

From: Kaufman - CDPHE, Garrison
To: [Hunsaker Ryan - CDPHE, Jill](#)
Subject: Re: Air Quality Correspondence
Date: Saturday, February 2, 2019 6:15:40 PM

That sounds good Jill. I'll probably bring Dena Wojtach to next week's meeting as well. Dena is currently managing our planning program, which develops regulations for consideration by the AQCC. She'll have a lot of ideas about potential ozone strategies. Let me know if there is any information you'd need for either our meeting or the cabinet retreat.
Garry

On Sat, Feb 2, 2019 at 10:46 AM Hunsaker Ryan - CDPHE, Jill
<jill.hunsakerryan@state.co.us> wrote:

Hi Garry,

I have the cabinet retreat next Friday to begin working on SMART goals. Amy is going to set up a time for us to meet next week to discuss the goals of GHG emissions and ozone. I have invited Zach, Will Toor and Taryn Finnesey as well. You can bring any staff you would like. I told her you would probably want Mark McMillan so to look at his schedule at well. After next week, we can catch up on CC4CA and any issues I missed last week. I can't imagine the governor's office would want us to have all the answers by the retreat, but this meeting can help get us started.

Thank you,
Jill

Jill Hunsaker Ryan, MPH
Executive Director
Colorado Department of Public Health & Environment

On Thu, Jan 31, 2019 at 7:07 AM Kaufman - CDPHE, Garrison
<garrison.kaufman@state.co.us> wrote:

Hi Jill,

No problem whatsoever on the schedule. I think it would be good to get another meeting set to talk through the remaining issues on the list from yesterday as well as go through the other issues identified by CC4CA. Also I'd be very interested in hearing your thoughts on climate change and discussing how the Air Division can be most productive in helping advance a new Colorado climate strategy. Lots to do! Do you want me to work with Amy on setting up a time?

Garry

On Wed, Jan 30, 2019 at 11:13 PM Hunsaker Ryan - CDPHE, Jill
<jill.hunsakerryan@state.co.us> wrote:

Hi Garry,

I am so sorry I had to leave today. My calendar reflected a 4pm adjournment time. Do you think we should all meet again within the next couple of weeks and continue our

discussion? I don't know how far you were able to get with Zach but he is welcome to come too. Maybe we can strategize too about messaging around the upcoming health assessment results.

Thank you,

Jill

Jill Hunsaker Ryan, MPH

Executive Director

Colorado Department of Public Health & Environment

On Tue, Jan 29, 2019 at 4:47 AM Kaufman - CDPHE, Garrison

<garrison.kaufman@state.co.us> wrote:

Thanks Jill. I appreciate the comments and your support. A number of these issues are on the agenda for our meeting on Wednesday afternoon. Some of these will be easier to tackle than others, but they all merit our attention. I can give you a lot more specifics when we meet. Garry.

On Mon, Jan 28, 2019 at 11:34 PM Hunsaker Ryan - CDPHE, Jill

<jill.hunsakerryan@state.co.us> wrote:

Hi Garry,

I am really looking forward to working with you. You know that GHG emissions and ozone are going to be priorities of this administration. I want to assure you that you have a partner in me in going after the resources you will need to tackle these big issues. I know we are meeting soon and I look forward to it. The following is from my friends at CC4CA. Can you assess these and weave them into our upcoming discussions about what is do-able, if you had the resources? I look forward to hearing your ideas too. Martha told me you had some efficient ideas for cutting GHG's.

Thank you,

Jill

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Hi Jill -

I've asked around among some of the air quality folks I know for ideas about very specific things CDPHE could

do now that would make a meaningful difference. I can't speak to the relative merits of these suggestions, and they are in no particular order. I'm using the language provided to me, and since I don't know much about most of them I'm not in a position to endorse their characterizations or recommendations, but I can say that the folks I talked with are smart and competent, so I'm guessing that all of these suggestions are worth consideration at least. Also, some of these are at least partially redundant. I tried to put those together.

“Withdraw CDPHEs' request for an extension of the attainment date for the Denver Metro-North Front Range ozone nonattainment area. CDPHE submitted this request to avoid more rigorous air quality regulation under the Clean Air Act. CDPHE should withdraw it and publicly commit to cleaning up the region's ozone pollution problem within three years. More background is here: <https://wildearthguardians.org/press-releases/guardians-calls-on-colorado-governor-to-back-off-delay-of-denver-smog-cleanup/>.”

“Let the Clean Air Act run its course for the Denver-Metro/North Front Range 2008 ozone national ambient air quality standard (NAAQS) nonattainment area. Currently, the area is rated as a moderate nonattainment area. However, the 2018 ambient monitoring data clearly shows that the area failed to attain the 2008 ozone NAAQS by its moderate attainment date. Therefore, we should get bumped up to a serious area. Getting bumped up to a serious area will decrease the major source threshold so sources that are greater than 50 tons per year will have to get a major source permit including offsets. Offsets means that if you are going to emit 60 tons, you have to get someone else to reduce their emissions by more than 60 tons. That makes sense because if the air is already unsafe to breathe, the last thing one should be doing is adding more pollution to the area. In order to have a bump up, CDPHE should: a) Certify the 2018 monitoring data. Technically, the certification isn't due until May 1 but there is no sense in waiting. Other states certify their data early all the time. b) Withdraw Colorado's request to US EPA for a 1 year extension of the attainment date. Colorado submitted the request before we had the 2018 data so there was hope that we would come into attainment. However, that didn't work out. With the 2018 ozone monitoring data in hand, we know that the 1 year extension will only delay by one year life saving measures to reduce ozone pollution. There is no sense in making the people of Colorado suffer an extra year of ozone pollution. c) Stop work on the 179B excuse provision. 179B was meant to help out places like Nogales, AZ, which gets a tremendous amount of pollution from Mexico. 179B says that if pollution from another country is the "but for" cause of a place in the U.S.'s violation of the NAAQS, they are excused from trying to fix the problem. Certain forces have been trying to urge Colorado to blame China and other countries for our ozone problem. However, 179B does not provide a mechanism to get actual pollution reductions from those foreign countries. We can, and must solve our own ozone problem (although we can get help from other states as discussed below).

“Begin work on the next round of the Regional Haze SIP. Regional Haze SIPs need to reduce the amount of haze in our national parks and wilderness areas on ten year cycles. It is time to start the second ten year cycle. The APCD should hire outside experts to help with designing and justify the second ten year cycle Regional Haze SIP. This should require all coal burning power plants and cement kilns to have at least 20th century pollution control technologies like selective catalytic reduction (SCR) and wet scrubbers or have an enforceable closure date. It is not good enough to have these control technologies, however. The Regional Haze SIP must ensure that these control technologies are used by setting short term (no more than 24-hour averaging time) emission limits because Regional Haze is a short term problem.”

“Increase the permitting and annual fees for polluters. Last year, the legislature authorized the Commission to increase fees slightly. The fees go to pay CDPHE employees who write permits and do inspections. However, the legislature said we would need to increase fees more. We should do that. A bold, smart move would be to include carbon dioxide as one of the pollutants for which regulated entities have to pay a fee on. This would take another piece of legislation but last year's legislation explicitly encouraged another increase in the fees, although it did not explicitly say the increase should come from including carbon dioxide. An increase in these fees would allow the APCD to catch up on its illegal backlog of issuing Title V air pollution permits. It would also allow the APCD to do a better analysis on the aggregation issue of the 10,000 or so oil and gas facilities in Colorado.”

“Impose a moratorium on the granting of new air pollution construction permits for oil and gas facilities until CDPHE develops and implements an offset program that reduces overall VOC emissions from the oil and gas sector such that the ozone standards are met within 3 years.”

“Increase enforcement. CDPHE does almost no actual enforcement actions. They talk to violators but if the violators do not agree to fix the problem, CDPHE tends to just drop it. There needs to be at least some credible enforcement actions to balance the playing field for the majority of regulated entities which do comply with applicable requirements.”

“Direct the Air Pollution Control Division to start taking meaningful enforcement action over violations by filing cases in state court. Currently, every single enforcement case is administrative and nature and leads to backroom deals between industry and regulators. Effectively, enforcement has been turned into regulation. This has created an environment where there are no deterrents. The oil and gas industry, for example, regularly violates and constitutes a large portion of the state's enforcement load. The state's enforcement actions are not creating a culture of compliance, but rather cementing in place a ‘pay to pollute’ environment.”

“Direct the coal mining industry to immediately start measuring and reporting VOC emissions related to their methane releases. Under Gov. Hickenlooper, the coal industry managed to convince the state to turn a blind eye to this major problem. Gov. Polis has a chance to make it right. If methane and VOCs are an issue for oil and gas, then the coal industry should not get a free pass. More info here: <https://news.bloombergenvironment.com/environment-and-energy/arch-coals-emissions-unenforced-as-colorado-cites-uncertainty>.”

“Ensure that Colorado Springs Utilities' coal ash dump, which is called Clear Spring Ranch, is not leaking into Fountain Creek and groundwater. Testing has shown that this coal ash dump is leaking. However, the monitoring program is flawed. One of the upgradient test wells is in a different aquifer than the downgradient wells. This is a clear violation of the coal ash regulations under RCRA. CDPHE should make CSU install a new upgradient well in the same aquifer as the downgradient wells. CSU should also be required to install test wells downgradient of its groundwater dam. CSU claims the groundwater dam would catch anything leaking out of the coal ash dump. However, we don't have data to know if this is true and cannot get the data without test wells downgradient of the dam.”

“Require coal mines to get Title V and PSD permits for their VOC emissions. The APCD has claimed that the pipes which vent coal mines are not point sources. This is not a defensible position. CDPHE should give up this position and start regulating these VOC emissions.”

“Issue Clean Water Act NPDES permits to issue the effluent limitations guidelines for coal fired power plants, to the extend that this hasn't happened already.”

“Fix the acid deposition problem in Rocky Mountain National Park. The APCD has acknowledged that it has failed to meet the acid deposition reduction goals for Rocky. APCD, along with the National Park Service, should work to come up with a new plan, which includes enforceable emission limits which brings acid deposition to levels in Rocky that the plants and animals can live with.”

“Require CDPHE to start granting fee waivers for CORA requests from entities that qualify. Currently, CDPHE has a blanket policy of denying all fee waiver requests, without question. This put an inordinate burden on public interest health and environmental organizations, particularly those with little to no budgets.”

Jill Hunsaker Ryan, MPH

Executive Director

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Garry Kaufman

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Are you curious about ground-level ozone in Colorado? Visit our [ozone webpage](#) to learn more.

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