



NORTH FRONT RANGE TRANSPORTATION & AIR QUALITY PLANNING COUNCIL
VIRTUAL SPECIAL MEETING AGENDA
December 16, 2021

Virtual Attendance
Call-in Number: (872) 240-3311
Access Code: 784-815-789
Online Meeting: <https://bit.ly/3gtbKbo>

For assistance during the meeting, please contact Alex Gordon – agordon@nfrmpo.org or 970.289.8279

Pledge of Allegiance

Public Comment- 2 Minutes Each (accepted on items not on the Agenda) Anyone in the audience will be given time to speak to items on the Consent Agenda. Please ask for that item to be removed from the Consent Agenda. Items pulled will be heard at the beginning of the regular agenda. Members of the public will be given an opportunity to speak to all other items prior to Council action being taken.

1) Acceptance of Meeting Agenda

[Metropolitan Planning Organization Agenda](#)

PRESENTATION:

2) Weld County Request for Nonattainment Area Expansion Stay John Jacus – Partner, Davis, Graham & Stubbs LLC 6:05

DISCUSSION ITEM:

3) Declaration to Support Weld County -Draft Letter Bornhoft 6:25

MEETING WRAP UP:

Next Steps 7:00



MPO Planning Council

Town of Berthoud

William Karspeck, Mayor - Chair

Alternate- Maureen Dower, Mayor Pro Tem

Weld County

Scott James, Commissioner - Vice Chair

Alternate- Perry Buck, Commissioner

Town of Eaton

Lanie Isbell, Mayor Pro Tem

Alternate- Glenn Ledall, Trustee

City of Evans

Mark Clark, Mayor Pro Tem

Alternate- Brian Rudy, Mayor

City of Fort Collins

Jeni Arndt, Mayor

Alternate- Tricia Canonico, Councilmember

Town of Garden City

Fil Archuleta, Mayor

Alternate- TBD

City of Greeley

Johnny Olson, Councilmember

Alternate- Brett Payton, Mayor Pro Tem

Town of Johnstown

Troy Mellon, Councilmember

Larimer County

Kristin Stephens, Commissioner

Alternate- Jody Shaddock-McNally, Commissioner

Town of LaSalle

Paula Cochran, Trustee

City of Loveland

Vacant

Town of Milliken

Elizabeth Austin, Mayor

Town of Severance

Frank Baszler, Councilmember

Town of Timnath

Lisa Laake, Trustee

Town of Windsor

Paul Rennemeyer, Mayor

Alternate- Ken Bennett, Mayor Pro Tem

CDPHE- Air Pollution Control Division

Dena Wojtach, Manager, Planning & Policy Program

Colorado Transportation Commission

Kathleen Bracke, Commissioner

Alternate- Heather Paddock, Region 4 Director

NFRMPO Special Planning Council December 16, 2021 Meeting

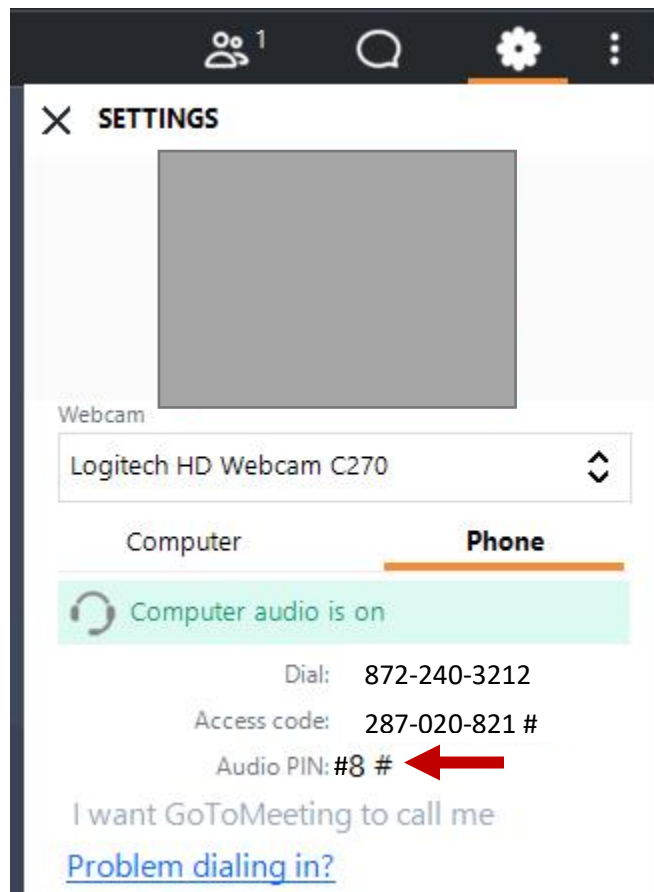
Remote Attendee Instructions

To access the audio for the meeting:

- 1) Call-in Number: **(872) 240-3311**
- 2) Once prompted, enter the Access Code: **784-815-789**
- 3) Once you have entered the conference call, **please mute your line. PLEASE DO NOT VERBALLY ANNOUNCE YOURSELF.** There will be a rollcall during the meeting and if you arrive late you will be asked for your name.

To access the online portion of the meeting:

- 1) Please mute your computer's sound to avoid feedback.
- 2) Please go to: <https://www.gotomeet.me/NFRMPO/2021-nfrmpo-planning-council-meetings>
- 3) Enter your name and email then enter.
- 4) PLEASE DO NOT VERBALLY ANNOUNCE YOURSELF.
- 5) To connect your phone and your computer, please go to this screen and enter the information you see on your computer. Enter the audio pin shown at the red arrow on the phone.



Once the Planning Council Meeting has begun:

- 1) We will do a roll call once the meeting has been called to order.
- 2) **Please keep your line muted unless you are speaking**, this will help to cut down on background noise and make the audio clear for all participants.
- 3) **Please do not place the call on hold**, doing so could cause hold music to play and make participation by all other participants on the call impossible.
- 4) Please use the Chat box function as shown below, to indicate that you wish to speak by typing in your name, for example:

"I have a question regarding the TIP Amendment"

and wait to be recognized by the Chair before proceeding with your question or comment, so others do not talk over you and your question can be recorded for the Minutes.

- 5) **Each time you speak, please state your name for the record before proceeding with your question or comments.**

If at any time during the meeting you have any questions or technical difficulties accessing the meeting, please contact Alex Gordon at (970) 289-8279 or agordon@nfrmpo.org.

MEMORANDUM

To: NFRMPO Planning Council

From: Medora Bornhoft

Date: December 16, 2021

Re: Declaration to Support Weld County - Draft Letter

Background

On November 17, 2021, EPA Administrator Michael S. Regan signed a final rule to revise the boundary of the Denver Metro/North Front Range (DM/NFR) 8-hour Ozone Nonattainment area for the 2015 Ozone standard to include the entirety of Weld County. The rule redesignates the northern portion of Weld County from attainment to nonattainment and has an effective date of December 30, 2021.

The NFRMPO is responsible for conducting conformity determinations for the Northern Subarea of the DM/NFR 8-hour Ozone Nonattainment Area, which includes the area north of the Boulder County northern boundary extended through southern Weld County to the Morgan County line. Expansion of the ozone nonattainment boundary requires the NFRMPO to expand the Land Use Allocation Model and Regional Travel Demand Model to include northern Weld County; conduct a conformity determination that includes northern Weld County by December 30, 2022; and conduct two separate regional emissions analyses for each future conformity determination, one for the ozone nonattainment boundary for the 2008 ozone standard and one for the expanded ozone nonattainment boundary for the 2015 ozone standard.

On November 19, 2021, Weld County requested an administrative stay of the EPA's decision to redesignate the northern portion of Weld County as nonattainment pending judicial review. The EPA has stated the request for an administrative stay is under consideration. Meanwhile, Weld County is preparing to file a motion for a judicial stay of the rule's effectiveness from the D.C. Circuit Court of Appeals. The motion would be filed in the event the EPA denies the request for an administrative stay or if the EPA does not provide a decision with sufficient advance notice of the rule's effective date of December 30, 2021.

Weld County requested the NFRMPO consider supporting their request for a judicial stay in the form of a declaration, a form of sworn statement, to identify the adverse impacts to the NFRMPO of the rule going into effect when it may later be reversed on appeal. A stay would avoid the need for the NFRMPO to expend public resources to comply with the rule until the Court rules on the merits, which Weld County anticipates could take a year or more.

The attached draft declaration of the NFRMPO supports Weld County's request for a judicial stay identifies the adverse impacts to the NFRMPO.

Action

NFRMPO staff requests Planning Council discuss and vote on the attached draft declaration in support of Weld County's request for a judicial stay.

IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

BOARD OF COUNTY
COMMISSIONERS OF WELD
COUNTY, COLORADO,

Petitioner,

v.

No. ABC

MICHAEL S. REGAN, Administrator,
ENVIRONMENTAL PROTECTION
AGENCY, and UNITED STATES
ENVIRONMENTAL PROTECTION
AGENCY,

Respondents.

DECLARATION OF WILLIAM KARSPECK

I, William Karspeck, state and declare as follows:

1. I am the Chair of the North Front Range Transportation & Air Quality Planning Council (NFRT & AQPC or the Council), and I make this declaration on behalf and with full support of NFRT & AQPC.

2. I submit this declaration in support of Weld County's request for a stay of final action of the United States Environmental Protection Agency entitled Final Rule: Additional Revised Air Quality Designations for the 2015 Ozone National Ambient Air Quality Standards: El Paso County, Texas and Weld County, Colorado, released at <https://www.epa.gov/ozone-designations/final-rule-additional-revised->

[air-quality-designations-2015-ozone-national](#) (“Redesignation Rule”). I make this declaration based on anticipated work tasks and ongoing involvement in air quality work in northern Colorado.

3. The purpose of this declaration is to describe the irreparable harm the NFRT & AQPC will experience if the Redesignation Rule is implemented without a judicial stay pending Weld County’s challenge to the Redesignation Rule on the merits.

4. The NFRT & AQPC is responsible for conducting conformity determinations for the Northern Subarea of the Denver Metro/North Front Range 8-hour Ozone Nonattainment Area, which includes the area north of the Boulder County northern boundary extended through southern Weld County to the Morgan County line. The Northern Subarea includes the NFRT & AQPC metropolitan planning area and a portion of the Upper Front Range Transportation Planning Region (TPR) in Larimer and Weld counties.

5. The NFRT & AQPC is comprised of representatives of the following local governments: the cities of Evans, Fort Collins, Greeley, and Loveland; the towns of Berthoud, Eaton, Garden City, Johnstown, LaSalle, Milliken, Severance, Timnath, and Windsor; and the counties of Larimer and Weld. In addition to local government representatives, the NFRT & AQPC includes a representative from the

Colorado Department of Public Health and Environment's Air Pollution Control Division and the Transportation Commission of Colorado.

6. Expansion of the 2015 ozone nonattainment area to include the entirety of Weld County will impose more onerous requirements on the NFRT & AQPC, including expanding the NFRT & AQPC's Land Use Allocation Model and Regional Travel Demand Model to include northern Weld County; conducting a conformity determination that includes northern Weld County by December 30, 2022; and conducting two separate regional emissions analyses for each future conformity determination, one for the nonattainment boundary for the 2008 ozone standard and one for the nonattainment boundary for the 2015 ozone standard.

7. NFRT & AQPC anticipates that it will spend approximately \$43,000 to comply with these requirements over the next 12 months. These requirements will be funded through public resources, including taxpayer funding. If the Redesignation Rule is later reversed on appeal, then this would prove an ineffective use of public resources. Staying the Redesignation Rule pending appeal would avoid this potential waste of public resources.

8. The NFRT & AQPC voted to submit this declaration, and the Weld County representative on the Council abstained from voting due to Weld County's involvement in the prosecution of this matter.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Executed on _____, 2021 in _____, Colorado.

William Karspeck, Chair

DRAFT