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Subject: RE: Proposed Draft Stipulated Abatement Order and Petition Number 17-01
Date: Monday, March 19, 2018 4:35:47 PM
Attachments: [Proposed Stipulated Order March 14, 2018.pdf](#)

To: Air Pollution Control District Hearing Board

Dr. Yarrow Nelson, Acting Chair

Dr. Thomas Richards

Mr. Paul Ready

Mr. Robert Carr

Mr. William Johnson

CC: Air Pollution Control District Board, Air Pollution Control Officer, CA State Parks, California Natural Resources Agency, California Coastal Commission and Friends of Oceano Dunes

RE: Proposed Draft Stipulated Abatement Order and Petition Number 17-01

As a hearing board made up of intelligent and highly esteemed members in respected professions such engineering, law and higher education, I feel it is important to begin this letter by reminding the board of a few of San Luis Obispo County Air Pollution Control District's values as outlined in the organization's strategic plan.

Integrity

<!--[if !supportLists]-->• <!--[endif]-->Honest and forthright with our stakeholders and fellow employees

<!--[if !supportLists]-->• <!--[endif]-->Open and transparent in our operations and processes

Fairness

<!--[if !supportLists]-->• <!--[endif]-->Impartial and honest to all with whom we interact

<!--[if !supportLists]-->• <!--[endif]-->Actions free from self-interest, prejudice or favoritism

<!--[if !supportLists]-->• <!--[endif]-->Respectful treatment of every individual regardless of affiliation or viewpoint

Consistency

<!--[if !supportLists]-->• <!--[endif]-->Actions guided by established policies designed to ensure consistent results

<!--[if !supportLists]-->• <!--[endif]-->Predictable processes, free from surprises

<!--[if !supportLists]-->• <!--[endif]-->Regulations based on sound science and applied evenly to all affected sources

I strongly feel that the previous APCO (Larry Allen), the APCD Board and the Hearing Board have failed to let the organization's stated values guide the process during consideration of the Proposed Draft Stipulated Abatement Order and Petition Number 17-01.

Integrity is the first value listed. Under Larry Allen's direction, the organization was not forthright, open or transparent with

studies completed on behalf of the APCD in April, May and June of 2017. These studies clearly show that crystalline silica (quartz) is not present in any amount that would cause a "Nuisance" as defined by Rule 402 in San Luis Obispo County APCD's List of Current Rules. "A person shall not discharge from any source whatsoever such quantities of air contaminants or other material which cause injury, detriment, nuisance or annoyance to any considerable number of persons or to the public, or which endanger the comfort, repose, health or safety of any such persons or the public, or which cause, or have a natural tendency to cause, injury or damage to business or property." The California State Parks conducted a similar study, which provided the same results, "Analytical results indicate none of the samples obtained by this investigation exceeded the current occupational health standard for total dust, respirable dust or quartz. Crystalline silica (quartz) results were below the detection limit for the analytical technique applied and volume of the air filtered for each sample."

Fairness, the second value listed, has certainly not been considered. The APCD and former APCO have not been impartial and honest with whom they interact. The APCD & former APCO worked together to create a false narrative, using that narrative to influence California State Parks, Air Research Board and the California Coastal Commission to further close areas of the ODSVRA for studies and permanent closure. As pointed out by Friends of Oceano Dune, the APCD & former APCO further misled the State of California, other agencies and the public regarding a claim in the Phase II study which incorrectly concluded that "The airborne particulate matter predominantly impacting the region on high episode days does not originate from an offshore source."

Consistency is the third value that should be governing the APCD's decisions and actions. Regulations as they relate to the Oceano Dunes SVRA are clearly NOT being enacted based on sound science and applied evenly to all affected sources. If science guided the process, the nuisance issue would already be laid to rest based on the recent scientific findings published in the State Parks report in December 2017 and the APCD's own studies from last year. Silica levels are negligible at best.

Science is defined as, "the intellectual and practical activity encompassing the systematic study of the structure and behavior of the physical and natural world through observation and experiment." Science is accumulated. If science were the guiding principal for the [Proposed Draft Stipulated Abatement Order](#) and Petition Number 17-01, the Hearing Board would call for FAR more scientific studies related to other factors than OHV activity. A study was released just last week on March 14, "Marine Contributions to Aerosol Particulates in a Coastal Environment" that points to another phenomenon (a fact or situation that is observed to exist or happen, especially one whose cause or explanation is in question) in the dust question.

The California Geological Survey states, "The findings from this work have bearing on the ongoing efforts to mitigate airborne PM10 detected in Nipomo Mesa (Mesa), which is approximately two miles downwind from Oceano Dunes. Studies, modeling and mitigation efforts have been solely focused on the OHV riding area of the Oceano Dunes. This is simply not good science. Not just science, but common sense tells us that the scope must be expanded beyond the OHV park, where no crystalline silica has been detected. Other significant sources of PM-10 have clearly been identified and must be the subject of further study. The Hearing Board is charged with acting at the time of an air pollution emergency resulting from an upset or breakdown. Studies have proven there is no air pollution emergency related to the OHV park. Regardless, the Hearing Board cannot act properly when scientific discovery is still being made.

I understand that Federal and state laws require that APCD achieve clean air standards to protect public health. However, the APCD has made it clear that before it makes decisions that affect local residents and businesses, APCD must consider ideas and comments from the public. The Oceano Dunes SVRA contributes millions of dollars to our local economy. Any decision that adversely affects this park and the recreational activity as it exists today will absolutely affect local residents and businesses. The APCD has an obligation to conduct far more scientific research on the dust emissions before making a knee-jerk reaction that will affect local residences.

It is also important to identify the major issues with the [Proposed Draft Stipulated Abatement Order](#) that will effectively change recreation as we know it within the Oceano Dunes SVRA over the next 5 years. This gradual change that will result in an annual multi-million-dollar loss for our community, affecting local residents and businesses.

Pg. 2 "WHEREAS, State Parks also agrees to: c. Conduct an education campaign for the purposes of making the public aware of the air quality issues and how they can be a part of the solution" – To date there have been zero studies showing the true source of the air quality issue. It would be impossible to educate the public on how they can be a part of the solution if science has still not shown us what the actual problem is.

Pg. 3 "From May 29, 2012 through October 19, 2017, the District has received one hundred thirty-three (133) complaints from residents downwind of the ODSVRA regarding dust from off-road vehicle activity. Complainants state the level of particulate (dust) is unhealthy, creating an injurious environment and impacting their ability to go outdoors and enjoy their homes or property, or participate in outdoor activities in their neighborhoods. Complainants further state they associate difficulty breathing, respiratory issues, exacerbation of pre-existing conditions such as asthma and COPD, watery and stinging eyes, and other adverse effects associated with particulate matter." – Complainants are not claiming the dust is the cause of the issue. Complainants are claiming the respirable crystalline silica is unhealthy. There will always be dust emission with or without OHV activity. State Parks' and the APCD's recent studies clearly show the levels of respirable crystalline silica to be at level so minuscule that it was, "below the detection limit for the analytical technique applied." The analytical results indicated, "NONE OF THE SAMPLES OBTAINED EXCEEDED THE CURRENT OCCUPATIONAL HEALTH STANDARD FOR TOTAL DUST, RESPIRABLE DUST OR QUARTZ." Language such as "dust from off-road vehicle activity" is not only incorrect, it is irresponsible when no such evidence exists that off-road vehicle activity is the source of the issue. The Woodlands development, AKA Trilogy, is only in phase one of the overall project. Phase 2 is beginning development. The 133 complaints received by the APCD were from residents living in this unfinished development. The project EIR clearly states that tree removal and construction will make air quality significantly worse during project build-out. The source of emissions on the Mesa during this on-going development activity, that has been clearly identified as a significant source of air quality pollution, must be accounted for.

Pg. 4 "7. Numerous scientific studies and analyses conducted by APCD, State Parks, and CARB have documented emissions from the ODSVRA off-road vehicle riding areas upwind of the Nipomo Mesa as the main source of particulate matter causing the dust and air pollution that is the subject of the complaints received, and the associated nuisance and public health risks and impacts that are the subject of this proceeding. Those studies show the LeGrande tract, where most of the camping and a large portion of the riding activity occurs, contains some of the most emissive areas in the ODSVRA and is a highly significant contributor to the particulate emissions impacting downwind residents. Like everywhere else in the county, the Nipomo Mesa is also impacted by other natural and manmade sources of particulate emissions and those sources will always have some contribution to particulate concentrations. APCD, OHMVR and CARB will continue to refine all source contributions of emissions affecting the Nipomo Mesa."- Scientific studies may have documented emissions, but there is NO CLEAR EVIDENCE of the source(s) of these emissions other than the natural geologic process of dune formation, which we know has occurred for tens of thousands of years. Assigning blame to OHV activity is a presumption based on a lack of scientific evidence. Due to the disingenuousness of the CDF monitor location to actual receptors, possibly a mean or median measurement of the three monitors can be used. At least the APCD should agree to take a holistic look at their monitoring sites. The agreement calls out the fact that other sources are causing emissions. SLO APCD has a responsibility to study the level of emissions contributed by the other, "natural and manmade sources of particulate emissions" before entering into this agreement. This is a finger point without looking at the full scientific picture. What about the agricultural fields 1,000 feet from the Mesa residents' doorsteps? OSHA identifies agricultural operations as one of the number one causes of respirable crystalline silica. What portion of the emissions is the oil refinery just 4 miles away from Trilogy responsible for? What about the outfalls at Diablo Canyon Nuclear Power Plant? What about the natural break down of sand through waves? It is irresponsible to blame and focus solely on OHV activity without scientific evidence clearly identifying all-contributing sources and their respective contributions. If there was truly a health issue to be concerned about, why did the Air Control District's Air Pollution Control Officer give the go ahead to the Board of Supervisors to approve the Monarch Dunes subdivision on the Mesa? Why did the final phase to build 163 new homes gain approval on March 6th if the APCO and the Board of Supervisors truly believe the park is a "nuisance" potentially threatening the health of future residents? The issue of dust was not even brought up as a concern. The matter of contention was water usage because Nipomo is in a drought. A drought that has caused many people in Nipomo to allow their acreage to become dry and DUSTY as it is on a sand dune.

Pg. 5 "11. There are benefits to the community of issuing a prompt enforceable order in lieu of a prolonged hearing that will involve litigation of complex issues and numerous potential defenses." – There are benefits to the community and the ENTIRE STATE OF CALIFORNIA and the MILLIONS of people that visit this park each year to AVOID this prompt enforceable order. Both agencies, State Parks and the APCD, have a responsibility to the local community that has become dependent on the millions of dollars generated by the park.

Pg. 6 "9. Require Respondent, by November 21, 2023, to obtain APCO approval for a final PMP designed, with input from CARB, APCD and the Special Master to achieve state and federal air quality standards or satisfy the Hearing Board that dust levels have been sufficiently reduced." – This is unattainable. Scientific evidence does not exist showing any other coastline not NATURALLY vegetated that does not exceed federal air quality standards. These types of places do not even measure air quality because they understand that dune environments will violate state (and likely federal) air quality standards on a regular basis. This is unachievable goal, especially considering there is no proof that OHV activity is the true source of the issue. This will ELIMINATE ANY OHV OR CAMPING ACTIVITY within the park. This stipulation is a higher level of compliance than Dust Rule 1001.

The APCD promises on the organization's own website that, "The public is very much a part of the Board meeting. Public workshops held weeks before the Board meeting give individuals the opportunity to learn about proposed rules and major policies." The orders listed in the Proposed Draft Stipulated Abatement Order will greatly effect local residences and the local economy. Public workshops must be held before enacting the unattainable orders called for in the Proposed Draft Stipulated Abatement, especially without any real scientific evidence to justify these actions.

Links to all cited studies:

http://oceanodunes.org/.../stor.../docs/20180314_APCD_Letter.pdf

http://ohv.parks.ca.gov/pages/25010/files/Oceano_Dunes_SVRA_Scripps_Investigation_Planktonic_Aerosolized_Partacula.pdf

http://ohv.parks.ca.gov/pages/25010/files/Determination_of_Airborne_Crystalline%20Silica_Quartz_Exposure_ODSVRA_12-14-2017.pdf

Sincerely,

Lyndi Love-Haning

Concerned Citizen

San Luis Obispo County Homeowner

Nipomo Mesa Resident