs) were exempt from CERCLA, and only large CAFOs were required to report under EPCRA. However, in its April ruling, the Court of Appeals for the D.C. Circuit found that exemption to be inconsistent with statutory requirements, thereby requiring submission of these senseless reports from agricultural operations. We implore you to continue fighting for American agriculture, by challenging the panel decision by the D.C. Circuit.

Left unchecked, when expanded reporting requirements go into effect on June 2, 2017, up to 100,000 farms and ranches across the country will face enormous uncertainty and potential liability if they do not submit an emissions report. These reports have the potential to significantly overburden the National Response Center (NRC), which received a mere 24,193 reports in 2016. And unlike the reports received last year, which averaged about 66 per day, the National Response Center would potentially receive tens of thousands of reports within a matter of a few days. Not only will these unnecessary agricultural reports shut down and congest a necessarily fast-moving response process, but they will actually prevent the NRC and local first

responders from efficiently addressing real emergencies. Required reporting from agricultural operations directly impedes the purpose of the statute.

In addition, we strongly support any action you take to protect both the integrity of the NRC and local emergency planning units, while also protecting the wellbeing of America's farmers and ranchers. This includes clarifying the applicability of the agricultural exemptions contained within both CERCLA and EPCRA, as well as tailoring reportable quantities to an appropriate level for livestock and poultry operations. If the EPA cannot address this problem in the courts or on its own, we encourage you to come to Congress to find a solution.

Sincerely,



JOHN CORNYN  
United States Senator



JOHN BARRASSO, M.D.  
United States Senator



ROY BLUNT  
United States Senator



JOHN BOOZMAN  
United States Senator



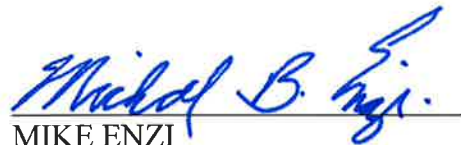
TOM COTTON  
United States Senator



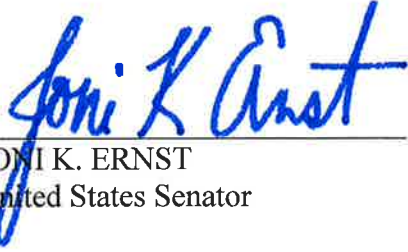
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United States Senator



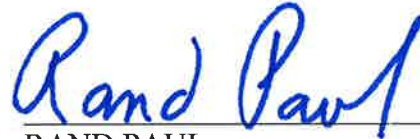
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United States Senator



BEN SASSE  
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RICHARD SHELBY  
United States Senator



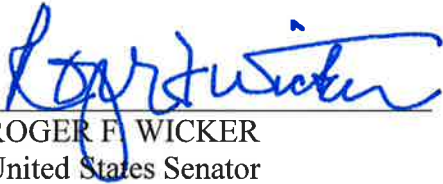
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