

December 8, 2009

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

Re: December 9, 2009 CARB Meeting Agenda Item 09-10-8:
Public Meeting to Update Board on the Truck and Bus Regulation and the In-Use Off-Road Diesel-Fueled Fleet Regulation

Dear Board Members:

I am writing to bring to your attention serious flaws in the scientific evidence upon which the CARB on-road and off-road diesel regulations are based. I have previously submitted to CARB staff and board members important epidemiologic evidence that there is no current relationship between fine particulate air pollution (PM2.5) and premature deaths in California. These submissions include a July 11, 2008 teleconference (<http://www.scientificintegrityinstitute.org/AgendaSum071108.pdf>) (<http://www.scientificintegrityinstitute.org/AgendaFull071108.pdf>) (<http://www.scientificintegrityinstitute.org/CARBTeleconference071108.wav>), July 11, 2008 written comments (http://www.arb.ca.gov/research/health/pm-mort/pm-mort_supp.pdf), December 10, 2008 written comments (http://www.arb.ca.gov/lists/truckbus08/897-carb_enstrom_comments_on_statewide_truck_regulations_121008.pdf), and May 27, 2009 written comment (http://www.arb.ca.gov/lists/gmove09/1-carb_enstrom_comments_re_pm2.5_and_life_expectancy_052709.pdf). In addition, at the August 1, 2009 CARB Forum on Diesel Science in Ontario, California (<http://www.scientificintegrityinstitute.org/ForumSummary080109.pdf>), I presented this evidence in a public lecture (<http://www.youtube.com/user/carbnoneofthisisreal>) and a detailed Power Point Presentation (<http://www.scientificintegrityinstitute.org/EnstromPPT080109.pdf>).

The most recent evidence comes from the June 3, 2009 Health Effects Institute Research Report #140 "Extended Analysis of the American Cancer Society Study of Particulate Air Pollution and Mortality" (<http://pubs.healtheffects.org/view.php?id=315>) and the May 21, 2008 prepublication Power Point Presentation of this report (<http://www.scientificintegrityinstitute.org/Krewski052108.pdf>). Table 33 of the report and slide 47 of the PPT indicate that there is no significant relationship between PM2.5 and premature deaths in the United States as a whole as of 1999-2000.

I believe that clear conflicts of interest among the external peer reviewers has contributed to the fact that this epidemiologic evidence not been fairly evaluated and presented in 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" (http://www.arb.ca.gov/research/health/pm-mort/pm-mort_final.pdf).

In his October 27, 2009 memo to Honorable Board Members, “INFORMATION REGARDING THE PM2.5 MORTALITY STAFF REPORT,” CARB Executive Officer James N. Goldstene wrote “Second, we received comments throughout the process, including review of the final report, from three advisors: Professor Jonathan Levy of Harvard University, Professor Arden Pope of BYU and Dr. Bart Ostro of Cal/EPA’s Office of Environmental Health Hazard Assessment.” (<http://www.scientificintegrityinstitute.org/Goldstene102709.pdf>).

However, all three advisors have a CLEAR CONFLICT OF INTEREST because they reviewed their own research in the Draft Staff Report and the Final Staff Report and had a close relationship with the lead author of the report Hien T. Tran. Levy authored two papers that are cited in the report: Levy 2000 (page 23); Ostro 2006JAWMA (Appendix 2, page A-12). Pope authored nine papers that are cited: Pope 1989, 1991, 1995, 1996, 2002, 2004, and 2006; Dockery 1993; and Jerrett 2005a. Ostro authored two papers that are cited: Ostro 2006EHP and Ostro 2006JAWMA. Incredibly, Levy and Ostro co-authored their 2006 paper (Ostro 2006JAWMA) with Hien Tran: “The health benefits of reduced tropospheric ozone in California.” *J Air Waste Manag Assoc.* 2006 Jul;56(7):1007-21 (<http://www.ncbi.nlm.nih.gov/pubmed/16878591>) (<http://www.scientificintegrityinstitute.org/OstroTranLevy2006>). Furthermore, Table 2a on page 22 and Table 2b on page 23 show that the primary studies used to establish the relationship between PM2.5 and premature deaths in California are authored by Pope.

Then Goldstene wrote in his October 27, 2009 memo “Third, our draft report was reviewed following the Cal/EPA external scientific peer review guidelines for independent review. In this process, the University of California at Berkeley Institute of the Environment selects the peer reviewers without input from staff. Candidates were accepted as reviewers only if their disclosure information showed they had no conflict of interest related to the report. The six reviewers identified by the University of California at Berkeley and selected by the Cal/EPA Project Director to review the proposed methodology in the PM2.5 Mortality staff report were: Jeff Brook from Environment Canada, Professor Mark Eisner of the University of California at San Francisco, Professor Richard Flagan of the California Institute of Technology, Professor Alan Hubbard of the University of California at Berkeley, Professor Joel Kaufman of the University of Washington, and Professor Joel Schwartz of Harvard University.”

Contrary to Goldstene’s statement, three of these peer reviewers have a CLEAR CONFLICT OF INTEREST. Based on a PubMed.gov search, Eisner has published 65 papers during 1998-2009 with CARB Scientific Review Panel (SRP) member Paul D. Blanc. Blanc has been a SRP member since the SRP identified diesel exhaust as a Toxic Air Contaminant (TAC) in 1998. Eisner has published 17 papers during 2003-2009 with CARB member John R. Balmes and 16 of these papers include Blanc as a co-author. Kaufman authored three papers that are cited in the Final Staff Report: Goss 2004, Miller 2004, and Miller 2007. Schwartz authored five papers that are cited: Schwartz 1996, 2002, and 2008; Laden 2006; and Franklin 2007. Additional investigation may reveal that these reviewers have further conflicts of interest.

In light of the evidence that I have presented above I believe that the CARB on-road and off-road diesel regulations should be suspended until the CARB Final Staff Report can be independently reevaluated. CARB members should take very seriously all the comments contained in the items shown below.

December 8, 2009 San Diego Union-Tribune Editorial "The air board's test: Will zealotry or common sense win the day?"

<http://www.signonsandiego.com/news/2009/dec/08/air-boards-test/>

December 5, 2009 Fresno Bee Commentary "RON ROBERTS: Gaining some extra time to breathe"

http://www.fresnobee.com/opinion/valley_voices/story/1736578.html

December 4, 2009 San Diego Union-Tribune Editorial "Still Shameful - Air Board's Response to Scandal is Appalling"

<http://www.signonsandiego.com/news/2009/dec/04/still-shameful-air-boards-response-scandal-appalli/>

December 4, 2009 San Diego Union-Tribune Op-Ed by CARB Member Ron Roberts "Time to Clear the Air and Breathe"

<http://www.signonsandiego.com/news/2009/dec/04/time-clear-air-and-breathe/>
<http://www.box.net/shared/fturmozen8>

December 3, 2009 San Diego Union-Tribune Article by Michael Gardner "Suspend diesel rule, critics urge"

<http://www.signonsandiego.com/news/2009/dec/03/suspend-diesel-rule-critics-urge/>

December 3, 2009 Capitol Weekly Article by John Howard "ARB's diesel rule-making deeply flawed, member says"

http://www.capitolweekly.net/article.php?_c=ygi7a8r3s69mvw&xid=yggk2qcwp5xx25

December 2, 2009 San Francisco Chronicle Article "Air regulator wants California diesel rule suspended"

<http://sfgate.com/cgi-bin/article.cgi?f=/n/a/2009/12/02/state/n144527S78.DTL>

December 2, 2009 Bakersfield Californian Column by Lois Henry "Arrogance pollutes air board"

<http://www.bakersfield.com/news/columnist/henry/x789211529/LOIS-HENRY-Arrogance-pollutes-air-board>
<http://people.bakersfield.com/home/Blog/noholdsbarred/52462>

December 2, 2009 Sacramento Bee Column by Dan Walters "Air board's cover-up casts pall on diesel rules"

<http://www.sacbee.com/walters/story/2363161.html>

December 2, 2009 Fresno Bee article "Fresno doctor wants truck air rules suspended"
<http://www.fresnobee.com/local/story/1732165.html>

November 22, 2009 San Diego Union-Tribune Editorial "The air board's shame / Staff never revealed internal scandal before crucial vote"
[\(http://www.signonsandiego.com/news/2009/nov/22/air-boards-shame-staff-never-revealed-internal-sca/\)](http://www.signonsandiego.com/news/2009/nov/22/air-boards-shame-staff-never-revealed-internal-sca/)

November 21, 2009 Bakersfield Californian Column by Lois Henry "Lies tarnish air boards credibility"
<http://www.bakersfield.com/news/columnist/henry/x140060577/LOIS-HENRY-Lies-tarnish-air-boards-credibility>

November 19, 2009 CARB Legal Counsel Ellen Peter Statement & Related Statements Regarding CARB Employee Fraud (Hien Tran "Ph.D.")
<http://www.youtube.com/watch?v=xtUxwxqtYoY>

November 19, 2009 CARB Member John G. Telles Formal Statement Describing Tran Fraud and Proposing Suspension of CARB Truck Rule
<http://www.youtube.com/user/CDTOA#p/a/u/2/yUAbJ8GeLUA>

November 16, 2009 John G. Telles Letter to Ellen Peter and 11 exhibits regarding CARB Tran Fraud and CARB Truck Rule
<http://www.box.net/shared/iqo6aygzl2>

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

Sincerely yours,

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