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February 17, 2015

James S. Economou, M.D., Ph.D.
Vice Chancellor for Research
University of California, Los Angeles
2147 Murphy Hall
Los Angeles, CA 90095-1405
jeconomou@conet.ucla.edu
(310) 825-7943

Re: August 15, 2014 CCTA Letter to Chancellor Block Challenging EHS Chair Michael Jerrett

Dear Vice Chancellor Economou,

I am writing regarding the attached August 15, 2014 California Construction Trucking Association (CCTA) letter to UCLA Chancellor Gene D. Block and Provost Scott Waugh challenging the scientific and research integrity of Michael Jerrett, Ph.D. I personally delivered this letter and attachments to the Chancellor's Office on August 15, 2014 at 9 AM. At that time Dr. Jerrett was a top candidate for the position of Chair of the Department of Environmental Health Sciences (EHS) and I understand he has subsequently been appointed to that position. However, the authors of the letter, Lee Brown and Norman Brown, have never received an acknowledgement of or response to their letter, as requested. Apparently, Chancellor Block and Provost Waugh approved the final appointment of Dr. Jerrett as EHS Chair without addressing the serious allegations in this letter. Thus, I request that you fully investigate the allegations of scientific misconduct by Dr. Jerrett that are contained in the CCTA letter and the 50-page attachment involving detailed correspondence with UC President Mark G. Yudof. These allegations have national significance, as explained in the attached pages involving the US House Committee on Science, Space, and Technology.

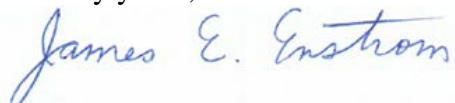
This matter is directly connected with tens of millions of dollars of California and Federal research funding received over the past two decades by UCLA for the Southern California Particle Center (<http://www.scpes.ucla.edu/>) and the Center for Occupational and Environmental Health (<http://ph.ucla.edu/research/centers/center-occupational-and-environmental-health-0>). Much of this funding has been used for environmental extremism and not for objective environmental health research. In particular, this funding has been used to exaggerate the public health dangers of fine particulate air pollution (PM2.5) and diesel particulate matter (DPM).

These exaggerations have been used to help implement scientifically unjustified PM2.5 / DPM regulations that have cost California businessmen billions of dollars and have driven many of them out of business and/or out of California.

In order to help you fully understand the details and significance of the August 15, 2014 letter and the allegations made against Dr. Jerrett, I request a personal meeting and/or a telephone conversation with you before the end of February.

Thank you very much for your prompt consideration and response.

Sincerely yours,

A handwritten signature in blue ink that reads "James E. Enstrom". The signature is fluid and cursive, with "James" on the first line and "E. Enstrom" on the second line.

James E. Enstrom, Ph.D., M.P.H.



CalConTrk.org

California Construction Trucking Association

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August 15, 2014

Chancellor Gene D. Block
University of California, Los Angeles
2147 Murphy Hall
Los Angeles, CA 90095-1405
chancellor@conet.ucla.edu

Re: Reject Michael Jerrett, Ph.D., as UCLA Environmental Health Sciences Chair

Dear Chancellor Block,

We know that UCLA is searching for a new Environmental Health Sciences (EHS) Chair (<http://ph.ucla.edu/sites/default/files/attachments/EHS%20Chair%20Search%20oct2513.pdf>) and we understand that one of the top candidates for this position is UC Berkeley Prof. Michael Jerrett (<http://ph.ucla.edu/events/ehs-seminar-michael-jerrett-phd-ubiquitous-and-participatory-sensing-assessing-individual>). As knowledgeable California businessmen who financially support the University of California as long-term taxpayers, we strongly urge you to reject Prof. Jerrett for this influential position for two major reasons.

The first reason we are against Jerrett's hiring, is the almost laughable volume of research largess Jerrett has engaged in, mostly synonymous with scientific misconduct by systematically misrepresenting and exaggerating the relationship between fine particulate matter and total mortality and even heart disease in California. During 2010 and 2011 we wrote several letters to UC President Mark G. Yudof regarding Jerrett, which give detailed criticism of his PM2.5 epidemiologic research. Our correspondence and UC responses are contained in a 50-page attachment (<http://calcontrk.org/Jerrett051711.pdf>). The latest misconduct by Jerrett is his September 1, 2013 *AJRCCM* paper "*Spatial Analysis of Air Pollution and Mortality in California*" (<http://www.atsjournals.org/doi/abs/10.1164/rccm.201303-0609OC>). His paper focuses on questionable measures of significant PM2.5 and mortality relationship based on one obviously tortured ad hoc model, but it completely ignores the overwhelmingly null evidence in his October 28, 2011 CARB Final Report "*Spatiotemporal Analysis of Air Pollution and Mortality in California Based on the American Cancer Society Cohort*" (<http://www.arb.ca.gov/research/apr/past/06-332.pdf>).

Furthermore, his paper does not cite the insignificant California PM2.5 mortality evidence from at least ten other studies, summarized in a 2012 American Statistical Association Joint Statistical Meeting paper "Particulate Matter is Not Killing Californians" (<http://www.scientificintegrityinstitute.org/ASAS092812.pdf>). The serious misconduct in the *AJRCCM* paper is described in detail by statistician Dr. William M. Briggs in his blogs of August 6, 2013 (<http://wmbriggs.com/blog/?p=8720>) and September 11, 2013 (<http://wmbriggs.com/blog/?p=8990>).

The continued demonization of diesel exhaust by researchers such as Jerrett for personal and professional advancement flies in the face of clearly objective scientific analysis such as the United Nations Economic

Commission for Europe that released this summer a paper titled, "[*Diesel Engines Exhausts: Myths and Realities*](#)." The authors' findings and an expressive conclusion #121 on page 41 of report concluded:

"Eighty three per cent of particulate matters emissions in European Union countries (EEA, 2012a) and 97 per cent in the United States of America (EPA 2013) and Canada, is generated by other economic sectors, mainly the commercial, institutional and household sector. **Therefore, the claim that emissions from diesel engine exhausts from road transport are the main**

cause of lung cancer in humans needs to be seriously challenged.” (Note the bolding in the report.)”

The U.N. conclusion is not really all that surprising considering a mortality study on those most closely exposed to diesel exhaust with decades of exposure – truck drivers. This study didn’t find elevated mortality levels for truck drivers compared with the general population. The study was performed by the National Institutes of Occupational Safety and Health and is titled: [Mortality Among Members of a Truck Driver Trade Association.](#)” The only surprise about this study is how the findings are ignored by most researchers in lieu of outdated and problematic mortality studies of coal miners and union truck drivers because they fit nice and tidy within the box of their preconceived conclusions – which isn’t science.

The academic dishonesty that is all too common in today’s research universities, where adherence to “faith and doctrine” and a desire to give those funding studies what they want to hear (or what they’ve paid for) when researching health effects and mortality related to diesel exhaust exposure was further confirmed by Dr. Boffetta, Director of the Institute for Translational Epidemiology. His 2012 study, “[A review of cancer risk in the trucking industry, with emphasis on exposure to diesel exhaust](#)” found that researchers must recognize the limitations in using older studies based on totally different formulated fuels, he also recognizes the changes in diesel engine technology that makes reliance on outdated studies skew conclusions. Boffetta found that many current studies (used to regulate the trucking industry) have inherent biases and that occupational exposure and evidence of increased risk of lung cancer are “limited” and “inconclusive.” Meanwhile, Jerrett, et al continues to generate fabulously one-sided studies that delight environmental regulators because without these slanted studies, they could not continue to blindly regulate.

As an indication of the national concern about his research, the U.S. House Science Committee has challenged EPA regarding the validity and transparency of the PM2.5 epidemiologic findings of Jerrett and his collaborators, primarily because these findings are based on ‘secret science’ data from the American Cancer Society (ACS) Cancer Prevention Study (CPS II). A June 12, 2013 letter from Committee Chair Lamar Smith to EPA discusses four papers co-authored by Jerrett that are based on ACS CPS II data and that have been used by EPA to justify costly regulations ([http://science.house.gov/press-release/committee-threatens-subpoena-epa-secret-science](#)). Because EPA did not comply with repeated data requests, the Committee issued an August 1, 2013 subpoena demanding that EPA produce the ‘secret science’ data that is possessed primarily by ACS ([http://science.house.gov/press-release/smith-subpoenas-epa-s-secret-science](#)). Jerrett is first author or co-author on three of the seven papers specifically cited in the subpoena. Since EPA and ACS have defied the August 1, 2013 subpoena, the House Science Committee approved the ‘*Secret Science Reform Act of 2014*’ (H.R. 4012) on June 24, 2014. This bill forbids EPA from using unverifiable studies that are based on ‘secret science’ data, like those of Jerrett ([http://science.house.gov/press-release/committee-approves-bill-prohibit-epa-using-secret-science](#)). Our June 17, 2014 letter of support ([CCTA Letter of Support](#)) has been specifically cited in the Committee press release. H.R. 4012 is supposed to come before the full House of Representatives in September and it was introduced in the U.S. Senate in July.

Second, there is overwhelming evidence that Jerrett is not an objective environmental scientist, activist yes, but scientist – no! Much of his research has blatantly exaggerated the health effects of air pollution in California and the United States. He has not given a balanced assessment of air pollution that is in context with other health risk factors and socioeconomic impacts. In particular, during the past decade, Jerrett has worked closely with CARB, CARB Chair and UCLA Law Professor, Mary D. Nichols, and UCLA EHS Prof. John Froines in providing the scientific justification for draconian CARB diesel vehicle regulations that have unjustly harmed businesses like ours. Several of Jerrett’s PM2.5 mortality papers since 2000, including those subject to the August 1, 2013 subpoena, were specifically cited in the October 24, 2008 CARB “Tran” Report ([http://killcarb.org/tranpage.html](#)) and the August 31, 2010 CARB “EPA” Report ([http://www.bakersfieldcalifornian.com/columnists/lois-henry/x618251275/Air-board-must-be-held-accountable](#)). These two reports have been used to justify the CARB diesel regulations with the now discredited CARB claim that PM2.5 contributes to up to 18,000 “premature deaths” per year in California. The CARB regulations have forced California businesses like ours, which depend heavily upon diesel powered vehicles, to pay billions of dollars in scientifically unjustified costs for diesel truck replacement and diesel particulate

filters. In addition, many of these businesses have closed or moved out of California because they are unable to comply with the CARB regulations.

Extreme activism conduct by Professors Nichols and Froines connected with the CARB diesel regulations is described in several detailed letters that Delta Construction Company has submitted to UCLA since March 11, 2009, articles written in the California Transportation News magazine and even published by inquisitive reporters such as Lois Henry of the Bakersfield Californian newspaper. An October 9, 2013 Delta's letter to the Council on Education for Public Health opposing the reaccreditation of the UCLA School of Public Health includes these prior letters as part of a 32-page attachment (<http://calcontrk.org/Delta100913.pdf>).

We are puzzled as to why Mr. Jerrett, a Canadian environmental activist academic, has been endowed this position. Are there no American's qualified for such a prestigious and obviously lucrative position?

Mr. Jerrett, much like his predecessor John Froines clearly does not understand, respect or minimally empathize with the plight of California business people like us, many of which are part of the struggling middle class and represented by a growing minority community. Indeed, he fits the profile of the "new" and very disturbing politicization activism class of "for sale" academics described in the April 2, 2012 National Association of Scholars Report "*A Crisis of Competence: The Corrupting Effect of Political Activism in the University of California*". (http://www.nas.org/images/documents/A_Crisis_of_Competence.pdf).

We strongly recommend that you reject Prof. Jerrett and select as EHS Chair an honest, ethical, and objective scientist who conducts environmental health research that is in the best interest of all Californians, including those most affected by specious research adored by activists. We will finish with this quote from the NAS report, "When that marketplace is functioning effectively, ideas progress to the extent they can be supported by evidence and logic; they cannot prevail because of their political value, because a political faction is able to enforce their dominance through sheer weight of numbers, or because ideas threatening to an orthodoxy are artificially excluded. Yet that is what has now happened in certain important areas of (UC) campus life. How has this happened?"

Clearly, "A great system of higher education has been corrupted." You need to stop this now and seriously look at ways to fix it; rejecting Mr. Jerrett is a good start.

Thank you very much for your consideration regarding this important matter.

Sincerely yours,



Lee Brown
Executive Director, CCTA



Norman R. ("Skip") Brown
Owner, Delta Construction Company

cc: UCLA Provost Scott Waugh
US House Science Committee Chair Lamar Smith
US House Science Committee Vice Chair Dana Rohrabacher



334 N. Euclid Avenue
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(909) 982-9898

January 6, 2010

President Mark G. Yudof
Office of the President
University of California
1111 Franklin Street, 12th Floor
Oakland, CA 94607
president@ucop.edu

RE: Urgent Request for Calculations of California-specific Relationship Between PM2.5 and Premature Deaths by Michael L. Jerrett, Ph.D.

Dear President Yudof:

On December 9, 2009 the California Air Resources Board (CARB) voted to redo the October 24, 2008 CARB Final Staff Report, “Methodology for Estimating Premature Deaths Associated with Long-term Exposure to Fine Airborne Particulate Matter in California” (Tran Report), because of concerns about its scientific integrity, including the confirmed dishonesty and fraud of its lead author Hien T. Tran.

This report found that diesel particulate matter (PM), the diesel portion of fine particulate matter (PM2.5), contributes to 3,500 annual premature deaths in California. This finding is the primary scientific justification for the Statewide On-road Truck and Bus Regulation (Truck Rule) that were approved by the CARB on December 12, 2008.

The Truck Rule is the most expensive regulation ever approved by CARB, by the agency’s own admission (\$5 billion) and our industry estimates, based on our real-world experience in purchasing new trucks are at least four times as much (\$20 billion). This regulation will have a devastating impact on the California economy that relies upon diesel trucks and buses, including California’s cash-strapped school districts, and could destroy thousands of California businesses that cannot afford to comply with these regulations. This will only add to California’s unemployment and reduce tax revenue when California can least afford it.

The Truck Rule is the culmination of a process that began after diesel exhaust was identified as a Toxic Air Contaminant by the CARB Scientific Review Panel in 1998. The University of California (UC) is directly involved in this matter because four CARB members are senior UC professors, two peer reviewers of the Tran Report are UC professors, the Research Screening Committee includes six senior UC professors, and the Scientific Review Panel on Toxic Air Contaminants has included six senior UC professors since 1998. In addition, the UC President is obligated by state law to regularly nominate candidates to the SRP (California Health & Safety Code §39670), although the record indicates that very few nominations have been made during the past 20 years. Furthermore, UC Berkeley Professor Michael L. Jerrett has published extensively since 2000 on the relationship between PM2.5 and premature deaths and has been under contract with CARB for the last two years to produce California-specific results on this relationship.

There is serious disagreement among the scientific community regarding the relationship between PM2.5 and premature deaths. Evidence from six independent sources indicates that there is NO current relationship between PM2.5 and premature deaths in California. Three of these sources originate from the 2000 and 2009 Health Effects Institute (HEI) reports that Dr. Jerrett co-authored.

Clarification of the California-specific evidence from these sources would definitively resolve this issue. Dr. Jerrett is the California scientist in the best position to clarify these results. A detailed request for California-specific results was made to Dr. Jerrett as part of a July 11, 2008 CARB teleconference and this request was repeated and expanded upon in December 10, 2008 public comments to CARB. In addition, Dr. Jerrett was invited to present these results at the August 1, 2009 Forum on CARB Diesel Science in Ontario, California. Dr. Jerrett has failed to respond to these requests, in spite of the fact that the underlying data used in his research for HEI is subject minimally to the disclosure requirements of the Federal Data Access Act.

We are sending this letter to you, with a copy to Dr. Jerrett, in the hope that he will understand the urgent need for California-specific results and will voluntarily make them public as soon as possible. If these results do not already exist in the format previously requested, they can be produced within one week by simply rerunning the national analyses contained in the two HEI reports and restricting them to California subjects only. Thus, we request that Dr. Jerrett provide us with the California-specific results described above by January 15, 2010. This deadline is requested because Dr. Jerrett has had since July 11, 2008 to prepare a response and because sufficient time is needed to prepare formal comments for the January 28, 2010 CARB meeting.

In addition, given the scientific and economic importance of this issue, the underlying 1982 American Cancer Society Cancer Prevention Study (CPS II) data should be made publicly available as soon as possible. This data is needed for independent and transparent analysis and interpretation of the California-specific results. If Dr. Jerrett fails to respond by January 15, 2010, then we request that you compel him to comply in a manner that is consistent with the Federal Data Access Act, the California Public Records Act (California Government Code §§6250-6276.48), the California Health & Safety Code §39601.5 (AB 1085), and the UC Standards of Ethical Conduct.

Thank you very much for your consideration regarding this important request.

Sincerely yours,



Lee Brown, Executive Director
California Dump Truck Owners Association
(CDTOA)



Bill Davis, Executive Vice President
Southern California Contractors Association
(SCCA)



Skip Brown, Owner
Delta Construction

Of interest signatories,



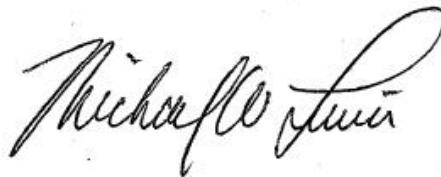
Bryan Bloom, Owner
Priority Moving, Inc.



Jay McKeeman, VP Government Relations
California Independent Oil Marketers Association
(CIOMA)



Steve Weitekamp, President
The California Moving & Storage Association
(CMSA)



Mike Lewis, Senior Vice President,
Construction Industry Air Quality Coalition
(CIAQC)

cc: Michael L. Jerrett, Ph.D.
School of Public Health
University of California
Berkeley, CA 94720
jerrett@berkeley.edu
(510) 642-3960

UNIVERSITY OF CALIFORNIA

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SANTA BARBARA • SANTA CRUZ

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<http://www.ucop.edu>

January 26, 2010

Mr. Lee Brown
Mr. Bill Davis
Mr. Skip Brown
Mr. Bryan Bloom
Mr. Steve Weitekamp
Mr. Jay McKeeman
Mr. Mike Lewis
Delta Construction
c/o California Dump Truck Owners Association
334 N. Euclid Avenue
Upland, California 91786

Gentlemen:

I am responding to your letter of January 6 requesting California-specific results from research undertaken by Michael Jerrett, Associate Professor in the University of California, Berkeley School of Public Health's Division of Environmental Health Sciences. You noted your belief that Professor Jerrett is a scientist in a good position to clarify what you believe is a disagreement in the scientific community regarding the relationship between fine particulate matter (PM2.5) and premature deaths, and that you, therefore, would like him to make public California-specific results of his research on this matter.

In response to your letter, my staff has been in touch with Professor Jerrett, who will be responding to you directly. My understanding is that Professor Jerrett is, in fact, in the midst of conducting research to establish definitive estimates of mortality risks associated with particulate matter in California, and plans to publish the results of that research after it has been completed, in the next 6 – 12 months. Professor Jerrett reported that the work he is conducting under an award from the California Air Resources Board in this area was delayed in part to the State's suspension of contracts due to the budget crisis, but that it is now under way. He indicated that he will happy to speak to you and others about the findings after the results become available and have been vetted through the normal peer review process.

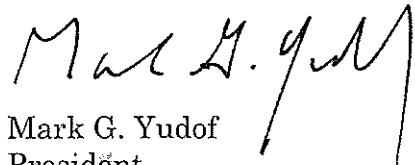
Mr. Lee Brown, et al.
January 26, 2009
Page 2

I appreciate your interest in the research being conducted at the University in the area of environmental science, and support the publication and dissemination of results to increase knowledge and inform public policy in this area. As I mentioned, Professor Jerrett will be responding to you directly, and can provide more specific information about the status and nature of his research.

Thank you for taking the time to write to share your concerns.

With best wishes, I am,

Sincerely yours,

A handwritten signature in black ink, appearing to read "Mark G. Yudof".

Mark G. Yudof
President

cc: Chancellor Birgeneau
Interim Provost Pitts
Vice President Beckwith
Associate Professor Jerrett



California Dump Truck Owners Association

334 N. Euclid Avenue, Upland, California 91786

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web: cdtoa.org

January 27, 2010

Richard F. Celeste, Chair
Daniel Greenbaum, President
The Health Effects Institute
101 Federal Street, Suite 500
Boston, MA 02110-1817
dgreenbaum@healtheffects.org

VIA REGULAR MAIL AND EMAIL

RE: Request for Underlying Data Used in Two HEI Reports:

- 1) **Research Report Number 140: Extended Follow-Up and Spatial Analysis of the American Cancer Society Study Linking Particulate Air Pollution and Mortality (May 2009)**
- 2) **Special Report: Reanalysis of the Harvard Six Cities Study and the American Cancer Society Study of Particulate Air Pollution and Mortality (July 2000)**

Dear Mr. Celeste and Mr. Greenbaum:

On behalf of the California Dump Truck Owners Association (CDTOA), I am requesting access to all underlying data utilized in the two Health Effects Institute (HEI) reports cited above, pursuant to HEI's "Policy on the Provision of Access to Data Underlying HEI-funded Studies" (Appendix D).

Our Association represents 1,000 members of the construction trucking industry who are being directly impacted by the California Air Resources Board (CARB) Statewide On-road Truck and Bus Regulation ("Truck Rule"). On December 9, 2009 CARB members voted to redo the October 24, 2008 CARB Final Staff Report, "Methodology for Estimating Premature Deaths Associated with Long-term Exposure to Fine Airborne Particulate Matter in California" ("Tran Report"), because of concerns about its scientific integrity, including the confirmed dishonesty and fraud of its lead author Hien T. Tran. This report found that diesel particulate matter (PM), the diesel portion of fine particulate matter (PM2.5), contributes to 3,500 annual premature deaths in California. This finding is the primary scientific justification for the Truck Rule that was approved by the CARB on December 12, 2008.

As you can imagine, this act of scientific fraud has only further inflamed the disagreement among the scientific community regarding the relationship between PM2.5 and premature deaths. It is

our understanding that evidence from six independent sources indicates that there is no current relationship between PM2.5 and premature deaths in California.

The two HEI reports identified above play a predominant role in this debate, and it is our belief that clarification of the California-specific evidence from these sources would definitively resolve this issue. Therefore, I am requesting the underlying data used in those two reports. As you are well aware, the open and free exchange of data is an essential part of the scientific process. This data would be utilized for an independent and transparent analysis and interpretation of the California-specific results. This request is consistent with the HEI policy to facilitate the open exchange of data. Specifically, the policy reads, in pertinent part:

“The open and free exchange of data is also an essential part of the scientific process. Therefore, it is the policy of the Health Effects Institute to provide access expeditiously to data for studies that it has funded and to provide that data in a manner that facilitates review and validation of the work but also protects the confidentiality of any subjects who may have participated in the study and respects the intellectual interests of the investigator in the work.”

It is certainly worthy to note that the Truck Rule is the most expensive regulation ever approved by CARB. By the agency's own admission it will cost the industry \$5 billion. Our industry estimates, based on our real-world experience in purchasing new trucks, that the cost could be at least four times as much (\$20 billion). This regulation will have a devastating impact on the California economy that relies upon diesel trucks and buses, including California's cash-strapped school districts, and could destroy thousands of California businesses that cannot afford to comply with these regulations. This will only add to California's unemployment and reduce tax revenue when California can least afford it.

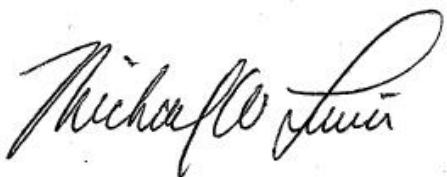
Thank you very much for your consideration regarding this important request. Please contact me at your earliest convenience to confirm receipt of this request. Also please let me know if you need additional information to comply with this request or have any follow-up questions or comments.

Sincerely,

A handwritten signature in black ink, appearing to read "Lee Brown".

Lee Brown, Executive Director
California Dump Truck Owners Association (CDTOA)

Of interest signatories,



Mike Lewis, Senior Vice President,
Construction Industry Air Quality
Coalition (CIAQC)



Bill Davis, Executive Vice President
Southern California Contractors Association

CC: Board of Directors, Health Effects Institute
Mark Utell, Chair, Health Research Committee, Health Effects Institute
Board Members, California Air Resources Board
James Goldstene, Executive Officer, California Air Resources Board
Daniel Krewski, Lead Author of Requested HEI Reports
Michael L. Jerrett, University of California, Berkeley
C. Arden Pope, III, Brigham Young University

Ad Hoc Industry Working Group
CARB On-Road Diesel Truck Regulations

March 11, 2010

Members of the Air Resources Board:

Ms. Mary D. Nichols, Chair

Dr. John Balmes

Ms. Sandra Berg

Ms. Dede D'Adamo

Ms. Lydia H. Kennard

Mr. Ron Loveridge

Executive Officer James Goldstene

California Air Resources Board

P.O. Box 2815

1001 "I" Street

Sacramento, CA 95812

Mrs. Barbara Riordan

Mr. Ron Roberts

Dr. Dan Sperling

Dr. John Telles

Dr. Ken Yeager

Subject: CARB On-Road Diesel Truck Regulation; Follow-up to CARB Science Symposium.

Members of the Board and Executive Officer Goldstene:

This letter, co-authored by a number of affected trucking firms and trade associations, is provided to continue dialogue with the Board on the important issues regarding the evolution of options to be considered by the Board to the On-Road Diesel Truck regulations.

First we wish to thank Chair Mary Nichols and CARB staff for organizing and hosting the Symposium. We believe this was one of the few opportunities for Board members to understand, first-hand, legitimate debate and concerns regarding science being used to motivate/bolster the recent diesel emission regulation packages. We hope that this is but a first of several such discussions – openness and transparency of the science being used as a basis for huge public policy decisions are more important than they have ever been.

It is our conclusion that the Symposium generated significant questions regarding the estimates of premature deaths, and health effects, stemming from diesel emissions. We noted the following areas of controversy and debated outcomes:

- When using California-only data, some diesel health effects estimates show no significant adverse health problems arising from diesel emissions.
- The observation of Professor Jerrett that high levels of PM2.5 in California were associated with low levels of human cancer should be followed up. He should make his data set public.
- Many, if not most, of the studies evaluated health effects from PM 2.5, a much larger pollutant category than narrowly defined diesel exhaust components.
- The science is very thin on identifying “bad actor” diesel exhaust components, and their relationship to many other components that may be part of fine-particle air contamination.

- The research used/funded by CARB has never evaluated the health risk of their regulations on the regulated community, including loss of jobs, benefits and elevated stress.
- Relative contribution of PM 2.5 from natural or unregulated sources has not been evaluated/disclosed in the CARB-utilized research.
- A number of the PM 2.5 studies showed a strong relationship between sulfur content and more serious health effect problems. California motor fuel is nearly sulfur free and this state does not use coal or heating oil, likely sources of increased sulfur in eastern areas of the country.

As such we contend that the Board, in good faith, needs to set aside the On-Road regulations until a better harmony is reached regarding the causes and effects diesel emissions have on public health. Basing the most expensive CARB regulatory proposal ever on information that is under active debate in the scientific community is not a wise direction, especially when economic conditions create convincing further doubt about the rules' ultimate efficacy.

We suggest additional discussions be organized in the near future to fine tune the dialogue/debate on the following issues, which will assist in determining design and funding of appropriate studies to better garner reliable and statistically defensible conclusions.

- Review of studies using California-only data sets to determine if there is a more consistent finding on fine PM health effects using state-specific data. Make these data sets public.
- Review of the science on PM 2.5 and its constituents with further discussion on identification of diesel emission components and their relative risk related to other PM 2.5 constituents - this may be an area of need for further research.
- Evaluation of an "East Coast" bias on PM 2.5 health effects, and the role sulfur plays on elevated health risks.
- Development of CARB research proposals regarding the off-setting health effects of regulatory proposals on regulated parties including loss of jobs, benefits and elevated stress.

Again, we thank you for helping organize the Symposium and we eagerly await further announcements of such activities.

Sincerely, Members of the Ad Hoc Working Group:

Jay McKeeman, VP of Government
Relations & Communications
California Independent Oil Marketers
Association

Julie Sauls, Vice President Legislative Affairs
California Trucking Association

Becky Stolberg, Vice President
California Beer and Beverage Distributors

Sean Edgar, Executive Director
Clean Fleets Coalition

Mike Lewis, Senior Vice President,
Construction Industry Air Quality Coalition
(CIAQC)

Skip Brown, Owner
Delta Construction

Bryan Bloom, President
Priority Moving, Inc.

Steve Weitekamp, President
The California Moving & Storage Association

Lee Brown, President
Calif. Dump Truck Owners Association
(CDTOA)

Bill Davis, Executive Vice President
Southern California Contractors Association

Cc: Linda Adams, Secretary Cal/EPA
Fred Aguirre, Governor's Office
Ad Hoc Working Group
LaRonda Bowen, CARB Ombudsperson

To respond to this letter, please address correspondence to:
Jay McKeeman, CIOMA VP of Government Relations &
Communications
3831 N. Freeway Blvd. #130
Sacramento, CA 95834

916-646-5999 (offc)
916-646-5985 (fax)
jaymck@cioma.com



CONSTRUCTION CO., INC.

(916) 364-0292
FAX (916) 364-7641
P.O. Box 277517
Sacramento, CA 95827
CLN 257024

March 24, 2010

President Mark G. Yudof
Office of the President
University of California
1111 Franklin Street, 12th Floor
Oakland, CA 94607
president@ucop.edu

Re: Alleged Research Misconduct (Falsification) by UC Berkeley Professor Michael L. Jerrett

Dear President Yudof:

Thank you for your January 26, 2010 response to our January 6, 2010 letter regarding UC Berkeley Professor Michael L. Jerrett. In addition, we received the February 5, 2010 email response from Dr. Jerrett shown below. We are writing you again because we believe that Dr. Jerrett has seriously mislead both your staff and us regarding his knowledge about the relationship between fine particulate air pollution (PM2.5) and mortality in California. At the February 26, 2010 CARB Symposium on PM2.5 and Premature Deaths, Dr. Jerrett revealed that his research using the ACS CPS II cohort shows NO relationship between PM2.5 and all cause mortality in California, consistent with the findings discussed in our January 6, 2010 letter. Based on this revelation and other evidence that we have gathered, we allege that since 2006, when he became a UC Berkeley faculty member, Dr. Jerrett has engaged in clearly documented falsification related to the relationship between PM2.5 and total mortality in California.

In particular, we allege that Dr. Jerrett has violated the *UC Standards of Ethical Conduct*, which states “Members of the University community engaged in research are not to . . . knowingly omit data or results to misrepresent results in the research record . . . All those engaged in research are expected to pursue the advancement of knowledge while meeting the highest standards of honesty, accuracy, and objectivity.” Also, we allege that Dr. Jerrett has violated the *UC Berkeley Updated Summary Statement of University Policy Related to Conduct of Research*, which “applies to all individuals engaged in University research whatever the funding source.” This policy states “*Research misconduct* means fabrication, falsification, or plagiarism, in proposing, performing, or reviewing research, or in reporting research results” and “*Falsification* is manipulating research materials, equipment, or processes, or changing or omitting data or results such that the research is not accurately represented in the research record.”

To document our allegation of research misconduct (falsification) by Dr. Jerrett, we provide the essential details below, which we believe are sufficient to initiate a formal investigation. During

your formal investigation, we can provide you with any or all of the underlying documents discussed below, most of which can also be obtained from the Internet or from Dr. Jerrett.

The evidence begins when Dr. Jerrett co-authored the 2000 HEI Reanalysis Report (Krewski 2000) that confirmed a national relationship between PM2.5 and total mortality based on the ACS CPS II cohort. Included in this report is Figure 21, a U.S. map of “Fine Particulates and Mortality Risk” that indicates no excess mortality risk in California, as best as can be interpreted from the information on the map and from a slide presented at the July 23, 2001 US EPA CASAC meeting. Then Dr. Jerrett co-authored a November 2005 *Epidemiology* paper “Spatial Analysis of Air Pollution and Mortality in Los Angeles,” which found an unusually large relationship between PM2.5 and mortality in the Los Angeles basin during 1982-2000 (Jerrett 2005). Then Dr. James E. Enstrom authored a December 15, 2005 *Inhalation Toxicology* paper “Fine Particulate Air Pollution and Total Mortality Among Elderly Californians, 1973–2002” (Enstrom 2005), which found no relationship between PM2.5 and mortality in California during 1983-2002. Dr. Enstrom’s paper is the first, largest, and most detailed peer reviewed publication that focuses on the relationship between PM2.5 and total mortality in California.

At the March 23, 2006 CARB meeting a staff Power Point (PPT) presentation gave extensive details on Jerrett 2005 and cited numerous other studies, including Krewski 2000, Pope 2002, and Laden 2006. In addition, Abbey 1999 and Chen 2005 were cited as key papers from the Adventist Health Study of Smog (AHSMOG), which has been conducted at Loma Linda University and has been largely funded by CARB. AHSMOG is the first study of air pollution and mortality in California, dating back to Abbey 1991, but it is a small study that has published no findings on PM2.5 and total mortality. The CARB PPT presentation made no mention of Enstrom 2005, in spite of the fact that it was published the same month as Chen 2005 and one month before Laden 2006 appeared online. Because Enstrom 2005 was submitted directly to CARB scientist Linda Smith on January 9, 2006, we believe that the CARB staff members who prepared the PPT presentation knew about the highly relevant statewide results in this paper and knowingly omitted them from the PPT presentation.

Our view is supported by Joel M. Schwartz in his May 2006 AEI paper “*Air Pollution and Health: Do Popular Portrayals Reflect the Scientific Evidence?*” Schwartz stated “At the March meeting of the California Air Resources Board, staff members gave a detailed presentation on Jerrett et al. (2005)—a new epidemiological study of the Los Angeles region that reported a stronger link between PM2.5 and mortality than suggested in previous research regulators have used to support tougher PM2.5 standards.⁴⁶ What CARB’s staff did not tell its board is that right around the same time that Jerrett et al. was published, another study of PM2.5 risks in California by Enstrom (2005) concluded that PM2.5 was having no effect on mortality.⁴⁷ Several California papers, including the *Los Angeles Times*, covered the alarming findings of Jerrett et al. but none covered the benign results reported by Enstrom.”

The 1041-word March 25, 2006 Los Angeles Times article “Study Doubles Estimates of Smog Deaths” described Jerrett 2005 in detail, quoted Dr. Jerrett extensively, and discussed Chen 2005 and Laden 2006. However, there was no mention of Enstrom 2005 or its null results. The March 30, 2006 Health & Clean Air Newsletter No 8 “An Inconvenient Reality” presented seven pages on Jerrett 2005 and strongly praised the paper and its results. However, the Newsletter

completely ignored the null California results in Enstrom 2005 and used ad hominem comments to impugn the null results in a major national study (Lipfert 2000). In spite of substantial evidence to the contrary, the Newsletter concluded “In short, any remaining doubt that fine particles cause death and illness—and are not merely associated with these outcomes—is a scintilla.” We allege that Dr. Jerrett was aware of the CARB PPT presentation, the Los Angeles Times article, and the Newsletter and the fact that all three of these items about Jerrett 2005 omitted any mention of Enstrom 2005.

The June 1, 2006 *Inhalation Toxicology* contains criticism by Drs. Brunekreef and Hoek of Enstrom 2005 (Brunekreef 2006), as well as Dr. Enstrom’s response to this criticism (Enstrom 2006). Enstrom 2006 included Figure 21 from Krewski 2000 and permission to reproduce Figure 21 was obtained from Dr. Krewski via a January 22, 2006 email message to Dr. Enstrom. In addition, Dr. Krewski sent a January 30, 2006 email message to Dr. Enstrom, with cc’s to Drs. Burnett and Jerrett, regarding Dr. Enstrom’s January 29, 2006 email query requesting clarification of the California-specific results contained in Figure 21. Dr. Enstrom’s direct contact with Dr. Jerrett goes back to December 2003 when they exchanged email messages and had a telephone conversation about their respective ongoing epidemiologic studies on PM2.5 and mortality in California. These email messages are shown below and they clearly document that Dr. Jerrett has been aware of Dr. Enstrom’s research on PM2.5 and mortality for over six years.

On August 21, 2006 CARB scientists Richard Bode, Linda Smith, and Hien T. Tran conducted a “Public Workshop on Updating the Methodology for Estimating Premature Death Associated with PM2.5 Exposures.” The PPT presentation for this Workshop specifically shows Jerrett 2005 and Laden 2006, but not Enstrom 2005, as “New studies emerged since 2002.” In addition, Dr. Arden Pope is shown as a CARB advisor and Drs. Pope, Krewski, and Thurston are shown as members of the EPA expert elicitation panel assessing the relationship between PM2.5 and all-cause mortality. Joel M. Schwartz testified at the Workshop and then on August 29, 2006 submitted to CARB ten pages of formal comments and three of his AEI papers, including his May 2006 paper cited above. His formal comments stated “The discussions and handouts at the August 21 workshop indicate that CARB’s approach to evaluating the association of PM2.5 and mortality tends to omit contrary evidence and to uncritically accept supportive evidence. This would cause CARB to overstate the magnitude and certainty of the association of air pollution and premature mortality.” This statement also describes the approach used in the three March 2006 items about Jerrett 2005 discussed earlier.

During 2006 Dr. Jerrett prepared and submitted to CARB, as a Principal Investigator from UC Berkeley, Proposal No. 2624-254 “Spatiotemporal Analysis of Air Pollution and Mortality in California Based on the American Cancer Society Cohort.” The proposal listed eight co-investigators, including Drs. Pope, Krewski, Burnett, and Thurston. This three-year project for \$749,706 was approved at the January 25, 2007 CARB meeting, where Board Members were told “California currently has no statewide studies assessing mortality resulting from air pollution in the general population.” This approved project, which became “ARB/UCB Agreement No. 06-332,” contains the following statements relevant to our allegation of falsification: “California currently has no statewide studies assessing mortality resulting from air pollution in the general population.” (page 3); “California has no state-wide estimates of mortality to support policymaking and regulatory activities. Extension of the ACS study to

address scientific uncertainties and to derive estimates specific to California will assist the Air Resources Board and others to assess the benefits of policy interventions.” (page 4); “*This study will derive the first California wide estimates of mortality associated with PM2.5 exposure and other criteria co-pollutants, thus supplying policymakers with a valuable resource for deriving benefit estimates.*” (page 5); “We recognize the urgent need for statewide estimates of mortality effects. We will therefore put as our highest priority delivery of California-wide estimates . . .” (page 27); and “We will also submit an interim progress report after the first 18 months of the contract documenting the results of our statewide analysis . . .” (page 31).

The Agreement does not mention AHSMOG or its publications on air pollution and mortality in California, dating from August 1991 (Abbey 1991) to December 2005 (Chen 2005), and does not mention Dr. Enstrom’s California study (Enstrom 2005) or its related publications (Moolgavkar 2006 and Enstrom 2006). However, the Agreement contains reference 4 on page 35: “Pope CA III, Dockery DW. 2006. Critical Review—Health effects of fine particulate air pollution: Lines that connect. Journal of the Air & Waste Management Association 56:709-742.” In this June 2006 review article Drs. Pope and Dockery list and discuss Enstrom 2005 and Moolgavkar 2006 among a total of 502 references. Given the fact that the Agreement contains a detailed and up-to-date citation of the relevant scientific literature, including 20 references from 2006, one of which is the review by co-investigator Pope, we allege that Dr. Jerrett engaged in falsification by omitting Enstrom 2005. If Enstrom 2005 had been cited, the Agreement would have had to acknowledge that a very large and detailed study of PM2.5 and mortality in California had already been conducted and published. Enstrom 2005 and its null findings should have been revealed to the CARB Research Screening Committee during the development of the proposal in 2006 and to CARB members at the January 25, 2007 CARB meeting, because this information could have influenced the specific aims and approval of the Jerrett proposal.

On May 25, 2007 the CARB members discussed the public health justification for the “in-use off-road diesel vehicle regulation.” CARB staff members made statements about the dangers of diesel that included “Diesel PM is responsible for 70 percent of the known risk from air toxics and causes thousands of deaths each year in California. . . . In 2005, emissions from the off-road diesel vehicles covered by this proposed regulation caused 1100 premature deaths as well as tens of thousands of cases of asthma and other effects.” The estimate for premature deaths was based on a March 21, 2006 CARB report by Hien T. Tran that relied primarily on the nationwide results in the Pope 2002 paper and the Krewski 2000 report. On July 26, 2007 CARB members voted unanimously to approve the “in-use off-road diesel vehicle regulation.”

The May 22, 2008 Draft CARB Staff Report by Hien T. Tran states that PM2.5 contributes to as many as 24,000 annual premature deaths in California, with 3,900 of these deaths due to diesel PM. The most important studies used to calculate these numbers of premature deaths were Pope 2002 and Jerrett 2005, with no consideration given to Enstrom 2005. These estimates of premature deaths provided the primary public health justification for new on-road diesel vehicle regulations being proposed by CARB. However, because of public concerns that had been raised about the relationship of PM2.5 and mortality in California, CARB hosted a July 11, 2008 teleconference that included Drs. Enstrom, Jerrett, and Pope, as well as CARB scientists Hien T. Tran and Linda Smith (see December 10, 2008 CARB public comments). Dr. Enstrom repeatedly requested California-specific results from the Krewski 2000 report, the Pope 2002

paper, and the above Jerrett research project. However, Drs. Jerrett and Pope refused to provide any California-specific results, although these results should have been available for Dr. Jerrett's interim progress report due in July 2008. Given that Dr. Jerrett and the project co-investigators recognized "the urgent need for statewide estimates of mortality effect," we allege that Dr. Jerrett had findings available in July 2008 and may have included them in his interim progress report.

On October 24, 2008 the final CARB Staff Report by Hien T. Tran (Tran Report) was released with no changes in the studies used to calculate the number of premature deaths and with the slightly revised conclusion that diesel PM contributes to 3,500 premature deaths in California annually. The Tran Report did not properly address the extensive criticism contained in 148 pages of July 11, 2008 public comments submitted to CARB, particularly the criticism regarding California-specific results. On December 12, 2008 CARB members unanimously approved the on-road diesel vehicle regulations, with the primary public health justification being the premature deaths claimed to be due to diesel PM. CARB members were not properly informed of the ongoing scientific controversy regarding relationship between PM2.5 and mortality in California and other issues regarding the scientific integrity of Hien T. Tran and the Tran Report.

On June 3, 2009 the HEI Research Report No.140 "Extended Follow-Up and Spatial Analysis of the American Cancer Society Study Linking Particulate Air Pollution and Mortality," with Drs. Krewski and Jerrett as the first two authors, was released but it did not cite Enstrom 2005, did not include a U.S. map of "Fine Particulates and Mortality Risk" (the equivalent of Figure 21 in Krewski 2000), and did not present any California-specific results. The report did present the Los Angeles basin results contained in Jerrett 2005. Because of his ongoing ARB/UCB project and the July 11, 2008 request from Dr. Enstrom, Dr. Jerrett was well aware of importance of California-specific results but he did not include any such results in the 2009 HEI report. Thus, we allege that Dr. Jerrett engaged in falsification by omitting from this report California-specific results and mention of Enstrom 2005.

On November 19, 2009 CARB Member John G. Telles read his November 16, 2009 letter requesting that the Tran Report be redone and the diesel regulations be suspended because of the fraud committed by lead author Hien T. Tran. CARB Chair Mary D. Nichols agreed to host an open symposium on the Tran Report science. In addition, she acknowledged that four Board members, including herself, knew of the fraud perpetrated by Tran about his Ph.D. degree and knew that this information was withheld from other Board members before the December 12, 2008 vote to approve the on-road diesel truck regulations.

The resulting February 26, 2010 CARB Symposium on "Estimating Premature Deaths from Long-term Exposures to PM2.5" included talks by Drs. Enstrom, Jerrett, Pope, Krewski, and many other experts on PM2.5. The Jerrett PPT presentation on "California-specific Studies on the PM2.5 Mortality Association" (28 slides), particularly slide 26 "Summary of California cohort studies associated with long-term particulate matter exposure" makes no mention of Enstrom 2005. However, Jerrett slides 12 and 26 present relative risk (RR) results for the CA CPS II cohort showing RR = 1.00 (0.97-1.03) for all causes of death during 1982-2000. Note that RR = 1.00 means no increased risk due to PM2.5 and that 95% confidence limits including 1.00 mean no statistically significant effect. The Jerrett result is in exact agreement with the Enstrom 2005 result for the CA CPS I cohort RR = 1.00 (0.98-1.02) for all causes of death during 1983-2002. Based on the CA CPS I and CA CPS II results, by far the two largest California-specific

studies, the number of “premature deaths” associated with PM2.5 exposure is zero, not the thousands of deaths presented to the Board when it voted to approve the off-road and on-road diesel regulations. Since the computations to produce the RRs in slides 12 and 26 are relatively simple, we allege Dr. Jerrett has known these results since July 2008 or earlier. Furthermore, since specific RRs were presented in slides 12 and 26 on February 26, 2010 we believe that there is substantial obfuscation contained in Dr. Jerrett’s February 5, 2010 email message below.

It is clear to the undersigned that Dr. Jerrett has engaged in a sustained pattern of falsification (“knowingly omit data or results to misrepresent results in the research record”) regarding evidence on the relationship of PM2.5 and mortality in California dating from his 2006 CARB proposal and up to his February 26, 2010 CARB PPT presentation. He has repeatedly failed to cite the Enstrom 2005 study and has repeatedly failed to clarify the various forms of California-specific evidence from the CPS II cohort that he has possessed for the past ten years, dating back to Figure 21 in the 2000 HEI Report. Because of this falsification, CARB members and the general public did not know that overwhelming epidemiologic evidence from CA CPS I and CA CPS II shows no relationship between PM2.5 and mortality in California since 1983. CARB members should have been informed of these California-specific results before they voted on major California diesel vehicle regulations in 2007 and 2008.

Because of the serious nature of the alleged research misconduct (falsification) and because of the serious economic consequences to California businessmen resulting from the CARB diesel regulations that have been approved, at least in part, because of this falsification, we request that you assess our allegations as soon as possible. If Dr. Jerrett disputes the accuracy of any of the statements above, we will provide you with our evidence supporting their accuracy. Most of this evidence is either contained in the letter itself or is freely posted on the Internet. Once you have assessed our allegations, we request that you prepare a detailed account of your findings that can be released to the public. Also, if you confirm that our allegations are valid, we request that you take appropriate action against Dr. Jerrett.

While only the undersigned are responsible for this letter, all the signers of January 6, 2010 letter to you are interested in knowing your findings and conclusions regarding the above allegations. For your reference, we have attached a copy of the January 6, 2010 letter.

Thank you very much for your assistance regarding this important matter.

Sincerely yours,



Norman R. “Skip” Brown
President and Owner
Delta Construction Company



Lee Brown

I have carefully examined the letter of particulars concerning Professor Jerrett. I am familiar with literature in this area and statistical technologies used to evaluate observational data. The particulars should be thoroughly and expeditiously evaluated as important decisions have been made and will be made based on Professor Jerrett's work.

A handwritten signature in black ink, appearing to read "S. Stanley Young".

S. Stanley Young, PhD, FASA, FAAAS

Attachments:

Email dated February 05, 2010 from Michael Jerrett to Lee Brown

Email dated 30 January 2006 from Daniel Krewski to James E. Enstrom (with others leading to this email). 4 pages total

Email dated 22 Dec 2003 from Michael Jerrett to James E. Enstrom

From: Michael Jerrett [mailto:jerrett@berkeley.edu]
Sent: Friday, February 05, 2010 3:44 PM
To: Lee Brown
Cc: 'Ellison Wilson Advocacy, LLC'; john.balmes@ucsf.edu; 'Ellen Auriti'
Subject: response to your request for California-specific results

Dear Mr. Brown:

I apologize for this delayed reply, but I had to coordinate with President Yudof and his staff. I understand that President Yudof has now replied, and I would like to elaborate on where we are with the research you are interested in having published.

My colleagues and I are continuing to work on the Air Resources Board contract to establish definitive estimates of the mortality risks associated with particulate matter and other criteria air pollutants in California. Last year, however, the State of California suspended hundreds of contracts due to budgetary problems. Our contract was suspended for some 4 months and as a result key personnel could not be hired or had to be laid off the project, which has put us behind schedule. After this considerable delay and disruption it took some time to get the project back on track. We have now just developed the personal exposure measures at the home addresses of the subjects in our study and are now just starting the "formal" analyses of them, which will take another 6-12 months to complete.

As I explained in my earlier communications, I was out of the country when you invited me to speak on August 1, 2009. As the results become available and are properly vetted through rigorous peer review, I would be happy to speak to you and others about our findings.

I should also point out that none of the subject-specific health data needed to conduct the health analyses is resident on the University of California campus. These data are housed and analyzed at the University of Ottawa, Canada. In any event, the data contain sensitive health information on hundreds of thousands of people, and there are means within the data to identify some individuals. On entering the American Cancer Society Cancer Prevention II study, all individuals signed informed consent forms and were guaranteed that their identities would remain confidential. Thus any request to access the data would have to through ethics review to protect the subjects' identities and ensure these identities would remain confidential. There are also provisions from all involved institutions regarding the protection of human subjects, to which any of the researchers accessing the data would have to adhere. The data I use for the study component here at UC Berkeley is publicly available air pollution monitoring data that is downloadable through the ARB website.

We will endeavor to supply the results as quickly as possible, but we cannot rush these analyses. They are technically intricate, extremely complex, and we need to take appropriate care to ensure the results are valid. Your recommendation to replicate the national analysis here in California is not feasible or scientifically defensible because there are so few metropolitan areas with central monitors from our other national studies that the exposure assignment would be so crude that we could not trust the results. Results produced from such analyses would likely not be publishable in the scientific literature and even if they were published, they would have little or no

credibility in the scientific community given the limitations of the exposure assessment.

One of the reasons our research is so widely cited relates to the great care we take in applying the most sophisticated and scientifically valid methods to understand this complex relationship between air pollution and mortality. We cannot rush such analyses without jeopardizing our extensive quality control and peer review process, which is essential for ensuring the scientific findings are valid and accepted by scientific and policy communities. We will not rush these analyses for any given external concern because the integrity and quality of the findings is of utmost importance to my colleagues and I, who are conducting the research and are ultimately responsible for the scientific results that we publish.

I understand how your organization and many others would like to see our results published. It is unfortunate that the budgetary problem in California has led to delays in finalizing science that may help to inform decisions affecting your industry and more generally public health. But these matters were beyond my control or the control of anyone at the University of California. We are working hard to supply those results through publication in journals of the highest standing in the fields of Medicine and Environmental Health.

Thank you for your interest in our research.

With best regards,

Michael Jerrett

Michael Jerrett, PhD

Director, Doctor of Public Health Program

Associate Professor

University of California, Berkeley

School of Public Health

Division of Environmental Health Sciences

710 University Hall (Office and GIS Lab)

Berkeley, CA 94720-7360

jerrett@berkeley.edu

Tel: 510-642-3960

Fax: 510-642-5815

X-Sieve: CMU Sieve 2.2
Reply-To: <dkrewski@uottawa.ca>
From: "Daniel Krewski" <dkrewski@uottawa.ca>
To: "James E. Enstrom" <jenstrom@ucla.edu>
Cc: "Rick Burnett" <Rick_Burnett@hc-sc.gc.ca>, "Michael Jerrett" <jerrett@usc.edu>
Subject: RE: Request Regarding HEI Special Report
Date: Mon, 30 Jan 2006 18:51:17 -0500
X-Mailer: Microsoft Office Outlook, Build 11.0.6353
Thread-Index: AcYIBPeNuCLIfNbARKG1QslypUN8GAA8ikMg
X-Probable-Spam: no
X-Spam-Report: none
X-Scanned-By: smtp.ucla.edu on 169.232.47.138

Without having the report at hand here in Lyon, France, my recollection was that we used only urban centres such as Los Angeles (and all counties therein). There may be other California cities as well, but I would have to check.

Rick Burnett or Mike Jerrett may be able to comment in advance of my return next week.

With best regards.

Daniel Krewski, PhD, MHA
Professor and Director
McLaughlin Centre for Population Health Risk Assessment
University of Ottawa
Room 320, One Stewart Street
Ottawa, Ontario CANADA K1N 6N5

Assistant: Suzanne Therien
Tel: 613-562-5381
Fax: 613-562-5380
Email: stherien@uottawa.ca

-----Original Message-----

From: James E. Enstrom [mailto:jenstrom@ucla.edu]
Sent: Sunday, January 29, 2006 1:49 PM
To: Daniel Krewski
Subject: Request Regarding HEI Special Report

Dear Dr. Krewski:

I have a question regarding Figure 21, "Fine Particles and Mortality Risk," and the related text, "Spatial Patterns in the Data," in your 2000 HEI

Special Report. Did you determine the relative risk of mortality from all causes for specific counties in California and/or the relative risk of mortality from all causes associated with an increase in fine particles for California as a whole? If you did, are your results available in one of the HEI Special Report Appendices or elsewhere? If you did not, can you calculate them now using the underlying ACS CPS II data described in Figure 14?

Thank you very much for any information you can give me. If you wish, I can explain why this information would be valuable to me.

Best regards,

James E. Enstrom, Ph.D., M.P.H.

At 09:03 PM 1/22/2006, you wrote:

>Thanks for keeping me informed.

>

>With best regards.

>

>Daniel Krewski, PhD, MHA

>Professor and Director

>McLaughlin Centre for Population Health Risk Assessment

>University of Ottawa

>Room 320, One Stewart Street

>Ottawa, Ontario CANADA K1N 6N5

>

>Assistant: Suzanne Therien

>Tel: 613-562-5381

>Fax: 613-562-5380

>Email: stherien@uottawa.ca

>

>

>-----Original Message-----

>From: James E. Enstrom [<mailto:jenstrom@ucla.edu>]

>Sent: Wednesday, January 18, 2006 2:12 PM

>To: Daniel Krewski

>Subject: Fwd: RE: Permission to Reprint HEI Material

>

>Dear Dr. Krewski,

>

>As per the request below from Virgi Hepner, I am writing to notify you
>about the reprinting of material from your HEI Special Report, as described
>below.

>

>Best regards,

>
>James E. Enstrom, Ph.D., M.P.H.
>
>
>
>>Subject: RE: Permission to Reprint HEI Material
>>Date: Wed, 18 Jan 2006 13:23:47 -0500
>>From: "Virgi Hepner" <VHepner@healtheffects.org>
>>To: "James E. Enstrom" <jenstrom@ucla.edu>
>>
>>To: James E. Enstrom
>>
>>The Health Effects Institute hereby gives permission to reprint Figure
>>21 from the HEI Special Report "Reanalysis of the Harvard Six Cities
>>Study and the American Cancer Society Study of Particulate Air Pollution
>>and Mortality" published in 2000.
>>
>>We understand that the figure will appear in an article you are
>>submitting to Inhalation Toxicology and that credit will be given to HEI
>>as the source.
>>
>>We would appreciate it if you would also notify Dr Daniel Krewski (the
>>Principal Investigator for this project) at
>>
>>University of Ottawa
>>Institute of Population Health
>>McLaughlin Centre for Population Health Risk Assessment
>>One Stewart St.
>>Room 320
>>Ottawa Ontario K1N 6N5 Canada
>>613-562 5379
>>dkrewski@uottawa.ca
>>
>>Thanks for your interest in the research sponsored by HEI.
>>Virgi Hepner
>>Senior Science Editor
>>
>>
>>
>>-----Original Message-----
>>From: James E. Enstrom [mailto:jenstrom@ucla.edu]
>>Sent: Thursday, January 05, 2006 1:09 PM
>>To: Carol Moyer
>>Cc: Virgi Hepner
>>Subject: Permission to Reprint HEI Material
>>

>>Dear Carol Moyer and Virgi Hepner:
>>
>>I am writing to request permission to reprint one page from a Health
>>Effects Institute publication. Specifically, I would like permission to
>>reprint Figure 21 (page 197) from the following HEI Special
>>Report: <http://www.healtheffects.org/Pubs/Rean-part2.pdf>. Figure 21
>>(printed page 197) is on page 70 of the .pdf file. I would like to use
>>this figure in a commentary on fine particles and mortality that I have
>>written for publication in a peer-reviewed journal. I would properly
>>cite HEI as the source of this figure.
>>
>>Please let me know if you need any additional information regarding this
>>request.
>>
>>Thank you very much for your consideration.
>>
>>Best regards,
>>
>>James E. Enstrom, Ph.D., M.P.H.
>>UCLA School of Public Health and
>>Jonsson Comprehensive Cancer Center
>>jenstrom@ucla.edu
>>(310) 825-2048

X-Sieve: CMU Sieve 2.2
Date: Mon, 22 Dec 2003 18:09:31 -0800
From: michael jerrett <jerrett@usc.edu>
Subject: Re: Potential Air Pollution Study
To: "James E. Enstrom" <jenstrom@ucla.edu>
X-Mailer: iPlanet Messenger Express 5.2 HotFix 1.21 (built Sep 8 2003)
X-Accept-Language: en
Priority: normal
X-Probable-Spam: no
X-Spam-Hits: -1.6
X-Scanned-By: vscan.smtp.ucla.edu

Dear Dr. Enstrom:

I apologize for my delayed reply. I've just now gotten access to USC's email. I will call you tomorrow regarding your study.

With best regards,

Mike Jerrett

----- Original Message -----

From: "James E. Enstrom" <jenstrom@ucla.edu>
Date: Wednesday, December 10, 2003 2:23 pm
Subject: Potential Air Pollution Study

> Dear Dr. Jerrett,
>
> I am an epidemiologist at UCLA and Dr. Rob McConnell suggested that I
> contact you. This regards a potential air pollution epidemiologic study
> which would combine my prospective cohort data with your GIS data. I
> would
> appreciate it if you can call me and I will describe in more detail what I
> have in mind.
>
> Thank you very much.
>
> Best regards,
>
> Jim Enstrom, Ph.D.
> (310) 825-2048
>
>

RECEIVED
UNIVERSITY OF CALIFORNIA, BERKELEY

JUN 01 2010

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SANTA BARBARA • SANTA CRUZ

OFFICE OF THE VICE CHANCELLOR FOR RESEARCH
119 CALIFORNIA HALL #1500

BERKELEY, CALIFORNIA 94720-1500

May 25, 2010

PERSONAL & CONFIDENTIAL

Norman Brown
Lee Brown
President and Owner
Delta Construction Company
P.O. Box 277517
Sacramento, CA 95827

Gentlemen:

President Yudof has forwarded to me your letter of March 24, 2010, in which you allege that Professor Michael Jerrett has violated the UC Standards of Ethical Conduct and has committed research misconduct. I am the campus official responsible for managing the process of investigating allegations of research misconduct. The procedures followed when these kinds of allegations are made can be found at the following URL: http://vcresearch.berkeley.edu/research_policies/compliance/misconduct. As you can see from the above website, UC Berkeley has an extensive policy and set of procedures to deal with allegations of research misconduct. These conform to Federal Regulation 42CFR93. Our process has three phases: Assessment, Inquiry, and Investigation. The purpose of the initial Assessment phase is to determine if the complaint received constitutes a bona fide allegation of research misconduct within the definition contained in Federal regulation and campus policy.

Your specific claim with regard to your allegation of research misconduct is that Professor Jerrett engaged in the falsification of research results. As you note in your letter, campus policy and federal regulations define falsification as “manipulating research materials, equipment, or processes, or changing or omitting data or results such that the research is not accurately represented in the research record.” What this definition refers to is the record of the investigator’s own research activity, i.e., the data and findings resulting from experimentation or other data gathering techniques conducted by the investigator and reported in scholarly journals, grant applications, presentations, and the like. In the material you provided to us there is no instance in which Professor Jerrett can be said to have altered or misrepresented the data and findings of his studies. You point to a number of instances in which Professor Jerrett did not refer to studies conducted by other researchers that may or may not have been consistent with his findings. But Professor Jerrett is not obligated to do so, and such omissions do not fall within the definition of research falsification under University policy and/or Federal regulations.

Your allegation that Professor Jerrett has violated the UC Standards of Ethical Conduct is apparently based on a claim that he did not reference a variety of publications in his own work. In particular, you object to statements made by Professor Jerrett to the California Air Resources Board (CARB) in support of a project for which he sought funding; statements which you contend he knew or should have known

to be false. Specifically you take exception to the following claim by Professor Jerrett: "*This study will derive the first California wide estimates of mortality associated with PM2.5 exposure and other criteria co-pollutants, thus supplying policymakers with a valuable resource for deriving benefit estimates.*" You contend that Professor Jerrett was aware of "a very large and detailed study of PM2.5 and mortality in California" published in 2005 by Dr. Enstrom, and thus the claim Jerrett makes for his own study is false and intended to mislead the CARB.

I note two things with respect to these allegations of an ethical breach by Professor Jerrett. First, a researcher is under no obligation, ethical or otherwise, to reference or acknowledge every study conducted on a topic similar to theirs. Researchers make judgments about the value and relevance of the work done in their field and on that basis choose what to include as part of their own published material. Scholars may well value things differently and on that basis engage in debate about their results and findings. The existence of such differences and the debate they engender does not indicate the existence of ethical issues. Second, the evidence available indicates that Professor Jerrett's study is much more comprehensive than the earlier study of Dr. Enstrom. The Enstrom study has subjects residing in 25 of 58 counties across California, but only 11 of 58 had air pollution estimates. The Jerrett study includes 54 of the 58 counties (all 54 have health data and pollution estimates). While the Enstrom study covered 19% percent of California's counties, the Jerrett study includes more than 93% of the counties. Hence, your assertion that Jerrett misled CARB by claiming his study offered comprehensive coverage of California is not sustained by the available evidence.

Accordingly, I have concluded that the information you have provided is not evidence of conduct that would violate any University policy covering research or other ethical misconduct or would warrant any further inquiry under University policy.

Sincerely,


Robert Price
Associate Vice Chancellor for Research

June 16, 2010

VIA CERTIFIED MAIL and E-MAIL

California Air Resources Board Members:

Ms. Mary D. Nichols, Chair
Dr. John R. Balmes, Ph.D. M.D.
Ms. Sandra Berg
Ms. Dorene D'Adamo
Hon. Ken Yeager, Santa Clara County Supervisor
Ms. Lydia H. Kennard

1001 I Street, P.O. Box 2815
Sacramento, CA 95812-2815
arboard@arb.ca.gov

Hon. Ronald O. Loveridge, Mayor, City of Riverside
Ms. Barbara Riordan
Hon. Ron Roberts, San Diego County Supervisor
Dr. Daniel Sperling, Ph.D.
Dr. John G. Telles, M.D.

Re: “Replacement Tran Report” on Premature Deaths in California Associated with PM2.5 Exposure

Dear Chairman Nichols and Board Members:

The purpose of this letter is to demand that all generally-accepted scientific standards are fully complied with prior to finalizing the “Replacement Tran Report.”

The October 24, 2008 CARB Staff Report “Methodology for Estimating Premature Deaths Associated with Long-term Exposure to Fine Airborne Particulate Matter in California” (original “Tran Report”) was admittedly flawed and unreliable. However, it still provided the primary public health justification for the Statewide Truck and Bus Regulation approved December 12, 2008. As you know, when fully implemented this regulation will cost all affected industries, by your own estimate, more than ten billion dollars in compliance actions. Given that the process used to produce the original Tran Report was severely flawed (both ethically and scientifically), it is imperative that the “Replacement Tran Report” be thoroughly vetted in an open, transparent manner by the unbiased scientists and the general public prior to Board acceptance.

As members of the impacted industries, we request that the final “Replacement Tran Report” meet the following minimum conditions:

1. Since this is a California regulation, the data used to support the report should be California-only data. It is unacceptable that U.S. EPA Integrated Science Assessment for Particulate Matter be “moved to become the basis for” the “Replacement Tran Report” because, in California, PM2.5 (a measurement of mass, not a substance) is not associated with increased mortality or any other significant public health issue.
2. The report should be initially issued in draft form, similar to the May 22, 2008 draft version of the Tran Report.
3. A Curriculum Vitae (CV) should be included for every person who contributes to the authorship of the “Replacement Tran Report.”
4. There should be at least three months for public comment and CARB responses to those comments on the draft report.
5. The “Replacement Tran Report” should be based on all research studies published in peer reviewed journals and it should make reference to other major studies that are in progress and

- should be reviewed by independent, impartial external experts with no ties, financial or otherwise, to either the Air Resources Board or affected industries.
6. These expert reviewers should be selected by an impartial authority, outside of CARB, such as the President of the University of California.
 7. External experts should not review and evaluate the importance or validity of their own work or work of their coworkers on research or coauthors on publications.
 8. Certain experts should be disqualified as expert reviewers, including those who were aware that PM2.5 was not associated with increased mortality in California but failed to say so, e.g., Drs. Michael Jerrett, C. Arden Pope, and Daniel Krewski.
 9. All correspondence and commentary (including internal emails) between CARB and review panel members writing and reviewing the new report should be part of the public record, in compliance with the California Public Records Act.
 10. Appropriate data sets for the accepted and approved studies used to create a new report and justify a regulatory regime should be available for review by the public.

Satisfaction of these conditions would go a long way toward restoring confidence in CARB and the CARB policy-making process, addressing and repairing CARB's currently perceived lack of trustworthiness in research and policy making and CARB's past unwillingness to seek and promote constructive input from the citizens of California and independent scientists regarding air pollution human health effects and implications for policy making and regulatory regimes. At this point any action that fails to incorporate the requested procedures above, or any CARB action to rush the final "Replacement Tran Report" in a closed-to-the-public process, will further diminish CARB's compromised reputation in the eyes of California citizens, the California Legislature, and the national scientific community.

The following information serves as background on this critical issue.

BACKGROUND

Lead Technical Report Author Committed Credential Fraud

The scientific and public health basis for CARB's Statewide Truck and Bus Regulation (on-road in-use diesel regulation or "Truck Rule") is the October 24, 2008 CARB Staff Report on "Methodology for Estimating Premature Deaths Associated with Long term Exposure to Fine Airborne Particulate Matter in California" by lead author Hien T. Tran. However, Tran admittedly misrepresented his scientific qualifications and education. He did not in fact have a Ph.D. from U.C. Davis as he had originally claimed. Rather, Tran purchased a mail-order Ph.D. degree in June 2007 from "Thornhill University," which operates out of a New York City UPS Store. As documented in CARB's April 2009 Notice of Adverse Action, CARB found Tran guilty of "fraud, dishonesty and other failure of good behavior." Further, page 4 of the Notice states "Since you were the lead author and project coordinator of this report which was used to support the Regulation, your lack of credibility has called into question the credibility of the entire Regulation." However, despite fundamentally misrepresenting his credentials, Hien Tran still remains employed by the California Air Resources Board. We find it unacceptable that a 11-year employee who is very familiar with CARB's employment guidelines, was in fact only demoted and his salary was cut by only \$1,066 per month, down to \$7,899 per month (\$94,788/yr.). We remain curious as to why CARB continues to protect this employee.

Key CARB Personnel Knew About Fraud, Yet Failed to Disclose Crucial Information to the Full CARB Board and Public Prior to Important Vote, and Subsequently Perpetrated a Cover-up

Prior to approving the extremely costly Truck Rule on December 12, 2008, which affects nearly a million trucks and buses in the state, key CARB officials including Chair Mary Nichols, Executive Director James Goldstene, Chief Legal Counsel Ellen Peter and at least one Board Member, Dr. John Balmes, had actual knowledge that the project leader Hien Tran had falsified his Ph.D. credentials. In addition, on

December 3, 2008, Board Members Ronald Loveridge and Barbara Riordan were directly informed by four California scientists that Tran had misrepresented his Ph.D. However, the staff and Board Members chose to conceal this crucial information from the full 11-member Board, as well as the public, until after the Board adopted the controversial Truck Rule. Essentially, CARB purposefully withheld fundamental misrepresentations from the public in order to pass this contentious and costly rule.

In a November 10, 2009 email message to Board Member Dr. John Telles, CARB Chair Mary Nichols admitted she knew of the falsified credentials prior to the Board's vote on December 12, 2008. She also acknowledged that Tran's conduct was illegal and unethical, and admitted that it was a "mistake" to have concealed the information from the other Board Members. Ms. Nichols justified her cover-up by claiming to know that Tran's report was true despite his lies, and therefore decided that the vote should go forward without revealing the "distraction" of his misrepresentations. Dr. Telles filed a formal, November 16, 2009 complaint with CARB Chief Legal Counsel Ellen Peter claiming that key CARB officials had actual knowledge that Tran lied about his qualifications on or before December 10, 2008.

Extreme Negative Economic Impact of the Rule

It is imperative to state the severe economic consequences this rule will have on California's already struggling businesses and taxpayers. By CARB's own admission, the on-road rule alone will result in a \$5.5 billion cost to California's businesses, and tens of millions of dollars to public school districts. Based on CARB's past documented regulatory underestimates, industry now calculates the costs of this rule alone to be over \$20 billion, four times CARB's original estimate. Given the current economic collapse in this state, this regulation is likely to become the premiere "job-killer" government regulation of all time that will cause businesses that are already operating under thin profit margins to either shut down or avoid business in California altogether. Certainly a rule with such huge financial consequences deserves a fair, unprejudiced reevaluation and substantiated scientific justification.

CARB Agreed to Withdraw and "Redo" the Tran Report at its December 9, 2009 Board Meeting

In light of the fraudulent nature of the original Tran Report, the Board directed staff to withdraw and redo the report, with Chair Nichols stating "With today's set of actions, we confidently set out to revalidate the science supporting our rules..." (CARB Press Release, 12/9/09) In fact, Governor Schwarzenegger publicly stated in regards to the scandal, "It is clear...clear responsible action is needed." (*Capitol Weekly*, 12/17/09) Furthermore, CARB spokeswoman Mary Salas Fricke specified that the "Replacement Tran Report" would be completed by April, "There is going to be a series of workshops and an update to the board in April with some new provisions and a new health report." (*Capitol Weekly*, 12/17/09) To date, the above statements appear to be no more than mere hot air. The April date came and went without any mention of the "Replacement Tran Report." Compliance with our above-mentioned conditions will certainly be necessary to "revalidate the science supporting our rules" as Chair Nichols desires.

The February 26, 2010 CARB Science Symposium Showed that the Substantive Contents of Tran's Report Likely Cannot be Recreated Without Fraud

While Tran's lack of adequate credentials should in itself call into question the validity of his report, independent scientists continue to dispute the validity of his original report based on a number of reasons, including:

1. Substantial epidemiologic evidence from six different sources indicates that there is no current relationship between PM2.5 (specifically diesel PM) and premature deaths in California. The EPA's own (most recent 2005) California source data of PM2.5 indicates that on- and off-road diesel powered vehicles (this includes on-road diesel trucks and cars) account for just over 10% of the total PM2.5 in California. Consequently fully regulating the existing fleet of on-road diesel

powered vehicles will have virtually no quantifiable impact on reducing total PM2.5 levels in CA, but will cost in excess of \$20-billion to implement or \$896,740/ton.

2. The key epidemiologists relied upon by CARB in the October 24, 2008 CARB Staff Report (Drs. C. Arden Pope, Michael Jerrett, Daniel Krewski, and Michael J. Thun) have clear conflicts of interest because they are recipients of CARB and EPA funding, and/or were also involved in review of report. Furthermore, they have repeatedly refused to allow reanalysis of the key American Cancer Society Cancer Prevention Study (CPS II) database, which is in violation of Federal Data Access Act.
3. CARB has not considered several factors relevant to the justification of their diesel emission regulations. California has the fourth lowest total age-adjusted death rate of all 50 states; California is currently experiencing 13% unemployment and 25% underemployment, the highest levels since the Great Depression; none of the epidemiologic evidence used by CARB satisfies the Federal Judiciary Center standards for establishing a causal relationship between PM2.5 and premature deaths.
4. On May 22, 2008 a Draft CARB Report on PM2.5 & Premature Deaths by Hien T. Tran was published. On July 11, 2008 Tran conducted a detailed teleconference with Drs. Enstrom, Pope, Jerrett, and other key scientists who explained their data which was extremely relevant to the rule.
5. On July 11, 2008, 148 pages of mostly critical scientific comments were submitted to CARB in response to the May 22, 2008 Draft CARB Report. The October 24, 2008 Final CARB Report (Tran Report) does not properly include or address the critical comments by Drs. Enstrom, Moolgavkar, North, Dunn and Lipfert, and others.
6. CARB's February 26, 2010 Symposium on "Estimating Premature Deaths from Long-term Exposures to PM2.5" included comments by Dr. Jerrett of UC Berkeley, Dr. Enstrom of UCLA, and many other experts on PM2.5 health effects. Among other Symposium findings, based on the CA CPS I and CA CPS II results, by far the two largest California-specific studies, the number of "premature deaths" associated with PM2.5 exposure is zero, not the thousands of deaths presented to the CARB members when it voted to approve the off-road and on-road diesel regulations. Furthermore, Dr. Jerrett stated in regards to PM2.5 "...we are getting a null result for all causes now and it's because we do see this negative association with all cancer." Dr. Enstrom agreed, "In terms of total deaths, which are what are used to calculate premature deaths by the Air Resources Board, if I didn't misinterpret what he [Dr. Jerrett] said, there was no effect – very consistent with my findings."

CARB Staff Continues to Make Scientific and Data Mistakes on the Diesel Rules

In April 2010, more evidence was unveiled to further damage CARB's already shaky reputation. A computer model that CARB used to justify their off-road diesel regulations mistakenly attributed at least twice as much pollution to the off-road equipment as they actually produce and, in the case of the off-road rule, the error was up to 379 percent. CARB is still attempting to discern the full impacts of this "mistake," but clearly it means that the construction industry is producing only a fraction of the pollutants that CARB believed was the case when it adopted the off-road regulations in 2007. This display of incompetence could not have come at a worse time for CARB's credibility with the public.

Furthermore, it must be noted that Hien Tran's work was also fundamental to the justification of this off-road regulation. Tran was the "Primary Author" of the 2006 report "Quantification of the Health Impacts and Economic Valuation of Air Pollution from Ports and Goods Movement in California." This Tran report provided the methodology for the 2006 CARB report "Emission Reduction Plan for Ports and Goods Movement in California." (Appendix A). Per CARB's own admission in the Final Statement of Reasons for the off-road rule, "The methodology used to quantify health impacts was the same as that used in the Emission Reduction Plan for Ports and Goods Movement in California." (FSOR, page 44). Additionally, the off-road rule's technical supporting document "Assessment of Health Impacts from Off-

Road Diesel Vehicles" relied solely on this same Tran methodology (Appendix C, footnote 1). As you can see, Tran's "work" is inextricably intertwined within the diesel regulations. To further withhold from the public a legitimate, full-vetted analysis is completely inexcusable.

REQUEST

Given CARB's recent reputation for creating scientifically-unsupportable regulations, we once again must demand that the "Replacement Tran Report" be completed in an open and above-board manner so that California's citizens can rest assured that all costly regulations are 100% necessary and justified. We call for you, as Board Members, to insist that CARB staff meet each and every one of the ten conditions detailed on page one of this letter prior to placing the "Replacement Tran Report" before you for adoption.

Respectfully,

From all signatories of interest below,



Lee Brown, Executive Director
CA Dump Truck Owners Association (CDTOA)



Bill Davis, Executive Vice President
Southern California Contractors Association (SCCA)



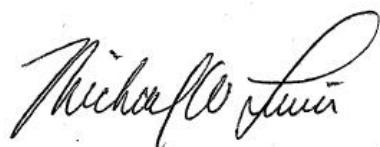
Skip Brown, Owner
Delta Construction



Jay McKeeman, Vice President, Government Relations
California Independent Oil Marketers Association (CIOMA)



Bryan Bloom, Owner
Priority Moving, Inc.



Mike Lewis, Senior Vice President,
Construction Industry Air Quality Coalition (CIAQC)



Steve Weitekamp, President
California Moving & Storage Association (CMSA)

CC: The Honorable Arnold Schwarzenegger, Governor of California
Jerry Brown, Attorney General
Ms. Linda Adams, Secretary, California Environmental Protection Agency
Members, California State Legislature



Sheffield Hale
Chief Counsel

A64
July 30, 2010

VIA U.S. MAIL AND/OR EMAIL

Lee Brown, CDTOA/AADT Executive Director
334 N. Euclid Ave
Upland CA 91786

Re: "Replacement Tran Report" letter

Dear Mr. Brown:

The American Cancer Society, Inc. (ACS) has reviewed your letter to the California Air Resources Board (CARB) dated June 16, 2010, which makes several inaccurate allegations about the Society and our Vice President Emeritus of Epidemiology and Surveillance Research, Dr. Michael Thun.

Four statements in particular are incorrect. First, neither ACS nor Dr. Thun has received CARB or EPA funding. Second, neither ACS nor Dr. Thun have been involved in the development or review process of the CARB report. Third, ACS has joined efforts with the Health Effects Institute in Boston to create a mechanism for legitimate scientific recalculation of the data in question. And finally, the CPS-II database is owned privately by ACS and therefore is not subject to the Federal Database Access Act.

In the future, I hope that any communications regarding ACS and Dr. Thun will contain factually accurate information.

Sincerely,

A handwritten signature in black ink, appearing to read "Sheffield Hale".

Sheffield Hale

cc: Michael J Thun, M.D., ACS, Inc.
Mrs. Mary D. Nichols, Chair
Dr. John R. Balmes, Ph.D. M.D.
Ms. Sandra Berg
Ms. Dorene D'Adamo
Hon. Ken Yeager, Santa Clara Co. Supervisor
Ms. Lydia H. Kennard
Hon. Ronald O. Loveridge, Riverside Mayor
Ms. Barbara Riordan
Hon. Ron Roberts, San Diego Co. Supervisor
Dr. Daniel Sperling, Ph.D.
Dr. John G. Telles, M.D.
Hon. Arnold Schwarzenegger, Governor

Hon. Jerry Brown, Attorney General
Ms. Linda Adams, Secretary, Calif. EPA
Members, California State Legislature
Michael Jerrett, Ph. D., UC Berkeley
Daniel Krewski, Ph.D., U Ottawa
C. Arden Pope III, Ph.D., BYU
Bill Davis, SCCA
Skip Brown, Delta Construction
Jay McKeeman, CIOMA
Bryan Bloom, Priority Moving
Mike Lewis, CIAQC
Steve Weitekamp, CMSA

September 7, 2010

Mr. Lee Brown
Lee Brown
CDTOA/AADT Executive Director
334 N. Euclid Ave.
Upland CA 91786

Dear Lee,

I am pleased to forward the results of analyses prepared by Dr. Daniel Krewski of a California-specific analysis of American Cancer Society (ACS CPS II) data for the California Metro Statistical Areas. As you know, this was follow-up to the work presented in HEI Research Report 140 using the same methods and approaches, and performed in response to your request to HEI. I had hoped that these could be made available sooner, but am glad to be able to provide them now.

The data underlying these analyses is owned by the American Cancer Society which has provided access by specific investigators for researching particular research questions. The ACS was willing to provide permission for data access to Dr. Krewski for these additional analyses and he agreed to perform them. I am attaching a letter from Dr. Krewski which explains how the analyses were performed and limitations in their interpretation. Given potential broader interest in any such results, HEI is forwarding these supplementary analyses to CARB as well, with a request to post them on their website so that they are available to the larger community.

Dr. Krewski describes the limitations of conducting such an analysis with very limited statistical power; I might note that HEI's Research Committee would likely not have funded this analysis given its limited power and utility. I should also note that these specific supplementary results were not subjected to HEI's detailed and careful process by which we select research and investigators, engage outside data auditors to provide quality assurance, monitor progress of the research, independently review and evaluate every completed study, and prepare a commentary pointing to strengths and weaknesses of the study. In as much as this work was a direct extension of the research presented in Report 140 (which did go through our detailed research and review processes), and also based on our experience of working with Dr. Krewski in the past, we have no reason to believe anything but that the analyses were performed using all the appropriate methods and safeguards. Nevertheless, these results have not been subjected to the detailed scrutiny to which HEI would normally put any research that it sponsors.

Please let us know if you have any questions and thank you for your patience in awaiting these results.

Sincerely,



Daniel S. Greenbaum, President

Cc: Dr. Krewski, University of Ottawa
Dr. Thun, American Cancer Society



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Canada's university

Université d'Ottawa
Institut de recherche
Sur la santé des populations

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August 31, 2010

Dan Greenbaum
President
Health Effects Institute
101 Federal Street
Suite 500
Boston, MA 02110
USA

Dear Dan,

In response to your request of April 30, and subsequent telephone discussions with senior staff at both the Health Effects Institute (HEI) and the American Cancer Society (ACS), I have prepared a number of supplementary analyses pursuant to the presentation that I made at the workshop sponsored by the California Air Resources Board (CARB) on February 26, 2010 in Sacramento.

These supplementary analyses are being provided to you with the approval of ACS in the interests of being responsive to requests received by HEI for additional California specific results. The supplementary analyses included Tables 1 and 2 attached are identical to national analyses given in Tables 33 and 34 in HEI Report No. 140, *Extended Follow-up and Spatial Analyses of the American Cancer Society Cohort Linking Particulate Air Pollution and Mortality*, published in May, 2009, but are specific to the State of California. The supplementary analyses for California were prepared using the same analytical methods used for the national analyses that are described in HEI Report No. 140, but are restricted to ACS participants residing in metropolitan statistical areas within California.

These analyses have been conducted by the McLaughlin Centre for Population Health Risk Assessment at the University of Ottawa, and have not been reviewed by other members of the research team that prepared the national analyses summarized in our HEI Report. There will be no charges to HEI for preparing these results.

It is important to note that although these analyses show results for cardiopulmonary mortality that are similar to those in the national analysis, these analyses are subject to a number of limitations, the most important of which is the very small number of metropolitan statistical areas for which fixed site ambient monitoring data are available in California. A more fulsome analysis of the ACS data specific to California is currently being conducted under an agreement between CARB and the University of

California at Berkeley, for which Dr. Michael Jerrett is Principal Investigator. This analysis will involve a much more sophisticated assessment of exposure to ambient air pollution throughout California, thereby providing a firmer basis for the assessment of the impact of air pollution on population health in that state. The final report will include a detailed evaluation of the study results, which is necessary for a proper interpretation of the findings.

With the ongoing CARB sponsored study nearing completion, further ad hoc analysis of the ACS data of the type included in the attached two tables would appear to be counterproductive, and of limited utility for assessing the population health risks of ambient air pollution. As such, the McLaughlin Centre would prefer not to receive requests for additional ad hoc analyses of this type from HEI.

Having worked with the ACS data since 1998, we are aware of the challenges involved in analyzing, evaluating, and interpreting complex data of this type. If there remains interest in exploring regional variation in mortality associated with ambient air pollution within the United States, it might be preferable to address such variation on a national scale. However, this would be a nontrivial undertaking, which would require time and resources to complete.

I understand that HEI has made arrangements with CARB to have these supplementary analyses posted on their website.

With best regards,



Daniel Krewski, PhD, MHA
Professor and Director
MacLaughlin Centre for Population Health
Risk Assessment
University of Ottawa

Cc Dr. Michael Thun, American Cancer Society

Table 1

HRs by Cause of Death for a 10- $\mu\text{g}/\text{m}^3$ Change in $\text{PM}_{2.5}$ Covering Three Follow-Up Time Periods, Using the Same Number of MSAs and Study Participants Within $\text{PM}_{2.5}$ Exposure Categories, and With and Without Adjustment for the Seven Ecologic Covariates (State of California)^{a,b}

Covariates in Model ^c	Follow-Up Through 1989		Follow-Up Through 1998		Follow-Up Through 2000		Follow-Up Through 2000
	1979-1983	1979-1983	1990-2000	1990-2000	1999-2000	1999-2000	
PM_{2.5}	4	4	7	4	4	7	
MSAs (n)							
Participants (n)	40,408	40,408	50,930	40,408	40,408	50,930	
All Causes							
44 Individual	0.872 (0.805, 0.944)	0.958 (0.914, 1.003)	0.975 (0.918, 1.034)	0.960 (0.920, 1.002)	0.968 (0.916, 1.022)		
+ 7 Ecologic	0.927 (0.830, 1.035)	0.950 (0.890, 1.014)	0.976 (0.912, 1.045)	0.949 (0.894, 1.008)	0.960 (0.902, 1.022)		
CPD							
44 Individual	0.985 (0.877, 1.106)	1.056 (0.988, 1.128)	1.101 (1.012, 1.197)	1.053 (0.991, 1.119)	1.084 (1.003, 1.171)		
+ 7 Ecologic	1.119 (0.955, 1.311)	1.089 (0.995, 1.193)	1.104 (1.003, 1.216)	1.081 (0.995, 1.175)	1.075 (0.984, 1.174)		
IHD							
44 Individual	1.034 (0.876, 1.220)	1.126 (1.021, 1.242)	1.306 (1.153, 1.480)	1.126 (1.028, 1.233)	1.258 (1.121, 1.410)		
+ 7 Ecologic	1.131 (0.899, 1.422)	1.150 (1.005, 1.316)	1.332 (1.155, 1.537)	1.144 (1.010, 1.296)	1.250 (1.097, 1.425)		
Lung Cancer							
44 Individual	0.630 (0.485, 0.818)	0.887 (0.751, 1.046)	0.889 (0.720, 1.099)	0.902 (0.772, 1.054)	0.900 (0.738, 1.097)		
+ 7 Ecologic	0.746 (0.518, 1.074)	0.944 (0.750, 1.188)	0.891 (0.699, 1.134)	0.941 (0.759, 1.168)	0.877 (0.700, 1.099)		
All Other Causes							
44 Individual	0.797 (0.704, 0.901)	0.849 (0.789, 0.914)	0.841 (0.765, 0.924)	0.856 (0.800, 0.916)	0.843 (0.773, 0.920)		
+ 7 Ecologic	0.757 (0.635, 0.901)	0.780 (0.702, 0.866)	0.849 (0.762, 0.947)	0.788 (0.715, 0.867)	0.847 (0.767, 0.936)		

^aThe analyses included in the above table are identical to national analyses given in Table 33 in HEI Report No. 140, *Extended Follow-up and Spatial Analyses of the American Cancer Society Cohort Linking Particulate Air Pollution and Mortality*, published in May, 2009 by the Health Effects Institute, but are specific to the State of California.

^bBased on a standard Cox model with the 44 individual-level covariates with and without adjustment for the seven ecologic covariates at MSA & DIFF levels. The baseline hazard function was stratified by age (1-year groupings), gender, and race. All analyses were conducted using the same 4 MSAs (40,408 participants) (Los Angeles, San Francisco, San Jose) or 7 MSAs (50,930 participants) (Los Angeles, San Diego, San Francisco, San Jose, Fresno, Riverside, Sacramento) from the state of California. HRs are followed by 95% confidence intervals.

^cData for the 44 individual-level covariates are from the ACS enrollment questionnaire. Data for the seven ecologic covariates were extracted from the 1980 U.S. Census Bureau database for the Nationwide Analysis of the current study.

Table 2

HRs by Cause of Death for a 10- $\mu\text{g}/\text{m}^3$ Change in $\text{PM}_{2.5}$ Based on Either a Standard Cox or a Random Effects Cox Model Covering Three Follow-Up Time Periods and Using the Same or Different Numbers of MSAs and Participants (State of California)^{a,b}

Model and Number of MSAs $\text{PM}_{2.5}$ data	Follow-Up Through 1989 ^c		Follow-Up Through 1998 ^d		Follow-Up Through 2000 ^e	
	1979-83	1979-83	1999-2000	1979-83	1999-2000	1999-2000
MSAs	4	4	7	4	4	7
Participants	40,408	40,408	50,930	40,408	40,408	50,930
Different ^f						
MSAs	4	4	7	4	4	7
Participants	38,925	42,720	53,827	40,408	40,408	50,930
All Causes						
Standard Cox						
Same	0.872 (0.805, 0.944)	0.958 (0.914, 1.003)	0.975 (0.918, 1.034)	0.960 (0.920, 1.002)	0.968 (0.916, 1.022)	
Different	0.893 (0.823, 0.969)	0.864 (0.798, 0.934)	0.861 (0.778, 0.952)			
RE Model						
Same	0.872 (0.805, 0.944)	0.958 (0.914, 1.003)	0.981 (0.903, 1.066)	0.960 (0.920, 1.002)	0.973 (0.899, 1.054)	
Different	0.893 (0.823, 0.969)	0.864 (0.798, 0.934)	0.868 (0.767, 0.983)			
CPD						
Standard Cox						
Same	0.985 (0.877, 1.106)	1.056 (0.988, 1.128)	1.101 (1.012, 1.197)	1.053 (0.991, 1.119)	1.084 (1.003, 1.171)	
Different	0.985 (0.874, 1.109)	0.970 (0.865, 1.088)	0.960 (0.830, 1.111)			
RE Model						
Same	0.985 (0.877, 1.106)	1.056 (0.988, 1.128)	1.101 (1.012, 1.197)	1.053 (0.991, 1.119)	1.084 (1.003, 1.171)	
Different	0.985 (0.874, 1.109)	0.970 (0.865, 1.088)	0.960 (0.830, 1.111)			
IHD						
Standard Cox						
Same	1.034 (0.876, 1.220)	1.126 (1.021, 1.242)	1.306 (1.153, 1.480)	1.126 (1.028, 1.233)	1.258 (1.121, 1.410)	
Different	1.034 (0.874, 1.223)	1.016 (0.864, 1.195)	1.151 (0.939, 1.411)			
RE Model						
Same	1.034 (0.876, 1.220)	1.126 (1.021, 1.242)	1.364 (1.132, 1.644)	1.126 (1.028, 1.233)	1.299 (1.086, 1.554)	
Different	1.034 (0.874, 1.223)	1.016 (0.864, 1.195)	1.246 (0.946, 1.642)			
Lung Cancer						
Standard Cox						
Same	0.630 (0.485, 0.818)	0.887 (0.751, 1.046)	0.889 (0.720, 1.099)	0.902 (0.772, 1.054)	0.900 (0.738, 1.097)	
Different	0.598 (0.460, 0.777)	0.620 (0.478, 0.805)	0.554 (0.398, 0.771)			

RE Model	0.630 (0.485, 0.818)	0.887 (0.751, 1.046)	0.889 (0.720, 1.099)	0.902 (0.772, 1.054)	0.900 (0.738, 1.097)
Same	0.598 (0.460, 0.777)	0.620 (0.478, 0.805)	0.554 (0.398, 0.771)		
Different					
All Other Causes					
Standard Cox					
Same	0.797 (0.704, 0.901)	0.849 (0.789, 0.914)	0.841 (0.765, 0.924)	0.856 (0.800, 0.916)	0.843 (0.773, 0.920)
Different	0.849 (0.747, 0.964)	0.789 (0.699, 0.891)	0.808 (0.690, 0.947)		
RE Model					
Same	0.797 (0.704, 0.901)	0.849 (0.789, 0.914)	0.848 (0.746, 0.965)	0.856 (0.800, 0.916)	0.847 (0.766, 0.937)
Different	0.849 (0.747, 0.964)	0.789 (0.699, 0.891)	0.816 (0.595, 1.121)		

^a The analyses included in the above table are identical to national analyses given in Table 34 in HEI Report No. 140, *Extended Follow-up and Spatial Analyses of the American Cancer Society Cohort Linking Particulate Air Pollution and Mortality*, published in May, 2009 by the Health Effects Institute, but are specific to the State of California.

^b Models included the 44 individual-level covariates. The baseline hazard function was stratified by age (1-year groupings), gender, and race. HRs are followed by 95% confidence intervals.

^c Follow-up period used for the Reanalysis Project (Krewski et al. 2000).

^d Follow-up period used for the Updated Analysis (Pope et al. 2002, 2004).

^e Follow-up period used for this Extended Analysis.

^f Rows marked "Same" use the MSAs and participants from the current Nationwide Analysis (state of California Only). Rows marked "Different" use the MSAs and participants included in the earlier analyses (as outlined in Table 32).



334 N. Euclid Ave.
Upland CA 91786
(909) 982-9898

January 20, 2011

Michael L. Jerrett, Ph.D.
Division of Environmental Health Sciences
School of Public Health
University of California
50 University Hall
Berkeley, CA 94720-7360
jerrett@berkeley.edu
(510) 642-3960

RE: Urgent Request Regarding Relationship Between PM2.5 and Premature Deaths in California

Dear Dr. Jerrett:

This letter is a follow-up to the January 6, 2010 and March 23, 2010 letters to UC President Mark G. Yudof, regarding your research on the relationship between PM2.5 and premature deaths in California. These letters are attached for your reference. We are particularly concerned that the California Air Resources Board (CARB) did not accurately estimate the number of premature deaths in their August 31, 2010 Report ““Estimate of Premature Deaths Associated with Fine Particle Pollution in California Using the United States Environmental Protection Agency Methodology.” This report relies primarily the May 2009 Health Effects Institute Research Report 140 “Extended Analysis of the American Cancer Society Study of Particulate Air Pollution and Mortality,” that you co-authored with Daniel Krewski, Ph.D., and others. The 2010 CARB Report has been used as the public health justification for revised CARB diesel regulations that were approved by CARB on December 17, 2010. These regulations have a direct and adverse impact on our businesses and our ability to survive in the California economy.

Consequently, we request a copy of your paper or report that describes in detail your February 26, 2010 CARB Symposium findings on PM2.5 and total mortality in California. Since your three-year \$750,000 CARB-funded project "Spatiotemporal Analysis of Air Pollution and Mortality in California Based on the American Cancer Society Cohort" was initiated in January 2007, we assume that you have now prepared a paper based on your 2010 CARB Symposium findings. For your reference, we have summarized your findings in the attached PDF file.

If you have not written this paper and/or cannot share it with us, we request an unredacted copy of pages 1 and 16-19 from your June 25, 2008 CARB Quarterly Progress Report describing Task #10 for this project. A redacted copy of these pages is attached so you know exactly what is being requested.

Finally, we request that you notify CARB that the findings in your February 26, 2010 CARB Symposium presentation and in the attached August 31, 2010 letter from Dr. Krewski do not support the conclusion that PM2.5 is responsible for 9,200 premature deaths per year in California

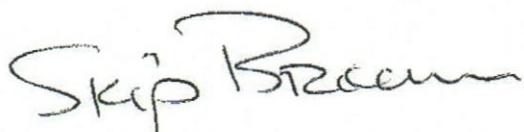
All the concerns that are stated in our 2010 letters still stand. As California taxpayers who are directly impacted by your California taxpayer funded research at a California taxpayer funded university, we hope you will respond appropriately and promptly.

Thank you very much for your consideration regarding this important request.

Sincerely yours,



Lee Brown, President
California Dump Truck Owners Association
CDTOA



Skip Brown, Owner
Delta Construction Company

cc: Patrick Whalen, CDTOA Counsel
Ellison Wilson Advocacy, LLC

S. Katharine Hammond, Ph.D., Chair
Division of Environmental Health Sciences
School of Public Health
University of California
Berkeley, CA 94720-7360

President Mark G. Yudof
Office of the President
University of California
1111 Franklin Street, 12th Floor
Oakland, CA 94607-5200

Attachments:

June 25, 2008 CARB Jerrett Quarterly Progress Report (5 pages)

January 6, 2010 Ad Hoc Group letter to Yudof re Jerrett (3 pages)
(<http://www.cdtoa.org/CARBdocs/Jerrett%20letter%20final%201-6-09.pdf>)

February 26, 2010 CARB Symposium Jerrett Summary PDF (3 pages)
(http://www.cdtoa.org/CARBdocs/Jerrett%20CARB_Final060310.pdf)

March 24, 2010 Ad Hoc Group letter to Yudof re Jerrett (14 pages)
(<http://www.cdtoa.org/CARBdocs/letters/AdHocGroupLettertoYudofReJerrettMisconduct032410.pdf>)

August 31, 2010 Krewski letter to Greenbaum then to Brown (6 pages)
(<http://www.cdtoa.org/CARBdocs/letters/HEI%20Supplemental%20Data%20Analysis%20Results%20CDTOA%20090710.pdf>)

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OFFICE OF THE CHANCELLOR
200 CALIFORNIA HALL #1500
BERKELEY, CALIFORNIA 94720-1500

January 31, 2011

Lee Brown, President
California Dump Truck Owners Ass'n.
Skip Brown, Owner
Delta Construction Co.
334 Euclid Avenue
Upland, CA 91786

Dear Messrs. Brown:

This will acknowledge and respond to your January 20, 2011, letter to Professor Michael Jerrett, requesting "a copy of your paper or report that describes in detail your February 26, 2010 CARB Symposium findings on PM2.5 and total mortality in California."

As your letter correctly anticipated, such a document is not available for release because the work has not been completed and the report has yet to be written. Your letter goes on to say that, if this paper has not been written, you are requesting an "unredacted copy of pages 1 and 16-19 from your June 25, 2008 CARB Quarterly Progress Report describing Task #10 for this project." The records in question were redacted at the specific request of one of the funding agencies, the South Coast Air Quality Management District. We are reviewing the request for redaction of the record, and will get back to you shortly on this aspect of your records request.

Please let me know if you have any questions.

Sincerely,

A handwritten signature in black ink that reads "Alan T. Kolling".

Alan T. Kolling
Public Records Coordinator

Cc: Chief Campus Counsel Chris Patti
Professor Michael Jerrett

STATE CAPITOL
P.O. BOX 942849
SACRAMENTO, CA 94249-0059
(916) 319-2059
FAX (916) 319-2159
DISTRICT OFFICE
15900 SMOKE TREE STREET, ROOM 100
HESPERIA, CA 92345
(760) 244-5277
FAX (760) 244-5447

Assembly
California Legislature

TIM DONNELLY
ASSEMBLYMAN, FIFTY-NINTH DISTRICT

COMMITTEES
VICE CHAIR, HIGHER EDUCATION
VICE CHAIR, REVENUE AND
TAXATION
APPROPRIATIONS
JOINT LEGISLATIVE AUDIT
RULES

Michael Jerrett Ph.D
School of Public Health
University of California
50 University Hall #7360
Berkeley, CA 94720-7360

April 26, 2011

Dear Dr. Jerrett,

It has come to my attention that there have been conflicting reports upon which the Air Resources Board based the truck and bus regulation regarding PM2.5 and the mortality rate. I would like the chance to personally examine this data myself.

Therefore, I am writing to request a copy of the report entitled "Spatiotemporal Analysis of Air Pollution and Mortality in California Based on the American Cancer Society Cohort." The work was supposed to have been completed on February 28th, 2010 (which was paid for at the expense for the California taxpayer). If the report is still not completed, please send unredacted copies of pages 1 and 16-19 from the June 25th, 2008 CARB Quarterly Progress Report detailing Task #10 for the project.

Thank you in advance for your assistance in getting me this information.

Godspeed,



Tim Donnelly
Assemblyman, 59th District

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MAY 24 2011

BERKELEY, CALIFORNIA 94720-1500

OFFICE OF THE CHANCELLOR
200 CALIFORNIA HALL #1500

May 17, 2011

Tim Donnelly
Assemblyman, 59th District
15900 Smoketree Street, Room 100
Hesperia, CA 92345

Dear Assemblyman Donnelly:

This will acknowledge and respond to your records request to Professor Michael Jerrett at the School of Public Health here on the Berkeley Campus.

The report you request is still in draft form and remains unavailable at this time. However, we understand that the Draft Final Report is scheduled to be presented to the Research Screening Committee on June 9, and we can update you about its status after that date. Please find enclosed the unredacted pages of the June 25, 2008 CARB Quarterly Progress Report that you also requested.

Please let me know if you have any questions.

Sincerely,

A handwritten signature in black ink that reads "Alan T. Kolling".

Alan T. Kolling
Public Records Coordinator

Enclosure

cc: Professor Michael Jerrett

**California Air Resources Board
Research Division
Contract Quarterly Progress Report**

Contract Information

Title: Spatiotemporal Analysis of Air Pollution and Mortality in California Based on the American Cancer Society Cohort
Date Submitted: June 25, 2008
Agreement Number: 06-332
CARB Contract Manager: Cynthia Garcia
Prepared by: Bernard Beckerman

Principal Investigator:	Dr. Michael Jerrett
Organization:	University of California Berkeley
Reporting Period:	Quarter No: 4 April 1, 2008 - June 30, 2008
Project Description:	
#	

Disclaimer: *The statements and conclusions in this report are those of the University of California Berkeley and not necessarily those of the California Air Resources Board. The mention of commercial products, their source, or their use in connection with material reported herein is not to be construed as actual or implied endorsement of such products.*

Task# 10	Task Description:	Replication of LA analysis for all California Zipcodes	
% Task Completed this Quarter:	75%	% Task Remaining:	25%
Funds Spent on Task (this quarter):		Remaining Task Funds:	
Sub-contractor Assigned:	UCB Faculty and subcontr actors		
Work Accomplished in this Quarter			

During this period we ran health analysis for the entire state ($N=93,000-97,000$ depending on the specific exposure and geocoding exposures). Analyses were run using Cox proportional hazards models for ozone and PM_{2.5}. Exposures were assigned to the zip codes of the participants. For PM_{2.5} we used the inverse distance weighting (IDW) interpolations supplied to us by Cynthia Garcia, and two kriging models (one universal fit in GS-Plus and ArcGIS, and one ordinary fit in R software). For summertime ozone (i.e. April-September months) we used the IDW interpolations from ARB and the new Bayesian Maximum Entropy Interpolators developed by Dr. Christakos and his team. We did not attempt to fit an ordinary or universal kriging model to the ozone data because of the presence of spatiotemporal anisotropy.

We tested all cause, cardiopulmonary, cardiovascular, ischemic heart disease (IHD), respiratory, lung cancer and "other" causes (the final as a negative control). Both PM_{2.5} and ozone had significant associations with cardiopulmonary, cardiovascular, and IHD deaths, and these effects were generally insensitive to the exposure modeling

<p>technique. Although these results appear promising, we would propose to wait until all the individual geocodes and the land use regression models are prepared to publish the results.</p> <p>Most of the kriging models appeared to over smooth the pollution surfaces compared to what we had observed in single-city models. It appears ancillary information is needed to obtain fine-grained exposure assessment. In addition, it seems assignment to the zip code centroid, while probably reasonable for PM2.5, may produce significant error for the ozone models, because this pollutant has considerable variation near roadways due to scavenging by NO of the O3. We will nonetheless compile all of our results for inclusion as appropriate in the final report.</p>			
---	--	--	--

Work Ongoing			
Additional investigation into the relationships between exposure and disease			
Summary of Changes to the Work Plan, Schedule or Milestones.			
N/A.			
Describe Work Planned for the Upcoming Quarter			
See "Work Ongoing"			

Congress of the United States

House of Representatives

COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY

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WASHINGTON, DC 20515-6301

(202) 225-6371
www.science.house.gov

June 12, 2013

The Honorable Robert Perciasepe
Acting Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, D.C. 20460

Dear Acting Administrator Perciasepe:

On March 4, 2013, a letter was sent from this Committee to Gina McCarthy, Assistant Administrator for the Office of Air and Radiation at the Environmental Protection Agency (EPA), requesting that EPA take immediate steps in accordance with current law and Administration policy to obtain and release the underlying research data from specific PM_{2.5} studies that EPA has relied on to support multiple rulemakings. In this same letter, we also requested that EPA obtain and immediately release the underlying data supporting a critical ozone study (Jerrett 2009) that relies on these same datasets and that EPA has referenced 18 times in its Integrated Scientific Assessment (ISA) in preparation for the upcoming ozone rulemaking.

The Agency's April 10, 2013, response to that letter acknowledges that the previously released information is "not sufficient" to allow replication of the study results. In the three months that have passed since our most recent request, we have yet to receive any commitment from the Agency that, in the case of Jerrett 2009, it will discontinue the use of this data or in the case of the most recent PM_{2.5} long term cohort studies, immediately obtain and release that data. In May, EPA proposed new Tier III Vehicle Emission and Fuel Standards that depend on these same datasets to provide a majority of the claimed benefits. EPA's response also shows a general lack of understanding of Administration policy and the nature of the requested data:

- While EPA is correct in noting that the responses to the personal interview questionnaires collected 30 years ago include confidential information, the electronic input and output files used in the actual analysis for these studies are unlikely to contain confidential data. This was confirmed by Health Effects Institute (HEI) in 2000 when it conducted a reanalysis of the studies.¹

¹ Krewski et al. 2000, *Part I: Replication and Validation*; (p 42). The HEI Report confirms that an electronic data file ("Mort6C.file") containing a copy of the Harvard Six cities database "did not contain any information that could be used to identify the individual study participants."

- EPA's proffered excuse for not obtaining the data because the studies "received funding from a number of different sources, including the EPA, other federal agencies, and non-federal sources" conflicts with OMB policy which clearly states that funding Agencies retain the right to obtain all data developed from mixed funding sources.²
- EPA's response also incorrectly states that NDI data cannot be released, ignoring the fact referenced in its own attachment on page 3 that Harvard University had released (and EPA transmitted) coded NDI data in 2011.

We also remain deeply concerned that EPA continues to rely on this data, even while the National Research Council has cautioned against using them in its 2004 report.³ In that report, the NRC concluded that updates of these two cohorts alone would be of "little use for decisionmaking" due to the outdated nature of the information and dwindling relevance to today's population and risk profile. The full NRC discussion on this point is attached for review. For example, since the time the data were initially collected, smoking rates have declined from 40 to 20 percent, while education levels (used as a surrogate for socioeconomic status in air pollution studies) have increased. A number of other factors affecting the surveyed population's health status have also changed, including improved treatments for hypertension and cholesterol that have contributed to reductions in the cardiovascular mortality rates in the U.S. Because the American Cancer Society and Harvard Six City cohorts have not been updated, there is a clear concern that the health benefits attributed to reduced PM_{2.5} and ozone levels over the past 30 years could in fact be incorrect due to other changes affecting the health status of the surveyed individuals that may have a much greater bearing.

EPA's recent clarification about which studies it relies upon fails to acknowledge this central point. Indeed, the fact that EPA has chosen not to rely on two studies using this outdated cohort information (Pope 2002 and Laden 2006) in the Regulatory Impact Assessment for the Tier III rulemaking but instead to use Krewski 2009 and Lepeule 2012 does not address this weakness but rather exacerbates the problem since both of these more recent studies use more recent and lower air pollution data but continue to rely on the same outdated cohort information.

Throughout this process, EPA has responded to our questions in a cavalier manner, hoping perhaps we were not reading the NRC reports carefully or were simply unaware of the law or guidance governing data access. The opposite is true. Our examination has underscored two central points:

- EPA must immediately refrain from relying on and citing studies that continue to use 30-year old cohort data. This includes all PM_{2.5} and ozone studies that rely on the American Cancer Society and the Harvard Six Cities cohorts. The NRC's main criticism in 2004 is even more relevant today, nine years later.

² *Federal Register*, Vol. 64, No. 195 (Friday, October 8, 1999). See section G: Projects Funded From Multiple Sources.

³ National Research Council, *Research Priorities for Airborne Particulate Matter: IV. Continuing Research Progress* (2004), Board on Environmental Studies and Toxicology (BEST), p 135.

- EPA must immediately obtain all of the underlying research data supporting the previously requested PM_{2.5} and ozone studies, and release all non-confidential data in accordance with current law and Administration guidance. EPA must also take steps to determine whether confidential data sets can be de-identified to help ensure transparency in its decision making.

Current law and OMB guidance are clear in requiring EPA to obtain and release the data. To confirm there are no confidential data in the electronic input and output files and whether de-identification procedures can be applied, EPA must first obtain the data – which it openly admits to not having. The EPA's continued refusal to comply with this Committee's oversight request undermines the credibility of its regulations.

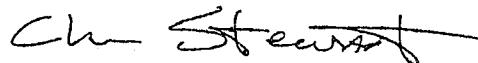
EPA officials should justify their agenda through an open and transparent process that is based on good science, if they can. EPA has projected that its upcoming ozone standard will be the most costly environmental regulation in U.S. history. Working families will bear these costs. They have a right to know what scientific data supports EPA's claims.

EPA must respect the law and the public's right to this information. In order to avoid formal action by this Committee to obtain the requested information, we urge you to comply with our request by July 8, 2013.

Sincerely,



Lamar Smith
Chairman
House Science, Space and Technology



Chris Stewart
Chairman
Environment Subcommittee

cc: Rep. Eddie Bernice Johnson, Ranking Member, Committee on Science, Space, and Technology
Ms. Gina McCarthy, Assistant EPA Administrator
Dr. Glenn Paulson, Science Advisor to the EPA Administrator
Dr. Ken Olden, NCEA Director
Dr. John Holdren, Director, OSTP
Ms. Sylvia Mathews Burwell, Director, Office of Management and Budget

References

- Jerrett et al. "Spatial analysis of air pollution and mortality in Los Angeles." *Epidemiology* 16(2005): 727-736.
- Jerrett et al. "Long-term ozone exposure and mortality." *N Engl Med* 360 (2009): 1085-1095
- Krewski et al. "Reanalysis of the Harvard Six Cities Study and the American Cancer Society Study of Particulate Air Pollution and Mortality." Special Report to the Health Effects Institute, Cambridge MA. (2000) <http://pubs.healtheffects.org/getfile.php?u=274>
- Krewski et al. "Extended follow-up and spatial analysis of the American Cancer Society study linking particulate air pollution and mortality." *HEI Research Report, 140*, Health Effects Institute, (2009) Boston, MA
- Laden et al. "Reduction in Fine Particulate Air Pollution and Mortality. *American Journal of Respiratory and Critical Care Medicine*. 173 (2006): 667-672
- Lipfert et al. "PM_{2.5} constituents and related air quality variables as predictors of survival in a cohort of U.S. military veterans." *Inhal. Toxicol.* 18 (2006): 41-72.
- Lepeule et al. "Chronic Exposure to Fine Particles and Mortality; An Extended Follow-Up of the Harvard Six Cities Study from 1974 to 2009." *Environ Health Perspect*. Jul; 120(7) (2012): 965-70
- Pope et al. "Lung Cancer, Cardiopulmonary Mortality, and Long-term Exposure to Fine Particulate Air Pollution." *Journal of the American Medical Association* 287 (2002): 1132-1141.
- Pope et al. "Particulate air pollution as a predictor of mortality in a prospective study of U.S. adults." *Am. J. Respir. Crit. Care Med* 151 (1995): 669-674.

Congress of the United States
House of Representatives

COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY

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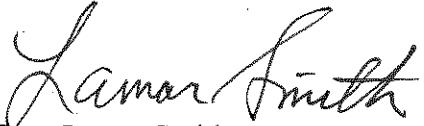
(202) 225-6371
www.science.house.gov

August 1, 2013

The Honorable Gina McCarthy
Administrator
United States Environmental Protection Agency
USEPA William Jefferson Clinton Federal Building
1200 Pennsylvania Ave., N.W., Washington, DC

Dear Administrator McCarthy,

Enclosed please find a subpoena *duces tecum* from the United States House of Representatives Committee on Science, Space, and Technology.


Rep. Lamar Smith
Chairman
Committee on Science, Space, and Technology



Rep. Chris Stewart
Chairman
Subcommittee on Environment

Enclosure.

3. The phrase "all analyses and re-analyses of" means any subsequent analysis of the Harvard Six Cities or Cancer Prevention Study II data, including, but not limited to:
 - Jerrett et al. 2009. "Long-term ozone exposure and mortality." *New England Journal of Medicine* 360: 1085-1095.
 - Krewski et al. 2000. "Reanalysis of the Harvard Six Cities Study and the American Cancer Society Study of Particulate Air Pollution and Mortality." Special report to Health Effects Institute. Cambridge MA. July.
 - Pope et al. 2002. Lung Cancer, Cardiopulmonary Mortality, and Long-term Exposure to Fine Particulate Air Pollution." *Journal of the American Medical Association* 287: 1132-1141.
 - Pope et al. 2009. "Fine Particle Air Pollution and Life Expectancy in the United States." *New England Journal of Medicine* 360: 376-386.
 - Laden et al. 2006. "Reduction in Fine Particulate Air Pollution and Mortality." *American Journal of Respiratory and Critical Care Medicine* 173: 667-672.
 - Krewski et al. 2009. "Extended follow-up and spatial analysis of the American Cancer Society study linking particulate air pollution and mortality, HEI Research Report 140, Health Effects Institute. Boston, MA.
 - Lepeule et al. 2012. "Chronic Exposure to Fine Particles and Mortality: An Extended Follow-Up of the Harvard Six Cities Study from 1974 to 2009." *Environmental Health Perspectives* 120(7): 965-970.
4. The term "covered studies" means the Harvard Six Cities Study, the Cancer Prevention Study II, and all analyses and re-analyses of either study.
5. The term "communication" means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether face-to-face, in a meeting, by telephone, mail, telexes, discussions, releases, personal delivery, or otherwise.
6. The terms "and" and "or" shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this subpoena any information which might otherwise be construed to be outside its scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neuter genders.
7. The terms "person" or "persons" means natural persons, firms, partnerships, associations, corporations, subsidiaries, divisions, departments, joint ventures, proprietorships, syndicates, or other legal, business or government entities, and all subsidiaries, affiliates, divisions, departments, branches, and other units thereof.
8. The terms "referring or relating," with respect to any given subject, means anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with or is in any manner whatsoever pertinent to that subject.

Wall Street Journal Opinion June 24, 2014

What Is the EPA Hiding From the Public?

The agency shouldn't get to decide who sees the science behind its rules. Open the research to outside analysis.

By Lamar Smith

June 23, 2014 6:45 p.m. ET

The climate is changing and, yes, humans play a role. But that does not mean, as Environmental Protection Agency Administrator Gina McCarthy would have us believe, that the debate—over how much the climate is changing, how big a role humans play, and what can reasonably done about it—is over. Still less does it mean that anyone who questions her agency's actions, particularly the confidential research it uses to justify multimillion and billion-dollar air rules, is a denier at war with science.

The EPA's regulatory process today is a closed loop. The agency funds the scientific research it uses to support its regulations, and it picks the supposedly independent (but usually agency-funded) scientists to review it. When the regulations are challenged, the courts defer to the agency on scientific issues. But the agency refuses to make public the scientific research it uses.



Environmental Protection Agency Administrator Gina McCarthy Getty Images

The House Science Committee will vote Tuesday on legislation to open up this closed loop. The Secret Science Reform Act, which I co-sponsored, has a simple goal: EPA regulations should be based on legitimate science and data that are open to the public.

Scientific journals in a variety of disciplines have moved toward data transparency. Ms. McCarthy sees this effort as a threat. Speaking before the National Academy of Sciences in late April, she defended her agency's need to protect data "from those who are not qualified to analyze it."

The EPA essentially decides who is or is not allowed access to the scientific research they use—research that is paid for with public funds, appropriated by Congress, on behalf of American taxpayers. This is wholly improper.

I recently received a letter of support for the Secret Science Reform Act that was signed by more than 80 scientists, including physicians, and professors of environmental science, physics, statistics, economics and engineering. The signatories included George Wolff, former chair of the EPA's Clean Air Scientific Advisory Committee in the Clinton administration and Forrest J. Remick, former commissioner of the U.S. Nuclear Regulatory Commission in the George H.W. Bush administration. They wrote that the bill would "make the agency's regulations more accountable, credible, and enforceable" and that its transparency requirements "can be accomplished without imposing unnecessary burdens, discouraging research, or raising confidentiality concerns."

Costly environmental regulations must be based on publicly available data that independent scientists can verify. For example, take the administration's recently proposed plan to regulate greenhouse gas emissions from existing power plants—regulations that could cost hundreds of thousands of jobs and spike electricity rates.

In the announcement of her agency's 645-page Clean Power Plan, Ms. McCarthy claimed "The science is clear. The risks are clear. And the high costs of climate inaction keep piling up." Yet any reporter willing to read beyond the EPA press release would find that the reality doesn't match the rhetoric.

Monday's Supreme Court decision (*Utility Air Regulatory Group v. EPA*) underscores the need for scrutiny of agency claims. The court called EPA's rewriting of the Clean Air Act "outrageous," and said that "When an agency claims to discover in a long-extant statute an unheralded power to regulate 'a significant portion of the American economy,' we typically greet its announcement with a measure of skepticism." Such skepticism is well deserved.

Virtually all of the EPA's health claims for its latest power-plant rules, including that they would save thousands of lives a year, are based on data that haven't been made public. In any event, for most of the EPA's 2030 projections, a majority of the health benefits claimed have nothing to do with carbon dioxide. They come from reductions in air pollutants already regulated by the EPA such as particulate matter and ozone.

The EPA also claims that its Clean Power Plan will yield climate benefits, such as lower sea levels, which the agency calculates using its "social cost of carbon." But a recent analysis by Ted Gayer, vice president and director of economic studies at the Brookings Institution, found that most of these alleged benefits take place outside the U.S. Even using the EPA's own numbers, the costs of this regulation may exceed the direct, domestic benefits.

The EPA, like every other government institution, should be accountable to the American people. We need to protect our environment, but this should be done on the basis of open and honest information. That is the goal of the Secret Science Reform Act.

Mr. Smith, a Republican from Texas, is chairman of the House Committee on Science, Space, and Technology.

<http://science.house.gov/press-release/committee-approves-bill-prohibit-epa-using-secret-science>

Committee Approves Bill to Prohibit EPA from Using Secret Science

June 24, 2014

Washington, D.C. – The Committee on Science, Space, and Technology today approved the *Secret Science Reform Act of 2014* ([H.R. 4012](#)) to require that the Environmental Protection Agency (EPA) base its regulations on data that is public.

Chairman Lamar Smith (R-Texas): “The EPA’s regulatory process is both hidden and flawed. It hides the data and then handpicks scientists to review it. The American people foot the bill for the EPA’s billion dollar regulations and they have the right to see the underlying data. If the EPA has nothing to hide, and if their data really justifies their regulations, why not make the information public? Data sharing is becoming increasingly common across scientific disciplines. The legislation requires that EPA science be available for validation and replication. Americans impacted by EPA regulations have a right to see the data and determine for themselves if the agency’s actions are based on sound science or a partisan agenda. This bill ensures transparency and accountability. The American people deserve the facts. And so does good policy.”

The *Secret Science Reform Act* was introduced by Environment Subcommittee Chairman David Schweikert (R-Ariz.) and has received [letters of support](#) from over 80 scientists and experts, 30 trade associations, the U.S. Chamber of Commerce, the former head of the Office of Information and Regulatory Affairs, the former head of EPA’s Clean Air Scientific Advisory Committee, and the California Construction Trucking Association.

Subcommittee Chairman Schweikert: “Public policy by public data. Today, with the reporting of H.R. 4012, the Committee took a big step forward in ensuring transparency for the American people.”

The *Secret Science Reform Act* does not require any disclosure of confidential information. It would only prohibit EPA’s use of secret science. A [2013 poll](#) from the Institute of Energy Research found that 90 percent of Americans agree that studies and data used to make federal government decisions should be made public.

Provisions in the bill are consistent with the White House’s scientific integrity policy, the President’s Executive Order 13563, data access provisions of major scientific journals, the Bipartisan Policy Center and the recommendations of the Obama administration’s top science advisors.

For more information on today’s markup, including amendments and roll call votes, visit the Science, Space, and Technology Committee [website](#).

June 24, 2014 Wall Street Journal Op-Ed by Lamar Smith "What is the EPA Hiding from the Public?": <http://online.wsj.com/articles/lamar-smith-what-is-the-epa-hiding-from-the-public-1403563536>

Letters Supporting H.R. 4012: <http://science.house.gov/letters-support-secret-science-reform-act-2014-hr-4012>

[87 Experts Letter of Support](#) [30 Trade Associations Letter of Support](#) [U.S. Chamber of Commerce Letter of Support](#) [Dr. Graham Letter of Support](#) [Dr. McClellan Letter of Support](#) [CCTA Letter of Support](#)

Secret Science Reform Act of 2014 ([H.R. 4012](#)):

"To prohibit the Environmental Protection Agency from proposing, finalizing, or disseminating regulations or assessments based upon science that is not transparent or reproducible.

Section 6(b) of the Environmental Research, Development, and Demonstration Authorization Act of 1978 ([42 U.S.C. 4363 note](#)) is amended to read as follows:

- (1) The Administrator shall not propose, finalize, or disseminate a covered action unless all scientific and technical information relied on to support such covered action is
 - (A) specifically identified; and
 - (B) publicly available in a manner that is sufficient for independent analysis and substantial reproduction of research results.
- (2) Nothing in the subsection shall be construed as requiring the public dissemination of information the disclosure of which is prohibited by law.
- (3) In this subsection
 - (A) the term *covered action* means a risk, exposure, or hazard assessment, criteria document, standard, limitation, regulation, regulatory impact analysis, or guidance; and
 - (B) the term *scientific and technical information* includes
 - (i) materials, data, and associated protocols necessary to understand, assess, extend conclusions;
 - (ii) computer codes and models involved in the creation and analysis of such information;
 - (iii) recorded factual materials; and
 - (iv) detailed descriptions of how to access and use such information."

<http://bizbeatblog.dallasnews.com/2014/11/house-takes-up-lamar-smiths-secret-science-bill-ebj-slams-insidious-attack-on-epa.html/>

Dallas Morning News November 19, 2014

Biz Beat Blog

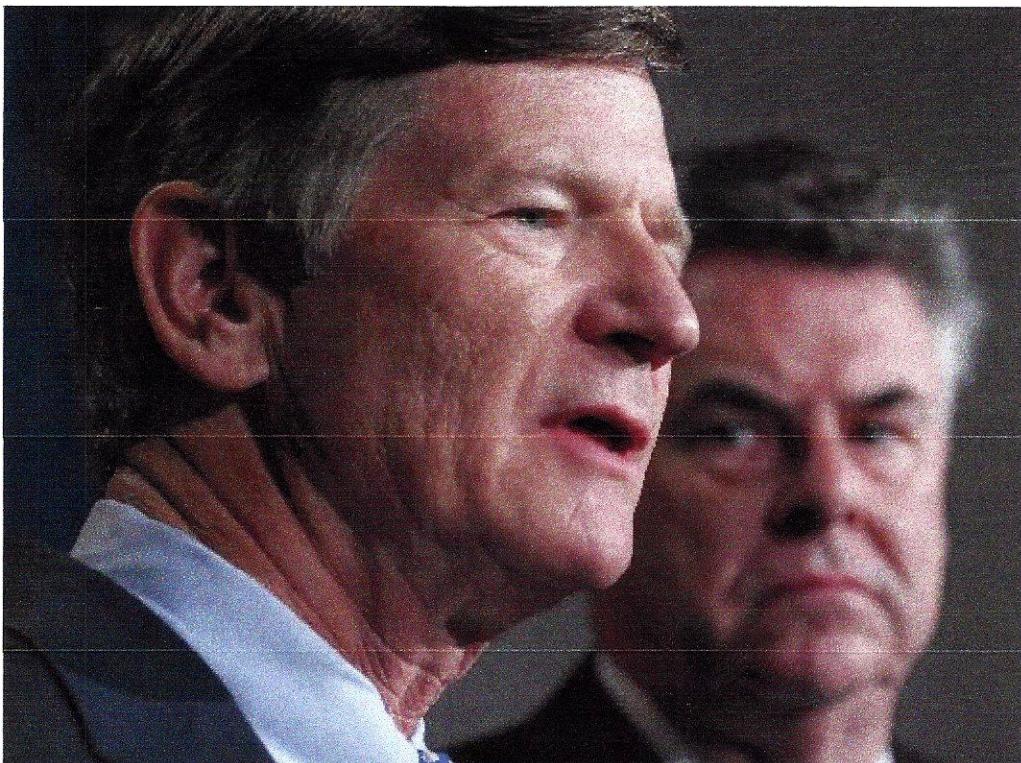
House takes up Lamar Smith's 'secret science' bill; EBJ slams 'insidious' attack on EPA



Michael Lindenberger Email mlindenberger@dallasnews.com

Published: November 19, 2014 1:21 pm

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Rep. Lamar Smith, R-Texas, is chairman of the House Science committee. The House votes today on the "Secret Science Reform Act of 2014." AP Photo/Lauren Victoria Burke

Update: The House passed the bill at 3:23 p.m. EST., 237 to 190. The House rejected two Democratic amendments, one by Rep. Joseph Kennedy of Massachusetts, which would have allowed the EPA to use a study that had been subjected to standard peer-review. A second amendment by Rep. Eddie Bernice Johnson, D-Dallas, would have exempted the EPA from the bill in the event of emergencies like the Ebola breakout or toxic spills.

WASHINGTON — Two of Texas' most prominent members of Congress squared off moments ago on the House floor as members prepare to vote on a bill Republicans say will end the EPA's reliance on scientific studies whose data aren't fully available to the public.

The Secret Science Reform Act of 2014 would require the Environmental Protection Agency to base its rules only on scientific studies whose data can be shared in sufficient details that other researchers can duplicate the research. A vote is expected within the hour, and this post will be updated with its results.

Rep. Lamar Smith, R-Texas, is chairman of the House science committee and from that perch he has targeted repeatedly the EPA's use of two landmark studies that have linked air pollution and health problems for humans. The EPA has relied on those studies — conducted by Harvard University and the American Cancer Society — over the years to write rules penalizing air pollution.

To Smith, the question is simple: Science that the government uses to restrict commerce or impose other regulatory burdens on businesses — especially under the aggressive clean air agenda pursued by the Obama Administration — should be fully available to other scientists, including those who work for businesses subject to the rules, who want to duplicate the research.

"It stops the EPA's use of unverifiable science," Smith said in kicking the hour-long debate off Wednesday just after 1 p.m. EST.



Rep. Eddie Bernice Johnson, D-Dallas, is ranking member on the House Science committee.

But Rep. Eddie Bernice Johnson, D-Dallas and the ranking member on the Science panel, used none of the measured language Smith had used in opening the debate.

"This bill does not permit me to mince words," Johnson said. "It's an insidious attack on the EPA ... and the culmination of one of the one anti-science and anti-health campaigns I've ever witnessed in my 22 years in Congress. It is born of the Republicans' long-standing obsession with two seminal scientific studies conducted by Harvard and the American Cancer Society."

The Science committee took the unprecedented step of subpoenaing the data for these studies last year, but while the EPA has turned over cartloads of documents, it says it cannot comply with the full demands. In part, that's because the custodians of those records are the institutions who conducted them in the first place.

Both those institutions say that fully revealing the data used in their studies would violate the privacy of individuals who were part of their decades-long studies.

Smith and others who champion the bill say it's about transparency — and about fairness to the businesses who are regulated by the EPA.

Rep. David Schweikert, R-Arizona, said there's another benefit of the proposed law. By opening the science up to the public, its conclusions will be vetted — and possibly improved — by wider repetition and innovation.

But beneath those concerns lay a significant frustration with the Obama Administration's use of the EPA to impose regulations on air quality, greenhouse gas emissions and water rules, among other things.

But Rush D. Holt, the only member to hold a Ph.D. in physics, said the Republicans' arguments are wrong. "It's a blatant misunderstanding of how science operates," he said. "... And it's an affront to science."

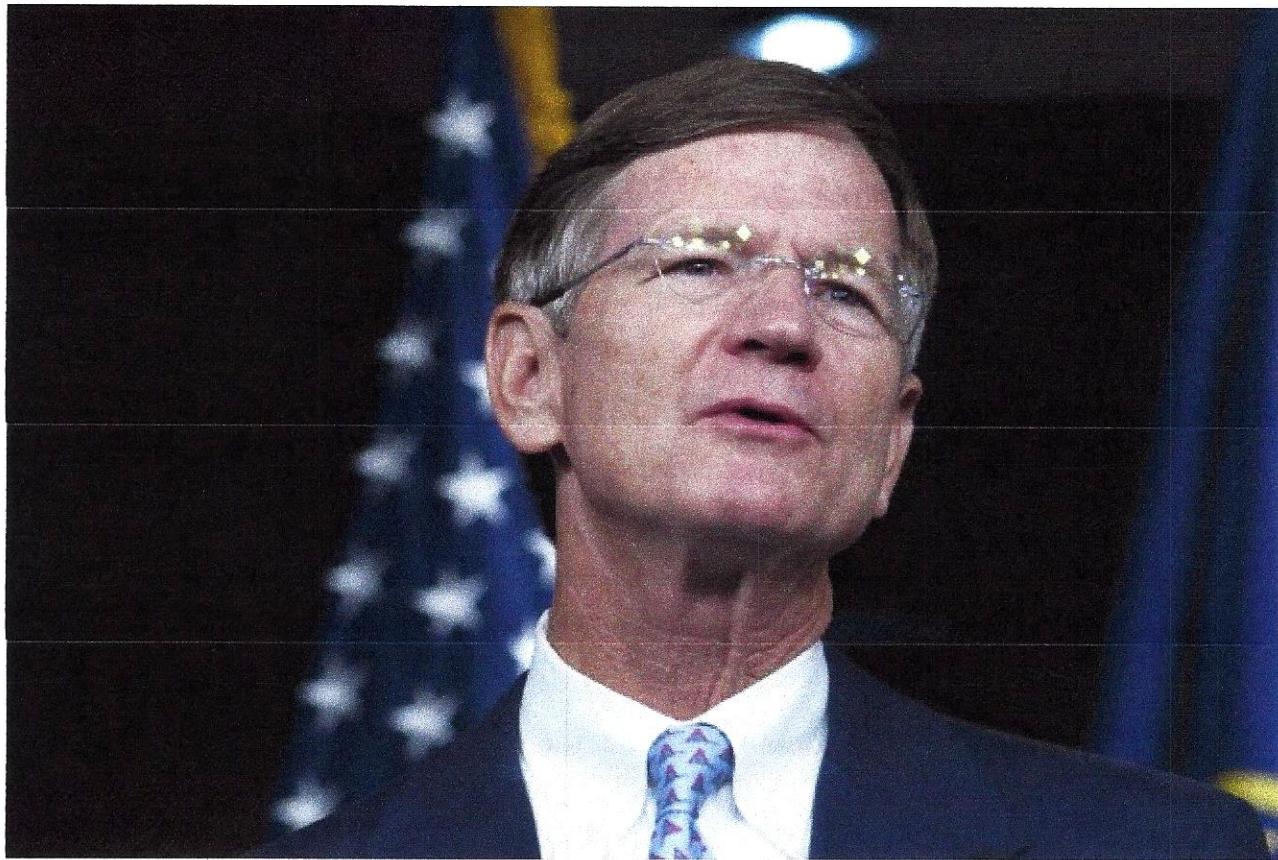
The bill, should it pass the Senate, faces a likely veto. The White House explained its thinking on the topic in a memo published Monday.

<http://thinkprogress.org/climate/2014/11/19/3594566/house-passes-epa-secret-science-bill/>

CLIMATE PROGRESS November 19, 2014

House Passes Bill To Stop EPA From Using ‘Secret Science’ To Craft Pollution Rules

by Emily Atkin  Posted on November 19, 2014 at 4:56 pm



Rep. Lamar Smith, R-Texas, one of the sponsors of the “Secret Science” bill.

CREDIT: AP PHOTO/DREW ANGERER

The House of Representatives voted 237-190 on Wednesday afternoon to pass a bill that would limit the type of scientific research the Environmental Protection Agency can use when crafting regulations to protect the environment and public health.

Dubbed the “Secret Science Reform Act of 2014,” the bill’s intention is to increase transparency at the EPA by making it so the agency can’t use any science that is “hidden and flawed,” according to bill

sponsor Rep. Lamar Smith (R-TX). Smith and his Republican colleagues say the bill is needed so that the public can independently check the EPA's basis for issuing regulations limiting air and water pollutants from various sources.

While the bill may sound noble on its face, scientists overwhelmingly take issue with its tenets. For one, they say, the bill does not understand why some scientific data is confidential — namely because much of it uses private medical data of voluntary test subjects to test pollutants, while some contains trade secrets and industry data.

"Some of the best real-world public health research, which relies on patient data like hospital admissions, would be excluded from consideration because personal data could not, and should not, be made public," wrote Union of Concerned Scientists director Andrew Rosenberg in Roll Call. "Demanding public release of full raw data the agency cannot legally disclose is simply a way to accuse the agency of hiding something when it has nothing to hide."

This is the second time this week that the House has passed a bill seeking to hamper the activities of the EPA, despite there being no chance that either would become law. On Tuesday, the House quietly passed the Science Advisory Board Reform Act, which would make it easier for scientists with financial ties to corporations to advise the EPA, and prohibits independent scientists from talking about their own research on the board.

Republicans maintained on the House floor on Wednesday that their "Secret Science" bill wouldn't require that personal data or trade secrets be made public. Indeed, the bill states that "Nothing ... shall be construed as requiring the public dissemination of information the disclosure of which is prohibited by law." Republicans maintain that data can still be used without disclosing personal information or trade secrets.

The White House disagrees, saying in a memo released Monday that doing so would cost the agency thousands of dollars for each scientific study it uses, thereby making it harder and more time-consuming to meet the requirements for each study it wants to use. Indeed, the Congressional Budget Office (CBO) reports that the EPA relies on approximately 50,000 scientific studies per year, and that meeting the goals of the House "Secret Science" bill would cost between \$10,000 and \$30,000 per study.

The result, the CBO noted, would be that the number of studies relied upon by the EPA would be cut in half. That would mean EPA regulations based on less sound science, and less EPA regulations overall.

"In short, the bill would undermine EPA's ability to protect the health of Americans, would impose expensive new mandates on EPA, and could impose substantial litigation costs on the Federal government," the White House memo reads. "It also could impede EPA's reliance on the best available science."

Opponents of the legislation on Wednesday took to the floor to voice their outrage, saying the bill represented a “wolf in sheep’s clothing” — a disingenuous play for “transparency” within the EPA, when all Republicans really want is less EPA regulation.

“The bill before us today is a wolf in sheep’s clothing. It’s a dangerous attack on the power of knowledge,” said Rep. Katherine Clark (D-MA). “Rather than argue with the indisputable facts on air pollution — a losing bet — this bill attempts to discredit the science as secret, when in fact there’s nothing secret about it. The only secret here is the true intent of this bill.”

Republicans insisted this wasn’t true, saying their only intent was increased transparency in EPA rulemaking. Many made comparisons to MIT economist Jonathan Gruber, who controversially stated that President Obama’s health care law only succeeded because of a lack of political transparency in the administration, and “the stupidity of the American voter.”

“Why the defensiveness about transparency? Why the defensiveness about the truth? Why the defensiveness about more participation as it relates to science?” asked Rep. Peter Roskam (R-IL). “What they have to defend is the orthodoxy that allowed the other side to create Obamacare and the architect of Obamacare, Jonathan Gruber, said this is a tortured way to make sure [the Congressional Budget Office] scores it this way and so forth and so on.”

Rep. Randy Weber (R-TX), a co-sponsor of the bill, also brought Gruber into the conversation.

“It makes you kind of wonder if the opponents of this legislation, like Mr. Gruber, believe that the American people are ‘too stupid to understand’ the costly impact of the EPA’s overreaching regulations,” he said. “Trust me when I say Americans are not stupid, and they deserve and demand the truth from the start.”

Tags:

- Climate Science
- Environmental Protection Agency
- Science

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Envelope containing February 17, 2015 Letter from James E. Enstrom, Ph.D., M.P.H., to James S. Economou, M.D., Ph.D., including three attachments

Delivered to:

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