



COLAB SAN LUIS OBISPO COUNTY



SUPPLEMENT TO THE WEEKLY UPDATE JUNE 22, 2015

APCD CHAIRMAN ADAM HILL HARASSES CITIZEN AND LICENSED STATE GEOLOGIST WILL HARRIS (DURING PUBLIC COMMENT) JUNE 17, 2015

This week's update contains a report on APCD Chairman Hill's attack on a public speaker during the APCD meeting of June 17, 2015. Hill was aided and abetted by SLO City Mayor Jan Marx and County Supervisor Bruce Gibson. Since we released the Weekly Update, several readers have requested that this outrageous, illegal, and intimidating violation of law protecting government employees' rights to First Amendment free speech should be exposed in detail. The transcript is detailed below:¹

CHAIR ADAM HILL [04:56:11]

Mr. Harris.

WILL HARRIS [04:56:20]

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."

¹ The numbers represent the elapsed hours, minutes, and seconds of the video recording of the June 17, APCD meeting and can be accessed at the link:

http://slocounty.granicus.com/MediaPlayer.php?view_id=7&clip_id=2083 Slide the timer marker to 4:56:11.

The trouble is that those levels are unknown, and so, a rule that seeks to achieve an unknown is pointless. Well, 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 1930s aerial imagery confirms this. More vegetation means less open sand exposed to the wind, 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 a 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 were 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 and Consent Decree remain in place, then action taken under the Rule, such as a fine or a mandate to cover over sand with wind fencing or surface treatment known as "soil cement," which the 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.

(2) Additionally, significant amount of money, and staff resources, and time have gone toward 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.

Rather than devoting so much money and resources to punitive aspects of the Rule – which, again, can be 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, insightful MOUs...

[On video: BRUCE GIBSON visibly speaking to CHAIR ADAM HILL at this point]

...with air districts from Monterey Bay and Imperial County. I would hope this county could achieve a much more positive relationship with State Parks. Thank you.

CHAIR ADAM HILL [04:59:32]

[Interrupting] Mr. Harris, can I ask who... on whose behalf are you speaking?

WILL HARRIS [04:59:35]

I'm speaking on behalf of myself.

CHAIR ADAM HILL [04:59:37]

And who employs you?

WILL HARRIS [04:59:38]

California State Geological Survey.

CHAIR ADAM HILL [04:59:40]

Who asked you to come here today?

WILL HARRIS [04:59:42]

Why would you ask?

CHAIR ADAM HILL [04:59:44]

Seems like a reasonable question if you're here in front of this Board on behalf of the Geological Survey.

WILL HARRIS [04:59:50]

Because I've 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.

CHAIR ADAM HILL [05:00:07]

So, you were not asked to make this statement today by anyone?

WILL HARRIS [05:00:10]

That's correct.

CHAIR ADAM HILL [05:00:11]

And, and, did not clear this with anyone in the Geological Survey?

BRUCE GIBSON [05:00:15]

[whispering] Here on his own time?

CHAIR ADAM HILL [05:00:17]

You're on your own time?

WILL HARRIS [05:00:18]

I'm not here on my own time, I'm here on state time.

CHAIR ADAM HILL [05:00:20]

You're here on state time.

BRUCE GIBSON [05:00:21]

Advocating on your own behalf...

UNIDENTIFIED FEMALE BOARD DIRECTOR [05:00:24]

[heard off-mic] What difference does it make?

BRUCE GIBSON [05:00:25]

...continuing to attempt to undermine the science, Mr. Harris, this is... this is appalling, frankly.

CHAIR ADAM HILL [05:00:31]

[loud snort] That's it. Thank you.

WILL HARRIS [05:00:35]

Thank you very much for your consideration of my comments.

[...MEETING CONTINUES for 10 minutes...]

CHAIR ADAM HILL [05:10:35]

Um, I think that brings us to adjournment unless there's some member comments...no, wait, wait, oh... We have member comments. How did you know?

JAN MARX [05:10:42]

Yes. I ha... No. I have. I have to say, Mr. Harris' performance here, uh, as a paid advocate who did not disclose uh, his um, his, uh, you know, the fact that he was representing someone else... uh, I found that very disturbing, and I would like to, um, have this body place on, uh, the agenda, uh, adopting a policy that we disclose ex-parte communications. Um. That we have before, uh, that this could be placed on the, uh, agenda of the next meeting. I'm especially concerned if we are in a litigation situation and we're having closed sessions, that this Board and the public do not know, uh, which of our members may be consulting with people who have sued us such as Kevin Rice, um, or, or Friends of the Dunes, or other people, uh, who are doing analysis and giving them their lines more or less so that they know what to say during these meetings. We need to know, um, uh, if there are ex-parte communications with, uh, groups or individuals that are pertinent to the agenda at hand.

The City of San Luis Obispo has had this rule for... uh... forever. We also have a rule that someone who's a paid consultant, um, has to identify him or herself as such, uh, before they make testimony.

CHAIR ADAM HILL [05:12:08]

Let me, let me try to put this in a mo... because we have been doing this at the Board of Supervisors and perhaps Mr., um, Mr. Biering could bring it back, because I don't think we have time to craft something with, uh, three minutes in terms of what the... [stuttering]...perhaps...

JAN MARKS [05:12:20]

No, I'm talking about the next, the next meeting.

CHAIR ADAM HILL [05:12:22]

The next meeting? Uh...

JAN MARX [05:12:23]

That we put this on the agenda.

CHAIR ADAM HILL [05:12:25]

Okay. Okay, so ex-parte...

DISTRICT COUNSEL RAY BIERING [05:12:26]

I could certainly coordinate with the County Counsel and with the City Attorney and get their policies.

CHAIR ADAM HILL [05:12:32]

[Will Harris approaches lectern] I'm not going to give you a microphone, Mr. Harris, if you're coming, so, um...

WILL HARRIS [05:12:37]

[unintelligible] ... the Board to know that the words I spoke were my own and not ...
[unintelligible] ... of anybody other than ...

CHAIR ADAM HILL [05:12:39]

Mr., Mr., you're out of order. Mr. Harris, you're not being, you're not, you're not given permission to speak, you are out of order. Perhaps somebody will talk to your bosses in Sacramento about your appearance here today.

Um... Any further comments from the Board?

FRANK MECHAM [05:12:53]

Yes. Can we adjourn?

CHAIR ADAM HILL [05:12:54]

Yeah. That sounds good to me. [gavels]

DISTRICT COUNSEL RAY BIERING [05:12:57]

Was there direct... Was there direction for me to bring that back?

JAN MARX [05:13:02]

Well, was there direction? Uh...

CHAIR ADAM HILL [05:13:05]

Let's dismiss it, then.

JAN MARX [05:13:07]

...to put it on the agenda? What... in the... okay. All righty.

CHAIR ADAM HILL [05:13:08]

Let's...in the executive committee, and then we can bring it back.

DISTRICT COUNSEL RAY BIERING [05:13:09]

That's fine. That's [unintelligible]