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December 15, 2014

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Michael T. Kleinman, Ph.D., Chairman, UC Irvine <mtkleinm@uci.edu>

Dear CARB SRP Members,

I am writing to request that each of you send me copy of the “University of California Form for Obtaining Background Information and Conflict of Interest Disclosure for Activities Related to Government Regulation,” that you were required to submit to the UC President when you applied to be a member of the Scientific Review Panel (SRP) on Toxic Air Contaminants (TAC). Please read my attached October 22, 2014 and November 5, 2014 letters to Dr. Kleinman and my November 12, 2014 letter to CARB and the UC President to understand this important request.

As nine UC faculty members, you need to know that the SRP’s numerous unjustified TAC identifications, which have harmed countless California businessmen and taxpayers like me, is a prime reason why public support for UC has been steadily declining. For your information, we support the new bi-partisan effort by the California legislature to take control of UC via a proposed constitutional amendment, as described in the attached December 5, 2014 Daily Caller article (<http://dailycaller.com/2014/12/05/california-legislators-propose-hostile-takeover-of-uc-system/>).

Thank you very much for your consideration of my important request.

Sincerely yours,

Norman R. Brown
Owner

The Daily Caller December 5, 2014



4:29 PM 12/05/2014

Blake Neff
Contributor

California Legislators Propose Hostile Takeover of UC System

A bipartisan pair of legislators, angered by what they see as long-running mismanagement of the University of California, have proposed a drastic solution: deprive the school of the autonomy it has enjoyed for over 160 years.

Sens. Ricardo Lara, a Democrat, and Anthony Cannella, a Republican, say the University currently lacks transparency or financial accountability and requires more oversight from the state. They are angry at the school for raising tuition, boosting the pay of its top executives, and for not admitting a higher number of native California residents. Lara's office also told the San Francisco Chronicle that he was bothered by the University using its autonomy to avoid following local minimum-wage ordinances in cities such as Berkeley.

"It behooves us, and ultimately the voters, to revisit the concentrated power and autonomy of the UC Board of Regents which appears to be out of touch with average working class families," said Lara in a statement.

Although a public institution, control of the University of California rests with a board of regents appointed to twelve-year terms by the governor. Oversight by California's legislature is non-existent, except to the extent that it provides billions of dollars in state subsidies every year. Even when required to by law, the university has frequently resisted any sort of state meddling in its affairs.

For example, the school [has thus far ignored](#) a 2013 law requiring it to disclose how much money it spends educating graduate students compared to undergraduates, missing multiple deadlines.

The new amendment would greatly curtail the school's power to do that. While the board of regents would stay in place, the legislature would now be able to directly veto any of its decision, such as a tuition increase. Lawmakers would also be able to pass new legislation further controlling the school "as may be necessary to ensure the security of its funds and compliance with the terms of the endowments of the university."

Despite the initial bipartisan backing, the amendment is a longshot: Two-thirds of both houses would need to approve, and it would then have to pass muster with California voters in 2016. A similar measure was proposed in 2009, and failed to win legislative approval.

Nonetheless, its odds are likely better today than at any time in the recent past. Democratic dissatisfaction with the UC system has been growing over its repeated clashes with state government and Democratic education priorities. Last month, the school's board of regents approved plans to hike tuition by as much as 28 percent over the next five years. The increase came just two months after the regents approved big pay increases for the chancellors of the school's ten different campuses.

The regents' actions have upset leading Democrats in the state. Governor Jerry Brown and State Assembly Speaker Toni Atkins, ex officio members of the Board of Regents, both voted against the tuition increase, with Brown arguing the school must learn to live within its means rather than gobbling up more money.

Heightened state oversight of the university would not be unprecedented in California. The California State University system, the state's other major network of four-year college, has the level of legislative oversight Lara and Cannella are seeking.

UC spokesman Steve Montiel issued a statement condemning the proposal, saying it was a distraction that would do nothing to make the school more affordable or accessible to California residents.



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November 12, 2014

Public Records Act Coordinator
Office of Legal Affairs
California Air Resources Board
P.O. Box 2815
Sacramento CA 95814

Re: Request to Inspect and Copy Public Records

Dear Sir/Madam:

This letter is to request access to records in the possession of the California Air Resources Board offices for the purpose of inspection and copying pursuant to the California Public Records Act (Government Code Section 6250 et seq.).

The information that I ask to inspect is:

1. All University of California Conflict of Interest Forms and State of California Public Appointee Conflict of Interest Forms submitted by or on the behalf of the following individuals for the period 2010–Present:

CARB Science Review Panel Chairman: Michael T. Kleinman, Ph.D.
CARB Science Review Panel Member: S. Katharine Hammond, Ph.D.
CARB Science Review Panel Member: Cort Anastasio, Ph.D.
CARB Science Review Panel Member: Sarjeet S. Gill, Ph.D.
CARB Science Review Panel Member: Stanton A. Glantz, Ph.D.
CARB Science Review Panel Member: Beate R. Ritz, M.D., Ph.D.
CARB Science Review Panel Member: Paul D. Blanc, M.D.
CARB Science Review Panel Member: Alan R. Buckpitt, Ph.D.
CARB Science Review Panel Member: Jesús A. Araujo, M.D., Ph.D.

The requested records shall include their Assuming Office Statements and all Annual Statements filed during the tenure of their appointments, for calendar years 2010, 2011, 2012 and 2013. This is to request date-stamped copies of these records that reflect the date(s) on which these Form 700s were received by the producing agency.

2. Exact employee title, position categorization, job description, and employer (College or School, office, and/or department or affiliated entity) for each of the following individuals for the period 2010–Present:

CARB Science Review Panel Chairman: Michael T. Kleinman, Ph.D.
CARB Science Review Panel Member: S. Katharine Hammond, Ph.D.
CARB Science Review Panel Member: Cort Anastasio, Ph.D.
CARB Science Review Panel Member: Sarjeet S. Gill, Ph.D.
CARB Science Review Panel Member: Stanton A. Glantz, Ph.D.

CARB Science Review Panel Member: Beate R. Ritz, M.D., Ph.D.
CARB Science Review Panel Member: Paul D. Blanc, M.D.
CARB Science Review Panel Member: Alan R. Buckpitt, Ph.D.
CARB Science Review Panel Member: Jesús A. Araujo, M.D., Ph.D.

This request reasonably describes identifiable records or information produced therefrom, and I believe that there exist no express provisions of law exempting the records from disclosure. Pursuant to Government Code Section 6257, I ask that you make the records "promptly available," for inspection and copying, based on my payment of "fees covering direct costs of duplication, or statutory fees, if applicable."

If a portion of the information I have requested is exempt from disclosure by express provisions of law, Government Code Section 6257 additionally requires segregation and deletion of material in order that the remainder of the information may be released.

If you determine that an express provision of law exists to exempt from disclosure all or a portion of the material I have requested, Government Code Section 6256 requires notification to me of the reasons for the determination not later than 10 days after your receipt of this request. Government Code Section 6256.2 prohibits the use of the 10-day period, or any provisions of the Public Records Act "to delay access for the purpose of inspecting public records."

To expedite compliance, I am sending a copy of this request to the office of your legal adviser, to the Public Records Coordinator of California Environmental Protection Agency, and to the Office of the General Counsel of University of California; in each case, if the relevant records reside at those locations, consider this a formal request to those agents to produce the aforementioned records in their possession. Thank you for your timely attention to my request.

Sincerely,



Norman R. Brown
Owner

CC with request for equivalent response to that of primary responding agency:
Public records Act Coordinator, California EPA, 1001 I St., Sacramento CA 95814
Office of the General Counsel, University of California, Office of the President, 1111 Franklin St, 8th Fl. Oakland
CA 94607



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November 5, 2014

Michael T. Kleinman, Ph.D.
Air Pollution Health Effects Laboratory
University of California, Irvine
Irvine, CA 92697-1825
mtkleinm@uci.edu
(949) 824-4765

Dear Dr. Kleinman,

I am writing again to request that you respond to my October 22, 2014 letter, which challenged the legitimacy of your current service as Chairman of the Scientific Review Panel (SRP) on Toxic Air Contaminants (TAC). Until I see valid evidence to the contrary, I will assume that you have provided false and/or misleading information to the University of California (UC) President regarding the exact nature of your UC Irvine faculty appointment. Furthermore, I believe that you have significant conflicts of interest in connection with your service as SRP Chairman. I base this belief on the evidence contained in my October letter and on the strong evidence of unethical conduct and conflict of interest by former SRP Chairman John R. Froines (<http://calcontrk.org/Delta100913.pdf>). Please read the incomplete and deceptive information provided by Dr. Froines on his 2011 "University of California Form for Obtaining Background Information and Conflict of Interest Disclosure for Activities Related to Government Regulation" (UCCoIForm) (<http://scientificintegrityinstitute.org/FroinesCOI1211.pdf>).

Thus, I now request that you send me the completed UCCoIForm that you were required to submit to the UC President when you applied to be a SRP member. This form states: "When the State of California requests the University of California's assistance in convening scientific advisory committees or recommending scientific experts to produce reports for the purpose of providing expert advice intended to be used by the State in formulating state laws or regulations, it is essential that the work of the participants in such activities not be compromised by any significant conflict of interest. . . . no individual can be appointed to serve (or continue to serve)

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on a UC-convened scientific advisory committee or serve as a UC-recommended scientific expert or peer reviewer when the report(s) developed by such service are intended to be used by the State as part of the official process for developing government laws or regulations, if the individual has a conflict of interest that is relevant to the functions to be performed. . . .”

I continue to be very troubled by the fact that the SRP has repeatedly refused to reconsider its 1998 identification of diesel particulate matter (PM) as a TAC, in spite of overwhelming evidence that there are no “premature deaths” in California due to diesel PM, that diesel PM represents only a tiny portion of the total PM2.5 in California, that the 1998 identification was based on highly contested evidence that did not apply to California, and that most SRP members were serving improperly/illegally when the 1998 identification was made. Furthermore, there is no public health need to reduce diesel PM because 50 of the 58 California counties reported ZERO “unhealthy” days during 2011-2013 due to PM2.5, as stated in Appendix C of the 2014 CAPCOA Report “California’s Progress Toward Clean Air” (http://www.capcoa.org/wp-content/uploads/2014/04/CA_Progress_Toward_Clean_Air_Report_2014.pdf).

However, CARB continues to justify and implement the CARB Truck and Bus Regulation by claiming that “In 1998, California [i.e., SRP] identified diesel particulate matter as a toxic air contaminant based on its potential to cause cancer, premature death, and other health problems” and by ignoring the massive amount of evidence that diesel PM is not harming Californians. This INVALID Regulation is having devastating consequences for thousands of California businessmen like me. For instance, the May 6, 2014 CARB News Release provides details on the \$2,177,813 in fines that have recently been assessed against 256 California companies for Truck and Bus Regulation violations (<http://www.arb.ca.gov/newsrel/newsrelease.php?id=610>). Most of these companies operate in counties with ZERO “unhealthy” days due to total PM2.5, including the tiny portion from diesel engines. Yet these companies are being forced to comply with costly unjustified regulations and they face massive fines as well.

The companies paying the highest fines were: Thermo King Corporation - \$213,200, California Gas Transport - \$136,125, GC Harvesting - \$120,000, KS Industries, Inc. - \$230,250, Roly’s Trucking - \$58,000, White Arrow- \$50,700, THX Transport - \$50,000. The companies involved in 40 other settlements paid about \$870,000: Altos Brothers Trucking, Amador Transit, A.M. Ortega Construction, Inc., Apple Valley Unified School District, Arctic Glacier Ice, Inc., Bear Valley Electric Service, Berryessa Garbage Service, California American Water, Capital Drum, Inc., Cardenas Markets, Inc., CR&R Waste & Recycling, Daly Movers, Inc., Dash Transport, Inc., Dolphin Express/ Dolphin Transport, ESTES West, File Keepers, LLC, F.N.F Rolloff Services, Hansen & Adkins Auto Transport, Jerry Melton & Sons Construction Inc., JLV Transport LLC, Lakeport Disposal Company, Inc., Mike Tamana freight Lines, LLC, Mountainside Disposal, Inc., MVP Trucking, Inc., Old Durham Wood Co., Oltmans Construction, Pacific Green Trucking, Perner Packing Company, R &F Disposal, Redwood Debris Box, Reeve Trucking, Rodolfe Nunez DBA Nunez Transport, Selma Disposal & Recycling, Inc., Smartway Express, Sterling Express Services, Transloading Express, Inc.,

Michael T. Kleinman, Ph.D.

November 5, 2014

Victor Nunez DBA Nunez Transport, Vigold Transport Systems, Inc., Water Reclamation Equipment, Inc., Williams Tank Lines. The remaining 209 companies paid about \$450,000. No doubt, more fines will come to those who just cannot afford to comply.

In addition to the fines, with one stroke of the “regulatory pen”, CARB has devastated the net worth of thousands of businesses like mine who use their once diesel “assets” (now “liabilities”) to secure banking and bonding necessary for business operations. Businesses will close, resulting in increased unemployment and loss of a tax base to the State.

Most of these companies are not aware of the major role that the SRP has played in the Truck and Bus Regulation and the CARB fines that they have received. But I am well informed on this matter and I intend to apprise them of the serious problems with the SRP. Thus, I need your prompt response to this letter and my prior letter.

Thank you very much for your consideration of my important requests.

Sincerely yours,

A handwritten signature in blue ink that reads "Norman R. Brown". The signature is written in a cursive style with a large initial 'N'.

Norman R. Brown
Owner



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October 22, 2014

Michael T. Kleinman, Ph.D.
Air Pollution Health Effects Laboratory
University of California, Irvine
Irvine, CA 92697-1825
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(949) 824-4765

Dear Dr. Kleinman,

I am writing you regarding your current service as Chairman of the Scientific Review Panel (SRP) on Toxic Air Contaminants (TAC). I was the lead plaintiff in the June 2009 Pacific Legal Foundation lawsuit, *Brown v. Adams*, which challenged the illegal composition of the SRP as it existed in 2009. As a result of this lawsuit five of the nine members of the SRP were removed in 2010, including long-term Chairman John R. Froines. You were nominated by then UC President Mark G. Yudof and selected by Assembly Speaker John Perez to replace Dr. Froines as SRP Chairman, at least for about two months, until Dr. Froines was reappointed. You were then nominated by UC President Janet Napolitano to replace Dr. Froines after he resigned from the SRP as of August 1, 2013. You were again selected by Speaker Perez to be the SRP Chairman.

I understand that you are a protégé of Dr. Froines and have co-authored several diesel-related papers with him. Also, I understand that you are familiar with the actions of the SRP, particularly its 1998 identification of diesel particulate matter (PM) as a TAC. Finally, I understand that you are one of the originators of the concept of “premature deaths” due to air pollution. I have read your 1992 *SCIENCE* article “Valuing the Health Benefits of Clean Air”. Your article states that each resident in Southern California “faces an increased risk of death in any year of 1/10,000 as a result of elevated PM10 exposure” and that “attaining air pollution standards may save 1600 lives a year in the region.”

Although I have read this study several times, I cannot find any reference to the biological plausibility of premature death from “particle size”, the level of toxicity required or the Relative Risk (RR) resulting in premature deaths. As a toxicologist, you know that the “dose makes the poison”. Without defining the RR, you cannot determine whether you have actual evidence or just statistical noise generated from the epidemiological studies used. Your article suggests we can prevent 1600 deaths without showing evidence of even ONE person dying from PM10

exposure. Since the publication of your article, epidemiologic evidence assembled by EPA shows that there is no significant relationship between PM10 and premature death.

CARB now claims that PM2.5, the supposedly more deadly form of PM, contributes to 18,000 premature California deaths per year. This claim is based on a few specially selected non-California studies that rest on RR's of around 1.01-1.08 (where 1.0 equals no effect). However, the totality of the epidemiologic evidence published since the year 2000 by 26 doctoral level scientists shows NO RELATIONSHIP between PM2.5 and total mortality in California. Unfortunately the overall evidence is ignored by CARB.

Observational studies must show a strong Relative Risk or Hazard Ratio in order to suggest causation because they are not randomized or controlled and subject to many confounders. Extensive research by the Observational Medical Outcomes Partnership strongly suggests a RR of 3-5 to reduce the uncertainties created by these confounders. Under the Federal *Reference Manual on Scientific Evidence*, Chapter on Epidemiology (written by Leon Gordis, an internationally known epidemiologist with two equally prominent co-authors, Mical Freedman and Michael Greene) on page 384 they describe proof of causation of disease or death must, as a **minimum**, have a relative risk (RR) of 2 (100% increase in effect). [*Reference Manual on Scientific Evidence*, pages 375-384 (2nd edition, Federal Judicial Center, 2000)].

Let us examine some simple statistics associated with PM2.5 that are relevant to the plausibility that it "causes" premature death. The amount of air inhaled by an adult breathing at rest is about 10 cubic meters per day or about 300 million cubic meters over an 80-year life span. The amount of PM2.5 inhaled at the approximate current ambient level in California of 15 $\mu\text{g}/\text{m}^3$ is about 4.5 grams in 80 years. The amount of inhaled diesel PM, based on evidence that it is 5% of total PM2.5, is about 0.2 grams in 80 years, which is the amount of PM2.5 that is inhaled from smoking about five cigarettes. Based on just common sense, these low levels of inhaled PM2.5 from diesel engines are not sufficient to kill anyone in California. I have been exposed to PM2.5 from diesel equipment my entire life and I am still in good health. I conclude that your (and CARB's) studies amount to nothing more than statistical noise!

Even more troubling is the fact that the SRP has continually refused to reconsider its 1998 identification, in spite of overwhelming evidence that there are no "premature deaths" in California due to diesel PM, that diesel PM represents only a tiny portion of the total PM2.5 in California, that the 1998 identification was based on highly contested evidence that did not apply to California, and that most SRP members were serving improperly/illegally when the 1998 identification was made.

The SRP is of great concern to me because the CARB diesel regulations that have resulted from the 1998 diesel PM TAC identification have destroyed most the net worth of all the retained diesel equipment that my family construction company has been legally purchasing since 1943. My diesel assets have become diesel liabilities. The SRP and CARB has summarily taken away my retirement, and at the age just shy of 71, I find this extremely offensive. As the CARB

Michael T. Kleinman, Ph.D.

October 22, 2014

requirements become mandatory, I will liquidate my assets, taking the employees off the payroll one at a time until I close the doors. The economy just does not support replacement of my entire fleet. All due to flawed studies, yours included.

Because of these factors, California businessmen like myself we have been carefully watching the SRP to make sure that it strictly adheres to California Health and Safety Code Sections 39660-39671. The February 2010 nomination letter of President Yudof describes you as a Professor at UC Irvine, whereas other reliable information states that you were an Adjunct Professor at UC Irvine from 1982 through 2010. Additional reliable information indicates that since 2011 you have not been employed at UC Irvine as a Professor or Adjunct Professor and are currently employed as a "recalled non-faculty academic."

However, as of today, you are listed as a Professor on the CARB SRP webpage and on the UC Irvine AirUCI web page. Thus, to clarify these inconsistent facts, I request that you promptly send me evidence that you in fact have been employed as a Professor at UC Irvine since 2010. If you have not been employed at UC Irvine since 2010 as a Professor then I assume that you misrepresented your actual faculty position on your two SRP applications to the UC President. If these misrepresentations actually occurred, I request that you resign from the SRP no later than January 1, 2015, when your current SRP appointment expires. If you apply for another term on the SRP, I make every effort to stop your reappointment based on that fact that you provided false information to the UC President regarding the description of your UC Irvine faculty appointment.

Thank you very much for your prompt attention to this important matter.

Sincerely yours,



Norman R. Brown
Owner