



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

---

May 20, 2008

**Via Electronic Mail**

Ms. Theresa Amoroso  
Colorado Department of Public Health and Environment  
Air Pollution Control Division  
4300 S. Cherry Creek Boulevard  
Building B  
Denver, Colorado

Re: Comments of Anadarko Petroleum Corporation and Noble Energy, Inc. on  
Proposed Rule Language Development for Selected Oil and Gas and VOC  
Stationary Source Control Strategies

Dear Ms. Amoroso:

I am writing on behalf of our clients Anadarko Petroleum Corporation (“Anadarko”) and Noble Energy, Inc. (“Noble”) to provide you with comments on matters discussed and materials circulated at the May 13, 2008 ozone stakeholder meeting hosted by the Regional Air Quality Counsel (“RAQC”). We appreciate the opportunity to submit these comments on such issues, and set forth below provide you with both general and more specific comments. We also wish to note that the requested response in just seven days from the referenced meeting and the circulation of the noted materials is very turn around, and so we reserve the right to provide further comment to the RAQC, APCD and other involved stakeholders, as we are able in the near term.

**General Comments**

As a general comment, we believe control strategies should be designed to bring the area into attainment with the 8-hr. ozone standard and should be based on good data and good science; Developing explicit rule language for possible VOC control strategies prior to completing ozone modeling runs counter to this position (see our prior “Guiding Principles” comment of March 12, 2008), and is not appropriate at this stage of the process. The modeling results will assist in identifying the most appropriate VOC sources to control, at which time strategies should be developed. Additionally, developing rule language only for oil and gas sources while not proceeding on an identical path for other source categories creates the perception that the regulatory community has already determined its control strategy approach, irrespective of the modeling results, and that further control of oil and gas sources of VOCs will contribute

---

John R. Jacus . 303 892 7305 . john.jacus@dgsllaw.com

May 20, 2008

Page 2

significantly to NAAQS attainment, even though substantial controls have been imposed in the last four years without significant improvements in ozone concentrations.

Additionally, we wish to renew our prior comment on confining the ozone SIP development stakeholder process to the consideration of control strategies to be implemented within the boundaries of the expanded 8-hour ozone non-attainment area agreed to by EPA and upon which the state of Colorado also has a well-documented position. We enclose a separate memorandum addressing this issue, for your consideration.

Anadarko and Noble object to the consideration of VOC controls specific to oil and gas sources outside the non-attainment, since it has not been demonstrated that such measures would promote attainment of the 8-hour ozone NAAQS within the non-attainment area, and also on the basis that other source categories that contribute VOCs to ambient air outside the non-attainment area are not being considered for such control, as well.

With respect to proposed AQCC Regulation No. 3 revisions, we note that permit exemptions are typically written for sources deemed insignificant sources of air pollutant emissions. Bullet two on slide 10 of Mike Silverstein's May 13<sup>th</sup> presentation states: "Eliminate Exemptions for Significant Categories". How did the agency define "*Significant Categories*?" We would like to obtain a copy of the supporting documentation for the agency's determination of significant categories.

We also question the equity in the agency's rationale for eliminating specific permit exemptions for oil and gas equipment when like equipment in other sectors will still be exempt (see, for example, Part A II.D.1.k. and Part B II.D.1 e, concerning fuel burning equipment, where heater treaters, separators, and dehy reboilers would not be able to take the exemptions available to similarly sized equipment of other types).

Finally, there are no enforceable reductions associated with the proposed Reg. No. 3 APEN exemption changes in the cases where a permit exemption has been retained, and therefore such changes should not be part of the SIP process but a separate, state only rule making process.

#### Specific Comments:

Controlling condensate tanks to 98% as proposed by APCD at the last stakeholder meeting on May 13<sup>th</sup>, will 1) require producers to control every tank battery in the DJ Basin and 2) will raise the current accepted control level of flares and vapor recovery units (VRU) from 95% to 98%. This brings up several issues.

- The current system-wide control requirement of 75% established the incentive to over control system-wide beyond 75% to account for intermittent control downtime at system batteries. The requirement to control every tank battery would not provide for any over-

