

WRITTEN COMMENTS FOR SAN LUIS OBISPO AIR POLLUTION CONTROL DISTRICT HEARING BOARD MEETING – MARCH 24, 2021

Dear Hearing Board Members, APCD Staff, State Parks, and SAG Members,

Comments for your consideration:

1. Please remember that the Stipulated Order of Abatement (and its 2019 amendment) (together the “SOA”) have been STIPULATED TO by the parties. The parties, the SAG, and the Hearing Board all have an obligation to take the steps necessary to ensure timely fulfillment of the terms, provisions, and achievement goals of the SOA.
2. Also please remember that the stated performance and achievement goal in the SOA is not merely hitting (or modifying) an initial target. Rather, it is clearly stated to be: attainment of federal and state standards for PM10 within the term of the SOA (i.e., by December 1, 2023).
3. Based on the action taken by the California Coastal Commission on March 18, 2021 approving OHV-related amendments to State Parks’ existing Coastal Development Plan 4-82-300, there is NO, repeat NO, reason the performance and achievement goal of the SOA cannot be met within the term of the SOA.
4. As was made clear during the Coastal Commission meeting on March 18, 2021, the “SVRA” designation applies to lands owned by State Parks. It does not apply to any land State Parks does not own, or for which State Parks does not have an operating agreement or lease. As was also made clear – once again -- during the Coastal Commission meeting, SLO County owns nearly all land within the La Grande Tract area and, according to the County, State Parks does not currently have an operating agreement, a lease, or any other form of County-recognized permission to occupy the more than 500 acres owned by the County. Therefore, there should be no hesitation about limiting or prohibiting OHV use within the portion of the La Grande Tract area owned by the County if/as needed for State Parks to timely reach the performance and achievement goal of the SOA.
5. Given certain statements made by State Parks in its pre-hearing submission to the Coastal Commission about State Parks’ view of the advisory role of the Scientific Advisory Group (SAG), you should insist on receiving from State Parks, the APCO and the SAG confirmation that the advisory role and responsibilities of the SAG are as described in the terms and provisions of the SOA itself. The SAG’s role is not, as State Parks appears to suggest, to advise and be accountable to State Parks alone.

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6. One would think this should be obvious (and maybe not needed after March 18), but please have the APCO, the SAG, and State Parks affirm that they do not have jurisdiction over application, interpretation, or enforcement of the Coastal Act. They do not have the authority to determine whether there is some “acceptable” level of OHV activity at the ODSVRA that conforms to the Coastal Act and Local Coastal Plans.
7. Given that State Parks has yet to demonstrate through either measurement or modeling that it is “on target” to meet the goals of the SOA in a timely manner, you should insist on an explanation from the APCO and SAG as to why only 90 acres of “temporary” mitigation measures (only 64 acres of which are in riding area) were found acceptable for the 2020-2021 Work Plan.
8. With more than two years to the SOA’s current finish line, the last thing your Hearing Board should want to do is compromise or jeopardize the validity of actions taken relating to the SOA. And your interpretation of what constitutes “action” may be just that: your interpretation only. Please be very, very careful as long as property owned by Phillips 66 is being considered for any or all of the following by State Parks (a party to the SOA): (a) potential acquisition and development in ways that could affect air quality; (b) study of the site by State Parks or the SAG as a potential source of PM10 pollution, or (c) a potential means of access from Highway 101 to the State-owned lands in the current SVRA. Your Hearing Board has already been put on notice by Friends of Oceano Dunes that the qualifications and eligibility of Hearing Board members will be scrutinized to the “nth” degree. Please err on the side of prudence and caution.

Thank you.

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