

Alyssa Roslan

From: Michael C. Normoyle <m.normoyle@mcnlegal.com>
Sent: Monday, October 9, 2023 12:02 PM
To: Alyssa Roslan
Subject: [EXT]October 13, 2023 SLO APCD Hearing Board Meeting

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Hearing Board members and Mr. Willey,

At the upcoming (October 13, 2023) meeting to consider the most recent Annual Report and Work Plan, I'm hoping (and requesting) that the following issues connected with the October 18, 2022 Order to Modify Existing Stipulated Order of Abatement (the Modified Order) be addressed by Mr. Willey or members of his staff. If answers are not furnished voluntarily, I urge Hearing Board members to insist that answers be provided.

1. According to Section 3(b) of the Modified Order, work plans "SHALL BE (emphasis added) designed to eliminate emissions in excess of naturally occurring emissions from the ODSVRA that contribute to downwind violations of the state and federal PM10 air quality standards." In terms that would have meaning for Air Quality Dummies (meaning most of us), it would be helpful to have someone identify, with specificity: (1) the sources of "naturally occurring" emissions from the ODSVRA that contribute to the downwind violations of the state and federal PM10 air quality standards, and (2) the sources of "non-naturally occurring" emissions from the ODSVRA that contribute to downwind violations of the state and federal PM air quality standards.

2. Sticking with Section 3(b): If "the plan" shall be designed to eliminate emissions IN EXCESS OF NATRUALLY OCCURRING EMISSIONS FROM THE ODSVRA that contribute to downwind violations of the state and federal PM10 air quality standards," doesn't logic and common sense suggest that the only way to achieve the standard as stated would be to eliminate emissions from sources identified as not naturally occurring?

3. Still sticking with Section 3(b): Isn't there an irreconcilable internal inconsistency here? In other words, having the Hearing Board approve a "final excess emissions goal" should not be necessary once naturally occurring emissions from the ODSVRA contributing to downwind violations..... have been quantified. Anything in excess of naturally occurring emissions would be allowing emissions from non-naturally occurring sources – the very thing the plan must be designed to eliminate.

4. The words "shall initially reduce..." appear in the first line of Section 3(c) of the Modified Order, but there's no "by when" date or timeframe supplied.. When is that initial reduction to occur? Has the required "determination by air quality monitoring carried out by the California Air Quality Board (CARB) or other modeling subject to the review of the SAG" occurred yet?

5. Regarding Section 3(d) of the Modified Order, can it be assumed that no emissions reduction modification as referenced in that section has yet occurred, since any such modification would be subject to Hearing Board approval and none is being asked for currently?

6. In the twelve (12) months since the Modified Order was approved by the Hearing Board, has Respondent (State Parks, OHMVR Division) been invoiced by, and reimbursed, the District, consistent with the terms of Section 8?

While it is disheartening that no new mitigation measures are being suggested in the 2023 work plan – largely because it appears that modeling rather than measuring is now driving the SOA bus – there does appear to be widespread consensus that "progress" is being made. That said, it needs to be remembered that: (1) the parties

essentially stipulated five (5) years ago to the existence of a health-related public nuisance; (2) the parties stipulated that they would rather address and resolve the nuisance issue than litigate it; (3) the parties stipulated to the achievement of a clearly articulated and agreed performance goal by the end of 2023, and (4) “making incremental progress” was never intended to become a substitute for what the parties agreed to actually make happen to achieve abatement.

Do you, the members of the Hearing Board, have a crystal-clear picture of what must be achieved by the end of 2025 – and how you will know that the nuisance has been ABATED? If not, please, for the sake of all whose health continues to be adversely impacted, be sure you do.

Thanks for your service in requiring timely compliance with orders you issue, in the name of protecting and improving air quality and public health,

Michael Normoyle
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