

BOARD OF SUPERVISORS

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BRUCE GIBSON
SUPERVISOR DISTRICT TWO

June 20, 2015

John Parrish, State Geologist
California Geological Survey
801 K Street, MS 12-30
Sacramento, CA 95814

RE: Public comments by Will Harris, California Geological Survey (CGS), on June 17, 2015

Dear Dr. Parrish:

I write to register my objections to public comments made by Will Harris of CGS at the June 17, 2015 Board meeting of the San Luis Obispo County Air Pollution Control District (APCD).

In comments regarding APCD's efforts to control dust pollution coming from the Oceano Dunes State Vehicular Recreation Area (ODSVRA), Mr. Harris disparaged the integrity of the District's technical efforts and the competence of its Air Pollution Control Officer, Larry Allen. In addition he improperly advised the APCD Board of his personally-preferred regulatory approach, and in the process, contradicted an agreement between the APCD and the State Department of Parks and Recreation (DPR). A transcript of his comments is attached for your reference.

As I'm sure you're aware, it is the APCD's mission to protect the public's health through the regulation and reduction of air pollution. For many years, areas downwind of the riding area of the ODSVRA have seen measured levels of airborne particulate matter (PM10 and PM2.5) pollution that regularly exceed state and federal standards – exceedances of the state standards typically occur 60-70 times per year. Measurements downwind of non-riding areas show far fewer exceedances.

Technical studies in 2007 (Phase 1), 2010 (Phase 2) and subsequently have confirmed that open sand sheets are the major source of particulate matter pollution in the area and that the riding areas of the ODSVRA emit far greater amounts of particulates than non-riding areas. Importantly, the Phase 2 study was peer-reviewed by noted experts in airborne particulate pollution, who confirmed the findings. Copies of relevant studies are available on the APCD web site, www.slocleanair.org.

In response, in November 2011, APCD adopted Rule 1001, that requires DPR to put measures in place to reduce dust pollution levels to natural background levels. Rule 1001 clearly states that the background dust pollution levels are to be measured at a control monitoring station downwind of non-riding areas. The performance measures of Rule 1001 require dust levels at a monitoring site downwind of the riding area to be less than 120% of the control site levels.

Given this background, I take considerable exception to Mr. Harris's comment that background levels are "unknown" and that therefore Rule 1001 is "pointless." His further comments regarding historical vegetation patterns and sand movements are diversionary and irrelevant.

Since its 2011 adoption, progress toward gaining DPR's compliance with Rule 1001 has been slow, due to technical disagreement, general public controversy and litigation. Recently, however, DPR and APCD have been making progress under the auspices of a Consent Decree Agreement. This legal instrument, facilitated by the California Air Resources Board, provides a means of reaching compliance with Rule 1001 and includes a structured dispute resolution process.

Mr. Harris's comments regarding this agreement (the "status quo" to him) and speculation regarding potential future litigation are highly inappropriate. DPR has embraced the Consent Agreement as "collaborative", "cooperative", and "workable." That he should contradict DPR's position by advocating some other arrangement (specifically, an MOU, which lacks necessary enforcement authority) seems unacceptable for his role as technical advisor.

Finally, while not explicit in his June 17 comments, I believe Mr. Harris's personal biases have affected his technical advice to DPR, and thus delayed the protection of the public's health. Mr. Harris has consistently sought to discredit the Phase 2 study in particular, posing specious arguments and hypotheses in an effort to undermine the conclusion that off-road vehicles have a role in this serious pollution problem. His arguments have been consistently rebutted by experts.

A full analysis of our technical disagreements on the Phase 2 Study would require more space than this letter allows. I would be happy to discuss this further if you'd like, but let me observe that 1) the fundamentally-important Phase 2 study conclusions were peer-reviewed by air pollution experts; 2) while Mr. Harris is a geologist, he is not to my knowledge an expert in particulate matter pollution, and 3) while I am not an air pollution expert either, I do hold an undergraduate degree in physics and doctorate in geophysics, which I have used in a careful reading of the technical issues.

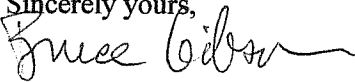
The conflict of Mr. Harris's personal and professional roles is evident in the latter part of the transcript. Mr. Harris identifies himself as a CGS employee, and proceeds to make aggressive personal comments, on state time, without the authorization of CGS or DPR.

In conclusion, I believe Mr. Harris owes the APCD and its APCO Larry Allen an apology for his grossly inappropriate commentary. I would also urge you to review Mr. Harris's role in advising DPR to ensure that the public's interest and health are protected.

As you know, I have worked with other staff members of CGS on technical matters of great importance to public policy and have the highest regard for their technical expertise and demeanor. I regret having to bring this matter to your attention and hope for productive future relations.

If you have any questions or need further information, please don't hesitate to contact me.

Sincerely yours,



BRUCE GIBSON
Supervisor, District 2
San Luis Obispo

Cc:

Adam Hill, Chair, APCD
Larry Allen, APCO

Attachment included – Transcript of APCD meeting June 17, 2015

June 17, 2015 SLO County APCD Board Meeting

Video can be seen at:

http://slocounty.granicus.com/MediaPlayer.php?view_id=7&clip_id=2083

3:04:41 Mr. Will Harris starts his public comment on Item C-3:

"Hello I'm Will Harris with the California Geological Survey. In the continued hearing on Rule 1001 document Larry Allen submitted to the Board for this meeting, Mr. Allen states "the intent and design" of the rule is to reduce dust to "natural background levels." The trouble is those levels are unknown and so a rule that seeks to achieve an unknown is pointless. But what is of greater concern is that the APCD has never attempted to find out what the "natural background levels" are of dust generated from saltation. If they did, they would actually discover that dust levels from dune saltation were much greater in the past than they are now. That's because Parks began planting native vegetation in the dunes in 1982; the year it took over management of Oceano Dunes Park. And as a result much more vegetation covers the dunes now than ever before. A comparison of 1930's aerial imagery confirms this. More vegetation means less open sand exposed to the winds, and consequently less saltation of sand. Less now than there ever was in the past. The past and present dune vegetation differences were pointed out to the APCD and to this Board beginning in November 2011. But the net dust reducing benefit from the increased dune vegetation coverage has never been acknowledged by the APCD or the Board. And Mr. Allen continues to advocate for confounding mandate to reduce dust levels to "natural background levels" that were actually higher in the past than they are now. Small wonder this Catch-22 construct of a rule has generated so much litigation. Considering this if I was a Board member, moving forward, I would want 1. To end litigation related to the Rule. The Rule and consent decree are invalid in the eyes of the court. If status quo reigns and the Rule consent decree remain in place, than action taken under the Rule such as a fine or a mandate to cover over sand with wind fencing or a surface treatment known as soil cement, we see APCD has advocated for, those mandates could easily be challenged and successfully challenged in court. This makes it clear that the status quo only ensures continued litigation. Additionally a significant amount of money and staff resources and time have gone towards monitoring of ride and non-ride portions of the dunes. This monitoring is set up as a mechanism to fine State Parks for any perceived "violation per the Rule," whether then devoting so much money and resources to punitive aspects of the Rule which again can easily be challenged in court, I would rather see those resources devoted to best management practices identified in a new MOU and 3. I would want to see collaboration rather than confrontation. State Parks has entered into successful and citeful MOU's with air districts from Monterey Bay and Imperial County. I would hope this County could achieve a much more positive relationship with State Parks."

Mr. Adam Hill, Chair "Mr. Harris can I ask on whose behalf are you speaking?"

Mr. Harris "I'm speaking on behalf of myself."

Mr. Hill "and who employs you?"

Mr. Harris "California State Geological Survey."

Mr. Hill "Who asked you to come here today?"

Mr. Harris "Why would you ask?"

Mr. Hill "Seems like a reasonable question if you are before this Board on behalf of the Geological Survey."

Mr. Harris "Because I have advocated for a position based on my professional evaluation of the Rule, based on my professional experience in the Dunes since 2008 working with State Parks, I felt my point is valid to give to the Board and I think you should hear it unvarnished."

Mr. Hill "So you were not asked to make this statement today by anyone?"

Mr. Harris "That's correct."

Mr. Hill "and did not clear this with anyone at the Geological Survey? You're on your own time?"

Mr. Harris "I'm not here on my own time. I'm here on State time."

Mr. Hill "you are here on State time?"

Mr. Bruce Gibson, Board Member "advocating on your own behalf? Continuing to attempt to undermine the science Mr. Harris, this is appalling frankly."

Mr. Hill "that's it, thank you."

Mr. Harris "thank you very much for your consideration to my comments."

3:09:00 Mr. Harris leaves the podium

3:20:53 While Board members and Counsel are discussing Board Members' Items, Mr. Harris starts walking back up to the podium.

Mr. Hill "I'm not going to give you a microphone Mr. Harris if you're coming."

Mr. Harris "I just wanted to let the Board know that the words I spoke were my own. I am not an advocate of anybody other than (unintelligible)."

Mr. Hill "Mister you are out of order. Mr. Harris you are not given permission to speak. You are out of order, perhaps somebody will talk to your bosses in Sacramento about your appearance here today."