

COLORADO RISING

P.O. Box 370
Eastlake, CO 80614-0370
Phone: (303) 895-7044
Email: joe@corising.org

April 2, 2021

Colorado Attorney General Philip J. Weiser
Office of the Colorado Attorney General
Ralph L. Carr Colorado Judicial Center
1300 Broadway, 10th Floor
Denver, CO 80203

Re: Demand for criminal investigation or transparent independent investigation

Dear Attorney General Weiser:

As you are aware, a disturbing story was reported in the news on March 30, 2021, related to a Request for Review filed by Public Employees for Environmental Responsibility (“PEER”) concerning allegations involving the CDPHE issuing “a blanket prohibition on air quality modeling staff from reviewing NAAQ’s compliance for hourly Nitrogen Dioxide (NO₂) and Sulfur Dioxide (SO₂) limits, 3-hour standards for SO₂, and daily standards for particulate matter smaller than 2.5 micrometers (PM_{2.5}).”¹ Essentially, PEER filed this Request for Review with the Environmental Protection Agency (“EPA”) to advise that certain Colorado Department of Public Health & Environment (“CDPHE”) Air Pollution Control Division (“APCD”) employees were ordered by management “to not perform certain” legally required duties.² The allegations and corresponding evidence provided in the Request for Review raise serious questions about whether CDPHE management engaged in criminal conduct.

The purpose of this letter is to demand that the Colorado Attorney General’s Office submit the information found in the PEER Request for Review to the Denver District Attorney’s Office for criminal investigation. Colorado law charges state employees to carry out their duties for the benefit of the people of the state. § 24-18-103(1) and (2), C.R.S. (2020). A state employee who violates their fiduciary duty “is liable to the people of the state as a trustee of property and shall suffer such other liabilities as a private fiduciary would suffer for abuse of his trust. The district attorney of the district where the trust is violated may bring appropriate judicial proceedings on behalf of the people.” *Id.* As your office may know, a breach of fiduciary duty

¹ <https://www.peer.org/wp-content/uploads/2021/03/EPA-OIG-Letter.pdf>.

² *Id.* at p. 1.

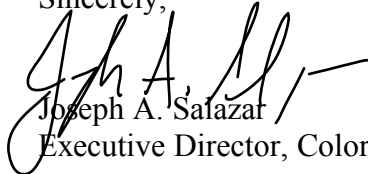
also includes, among other things, a duty of loyalty. *Jet Courier Srv., Inc. v. Mulei*, 771 P.2d 486, 492 (Colo. 1989).

If your office is not willing to refer this matter to the Denver District Attorney, please advise if your office is willing to conduct its own transparent independent investigation into the allegations raised in the Request for Review. It is incumbent upon our state's highest law enforcement officer to fully engage in an investigation of these charges against state employees, particularly since statutory duties were ignored that placed the public health and welfare at risk. One of the major duties of the Colorado Attorney General is to protect the rights of the public. *People ex rel. Ken Salazar v. Davidson*, 79 P.3d 1221, 1229 (Colo. 2003); *People ex rel. Miller v. Tool*, 35 86 P. 231, 235 (Colo. 1905) ("The state, in its sovereign capacity, by the very terms of its being, is intrusted with powers and duties to be exercised and discharged for the general welfare, and for the protection of the rights and liberties of its citizens.").

It would not be acceptable for the Colorado Attorney General's office to turn a blind eye to these allegations, particularly since numerous Coloradans and environmental organizations have spent hundreds of hours testifying in front of various commissions within the CDPHE and in front of the Colorado Oil and Gas Conservation Commission ("COGCC") about air quality and air quality monitoring, and have been ignored and maligned by appointed officials. The cat is now out of the bag demonstrating that state employees have placed their finger on the scale in favor of polluters and against the health and welfare of Coloradans.

Attorney General Weiser, please advise if your office is either willing to refer this matter for a criminal investigation to the Denver District Attorney, or, if your office is willing to conduct its own independent investigation into these allegations. We look forward to hearing your response on or before close of business on **April 9, 2021**. Should you have any questions, please do not hesitate to contact Joe Salazar, Executive Director of Colorado Rising, at (303) 895-7044. We appreciate your time and attention in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Joe Salazar", with a long horizontal flourish extending to the right.

Joseph A. Salazar
Executive Director, Colorado Rising

350 Colorado

Micah Parkin
Executive Director

Be the Change - Colorado

Barbara Mills-Bria
Member

Broomfield Health & Safety First

Neil Allaire
Co-Chair

Citizens for a Healthy Community

Natasha Leger
Executive Director

Climate Reality Denver Chapter

Patricia Kelley
Legislation Chair

Colliers Hill O&G Monitoring Group

Sandra Duggan
Community Organizer

Colorado Democratic Party Energy & Environment Initiative

Elijah Lewis
Outreach Director

Colorado Young Democrats

V. Ruth Baranowski
Secretary

COMaskerAid

Brian Loma
Co-Owner

Cultivando

Olga Gonzalez
Executive Director

Community Collectives

Hermine Ngnomire
President

Darren O'Connor, LLC

Esquire

Denver DSA

Justin Way
Ecosocialism Committee Chair

DNC Member/Attorney at Law

Jeri Shepherd

DNC Member

Radhika Nath

Dr. Rochelle Dworet Cohen

Retired Pediatrician

Earthworks

Andrew Klooster
CO Field Advocate

Empower Our Future

Leslie Glustrom

Erie Protectors

Christiaan van Woudenberg
Editor-in-Chief

Front Range Residents for Environment, Safety and Health

Suzanne Cabral
Community Advocate

Grand Valley Citizens Alliance

Leslie Robinson
Chairperson

GreenLatinos

Ean Tafoya
Colorado Field Advocate

Ground Organization for Latinos

John Edward Soto
Owner

Human Race Clinging to Hope

Ronald Booth

Indivisible Denver

Dana Miller
Volunteer

**Larimer Alliance for Health, Safety
and Environment**

Doug Henderson
Steering Committee Member

**League of Oil and Gas Impacted
Coloradans**

Sara Loflin
Executive Director

Longmont Climate Community

Lynette McClain
Member

North Range Concerned Citizens

Kristi Douglas
Co-Chair

**Northern Colorado Community
Rights Network**

Karen Speed
Member

**Our Health, Our Future, Our
Longmont**

Karen Dike
Board Member

Our Revolution Metro Denver

Susan Johnson
Co-Lead

Paralegal Services Office

Dr. Christa Turnell

**Progressive Democrats of America,
Denver Chapter**

Susan Gilbert
Chapter Leader

**Physicians for Social Responsibility,
Colorado**

Sasha Stiles, MD, MPH
Chair

Sisters of Color United for Education

Daniel Stange
Grant Manager

Spirit of the Sun

Renee Millard Chacon
Program Coordinator/Cultural Educator

Sunrise Fairview

Ilana Diddams
Communications Lead

The Lookout Alliance

Cynthia Allison
Leadership Team

Verde Fundraising

Eddie Soto
Owner

Weise Consulting

Leslie Weise
Principle

Weld Air and Water

Carl Erickson
Chair

What the Frack, Arapahoe?!

Pat Dunn
Team Member

WildEarth Guardians

Jeremy Nichols
Executive Director

Words to Power

Ara Cruz
Executive Director