From: lallen@co.slo.ca.us
To: Jordan, Deborah
Cc: Drake, Kerry; Zimpfer, Amy; Adams, Elizabeth
Subject: Request for EPA opinion on MOA vs Rule to acheive attainment
Date: Wednesday, May 27, 2015 6:31:49 PM

Hi Debbie,

I hope all is well with you. I realize you're about to leave for your D.C. assignment, so I've cc'd your executive team on this in the hopes that one of you can provide a response to my request.

At our Board hearing today, we asked the Board to amend Rule 1001 (the Oceano Dunes Dust Rule) to remove the permit requirement to comply with the recent Court of Appeals opinion that the facility is not a contrivance and therefore cannot be required to obtain an air permit. Yesterday at 3:00 pm, Friends of the Oceano Dunes, who initiated and won the contrivance case, delivered a 900 page comment package to APCD opposing our proposed amendment and suggesting we implement other options instead, most of which involved vacating Rule 1001 and trying something different, including an MOA instead of the rule. Quite a lengthy discussion ensued among our Board members, particularly regarding crafting an MOA to replace the rule.

I responded that an MOA would not be acceptable to EPA as a regulatory enforcement mechanism to ensure the emission reductions required to come into attainment of federal PM standards would be achieved in a timely manner. The Board asked me to request EPA to provide an official letter stating your position on this matter; specifically, whether or not substituting a negotiated MOA with State Parks would be acceptable to EPA as a demonstration that we were on a path to attainment and thus avoid federal intervention. In light of your April 15, 2015 letter to the District, the Board's primary concern is the potential for a nonattainment designation by EPA for the federal PM10 and/or PM 2.5 standards if the rule were to be rescinded and replaced with an MOA.

The Board is hoping you can provide a response by or before our next Board meeting on June 17. Please let me know if you can provide such a letter and the timeframe in which we might expect it, and please call me if if you have any questions or need clarification on this request.

Thank you, and I look forward to hearing from you.

Larry

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