

California TRANSPORTATION NEWS

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A Regulatory Fraud or a Polluted Process?

Pages 6

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JAMES E. ENSTROM, PH.D.
UNIVERSITY OF CALIFORNIA
PO BOX 951772
LOS ANGELES CA 90095-1772

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Fred ReCupido - (951) 849-1002
Cell (760) 535-0810 • fred@terratrucking.com

EDITORIAL & ADVERTISING

CALIFORNIA TRANSPORTATION NEWS MAGAZINE

334 N. Euclid Avenue • Upland, CA 91786-6031
(909) 985-2348 Fax • www.cdtoa.org

EXECUTIVE DIRECTOR

Lee Brown - Senior Editor

EXECUTIVE ASSISTANT

Lorraine Perluss - Contributing Editor

ADVERTISING & PUBLISHING

Jesse Ramirez - Publisher/Affiliate Coord.

OFFICE DIRECTORY

CDTOA	(909) 982-9898	Ext.
Executive Director - Lee Brown		13
<i>leebrown@cdtoa.org</i>		
Executive Assistant - Lorraine Perluss		21
<i>lorraine@cdtoa.org</i>		
Ad. & Affiliate Coord. (Español) - Jesse Ramirez		22
<i>publishing@cdtoa.org</i>		
Accountant - Dianna Lee		19
<i>dianna@cdtoa.org</i>		
No. Membership Services Director - Betty Plowman	(707) 974-8961	
<i>betty@cdtoa.org</i>		
So. Membership Services Director - OPEN		
Industry Transportation Consultant - Greg Dineen	(760) 249-4376	
<i>gregdineen@h-e-r-o.org</i>		
Transportation Advisor/PAC Chairman - Fred ReCupido	(951) 849-1002	
<i>fred@terratrucking.com</i>		

AAAT	(800) 820-9314	Ext.
Operations Director - Lonnie Johnson		25
<i>lonnie@aadrugtesting.com</i>		
C.S. Manager (Español) - Sandra Medina		17
<i>smedina@aadrugtesting.com</i>		
Senior C.S. Specialist - Lisa Heaps		24
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<i>vicky@aadrugtesting.com</i>		
Accountant - Dianna Lee		19
<i>dianna@aadrugtesting.com</i>		

CDTOA HOLIDAY CALENDER

New Years Day	January 1, 2009
Martin Luther King Day	January 19, 2009
Presidents Day	February 16, 2009
Memorial Day	May 25, 2009
Independence Day	July 4, 2009
Labor Day	September 7, 2009
Veterans Day	November 11, 2009
Thanksgiving Day	November 26 - 27, 2009
Christmas Day	December 25, 2009

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CDTOA President's Monthly Message

Tom Williamson

If the State of the Economy Doesn't Make You Sick to Your Stomach This Will

I'm rather disappointed with the governor, the states regulatory process and especially the ethics and conduct of both the California Air Resource Board (CARB) staff and Board members, especially the chair. Last month, after hearing from so many affected truckers, the CARB's Board without hesitation made another sweeping decision to eliminate diesel trucks with 2007 or older diesel engines without offering most of those truck owners any hope of recouping their investments in this equipment. The way the CARB staff presented only bias reports and information was appalling to say the least. I thought the CARB Board would be smarter and willing to listen to both sides and be somewhat reasonable with its decision and make some compromises especially from the trucking industry coalition DTCC. I wonder if any of the CARB Board members even read the posted comments on their own website – I don't really think they did!

I recently read a letter off the CARB's website that was sent December 10th to the CARB/Board. It was from a Professor James Enstrom from UCLA's Jonsson Comprehensive Cancer Center. According to UCLA's website, Enstrom "has conducted research on the epidemiology of cancer, particularly examining the health practices and cancer risk in several well-defined populations within California and the United States since 1974." Epidemiology is a branch of medical science dealing with the transmission and control of disease, such as cancers. He is an expert in this field and he cited 6 different studies that showed there was little to no links between diesel emissions, PM 2.5 and deaths in California – nothing. The CARB staff report to the Board only used information and reports that backed their agenda and most of their reports are disputed and were certainly not proven conclusive through peer reviewed scientific research.

We have decided to include this Enstrom letter to CARB's Board dated December 10th within our magazine, starting on pages 7, so all of you can read how corrupted this entire process is from the scientific review panel appointments to the final decision made by an academic (Mary Nichols) who is supposed to be held to an ethical code of conduct built around honesty, accuracy and objectivity. Many of these ethics codes also apply to public employees, from the lead statistician for CARB who falsely claimed to have a doctorate degree to the rule manger who implied that a 20% reduction in diesel sales would not help the environment "because trucking companies would hold on to their older equipment longer and therefore there would be no clean air benefits" during this recession. I'm personally outraged!

Many people took-off what little work there is to go to Sacramento to testify and tell their story before the Board. They were only given 2-3 minutes to speak and were cut off if they went past the time limit in mid-sentence. The ratio was 60% against the rule and 40% for it. If you took out the imported environmentalist zealots with pray flags the school children and those bought and paid for through the environmental movement organizations including CARB, few actually articulated a legitimate reason to pass such an unreasonable regulation.

At one point on the second day of the hearings, the chairperson, Mary Nichols said, "the (regulatory and related research) information, right or wrong, presented by the staff was all they had to make their decision on". How untrue this all now appears to be in my opinion.

It seems to me that these board members were not willing to listen to any contradictory testimony or written comments presented before them that day. Some of the board members even questioned the accuracy of the staff reports, yet they still all voted unanimously to pass the rule. The coercive force of that Board and its chair on the New Members of the Board was all too obvious.

In my opinion, the CARB Board decision should had been postponed until all the reports could be re-evaluated for accuracy and updated because too many important things have changed since the reports were issued. Mainly the economy – with growing unemployment and little job growth throughout the State, the Board should have been forced to reevaluate their models and forecasts to fit the economy today not three years ago. And it should legitimately respond to all of Prof. Enstrom's issues outlined in his letter.

Hopefully, the State budget won't pass soon and these people will get a wakeup call when they are laid-off or have their working hours cut and will see what it is like not to receive their inflated salaries and benefits. They all need a taste of the real world, a world they are helping to wreck or recreate in their image. The challenges behind many of their decisions are just beginning to be seen! From what I've been reading about the CARB's off-road rule, there are many problems with trying to retrofit older off-road equipment and in the field, none of these retrofit equipment works. We can all expect to pay more for less, a lot less from now on!

Now for some good news!

Another benefit of membership in CDTOA is with our friends at towPartners. All of our members receive a free gold membership level at (towpartners.com) good for many discounts such as Sprint – 16% - 13%, Office Depot, Carquest auto parts and many other goods and services. I want to bring to your attention the new TOYO Tire national fleet discount program that towPartners offers us as members of CDTOA. You go on their website (use your gold card information to log into the site) check the price on the tires you need, order online with a credit card and pickup your tire(s) at a local dealer in your area. It's very easy to use and buy tires on this site.

We also have the Michelin National Fleet Discount Program in place on our website, unfortunately it's not as easy to use, but it does work and the savings are substantial. Hopefully, we can talk Michelin into a program that functioned as efficiently as the online Toyo program.

These are real benefits you can use as costs savings for your businesses. I personally saved 7% on a tire purchase above my normal discount recently. It doesn't cost you anything to go to the websites and check out the pricing. If our special program pricing beats what you currently pay, you can't go wrong. The saving of just 7% on a \$250-300 tire is about the cost of your monthly CDTOA dues – if there was ever a time that we need savings and someone to fight for us it is now. And don't forget, we are still moving forward with "Dump Truck Broker Regulation" legislation. The EC members just received an emailed draft version of our legislation that has been reviewed by the Office of the Legislative Counsel. Everything seems to be looking good so far!

Lastly, don't forget the next Association Board Meeting the last week in February at the Ramada Inn & Plaza in West Sacramento, February 27th and 28th. I'm sure the CARB rules and our legislation will be the hot topics on the agenda. Don't miss it!

"Together We Make a Difference"

Tommy

A Regulatory Fraud or a Polluted Process – You Choose, It's Only a Matter of Semantics!

Well, if you read the articles written by both Betty Plowman and President Tom Williamson in this month's magazine, you now understand that there was and continues to be many abnormalities and problems associated with the CARB agency and their rulemaking process, specifically related to the diesel engine emissions rules. Few are surprised. Betty brought a number of interesting letters (and testimony) to my attention prior to and following the CARB On-road rule hearings, Dec. 11 & 12.

By far, the most interesting and disturbing communications to the Board was from a Professor at UCLA, James Enstrom. I won't bother you by repeating what Betty and Tommy discovered about Enstrom's credentials, but needless to say they are legitimate, impressive, and most importantly, highly relevant to these CARB rules. Particularly, Prof. Enstrom draws attention to the highly questionable science used in the creation, evolution and present regulatory status of the rules.

I have read through his Dec. 10th letter to the CARB Board (see pages 7-11) and now I'm working my way thorough all the supporting links. And anyone who makes this effort and doesn't question the entire process and integrity of the public servants and appointed officials associated with the CARB rulemaking process is a fool! If this is an objective, balanced, and honest rulemaking process, then we are doomed as a state and country!

I would like to bullet each of the many procedural problems that Prof. Enstrom pointed out, but I'll let you first read through his letter and you can decide for yourself if the industry was treated fairly.

Frankly, I'm disappointed and a little ashamed that I was so naive to believe that there may have been some integrity in this governmental process. Isn't it ironic that with all the partisan political discourse over the last 8-years, we now have a senator from Illinois who will become president and who states that one of his heroes was a fellow Illinois senator and President, Abraham Lincoln, who never let the world forget that the Civil War involved an even larger issue – freedom. In a moving dedication of the military cemetery at Gettysburg in 1863, Lincoln stated this famous phrase, "that we here highly resolve that these dead shall not have died in vain – that this nation, under God, shall have a new birth of freedom – **and that government of the people, by the people, for the people, shall not perish from the earth.**"

I guess that the "for the people" Lincoln was talking about 145 years ago has evolved into "for the zealot environmentalist movement people" because they somehow have a higher cause than the rest of us and thus can justify forcing their agenda and control on those with the most to lose. There is no freedom here and that was obvious to me two years ago when CARB's off-road rule was similarly passed. I don't believe that we should stand by and let this happen!

Interestingly, as I look back at the hearings, I don't recall one trucker or trucking company representative not saying that they were 100% supportive of clean air and removing the dirtiest trucks from the road. They just wanted the rule to be fair and not a financial burden to their businesses. Well, there was no fairness in this rule and we'll soon know what the financial burden really is.

President elect Obama ran on a platform based on change – we should be asking the same from CARB!

I propose as Americans that we do whatever it takes to see that we receive justice from this abysmal experience. The rule doesn't go into effect for two years; so, we can roll-over or demand changes and justice! I know what I'm going to do – what are you going to do?

In Related News

The Governor also appointed Ken Yeager as new member to the CARB Board on January 6th. Ken Yeager, 56, of San Jose, has been appointed to the California Air Resources Board. He has served on the Santa Clara County Board of Supervisors since Dec. 2006 and previously served on the San Jose City Council from 2001 to 2006. Since 1991, Yeager has been a faculty member of the Department of Political Science at San Jose State University, and from 1987 to 1991, he was a graduate assistant at Stanford University. He is a member of the Bay Area Air Quality Management District, Association of Bay Area Governments, California State Association of Counties Climate Change Taskforce, Santa Clara County Health Authority, Valley Transportation Authority and Metropolitan Transportation Commission. Yeager earned Doctor of Philosophy and Master of Arts degrees in education from Stanford University and a Bachelor of Arts degree in political science from San Jose State University. This position requires Senate confirmation and there is no salary. Yeager is a Democrat.

President Elect Obama Seeks Aggressive Economic Stimulus Plan, \$800-billion

Facing a global economic crisis and record U.S. job losses (2-million+), President-elect Obama and congressional leaders agreed Jan. 4th on broad aspects of what's sure to be the largest short-term economic-stimulus plan the nation has ever seen. They promised to pass legislation quickly.

Democratic leaders said they'd immediately push the ambitious package. The president-elect is proposing \$800 billion, two-year package that includes about \$300 billion in tax cuts or credits, with an emphasis on low- and middle-income earners.

Under Obama's plan, the key tax provision would be \$500-per-individual or \$1,000-per-couple rebates for most taxpayers. Instead of mailed checks – the rebate method that the Bush administration used in a failed bid to spark the economy last year – the amount would be distributed by withholding less from paychecks over a period of months. To read his entire remarks on this plan go to: http://change.gov/newsroom/entry/dramatic_action/

The 111th Congress convened on Jan. 6th, and Democrats will have large majorities. Obama will be sworn in as the 44th president on Jan. 20th. Democrats once hoped to have the stimulus ready by

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(916) 371-2100

WINTER BOARD MEETING 2009 February 27-28

RSVP Before 2/4/09

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December 10, 2008

California Air Resources Board
1001 "I" Street
P.O. Box 2815
Sacramento, CA 95812
<http://www.arb.ca.gov/>

Re: Scientific Reasons to Postpone Adoption of Proposed STATEWIDE TRUCK AND BUS REGULATIONS (<http://www.arb.ca.gov/regact/2008/truckbus08/truckbus08.htm>)

Dear Board Members:

I am writing to describe important scientific reasons that must be addressed regarding the health effects of diesel particulate matter in California before the proposed "STATEWIDE TRUCK AND BUS REGULATIONS" are adopted.

These comments add to my previous public comments, which were submitted on April 22, 2008 (http://www.arb.ca.gov/lists/erplan08/2-carb_enstrom_comments_on_gmerp_042208.pdf), on July 11, 2008 (http://www.arb.ca.gov/research/health/pm-mort/pm-mort_supp.pdf), and on October 1, 2008 (http://www.arb.ca.gov/lists/verdev2008/33-32-carb_enstrom.pdf).

These new comments describe serious scientific deficiencies in the final October 24, 2008 CARB Staff Report "Methodology for Estimating Premature Deaths Associated with Long-Term Exposures to Fine Airborne Particulate Matter in California" (http://www.arb.ca.gov/research/health/pm-mort/pm-mort_final.pdf).

This CARB Staff Report and the very similar May 22, 2008 CARB Draft Staff Report with the same title (<http://www.arb.ca.gov/research/health/pm-mort/pm-mortdraft.pdf>) have been used as a primary public health justification for reducing diesel particulate matter in California.

These reports have been prominently cited in the proposed STATEWIDE TRUCK AND BUS REGULATIONS, particularly in Appendix D: Health Impacts from On-Road Diesel Vehicles (<http://www.arb.ca.gov/regact/2008/truckbus08/appd.pdf>) and in Appendix E: Health Risk Assessment for On-Road Diesel Trucks (<http://www.arb.ca.gov/regact/2008/truckbus08/appe.pdf>).

To document the serious scientific deficiencies in the CARB Staff Report, I have identified and described six specific examples of serious errors and misrepresentations.

Example 1: Scientific Qualifications of CARB Staff Report Authors

List of authors on third title page:

Project Coordinator and Lead Author

Hien T. Tran, Ph.D.

Contributing Authors

Álvaro Alvarado, Ph.D.
Cynthia Garcia
Nehzat Motallebi, Ph.D.
Lori Miyasato, Ph.D.
William Vance, Ph.D.

Response:

Because of my concerns about the unsatisfactory and unprofessional way in which the 148 pages of public comments in response to the May 22, 2008 CARB Draft Staff Report (http://www.arb.ca.gov/research/health/pm-mort/pm-mort_supp.pdf) were incorporated into the October 24, 2008 CARB Staff Report above, I have investigated the scientific qualifications of the report authors. My search of PubMed (<http://www.ncbi.nlm.nih.gov/sites/entrez/>)

identified only two peer reviewed papers by lead author Hien T. Tran. Furthermore, NONE the peer reviewed papers by Tran and the five contributing authors have been on topic of their report, fine particulate matter (PM2.5) and mortality in California.

Dr. S. Stanley Young of the National Institute of Statistical Sciences wrote to Governor Arnold Schwarzenegger regarding the May 22, 2008 CARB Draft Staff Report. In response, California EPA Secretary Linda S. Adams wrote a November 4, 2008 letter to Dr. Young (<http://www.scientificintegrityinstitute.org/Adams110408.pdf>). The Adams letter makes the following statement "Regarding the professional background of the authors, the lead author and project coordinator, Hien Tran, holds a doctorate degree in statistics from the University of California at Davis"

However, I have determined from the UC Davis Office of the University Registrar and the UC Davis Department of Statistics that Hien Tran holds NO Ph.D. in statistics from UC Davis. Also, I searched ProQuest Dissertation Express (<http://disexpress.umi.com/dxweb#search>) and found NO evidence of a dissertation on any subject from any university awarded to the Hien T. Tran employed by CARB. ProQuest UMI Dissertation Publishing has been publishing dissertations and theses since 1938 and has published over 2 million graduate works from graduate schools around the world (<http://www.proquest.com/en-US/products/dissertations/>). Although Tran is shown with a Ph.D. in the draft and final reports and in the December 7, 2007 CARB Research Division Organizational Chart (<http://www.arb.ca.gov/html/org/orgrd.htm>), most citations of Tran in documents and meetings on the CARB website identify him as Mr. Hien Tran (<http://www.arb.ca.gov/db/search/search.htm>). It is very important to have Tran clarify the actual status and nature of his alleged Ph.D. degree. This issue has direct relevance to the honesty of Tran and to the scientific integrity of the draft and final reports on which he is the lead author.

Example 2: Review Process for CARB Staff Report

Paragraph from Executive Summary:

"The methodologies and results presented in this report have been endorsed by our scientific advisors, Dr. Jonathan Levy of Harvard University, Dr. Bart Ostro of the Office of Environmental Health Hazard Assessment, and Dr. Arden Pope of Brigham Young University. **This report underwent an external peer review by experts selected through an independent process involving the University of California at Berkeley, Institute of the Environment. The results of the peer review process have been incorporated into this report.** In addition, all public comments received on the May 22, 2008 draft version of the report have been incorporated into this staff report. Specific responses to individual comments are addressed in Appendix 5."

Response:

Based on my November 12, 2008, 11 AM telephone conversation with Hien Tran, only the CARB Draft Staff Report underwent external peer review. This agrees with the posted CARB Peer Review Committee Background (<http://www.arb.ca.gov/research/health/pm-mort/prc.htm>). The final CARB Staff Report and the 148 pages of public comments were never shown to the external peer reviewers. Consequently, the final report does not contain all the changes that are warranted based on the public comments. Note that the Executive Summary of the final report is virtually identical to the Executive Summary of the draft report. I do not believe that the external peer reviewers would have approved the final report as written if they had seen the public comments. The final report should be sent to and fully evaluated by the external peer reviewers before it is used by CARB as public health justification for new diesel truck regulations.

CONTINUED ON PAGE 8

Example 3: Geographic Variation of Relationship Between PM 2.5 and Deaths in Cohort Studies

Paragraph from pages 25-26:

“Other important screening criteria include a desire for geographic appropriateness. This does not necessarily mean that only studies in California can be used for risk evaluations in California, but it means that significant factors that vary geographically should be addressed. This can occur at multiple levels. For example, a study in a developing country may not be directly applicable to the U.S., due to differences in age distributions, underlying disease patterns, pollutant composition, standard of health care, and many other factors. Within the U.S., regional differences could occur if the composition of PM2.5 differed significantly and more/less toxic agents could be identified, or if concentration-exposure relationships differed significantly (i.e., due to differences in air conditioning prevalence). While there are some noticeable differences between California and other states in terms of climate and concentrations of PM constituents, **there is little evidence for California’s relative risk to be differentiated from the U.S. average.** More explicitly, there is not adequate evidence at present regarding the quantitative differential toxicity of different particle constituents, and national and regional information about exposure-concentration differentials, to make any formal adjustments.”

Response:

There is substantial evidence from six different sources that there is substantial geographic variation in the relationship between PM2.5 and deaths within the United States and/or that there is little or no current relationship between PM2.5 and deaths in California:

1) Figure 21 “Fine Particles and Mortality Risk” on page 197 of the 2000 HEI Reanalysis Report by Krewski et al. shows “medium mortality” in California: “0.711<relative risk of mortality<0.919”. This finding is based the HEI analysis of 1982-1989 deaths in the ACS 1982 Cancer Prevention Study (CPS II) cohort. Figure 21 has been discussed in my April 22, 2008, July 11, 2008, and October 1, 2008 public comments cited above and in my June 1, 2006 *Inhalation Toxicology* response (<http://www.scientificintegrityinstitute.org/IT060106.pdf>).

2) Pages 6-265 and 6-266 of March 2001 US EPA Second External Review Draft Air Quality Criteria for Particulate Matter Volume II (EPA 600/P-99/002bB) (<http://cfpub.epa.gov/ncea/cfm/recordisplay.cfm?deid=20810>) contain the following sentences: “The overlay of mortality with air pollution patterns is also of much interest. The spatial overlay of long-term PM2.5 and mortality (Krewski et al., 2000; Figure 21) is highest from southern Ohio to northeastern Kentucky/West Virginia, but also includes a significant association over most of the industrial midwest from Illinois to the eastern non-coastal parts of North Carolina, Virginia, Pennsylvania, and New York. . . . The apparently substantial differences in PM10 and/or PM2.5 effect sizes across different regions should not be attributed merely to possible variations in measurement error or other statistical artifact(s). Some of these differences may reflect: real regional differences in particle composition or co-pollutant mix; differences in relative human exposures to ambient particles or other gaseous pollutants; sociodemographic differences (e.g., percent of infants or elderly in regional population); or other important, as of yet unidentified PM effect modifiers.”

3) Slide 46 in the July 23, 2001 EPA CASAC presentation by Dr. Lester D. Grant shows no relationship between PM2.5 and deaths in the “West” based on the 2000 HEI Reanalysis (ACS CPS II cohort). For further details read pages S-10 and S-11 of the July 11, 2008 public comments by Jon M. Heuss (http://www.arb.ca.gov/research/health/pm-mort/pm-mort_supp.pdf and <http://www.scientificintegrityinstitute.org/Heuss071108.pdf>) and

examine the full EPA CASAC presentation by Grant (<http://www.scientificintegrityinstitute.org/Grant072301.pdf>).

4) My December 15, 2005 *Inhalation Toxicology* paper, “Fine Particulate Air Pollution and Total Mortality Among Elderly Californians, 1973-2002,” showed no relationship between PM2.5 and deaths in 11 California counties in the California Cancer Prevention Study (CA CPS I) cohort during 1983-1992 and 1993-2002 (<http://www.scientificintegrityinstitute.org/IT121505.pdf>).

5) The August 12, 2008 *Environmental Health Perspectives* paper by Drs. Scott L. Zeger, Francesca Dominici, Aidan McDermott, and Jonathan M. Samet, “Mortality in the Medicare Population and Chronic Exposure to Fine Particulate Air Pollution in Urban Centers (2000-2005)” (<http://www.ehponline.org/members/2008/11449/11449.pdf>). Page 1617 of this paper states: “A provocative finding is that the MCAPS data show no evidence of a positive association between ZIP code-level PM2.5 and mortality rates for the 640 urban ZIP codes in the western region. This lack of association is largely because the Los Angeles basin counties (California) have higher PM levels than other West Coast urban centers, but not higher adjusted mortality rates.” The results for the western region [California, Oregon, and Washington] are dominated by those for California, since 468 (73%) of the 640 zip codes for the western region are in California. This paper is the published version of the January 2007 Johns Hopkins University Biostatistics Working Paper 133 (<http://www.bepress.com/jhubiostat/paper133/>), which has similar findings based on 2000-2002 Medicare Cohort Air Pollution Study (MCAPS) data.

6) Additional results are found in the U.S. Centers for Disease Control (CDC) WONDER data base for U.S. mortality during 2000-2005 (<http://wonder.cdc.gov/cmfi-icd10.html>). This interactive national mortality data base shows that, compared with the 2000-2005 United States total age-adjusted death rate, the California rate is 9% lower and the Los Angeles County rate is 11% lower.

These results are consistent with the finding in the 2008 *EHP* paper that total death rates are not higher in the Los Angeles basin counties. In addition, the relatively low total death rate for California does not support the notion that diesel particulate matter or fine particulate matter causes premature deaths in California. California has the fourth lowest total age-adjusted death rate among all states.

Example 4: Geographic Variation of Relationship Between PM 2.5 and Deaths in Time Series Studies

Paragraph from page 26:

“National-scale epidemiological studies addressing short-term effects of PM exposure using time-series analyses do not demonstrate an appreciable difference between California and other states or regions in relative risks. For example, in a publication on 91 U.S. cities addressed by the National Mortality Morbidity Air Pollution Study, **Dominici et al. (2005)** showed that the southern California relative risk was slightly higher than the national average, while that of the Northwest (which included northern California as well as Oregon, Washington) was slightly lower than the national average. A simple average of the southern California and Northwest relative risks gives a value almost identical to the national average. A recent publication investigating PM2.5 mortality in 27 large communities around the U.S. (**Franklin et al. 2007**) found that the C-R function was above the national average for San Diego and Sacramento but below the national average and insignificant for Riverside and Los Angeles. It should be noted that the cohort study by Jerrett et al. (2005a) did find a statistically significant effect for the Los Angeles metropolitan area, once exposure was estimated with more geographic precision. Thus, the available evidence does not provide any rationale for excluding relative risks derived from studies across the U.S. to California.”



Response:

The results of the two time series studies cited are inaccurately described. Dominici et al. (2005) presented only PM10 results and made no mention of PM2.5 in California or elsewhere in the U.S. (<http://www.scientificintegrityinstitute.org/JTEH2005.pdf>). It is entirely inappropriate and misleading to cite this study as being relevant to PM2.5 relationships throughout the U.S. The Franklin et al. (2007) relative risks (RR) are described inappropriately. A properly weighted average of results for the 5 counties in California yields $RR = 1.0009$ (0.9972-1.0046), whereas the results for all 27 U.S. counties analyzed in the paper showed $RR=1.0121$ (1.0029-1.0214) (<http://www.scientificintegrityinstitute.org/JESEE2005.pdf>). Thus, the results of Franklin et al (2007) support the above evidence of geographic variation in the relationship between PM2.5 and deaths in the U.S., with no current relationship in California.

Example 5: Misrepresentation of July 11, 2008 CARB Teleconference Organized by Hien Tran

Pages A-95 and A-96 of

"Appendix 5 (Public Comments and Staff Responses)

In this appendix, we summarize the key comments received from the public on the May 22, 2008 draft report, and our responses to them."

"1. **Choice of studies for draft report** - Draft report emphasized positive studies and omits consideration of negative chronic mortality studies (i.e. Veteran's study and Enstrom (2005)). In addition, many of the studies chosen were not California-centric. . . .

Some commenters suggested that CARB put greater emphasis on the Enstrom (2006) study. CARB staff convened a teleconference with Dr. Enstrom and several prominent epidemiologists to discuss his findings.

We amended that portion of the report to reflect the discussion, **which focused on two main issues: the time of follow-up since initial enrollment of the cohort, and the age of the cohort.**"

Response:

The above statement totally misrepresents the July 11, 2008 teleconference, which focused on the full July 11, 2008 agenda that I prepared in advance of the teleconference (<http://www.scientificintegrityinstitute.org/AgendaFull071108.pdf>). While the age of the CA CPS I cohort used in my 2005 paper was noted during the discussion, the long follow-up period of my study was not discussed. Although my study used an elderly cohort, it is important to note that about 75% of all California deaths occur among residents 65+ years of age. The primary purpose of the teleconference was to correct the mischaracterization by CARB of my 2005 paper, to address the points made in my 2006 response to criticism of my 2005 paper, to address my April 22, 2008 CARB public comments, and to discuss my proposed calculation of California-specific relative risks in ACS CPS II cohort, the cohort used in the studies rated highest in the CARB Staff Report. The full text of my public comments submitted just after the teleconference are available on pages S-139 to S-141 of the complete July 11, 2007 CARB public comments (http://www.arb.ca.gov/research/health/pm-mort/pm-mort_supp.pdf and <http://www.scientificintegrityinstitute.org/PMDeathsEnstrom071108.pdf>).

Example 6: Repeated Failure to Obtain California-specific Results from ACS CPS II Cohort

Page A-104 of **"Appendix 5 (Public Comments and Staff Responses)**

"12. Pope/American Cancer Society (ACS) study

Some comments are focused on Figure 21, page 197 of Krewski et al. (2000) suggest a misunderstanding of the figure. The figure is a visual overlay of the mortality and the PM2.5 surfaces as spatially modeled in one of the ACS sensitivity analyses. The figure shows that in California, the majority

of the most populous regions have low to medium levels of PM2.5, and medium mortality. The exception is the Fresno area, and moving east into the Sierra Nevada Mountains. The description of the figure is on page 198, and states: "For the medium levels of pollution, intersections exist (referring to the two spatial surfaces) for high and medium mortality rates, but not for low mortality rates. Only the low fine particle category intersects with the low mortality rate category." The point of the figure was to investigate the spatial concordance between high PM2.5 and high mortality areas, not to make a statement as to specific risk in any area of the country.

We appreciate the commenter's suggestion for calculation of California-specific relative risks using the ACS CPS II cohort data. However, **CARB staff does not own or have access to this data, and consequently can not perform the requested calculations. While CARB has funded projects that use the CPS II data, the agency has no role in obtaining the necessary data.** In terms of studies on the relationship between long-term exposure to PM2.5 and mortality, recent research (Jerrett et al., 2005a) into spatial variability in PM2.5 concentrations across regions, for example the Los Angeles area, shows that exposure assessments based on county level monitoring, as used in Enstrom (2005) and the various Pope et al. papers (1995, 2002, 2004), do not adequately represent population exposure, and introduce a bias toward the null. Consequently, we question the utility of an analysis that relies on what is not currently viewed as the best exposure estimation methodology."

Response:

As discussed points 1-3 in Example 3, there is no "misunderstanding" of Figure 21 from the HEI Reanalysis. Figure 21 shows clear geographic variation with RR below 1.00 in California. Slide 46 in the Grant EPA presentation confirms the geographic variation found in the ACS CPS II cohort, with $RR = 0.91$ (0.71-1.17) in the West (PM2.5 Excess Risk = -9%) (<http://www.scientificintegrityinstitute.org/Heuss071108.pdf>).

Based information obtained from Hien T. Tran and the July 21, 2008 letter to me by CARB Chair Mary D. Nichols (<http://www.scientificintegrityinstitute.org/Nichols072108.pdf>), CARB has an ongoing contract involving Dr. Michael Jerrett of UC Berkeley, Dr. C. Arden Pope of Brigham Young University, and Dr. Michael J. Thun of ACS to fully analyze the relationship of PM2.5 to deaths in California. The Pope 1995, Pope 2002, and Jerrett 2005 epidemiologic studies are all based on the ACS CPS II cohort and are the primary studies that have been used in the CARB Staff Report to estimate the relationship of PM2.5 to deaths in California. Thus, it is important that the ongoing analyses examine the relationship in several ways, including those that I proposed on July 11, 2008 in my teleconference involving Tran, Jerrett, and Pope (<http://www.scientificintegrityinstitute.org/AgendaFull071108.pdf>).

Unfortunately, Pope has not responded to my August 20, 2008 email request to conduct my proposed analyses and Thun has not responded to my December 1, 2008 request to conduct these analyses. In the best interest of all Californians, particularly those impacted by CARB regulations, CARB should make public its ongoing contract with Jerrett, Pope, and Thun and should require that all analyses of the ACS CPS II cohort data are conducted in a complete and transparent manner. Although "CARB staff does not own or have access to this data," CARB can require that the requested analyses be completed as part of their contract.

The serious errors and misrepresentations that exist in the CARB Staff Report, as illustrated by the six examples above, raise serious doubts about the honesty of the lead author, Hien T. Tran, and the scientific integrity of this report. The major issues described above must be satisfactorily addressed before this report is used as a primary public health justification for the proposed Statewide Truck and Bus Regulations. Given the extensive evidence that

CONTINUED ON PAGE 11

that date, but it now appears that their goal is to have it on his desk before members leave Feb. 13th for a Presidents Day recess.

Governor Pleads to Obama for Some Financial Help for California

The Governor sent a letter to President elect Obama on Jan. 6th the day Congress convened, outlining an economic stimulus package for the state. I suggest that you all read the letter on the opposite page. Below is an excerpt from his letter that is especially disturbing.

After writing an entire paragraph with 3-4 bullets dedicated to asking for a variety of environmental waivers to fast-track an assortment of construction projects, without skipping a beat in the next paragraph the Governor in his letter boasts this:

"My staff is calculating the reductions in greenhouse gas emissions that would result from these critical infrastructure upgrades. As you know, California is a world leader in energy efficiency and in fighting climate change. Recently, the California Air Resources Board approved a roadmap for implementation of Assembly Bill 32, the most ambitious climate change strategy in the nation. The board also approved new rules requiring heavy-duty diesel trucks to be retrofitted with diesel exhaust filters to meet federal Environmental Protection Agency requirements under the Clean Air Act. Your administration can assist by:

- *Using the Diesel Emission Reduction Act to assist with the \$1.6 billion cost of retrofitting an estimated 160,000 trucks that haul goods through California and will have to be upgrade.*
- *Providing tax credits for companies that produce these filters, thereby aiding American companies that manufacture diesel engines and those that make technologies to reduce truck emissions.*

The Governor in one paragraph requests federal environmental waivers and in the next paragraph plows ahead bragging about how the CARB's rules have made California the "world leader in energy efficiency and in fighting climate change." He believes we need environmental waivers to kick-start construction but screw the contractors and truckers who own diesel equipment. Which is it here?

Than he asks Obama for funding assistance just like the banks, AIG and Detroit – why not! The big problem I see is – where did he get the 160,000 effected trucks and why is retrofitting (he's budgeting \$10,000 a truck for retrofitting) even a legitimate option? More accurately, it is likely five times that number of trucks that will need to be replaced with new or newer equipment because of this CARB rule, so the ask should be for \$9 billion – right! That is unless he only plans to help the small fleet owner (3 or less trucks) with a \$10,000 retrofit.

Then he wants tax credits for only engine and retrofit device manufacturers, with no similar help for the truck and heavy equipment owners. Who writes this stuff? We're all in trouble!

Governor, Democrats Collide Over Environmental Exemption For Hwy. 50 Project

Sacramento Bee - 1/5/2009

With the clock ticking toward insolvency, talks on fixing California's budget this week hit a bottleneck on Highway 50 in Rancho Cordova – where officials are at odds over the state's iconic and controversial environmental protection law.

Because of the jobs it would create, Gov. Arnold Schwarzenegger is pushing for a fast-track launch this spring of a project to build a seven-mile-long carpool lane between Sunrise Boulevard and Watt Avenue. The Highway 50 project and nine other state highway expansions would boost California's sagging economy, Schwarzenegger said.

To speed those projects, the governor wants them exempted from further review under the California Environmental Quality Act, and to give them immunity from future lawsuits. But legislative Democrats, led by Sacramento's Darrell Steinberg, the Senate president pro tem, argue that such exemptions would undermine the landmark law and dilute California's leadership in the fight against global warming.

That highway fight is one of several state budget issues the governor and legislators failed to settle this week. They say they have given some ground in negotiations, but insist the state complete a full, court-ordered environmental review of the Highway 50 project. The state law in question, the monumental 1970 environmental quality act, requires large projects to be analyzed for potential adverse impacts on the environment and on surrounding communities, and requires steps be taken to blunt them.

The act is credited with giving the public more say over large-scale projects in California and with reducing air pollution and other environmental degradation.

But the law has long been criticized by some public officials and developers for causing delays and increasing costs, and for opening projects to lawsuits.

Despite the stalemate, Schwarzenegger pressed forward this week in a letter to President-elect Barack Obama, asking him to ease federal environmental requirements on a number of major projects.

CONTINUED ON PAGE 21

Scientific Reasons Letter - CONTINUED FROM PAGE 9

diesel particulate matter and fine particulate matter are not currently causing premature deaths in California, these proposed regulations should be postponed until the above issues are fully addressed.

Thank you very much for your consideration of my public comments above.

Sincerely yours,

James E. Enstrom, Ph.D., M.P.H.
Jonsson Comprehensive Cancer Center
University of California, Los Angeles
<http://www.cancer.ucla.edu/>
jenstrom@ucla.edu
(310) 825-2048

It Isn't Over!

This past month has certainly seen more “twists and turns” than Lombard Street in San Francisco as the saga of CARB’s recent approval of the On-road Truck & Bus Rule continues to unwind.

It took me several days after the hearings before I could get up enough nerve to go back to the CARB’s website and once again read through some of the 500+ public comments. To say I was shocked most at the postings by Prof. James E. Enstrom and especially his letter to the Board dated Wednesday, December 10th would be an understatement. Enstrom is a UCLA based Professor of Research, a School of Public Health Member at UCLA’s Jonsson Comprehensive Cancer Center. The JCCC is internationally renowned for innovative cancer research and the best in cancer diagnosis, treatment and prevention in Los Angeles and Southern California. On UCLA’s JCCC website it said that Enstrom has been involved with research on the epidemiology of cancer, particularly examining the health practices and cancer risk in several well-defined populations within California and the United States for the last 35 years. After reading all of this, I was impressed and I began to wonder – why – why wasn’t this information considered by CARB?

Enstrom apparently has written many letters to the CARB board and staff over the last year. There was one letter from him and three other Ph.D.’s dated December 3rd, that requested a postponement and reassessment of CARB’s proposed Diesel Regulations. The group specifically asked for “twelve general and specific concerns to be fully and fairly evaluated.” See that letter on opposite page.

Enstrom also suggested in a letter to CARB dated December 10th, that CARB’s lead scientist and staff were supposed to review all public comments than draft a CARB report and than send it out for peer review and comments, make adjustments to the report and than send a final draft out to the CARB board. Well, apparently this never happened either, the whole process was clearly side-stepped. The final report to CARB was identical to the old draft report. Than it was revealed that Hein T. Tran, the final CARB staff report writer had falsely claimed he

had a Ph.D. from U.C. Davis in statistics. After picking myself up off the floor, the impact of what I had read in Enstrom’s comprehensive December 10th letter to the Board turned from shock to anger – if this is all true and I believe it is, we have all been deceived.

We have reprinted the complete December 10th Enstrom letter to CARB’s Board in the magazine, starting on page 7 and this entire doc. with hot-links is posted on our website.

I strongly suggest that you read it in its entirety and the associated links. It would also be a good idea if before you begin reading, you attach yourself to a blood pressure monitoring device because what is outlined within this letter is sure to raise your heart rate and blood pressure, get ready for a three hour aerobics class.

Let me state that I have never been a big conspiracy theorist, but what has happened within our government and what has now been perpetrated onto the people of California, especially to all those who have depended on diesel powered equipment is totally unacceptable. If in fact CARB was notified in advance of the hearings that Hien Tran Ph.D. was not a legitimate credentialed scientist/researcher (and I have every reason to now believe that was the case) then these entire hearings were a scam.

I should have listened to those of you who said, “This is a done deal, their minds were made up years ago and they won’t listen to anything we say – it’s all about control and their agenda.” I kept thinking that surely someone would listen as we tried to explain the unprecedented hardships we were facing and perhaps give us some extra time (just 5 years) as the DTCC alternative would have done. But you naysayer’s were right, it was over long ago. The fix was in and it began 10 years ago when the state CARB was allowed to define diesel as a carcinogen (without any supporting scientific research).

And now that our economy is completely in the tank, the governor’s office has decided that it may be necessary to relax some environmental regulations (CEQA) in order to get folks back working on construction projects. Sure Governor, relax CEQA, but move ahead with the diesel engine rules – surely

this is all a bad joke. How do you possibly undue years of scaring the hell out of the population with phrases such as “thousands of premature deaths, lung cancer, heart disease, our children’s asthma crisis, global warming, melting icecaps and drowning polar bears, all attributed to diesel exhaust. The environmentalist and their media skills did a great job setting us all up!

I told you all last month that this wasn’t over and it

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**Please Welcome our newest
members to our Association**

Tom Williamson - CDTOA President 2008-2009



isn't. I seem to have found a new source of strength which I attribute to my recent re-education process. You see, I have always regretted that I was unable (or too lazy) to pursue higher education after High School. I'm sure I could have gone much farther in life with a degree of some kind. So I have decided to bestow upon myself an honorary degree from my Alma Mater – The School of Hard Knocks. I haven't quite decided which type of academic discipline and degree I want

to give myself yet, it seems to fluctuate between a doctor's or a master degree of sociology, psychology or law. Perhaps I'll just give myself a doctorate in all three and be done with it. If title embellishment (fraud) without consequences works at a government agency like CARB, why not for me?

Betty Plowman - A Born Again Conspiracy Theorist

betty@cdtoa.org

REQUEST TO POSTPONE AND REASSESS CARB DIESEL REGULATIONS

James E. Enstrom, Ph.D., M.P.H. 35-year lifestyle epidemiologist
UCLA Jonsson Comprehensive Cancer Center jenstrom@ucla.edu

Anthony Fucaloro, Ph.D. 35-year chemist with public policy expertise
Claremont McKenna College Joint Science Department afucaloro@jsd.claremont.edu

Matthew A. Malkan, Ph.D. 25-year astrophysicist
UCLA Department of Physics and Astronomy malkan@astro.ucla.edu

Robert F. Phalen, Ph.D. 35-year air pollution toxicologist
UC Irvine Air Pollution Health Effects Laboratory rfphalen@uci.edu

December 3, 2008

General Concerns Regarding Air Pollution Health Effects and Regulations

- 1) Pollution levels are much lower today than in previous decades and current health risks are small.
- 2) Small epidemiologic associations are often spurious, rather than cause-and-effect relationships.
- 3) Regulations designed to solve one problem may have consequences that do more harm than good.
- 4) Scientists who are not popular activists are often marginalized and their important research is ignored.
- 5) Conflict of interest regarding power and funding exists between regulators and conforming scientists.
- 6) New regulations must be based on a fair evaluation of all available evidence from diverse sources.

Specific Concerns Regarding October 24, 2008 CARB Staff Report on PM2.5 and Premature Deaths

- 1) Authors have no relevant peer reviewed publications and lead author has misrepresented his "Ph.D."
- 2) Report and public comments were never shown to outside reviewers as stated in Executive Summary.
- 3) Five independent sources indicate no current relationship between PM2.5 and deaths in California.
- 4) California has fourth lowest total age-adjusted death rate among US states and few "premature deaths."
- 5) Diesel toxicity and fine particulate air pollution in California are currently at record low levels.
- 6) Before approving new diesel regulations, CARB should fully evaluate PM2.5 and deaths in California.

Conclusion

Important epidemiologic and toxicologic evidence does not support adverse health effects of diesel claimed by CARB and new diesel regulations should be postponed until above issues are fully and fairly evaluated.

Hot Seat: Bryan Bloom

San Diego Union, January 7, 2009

The president of San Diego based Priority Moving talks about how his business is being buffeted by new rules from the California Air Resources Board.

Tell us about your company.

SDU: How many people work for it?

SDU: Has it grown over the years?

BLOOM: Priority Moving is an award-winning San Diego moving company started seven years ago that performs over 1,500 moves per year with over 30 employees. The air board depicts itself as very concerned about the effects of its rules on the economy.

SDU: How worried were you when you heard the board was going to get tough on diesel emissions?

BLOOM: Very worried, extremely worried. The CARB regulations are of major concern to businesses whose livelihoods depend on diesel trucks. I earned a UC San Diego science degree and a UC Berkeley master's in business administration. CARB research shows a vague correlation between diesel exhaust and health risks but does not show any direct cause/effect relationship – and there is a huge difference. Also, true peer review of the CARB findings was not done. CARB's science and assumptions have come into question in the national media and many prominent scientists disagree with the CARB findings.

SDU: Now stringent new rules have been adopted. What is the likely effect on your company and its rivals? Do you believe your concerns were considered?

BLOOM: The CARB has dictated that our trucks will soon no

longer be legal. We can throw out or replace perfectly good trucks or in some cases spend upward of \$25,000 per truck to retrofit them for a few more years of use. This is insanity and disastrous at a time when the California economy needs more jobs, more revenue and more economic activity. In the local moving industry, we put very few miles on our vehicles – I have a 2001 truck with 80,000 miles on it. CARB's rules will have a severe negative impact on employment, my industry and related industries, and the overall California economy. Over 500 impacted entities submitted written and/or oral comments or concerns to CARB, and the passing of the rules showed CARB's lack of concern and consideration for California business and industry. My main assets are employees and trucks. Our company is one of hundreds in California that will be severely and adversely impacted by the CARB ruling.

We are considering moving to another state where we won't be considered outlaws for using our existing trucks. Even if we wanted to or could afford to replace our perfectly good trucks, financing isn't available to do so. The CARB rules will needlessly squash our California success story like a bug.

SDU: San Diego County Supervisor Ron Roberts is on the air board and says he wants to make sure the new rules don't severely hurt businesses. What is the one thing you most want Roberts to fix?

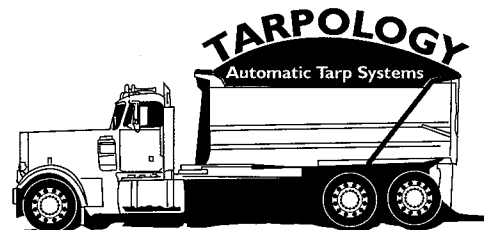
BLOOM: Supervisor Roberts must persuade CARB to suspend its new diesel regulations until the numerous concerns of the impacted businesses and the dissenting scientists are properly addressed. Realistic and reasonable changes to the rules may include lengthening the time to phase out trucks, exemptions for industries such as local moving and construction that put few miles on their trucks (and thus produce minimal diesel exhaust) and a much less expensive way to retrofit existing diesel trucks. Supervisor Roberts needs to ensure that the CARB science is sound and that there is true peer review as required by the California Legislature.

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