

Regional Haze Hearing Transcript

Jim Semerad: Good morning, everybody. Welcome to the North Dakota Department of Environmental Quality Office Building. My name again is Jim Semerad and I will be acting as hearing officer for this public hearing. It is approximately 9:17 a.m., May 31st, 2022, in the NDDEQ office building. So at this time I open this public hearing. This public hearing has been called for the purpose of allowing all interested individuals an opportunity to submit information concerning the Department's draft state implementation plan revision addressing regional haze. Information gathered at the hearing will be transmitted to the Department for deliberation and final decision making. The Department will not be responding to comments at this hearing. Comments received at the hearing will be considered with any written comments that are received, and the Department will present its consideration of all comments in writing. You may request a copy of the written responses and one will be provided to you. This hearing is being recorded and we ask everyone offering testimony to use the podium so that the tape will be of good quality for transcribing purposes. Please identify yourself for the record before you speak. If you have a prepared statement, a written copy of the statement is much appreciated. A registration sheet has been placed next to the door and I ask everyone present to please sign in before they leave. At this point, I open the hearing for comments.

Jonathan Fortner: For the record, Jonathan Fortner representing the Lignite Energy Council. Director Glatt and members of the Department of Environmental Quality. On behalf of the members of the Lignite Energy Council, I'm providing a summary of the written comments that we will submit tomorrow, which are in support of DEQ's Draft State Implementation Plan for the second decadal review of the Environmental Protection Agency's Regional Haze program. LEC supports the draft SIP because it represents the culmination of immense effort to exhaustively review all relevant information, comprehensively consider available policy options, and thoughtfully design a reasonable plan to reduce visible haze in a manner consistent with all federal and state laws. The Lignite Energy Council represents the regional lignite industry in North Dakota, which is an \$18 billion industry critical to the economy of the upper Midwest, and adds \$5.7 billion in annual economic impact to the region and provides 14,000 direct and indirect jobs. LEC has advocated for its members since 1974 to protect, maintain and enhance development of our region's abundant lignite resource. LEC is also committed to the environmental stewardship and understands the importance of protecting North Dakota's natural beauty. North Dakota has some of the best air quality in the country. It is only one of four states that has never violated health-based standards for ambient air established by the Environmental Protection Agency. Let me repeat that it is one of only four states that has never violated health-based standards for ambient air established by the EPA. That success is a tribute to the state's sound policies, effective laws, and a firm commitment by industry to minimize environmental impacts. This is remarkable considering the significant sources of air emissions impacting North Dakota that are beyond its control, including frequent wildfires to the West and uncontrolled Canadian emission sources to the north. Despite those headwinds, the state of North Dakota, under the able leadership of DEQ, has always maintained excellent air quality. In fact, due to the measures that DEQ adopted in its first round haze plan and the additional requirements and now proposes for its second round plan, the visibility range in the state is projected to achieve by 2028 nearly half of its goal of eliminating all manmade visibility impairment by 2064, which is well ahead of the schedule that is set by EPA. This extraordinary progress is

primarily the result of significant emission reductions achieved by the lignite powered electric generating units over the past decade, including reductions that have already been made and included in the DEQ's Original Regional Haze SIP, as well as the new reductions considered in the draft SIP for round two. Through installing advanced emission control equipment with an estimated cost of over \$2 billion, emissions from coal fired egu's have dropped precipitously while improving visibility in North Dakota's already healthy air. In the draft SIP, DEQ appropriately considered highly detailed reports from numerous individual emission source owners regarding the potential cost of imposing additional control measures to further reduce emissions. From those reports, DEQ conducted the four-factor analysis, as required by the Clean Air Act and also EPA regulations, to develop three different sets of control options. Those three scenarios were the subject of extensive study by WRAP, the Western Regional Air Partnership, which is North Dakota's regional planning organization. DEQ then applied its own expertise and independent judgment to reasonably conclude that additional controls beyond those already adopted would not be necessary to make reasonable progress toward EPA's 2064 goal of eliminating anthropogenic visibility impairment. The approach taken by DEQ in the draft SIP is consistent with the mandatory legal requirements of the Clean Air Act and also EPA's regional haze rule. It also follows EPA's non-binding guidance on the development of state regional haze plans. It is also eminently reasonable in that DEQ weighed the costs and the benefits of various policy options based on a thorough analysis of all relevant facts and circumstances, and then reached rational conclusions that are consistent with those facts. Therefore, LEC supports the draft SIP and encourages DEQ to submit it to EPA in a timely fashion. Our written public comments also provide some suggestions to further clarify and strengthen the underlying technical and legal support for the draft SIP. We appreciate this opportunity to provide these comments and look forward to continued engagement with DEQ on our common and interconnected goals of a healthy environment and a healthy economy. Thank you for the opportunity to speak with you today.

Jim Semerad: Thank you for your comments. Next. Thank you.

Praire Rose Seminole: Good morning. Thank you for the opportunity to provide testimony during this time. My name is Praire Rose Seminole. I'm a citizen of the three affiliated tribes, the Mandan, Hidatsa, Arikara nations. I live in Hazen North Dakota and have land and livestock across the waters of the Garrison Dam and White Shield, North Dakota. I'm here to testify to and support goals of the Haze Program to reduce pollution that degrades visibility and health at national parks and wilderness areas in North Dakota and neighboring states.

Every day I make an early drive, often through haze, across the dam that flooded the bottom lands of my father's home two generations ago. As I crossed the dark blue waters of Lake Sakakawea, a reservoir formed by the damming of the Missouri River, I can see the layers of lignite coal along the bluffs of the shores and coal debris causing black lined beaches. I make my way through more towns when I pass the small herd of antelope before I turn on to the highway, if I face south at this time I can see the scar into the earth left now from the strip mining coal process. Coal being mined since 1873, 16 years before North Dakota became a state in 1889. I grew up seeing the coal industry. My sister and I, as kids, used to think that magic was happening there with all the lights and clouds coming out, lit up so brightly at night. At the time, being a kid, North Dakota nights in the West were still dark, lit up only by stars, moons and the

coal factory lights. We couldn't even imagine then what kind of damage is happening now from those same magic clouds.

Today, from where I live and across the water, when I'm with my horses, I can see the billowing exhaust from Antelope Valley and Coyote coal stations and Great Plains SynFuels Gas plant polluting my air. They are North Dakota's and some of our nation's biggest national park polluting facilities. It is unconscionable that our state is advancing a haze plan that does nothing to cut the pollution from these facilities and other industries despite clear evidence that they are harmful to me and my family, our livestock and native lands. The peoples of the MHA nation and my family have been stewards of these river valleys and bottom lands for time immemorial and can recall a time of pure waters, clean air, and bountiful lands that may become to only exist in our stories.

The regional haze plan proposed by the State of North Dakota fails to reduce pollution and falls short on the state's obligation to improve air quality not only for our parks, it fails our communities, and our people. According to the National Park Service, air quality has deteriorated in Theodore Roosevelt National Park since 2016. Clear Skies and public health in Longwood Wilderness Area, Badlands Voyageurs, Wind Cave and Isle Royale national parks are being negatively affected by pollution from North Dakota's coal plants, industrial facilities and oil and gas operations. The decrease in air quality in these and other areas of state highlight urgent need for pollution cuts to be integrated into the state's plan. We can do better.

North Dakota Department of Environmental Quality's proposal has concluded that no new reductions in pollution are warranted on some of the nation's most polluting coal plants, right here. If the current plan is finalized, the National Parks Conservation Association estimates that more than 72,000 of preventable tons of SO₂ and NO_x will continue to be released into the air from these and other facilities over the next decade, impacting air and health in my home communities and all of the lands of the Mandan, Hidatsa and Arikara Nation of the Fort Berthold Indian Reservation. Just as the dam took our bottom lands, the state plan continues to exert narrative and action that treat us as expendable peoples. We have to do better. We are citizens of North Dakota and this nation, along with our own. Our lives matter. Our land and our waters matter.

Further, the NPCA's analysis of polluting sources, the electricity sector emits 87% of the state's haze pollution in North Dakota, and in the current haze plan proposal they have not required pollution controls from Coyote Station, Antelope Valley Station, Coal Creek Station, Milton R Young Station, Leland Olds Station, and the R M Heskett Station.

North Dakota Department of Environmental Quality did not require any emission reducing measures from the following major oil and gas facilities the Great Plains, Synfuels Plant, Tioga Gas Plant, Little Knife Gas Plant and the Northern Border Pipeline Compressor Station.

North Dakota has the biggest influence over haze on National Park Service protected areas, including Theodore Roosevelt National Park, where air quality has degraded steadily since 2016. For North Dakota to fulfill its regional haze obligations under the Clean Air Act, the state must revise its plan by implementing strong and significant emission reducing measures for the six

coal fired power plants where emissions are long overdue to be cleaned up. Requiring emission reductions from the four oil and gas point sources selected, as well as from the oil and gas non-point source emissions like engines and flaring. Thoroughly assessing and addressing environmental justice impacts as the EPA recommended. If left unchanged, the state's plans will not comply with the Federal Clean Air Act and the United States Environmental Protection Agency's regional haze rule, as it does nothing to limit haze causing air pollution and fails to restore naturally clean air. We need real emission reductions to reduce haze at our public lands and improve public health.

We have an opportunity to achieve a regional haze plan for North Dakota that protects our people, our parks, and our future. This haze plan proposal makes no improvement and we the people, our lands and water will pay over-time. It is time that all decision makers and stakeholders are aware of what is at risk and to be involved with the work at the federal, state and municipal levels to make a bolder plan happen. We can do better. Thank you.

Jim Semerad: Thank you for your comment.

Tracy Potter: Good morning. My name is Tracy Potter, I'm the senator for district 35 in Bismarck, recently appointed. 15 years ago as a freshman state senator, I saw a news report that North Dakota had some of the dirtiest coal plants in America on a per kilowatt basis, at least. But our state health department said we had some of the cleanest air. I didn't want to argue with either President Bush's EPA or the state health Department, but I was concerned about the nature of the pollutants being generated, not carbon dioxide particularly, but harmful emissions like NOx and SO₂, and mercury. Things that are health hazards to those of us living downwind in the Missouri River Valley from the coal plants.

I wanted the legislature to study how to economically reduce those harmful emissions without disrupting energy production. It seemed like a reasonable public policy to reward the industry with tax credits for investments in improving their environmental record. My study did not pass. I could explain why, but there's no reason.

The National Park Service and the Department of Environmental Quality have differing views of the importance of haze and cost effectiveness of reducing haze, whether significantly or incrementally. I'm not about to insert my opinion between the scientists on either side.

My comments today are about valuing costs. DEQ says the potential improvements in visibility are not worth the costs. This is where I think we're missing two important factors. Visibility is only one factor. Virtually invisible particulates in the emissions from coal plants cause human health effects. Mercury is produced when coal is burned. Mercury gets into our bodies when we breathe and when we eat the walleyes in Missouri river. Its health effects are harmful, particularly to the unborn and children, 4 to 5 times more harmful to them than to other people. It causes birth defects. Nitrogen oxide can restrict lung function and is particularly hard on children, the elderly and asthmatics. Sulphur dioxide contributes to acid rain, preterm birth and other impacts on human and animal health. And I want to compliment the industry and the department for its reductions. But we can do better. We can do better.

The second point is about costs. What is the nature of these costs? It would be the cost of creating well-paying jobs and reducing emissions, adding smokestacks, cleaning coal, or finding innovations not yet envisioned. It's not money that's lost or thrown away. It supports our economy. It's money paid to North Dakotans for doing something to improve the health of North Dakotans. Much of it will come back to the state in income and sales tax.

This is a time of remarkable opportunity. State treasuries are overflowing. Revenue collections are hundreds of millions of dollars over projections just this year. Oil prices are higher than projected. It was supposed to be \$50 a barrel. I wrote this this morning I said WTI is \$118 this morning. No, by the time I left home, it was \$119.21. And the tax trigger is being pulled tomorrow, generating hundreds of millions of more dollars. Our Legacy Fund and Common Schools Trust Fund alone hold \$15 billion and keep growing. All the stabilization and rainy-day funds are flush. There has never been a better time to make significant one-time investments in 21st century infrastructure.

So my comment is the state should make these investments in public health whether or not there is a very noticeable effect on Haze. We should pursue a public private partnership to improve our coal plants and reduce flaring in the oilpatch. The state can help industry pay for the investments in improving infrastructure. Give them tax credits for investments required to better our health.

It will require legislative action to do what I suggest, but the public private partnership could begin immediately. The Department of Environmental Quality should meet with the utilities to plan and price improvements to show good faith to the National Park Service, which is so important to North Dakota's tourism industry and to our quality of life. Let's avoid confrontation and work together for a healthier future for our people and our state. Thank you for your consideration of these remarks.

Jim Semerad: Thank you for your comment. Any other comments?

Elizabeth Loos: Good morning. Thank you for the opportunity to speak today. My name is Elizabeth Loos and I'm executive director of Badlands Conservation Alliance. Badlands Conservation Alliance is a non-profit organization based in western North Dakota dedicated to the wide stewardship of public lands, including the approximately 70,000 acres of Theodore Roosevelt National Park. Many of our members are from communities and rural landscapes surrounding the park and hold significant familiarity with these lands and value them for a host of ecological heritage and personal reasons, frequently through multiple generations.

Each year more than a half a million people visit Theodore Roosevelt National Park, which is our state's largest tourist attraction. Sharing our state's wonders not only bolsters our pride and appreciation for these precious landscapes, but it helps sustain gateway towns like Medora and Beach, where small businesses thrive off of the tourism industry. In 2019, park visitors spent \$44.3 million on lodging, restaurants, gas and retail purchases.

North Dakota is special, everyone in this room will agree on that. Our state isn't riddled with the urban congestion of the West Coast or the unbroken sprawl of the East. Looking out over the sweeping vistas of Theodore Roosevelt National Park, it's easy to believe that that view is unchanged from the landscape TR witnessed in 1883. That, however, is far from the truth. Cars, trucks, oil and gas operations, coal fired plants and other industrial sources fill our air with sulfur dioxide and nitrogen oxides, which contribute to regional haze.

The Clean Air Act Regional Haze Rule requires all states, including North Dakota, to do their share by reducing pollution within their borders to help restore clean and clear skies at protected national parks and wilderness areas. It's troubling to us that the state of North Dakota has proposed a regional haze plan that fails to reduce pollution and falls short on the state's obligation to improve air quality for our parks and communities.

North Dakota Department of Environmental Quality selected ten facilities for review of emission reducing measures in this regional haze plan, but despite many opportunities for effective cost controls, concludes that no new reductions in pollution are warranted. Without new controls for the next decade, more than 72,000 tons of sulfur dioxide and nitrogen oxides will be released into the air from polluting facilities.

There are many important issues in this state implementation plan that are beyond my technical expertise and were raised during the Federal Land Manager comment period, but I'd like to briefly highlight two issues of particular concern in this SIP. First is the notion of glide path, which was in the slide, and I'll read from page 12 of the draft SIP. North Dakota is currently projected to meet 2028 visibility goals and is projected to remain on track to meet the 2064 visibility goals, below the adjusted glide path. Continuing to remain below an adjusted glide path and showing improvement on the most impaired days for each planning period will accomplish the 2064 goals. North Dakota has determined that the additional controls evaluated will not have a meaningful impact on the 2028 visibility projections. Therefore, the Department determined that it is not reasonable to require additional controls during this period.

Essentially, the DEQ considers the fact that its class one areas are under their glide paths a valid reason to forgo otherwise cost-effective controls. But under the regional haze rule and as outlined in EPA's clarification memo, one just issued in July of this year, this consideration is specifically prohibited. North Dakota is required to make to impose controls on the sources within our borders.

Second, we're concerned that DEQ fails to consider emissions from oil and gas operations. Oil and gas emissions make a significant contribution to visibility impairment at Theodore Roosevelt National Park, and they are projected to increase over this planning period, which is acknowledged in the SIP. While no single well site has a significant footprint, the cumulative emissions from all well sites combined are substantial, which is also acknowledged in the SIP. So we encourage the state to adopt rules to limit emissions from individual well sites with the cumulative emissions in mind, which has been done in other states and is certainly possible.

The bottom line is that this regional haze plan fails to reduce pollution and meet the standards set by the Regional Haze Rule and the Clean Air Act. North Dakota can and should do better. Thank you.

Jim Semerad: Thank you for your comments. Anyone else wishing to testify. Last chance. Again, I would like to thank everyone for coming both in person and virtual. All information that was gathered at this hearing will be provided to the Department of Environmental Quality, which is the decision-making body. The record will be held open for written comments until June 1, 2022. At this point, I close the hearing on the Department of Environmental Quality's Draft State Implementation Plan Revision for Regional Haze. The hearing is closed at 9:44 a.m.. Again, thank you for coming.