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FILED

Superior Court Of California,
Sacramento

06/18/2009

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By  , Deputy

Case Number

34-2009-80000266

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10 SUPERIOR COURT OF THE STATE OF CALIFORNIA

11 COUNTY OF SACRAMENTO

12

13 NORMAN R. BROWN; ROBINSON ENTERPRISES,)
LTD.; NORTH BAY CORPORATION; CALIFORNIA)
14 DUMP TRUCK OWNERS ASSOCIATION;)
SOUTHERN CALIFORNIA CONTRACTORS)
15 ASSOCIATION; CONSTRUCTION INDUSTRY AIR)
QUALITY COALITION; CRANE OF UKIAH, INC.;)
16 DIAMOND D GENERAL ENGINEERING, INC.; and)
MHS CORPORATION COMPACTION RENTALS,)

17

Petitioners,

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v.

19

20 LINDA ADAMS, in her official capacity as Secretary,
California Environmental Protection Agency;
21 KAREN BASS, in her official capacity as Speaker
of the California Assembly; THE CALIFORNIA
SENATE COMMITTEE ON RULES; and
22 MARK G. YUDOF, in his official capacity as
President of the University of California,
23

Respondents.

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25

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27

28

No. _____

**VERIFIED PETITION
FOR WRIT OF MANDATE
(Code Civ. Proc. §1085)**

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PARTIES

1. Petitioner Norman R. Brown is a citizen of the State of California. By this Petition, Brown seeks to procure the enforcement of a public duty, namely, the nomination and appointment of new members to the Scientific Review Panel to replace those persons whose statutory terms have expired.

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1 3. Petitioner North Bay Corporation is an "S" corporation organized under the laws
2 of the State of California. North Bay has a continuing interest and commitment in seeing
3 Respondents fulfill their duties under the Health and Safety Code in the nomination and
4 appointment of members to the Scientific Review Panel. North Bay has at least one shareholder
5 who is a citizen of the State of California. North Bay's shareholders include individuals who are
6 beneficially interested in seeing Respondents fulfill their duties under the Health and Safety Code
7 in the nomination and appointment of members to the Scientific Review Panel. Were it not for
8 their representation by North Bay, these shareholders would find it difficult or impossible to act
9 on their own to vindicate their beneficial interest in this matter. By this Petition, North Bay seeks
10 to procure the enforcement of a public duty, namely, the nomination and appointment of new
11 members to the Scientific Review Panel to replace those persons whose statutory terms have
12 expired.

13 4. Petitioner California Dump Truck Owners Association is a not-for-profit mutual
14 benefit corporation organized under the laws of the State of California. The Association has a
15 continuing interest and commitment in seeing Respondents fulfill their duties under the Health and
16 Safety Code in the nomination and appointment of members to the Scientific Review Panel. The
17 Association has at least one member who is a citizen of the State of California. The Association's
18 members include individuals who are beneficially interested in seeing Respondents fulfill their
19 duties under the Health and Safety Code in the nomination and appointment of members to the
20 Scientific Review Panel. Were it not for their representation by the Association, these members
21 would find it difficult or impossible to act on their own to vindicate their beneficial interest in this
22 matter. By this Petition, the Association seeks to procure the enforcement of a public duty, namely,
23 the nomination and appointment of new members to the Scientific Review Panel to replace those
24 persons whose statutory terms have expired.

25 5. Petitioner Southern California Contractors Association is a not-for-profit mutual
26 benefit trade association organized under the laws of the State of California. The Association has
27 a continuing interest and commitment in seeing Respondents fulfill their duties under the Health
28 and Safety Code in the nomination and appointment of members to the Scientific Review Panel.

1 The Association has at least one member who is a citizen of the State of California. The
2 Association's members include individuals who are beneficially interested in seeing Respondents
3 fulfill their duties under the Health and Safety Code in the nomination and appointment of
4 members to the Scientific Review Panel. Were it not for their representation by the Association,
5 these members would find it difficult or impossible to act on their own to vindicate their beneficial
6 interest in this matter. By this Petition, the Association seeks to procure the enforcement of a
7 public duty, namely, the nomination and appointment of new members to the Scientific Review
8 Panel to replace those persons whose statutory terms have expired.

9 6. Petitioner Construction Industry Air Quality Coalition is a not-for-profit mutual
10 benefit corporation organized under the laws of the State of California. The Coalition has a
11 continuing interest and commitment in seeing Respondents fulfill their duties under the Health and
12 Safety Code in the nomination and appointment of members to the Scientific Review Panel. The
13 Coalition has at least one member who is a citizen of the State of California. The Coalition's
14 members include individuals who are beneficially interested in seeing Respondents fulfill their
15 duties under the Health and Safety Code in the nomination and appointment of members to the
16 Scientific Review Panel. Were it not for their representation by the Coalition, these members
17 would find it difficult or impossible to act on their own to vindicate their beneficial interest in this
18 matter. By this Petition, the Coalition seeks to procure the enforcement of a public duty, namely,
19 the nomination and appointment of new members to the Scientific Review Panel to replace those
20 persons whose statutory terms have expired.

21 7. Petitioner Crane of Ukiah, Inc., is a California "C" corporation. Crane of Ukiah has
22 a continuing interest and commitment in seeing Respondents fulfill their duties under the Health
23 and Safety Code in the nomination and appointment of members to the Scientific Review Panel.
24 Crane of Ukiah has at least one shareholder who is a citizen of the State of California. Crane of
25 Ukiah's shareholders include individuals who are beneficially interested in seeing Respondents
26 fulfill their duties under the Health and Safety Code in the nomination and appointment of
27 members to the Scientific Review Panel. Were it not for their representation by Crane of Ukiah,
28 these shareholders would find it difficult or impossible to act on their own to vindicate their

1 | beneficial interest in this matter. By this Petition, Crane of Ukiah seeks to procure the enforcement
2 | of a public duty, namely, the nomination and appointment of new members to the Scientific
3 | Review Panel to replace those persons whose statutory terms have expired.

4 | 8. Petitioner Diamond D General Engineering, Inc., is a California "C" corporation.
5 | Diamond D has a continuing interest and commitment in seeing Respondents fulfill their duties
6 | under the Health and Safety Code in the nomination and appointment of members to the Scientific
7 | Review Panel. Diamond D has at least one shareholder who is a citizen of the State of California.
8 | Diamond D's shareholders include individuals who are beneficially interested in seeing
9 | Respondents fulfill their duties under the Health and Safety Code in the nomination and
10 | appointment of members to the Scientific Review Panel. Were it not for their representation by
11 | Diamond D, these shareholders would find it difficult or impossible to act on their own to vindicate
12 | their beneficial interest in this matter. By this Petition, Diamond D seeks to procure the
13 | enforcement of a public duty, namely, the nomination and appointment of new members to the
14 | Scientific Review Panel to replace those persons whose statutory terms have expired.

15 | 9. Petitioner MHS Corporation Compaction Rentals is a California "C" corporation.
16 | Compaction Rentals has a continuing interest and commitment in seeing Respondents fulfill their
17 | duties under the Health and Safety Code in the nomination and appointment of members to the
18 | Scientific Review Panel. Compaction Rentals has at least one shareholder who is a citizen of the
19 | State of California. Compaction Rentals' shareholders include individuals who are beneficially
20 | interested in seeing Respondents fulfill their duties under the Health and Safety Code in the
21 | nomination and appointment of members to the Scientific Review Panel. Were it not for their
22 | representation by Compaction Rentals, these shareholders would find it difficult or impossible to
23 | act on their own to vindicate their beneficial interest in this matter. By this Petition, Compaction
24 | Rentals seeks to procure the enforcement of a public duty, namely, the nomination and appointment
25 | of new members to the Scientific Review Panel to replace those persons whose statutory terms
26 | have expired.

27 | 10. Respondent Linda Adams is Secretary of the California Environmental Protection
28 | Agency, and she is sued in her official capacity. Pursuant to Section 39670(b)(1) of the Health and

1 Safety Code, Secretary Adams is entrusted with the authority, and therefore has the public duty,
2 to appoint five members of the Scientific Review Panel.

3 11. Respondent Karen Bass is Speaker of the California Assembly, and she is sued in
4 her official capacity. Pursuant to Section 39670(b)(2), Speaker Bass is entrusted with the authority,
5 and therefore has the public duty, to appoint two members of the Scientific Review Panel.

6 12. Respondent California Senate Committee on Rules is one of several standing
7 committees within the state senate. Pursuant to Section 39670(b)(3), the Committee on Rules is
8 entrusted with the authority, and therefore has the public duty, to appoint two members of the
9 Scientific Review Panel.

10 13. Respondent Mark G. Yudof is President of the University of California (U.C.), and
11 he is sued in his official capacity. Pursuant to Section 39670(b)(4), President Yudof is entrusted
12 with the sole authority, and therefore has the public duty, to nominate individuals to serve on the
13 Scientific Review Panel.

14 VENUE

15 14. Venue is proper in this Court pursuant to Code of Civil Procedure section 395(a)
16 because the Respondents reside and execute their public duties in the County of Sacramento.

17 LEGAL BACKGROUND

18 15. The California Air Resources Board (CARB), established in 1967 by the Mulford-
19 Carrell Act, *see* Stats. 1967, ch. 1545, at 3680, is the state's leading clean air agency. It is
20 composed of 11 members appointed by the governor with the consent of the senate. Health &
21 Safety Code § 39510. Among its statutory missions is to regulate toxic air contaminants within the
22 state to protect human health. *See id.* § 39650.

23 16. In identifying and regulating toxic air contaminants, CARB uses a number of
24 statutory factors. *See id.* §§ 39660(c)(1)(A)-(D); 39660(c)(2)(A)-(B); §§ 39665-39666. In this
25 process, CARB relies in part upon the input and advice of the Scientific Review Panel on Toxic
26 Air Contaminants (Scientific Review Panel). *See id.* § 39660(c)(3); *see also id.* § 39650(d).

27 17. Prior to identifying a toxic air contaminant, CARB must prepare a report to support
28 its action. *Id.* § 39661(a)(1). The Scientific Review Panel reviews the report's use of scientific

1 procedures and methods, as well as the data supporting the report's conclusions. *Id.* § 39661(b).

2 The Scientific Review Panel's findings are then submitted to CARB. *Id.*

3 18. If the Scientific Review Panel determines that the CARB report "is not based upon
4 sound scientific knowledge, methods, or practices," then CARB must amend the report consistent
5 with the Scientific Review Panel's comments and resubmit the amended report to the Scientific
6 Review Panel prior to initiating rulemaking. *Id.* § 39661(c). If the Scientific Review Panel
7 approves of the report, then CARB must within ten days prepare a hearing notice and a proposed
8 regulation designating the toxic air contaminant. *Id.* § 39661(b).

9 19. The Scientific Review Panel and CARB have determined that particulate emissions
10 from diesel-fueled engines are toxic air contaminants. *See* Cal. Code Regs. tit. 17, § 93000.
11 Among the regulations enacted by CARB that have had a strongly negative effect on Petitioners
12 and their members are the airborne toxic control measure for stationary compression ignition
13 engines, *id.* §§ 93115-93115.15, and the regulations governing in-use off-road diesel vehicles, Cal.
14 Code Regs. tit. 13, §§ 2449-2449.3. Moreover, CARB is currently considering new and
15 burdensome regulations governing in-use on-road diesel vehicles. *See* Cal. Env'tl. Prot. Agency,
16 *Proposed Regulation for In-Use On-Road Diesel Vehicles* (2008), available at
17 <http://www.arb.ca.gov/regact/2008/truckbus08/tbisor.pdf> (last visited May 22, 2009). All of these
18 regulations are dependant upon CARB's August 27, 1998, declaration that particulate matter
19 emissions from diesel-fueled engines are a toxic air contaminant. This declaration was based on
20 the Scientific Review Panel's April 22, 1998, identification of diesel exhaust as a toxic air
21 contaminant.

22 20. The Health and Safety Code requires the Scientific Review Panel to be composed
23 of nine members who are "highly qualified and professionally active or engaged in the conduct of
24 scientific research." Scientific Review Panel members serve for a term of three years. *See id.*
25 § 39670(b). Five members are appointed by the Secretary of Environmental Protection, two by the
26 Senate Committee on Rules, and two by the Speaker of the Assembly. *See id.* § 39670(b)(1)-(3).

27 21. The nomination of potential Scientific Review Panel members is provided for as
28 follows:

1 Members of the panel shall be appointed from a pool of nominees submitted to each
2 appointing body by the President of the University of California. The pool shall
3 include, at a minimum, three nominees for each discipline represented on the panel,
and shall include only individuals who hold, or have held, academic or equivalent
appointments at universities and their affiliates in California.

4 *Id.* § 39670(b)(4). Hence, to serve as a Scientific Review Panel member in the first instance, or
5 to be validly reappointed to serve, a person must (1) be selected by the U.C. President as a member
6 of the nomination pool, and (2) be appointed by one of the aforementioned appointing authorities.

7 *See id.* § 39670(b).

8 ALLEGATIONS

9 22. On March 20, 2009, Petitioners' counsel sent a request to CARB under the Public
10 Records Act (PRA), Gov't Code § 6251, *et seq.*, requesting documents setting forth the date upon
11 which each currently serving member of the Scientific Review Panel was appointed to his or her
12 current three-year term. *See* Exhibit A, a true and correct copy of which is attached to this Petition,
13 and is incorporated herein by reference.

14 23. On April 10, 2009, Petitioners' counsel received CARB's final response to the PRA
15 request. *See* Exhibit B, a true and correct copy of which is attached to this Petition, and is
16 incorporated herein by reference. According to CARB's documents, the following are the dates
17 upon which the Scientific Review Panel's current members were last appointed to their
18 positions: Dr. Gary D. Friedman, January 17, 1991; Dr. S. Katherine Hammond, April 28, 2008;
19 Dr. Joseph R. Landolph, Jr., February 27, 2003; Dr. Charles G. Plopper, July 29, 2004;
20 Dr. Stanton A. Glantz, January 9, 2008; Dr. Paul Blanc, February 4, 2009; Dr. Craig V. Byus,
21 July 19, 2006; and Dr. John R. Froines, July 19, 2006. (The Scientific Review Panel slot for
22 atmospheric science is currently vacant.)

23 24. On July 16, 2008, Petitioners' counsel sent a letter to the Scientific Review Panel's
24 nominating and appointing authorities. *See* Exhibit C, a true and correct copy of which is attached
25 to this Petition, and is incorporated herein by reference. The letter sets forth Petitioners' concerns
26 as to whether the Health and Safety Code's prescriptions regarding the nomination and
27 appointment of Scientific Review Panel members have been observed. In particular, the letter
28 explains that the Health and Safety Code requires for each Scientific Review Panel appointment

1 that the U.C. President first select a slate of nominees for the open Scientific Review Panel
2 position. *See id.* at 2.

3 25. By letter dated July 24, 2008, Respondent Yudof replied to Petitioners' counsel's
4 July 16, 2008, letter. *See* Exhibit D, a true and correct copy of which is attached to this Petition,
5 and is incorporated herein by reference. In his letter, President Yudof states that his office's
6 practice is not to prepare Scientific Review Panel nominations until requested to do so by CARB
7 staff. The letter also states that President Yudof's office was last requested to provide Scientific
8 Review Panel nominations in 2004.

9 26. Petitioners are informed and believe that sometime after Respondent Yudof sent his
10 July, 2008, letter, Respondent Yudof was requested to provide a list of nominees for the Scientific
11 Review Panel member slot occupied by Dr. Paul Blanc, and that Dr. Blanc was one of the
12 nominees. Respondent Senate Committee on Rules reappointed Dr. Blanc to his position in
13 February, 2009. With the exception of Dr. Blanc, no currently serving Scientific Review Panel
14 member has been nominated by the U.C. President within the last five years.

15 27. By letter dated January 22, 2009, Respondent Adams replied to Petitioners'
16 counsel's July 16, 2008, letter. *See* Exhibit E, a true and correct copy of which is attached to this
17 Petition, and is incorporated herein by reference. In her letter, Secretary Adams states that,
18 although initiating the nomination and appointment process for Scientific Review Panel members
19 "has merit, and we will look into implementing it," in her view new appointments are not legally
20 required, notwithstanding that "in some cases members have not been reappointed when their three
21 year terms ended."

22 28. To date, Petitioners' counsel has received no other responses to the July 16, 2008,
23 letter.

24 **CAUSE OF ACTION AGAINST ALL RESPONDENTS FOR**
25 **ORDINARY MANDAMUS (Cal. Code of Civ. Proc. § 1085)**

26 29. Petitioners hereby incorporate by reference the allegations of the paragraphs set
27 forth above as though fully set forth herein.

28 ///

32. Respondents have refused, and continue to refuse, to initiate and complete the Scientific Review Panel nomination and appointment process to replace those Scientific Review Panel members whose terms have expired. *See Exhibits D & E.*

34. Unless compelled by this Court faithfully to perform the clear, present, and ministerial legal duties alleged herein, Respondents will continue to fail and refuse to discharge their statutory duties and Petitioners will continue to suffer from Respondents' unlawful failure to initiate and complete the Scientific Review Panel nomination and appointment process.

PRAYER FOR RELIEF

1. For a peremptory writ of mandate directing Respondents to initiate and complete the nomination and appointment process to replace those Scientific Review Panel members whose terms have expired;

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1 3. For such other and further relief as the Court may deem just and proper.

2 DATED: June 12, 2009.

3 Respectfully submitted,

4 PAUL J. BEARD II
5 DAMIEN M. SCHIFF
6 JOSHUA P. THOMPSON

7 By


DAMIEN M. SCHIFF

8 Attorneys for Plaintiffs
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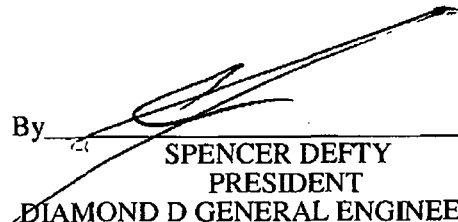
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VERIFICATION

I, Spencer Defty, am the President of Petitioner DIAMOND D GENERAL ENGINEERING in the above-entitled proceeding. I have the authority to sign this document on behalf of DIAMOND D GENERAL ENGINEERING. I have read the foregoing VERIFIED PETITION FOR WRIT OF MANDATE (Code Civ. Proc. § 1085) and know the contents thereof. The same is true of my own knowledge except as to those matters which are therein alleged on information and belief and, as to those matters, I believe them to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

DATED: June 9, 2009.

By 
SPENCER DEFTY
PRESIDENT
DIAMOND D GENERAL ENGINEERING

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VERIFICATION

I, William E. Davis, am the Executive Vice President of Petitioner SOUTHERN CALIFORNIA CONTRACTORS ASSOCIATION in the above-entitled proceeding. I have the authority to sign this document on behalf of SOUTHERN CALIFORNIA CONTRACTORS ASSOCIATION. I have read the foregoing VERIFIED PETITION FOR WRIT OF MANDATE (Code Civ. Proc. § 1085) and know the contents thereof. The same is true of my own knowledge except as to those matters which are therein alleged on information and belief and, as to those matters, I believe them to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

DATED: May 27, 2009.

By William E. Davis
WILLIAM E. DAVIS
EXECUTIVE VICE PRESIDENT
SOUTHERN CALIFORNIA
CONTRACTORS ASSOCIATION

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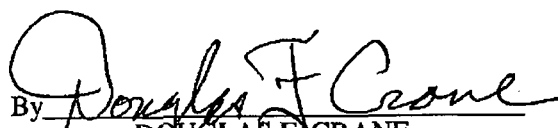
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VERIFICATION

I, Douglas F. Crane, am the President of Petitioner CRANE OF UKIAH, INC., in the above-entitled proceeding. I have the authority to sign this document on behalf of CRANE OF UKIAH, INC. I have read the foregoing VERIFIED PETITION FOR WRIT OF MANDATE (Code Civ. Pro. § 1085) and know the contents thereof. The same is true of my own knowledge except as to those matters which are therein alleged on information and belief, and as to those matters, I believe them to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

DATED: May 20, 2009.

By 
DOUGLAS F. CRANE
PRESIDENT
CRANE OF UKIAH, INC.

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VERIFICATION

I, E. Craig Hobday, am the President of Petitioner COMPACTION RENTALS in the above-entitled proceeding. I have the authority to sign this document on behalf of COMPACTION RENTALS. I have read the foregoing VERIFIED PETITION FOR WRIT OF MANDATE (Code Civ. Proc. § 1085) and know the contents thereof. The same is true of my own knowledge except as to those matters which are therein alleged on information and belief and, as to those matters, I believe them to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

DATED: May 28, 2009.

By E. Craig Hobday
E. CRAIG HOBDAY
PRESIDENT
COMPACTION RENTALS

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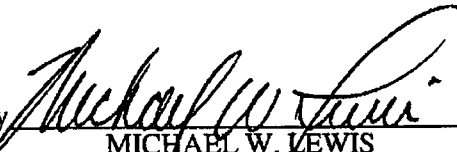
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VERIFICATION

I, Michael W. Lewis, am the Senior Vice President of Petitioner CONSTRUCTION INDUSTRY AIR QUALITY COALITION in the above-entitled proceeding. I have the authority to sign this document on behalf of CONSTRUCTION INDUSTRY AIR QUALITY COALITION. I have read the foregoing VERIFIED PETITION FOR WRIT OF MANDATE (Code Civ. Proc. § 1085) and know the contents thereof. The same is true of my own knowledge except as to those matters which are therein alleged on information and belief and, as to those matters, I believe them to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

DATED: May 28, 2009.

By 
MICHAEL W. LEWIS
SENIOR VICE PRESIDENT
CONSTRUCTION INDUSTRY AIR
QUALITY COALITION

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VERIFICATION

I, James Ratto, am the President of Petitioner NORTH BAY CORPORATION in the above-entitled proceeding. I have the authority to sign this document on behalf of NORTH BAY CORPORATION. I have read the foregoing VERIFIED PETITION FOR WRIT OF MANDATE (Code Civ. Proc. § 1085) and know the contents thereof. The same is true of my own knowledge except as to those matters which are therein alleged on information and belief and, as to those matters, I believe them to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

DATED: May 28, 2009.

By


JAMES RATTO
PRESIDENT
NORTH BAY CORPORATION

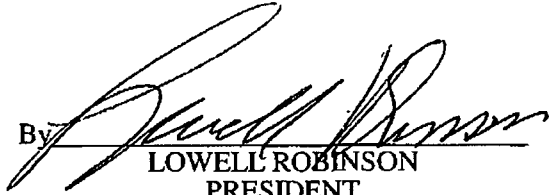
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VERIFICATION

I, Lowell Robinson, am the President of Petitioner ROBINSON ENTERPRISES in the above-entitled proceeding. I have the authority to sign this document on behalf of ROBINSON ENTERPRISES. I have read the foregoing VERIFIED PETITION FOR WRIT OF MANDATE (Code Civ. Pro. § 1085) and know the contents thereof. The same is true of my own knowledge except as to those matters which are therein alleged on information and belief, and as to those matters, I believe them to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

DATED: May 21, 2009.

By 
LOWELL ROBINSON
PRESIDENT
ROBINSON ENTERPRISES

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VERIFICATION

I, Lee Brown, am the Executive Director of Petitioner CALIFORNIA DUMP TRUCK OWNERS ASSOCIATION in the above-entitled proceeding. I have the authority to sign this document on behalf of CALIFORNIA DUMP TRUCK OWNERS ASSOCIATION. I have read the foregoing VERIFIED PETITION FOR WRIT OF MANDATE (Code Civ. Proc. § 1085) and know the contents thereof. The same is true of my own knowledge except as to those matters which are therein alleged on information and belief and, as to those matters, I believe them to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

DATED: May 29, 2009.

By 
LEE BROWN
EXECUTIVE DIRECTOR
CALIFORNIA DUMP TRUCK
OWNERS ASSOCIATION

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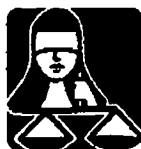
VERIFICATION

I, Norman R. Brown, am a Petitioner in the above-entitled proceeding. I have read the foregoing VERIFIED PETITION FOR WRIT OF MANDATE (Code Civ. Proc. § 1085) and know the contents thereof. The same is true of my own knowledge except as to those matters which are therein alleged on information and belief and, as to those matters, I believe them to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

DATED: May 28, 2009.

By Norman R Brown
NORMAN R. BROWN



PACIFIC LEGAL FOUNDATION

March 20, 2009

Air Resources Board Public Records Coordinator
Office of Legal Affairs
P.O. Box 2815
Sacramento, CA 95812

**VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

91 7108 2133 3934 5948 9834

Dear Sir or Madam:

Pursuant to the Public Records Act, California Government Code section 6250, *et seq.*, I am requesting public records concerning the appointments of the current members of the Scientific Review Panel on Toxic Air Contaminants (SRP). I request the following public records:

For each currently serving member of the SRP, the date upon which that member was formally appointed to his or her current three-year term pursuant to Health and Safety Code Section 39670.

If the records and documents sought are stored electronically, please provide the information on a disk readable by an IBM-compatible personal computer and identify the program used or send it as an e-mail attachment to dms@pacificlegal.org. If the information sought is not stored electronically, please provide hard copies. Copies can be mailed to 3900 Lennane Drive, Suite 200, Sacramento, California 95834.

If you determine that you cannot disclose any of the requested information in its entirety, I request that you release any and all reasonably redacted or segregated material that may be separated and released. For any documents, or portions thereof, that you determine to be exempt from disclosure, I request that you exercise your discretion to disclose the materials, absent a finding that a reasonable basis exists to invoke an exemption.

Should you withhold disclosure of documents within the scope of this request, I ask that you provide an index that: (1) identifies each and every document that is withheld; (2) states with specificity that statutory exemption claimed for each document; and (3) explains how disclosure of a particular document would damage the interest protected by a particular exemption.

Headquarters: 3900 Lennane Drive, Suite 200 • Sacramento, CA 95834 • (916) 419-7111 • Fax: (916) 419-7747
Alaska: 121 West Fireweed Lane, Suite 250 • Anchorage, AK 99503 • (907) 278-1731 • Fax: (907) 276-3887
Atlantic: 1002 SE Monterey Commons Blvd., Suite 102 • Stuart, FL 34996 • (772) 781-7787 • Fax: (772) 781-7785
Hawaii: P.O. Box 3619 • Honolulu, HI 96811 • (808) 733-3373 • Fax: (808) 733-3374 • Oregon: (503) 241-8179
Washington: 10940 NE 33rd Place, Suite 210 • Bellevue, WA 98004 • (425) 576-0484 • Fax: (425) 576-9565
E-mail: plf@pacificlegal.org • Web Site: www.pacificlegal.org

Air Resources Board Public Records Coordinator

March 20, 2009

Page 2

Government Code section 6253(c) requires a response within ten days from the receipt of this request. If you are unable to provide copies of the requested information to me within the time specified, please contact me immediately at (916) 419-7111.

I respectfully request that you waive any fees. Pacific Legal Foundation is a nonprofit public interest organization which subsists on charitable donations. The Foundation is pursuing this matter in the public's interest. If you decide that the documents requested are too numerous or lengthy to provide courtesy copies, please contact me immediately so that we may discuss the cost of providing the documents.

Thank you for your immediate attention to this matter. If you have any questions, please feel free to contact me at (916) 419-7111.

Sincerely,

A handwritten signature in black ink, appearing to read "Damien Schiff", written in a cursive style.

DAMIEN M. SCHIFF
Attorney



Linda S. Adams
Secretary for
Environmental Protection

Air Resources Board

Mary D. Nichols, Chairman
1001 I Street • P.O. Box 2815
Sacramento, California 95812 • www.arb.ca.gov



Arnold Schwarzenegger
Governor

April 10, 2009

Damien Schiff
Pacific Legal Foundation
3900 Lennane Drive, Suite 200
Sacramento, CA 95834

STANDARD MAIL

Dear Mr. Schiff:

Thank you again for your request to the California Air Resources Board for documents which relate to records concerning the appointments of the current members of the Scientific Review Panel on Toxic Air Contaminants (SRP).

All divisions within ARB have completed their search. Please see the following batch of responsive records enclosed with this letter. At this point, ARB will close your request.

If you have any questions, please call me at 916-445-9563.

Sincerely,

Steffanie Jakovac
Student Assistant to the Public Records Act Coordinator
Office of Legal Affairs

The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption. For a list of simple ways you can reduce demand and cut your energy costs, see our website <http://www.arb.ca.gov>

California Environmental Protection Agency

Printed on Recycled Paper



PACIFIC LEGAL FOUNDATION

March 20, 2009

Air Resources Board Public Records Coordinator
Office of Legal Affairs
P.O. Box 2815
Sacramento, CA 95812

**VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

Dear Sir or Madam:

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Washington: 10940 NE 33rd Place, Suite 210 • Bellevue, WA 98004 • (425) 576-0484 • Fax: (425) 576-9565
E-mail: plf@pacificlegal.org • Web Site: www.pacificlegal.org



SCIENTIFIC REVIEW PANEL MEMBERS

This page last reviewed on August 20, 2009.
The Board is one of six boards, departments, and offices under
the umbrella of the California Environmental Protection Agency.

Pursuant to the section 39670 of the California Code of Regulations, members are listed below by category below.

ACADEMIC ADMINISTRATION

S. Katharine Hammond, Ph.D.
Chair, Environmental Health Sciences Division
Professor of Environmental Health Sciences
School of Public Health
University of California
753 University Hall
Berkeley, California 94720-7380

ATMOSPHERIC SCIENCE

(Vacant)

BIOCHEMISTRY/MOLECULAR BIOLOGY

Craig V. Byus, Ph.D.
Dean, Department of Biomedical Science
Professor of Biomedical Science
and Biochemistry
University of California, Riverside
900 University Avenue
Riverside, California 92521

BIOSTATISTICS

Stanton A. Glantz, Ph.D.
Professor of Medicine
University of California, San Francisco
530 Parnassus Avenue, Suite 366
San Francisco, California 94143-1390

EPIDEMIOLOGY

Gary D. Friedman, M.D.
Consulting Professor
Division of Epidemiology
Department of Health Research & Policy
Stanford University School of Medicine
HRP Redwood Building T210
Stanford, California 94305-5405

OCCUPATIONAL MEDICINE

Paul D. Blanc, M.D.
Chief, Division of Occupational
and Environmental Medicine
University of California, San Francisco
350 Parnassus Avenue, Suite 609, Box 0924
San Francisco, California 94143-0924

ONCOLOGY

Joseph R. Landolph, Ph.D.
Associate Professor
Molecular Microbiology and Immunology,
Pathology and Molecular Pharmacology,
and Toxicology
Cancer Research Laboratory, Room 218
USC/Norris Comprehensive Cancer Center
Keck School of Medicine
University of Southern California
1303 North Mission Road
Los Angeles, California 90031

PATHOLOGY

Charles G. Plopper, Ph.D.
Professor, Department of Anatomy,
Physiology and Cell Biology
School of Veterinary Medicine
University of California, Davis
One Shields Drive
Davis, California 95616

TOXICOLOGY

John R. Froines, Ph.D., Chairman
Director, Center of Occupational
and Environmental Health
School of Public Health CHS 21-293
University of California, Los Angeles
650 Charles East Young Drive South
Los Angeles, California 90095-1772

Scientific Review Panel

AIR RESOURCES BOARD

1102 Q STREET
P.O. BOX 2818
SACRAMENTO, CA 95812
(916) 322-5840



January 17, 1991

Dr. Gary D. Friedman
Assistant Director for Epidemiology
and Biostatistics
Division of Research
Kaiser Permanente Medical Care
Program
3451 Piedmont Avenue
Oakland, CA 94611

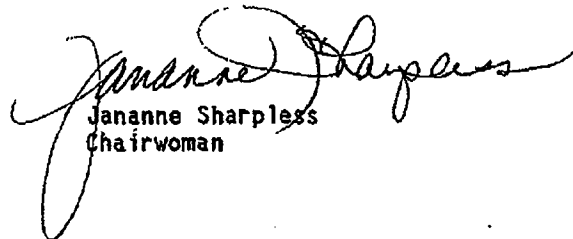
Dear Dr. Friedman:

It is my pleasure to notify you that I have chosen to reappoint you to the Scientific Review Panel on Toxic Air Contaminants, filling the position of Epidemiologist. I appreciate the fine work you have performed to this date.

Your appointment is effective immediately and will continue until January 1, 1994. Bill Lockett, Chief, Office of External Affairs, will be available to answer any questions you may have about your reappointment.

Congratulations, and I look forward to your continuing contributions.

Sincerely,


Jananne Sharpless
Chairwoman



CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY



LINDA S. ADAMS
SECRETARY FOR
ENVIRONMENTAL PROTECTION

1001 I STREET, SACRAMENTO, CALIFORNIA 95814 • P.O. BOX 2815, SACRAMENTO, CALIFORNIA 95812-2815
(916) 323-2514 • (916) 324-0908 FAX • WWW.CALEPA.CA.GOV

ARNOLD SCHWARZENEGGER
GOVERNOR

April 28, 2008

S. Katharine Hammond, Ph.D.
Professor of Environmental Health Sciences
School of Public Health
University of California
50 University Hall, #7360
Berkeley, California 94720-7360

Dear Dr. Hammond:

It is my distinct pleasure to reappoint you to serve as a member of the Scientific Review Panel on Toxic Air Contaminants in the Academic Administration category. Your new term will end on January 1, 2011.

Your expertise in the area of exposure assessment is especially relevant to the technical peer review of most if not all of the risk assessment documents that come before the Panel. The result of the Panel's work is an independent assurance that our risk assessment documents are properly based on sound science.

As an appointee, you are required to take an oath of office that may be taken before any person authorized by law to administer and certify oaths. Please return the completed oath in the enclosed envelope at your earliest convenience so that it may be filed with the appropriate authority.

Thank you for your willingness to serve as a member of this distinguished panel of scientists. If you have any questions or need further information, please contact Jim Behrmann, Panel Liaison with the Air Resources Board. He may be reached at jbehrman@arb.ca.gov or (916) 322-8278.

Sincerely,

/s/

Linda S. Adams
Secretary for Environmental Protection

Enclosures

cc: See next page.



Winston H. Hickox
Agency Secretary
Cal/EPA

State of California
California Environmental Protection Agency

Gray Davis
Governor



Air Resources Board | Department of Pesticide Regulation | Department of Toxic Substances Control
Integrated Waste Management Board | Office of Environmental Health Hazard Assessment | State Water Resources Control Board | Regional Water Quality Control Board

February 27, 2003

Joseph R. Landolph, Jr., Ph.D.
Associate Professor of Microbiology
Pathology and Molecular Pharmacology/Toxicology
Cancer Research Laboratory, Room 218
Keck School of Medicine
University of Southern California
1303 North Mission Road
Los Angeles, California 90031

Dear Dr. Landolph:

It is my pleasure to appoint you as a member of the Scientific Review Panel on Toxic Air Contaminants (Panel). You will take the oncologist position on the Panel. Your technical expertise, academic credentials, and leadership in the field of cancer research make you uniquely qualified for this position. Dr. John Froines of the UCLA School of Public Health is the Chairman of the Panel.

Your appointment commences immediately and continues until January 1, 2004, when the statutory three-year term of the oncology position expires. It is my intention to reappoint you to a full term at that time. An oath needs to be taken to serve on the Panel. The enclosed Oath of Office form must be signed, notarized and forwarded to the Air Resources Board, Office of the Chairman. Mr. Jim Behrmann, Liaison to the Panel, will be contacting you with further information about your appointment.

I am confident that California will be well served by your participation on this prestigious and independent body of scientific experts.

Sincerely,

Winston H. Hickox
Agency Secretary

Enclosure

cc: See next page

The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption. For a list of simple ways you can reduce demand and cut your energy costs, see the Web site: www.flexyourpower.ca.gov

1001 I Street | Sacramento, CA 95814

phone: 916.445.3846 | 800.491.6445



Energy Commission
California Energy Commission

www.energy.ca.gov



Terry Tamminen
Agency Secretary

California Environmental Protection Agency

Air Resources Board • Department of Pesticide Regulation • Department of Toxic Substances Control
Integrated Waste Management Board • Office of Environmental Health Hazard Assessment
State Water Resources Control Board • Regional Water Quality Control Boards



Arnold Schwarzenegger
Governor

July 29, 2004

Charles G. Plopper, Ph.D.
Department of Anatomy, Physiology and Cell Biology
School of Veterinary Medicine
University of California
Davis, California 95616

Dear Dr. Plopper:

It is my pleasure to appoint you as a member of the Scientific Review Panel on Toxic Air Contaminants (Pathology category). The Panel, by law, is advisory to the Air Resources Board (ARB), the Office of Environmental Health Hazard Assessment, and the Department of Pesticide Regulation. Your academic credentials and technical expertise make you uniquely qualified to serve on the Panel. Dr. John Froines from UCLA is the Chairman of the Panel and other members are shown in the enclosed list.

Your appointment commences immediately and continues until January 1, 2007, when the statutory three-year term of the pathology category expires. However, the term will continue until you are re-appointed or replaced. An oath must be taken to serve on the Panel. The enclosed Oath of Office form must be signed in the presence of a notary public, be notarized and then be returned in the envelope enclosed.

Dr. Shankar Prasad or Mr. Jim Behrmann from ARB will contact you with further details.

I am confident that California will be well served by your participation on this prestigious and independent body of scientific experts.

Best regards,

Terry Tamminen
Agency Secretary

Enclosures

cc: See next page

CALIFORNIA LEGISLATURE

MEMBERS

ROY ASHBURN
VICE-CHAIR

GILBERT CEDILLO

ROBERT DUTTON

ALEX PADILLA



GREGORY SCHMIDT
SECRETARY OF THE SENATE
NETTIE SABELHAUS
APPOINTMENTS DIRECTOR

SENATE RULES COMMITTEE

DON PERATA
CHAIRMAN

January 9, 2008

Stanley Glantz, Ph.D.
1474 24th Avenue
San Francisco, California 94143

Dear Dr. Glantz:

I am pleased to let you know the Senate Rules Committee has reappointed you to serve as a member of the Scientific Review Panel on Toxic Air Contaminants. Your term will end January 1, 2011.

As an appointee, you are required to take an oath of office prescribed by the California Constitution. The oath may be taken before any person authorized by law to administer and certify oaths. Please return the completed oath to the Senate Rules Committee in Room 420, State Capitol, at your earliest convenience so that it may be filed with the appropriate authority.

I appreciate your willingness to serve. If I can be of assistance, please don't hesitate to contact me.

Sincerely,

A handwritten signature in dark ink, appearing to read "Don", written over a circular scribble.

DON PERATA

DP:nssg
Enclosure

cc: Governor's Office
Legislative Counsel
Secretary of State

Controller's Office
Scientific Review Panel on Toxic Air Contaminants

CALIFORNIA LEGISLATURE

MEMBERS

SAM AANESTAD
VICE-CHAIR

GILBERT CEDILLO

ROBERT DUTTON

JENNY OROPEZA



GREGORY SCHMIDT
SECRETARY OF THE SENATE
NETTIE SABELHAUS
APPOINTMENTS DIRECTOR

SENATE RULES COMMITTEE

DARRELL STEINBERG
CHAIRMAN

February 4, 2009

Paul Blanc, M.D.
43 Clifford Terrace
San Francisco, CA 94117

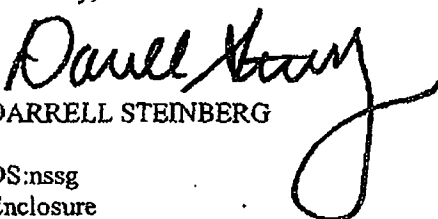
Dear Dr. Blanc:

I am pleased to let you know the Senate Rules Committee has reappointed you to serve as a member of the Scientific Review Panel on Toxic Air Contaminants. Your term will end January 1, 2012.

As an appointee, you are required to take an oath of office prescribed by the California Constitution. The oath may be taken before any person authorized by law to administer and certify oaths. Please return the completed oath to the Senate Rules Committee in Room 420, State Capitol, at your earliest convenience so that it may be filed with the appropriate authority.

I appreciate your willingness to serve. If I can be of assistance, please don't hesitate to contact me.

Sincerely,


DARRELL STEINBERG

DS:nssg
Enclosure

cc: Governor's Office
Legislative Counsel
Secretary of State

Controller's Office
Scientific Review Panel on Toxic Air Contaminants



FABIAN NUÑEZ
SPEAKER of the ASSEMBLY

July 19, 2006

Ms. Linda Adams, Secretary
California Environmental Protection Agency
Scientific Review Panel on Toxic Air Contaminants
1001 I Street, 24th Floor
Sacramento, CA 95814

RE: Reappointment of Craig V. Byus to Scientific Review Panel on Toxic Air Contaminants

Dear Secretary Adams:

Please be advised I have reappointed Dr. Craig V. Byus to serve on the Scientific Review Panel on Toxic Air Contaminants. The effective date of this term appointment is July 19, 2006 and the expiration date is January 1, 2008.

Listed below is the contact information for my appointee:

Dr. Craig V. Byus
Dean, Division of Biomedical Science
UC Riverside
Riverside, CA 92521

If I can be of any assistance to you in the future, please do not hesitate to contact me.

Sincerely,

A handwritten signature in cursive script that reads "Fabian Nuñez".

FABIAN NUÑEZ
Speaker of the California State Assembly

FN:ld



FABIAN NUÑEZ

SPEAKER OF ASSEMBLY

July 19, 2006

Ms. Linda Adams, Secretary
California Environmental Protection Agency
Scientific Review Panel on Toxic Air Contaminants
1001 I Street, 24th Floor
Sacramento, CA 95814

RE: Reappointment of John R. Froines to Scientific Review Panel on Toxic Air Contaminants

Dear Secretary Adams:

Please be advised I have reappointed Dr. John R. Froines to serve on the Scientific Review Panel on Toxic Air Contaminants. The effective date of this term appointment is July 19, 2006 and the expiration date is January 1, 2009.

Listed below is the contact information for my appointee:

John R. Froines
University of California Los Angeles
650 Charles E. Young Drive South
Los Angeles, CA 90095

If I can be of any assistance to you in the future, please do not hesitate to contact me.

Sincerely,

FABIAN NUÑEZ
Speaker of the California State Assembly

FN:ld



PACIFIC LEGAL FOUNDATION

July 16, 2008

Hon. Linda S. Adams
Secretary for Environmental Protection
1001 "I" Street
P.O. Box 2815
Sacramento, California 95812-2815

Senator Don Perata, Chairman
California Senate Committee on Rules
State Capitol, Room 205
Sacramento, California 95814

Assemblyman Fabian Nunez
Assembly Speaker Emeritus
State Capitol
P.O. Box 942849
Sacramento, California 94249-0046

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

John R. Froines, Ph.D.
Chairman, Scientific Review Panel
on Toxic Air Contaminants
Director, Center of Occupational and
Environmental Health
School of Public Health CHS 21-293
University of California, Los Angeles
650 Charles East Young Drive South
Los Angeles, California 90095-1772

Mr. Jim Behrmann
Mr. Kirk Oliver
Air Resources Board
P. O. Box 2815
1001 "I" Street
Sacramento, California 95812

Dear Madam and Sirs:

It has come to the attention of Pacific Legal Foundation (PLF) that the manner in which current members of the Scientific Review Panel on Toxic Air Contaminants have been nominated and appointed may not comport with the procedures set forth in the California Health and Safety Code.

Headquarters: 3900 Lennane Drive, Suite 200 • Sacramento, CA 95834 • (916) 419-7111 • Fax: (916) 419-7747
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Atlantic: 1002 SE Monterey Commons Blvd., Suite 102 • Stuart, FL 34996 • (772) 781-7787 • Fax: (772) 781-7785
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Washington: 10940 NE 33rd Place, Suite 210 • Bellevue, WA 98004 • (425) 576-0484 • Fax: (425) 576-9565
E-mail: plf@pacificlegal.org • Web Site: www.pacificlegal.org

Hon. Linda S. Adams
Senator Don Perata, Chairman
Assemblyman Fabian Nunez
Mr. Mark G. Yudof
John R. Froines, Ph.D.
Mr. Jim Behrmann
Mr. Kirk Oliver
July 16, 2008
Page 2

As you know, the Code requires the Panel to be composed of nine members who are "highly qualified and professionally active or engaged in the conduct of scientific research." These members serve for a term of three years. *See id.* § 39670(b). Five members are appointed by the Secretary of Environmental Protection, two by the Senate Committee on Rules, and two by the Speaker of the Assembly. *See id.* § 39670(b)(1)-(3). The Code also specifically provides for the nomination of potential Panel members, as follows:

Members of the panel shall be appointed from a pool of nominees submitted to each appointing body by the President of the University of California. The pool shall include, at a minimum, three nominees for each discipline represented on the panel, and shall include only individuals who hold, or have held, academic or equivalent appointments at universities and their affiliates in California.

Id. § 39670(b)(4). Thus, the Code requires, for any person who wishes to serve on the panel, that he *first* be selected by the U.C. President for the nominee pool, and that he be one of at least three individuals qualified in the discipline for expertise in which he has been nominated to serve. This process applies regardless of whether the nominee has previously served on the Panel.

Based on information posted on the California Air Resources Board's website, PLF has determined that the majority of currently serving Panel members have held their positions for over a decade. Further, PLF understands that the U.C. President has not been regularly consulted for a nominee pool and has made no nominations since 2004. If these assertions are correct, then there are serious legal infirmities with the appointments of current Panel members. The Code does not countenance the reappointment of Panel members without a renomination process from the nominee pool assembled by the U.C. President.

Of course, if PLF's understanding of the relevant facts is inaccurate, I would greatly appreciate your prompt correction. But if the facts are as stated above, then PLF expects the California Air Resources Board to adhere to the Code and promptly to request nominees from the

Hon. Linda S. Adams
Senator Don Perata, Chairman
Assemblyman Fabian Nunez
Mr. Mark G. Yudof
John R. Froines, Ph.D.
Mr. Jim Behrmann
Mr. Kirk Oliver
July 16, 2008
Page 3

U.C. President to replace the three Panel members whose terms end January 1, 2009. If I do not hear from you regarding this matter, PLF may have little choice but to institute legal action.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Damien M. Schiff', is written over the typed name and title.

DAMIEN M. SCHIFF
Attorney

UNIVERSITY OF CALIFORNIA

BERKELEY • DAVIS • IRVINE • LOS ANGELES • MERCED • RIVERSIDE • SAN DIEGO • SAN FRANCISCO



SANTA BARBARA • SANTA CRUZ

1111 Franklin Street
Oakland, California 94607-5200
Phone (510) 987-9074
Fax (510) 987-9086
<http://www.ucop.edu>

July 24, 2008

Damien M. Schiff, Esq.
Pacific Legal Foundation
3900 Lennane Drive, Suite 200
Sacramento, California 95834

Dear Mr. Schiff

Thank you for your letter of July 16 regarding the Scientific Review Panel on Toxic Air Contaminants (SRP). As you may know, the SRP was established by legislation (Assembly Bill 1907, Tanner, 1983) to advise the State Air Resources Board (ARB) and the Department of Pesticide Regulations (DPR) of the California Environmental Protection Agency (Cal/EPA) in evaluating the risk assessments of substances proposed for identification as toxic air contaminants by those agencies. The SRP is not a University of California (UC) panel. While the Secretary of Cal/EPA, the Speaker of the Assembly, and the Senate Rules Committee, who are the appointing authorities, must select SRP members from among a pool of nominations submitted by the President of the University of California, responsibility for appointments lies with those State officials.

The process has been coordinated by staff within the Air Resources Board who staff the Scientific Review Panel, and who notify the University when there is a need for new or updated nominations. Our understanding is that ARB staff also coordinate with the appointing authorities, making sure they have the list of potential candidates and are aware of any vacancies. You are correct that the University of California President last made nominations to the SRP in 2004, in response to a request from the staff at the ARB.

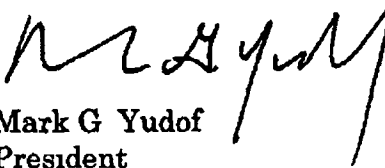
The University of California stands ready to provide updates to the pool of nominees in any category of scientific expertise in which a need arises, and we have made that clear to relevant staff in the offices of the appointing authorities and to the ARB officials who staff the SRP. However, the University does not wish to usurp the authority of the legislatively-designated appointing authorities to determine whether and when there is a need to appoint new members to the SRP, and to determine when there is a need for new nominees.

Damien M Schiff, Esq
July 24, 2008
Page 2

I appreciate your taking the time to write and express your views on this important matter

With best wishes, I am,

Sincerely,



Mark G Yudof
President

cc Secretary Linda S Adams, Cal/EPA
The Honorable Don Perata
The Honorable Karen Bass
Mr Jim Behrman, ARB
Provost Hume
Vice President Steven Beckwith
Associate Vice President Steve Juarez
Professor John R Fromes, UCLA



EXHIBIT E





CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY



LINDA S. ADAMS
SECRETARY FOR
ENVIRONMENTAL PROTECTION

1001 I STREET, SACRAMENTO, CALIFORNIA 95814 • P.O. BOX 2815, SACRAMENTO, CALIFORNIA 95812-2815
(916) 323-2514 • (916) 324-0908 FAX • WWW.CALEPA.CA.GOV

ARNOLD SCHWARZENEGGER
GOVERNOR

January 22, 2009

Damien M. Schiff, Attorney
Pacific Legal Foundation
3900 Lennane Drive, Suite 200
Sacramento, California 95834

Dear Mr. Schiff:

This letter is in response to your July 16, 2008 letter regarding appointments to the Scientific Review Panel on Toxic Air Contaminants.

The Panel is a technical peer review committee established in state law (Health and Safety Code section 39670) that is responsible for advising the Air Resources Board (ARB), Department of Pesticide Regulation (DPR), and the Office of Environmental Health Hazard Assessment (OEHHA) on matters relating to air toxics and risk assessments. You point out some of the statute's requirements about members' qualifications, and that members are appointed by the Secretary for Environmental Protection as well as by the Legislature from a pool of nominees submitted to each appointing body by the President of the University of California.

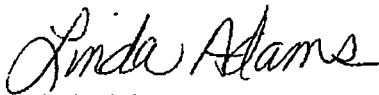
Scientific Review Panel members are appointed to staggered three-year terms and pursuant to Government Code section 1302 may continue to serve until they are reappointed, resign or are replaced. Accordingly, in some cases members have not been reappointed when their three year terms ended. As terms end, however, our current practice is to appoint qualified new members or to reappoint qualified current members based on their individual expertise and their ability to contribute to the Panel's peer review responsibilities. While our current and past practices are legally sufficient and have resulted in a stellar Panel, I believe your suggestion of consulting with the University of California Office of the President on reappointments as well as new appointments has merit, and we will look into implementing it. Even long term members deserve to be formally reappointed every few years. And it is always good to cultivate new talent. Nevertheless, there is no requirement that members be replaced when their three year terms expire and automatically doing so could deprive the Panel of valuable expertise.

AIR RESOURCES BOARD • DEPARTMENT OF PESTICIDE REGULATION • DEPARTMENT OF TOXIC SUBSTANCES CONTROL
INTEGRATED WASTE MANAGEMENT BOARD • OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT
STATE WATER RESOURCES CONTROL BOARD • REGIONAL WATER QUALITY CONTROL BOARDS

The ARB, DPR and OEHHA rely on the Scientific Review Panel to provide objective and independent critical reviews of candidate toxic air contaminants, risk assessment guidelines, and methodologies to assure that our risk assessment procedures adequately protect infants and children where they may be more sensitive to the adverse effects of exposure to certain chemicals. Again, some of your suggestions about the appointment process may help assure the Panel's continued excellence and we will look into implementing them.

Thank you again for your suggestions. If you have any further questions, please contact Mr. Kirk Oliver of the ARB staff at 916-324-4581.

Sincerely,

A handwritten signature in cursive script that reads "Linda Adams".

Linda Adams
Secretary for Environmental Protection