

October 14, 2021

To: The San Luis Obispo County APCD Hearing Board

Re: Compliance with SOA Requirements (10-14-21 SOA Progress Report, ARWP Review, and Workshop)

Hearing Board Members and APCO Willey:

Approaching three and a half years since the Hearing Board's issuance of the Stipulated Order of Abatement in May 2018, I offer the following points for your consideration in connection with this year's Annual Report and Work Plan ("ARWP"):

1. A fact and science-based, irrefutable correlation has been established among certain mitigation measures (especially permanent vegetation/re-vegetation in emissive areas), decreased OHV activity, and better air quality results. However, dust pollution associated with emissive areas continues, natural background PM10 levels have not been achieved, and exceedances of state standards persist.
2. With each successive Annual Report and Work Plan (ARWP), State Parks offers less than more on the mitigation/vegetation front, and – despite the decision of the Coastal Commission in March 2021 – less than more on the OHV activity reduction front. Achieving full and timely compliance with SOA performance requirements has not been shown to be mission critical for State Parks.
3. The iterative, adaptive management process built into the SOA is working to a degree, but too slowly and too conservatively. Blind adherence to process should not become an end unto itself. The SAG can be credited with advancing the science, enhancing monitoring, and collecting and analyzing data in pursuit of better understanding both the problem and best solutions. But there must be a sufficient and timely commitment to mitigation activity, and there must be sufficient time for that commitment to yield results. Insufficient planning yielding insufficient progress is not the same as taking all measures necessary to achieve the agreed mission on time.
4. While progress has been made toward achievement of SOA performance requirements, the reported "rate of progress" – including measures offered in the current draft work plan – is clearly adequate for the timely achievement of stipulated SOA and PMRP performance goals.

5. Unless and until a request is submitted -- and the Hearing Board is convinced the SOA should be amended and/or extended -- the parties who stipulated must comply with what they stipulated to achieve. And, by the clear terms of the SOA, it's ultimately up to the APCO in the first instance -- not the SAG or any other person or group -- to make certain that happens. Waiting until the fall of 2022 to be caught flat-footed just won't cut it.
6. At a minimum, the APCO needs to add further conditions before approving the work plan for 2021-2022. Namely, require by spring 2022 installation of permanent mitigation measures -- in the most emissive areas -- involving at least 90 *additional* acres of the approximately 190 additional acres DRI's latest sensitivity analysis modeling estimates will be needed to achieve even the SOA's interim "target" goal of 50% emissions reduction.
7. If additional mitigation requirements are not added to the 2021-2022 ARWP before it is approved, the Hearing Board should be prepared to utilize its oversight authority and responsibility under Paragraph 12 of the modified SOA to convene a hearing to (a) further consider the progress State Parks is making -- or not making -- toward achieving SOA performance requirements, and (b) consider modifying the APCO's actions to ensure full and timely compliance with what the Hearing Board ordered and State Parks agreed to in 2018.

The SOA should be viewed, treated, and enforced for what it is: a Guaranteed Environmental Performance Contract. Considering the updated sensitivity analysis described at Section 3.2.3 of the ARWP and depicted in Attachment 18 (DRI Estimate of Additional Treatment Area to Reach the Stipulated Order of Abatement 50% Goal), who's going to step forward and guarantee mission accomplishment by Dec. 1, 2023?

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