



D a v i s G r a h a m & S t u b b s L L P

MEMORANDUM

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FROM: John R. Jacus
CC: Cynthia Peterson—AQCC
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Meg Collins and Ken Wonstolen, Esq.—COGA
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Tim Jackson—CADA
Jim Brandon—ESP/Envirotest
DATE: March 12, 2008
RE: Guiding Principles for Ozone SIP Development

I am writing to you on behalf of the Colorado Oil and Gas Association (“COGA”) and my clients Noble Energy and Anadarko Petroleum concerning the ongoing stakeholder process for the development of an 8-hour ozone state implementation plan or “SIP” for the Denver 8-hour Ozone Nonattainment Area (“NAA”). I am particularly interested in your consideration of a set of proposed guiding principles that have been developed in consultation with COGA and my clients, and that we think would aid you, other stakeholders and the involved agencies in the selection of appropriate ozone control strategies later this year. In particular, we wish to advance these proposed guiding principles prior to the completion of ongoing photochemical modeling in order to promote adoption of a more effective mix of ozone control strategies for sensitivity analyses and other diagnostic evaluation. We appreciate your interest in ozone SIP development and would welcome your comments on the proposed guiding principles set forth below, and any related concerns or questions you may have.

Guiding Principles for the Adoption of Ozone Controls

1. The adoption of mandatory ozone control measures should be based on “good science,” *i.e.*, the use of best available data and photochemical modeling results employing such data. This principle means that valid data on which there is divided opinion within the scientific community, such as the apparent “weekend effect” in the NAA, may not responsibly be ignored in the selection of ozone control measures. It also means that VOC controls that have a greenhouse gas disbenefit should be less desirable than those that do not, in light of Colorado’s Climate Action Plan.
2. The proposed ozone SIP should be specific to the existing (or perhaps expanded) non-attainment area around Denver and the North Front Range—not the entire state of Colorado. Some proposals by other stakeholders and agencies incorporate control measures that target improvements to air quality outside the NAA, and yet the NAA has already been defined by EPA so

as to include sources to be controlled for purposes of attaining the 8-hour ozone NAAQS. Additionally, some of the measures proposed to date could be detrimental to attainment of the NAAQS in the NAA, and some cannot be shown to have a beneficial impact on ozone formation in the non-attainment area, even if they purport to advance other secondary air quality goals and standards.

3. The narrow focus of the former Early Action Compact's ("EAC's") "three-control" strategy delivered very significant VOC reductions from the oil and gas production sector, but little or no change in monitored ozone levels. Doing "more of the same" would therefore appear to have little chance of success, and should be one subject of specific analysis in the ongoing modeling effort.

4. Incentives and outreach should be used to promote voluntary control measures, since there is no practical means of adopting mandatory controls, or even mandatory reporting, before the 2008 ozone season begins in May.

5. The selection of mandatory controls should be consistent with the speciation and source apportionment results of the ongoing modeling effort. A number of proposed strategies do not appear to distinguish between VOCs with greatly varying photoreactivity. This has led to past reliance on control of stationary sources of VOCs with lower relative photoreactivity, and less additional control of higher reactivity VOCs, especially those from mobile sources. The ongoing photochemical modeling effort is designed to help in evaluating the relative contribution of such disparate source groups and VOC types, and we should insist on a continued focus on speciation and source apportionment in the modeling work.

6. All significant contributors to ozone formation should be taken into account, especially as our ability to measure and model such contributors improves. This principle extends to the gathering of data on biogenic emissions, including emissions from the urban and rural landscape.

7. Institutional and societal barriers to more effective control of ozone formation in the NAA should be identified, and measures aimed at sectors that are more difficult to control, *e.g.*, mobile sources—where consumer/commuter behaviors may only be modified over time—should be prioritized. This principle recognizes the need for intergovernmental agreements and coordinated public and private action to effectively address the problem of ozone formation in the NAA.

A Framework for Selecting Ozone Controls for the NAA

The above-noted guiding principles, taken together, constitute a framework that can help guide the selection of ozone control measures for the NAA. While some measures, when evaluated in light of these principles, appear likely to be adopted, many cannot be properly evaluated until photochemical modeling is completed later this year. With that understanding, COGA, Noble and Anadarko urge the RAQC and all involved agencies and stakeholders to consider and support adherence to these proposed guiding principles as the SIP development process continues and photochemical modeling results become available.