

**U. S. Senate Committee on Environment and Public Works  
Chairman Jim Inhofe**

**Examining Pathways Towards Compliance of the National Ambient Air Quality Standard  
for Ground-Level Ozone: Legislative Hearing on S. 2882 and S.2072**

**Testimony of Uintah County Commissioner Mark Raymond, Chairman  
Uintah County, Utah  
Wednesday, June 22, 2016**

Mr. Chairman, and Members of the Committee, I am Mark Raymond and I serve as the Chairman of the Uintah County Commission located within the Uinta Basin in eastern Utah. I am honored to testify before the Committee today to support the legislation being considered, S. 2882 and S. 2072 and discuss the issues we face in controlling ozone levels in the Uinta Basin—especially the unique occurrence of high winter ozone levels. Additionally, I want to thank Senator Hatch for his efforts to craft and introduce S. 2072 and his willingness to work on this difficult issue with Uintah County.

The Uintah County Commission supports the passage of both S. 2882, the Ozone Standards Implementation Act of 2016 and Senator Hatch's S. 2072, which would require the establishment of an Early Action Compact Program. Uintah County stands ready and willing to assist in the passage of both of these important legislative proposals that will allow communities, such as mine, to deal with elevated ozone in a rational and responsible manner—without the scarlet letter of nonattainment under the Clean Air Act. My comments will focus primarily on Senator Hatch's S. 2072 as Uintah County's experience and seeking Congressional action has attempted to assist the Senator in this important effort.

Uintah County sits in the Uinta Basin, which is exactly as the name depicts. My county sits in a basin that is surrounded by high mountains and creates the perfect conditions to generate winter

ozone. Only two places in the nation experience high levels of winter ozone: the upper Green River Basin in Wyoming and the Uinta Basin in Utah. High winter ozone levels are a result of a complex mix of geography, weather, and emission conditions. Primarily, winter ozone levels rise when snow cover and multi-day temperature inversions occur. An inversion occurs when high level warmer air traps low level cold air inside the Basin. Snow reflects the sunlight back up to the cloud cover and this becomes the perfect mix to allow pollutants to build and react to produce ozone. In the absence of these conditions, exceedances of EPA's ozone standard have not been observed.

Ozone levels in the Uinta Basin became the focus of local governments, the EPA, the State of Utah, and outside interest groups as we experienced several winters of high ozone levels, energy exploration and production at historic highs, and of course the EPA lowering the ozone standard to 70 parts per billion. Although we certainly explored and continue to support a legislative measure that would fully implement the previous 75 ppb standard and provide an additional 10 years for the nation to comply, Uintah County is seeking additional tools to improve our air quality which are reflected in S. 2072. While the EPA's current ozone standard is the hammer over my community's head, the real driving force of our efforts is to improve our air quality for the citizens of Uintah County. It is our opinion that the Clean Air Act provides limited tools for communities such as mine to proactively improve air quality, implement emission controls, and provides disincentives for industry and citizens to proactively reduce emissions ahead of a nonattainment designation.

Uintah County, the State of Utah, the Ute Tribe, and industry have spent several years and millions of dollars to study, monitor, and model winter ozone. After all of this work, what we know for sure is that we need several more years of research and monitoring to insure that

investments we make are effective and that we have a precise model in order to formulate appropriate controls. It is our fear that EPA, armed with the new standard of 70 ppb, will put the Uinta Basin into nonattainment status, and we will go into what could be decades of Clean Air Act compliance which may not actually improve our air quality.

In 2002 the EPA initiated a strategy known as the Early Action Compact Program through approval of a protocol initiated by the State of Texas that allowed communities to enter into a compact with EPA to improve air quality, hold off a nonattainment designation while the compact was being implemented, and would allow for credits for investments made pursuant to the compact. Twenty-nine areas from 12 states submitted signed compact agreements in the early 2000's. Of the 29 areas, 14 areas were able to defer nonattainment status and 15 areas were successful in being designated as attainment due to their participation in the Early Action Compact Program. (Early Action Compact Program for Ground-Level Ozone: A Study, U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Outreach and Information Division, Research Triangle Park, North Carolina) The only exception was the Denver, Colorado area which did not complete the program due to an air quality violation. Pursuant to the EPA, the Early Action Compact Program was successful, gave local areas the flexibility to develop their own approach to meeting the ozone standard, provided communities with the tools to control emissions from local sources earlier than the Clean Air Act would otherwise require, and improved air quality faster, and all the while improving regional cooperation in solving air quality problems. Unfortunately, the EPA scrapped the Program due to litigation for lack of authority under the Clean Air Act. S. 2072 would authorize and require the Administrator to craft and implement this type of Early Action Compact Program.

S. 2072 would require the Administrator to establish an Early Action Compact Program within one year of enactment. These compacts are initiated by state, tribal or local governments and are completely voluntary. An applicant would have one year after notification to the Administrator to submit a proposed compact plan for the Administrator's approval. Under the legislation, compact plans must: insure public involvement, provide credits for emission reductions resulting from the plan, contain measurable milestones leading to attainment within 10 years, emission inventories, modeling, and planning for future growth of the area. During the implementation of the compact, the Administrator agrees to withhold a nonattainment designation so long as the compact is being implemented. The approach of S. 2072, puts local, tribal, and state governments in control of improving their air quality, fosters cooperation with the EPA, and will provide true air quality improvements.

S. 2072 will also allow Uintah County and other communities dealing with winter ozone to work with the Administrator to issue separate guidelines due to the unique nature of winter ozone. The Administrator is directed to issue separate plan requirements for an Early Action Compact for the mitigation of winter ozone, including the opportunity to conduct further study and monitoring to insure emission controls are effective for this complex problem. Although it is clear that our oil and gas industry contributes to ozone precursors through the release of NO<sub>x</sub>, VOC, and formaldehyde, those same releases do not create high levels of ozone absent precise weather conditions. Winter ozone is not as simple as removing cars and trucks from the roads. We live in a rural community where population densities are sparse. Winter ozone is a complex problem that requires specific treatment by EPA in order to achieve meaningful improvements in air quality. The oil and gas industry is responsible for 60% of our economy and 50% of our jobs. We need this industry to stay in the Basin to feed our economy which in turn provides the

resources to tackle our ozone problem. Under non-attainment, the industry and their investments will simply relocate to other areas—leaving few if any resources and funding to implement emission controls.

Flexibility is a key component to allow communities to implement solutions to air quality issues that are unique to their area. We believe enactment of S. 2072 that mandates an Early Action Compact Program with provisions that contemplate the complexities of winter ozone is an appropriate mechanism for communities to improve air quality without destroying their economy. So few federal programs are successful, yet in this case the Early Action Compact Program was very successful, achieved real improvements to air quality, and allowed communities to control their own futures. This is the goal of S. 2072 and we urge the Committee to approve this legislation and work to enact its provisions.

I thank you for the opportunity to testify today and I will be happy to answer any questions you may have or I am happy to provide additional information.

 6.27.16  
Commissioner Mark Raymond      Date