



PEER

PUBLIC EMPLOYEES FOR ENVIRONMENTAL RESPONSIBILITY • ROCKY MOUNTAIN

Administrator Michael Regan
Office of the Administrator
Environmental Protection Agency
Mail Code 1101A
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

May 10, 2021

Dear Administrator Regan,

Commerce City, just north of metro Denver, Colorado, is one of the most polluted areas in the country and is home to a disproportionately low-income, community of color. The state has a history of ignoring the environmental justice issues in this area including the extensive air and water pollution that this community is forced to endure.¹ We have recently received information regarding the illegal permitting of the Xcel Cherokee power station located in this region and have attached the project permit notes for your review.

On April 7, 2021 the Administrator's office announced measures to implement the Biden Administration Executive Order on Advancing Racial Equity and Support for Underserved Communities Through the Federal Government. You emphasized that environmental justice will be one of your top priorities and "we must do better." **We request that you directly and immediately intervene and order the state of Colorado to perform long-overdue air modeling for the area.**

The Cherokee power station applied for a permit to convert some of the facility to natural gas in 2012. The Colorado Department of Public Health and Environment (CDPHE) issued the permit without verifying the National Ambient Air Quality Standards (NAAQS), and despite the fact that **all of the modelers** working at the time in the CDPHE Modeling Unit raised multiple red flags indicating that checking for compliance with all of the NAAQS was required. In the attached chain of emails, the state experts anticipated that management would once again ignore pollution impacts to the community and so laid out their arguments. One employee, Jackie Joyce, states,

...should the higher ups decide that no modeling is required..if we get comments related to environmental justice (the area in which Cherokee is located is an

¹ See [Video](#) by resident Ean Tafoya for Sierra Club; 3/30/21 Colorado Sun [article](#) "Colorado air pollution control managers ordered staff to falsify data and approve permits "at all costs," whistleblowers say"; 5/5/21 Denver Post [article](#) "Battle over Suncor oil refinery intensifies as state weighs permit renewal, metro Denver residents demand closure"; 4/23/21 Denver Post [article](#) "Growing spotlight on environmental justice focuses on Colorado's energy future."; 8/19/20 [CBS news](#) "History Of Abusing This Community": Commerce City Mayor Expresses Frustration With Suncor."

environmental justice area), past responses have pointed to **[requiring]** the NAAQS analysis.

A second employee, Chuck Machovec, writes to his supervisor 13 reasons why the state is required to model this area, (including because it is required by the Clean Air Act and the State Implementation Plan) and:

- 4. There may be Environmental Justice issues in areas impacted by this plant....
- 7. The area where the source is located has some of the worst air quality (Commerce City) in Colorado.

Later, after Mr. Machovec hears that management has disregarded the state's own experts, he states,

I believe an impact analysis is warranted...this management decision on a technical item is surprising and inconsistent with existing guidance, practices, and applicable rules.

Following that, a third expert, Doris Young, writes to management,

- ...modeling for all NO₂ NAAQS is warranted.
- ...modeling for all CO NAAQS is warranted.
- ...modeling for all PM₁₀ NAAQS is warranted.
- ...modeling for all PM_{2.5} NAAQS is warranted.
- ...modeling for all SO₂ NAAQS is warranted.

These are just some examples of the concerns expressed by the state employees. All three of these employees, all experienced air pollution control experts, were ignored.

Currently the CDPHE is in the process of issuing an operating permit for an oil refinery, again without modeling for 1-hr NAAQS. This refinery, the Suncor Refinery, is also in Commerce City and just two miles away from the Cherokee Power Station, and is also contaminating the surrounding community (See Attached letter to CDPHE Director Ryan)²

Commerce City residents are disproportionately suffering from the combined effect of all the emission sources in the area, not just by the Suncor Refinery or by the Cherokee Power Station alone. By assessing each of these facilities' emissions separately, as if they exist in isolation, and then exempting each of them from complying with the NAAQS, CDPHE is ignoring the science behind air pollution dispersion and the cumulative effects on environmental injustice in a vulnerable community.

² TECHNICAL REVIEW DOCUMENT for RENEWAL / MODIFICATIONS TO OPERATING PERMIT 95OPAD108, Suncor Energy (USA), Inc. – Commerce City Refinery, Plant 2 (East Plant), Adams County, Source ID 0010003.

Furthermore, the CDPHE has the authority to address NAAQS outside of the permitting process, yet it is choosing to turn a blind eye. An adequate science-based NAAQS impact analysis would involve modeling the Suncor Refinery along with the Cherokee Power Station and other relevant sources in the area with a complete assessment to protect the hourly NAAQS.

After decades of failing to protect this community, we believe that EPA's intervention will go a long way to restoring public trust in government. A community already experiencing so many sources of pollution deserves a transparent, comprehensive and accurate permitting process.

We look forward to hearing from you.

Sincerely,

Chandra Rosenthal
Rocky Mountain Director

Kevin Bell
Staff Attorney

Att:

Cherokee Power Plant - combined cycle turbine facility, file documents.
PEER letter to CDPHE Director Ryan, 5/2/21.



Suncor Refinery, Image at suncor.com



Cherokee Power Plant, photo by Gregor Tokarski 1/19



Main Street Commerce City, photo by City of Commerce City Cultural Council
Commerce City is the 18th most populous municipality in Colorado as of 2019.