

John Telles

November 16, 2009

Ellen Peters, Chief Counsel
Office of Legal Affairs
California Air Resources Board

Dear Ellen,

My review of the events and circumstances preceding the December 12, 2008 vote on the Truck Rule has revealed documented facts and pertinent information not brought to the attention of Board Members prior to the Vote on the Truck Rule. Key CARB personnel knew that the Project Coordinator and Lead Author (the Individual) of the report, "Methodology for Estimating Premature Death Associated with Long-term Exposure to Fine Airborne Particulate Matter in California" had misrepresented his credentials by falsely claiming that he had a Ph.D. in Statistics from the University of California at Davis. Key CARB personnel failed to inform the full Board and the public of this information.

In CARB's own internal documents this information was deemed pertinent. CARB, in a communication sent to the Individual stated, "your dishonesty regarding your education has called into question the validity of the report "Methodology for Estimating Premature Death Associated with Long-Term Exposure to Fine Airborne Particulate Matter in California" in which you were the Project Coordinator and Lead Author. This report in turn supports other controversial and critical regulations adopted by Air Resources Board." (Exhibit #1) The Methodology Report was pertinent to the Truck Rule because it supports Appendices D (Health Impacts from On-Road Diesel Vehicles) and Appendices E (Health Risk Assessment Methodology) which make the fundamental argument for the reason for rule making (Exhibit #2).

This information is material to the Vote because had I as a Board Member been informed of this information, I would have and perhaps other Board members would have moved to suspend the Vote. I believe that it is the ethical if not legal obligation for Staff and Board Members to inform the whole Board of all pertinent information prior to a Vote on a State Regulation so that a Board Member may make an informed decision when casting a vote.

The following is a brief outline of information that came to the attention of key CARB personnel prior to the Vote:

In a letter dated July 7, 2008 sent to Governor Schwarzenegger, Dr. Stanley Young of the National Institute of Statistical Science stated that none of the authors of the draft "Methodologies for Estimating Premature Death Associated with Long-Term Exposure

to Fine Airborne Particulate Matter in California” are professional statisticians (Exhibit #3). The duty of drafting a response to this inquiry was given to the Project Coordinator and Lead Author of the Report, the very person who later confesses that he misrepresented his credentials. (Exhibit #4). In this draft, the Lead Author falsely claims that he has a Ph.D. from University of California at Davis. This drafted letter, dated November 4, 2008, was signed by the Secretary of the California EPA and was sent to Dr. Young (Exhibit #5). To date, Dr. Young has not received a letter from the Secretary of the California EPA correcting this false claim (Exhibit #6).

On December 3rd and 4th, 2008, a professor from UCLA communicated to three CARB Board members alleging that the Individual did not have a Ph.D. in Statistics from UC Davis (Exhibit #7). At least one Board Member called Senior Staff at CARB and an investigation was initiated. On December 8, 2008, the Chief of the Research Division asked the Individual if he had a Ph.D. in Statistics from UC Davis (Exhibit #8). The Individual on the evening of December 10, 2008, confessed to the Chief of the Research Division that he did not have such a credential. The following morning, the day the ARB had convened to deliberate on the Truck Rule, this Chief informed the Executive Officer, the Chief Deputy Executive Officer, the Deputy Executive Officer, the Chief of the Heavy Duty Diesel In-Use Strategies, the Chief of the Mobil Source Control Division, the Chief of the Health and Exposure Assessment Branch and at least one Board Member of the Individual’s confession (Exhibit #9). This information was not, however, relayed to the full Board.

It was not until nine months later at the public meeting of CARB in Diamond Bar on September 24, 2009, after public testimony raised this issue, that Staff informed the Board for the first time that the Project Coordinator and Lead Author of a supporting document of the Truck Rule had falsified his credentials (Exhibit #11). At that time Staff made no mention of the fact that they possessed this information prior to the Vote on the Truck Rule. Last week, on November 11, 2009, I learned that the Chair of CARB was also aware of this information prior to the Vote (Exhibit #10). Thus, neither the Staff nor the Board Chair informed the full board of this discovery prior to the Vote. The Public, of course, was also not informed.

In a recent personal communication to me from a Board Member who knew at the time of the Vote that this information was withheld, the Board Member stated, “I also realize that it was wrong not to have informed you and other Board Members about the situation before we acted on the Truck Rule, and at least given you the chance to decide for yourselves whether a delay was needed.” (Exhibit #10).

As a Board Member of the California Air Resources Board I realize that the State of California has vested in me the responsibility to review and vote on regulations that may have a significant impact on the economy and the health of the people of California. To

Ellen Peters
November 16, 2009
Page 3

execute my duties it is imperative that I be informed of all pertinent matters relating to regulations upon which I will be voting.

Based upon the foregoing facts documenting that key CARB personnel withheld pertinent information from the Board and the Public I believe the legitimacy of the Vote may be in question. The scientific validity of the Report is not the issue, but rather at issue is a fundamental violation of procedure. Failure to reveal this information to the Board prior to the vote not only casts doubt upon the legitimacy of the Truck Rule but also upon the legitimacy of CARB itself.

As legal counsel for the Board and in view of your wisdom, experience and knowledge, I seek your opinion on this matter. Not taking action seems unacceptable in light of what appears to be a violation of procedure with both ethical and perhaps legal implications. How we handle this challenge will reflect on the future credibility of CARB. I believe that CARB needs to seize the initiative and take steps to protect and preserve the integrity of CARB, its Board Members and the decision making process.

I await your response.

Sincerely,

John G. Telles, M.D., Board Member
California Air Resources Board

Cc: California Air Resource Board Members

Statement of Fact Exhibits

- Exhibit # 1 Notice of Adverse Action Dated April 9, 2009
- Exhibit # 2 Proposed Regulation For In-Use On-Road Diesel Vehicles, October 2008
- Exhibit # 3 Letter to Governor Schwarzenegger from Dr. Stanley Young, July 7, 2008
- Exhibit # 4 Assignment to Draft response by Individual
- Exhibit # 5 Letter to Dr. Stanly Young from Secretary Adams, November 4, 2008
- Exhibit #6 Communication from Dr. Stanly Young, November 2008
- Exhibit #7 Communication from Chief Research Division, December 8, 2008
- Exhibit #8 Communication from James E. Enstrom, Ph.D., October 28, 2008
- Exhibit #9 Communication from Chief of Research Division, December 11 2008
- Exhibit #10 Personal communication from Board Member
- Exhibit #11 Minutes to Board Meeting, September 9, 2009.

Need exhibit #

NOTICE OF ADVERSE ACTION

Hien T. Tran
Air Pollution Specialist
California Air Resources Board
1001 I Street, Sacramento, CA 95812

XXX-XX-0295

You are hereby notified that, pursuant to Government Code Section 19574, adverse action is being taken against you as follows:

I

NATURE OF THE ADVERSE ACTION

You are hereby suspended in your position as an Air Pollution Specialist (APS) position with the California Air Resources Board for a period of sixty days.

II

EFFECTIVE DATE

This suspension shall be effective start of business April 22, 2009 and shall end at the close of business on June 19, 2009.

III

STATEMENT OF CAUSES

This action is taken against you for reasons relating to Government Code section 19572:

- (a) Fraud in Securing Employment
- (f) Dishonesty.
- (t) Other failure of good behavior either during or outside of duty hours which is such a nature that it causes discredit to the appointing authority or the person's employment.

Exhibit #1

IV

STATEMENT OF FACTS

The general qualifications required for all employees in the state civil service include honesty, integrity, and good judgment. You have failed to demonstrate these qualifications in your position as an Air Resources Supervisor I. Your dishonesty regarding your education has called into question the validity of the report "Methodology for Estimating Premature Deaths Associated with Long-term Exposure to Fine Airborne Particulate Matter in California," in which you were the project coordinator and lead author. This report in turn supports other controversial and critical regulations adopted by Air Resources Board (ARB). Your actions could create a long lasting and damaging reflection on ARB and the California Environmental Protection Agency.

1. In February 2003, you joined the ARB Research Division's Health and Ecosystems Assessment Section, as an Air Pollution Specialist (APS). On the application for this APS position, dated December 23, 2002, you listed an expected Ph.D. from UC Davis. (Exhibit #1)
2. On or about July 18, 2007, you submitted a signed STD 678 State of California Examination and/or Employment Application (Application) for the Air Resources Supervisor I (ARS1) position in the Health and Ecosystems Assessment Section of the Research Division. On the Application, you listed a Ph.D. in Statistics and indicated that it was completed from the University of California, Davis (UC Davis) in 2007. The Application contains a certification with the following statement:

I certify under penalty of perjury that the following information I have entered on this application is true and complete to the best of my knowledge. I further understand that any false, incomplete, or incorrect statements may result in my disqualification from the examination process or dismissal from employment with the State of California. I authorize the employers and educational institutions identified on this application to release any information they may have concerning my employment or education to the State of California. (Exhibit #2)

Because you had not actually completed the Ph.D. from UC Davis in 2007, by signing the application under penalty of perjury and certifying that the information contained on it was true, you consequently falsified your application and therefore misrepresented the facts regarding your education.

ARB did not discover until December 10, 2008, that you had received an on-line Ph.D. from Thornhill University on June 28, 2007 (Exhibit #4). The fact is that you obtained a Ph.D. from Thornhill University on June 28, 2007,

prior to signing and submitting your Application for the ARS 1 position and you did not include this information on your Application.

3. On or about August 10, 2007, you interviewed for the Air Resources Supervisor I position. During the interview you stated that you planned to submit two papers for publication and clarified either you had just submitted your dissertation for the Ph.D. or were in the process of submitting the Ph.D. dissertation to UC Davis (or words to that effect). (Exhibit #5, #6, and #7)
4. On September 10, 2007, you were appointed to the ARS1 position. Soon after, you told your supervisor, Linda Smith, Chief of the Health & Exposure Assessment Branch, that you had recently received your Ph.D. You also began using the Ph.D. title on two staff reports (Initial Statement of Reasons for proposed Rulemaking and Proposed Regulation for Dryage Trucks and Regulations to Reduce Emissions from Diesel Auxiliary Engines on Ocean-Going Vessels While AT-Berth at a California Port) (Exhibit, #8, #9), and on your business cards and e-mail signature (Exhibit #9a, & #9b).

Your Supervisor, Linda Smith, posted an announcement to all ARB Staff on the Air Resources Board Inside (ARB's intranet site). The posting, dated September 12, 2007, announced your appointment as manager in the Health and Ecosystem Assessment Section in the Research Division and stated you recently earned a Ph.D. in Statistics from UC Davis (Exhibit #10). Because you told your supervisor that you had recently earned your Ph.D., she logically assumed that the degree was from UC Davis. In addition, that was the information listed on your application and what was discussed at the hiring interview. Once your appointment was posted, you made no attempt to correct the misinformation.

5. On or about September 5, 2008, you were assigned to draft a response letter for Cal/EPA Secretary Linda Adams' signature to Stanley Young of the National Institute of Statistical Sciences (Exhibit #11). Mr. Young stated in a letter to Governor Schwarzenegger dated July 7, 2008 (Exhibit #12), that none of the authors of the draft "Methodology for Estimating Premature Deaths Associated with Long-term Exposure to Fine Airborne Particulate Matter in California," in which you were the project coordinator and lead author, are professional statisticians. (Exhibit #13)

The draft response that you prepared for ARB's Agency Secretary to sign dealt, among other things, directly with the issue of the professional background of the authors of the report including yourself. Specifically, the final reply letter signed by Secretary Adams stated that you, as the lead author and project coordinator, held a doctorate degree in statistics from UC Davis (Exhibit #14). The Assignment Tracking Form for the draft reflects your initials dated September 9, 2008, when you first drafted the response and again September 10, 2008, when you revised it for review by Research Division Chief, Bart Croes (Exhibit #11). The final letter indicates that you

received a blind carbon copy. At no time did you correct the inaccuracy of your degree contained in the final letter.

6. Dr. James Enstrom, along with Dr. Anthony Fucaloro, Dr. Matthew A. Malkan, and Dr. Robert F. Phalen, placed into the Regulation record on December 3, 2008, a request to postpone and reassess California Air Resources Board Diesel Regulations (Exhibit #16). Specifically, Dr. Enstrom's comments list his concerns regarding the final October 24, 2008, CARB Staff Report "Methodology for Estimating Premature Deaths Associated with Long-term Exposure to Fine Airborne Particulate Matter in California" (PM2.5 Mortality Report) in that the authors have no relevant peer reviewed publications and lead author (Hien Tran) has misrepresented his Ph.D. (Exhibit #17). 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.
7. On Friday, December 5, 2008, Bart Croes, ARB's Research Division Chief (Chief) was informed by James Goldstene, ARB's Executive Officer, that Professor James Enstrom, an epidemiologist with the Jonsson Comprehensive Cancer Center at UCLA, had raised an issue regarding the validity of your Ph.D. in a briefing for Board Member John Balmes on the proposed In-Use On-Road Diesel Vehicles Regulation (herein after Regulation) (a.k.a. Statewide Truck and Bus Regulations). (Exhibit #15) The proposed Regulation is a regulation to help reduce emissions of diesel particulate matter, other criteria pollutants, and greenhouse gases from in-use heavy-duty diesel-fueled vehicles. Because the implications of the Regulation place additional requirements on truck and bus companies, it is critical that the research behind the regulation is considered valid.
8. On Monday morning, December 8, 2008, the Chief left a voicemail for you to call him while you were attending an off-site management training session. In addition, the Chief did some internet searching to try and find your Ph.D. from UC Davis, but was unsuccessful. You later e-mailed the Chief and stated you had called the person in charge of the alumni web page at UC Davis to have the information updated and you were told it should be ready in one or two days. The Chief replied with an e-mail asking for a paper copy of your Ph.D. degree or a signed thesis page. You responded by saying you would make some phone calls and get back to him the next day, after which he requested that you call him the following morning (or words to that effect). (Exhibit #18)

You continued to avoid telling the Chief the truth concerning your lack of a Ph.D. from UC Davis by indicating you were still working on getting the verification documentation he was requesting from UC Davis, perpetuating the deception.

9. On December 10, 2008, you called the Chief and requested to meet with him in the late afternoon, after your training class. At that time, you admitted that you did not have a Ph.D. from UC Davis, but rather an on-line Ph.D. in Applied Statistics from Thornhill University, dated June 28, 2007, or words to that effect. In addition, you stated that you received the certificate from Thornhill University after listing your accomplishments and paying a \$1,000 fee (or words to that effect).

You later provided a copy of this on-line degree to the division (Exhibit #4). A review of the Council for Higher Education Accreditation (CHEA) website of the listing of colleges and universities revealed that Thornhill University is not accredited by CHEA (Exhibit #20). In addition, you stated that while you had obtained your Master's Degree in Statistics from UC Davis, passed the Ph.D. qualifiers, and had some publications with your advisor, you had not worked on your Ph.D. for the past year because you were unable to satisfy the requirements for a break through in some theoretical aspects of statistics or words to that effect.

10. On or about December 10, 2008, in a comment letter for the Regulation, James Enstrom, a UCLA Professor, submitted a seven page analysis to ARB titled "Scientific Reasons to Postpone Adoption of Proposed STATEWIDE TRUCK AND BUS REGULATIONS." Specifically, he called into question your credentials. Mr. Enstrom stated that he searched and found no evidence of a Ph.D. in Statistics from UC Davis or any dissertation on any subject from any university for you or words to that effect. He stated this issue has direct relevance to the honesty of Tran and the scientific integrity of the draft and final reports on which you were the lead author or words to that effect. (Exhibit #21)

In an internal response, titled "ARB Staff Response on Scientific Integrity of the Report on the Relationship between Diesel Soot and Premature Death in California," dated December 19, 2008, ARB stated they stood by the data and conclusions contained in the PM 2.5 Mortality Report supporting the Regulation" due to the rigorous internal as well as external peer review that was done. (Exhibit #22)

ARB firmly stands behind the integrity of our report, having gone through an independent peer review, with all reviewers finding our methodology scientifically sound and reasonable. However, because the report provides input into the Regulation, which in turn results in increased regulations to the trucking industry (whose affects are far reaching), the credibility of the lead author and project coordinator is paramount. Due to your misrepresentation of your Ph.D., management was led to believe that you had attained your Ph.D. from UC Davis. Consequently, when your credentials were called into question, ARB was placed in an untenable position to defend your credentials with inaccurate information.

11. On December 11, 2008, Professor Samanlego from UC Davis called the Chief back and confirmed your Master's degree and that you had also passed the quallifiers for the Ph.D. He also stated that he had published a paper with you as well as you had worked on some presentations together. Furthermore, although he still considered you an active student, he could not recall the last time he had seen you, but that it had been at least a couple of years, or words to that effect. On December 12, 2008, a follow up letter was sent from the UC Davis Graduate Programs Coordinator confirming you advanced to Ph.D. candidacy in 1998 but that you did not complete the doctoral dissertation. (Exhibit #23)
12. Beginning on or about December 17, 2008, ARB's Office of Communication received numerous contacts from the media as described below. The Director of the Office of Communication (Director) Leo Kay was contacted by Chris Reed, Editorial Writer of the San Diego Union Tribune on December 18 & 19, 2008, regarding Dr. Enstrom's comments that an ARB Research Division Supervisor (Hien Tran) who worked on the report falsified claims that he had a Ph.D. from UC Davis and asked what ARB was planning to do about it (Exhibit #24). On December 18, 2008, Dr. Enstrom's comments were posted on SignONSanDiego.com, a blog site on San Diego's Union Tribune in an article titled "Breaking News: Air Board Investigating Whether Scientist on Diesel Regs Lied About His Ph.D." (Exhibit #25). An additional article was posted by Mr. Reed titled "CARB Ignored Well-Credentialed Experts on Diesel Regs, Too—and Its Own Expert May Have a Scandal of His Own" (Exhibit #26). On January 6 & 20, 2009, the Director received additional e-mails from Mr. Reed inquiring about the investigation into your Ph.D. from UC Davis. Subsequently he posted an article titled "Nichols Acknowledges Deception Affects 'Credibility' of Air Board—but Won't Say What She's Doing about It" on January 21, 2009 (Exhibits #27 & #28).

On February 3, 2009, ARB's Deputy Ombudsman, Phil Loder, received a call from Mr. Anthony Fucaloro inquiring about your academic qualifications. Mr. Fucaloro was one of the individuals that placed into the Regulation record on December 3, 2008, a request to postpone and reassess California Air Resources Board Diesel Regulations (Exhibit #29). In addition, on February 12 & 13, 2009, Mr. Reed contacted the Director again for an update on the investigation and to ask whether your work has been double-checked. Then on February 12, 2009, he posted an article titled "Deceptive Scientist Still Has Job at Air Board, Which Still Stonewalls on the Scandal" (Exhibits #30 & #31).

On March 11 & 13, 2009, Mr. Reed made several inquiries in response to the Director notifying him that you do not have a Ph.D. in Statistics from UC Davis but rather one from Thornhill University (Exhibit #32). Then on March 14, 2009, a blog titled "Air Board's Shame" released this information and referred to Thornhill University as a "distant learning" diploma mill and again

questioned the scientific integrity of the PM 2.5 Mortality Report in which you were the lead author, or words to that effect (Exhibit #33).

On March 9, 2009, the Director was contacted by a Lois Henry, an editor at the Bakersfield Californian to inquire about ARB's peer review process. During the following week the Director spoke with and emailed this editor more than a dozen times. On March 15, 2009, she posted an article titled "Dodgy Science Strangles Industry" on the paper's blog site. It stated that "CARB's lead researcher, Hien Tran, who wrote the report on which diesel rules are based lied about having a Ph.D. in Statistics from University of California, Davis" (Exhibit #34).

Because of your dishonesty, as the lead author on a critical report, titled "Methodology for Estimating Premature Deaths Associated with Long-term Exposure to Fine Airborne Particulate Matter in California," and the rules and regulations it directly affects, ARB's credibility has been called into question. Although ARB firmly stands behind both their methodology and the rigorous peer and scientific review process, your dishonesty has opened the door to unnecessary criticism due to the impact the rules and regulations have on a variety of industries.

13. On or about December 17, 2008, after meeting with the Chief concerning the issue of your Ph.D., and in particular the article on the web, you sent a an e-mail stating you were leaning towards stepping down for the sake of the agency's reputation and admitted that this lapse in judgment was the biggest error you've ever made or words to that effect. (Exhibit #35)
14. On December 19, 2008, you submitted a voluntary resignation from your managerial position as an ARS1 under the condition that you could continue your employment in ARB's Research Division as an Air Pollution Specialist, Range C, a two-level demotion. In addition, in your resignation letter to your supervisor Linda Smith, you apologized for the current circumstances or words to that effect. (Exhibit #36)
15. On December 23, 2008, Sheryl Brooks, Chief of ARB's Human Resources Branch, sent a memo in response to your conditional resignation. In it she stated that she had accepted your voluntary demotion to an APS, Range C, however she also advised that pending further investigation, ARB may pursue further action up to and including dismissal. (Exhibit #37)

V

APPEAL RIGHTS

1. Right to respond to appointing power.

In accordance with the state Personnel Board 52.3 (Skelly Rule), you are entitled to at least five (5) working days within which to respond to this notice. You may respond orally or in writing to prior to April 22, 2009, which is the effective date of this action. If you wish to respond you may do so to:

Vicki Vandergriff
Deputy Director, Administrative Services Division
Department of Toxic Substance Control
Office Location: 1001 I Street, 21st Floor
Sacramento, 95812
Phone Number: (916) 327-1192

You are entitled to a reasonable amount of State time to prepare your response to the charges. You are not entitled to a formal hearing with examination of witnesses at this stage of the proceedings. However, you may be represented by another in presenting your response. The appointing power may sustain, amend, modify, or revoke the adverse action in whole or in part.

2. Right to Appeal to the State Personnel Board.

Regardless of whether you respond to these charges to the appointing power, you are advised that you have the right to file a written answer to this notice with the State Personnel Board, 801 Capitol Mall, Sacramento, California 95814, not later than thirty (30) calendar days after the effective date of this action. An answer shall be deemed to be a request for hearing or investigation as provided in Section 19575 of the Government Code. If you answer as provided, the Board or its authorized representative shall, within a reasonable time, hold a hearing and shall notify the parties of the time and place thereof. If you fail to answer within the time specified, the adverse action taken by the appointing power shall become final.

You are responsible for notifying the State Personnel Board and your appointing power of any changes in your address that occur after the effective date of this adverse action.

3. Right to Inspect Documents.

Copies of any documents or other materials giving rise to this adverse action are attached for your inspection. This documentation is not being provided to the State Personnel Board in advance of any appeal hearing which may be scheduled.

Dated: April 9, 2009

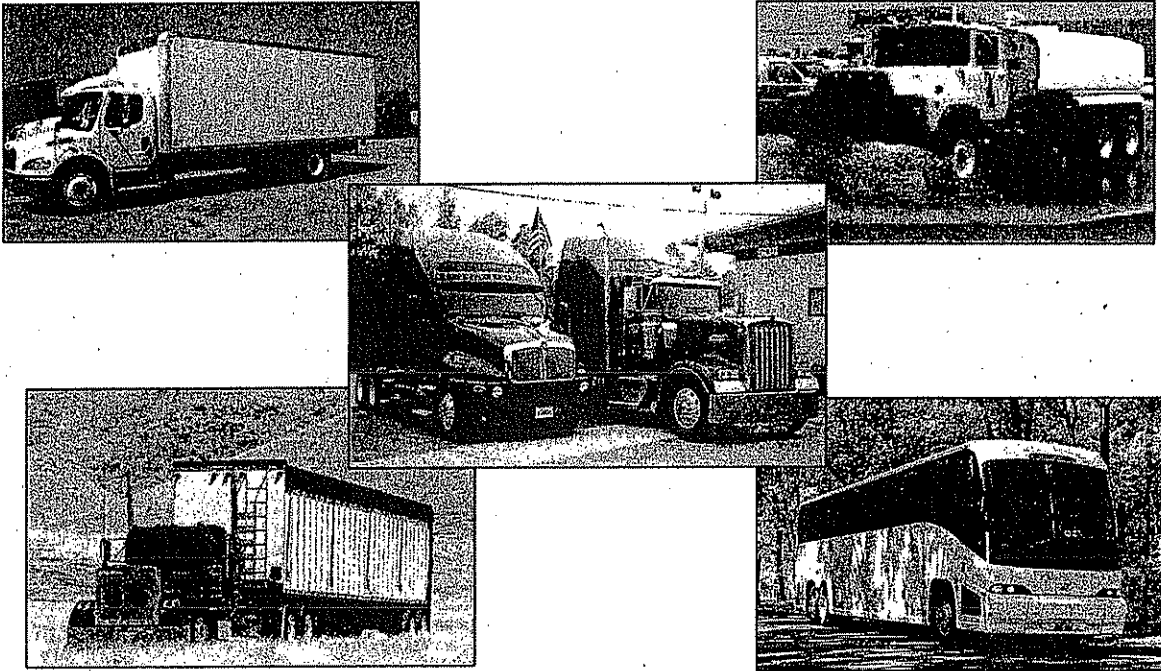


Linda Smith, Chief, Health & Exposure
Assessment Branch, Air Resources Board



**STAFF REPORT: INITIAL STATEMENT OF REASONS FOR PROPOSED
RULEMAKING**

PROPOSED REGULATION FOR IN-USE ON-ROAD DIESEL VEHICLES



Mobile Source Control Division
Heavy-Duty Diesel In-Use Strategies Branch

October 2008

Exhibit #2

NISS

National Institute of Statistical Sciences
PO Box 14006, Research Triangle Park, NC 27709-4006
Tel: 919.685.9300 FAX: 919.685.9310
www.niss.org

7 July 2008

Governor Arnold Schwarzenegger
State Capitol Building
Sacramento, CA 95814

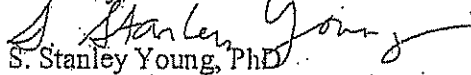
Dear Governor Schwarzenegger:

I am a statistician and I specialize in the analysis of complex data sets. A draft report from the Air Resources Board, Mary D. Nichols, Chairman, "Methodology for Estimating Premature Deaths Associated with Long-term Exposures to Fine Airborne Particulate Matter in California," has come to my attention. I note that none of the authors are professional statisticians. Some are trained in epidemiology. It is useful to know that the track record of epidemiologists in the use of statistics to make claims that are reproducible is very poor. Their claims fail to replicate 80-90% of the time, Ioannidis, JAMA, 2005. Their recommendations, most likely wrong, are projected to be very costly.

I suggest that you consider having the report vetted by professional statisticians for data quality, completeness of cited literature, an appropriate use of statistical methods. California is blessed with outstanding statisticians. One to consider is Professor David Freedman, UC Berkeley. He co-wrote a report on the use of statistics as evidence for the US Justice Department.

The analysis of observational environmental data is very complex. Given the importance of the recommendations, it would seem essential that skilled, professional statisticians using the best methods be employed for the analysis and interpretation of this body of data.

Sincerely,


S. Stanley Young, PhD

Assistant Director of Bioinformatics
National Institute of Statistical Sciences
Fellow, American Statistical Association

Exhibit #3

DIRECTIONS:

1. Anyone can originate. Use for memos, letters, briefing papers, Board items, etc. Generally, not RSC items/contracts.
2. Have support staff log into Access database. Each person should initial, set date/time when distributed to next person.
3. Seek clarification on expected product. Some due dates are negotiable, but this needs to be done as early as possible.
4. Route completed assignments to appropriate manager or support staff. Support staff will close out the assignment.

Quality Field Studies & Admin Branch ☐ Climate Change Mitigation Branch ☒ Health & Exposure Assessment Branch ☐ Research & Economics Studies Branch		RD Assignment # <u>1595</u> EO Assignment # <u>14232</u>	Date Assigned <u>9/5/08</u>				
SECTION ASSIGNED: ☐ Administrative ☐ Air Quality and Climate Science Section ☐ Atmospheric Processes Research ☐ Climate Change Mitigation & Emissions Research ☐ Economic Studies ☐ Greenhouse Gas Reduction Strategy ☐ Greenhouse Gas Technology & Field Testing ☒ Health & Ecosystems Assessment ☐ Indoor Exposure Assessment ☐ Library ☐ Population Studies ☐ Research Planning & Climate Change Outreach		ASSIGNMENT TYPE: ☐ AAQS ☐ AB 32/Climate Change ☐ Administrative ☐ Atmospheric Deposition ☐ Benefit / Cost ☐ Board Item ☐ Contracts / RSC ☐ Children's Health ☐ Diesel ☐ Economic Impact Analysis ☐ Environmental Justice ☐ ICAT ☐ Indoor Air Quality ☐ Issue Paper ☒ PM ☐ Presentation ☐ Press Release ☐ Public Outreach ☐ Reactivity/VOC Exemption ☐ Response Letter ☐ Webpage ☐ Other _____					
		ORIGINATED BY: ☐ RD - Croes ☐ RD - Corey ☐ RD - _____ ☐ RD - _____ ☐ Div - _____ ☒ EO - <u>Sal</u> ☐ CO - _____ ☐ AWEAU ☐ Cal/EPA ☐ Governor					
ASSIGNMENT: <u>Reply for - Sec Adams Sig.</u>							
<u>Please prepare draft response for sec sig - Please do not use word "Recent" letter in opening paragraph as letter is over two months old</u>							
DATE DUE <u>9/10/08</u> To Division Chief <u>9/9/08</u> To Branch Chief _____ To Section Manager _____ Staff Assigned To _____							
SIGNATURE BLOCK ☐ Sawyer ☐ Witherspoon ☐ Scheible ☐ Croes ☐ Corey ☐ Other _____							
Other Division/Agency Coordination _____ Final Signed _____ Released/Mailed _____							
COMMENTS / INSTRUCTIONS: <u>Concerns regarding a draft report from ARB "Methodology for Estimating premature deaths associated w/ long-term exposures to Fine Airborne Particulate Matter in CA"</u>							
File Name & Path: _____							
ROUTING							
Date	Time	Initial	Proofed	Revised	Approved	Distribute To	Comments
9/5	10:30	VF				Hien	please respond.
9/9	11:30	H				LTS	Pls review my draft response
9/9	4:40	AS				AT	for revision
9/10	4:10	H				BREC	For your review.
9/15	noon	BL				VF	Good letter! Please Submit.

Exhibit #4



CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY



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

LINDA S. ADAMS
SECRETARY FOR
ENVIRONMENTAL PROTECTION

ARNOLD SCHWARZENEGGER
GOVERNOR

November 4, 2008

S. Stanley Young, PhD
Assistant Director of Bioinformatics
National Institute of Statistical Sciences
Post Office Box 14006
Research Triangle Park, North Carolina 27709-4006

Dear Dr. Young:

Thank you for your letter to Governor Schwarzenegger regarding the May 22, 2008, draft report "Methodology for Estimating Premature Deaths Associated with Long-Term Exposures to Fine Airborne Particulate Matter in California" from the California Air Resources Board (CARB). Governor Schwarzenegger asked that I respond to your specific concerns and describe both the qualifications of the authors and the review process for the report.

Regarding the professional background of the authors, the lead author and project coordinator, Hien Tran, holds a doctorate degree in statistics from the University of California at Davis, and he has fourteen years of experience in advanced analysis of complex air quality data sets and methods for quantifying health impacts associated with exposure to air pollution. In 2006, his work on the health benefits of reducing tropospheric ozone levels in California was published in the Journal of Air and Waste Management Association (JAWMA 2006 56:1007-1021). In addition, the contributing authors hold advanced degrees in fields including toxicology, biology, atmospheric chemistry, physical chemistry, and mathematics.

As part of the review process, three scientific advisors have thoroughly reviewed and approved the CARB report. These individuals are well-known epidemiologists in the field of air pollution and public health: Professor Jonathan I. Levy of Harvard University, Professor Clive Arden Pope of Brigham Young University, and Dr. Bart Ostro of the Office of Environmental Health Hazard Assessment. These advisors are highly experienced in analyzing epidemiologic studies on the health effects of air pollution. They use advanced statistical techniques in conducting their own studies and make significant contributions to numerous peer-reviewed journals such as Environmental Health Perspectives, Epidemiology, the Journal of the American Medical Association, the Journal of the Air and Waste Management Association, Lancet, and Toxicology. Professor Levy has published

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

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Exhibit #5

CARB CPRA 2009-11-23a000016

S. Stanley Young, PhD
November 4, 2008
Page 2

more than 30 articles from 2002 to 2008, Professor Pope has published over 50 articles (1983-2007, with several more in review), and Dr. Ostro has published more than 20 articles from 1980 to 2008. In short, they are well-respected by their peers in the scientific community.

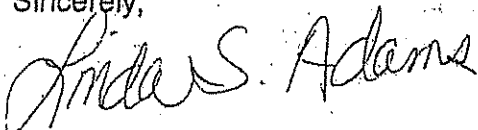
The draft report subsequently underwent an external peer review, utilizing California Environmental Protection Agency's (Cal/EPA) process that ensures a completely independent review of proposed rules and other documents. First, reviewer candidates were independently identified by the University of California at Berkeley, Institute of the Environment, in consultation with University of California (UC) colleagues. Each candidate was required to complete a Conflict of Interest Disclosure form, which was reviewed by the Cal/EPA Project Director for the independent peer review. Candidates were accepted as reviewers only if the disclosure information showed they had no conflict of interest related to the report.

The six reviewers identified by UC Berkeley and selected by the Cal/EPA Project Director to review the proposed methodology in the report are: Dr. Jeff Brook from Environment Canada, Professor Mark D. Eisner of UC San Francisco, Professor Richard C. Flagan of the California Institute of Technology, Professor Alan Hubbard of UC Berkeley, Professor Joel Kaufman of the University of Washington, and Professor Joel Schwartz of Harvard University. Collectively, their expertise is based on research in the areas of chronic obstructive pulmonary disease related to air pollution, statistical analysis of epidemiological data, particle formation and measurements in air, air quality risk management, air pollution and daily mortality associations, and epidemiology. These reviewers evaluated whether CARB staff correctly interpreted the results published in the scientific literature, and whether staff has correctly developed methods for estimating premature deaths associated with public exposure to ambient particulate matter. The peer reviewers provided written comments, which staff addressed and incorporated into the draft report that was released on May 22, 2008, for public comment.

As you can see, this report has benefited from the outstanding qualifications and experience embodied in the authors, the advisors, and the independent peer reviewers. It should be without doubt that the report has made correct use of statistical tools and sound scientific judgment to arrive at the conclusions.

Should you have further questions on this regard, please feel free to contact Bart E. Croes, P.E., Chief, Research Division, California Air Resources Board, at bcroes@arb.ca.gov or (916) 323-4519.

Sincerely,



Linda S. Adams
Secretary for Environmental Protection

cc: Bart E. Croes, P.E.
Chief, Research Division
Air Resources Board

ReviewersPeople

CALEPA

Jeffrey Brook.

Environment Canada.

4905 Dufferin Street.

Downsview, Ontario M3H 5T4.

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Professor of Environmental Science & Engineering

B.S.E., Mechanical Engineering, University of Michigan, 1969; S.M. and Ph.D.,

Massachusetts Institute of Technology, 1971, 1973

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Alan Hubbard

Assistant Professor of Biostatistics

School of Public Health

University of California, Berkeley

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Berkeley, CA 94720

PHONE: 510-643-6160

FAX: 510-643-5163

OFFICE: 113B Haviland

EMAIL: hubbard@stat.berkeley.edu

S. Stanley Young, PhD
November 4, 2008
Page 3

bcc: Linda Smith, RD
Hien Tran, RD

X:\\RD - Current Staff\\HienTran\\Draft response to NISS on PM mortality report authors' qualifications 2008-09-10
ht.doc

Subj: **Re: From a California Air Resources Board member in regards to letter Governor**
Date: 11/9/2009 1:38:06 P.M. Pacific Standard Time
From: young@niss.org
To: johngt103@aol.com

Dr. Telles: Let me know if you have questions or where I might help. Stan

> Thank you for your prompt reply. I will see what we can do about this
> and get back to you.
>
> J Telles
>
> Sent from my iPhone
>
> On Nov 9, 2009, at 5:32 AM, young@niss.org wrote:
>
>> Dear Dr. Teller:
>>
>> Thank you for making your concerns known to me.
>>
>> I questioned the report as the reasoning appeared too flawed to be
>> done by
>> a capable statistician. Many of the arguments used are highly
>> statistical
>> so having good statistical talent seems essential. Fortunately,
>> there are
>> very good statisticians in California that could be called in.
>>
>> I did correspond a bit with Mr. Tran and asked if he and scientists at
>> CARB had access to the raw data used in papers they relied upon. He
>> replied that the papers were peer reviewed and that, no, they did
>> not have
>> access to the data. My experience with the analysis of observational
>> studies is that most often the analysis given in the paper can not be
>> relied upon. (I can support this statement in the medical area and I'm
>> reasonably sure the statement holds for the environmental area.) My
>> institute, www.niss.org, examined data used in an environmental
>> observational study in 1995 (work done for the EPA) and the original
>> claims were not supported. Others have reported similar experiences
>> to me.
>>
>> A long way around, but Yes the report should be redone. Where
>> possible,
>> key original data should be obtained and re-analyzed. The process
>> should
>> be as transparent as possible with data being made public. Serious
>> scientists outside the environmental area should be involved, MDs,
>> physics,
>> statistics, etc.
>>
>> I am not an economists, but the economic analysis used by CARB seemed
>> superficial. I think you made the point, access to good medical help
>> requires money and if a person is without a job, they will suffer.
>>
>> Etc.
>>
>> I'm happy to answer questions or talk on the phone. I'm traveling
>> Mon and
>> Tues, but should be mostly available after that.

Exhibit #6

>>
>> I was never sent a correction letter. I did learn that Mr. Tran did
>> not
>> have a PhD in statistics from UC Davis. They have a fine statistics
>> department.
>>
>> Stan Young
>> Assistant Director of Bioinformatics
>> National Institute of Statistical Sciences
>> 919 685 9328
>> Home 919 782 2759
>> Cell 919 219 2030
>>
>>
>>> Dear Dr. Young,
>>>
>>> I am a Board Member of the California Air Resources Board that is
>>> worried
>>> about the scientific integrity of the the report "Methodology for
>>> Estimating Premature Deaths Associated with Long Term Exposure PM
>>> 2.5." In your
>>> letter of July 7, 2008 to Governor Schwarzenegger you questioned
>>> whether
>>> or not any of the authors of this report were professional
>>> statisticians.
>>> On November 4, 2008 you received an answer to your letter signed
>>> by the
>>> California State Secretary for Environmental Protection that the
>>> lead
>>> author
>>> and project coordinator holds a doctorate degree in statistics
>>> from the
>>> University of California at Davis. Since that time it has been
>>> discovered that
>>> this gentleman misrepresented his credentials and does not hold
>>> such a
>>> degree. In light of this fact the staff of the California Air
>>> Resources
>>> Board
>>> has contacted the report's scientific advisors and peer
>>> reviewers. In
>>> general, all of these advisors and reviewers feel that the
>>> methodology
>>> was
>>> reasonably sound. In your opinion do you think this report should
>>> be
>>> submitted to other review? Were you ever sent a correction to the
>>> November 4
>>> letter? I thank you for your concern shown in regards to this
>>> important
>>> report.
>>>
>>>
>>> Sincerely,
>>>
>>> John G. Telles MD
>>> Board Member
>>> California Air Resources Board
>>>
>

Subject: Re: Links

From: Bart Croes <bcroes@arb.ca.gov>

Date: Tue, 09 Dec 2008 21:25:59 -0800

To: "Tran, Hien@ARB" <htran@arb.ca.gov>

BCC: Linda Tombras Smith <lsmith@arb.ca.gov>

Thanks, Hien. Please call me at 798-9540 in the morning. I'd like to know how to best deal with this before the Board hearing.

Tran, Hien@ARB wrote:

Bart,

I'll need to make some phone calls and get back to you tomorrow.

Thanks.

--Hien

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

From: Bart Croes [mailto:bcroes@arb.ca.gov]

Sent: Mon 12/8/2008 8:43 PM

To: Tran, Hien@ARB

Subject: Re: Links

Thanks, Hien. Please let me know when it is up so I can send the link to John. Do you have a paper copy of the degree or signed thesis page? I couldn't find your thesis on the UC Davis Library page. Has it been submitted? Sorry again about this bother!

Bart

Tran, Hien@ARB wrote:

>

> Bart,

> It's all right. I've called the person in charge of the alumni web

> page to have the info updated. She said it should be ready in 1 or 2

> days.

> --Hien

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

> From: Bart Croes [mailto:bcroes@arb.ca.gov]

> Sent: Mon 12/8/2008 5:15 PM

> To: Tran, Hien@ARB

> Subject: Links

>

> Hi Hien -- Sorry that you have to go through this, and it shouldn't

> matter to Enstrom whether or not you have a PhD, but I'd like to respond

> to John Balmes. The UC Davis graduates in stats are listed at

> <http://www.stat.ucdavis.edu/people/alumni-info> and Francisco Samaniego's

> CV is here <<http://www.stat.ucdavis.edu/%7Esamanieg/>>.

>

> Thanks, Bart.

>

Bart E. Croes, P.E. <bcroes@arb.ca.gov>

Chief

Research Division

California Air Resources Board

Exhibit #7

Subj: **Loveridge, Riordan, and Balmes Informed of Tran "Ph.D."**
 Date: 10/28/2009 12:32:15 P.M. Pacific Standard Time
 From: jenstrom@ucla.edu
 To: JohnGT103@aol.com

Dear Dr. Telles,

Thank you very much for investigating Hien Tran's "Ph.D." and problems with CARB diesel science. CARB members Loveridge, Riordan, and Balmes were informed of problems with Tran's credentials well before December 12. Please read the email messages below which describe the meetings that were set up with members Loveridge, Riordan, and Balmes. On December 3, 2008 at 3 PM, UC Irvine Professor Robert F. Phalen, UCLA Professor Matthew A. Malkan, and CMC Professor Anthony Fucaloro and I met for 30 minutes with Mayor Ronald Loveridge at his Riverside office and presented him with the December 3, 2008 Enstrom-Fucaloro-Malkan-Phalen "Request to Postpone and Reassess CARB Diesel Regulations." The seventh item on this Request dealt with Tran and his "Ph.D." Then on December 3, 2008 at 3:45 PM the four of us discussed our Request with Barbara Riordan for 30 minutes via a teleconference arranged by Mayor Loveridge's staff. Then on December 4, 2008 at 4 PM Professor Phalen and I discussed our Request with UCSF Professor Balmes for 30 minutes via a teleconference from my UCLA office. Finally, on December 8, 2008 I send our Request and other supporting documentation to Professor Balmes via UPS (see the attached UPS record that sent to you previously). To reiterate, CARB members Loveridge, Riordan, and Balmes were clearly and directly informed on December 3 and 4 of serious problems with "Dr." Tran and CARB diesel science by four California professors with a combined total of 130 years of relevant scientific experience.

The December 3, 2008 "Request to Postpone and Reassess CARB Diesel Regulations" was formally submitted as a public comment to CARB on December 10, 2008 at 11:47:54 AM (http://www.arb.ca.gov/lispub/comm/bccomdisp.php?listname=truckbus08&comment_num=902&virt_num=418). My detailed seven-page December 10, 2008 document "Scientific Reasons to Postpone Adoption of Proposed STATEWIDE TRUCK REGULATIONS," which discusses the Tran "Ph.D." in detail on pages 1 and 2, was formally submitted to CARB on December 10, 2008 at 11:41:30 AM (http://www.arb.ca.gov/lispub/comm/bccomdisp.php?listname=truckbus08&comment_num=897&virt_num=413). Copies of both submission notices are shown below and can be found among all public comments regarding the on-road diesel vehicle regulations (<http://www.arb.ca.gov/lispub/comm/bccommlog.php?listname=truckbus08>). Furthermore, I was told by a CARB staff member that a printed copy of these public comments would be given to all CARB members, including you, before the December 12 vote on the on-road diesel vehicle regulations.

Please call me if you would like to personally discuss this matter. If helpful, I would be willing to meet with you in Fresno to review the many complex details contained in my December 10, 2008 comments to CARB.

Best regards,

James E. Enstrom, Ph.D., M.P.H.
 (310) 825-2048

Subject: RE: December 3 Meeting with Barbara Riordan
 Date: Mon, 1 Dec 2008 12:29:37 -0800
 From: "Frazier, Charlyn@ARB" <cfrazier@arb.ca.gov>
 To: "James E. Enstrom" <jenstrom@ucla.edu>

Exhibit # 8

Thanks for your message. Mrs. Riordan will also have ½ hour available for call at 3:45 on Dec. 3. I've also heard from Dr. Balmes and he has ½ hour available for a call on December 4 at 4:00 p.m. You can call him at (510) 643-4702.

Please confirm that this schedule of calls works with your schedule. Thanks.

Charlyn Frazier
Board Member Liaison
Air Resources Board
(916) 327-6247

From: James E. Enstrom [mailto:jenstrom@ucla.edu]
Sent: Monday, December 01, 2008 12:12 PM
To: Frazier, Charlyn@ARB
Subject: RE: December 3 Meeting with Barbara Riordan

Dear Charlyn,

I appreciate the clarification regarding my December 3 meeting with Mayor Loveridge. I now plan to call Board Member Riordan at 3:45 PM on December 3, as originally scheduled. Please let me know how long I will be able to speak with her. Also, let me know if I can call Board Member John Balmes this week or can send him an email message.

Thank you very much for your assistance.

Best regards,

Jim Enstrom

At 11:44 AM 12/1/2008, you wrote:

Please be advised that Mayor Loveridge has ½ hour available on December 3 at 3P for meeting with you. So 3:45 p.m. call with Board member Riordan should work for you. Please confirm that you will be calling Mrs. Riordan at 3:45 p.m. so I can reconfirm this time with her. Thanks.

Charlyn Frazier
Board Member Liaison
Air Resources Board
(916) 327-6247

From: James E. Enstrom [mailto:jenstrom@ucla.edu]
Sent: Wednesday, November 26, 2008 2:29 PM
To: Frazier, Charlyn@ARB
Subject: RE: December 3 Meeting with Barbara Riordan

Dear Charlyn,

Thank you very much for setting up the December 3 at 3:45 PM telephone appointment with CARB Member Riordan. However, I have a personal appointment in Riverside with CARB Member Loveridge on December 3 from 3 PM to 4 PM. Thus, I would like to call Member Riordan on December 3 at about 4 PM from my cell phone and speak for up to 30 minutes, if this is acceptable to her. Please confirm this time change.

Best regards,

Jim Enstrom
(310) 825-2048 UCLA
(310) 903-8639 cell

At 01:24 PM 11/26/2008, you wrote:

Professor Enstrom:

Following up on your request to meet with ARB Board Member Riordan, she is available for a call on December 3 at 3:45 p.m. Please call her at (909) 792-6190. If you get her answering machine, please leave your number and she will call you right back. She will be there and will get message.

Please confirm that this works for you.

Thank you.

Charlyn Frazier
Board Member Liaison Air Resources Board
(916) 327-6247

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

From: James E. Enstrom [mailto:jenstrom@ucla.edu]
Sent: Friday, October 17, 2008 8:43 AM
To: Frazier, Charlyn@ARB
Subject: Request for Meeting with Ronald O. Loveridge

Charlyn Frazier
cfrazier@arb.ca.gov
(916) 327-6247

Dear Charlyn,

As per our conversation yesterday, I request a personal meeting in Riverside with CARB member Major Ronald O. Loveridge, as soon as it is convenient for him. As a 35-year epidemiologist at UCLA, I would like to discuss with him the epidemiologic evidence associating diesel particulate matter with mortality in California and its relationship to the pending CARB "truck rule." I am representing myself as a scientist and as a lifelong California who is extremely concerned about the scientific integrity of this "truck rule."

Thank you very much for your assistance.

Best regards,

James E. Enstrom, Ph.D., M.P.H.
Jonsson Comprehensive Cancer Center
University of California, Los Angeles
Los Angeles, CA 90095-1772
www.cancer.ucla.edu
jenstrom@ucla.edu
(310) 825-2048

CARB Comment Log Display

(http://www.arb.ca.gov/lispub/comm/bccomdisp.php?listname=truckbus08&comment_num=897&virt_num=413)

**Below is the comment you selected to display.
Comment 413 for Statewide Truck and Bus Regulation 2008 (truckbus08) - 45
Day.**

First Name: James
Last Name: Enstrom
Email Address: jenstrom@ucla.edu
Affiliation: University of California, Los Angeles

Subject: Scientific Reasons to Postpone STATEWIDE TRUCK REGULATIONS
Comment:

Please carefully consider my attachment "Scientific
Reasons to
Postpone Adoption of Proposed STATEWIDE TRUCK AND BUS REGULATIONS".
Thank you very much.

Attachment: www.arb.ca.gov/lists/truckbus08/897-carb_enstrom_comments_on_statewide_truck_regulations_121008.pdf

Original File Name: CARB Enstrom Comments on Statewide Truck Regulations 121008.pdf

Date and Time Comment Was Submitted: 2008-12-10 11:41:30

If you have any questions or comments please contact COTB at (916) 322-5594.

(http://www.arb.ca.gov/lispub/comm/bccomdisp.php?listname=truckbus08&comment_num=902&virt_num=418)

**Below is the comment you selected to display.
Comment 418 for Statewide Truck and Bus Regulation 2008 (truckbus08) - 45
Day.**

First Name: James
Last Name: Enstrom
Email Address: jenstrom@ucla.edu
Affiliation: University of California, Los Angeles

Subject: Request to Postpone CARB Diesel Regulations
Comment:

Please carefully consider the attached petition "REQUEST
TO
POSTPONE AND REASSESS CARB DIESEL REGULATIONS." Thank you
very
much.

Attachment: [www.arb.ca.gov/lists/truckbus08/902-
request_to_postpone_and_reassess_carb_diesel_regulations_120308.pdf](http://www.arb.ca.gov/lists/truckbus08/902-request_to_postpone_and_reassess_carb_diesel_regulations_120308.pdf)

Original File Name: Request to Postpone and Reassess CARB Diesel Regulations 120308.pdf

Date and Time Comment Was Submitted: 2008-12-10 11:47:54

If you have any questions or comments please contact COTB at (916) 322-5594.

At 09:42 PM 10/27/2009, you wrote:

Dr. Enstrom

Thank you for sending this info. I am investigating this matter. Did you send a comment to the regulation on December 3 2008 ? If so did you happen to notice if this comment was posted? If you have documentation that you sent a comment on Dec 3 please forward such documentation.

Thank you.

John Telles,

Also did you talk to any board members in person about Tran's credentials prior to the board meeting of Dec 10 2008?

In a message dated 10/20/2009 11:12:22 P.M. Pacific Daylight Time, jenstrom@ucla.edu writes:

Dear Dr. Telles,

Please read the October 21, 2009 Bakersfield Californian column below by Lois Henry "CARB Can't Ignore Credibility Problems". You are extensively quoted. Also, please read my attached UPS record and handwritten note describing damning evidence about Hien Tran and CARB diesel science that I send to CARB member John R. Balmes on December 8, 2008. Furthermore, UC Irvine Professor Robert F. Phalen and I spoke with UCSF Professor Balmes on December 4, 2008 at 4 PM for 30 minutes about the December 3, 2008 Enstrom-Fucaloro-Malkan-Phalen "Request to Postpone and Reassess CARB Diesel Regulations" (http://www.arb.ca.gov/lists/truckbus08/902-request_to_postpone_and_reassess_carb_diesel_regulations_120308.pdf) or (<http://www.scientificintegrityinstitute.org/CARBPC120308.pdf>). In addition, immediately following his June 4, 2008 confirmation hearing before the Senate Rules Committee in Sacramento, I spoke in person with Dr. Balmes about many of these same problems. Thus, for over 16 months Dr. Balmes has known about serious problems with CARB diesel science and the CARB Scientific Review Panel on Toxic Air Contaminants. As far as I can determine, he has failed to acknowledge or discuss these problems with other CARB members. By my ethical standards, this deception by Dr. Balmes has seriously damaged his credibility as an objective and honest CARB member.

Since you are the board member most concerned about the credibility of CARB, I would very much like to talk with you further about these issues.

Thank you very much for your consideration

Sincerely yours,

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

(310) 825-2048

<http://www.bakersfield.com/news/columnist/henry/x1260873480/LOIS-HENRY-CARB-cant-ignore-credibility-problems> .

LOIS HENRY: CARB can't ignore credibility problems

The Bakersfield Californian | Tuesday, Oct 20 2009 07:03 PM

Last Updated Tuesday, Oct 20 2009 07:03 PM

Subject: Enstrom and Hien Tran

From: Bart Croes <bcroes@arb.ca.gov>

Date: Thu, 11 Dec 2008 10:34:23 -0800

To: James Goldstene <jgoldste@arb.ca.gov>, Mike Scheible <mscheibl@arb.ca.gov>, John Balmes <john.balmes@ucsf.edu>, Tom Cackette <tcackett@arb.ca.gov>

CC: Linda Tombras Smith <lsmith@arb.ca.gov>, Erik White <ewhite@arb.ca.gov>, Bob Cross <rcross@arb.ca.gov>

James, John, Mike, Tom -- A head's up in case you're using your Blackberries, but we'll try to catch you at the lunch break.

Hien confessed last night that he does not have a PhD from UCD. He was in the program, passed his qualifiers, and has some pubs with his advisor, but hasn't worked on it for the past year. I'm trying to confirm with his advisor. Unfortunately, he's listed as holding a PhD as the lead author on the PM2.5 mortality report, and in a letter of response from Linda Adams to Stanley Young of the National Institute of Statistical Sciences in a letter last month

We learned this morning that James Enstrom is questioning the integrity of the PM2.5 report due to Hien in a comment letter on the truck rule. Linda's revising her Q+A to respond to this and other issues he's raised. We'll show you at noon as I would expect Enstrom to testify today or tomorrow.

Bart

Bart E. Croes, P.E. <bcroes@arb.ca.gov>

Chief

Research Division

California Air Resources Board

Exhibit #9

Subj: **Re: Thank you from J Telles**
Date: 11/10/2009 6:56:33 A.M. Pacific Standard Time
From: mnichols@arb.ca.gov
To: johngt103@aol.com

Dear John,

I did know, though I can't remember exactly when I was told. At the time I was told I recall thinking it was a very annoying distraction but not a fundamental problem for the truck rule, since Tran's work had been supervised and reviewed by others and he was not the source of any original research, but really just a compiler. I think it was a mistake not to have informed you and the rest of the Board about this issue. At the time, I thought that Tran's voluntary demotion and removal from the project would be sufficient to insulate the rest of the ARB until we could proceed to disciplinary action and obtain a new review of the mortality report. Basically I was guilty of thinking that since I "knew" the underlying truth of the information we should not allow this stupid personnel problem to derail a critical rulemaking.

While the relentless criticism has been a distraction, frankly I think it is manageable. But as I reflect on our conversation, I also realize that it was wrong not to have informed you and other Board members about the situation before we acted on the truck rule, and at least given you the chance to decide for yourselves whether a delay was needed.

Tran's conduct was both illegal and unethical. I truly believe that the staff response was a matter of poor judgment, but not deceptive or irresponsible. In any case, I want to apologize to you personally for failing to convey information you were entitled to have.

Best regards,
Mary

From: JohnGT103@aol.com <JohnGT103@aol.com>
To: Nichols, Mary D. @ARB
Sent: Mon Nov 09 21:59:42 2009
Subject: Thank you from J Telles

Dear Mary,

Thank you for taking the time to listen to my concerns. It occurred to me after I hung up that it was not clear to me whether or not you knew prior to the December 12th Truck Rule vote that Hein Tran had misrepresented his PhD. Did the Staff inform you prior to the December 12th vote? If you were not informed, do you think that the Staff should have informed you and all Board members and the public prior to the Vote?

John T

Exhibit #10

Subj: **RE: The misrepresented PhD**
 Date: 11/11/2009 6:39:04 A.M. Pacific Standard Time
 From: jbalmes@medsfgh.ucsf.edu
 To: JohnGT103@aol.com

Dear John:

Thanks for asking. As a newcomer to a policymaking role, I have tried to learn some lessons along the way since I was appointed to the Board. I have certainly learned from the Tran episode something that I should have already known, that transparency in policymaking is necessary.

When James Enstrom, an epidemiologist from the UCLA Cancer Center and an activist against regulation of diesel emissions, told me on a phone call sometime during Fall 2008 that Hien Tran did not have a PhD, I immediately e-mailed James Goldstone and Mary about this allegation.

I was not particularly worried about the content of the report Tran had written because I know the studies that were reviewed and feel that the evidence for a PM2.5-mortality association can speak for itself. Despite what some critics of CARB have said, the report is not a "study" presenting new data, nor even a formal meta-analysis of other studies. It is a distillation of exposure-response functions from multiple studies of the PM2.5-mortality association to come up with an overall PM2.5-mortality ERF to be used to support CARB policies.

The Tran report had been peer-reviewed by appropriately qualified scientists from outside of the agency who felt that the report's overall ERF was reasonable. I don't think that the Tran report is seriously flawed, although I went on record at the May or June 2008 meeting in Fresno when it was presented to the Board as saying something to the effect that while there is no doubt that the published data support a PM2.5-mortality association, there is a range of uncertainty about the slope of the exposure-response relationship, i.e., it depends on what studies one looks at.

Mary and James told me at the November or December 2008 Board meeting that their investigation had shown that Tran did not have a PhD; rather, he was a graduate student at UC Davis who had passed his qualifying exam, but not finished his dissertation. They told me that he would be subject to disciplinary action and that what that action would be was the subject of ongoing evaluation following state civil service rules.

Frankly, I don't think the Tran ERF is all that important to passing the truck rule. As I said above, I think the epidemiological data re: PM2.5 and health support controlling emissions from combustion sources, including diesel engines. Any independent review of the data will show the presence of associations with PM2.5 and health. The strength of the evidence has prompted the US EPA, the EU, and the WHO to promulgate increasingly strict air quality standards for PM2.5. The US EPA is currently considering a lower annual standard for PM2.5 because of the epidemiological evidence. If enacted the air quality of the SJV will be considered even more out of attainment than it already is.

I don't think the argument about whether CARB's new diesel emissions regulations are too tough should be about the science – I think the science is clear. To me, an appropriate discussion is about what level of regulation California society can afford during this time of economic recession.

That said, I think CARB leadership, including me (because I am a Board member who knew about the Tran PhD misrepresentation), should have handled the Tran report differently. Even though I don't think the Tran report is flawed, the credibility of the agency is jeopardized by the perception that the truck rule was based on a "study" conducted by an unqualified liar. In retrospect, I think that CARB should have withdrawn the Tran report and commissioned a new effort to develop an ERF. I now think that I should have pushed for such an action last Fall – this is the lesson that I have learned. When I discussed this with Mary recently, she told me she agrees that we should have a new independent review of the PM2.5-mortality ERF to replace the Tran report.

The US EPA is in the process of public review of a new Risk and Exposure Assessment for PM that uses an ERF that CARB could adapt. The WHO also has an expert panel working on developing an ERF to support the comparative risk assessment of the health impacts of outdoor air pollution as part of the update of their global burden of disease effort. The ERFs that come out of both of these efforts will support policies to control emissions of fine PM.

I did not vote for the truck rule based on the Tran report, but on what I know of the scientific evidence about the health effects of fine PM. However, I also support transparency in public policymaking and regret that information about Tran was not given to the Board at an earlier time.

I'm not entirely satisfied with this e-mail discussion so I'm happy to talk with you over the phone or in person.

Best,

JB

From: JohnGT103@aol.com [mailto:JohnGT103@aol.com]

Sent: Tuesday, November 10, 2009 9:26 PM

To: Balmes, John

Subject: The misrepresented PhD

Dear John,

From my review of "the misrepresented PhD" affair, it appears that you were informed before the Truck Rule vote that Hien Tran had misrepresented his PhD. If you had this knowledge before the Vote was there a reason that you did not make the whole board aware of this fact?

Sincerely

John T.

Board testimony on peer review process.

ARB 9-24-09.txt

19 Before I open it up to the Board, staff, I think
20 I'm going to let staff respond, because I think the
21 speakers are co-related.

22 EXECUTIVE OFFICER GOLDSTONE: First of all, I'll
23 ask Bart to talk about the research and the effort we put
24 into all the research we do in a general way and
25 specifically talk about the report in question, just about

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1 the peer review and process we went through on that.
2 RESEARCH DIVISION CHIEF CROES: Good morning.
3 I'll address two issues.
4 One is the peer review of the research itself.
5 So as you know, you have the legislatively required
6 Research Screening Committee, which consists of respected
7 academics from the University of California system, from
8 private colleges, and people from some funding
9 organizations like U.S. EPA, the South Coast AQMD, and the
10 Coordinating Research Council, which is the research arm
11 of the auto and oil industry. And basically this research
12 plan, every proposal has to go through this committee
13 before it can come to the Board. So this is an oversight
14 committee, not an advisory committee. If they reject the
15 research plan or the proposal, we would never be able to
16 take it to you. And they also review the final report.

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Exhibit #11

14 Also we went through a formal peer review process
15 managed by the University of California Office of the
16 President. They brought in six peer reviewers from all
17 over the country that agreed with the results of the
18 report.

19 The diesel industry asked us to include a seventh
20 peer reviewer, Phil Hopkey from Clarks University. He
21 also agreed with the conclusions of the report.

22 And, again, I went back to these peer reviewers
23 about six months ago, and they're still in agreement with
24 the report.

25 In addition, Chairman Nichols asked us to reach

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1 worldwide to academics and organizations to see if they
2 agreed with the reports. So we went to the World Health
3 Organization, Environment Canada, U.S. EPA, brought them
4 all to California either in person or on a telephone
5 conference, ~~went over the results of the report~~, and they
6 were in agreement.

7 Since our report's come out, a group of European
8 researchers has basically come out with the same result.
9 Before we put our report out, U.S. EPA went through a
10 process with 12 academics that also came to the same
11 conclusions that we did. So we feel this has had a pretty

17 So we consider that a very strong peer review.

18 Also, we require all our research to go through a
19 formal peer review process with scientific journals. And
20 generally each project generates one to five research
21 publications.

22 The speakers also questioned the peer review of
23 this report that we put out in 2008 identifying the
24 relationship between exposure to PM2.5 and premature
25 death. The person that managed some aspects of the

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1 project turned out to have falsely claimed that he had a
2 Ph.D. from an accredited college. And we had several
3 levels of peer review for that report. And after it was
4 discovered they falsified his Ph.D., we went back to this
5 peer review committee, gave them that information, and
6 asked if they had any changes in their review of the
7 report. And we had three academic advisors: Arden Pope
8 from Brigham Young University; Jonathan Levy from Harvard;
9 and Bart Ostro from our sister agency, OEHHA. And they
10 oversaw every aspect of Hein Tran's work of the entire
11 report. We relied on 78 peer review publications, and
12 they basically agreed with the -- basically it was their
13 recommendation that we brought to the Board.

14 Also we went through a formal peer review process
15 managed by the University of California Office of the
16 President. They brought in six peer reviewers from all
17 over the country that agreed with the results of the
18 report.

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8 researchers has basically come out with the same result.
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10 process with 12 academics that also came to the same
11 conclusions that we did. So we feel this has had a pretty

12 rigorous peer review.

13 ACTING CHAIRPERSON RIORDAN: Thank you for that
14 response. Board members, let me -- Dr. Sperling.

15 BOARD MEMBER SPERLING: You know, I think it's
16 always healthy to be raising questions about quality of
17 research and access to information and review and so on.
18 But I have to say, you know, in the years I've observed
19 ARB, this is the most extraordinary agency I've ever seen
20 anywhere in terms of the transparency, in terms of the
21 technical competence of the staff, in terms of outreach
22 and workshops that are conducted. I'm just inundated in
23 my mailbox with workshops every day on all of these
24 topics -- and the amount of peer review that goes on in
25 all the publications.

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1 So it's great that people are paying attention,
2 are concerned about these issues. And certainly we can
3 always, you know, do it better. But, you know, I have not
4 seen any government agency that does -- that manages the
5 technical parts and the review parts of these agendas
6 better than ARB. So I want to praise the staff for doing
7 such a good job.

8 ACTING CHAIRPERSON RIORDAN: Okay. Any other