

RESPONSE TO MIKE MULLEN'S ONGOING CRITICISM OF ENFORCEMENT

On a number of occasions Mr. Mullen has come before you to criticize the Department's enforcement activities and personally criticize those who conduct enforcement activities.

Today I would like to set the record straight.

Does the Department like to receive complaints – YES, since we cannot be in all places at all times it helps us focus on places where likely violations are occurring. That is why for several years we have had a very easy to use automated complaint system to encourage and facilitate the efficient handling of complaints.

Mr. Mullen has filed far more complaints than any other individual in the State.

It has become his practice to file his complaints directly to the Commission rather than going through the well-established and successful complaint procedures used by the rest of the public.

The common themes of his complaints are that the Department: does not prevent violations; does not discover all violations; does not respond quickly enough to violations; and, is not hard enough on violators to prevent future violations.

Is there room to improve the Department's enforcement activities? YES there is always room to improve any endeavor.

Are Mr. Mullen's characterization of the Department's enforcement activities and the personnel who implement them accurate? ABSOLUTELY NOT

Mr. Mullen has never provided any statistics to indicate the violations he complains about are anything other than the typical violations at expected frequencies experienced in every state.

Just as State Troopers cannot be in all places and ticket every driver exceeding the speed limit and just as the police cannot stop every burglary before it happens, no environmental regulatory agency, including EPA itself, can prevent all violations or catch every violation.

Even those violating permit conditions are entitled to due process which may take longer than some would like it to be. Penalties must be calculated using objective standards not emotion driven subjective opinions.

Mr. Mullen has been provided access to reliable data to analyze but has chosen not to utilize objective independent data.

Mr. Mullen and others have been provided ample opportunity to meet with the Department to understand the enforcement process and the reasoning behind the process but he does not accept the Department's approach.

Mr. Mullen's unsupported indictments of the program are wrong:

- The readily available statistics establish he is wrong.
- Academic research affirms his approach is wrong.
- EPA has repeatedly determined his claims are wrong, most recently on 1/11/17 in denying the NPDES withdrawal petition.
- The United States Office of Inspector General found he is wrong.
- The courts have repeatedly held the claims he and like-minded individuals have made against the Department are wrong, most recently on 1/24/17 in a citizen's suit in Federal Court.

Every single reputable, accountable oversight authority confirms he is wrong. No reputable source agrees with his contention.

We encourage Mr. Mullen and all other citizens to make us aware of any potential violations they may see. Mr. Mullen is entitled to his opinion, even when it is unfounded. He may not be satisfied with the Department's enforcement program; however, his often repeated disparaging characterization of the ADEM enforcement program is without basis, misleading, and demonstrably wrong.