

Third-Party Comment Form

HOW TO FILE A THIRD-PARTY COMMENT WITH WSCUC

1. Carefully read the ‘Submitting and Processing Third-Party Comments’ section of the WSCUC [Complaints and Third-Party Comments Policy](#) (pages 6-7).
2. Use the attached Third-Party Comment Form to submit a comment. You must complete all applicable sections of the form before the comment will be reviewed.
3. You may attach additional sheets of paper if you need more space. Include with the form any copies of documents and supporting materials that pertain to your comment. (50 page limit).
4. Mail or email your Third-Party Comment Form and any additional documentation or supporting materials to the address below.

Third-party identification

Please take careful note of the information in the Complaints and Third-Party Comments Policy regarding the declaration of identity on this form.

THIRD PARTY COMMENT REVIEW PROCESS

1. Third-party comments are reviewed by Commission staff after receiving the Third-Party Comment Form and supporting documents. Normally, no response is made to the commenter. If appropriate, staff may contact the commenter for clarification or additional information.
2. Commission staff will determine the appropriate course of review and action on the comment which may include, but is not limited to: sending the information to the institution, with or without the commenter’s name for its information or follow up; referring the information or a summary of issues to a future review team; holding the information in a file for future reference, or disregarding the information and taking no action.

If you have further questions, please contact:

WASC Senior College and University Commission (WSCUC)
985 Atlantic Avenue, Suite 100
Alameda CA 94501
Phone: 510-748-9001 x 300
Web: www.wscuc.org
Email: wscuc@wscuc.org

COMMENTER INFORMATION:

- I wish to remain anonymous
- I am identifying myself to WSCUC but do not wish to share my identity with the institution in question
- You may share my identity with the institution in question

Third-Party Commenter Name: _____

Email: _____

Phone: _____

INSTITUTIONAL INFORMATION

University or college named in the complaint:

Complainant's relationship to the university or college named above:

- Student Faculty Staff
- Other (please state): _____

Current status of relationship with university or college:

- Enrolled Graduated Withdrawn On Leave
- Resigned Terminated Employed
- Other (please state): _____

What is the basis of your comment?

Please provide any comment about the institution's quality or effectiveness.

Date: _____



California Dump Truck Owners Association

334 N. Euclid Avenue, Upland, California 91786
(909) 982-9898 Fax (909) 985-2348
web: cdtoa.org

August 10, 2010

Chancellor Gene D. Block
Executive Vice Chancellor and Provost Scott Waugh
University of California
2147 Murphy Hall
Los Angeles, CA 90095-1405

Dear Chancellor Block and Provost Waugh:

The undersigned association directors, company owners and interested parties write to protest the actions taken by UCLA to terminate Dr. James Enstrom as a member of the UCLA research faculty after more than 35 years of exemplary work. We believe that the actions are being taken in retaliation for Dr. Enstrom's efforts to expose scientific and professional misconduct by UCLA Faculty members, including Dr. John Froines and Mary Nichols. Both brought on criticism of UCLA because of their misuse of their faculty status and participation in conduct that was unethical while serving the State of California (their appointments due in part to their status as UCLA faculty members). Their conduct involved the cover-up of violations of state statutes by the California Air Resources Board (CARB) in its management of a key author of at least two key CARB scientific reports. It is now a fact that CARB head researcher, Hien T. Tran fraudulently represented that he had a PhD. We know that Dr. Froines and Mrs. Nichols knew of Dr. Enstrom's participation in efforts by citizens groups to uncover the scandals, and the timing of these actions to lay off Dr. Enstrom by UCLA is no coincidence. Mr. Skip Brown alerted UCLA administrators of these faculty members unethical actions in 2009, to no avail (see attached Delta letter of November 13, 2009).

In addition, Dr. Enstrom's extensive studies showing no death effects of diesel PM2.5 (specific to Californians) refute the stated positions of other professors at the UCLA Department of Environmental Health Sciences (EHS), namely Drs. Jackson and Winer along with SPH Dean Linda Rosenstock (<http://www.arb.ca.gov/lists/truckbus08/426-public-health-letter--truck-and-bus-rule-dec-2008.pdf>). UCLA is now involved in retaliation against a long-term, honorable member of the faculty in order to protect, cover up or intimidate (or all three).

The first reason given for Dr. Enstrom's dismissal was insufficient funding to continue his employment. Enstrom's request for UCLA to provide a proper accounting of his funding (February 9, 2010) was responded to (on February 10, 2010) with a formal layoff notice effective April 21, 2010. On February 12, 2010, Dr. Jackson promised a detailed explanation of potential accounting irregularities. Evidently there were some "accounting errors" made by the Department, because a re-analysis showed that there was approximately \$45,000 of research funding and over 3,000 hours of unused vacation and sick leave, which would allow full funding for Enstrom through December 11, 2011. According to Enstrom's letter to Dean Rosenstock on June 15, 2010, Drs. Jackson and Godwin promised to "help facilitate the use of my remaining funding to pay my salary from February 2010 through June 2010, **particularly if I did not contest the validity of the two layoff notices**".

The details of any negotiations to save Dr. Enstrom's position, such as trading vacation time and funding, are not as important as the continued effort of UCLA faculty members to vilify and remove Dr. Enstrom because his research contradicted senior UCLA faculty members' stated positions. We would suggest that UCLA's conduct in the negotiations is poisoned by the underlying motivations for attempting to end Dr. Enstrom's career as a member of the faculty on vindictive grounds. We are not sure how you would read the statement, "Particularly if I did not contest the validity of the two layoff notices," but the words *blackmail* (money to quiet the informer), *bribery* (something given to induce) and *coercion* (the unlawful act of compelling a person to do, or to abstain from doing, something by depriving him of the exercise of his free will, particularly by use or threat) all come to mind.

Would UCLA argue they are now advocates of agency overreach, or that they serve the public at large as a source of serious and reliable inquiry on matters of public health and welfare? Is the action taken by UCLA intended to intimidate any faculty member who might be critical of UCLA's role in propping up the CARB or CA EPA regulatory regime, based upon nationwide scientific studies that do not apply to California?

Now UCLA EHS department heads claim that Dr. Enstrom performs research "not aligned with the academic mission of the Department, and [his] research output and other contributions do not meet the Department requirements" (June 30, 2010 letter from Dr. Godwin). Dr. Enstrom responded to this claim on July 14, 2010 with a four-page document that specifically and categorically refutes these statements, at least according to his understanding of the Department's mission and his contribution efforts, both on and off campus utilizing symposiums and public forums. Even a cursory reading of this document sufficiently refutes the UCLA claim as stated by Dr. Godwin.

This "non re-appointment" is not because of research not aligned with the UCLA EHS departments' mission, but because Dr. Enstrom has actively tried to refute the continued efforts by UCLA faculty to pursue and support research **misrepresentations and overreaching** that will harm the California economy. Dr. Enstrom has indeed become a whistle blower in the best traditions – exposing UCLA and University of California faculty misconduct – and he has been instrumental in supporting an effort to stop the excessive regulatory zeal of the CARB and its parent organizations, the California and Federal EPA.

Nevertheless, while acknowledging Dr. Enstrom's letter, the new position had not changed, noting that "any unexpended funds will not be available for your use after August 30, 2010" (UCLA Letter of July 29, 2010). We must assume that this is the penalty exacted upon Dr. Enstrom for not accepting the first offer to "facilitate the use of my remaining funding to pay my salary." Dr. Godwin did not respond to even one of the statements Dr. Enstrom made in his denial of the validity of Dr. Godwin's reasons for dismissal. No dispute. No further support of UCLA's position. No rationale offered justifying the arbitrary decision.

This conduct by professionals who should be respectful in dealing with a faculty member with more than 30 years of distinguished service indicates that malignant motives are in play – the kind of spiteful motives that sometimes are on display in academia when personal enmity interferes with professional ethics and courtesy.

Mr. Skip Brown, one of the undersigned, attempted to contact Dr. Rosenstock on August 4, 2010, leaving a message with her (apparent) receptionist, Rebecca, requesting a conference. To this date, she has not responded. He also contacted Dr. Godwin on August 6, 2010, and, after identifying himself and his request for information as to what is the "mission of the Department," she stated she could not discuss these personnel matters with anyone else but Dr. Enstrom and promptly hung up. Mr. Brown did not intend to discuss "personnel matters," but Dr. Godwin's abrupt hang-up precluded him from clarifying the request as to only find out the mysterious "mission of the Department" that Dr. Enstrom was accused of not being aligned with.

If Dr. Enstrom's efforts over the last several years are not spot-on with the UCLA SPH website statement: "The Department of Environmental Health Sciences explores the fundamental relationship between human health and the environment," then we would like someone to explain where he has been going wrong for the last six years (at a minimum).

It is important you understand that the industries that utilize and own diesel powered equipment and trucks that we represent, are made up of somewhat "simple folk." We tend to call a spade a spade and treat issues such as these directly. After all, we deal in the real world of contractual obligations with firm performance requirements and deadlines. We read these letters and attempt to come to a conclusion from them as to the proper disposition of the Dr. Enstrom matter. We have already stated our opinion of Dr. Enstrom and his efforts for true and factual science in the matter of health effects from diesel particulate matter (see CDTOA Letter, June 23, 2010). Make no mistake, the cost to implement the onerous California Air Resources Board (CARB) regulations emanating from UCLA sanctioned studies are immense, and too many will ultimately be overwhelming.

We received a response to our letter from Dr. Rosenstock dated June 30, 2010 stating that "all policies and procedures are being followed in this matter, and we hope to come to a satisfactory resolution shortly." Well, if this is how you follow "all policies and procedures," the days of the "free expression of ideas and discussion" are now officially ended in the UCLA Campus. Dr. Enstrom is the subject of this "systemic suppression of academic freedoms" and, frankly, this is nothing less than character assassination by UCLA. Why? Because he disagrees with the very professors who hold sway over his position. Additionally, he has gone public with this disagreement. These professors have stated that diesel PM2.5 is minimally causing thousands of premature deaths if not killing thousands of Californians every year (apparently according to nationwide studies). These numbers that are continually parroted by CARB and EPA are as vague and irresponsible as the SPH Department's response to Dr. Enstrom for his layoff. His extensive study (of California residents only) shows no premature death from PM in California. His research is supported by several other scientists in this field, but not scientists from UCLA. Industry is rightfully demanding that the CARB review all studies before implementing regulations, based upon Dr. Enstrom's and others' research. At this time, mainly due to these "new" findings, CARB has forestalled implementation of the regulations, all mainly due to Dr. Enstrom's academic freedoms.

Because of his politically unpopular research results, Dr. Enstrom is on the "internal hit list" for removal. In the elite salons and faculty lounges at UCLA, it has been determined that he offends the "consensus" and his idea of free academic debate and inquiry are now too disruptive. UCLA would claim to be the protector of free academic inquiry, but this retaliation is clearly the product of a despicable intolerance and a cover-up of UCLA faculty misconduct already outlined above. Most importantly, this retaliation appears to be intended to protect the relationship of UCLA and the state agencies that provide so much grant funding and many appointments for UCLA and UC faculty. All these mutually beneficial arrangements might be disrupted by Dr. Enstrom, which could mean that his insistence on reasonable academic inquiry and sound research really is, as stated above by his department heads, "not in line with the academic mission of the department." **If the mission of UCLA is to be the "bought-and-paid-for research institution" for whatever the CA EPA or the CARB has on their "needs" list is shameful. Ultimately, UCLA and the UC system in general will be held primarily responsible for the incompetent and "fixed" research and reports behind CARB and EPA's draconian regulations associated with PM2.5.**

We may be members of the benighted class of taxpayers and not privy to the murmuring of UCLA faculty members and administration, but we know that scientific questions are not decided by concurrence, compromise, conformance, concession or consensus. We also know that Albert Einstein and other legitimate and honest scientists insist on free inquiry. They also recognize that one good experiment or

study can disprove even the most iconic of the “consensus” positions of the elites at UCLA or anywhere else. And Dr. Enstrom is not one to twist the science to get along with or to curry favor with CA EPA and CARB, or pander to their political ambitions by puffing up bad studies to justify funding received and regulatory overreach.

Dr. Enstrom followed the data, and he also followed the rules of proof of toxicity that are well established and widely ignored by UCLA faculty and others wedded to the hyper-regulation policy making of anxious environmentalists and their political allies. Dr. Enstrom started out a physicist and knows that science should be skeptical and attached to accuracy in the best traditions of empiricism, not skills for agencies with money and power.

The regulations passed by CARB are to be implemented supposedly based on true and accurate science IN CALIFORNIA, but research by Dr. Enstrom and others outside of UCLA clearly does not support such regulations. UCLA is now the sponsor of deceptive, unreliable research, and it appears to support not only scientific but also professional misconduct. Now it proposes to cover it all up or make it go away by discrediting a member of the faculty who exposed the systemic misconduct and the poorly crafted research. It appears that the ruling class and the academic doyens have the world of science and academic inquiry upside down and beholding to political and financial influence, not the pursuit of reliable science.

The research supported by UCLA faculty members used by the CARB and CA EPA shows that there may be evidence of premature death causation from diesel PM in Pittsburgh (PA), and even that is subject to question because it is a small effect in an observational study, but that is a long way from California and ignores the evidence that there is no premature death problem in California at all. To apply nationwide studies to California population projections to justify California regulations cannot be supported, but has been proposed by CARB and CA EPA, following UCLA faculty counsel and advice. But then CARB and CA EPA want to regulate and UCLA wants to get research money, so that incest and misconduct has been exposed by Dr. Enstrom and retaliation is now in the air.

Taxpayers and citizens have an interest in retaliation directed at respected members of the UCLA faculty if that has an impact on matters of public import. Dr. Enstrom’s research and his assistance have aided members of the public in their efforts to insist that UCLA faculty members act in accordance with ethical and professional canons and mores. Dr. Enstrom’s conduct has been in the best traditions of academic inquiry, and the UCLA administration clearly by word, act and timing appears to be punishing a faculty member for his honest and forthright efforts to assist the public. Members of the public have an interest in holding UCLA to its mission and to academic ethics.

This matter is a public matter, since it has the smell of retaliation against Dr. Enstrom for exposing UCLA faculty for misconduct and revealing a serious and continuing problem of UCLA looking away from misconduct. CARB and CA EPA have provided UCLA and UC with tens of millions of grant research dollars over the years and these campuses have returned political correct conclusions, justifying onerous CARB regulations. These draconian Regulations command the destruction of personal property; the resulting actions will guarantee that California **will not** recover from its current financial debacle.

We ask you to rescind the dismissal of Dr. Enstrom, as we refuse to consider it a justifiable “non re-appointment.” Please be mindful that we are men of experience and we know retaliation when we see it. Dr. Enstrom is not a popular person at UCLA in the faculty lounges where the consensus rules, but many scientists have been scorned and vilified for holding a minority position that was eventually vindicated.

Dr. Enstrom’s receipt of notice of acceptance for the paper, “Criteria Pollutants and Mortality in the NIH-AARP Diet and Health Study Cohort,” by the Health Effects Institute (July 6, 2010) speaks favorably of his status and continued excellent scientific efforts and peer approval in his area of expertise, even if he has suffered from a great deal of intolerance at UCLA. His continued position at UCLA will allow him to complete this important work.

The undersigned individuals are representative of many trade associations and several thousand California business owners who want this matter promptly and fairly resolved in favor of one UCLA faculty member they consider to be an ally in the effort to demand fair treatment by California agencies in these harsh economic times.

Thank you very much for your consideration.

Sincerely yours,



Lee Brown, Executive Director
CA Dump Truck Owners Assoc.



Skip Brown, President
Delta Construction Company, Inc.



Bryan Bloom, Owner
Priority Moving, Inc.



S. Stanley Young, PhD
Assistant Director of Bioinformatics, NISS



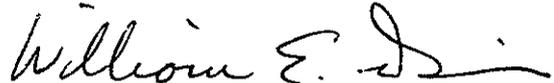
Scott Watson, President
Import Plywood Marketing Group



Rodney Michaelson, Past President
Equipment Maintenance Supervisors Association



Rick Holliday
North Bay Corporation



Bill Davis, Executive Vice President
Southern California Contractors Association



Anthony G. Patchett
Law Offices of Anthony G. Patchett



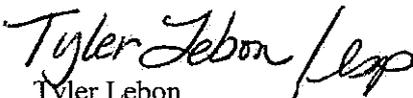
Jeff J. Lasse
VP Operations of a California Corp.



Dawn Wildman, President
So. Cal. Tax Revolt Coalition LLC
CA State Coordinator for Tea Party Patriots
National Coordinator Tea Party Patriots



Lowell Robinson, President
Robinson Enterprises, Inc.



Tyler Lebon
Fremont Paving Company, Inc.



Ernest Montano, President
Del Valle, Kahman & Company, Inc.



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

October 9, 2013

Council on Education for Public Health
1010 Wayne Avenue, Suite 220
Silver Spring, MD 20910-5600

Attn: Laura Rasar King, MPH, MCHES
Executive Director

Re: Denial of Further Accreditation, UCLA Fielding School of Public Health

Dear Ms. King,

I note that the UCLA Fielding School of Public Health (SPH) is in the process of being reviewed for adherence to proper public health educational standards and for renewal of its accreditation by the Council of Education for Public Health (CEPH).

I submit that the SPH has not adhered to CEPH's stated policies and procedures. The SPH should not receive renewal of accreditation without convincing evidence of their ability and intention to live up to CEPH standards. The SPH behavior over the past fifteen plus years has been abysmal.

The California Air Resources Board (CARB) has established draconian regulations on the ownership and use of diesel engines in California "supported" by scientific reviews of the toxicity of diesel exhaust emanating from the SPH beginning in the early 1990's. These regulations apply to the bulk of my personal property and have decimated the net worth of my 70-year family business. As attempts by me and many others to "reason" with CARB failed, I began to review the veracity of the epidemiological studies and scientific reviews used to justify said regulations. Upon discovery of serious violations of University of California Standards of Ethical Conduct by SPH Environmental Health Sciences Professor John R. Froines and UCLA Law Professor Mary D. Nichols, I sent a letter to UCLA Chancellor Gene D. Block on March 11, 2009 (Attachment A). After his refusal of a requested meeting, I sent UCLA a follow-up letter on April 13, 2009 (Attachment B) outlining well- documented charges of serious scientific misconduct (falsification) by Professors Froines and Nichols (a violation of UCLA Policy 993). My charges were summarily rejected by the May 27, 2009 response from William Cormier, UCLA Director of Administrative Policies and Compliance (Attachment C). Mr. Cormier used excuses, such as "...the University does not investigate the outside conduct of its faculty or staff" (Attachment C, Page 2).

I rebutted UCLA's May 27, 2009 letter with my letter of June 30, 2009 (Attachment D) with more specific charges related to Professor Froines' violation of the University of California Standards of

Ethical Conduct (with 66 pages of supporting documents, available upon request). The cruxes of my concerns are outlined in the first five pages, which need to be carefully read. Mr. Cormier's reply of September 28, 2009 (Attachment E) concluded that "...the information you have provided are not evidence of falsification of research results or other research or ethical misconduct that would warrant any further inquiry under University policy."

Mr. Cormier's letters to me were marked "Personal and Confidential." I believe that these letters should be made public and I have included them in my submission to CEPH in the interest of fairness so that you can read UCLA's efforts to discredit my charges.

I then followed my above letters with two separate letters, both on October 1, 2009 to Richard J Jackson, M.D., M.P.H., SPH Professor and Chair, Environmental Health Sciences (Attachment F) and to Henry Powell, M.D., Chair and Daniel Simmons, J.D., Vice Chair, University of California Systemwide Academic Senate (Attachment G). None of these prominent UC professors addressed my detailed evidence of scientific misconduct by Professor Froines.

My final letter to Mr. Cormier dated November 13, 2009 (Attachment H) outlines how UCLA has chosen to ignore detailed evidence of scientific misconduct and to support a very narrow interpretation of ethics and professionalism. The positions of influence that Professor Froines (Chair, CARB Scientific Review Panel on Toxic Air Contaminants) and Professor Nichols (CARB Chair) have held are derivative of their UCLA stature. They have a fiduciary duty to be dispassionate and even-handed in review of evidence and recommendations for regulations. These charges that I brought show otherwise, all ignored by UCLA. I beseech you to read this letter carefully, and, to the extent possible, to read all of the Attachments. It is here where I explain that the failings of UCLA's SPH and Office of Administrative Policies and Compliance have forfeited the right of the SPH to receive continued accreditation by CEPH.

So why did this behavior occur and why has it been allowed to continue? Just follow the motivations. It is no secret that both Professor Froines and Professor Nichols are environmental activists. CARB funds "studies" that provide "evidence" of the need to regulate air pollution, which is its main activity. CARB has funding for the "studies" and UCLA (needing funding to support the SPH) can provide the studies. The only "requirement" for the completion of this "mutual back-scratch" is for the "studies" to show adverse health effects of air pollution, such as, relating diesel particulate matter (PM) to lung cancer and "premature death." Then Professor Froines conducts a "scientific review" of these studies and subsequently classifies diesel PM as a toxic air contaminant, as he did in 1998. The "scientific review" purports that the strength of the association is adequate to justify a causal relationship. CARB then uses these studies and the "scientific review" by Professor Froines to justify draconian diesel vehicle regulations on businesses such as mine.

My conclusion is that UCLA has decided to "look the other way" when presented with serious documented evidence of scientific misconduct and unethical behavior by SPH Professor John R. Froines and those in the SPH who have tolerated and cooperated with him. UCLA has opted to take an advocacy role in air pollution regulations, cherry picking data, dismissing contrary evidence, and firing those who disagree with their agenda. It does this for the money offered by the governmental agencies who wish to regulate and control industry. The result will be the destruction of the State, starting with yours truly and millions of businesses like mine.

If the stated Goals, Objectives and Values of the CEPH are to be adhered to, UCLA should **NOT** receive further accreditation as it fails to:

- Provide assurance of professional personnel who are able to identify, prevent and solve community health problems.
- Promote quality in public health education through a continuing process of self-evaluation.
- Meet standards essential for the conduct of educational programs.
- Provide for quality and innovation in process and outcomes.
- Be consistent in fairness and transparency.
- Support positive environments to provide for impartial, objective, responsible scientific and economic inquiry on air pollution issues.

If the CEPH is to “assure quality in public health education in training to achieve excellence in practice, research and service”, it must at this juncture, deny UCLA accreditation. A thorough review of UCLA’s behavior on this issue (at a minimum) is warranted and through this letter, demanded.

Sincerely,



Norman R. “Skip” Brown
Owner

Attachments: A – H (supporting documents available upon request)



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ATTACHMENT A

CONSTRUCTION CO., INC.

March 11, 2009

Chancellor Gene Block
University of California, Los Angeles
2147 Murphy Hall
Los Angeles, CA 90095-1405

Re: Alleged Unethical Conduct by Two UCLA Professors

Dear Chancellor Block:

I am the owner and manager of Delta Construction Company, Inc. for the past 44 years. The construction industry, an essential part of the California economy, depends to a large extent on the use of diesel powered vehicles and equipment. Our industry in general and my business in particular has been severely impacted by the stringent and costly portable, off-road and on-road diesel emissions regulations that the California Air Resources Board (CARB) has approved since 2004. I have outlined this impact in my attached November 25, 2008 letter to Governor Arnold Schwarzenegger.

Because of the severe impact of these regulations, several knowledgeable individuals and I have independently assessed the scientific and legal procedures used by CARB to establish them. Based on this assessment, I believe that there is extensive strong evidence that two senior UCLA professors have deliberately and repeatedly violated the letter and the spirit of the *University of California Standards of Ethical Conduct* and the *California Health and Safety Code*.

Thus, I request a meeting with you in order to determine if this evidence is appropriate and sufficient for the filing of formal allegations of unethical conduct by these two UCLA professors. The general nature of this evidence involves gross misrepresentation of scientific results in the research record, failure to follow proper legal requirements for establishing California regulations, and blatant disregard of legitimate concerns regarding the scientific and economic aspects of California regulations. I am prepared to present the complete evidence during our meeting or in another appropriate forum.

Thank you very much for your consideration regarding this matter, which is extremely important me and many other impacted California businessmen, who are struggling to survive in the current troubled economy.

Sincerely yours,


Norman R. "Skip" Brown
President



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CLN 257024

ATTACHMENT B

CONSTRUCTION CO., INC.

April 13, 2009

Chancellor Gene Block
University of California, Los Angeles
2147 Murphy Hall
Los Angeles, CA 90095-1405

Re: Alleged Unethical Conduct by UCLA Professors Mary D. Nichols and John R. Froines

Dear Chancellor Block:

I greatly appreciate the March 17, 2009 response from William H. Cormier regarding my March 11, 2009 letter to you concerning two UCLA professors. In separate enclosed complaints I have presented specific allegations of unethical conduct against UCLA Professors Mary D. Nichols and John R. Froines. These complaints are directly related to provisions in the *UCLA Policy 993*, the *University of California Standards of Ethical Conduct*, and the *California Health and Safety Code*. Specifically, I allege that these two professors, through their actions in connection with the California Air Resources Board (CARB), have grossly misrepresented scientific results in the research record. This amounts to falsification, a direct violation of *UCLA Policy 993*. In addition, they have failed to follow proper legal requirements for establishing California regulations, a direct violation of the *University of California Standards of Ethical Conduct* and the *California Health and Safety Code*. Because of the seriousness of these complaints, I request that you personally review them. You may forward the second copy to Mr. Cormier for formal evaluation.

My complaints primarily concern a major on-going scientific dispute over the health effects of diesel particulate matter (PM) on Californians. My understanding is that the available epidemiological and toxicological evidence regarding diesel PM health effects in California does not justify the draconian regulations approved by CARB to reduce diesel emissions from off-road and on-road diesel vehicles. During the past two years, Professor Nichols, Chair of CARB, has played a major role in the approval of these diesel regulations, which are estimated to cost more than \$10 billion to implement. During the past eleven years, Professor Froines, Chair of the CARB Scientific Review Panel on Toxic Air Contaminants, has played a major role in designating diesel PM as a toxic air contaminant (TAC) and in emphasizing the adverse health effects of diesel PM on Californians.

Both Professors Nichols and Froines support the CARB claim that diesel PM contributes to 3,500 premature deaths per year in California. The alleged lethality of diesel PM is the primary public health rationale for the off-road diesel regulations that CARB put into effect on June 15,

Chancellor Gene Block

April 13, 2009

2008 and the on-road diesel regulations that CARB approved on December 12, 2008. I believe that Professors Nichols and Froines are the two individuals most responsible for these costly diesel regulations. Furthermore, I believe that these regulations are not warranted for these several important reasons:

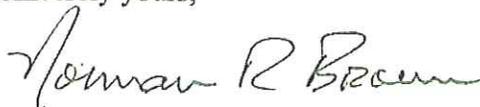
- The observational epidemiologic evidence relating diesel PM and mortality, particularly within California, is too weak and uncertain to justify CARB regulations;
- The epidemiologic evidence relevant to California has not been independently verified;
- CARB peer reviewers and scientific advisors are biased towards the regulatory goals expounded by CARB;
- With one of the lowest total age-adjusted death rates in the United States, California certainly cannot be experiencing premature deaths due to diesel PM.

My concerns are the same as those contained in the enclosed February 17, 2009 letter to Professor Nichols and other CARB members from Assemblymen Chuck DeVore and Mike Villines and Senator Lou Correa of the California State Legislature (Attachment A). This letter provides scientific, legal, and economic justifications for the "Temporary Suspension of CARB On-Road and Off-Road Diesel Truck Regulations." Further criticism of CARB diesel science and regulations is given in the following enclosures: May 27, 2008 Washington Times Commentary "Diesel Risks Mostly Hot Air?" (Attachment B) by Henry I. Miller, M.D., of the Hoover Institution at Stanford University and December 3, 2008 "Request to Postpone and Reassess CARB Diesel Regulations" (Attachment C) by James E. Enstrom, Ph.D., and Matthew A. Malkan, Ph.D., of UCLA, Robert F. Phalen, Ph.D., of UC Irvine, and Anthony Fucaloro, Ph.D., of Claremont McKenna College.

In summary, I request that you have my allegations evaluated in accord with *UCLA Policy 993*. If my allegations are not clear enough, I request the opportunity to submit additional clarifying material. Based on my own frustrating experiences in dealing with Professor Nichols regarding CARB diesel science and regulations, it may be very difficult for UCLA to fully and fairly evaluate my allegations, but I greatly appreciate your willingness to try. I, along with countless others, have pleaded with Professor Nichols about the devastation to California industries without adequate justification, only to be met with indifference bordering on animus to those of us whose businesses will be destroyed via edict. Since this matter is extremely important to me and thousands of other adversely impacted California businessmen who are struggling to survive in the current troubled economy, I eagerly await your findings.

Thank you very much for your consideration.

Sincerely yours,



Norman R. Brown, President
Delta Construction Company, Inc.

Alleged Unethical Conduct by UCLA Professor Mary D. Nichols

Mary D. Nichols is Professor in the UCLA Institute of the Environment (http://www.ioe.ucla.edu/people/person.asp?Facultystaff_ID=10) and Professor in Residence in the UCLA Law School (<http://www.law.ucla.edu/home/index.asp?page=640>), as well as Chair, California Air Resources Board (CARB) (<http://www.arb.ca.gov/board/bio/chair.htm>). Below are four specific allegations of unethical conduct by Professor Nichols, who has been directly involved with matters described in each allegation. Several hundred pages are needed to fully describe these allegations, but only a few essential pages have been enclosed with this complaint. All of the pages can and should be viewed or printed from the Internet by using the weblinks contained within the text below.

1) Three Allegations of Falsification of Scientific Evidence:

a) The October 24, 2008 CARB Staff Report “Methodology for Estimating Premature Deaths Associated with Long-term Exposure to Fine Airborne Particulate Matter in California” (http://www.arb.ca.gov/research/health/pm-mort/pm-mort_final.pdf) seriously misrepresents the relationship between fine particulate matter (PM) and premature deaths in California and does not properly incorporate 148 pages of July 11, 2008 CARB public comments on the draft version of this report (http://www.arb.ca.gov/research/health/pm-mort/pm-mort_supp.pdf). Evidence of falsification is given in the public comments and in the scientific criticism published in the January 2009 California Transportation News “A Regulatory Fraud or a Polluted Process?” (http://www.cdtoa.org/old_archives/2009/01_09/TransNewsLowResProof.pdf), pages 5-9, 11, 26, 27.

b) The December 16, 2008 CARB summary “Health Effects of Diesel Exhaust Particulate Matter” (http://www.arb.ca.gov/research/diesel/dpm_draft_3-01-06.pdf) is featured as part of “Diesel Health Effects” on the homepage for CARB “Diesel Programs and Activities” (<http://www.arb.ca.gov/diesel/diesel.htm>). This summary misrepresents the current health effects of diesel PM in California and fails to incorporate the July 11, 2008 public comments on CARB diesel science (http://www.arb.ca.gov/research/health/pm-mort/pm-mort_supp.pdf). Evidence of falsification in this summary is given in the public comments and the scientific criticism published in the January 2009 California Transportation News, as cited above.

c) A March 15, 2009 Bakersfield Californian column (Attachment D) by Assistant Managing Editor Lois Henry describes how bad science and regulations from CARB are harming California industries (<http://www.bakersfield.com/news/columnist/henry/x1763640146/Lois-Henry-Dodgy-science-strangles-industry>). In her March 25, 2009 Bakersfield California Forum response (Attachment E) to Lois Henry, Professor Nichols seriously misrepresents the current health effects of diesel PM on Californians and indicates no willingness to address legitimate criticism of CARB diesel science (<http://www.bakersfield.com/opinion/forum/x468334809/California-cant-wait-on-diesel-regs>). In her March 25, 2009 Blog response to Professor Nichols (Attachment F), Lois Henry fully defends her column, emphasizing that the epidemiologic studies used by CARB have not been independently verified (<http://people.bakersfield.com/home/Blog/noholdsbarred/42886#comments>). Furthermore, a March 14, 2009 San Diego Union-Tribune editorial (Attachment G) harshly criticizes CARB diesel science (<http://www3.signonsandiego.com/stories/2009/mar/14/lz1ed14top213329-air-boards-shame>).

2) Allegation of Failure to Follow California Health and Safety Code Sections 39670-39671

California Health and Safety Code Sections 39670-39671 define the CARB Scientific Review Panel (SRP) on Toxic Air Contaminants (TAC) (Attachment H) (<http://caselaw.lp.findlaw.com/cacodes/hsc/39670-39671.html>) and (<http://www.scientificintegrityinstitute.org/SRP060608.pdf>), as summarized on two enclosed pages. Section 39670 (b) states "The members of the panel shall be highly qualified and professionally active or engaged in the conduct of scientific research, and shall be appointed as follows, subject to Section 39671, for a term of three years." Section 39670(b) (4) states "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." Section 39671 states "The terms of the members of the Scientific Review Panel on Toxic Air Contaminants appointed pursuant to subdivision (b) of Section 39670 shall be staggered so that the terms of three members expire each year." Section 39671 is a result of the February 21, 1986 Assembly Bill AB 3792 by Marion La Follette, which states "Existing law establishes the Scientific Review Panel on Toxic Air Contaminants composed of 9 members appointed for 3-year terms effective January 1, 1984. . . . This bill would revise the terms of panel members by extending the terms of 3 panel members until January 1, 1988, and 3 until January 1, 1989, as specified, so that the terms of the members will be staggered with 3 terms expiring each year." (<http://www.scientificintegrityinstitute.org/SRPAB090983.pdf>). The specification of "a term of three years" and of precise ending dates above clearly indicates that the intent of the California legislature was to have timely turnover on the panel, not appointments of indefinite length.

However, Professor Nichols has not followed the above Code Sections regarding the appointment and reappointment of SRP members. Information from CARB SRP transcripts and other sources indicates that all current SRP members have served at least 5 years, 5 members have served at least 12 years, and two members have served at least 23 years. One member who has been on the panel since 1986 was reappointed on January 9, 2008; another member who has been on the panel since 1997 was reappointed on February 10, 2009; and another member who has been on the panel since at least 1986 is up for reappointment during 2009. Because SRP members have not been nominated or renominated in accordance with Code Section 39670 (b), the SRP has been dominated for two decades by a few activist scientists who are NOT representative of the large pool of California scientists who are qualified to serve. If representative scientists had been on this panel in 1998 then diesel PM may never have been designated as a TAC and the Draconian diesel regulations approved by CARB may never have been imposed on California businesses. When a regulatory agency like CARB has vast authority and impacts the economic viability and livelihood of thousands of Californians, it is very important that this agency follow the law as enacted by the California legislature. During the past year Professor Nichols has been repeatedly informed about these legal issues, such as, via the enclosed February 17, 2009 letter from Assemblymen Chuck DeVore and Mike Villines and Senator Lou Correa (Attachment A) of the California State Legislature (http://www.arb.ca.gov/lists/siprev09/1-carb_devore_villines_correa_letter_regarding_diesel_regs_021709.pdf).

Alleged Unethical Conduct by UCLA Professor John R. Froines

John R. Froines, Ph.D., is Professor in the UCLA School of Public Health (http://portal.ctrl.ucla.edu/sph/institution/personnel?personnel_id=45492) and UCLA Institute of the Environment (http://www.ioe.ucla.edu/people/person.asp?Facultystaff_ID=75), as well as Chair, California Air Resources Board (CARB) Scientific Review Panel (SRP) on Toxic Air Contaminants (TAC) (<http://www.arb.ca.gov/srp/public.htm>). Below are two specific allegations of unethical conduct by Professor Froines. Several hundred pages are needed to fully describe these allegations, but only a few essential pages have been enclosed with this complaint. All of the pages can and should be viewed or printed from the Internet by using the weblinks contained within the text below.

1) Allegation of Falsification of Scientific Evidence:

Evidence of falsification is contained in the enclosed June 4, 2008 letter (Attachment I) that Professor Froines wrote to Senator Don Perata recommending California Senate confirmation of Mary D. Nichols as Chair, CARB (<http://www.scientificintegrityinstitute.org/FroinesNichols060408.pdf>). This letter included the enclosed Attachment on diesel particulate matter (PM) and mortality (<http://www.scientificintegrityinstitute.org/FroinesDiesel060408.pdf>). The 23 scientists that Professor Froines cited in the Attachment all agreed with the findings of CARB Staff Report on PM and premature deaths (http://www.arb.ca.gov/research/health/pm-mort/pm-mort_final.pdf). However, his letter and Attachment failed to cite a single dissenting scientist or any of the epidemiologic evidence that clearly indicates there is NO current relationship between PM and mortality in California. His sentence "While there may be a few studies that suggest a lack of evidence for the relationship, the overwhelming evidence suggests the relationship is positive" does not accurately describe the epidemiologic evidence in California. Specific evidence of falsification in the Attachment is given in the enclosed pages of scientific criticism published in the January 2009 California Transportation News "A Regulatory Fraud or a Polluted Process?" (Attachment J) (http://www.cdtoa.org/old_archives/2009/01_09/TransNewsLowResProof.pdf, pages 7-9).

Furthermore, Professor Froines failed to mention the extensive, long-term efforts to reverse the August 27, 1998 CARB declaration of diesel PM as a TAC, which was a direct result of his May 27, 1998 diesel TAC letter (<http://www.arb.ca.gov/toxics/dieseltac/combined.pdf>). Professor Froines is well aware of the intense scientific controversy regarding diesel PM because he was named as a defendant in the 1999-2006 lawsuit (Apodaca et al. v. California Air Resources Board et al.) that challenged the diesel PM TAC declaration (<http://www.scientificintegrityinstitute.org/Apodaca021706.pdf>). Also, Professor Froines is well aware that three of the 23 scientists he cited in the Attachment have published key epidemiologic research on PM and mortality that is based on the 1982 American Cancer Society (ACS) Cancer Prevention Study (CPS II) cohort database. These three scientists have refused to facilitate any form of independent reanalysis of the ACS database, in violation of the Federal Data Quality Act. For his Attachment to be objective, Professor Froines should have acknowledged that the evidence used by CARB to establish a relationship between diesel PM and mortality in California has not been independently verified and is still highly disputed, as evident in the 148 pages public comments on this relationship, that were submitted to CARB as of July 11, 2008 CARB (http://www.arb.ca.gov/research/health/pm-mort/pm-mort_supp.pdf).

2) Allegation of Failure to Follow California Health and Safety Code Section 39670.

Professor Froines has served as the toxicologist on the CARB SRP since at least 1986 and is currently up for reappointment to another three-year term. No other California toxicologist has had an opportunity to serve during this period. This is in violation of the letter and spirit of the California Health and Safety Code Section 39670, which clearly specifies that each SRP member is to be appointed for a term of three years and is to be appointed from a pool of at least three nominees submitted to the appropriate appointing body by the President of the University of California (<http://caselaw.lp.findlaw.com/cacodes/hsc/39670-39671.html>). Indeed, the selection process for all nine SRP members has not followed Code Section 39670. Information from CARB SRP transcripts and other sources indicates that all SRP members have served at least 5 years, 5 members have served at least 12 years, and Professor Froines and one other member have served at least 23 years. One consequence of this pattern of service is that the SRP consists primarily of activist scientists who are NOT representative of the diversity of all California scientists who are qualified to serve on this panel. Furthermore, Professor Froines, who has been SRP Chair since 1998, is well aware of this situation regarding SRP appointments.

Since Professor Froines first began assessing diesel exhaust as a potential TAC for the SRP in 1989, he has been the California scientist most responsible for emphasizing the adverse health effects of diesel PM and for getting it declared a TAC. This TAC declaration is primarily based on weak and controversial epidemiologic relationships between PM and deaths, not on the toxicological evidence that falls within Professor Froines' scientific area of expertise. Most experimental toxicological evidence does not support the health risks of diesel PM found in the epidemiologic studies. Furthermore, other California toxicologists disagree with Froines' assessment of diesel PM toxicity. UC Irvine Professor Robert F. Phalen has described this disagreement in his 2002 book "The Particulate Air Pollution Controversy: A Case Study and Lessons Learned" (http://www.amazon.com/gp/reader/1402072252/ref=si3_rdr_ty). Professor Phalen has run the UC Irvine Air Pollution Health Effects Laboratory for over 30 years and currently serves on the directly relevant US Environmental Protection Agency (EPA) Clean Air Scientific Advisory Committee Particulate Matter Review Panel (CASAC-PMRC) (<http://yosemite.epa.gov/sab/sabpeople.nsf/WebPeople/PhalenRobert%20F.?OpenDocument>). Furthermore, the 669-page 2002 US EPA "Health Assessment Document for Diesel Engine Exhaust" does not support the CARB finding that diesel exhaust causes premature deaths (<http://cfpub.epa.gov/ncea/cfm/recordisplay.cfm?deid=29060>).

This scientific controversy is one key reason why it is important to have appointments to the SRP made in full accordance with Code Section 39670. The fact that CARB diesel regulations costing billions of dollars to implement are a direct result of a SRP TAC determination is an even more important reason why Professor Froines and other SRP members should be required to strictly adhere to all relevant provisions of California Health and Safety Code. Since thousands of California businesses are in danger of extinction because of CARB regulations that do not exist in any other state and that appear to be scientifically unjustified, the above allegations of unethical conduct should be fully and fairly evaluated in a timely manner.

Attachments:

- (A) February 17, 2009 letter to Professor Nichols and other CARB members from Assemblymen Chuck DeVore and Mike Villines and Senator Lou Correa of the California State Legislature (http://www.arb.ca.gov/lists/siprev09/1-carb_devore_villines_correa_letter_regarding_diesel_regs_021709.pdf) (2 pages)
- (B) May 27, 2008 Washington Times Commentary “Diesel Risks Mostly Hot Air?” by Henry I. Miller, M.D., of the Hoover Institution at Stanford University (<http://www.ciaqc.com/ciaqc/releases/49.htm>) (2 pages)
- (C) December 3, 2008 “Request to Postpone and Reassess CARB Diesel Regulations” by James E. Enstrom, Ph.D., and Matthew A. Malkan, Ph.D., of UCLA, Robert F. Phalen, Ph.D., of UC Irvine, and Anthony Fucaloro, Ph.D., of Claremont McKenna College (http://www.arb.ca.gov/lists/truckbus08/902-request_to_postpone_and_reassess_carb_diesel_regulations_120308.pdf) (1 page)
- (D) March 15, 2009 Bakersfield Californian column by Assistant Managing Editor Lois Henry (<http://www.bakersfield.com/news/columnist/henry/x1763640146/Lois-Henry-Dodgy-science-strangles-industry>) (2 pages)
- (E) March 25, 2009 Bakersfield Californian letter by Professor Nichols (<http://www.bakersfield.com/opinion/forum/x468334809/California-cant-wait-on-diesel-regs>) (1 page)
- (F) March 25, 2009 response to Professor Nichols by Lois Henry (<http://people.bakersfield.com/home/Blog/noholdsbarred/42886#comments>) (1 page)
- (G) March 14, 2009 San Diego Union-Tribune editorial “Air Board’s Shame” (<http://www3.signonsandiego.com/stories/2009/mar/14/lz1ed14top213329-air-boards-shame>) (attached PDF) (1 page)
- (H) Summary of California Health and Safety Code Sections 39670-39671 which define the CARB Scientific Review Panel (SRP) on Toxic Air Contaminants (TAC) (<http://www.scientificintegrityinstitute.org/SRP060608.pdf>) (2 pages)
- (I) June 4, 2008 letter that Professor Froines wrote to Senator Don Perata recommending California Senate confirmation of Mary D. Nichols as Chair, CARB (<http://www.scientificintegrityinstitute.org/FroinesNichols060408.pdf>) (2 pages) June 4, 2008 Attachment from Professor Froines on diesel particulate matter (PM) and mortality (<http://www.scientificintegrityinstitute.org/FroinesDiesel060408.pdf>) (2 pages)
- (J) Evidence of falsification in the Froines Attachment in the January 2009 California Transportation News “A Regulatory Fraud or a Polluted Process?” (http://www.cdtoa.org/old_archives/2009/01_09/TransNewsLowResProof.pdf), (pages 7-9)

ATTACHMENT C

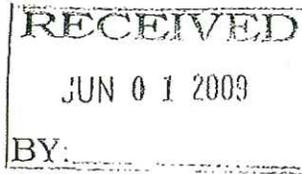
UNIVERSITY OF CALIFORNIA, LOS ANGELES

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May 27, 2009

PERSONAL & CONFIDENTIAL

Norman Brown
Delta Construction Company
P.O. Box 277517
Sacramento, CA 95827

Re: Your Allegations of Unethical Conduct by Two UCLA Professors

Dear Mr. Brown:

This responds to the letter and supporting materials you submitted to UCLA Chancellor Gene Block and to me on April 13 alleging certain unethical conduct by UCLA Professors Mary Nichols and John Froines related to their service on the California Air Resources Board (ARB). As I informed you on our recent phone conversation, UCLA has concluded that your concerns raise public policy issues only and not issues of potential research misconduct, as you contend, that would warrant an investigation under University policy.

Your concern is with what you described as a major on-going scientific dispute over the health effects of diesel particulate matter (PM) on Californians and recently approved ARB regulations reducing diesel truck vehicle emissions that will impose significant costs to your industry. You cite scientific arguments that the available epidemiological and toxicological evidence regarding such health effects does not justify the "draconian" regulations that were approved and the lack of independent verification of the evidence on which the ARB did rely. You cite a letter from California Assemblymen Chuck DeVore and Mike Villines and Senator Lou Correa which purports to provide scientific, legal, and economic justifications for the temporary suspension of the CARB regulations, and you attached to your letter a number of news, commentary, trade journal articles, and scientific references critical of the regulations.

You fault Mary Nichols, Chair of ARB and John Froines, Chair of the Scientific Review Panel on Toxic Air Contaminants that advises ARB, as most responsible for designating diesel PM as a toxic air contaminant based on an exaggeration of the adverse health effects of diesel PM on Californians. You assert that both Professors Nichols and Froines support the ARB claim that diesel PM contributes to 3,500 premature deaths per year in California and you refer to scientific arguments that such a claim ignores evidence of substantial geographic variation in the PM health effects within the United States and within California. As to each of the UCLA

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May 27, 2009
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Professors you allege the falsification of scientific evidence and a failure to follow California Health and Safety Code Sections 39670-39671.

In response, let me first point out that the University's investigative and disciplinary processes are limited generally to actions of our faculty and staff that occur within the course and the scope of their University employment. University faculty, in particular, are typically engaged in various scientific, cultural and other public service activities nationally and internationally. The University might have reason to examine the outside activity of an employee in circumstances where serious misconduct there reflects unfavorably on the University or where the employee's participation in the outside activity raises a question of an unresolved conflict of interest or commitment. But absent such circumstances the University does not investigate the outside conduct of its faculty or staff.

Secondly, the conduct you question here concerns the outside State government service activities of Professor Nichols in her role as Chair of the Air Resources Board and of Professor Froines in his role as Chair of the Scientific Review Panel. ARB board members are appointed by the Governor with the consent of the Senate. Such board members serve at the pleasure of the Governor. The Scientific Review Panel members are appointed by the Secretary of Environmental Protection (five members); the Senate Committee on Rules (two members), and the Speaker of the Assembly (two members).

The conduct of board and panel members in connection with their board activities is subject to oversight by agencies of the State government and the State legislature. Your concerns are with State governmental actions and are more properly addressed to the State entities responsible for appointing the board or panel members and overseeing the activities of the board. The usual administrative, legal, and political process remedies are available to those who wish to question or challenge State agency actions. It would be an improper confusion of roles for the University to investigate the actions of governmental agencies or its members, who happen to be faculty members, for the purpose of disqualifying or discrediting such faculty in the discharge of their government service responsibilities.

Third, your concern with the purported failure of our two faculty members in following the California Health and Safety Code section concerned with the terms of appointment for Scientific Review Panel members is misdirected to the University. Clearly, such concerns there should be directed to those State officials responsible for making such appointments, that is, as identified in the applicable statute and above, the Secretary of Environmental Protection, the Senate Committee on Rules, and the Speaker of the Assembly.

Lastly, your allegation of falsification of scientific evidence misconstrues the purpose and reach of our Policy for Responding to Allegations of Research Misconduct which you cited. This policy applies to research conducted by UCLA faculty or academic appointees under the sponsorship of UCLA and is narrowly focused on specific instances of fabrication of data, falsification or plagiarism. This policy is not used to settle bona fide scientific disputes over the interpretation of data.

You refer to evidence of falsification given in public rule-making comments and in scientific criticism published in the trade publication California Transportation News, including

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May 27, 2009
page 3

criticism in that publication by another UCLA public health professor. While this criticism includes charges of bad science, lack of independent verification of studies, and unwillingness by the ARB to address legitimate criticism, it does not support your charge that data was falsified, much less specific data in scientific research published at UCLA by our professors.

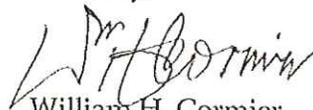
You criticize Professor Froines for being most responsible for emphasizing the adverse health effects of diesel PM in California, for failing to acknowledge or credit dissenting scientific views, and for his long tenure on the Scientific Review Panel which you believe violates the letter and spirit of the appointment statute. However, you do not present credible evidence that Professor Froines falsified research data. Your allegation of research misconduct by Professor Nichols is entirely misplaced since Professor Nichols is not a scientist and does not publish scientific research. As pointed out, your concerns about panel or board appointments should be directed to the appointing authorities.

Nevertheless, I referred your allegations of scientific misconduct to the UCLA's research integrity officer Vice Chancellor and Professor Roberto Peccei. Vice Chancellor Peccei conducted a preliminary assessment as called for under the policy and concluded that the information you have provided was neither credible nor specific enough under our policies to warrant a research misconduct inquiry.

You have presented much credible evidence that there is an ongoing scientific dispute over the health effects of diesel particulate matter with different interpretations of the available data and with significant implications for the transportation industry and the economy generally. However, the thrust of the issue appears to concern State government agency decision-making as related to the formation of environmental policy. In any event, your issues do not raise specific research misconduct concerns and the University must reject your request to treat them as such.

I appreciate the care with which you organized the materials you submitted and the opportunity to discuss this matter with you personally.

Sincerely,



William H. Cormier
Director

cc: Chancellor Gene Block
Vice Chancellor Roberto Peccei



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ATTACHMENT D

CONSTRUCTION CO., INC.

June 30, 2009

William H. Cormier, Director
Administrative Policies & Compliance
University of California, Los Angeles
2255 Murphy Hall
Los Angeles, CA 90095-1405

Re: Alleged Unethical Conduct by UCLA Professors Mary D. Nichols and John R. Froines

Dear Mr. Cormier,

Thank you very much for your May 27, 2009 response to my April 13, 2009 complaint. I fail to understand how you could conclude that my allegations about Professors Mary D. Nichols and John R. Froines do not constitute scientific misconduct as defined in *UCLA Policy 993* (<http://www.adminvc.ucla.edu/appm/public/993.htm>). Based on my educational background and my 44-year experience as a successful businessman in California, I find that the behavior of Professors Nichols and Froines does not support Policy 993's strongly worded General Policy. Specifically, their "selective research tactics" do not support "fostering a climate conducive to research integrity in accordance with the University's Policy on Integrity in Research." Additionally, I strongly believe that my allegations constitute **unethical conduct** based on the *UC Standards of Ethical Conduct* (<http://www.universityofcalifornia.edu/compliance/ethics/ethicalconduct.html>).

The sentences from these *Standards* that most directly apply to my allegations are as follows:
Purpose "In that spirit, the Standards of Ethical Conduct are a statement of our belief in **ethical, legal and professional behavior in all of our dealings inside and outside the University**"
(2) "Members of the University community are expected to conduct themselves ethically, honestly and with integrity **in all dealings**. This means principles of fairness, good faith and respect consistent with laws, regulations and University policies govern our conduct with others **both inside and outside the community**"
(4) "Members of the University community are expected to become familiar with the laws and regulations bearing on their areas of responsibility. **Many but not all** legal requirements are embodied in University policies"
(7) "All members of the University community engaged in research are expected to conduct their research with integrity and intellectual honesty **at all times** Members of the University community engaged in research are not to . . . **knowingly omit data or results to misrepresent results in the research record**"

Essentially, your policy states that to be a member in good standing, your ethics cannot be compromised when you are off the UCLA campus. This is the main thrust of my complaint. I have presented numerous incidences of compromised ethics but your response attempts to narrate my complaint as a "public policy issue and not issues of potential research misconduct." Am I to assume that it is acceptable with UCLA to allow some "modification" of a member's ethics when "off campus"? Not according to the Standards of Ethical Conduct, which state that "The University might have reason to examine the outside activity of an employee in circumstances where serious misconduct there reflects unfavorably on the University" I contend that my allegations against Professor Nichols and Professor Froines constitute very serious misconduct and, when fully brought to light, will reflect quite seriously on your fine university. Sunlight is a great disinfectant, and I intend to provide the light supported by research from credible and accomplished scientists. The actual economic damage brought about by CARB's edicts has the potential to preclude California from emerging from our current economic debacle for a decade or more, if ever.

You also state that UCLA Policy "applies to research conducted by UCLA faculty or academic appointees under the sponsorship of UCLA and is narrowly focused on specific instances of fabrication of data, falsification or plagiarism." Falsification is defined (in part) in Policy 993 as "manipulating Research materials, equipment or processes, or **changing or omitting data or results**, such that the Research is not accurately represented in the Research Record". **THIS IS EXACTLY WHAT HAS BEEN DONE.** Under the specific direction of Professor Nichols, supported by the research of Professor Froines, CARB has excluded or attempted to diminish any data that conflicts with their agenda. By the very virtue of their UCLA professorships, they drag your institution into this fray. This will not bode well with the massive California business community that supports your fine organization. A failure to review this behavior by two of your professors, under the guise that they do not represent UCLA when dealing with public policy, will not go unnoticed by your benefactors, especially those severely impacted by the unnecessary regulations.

I take specific issue with your statement that "the information you have provided was neither credible nor specific enough under our policies to warrant a research misconduct inquiry." A substantial amount of very specific evidence was presented in my April 13, 2009 allegations. I could have sent you several hundred pages, but abbreviated the text to not overwhelm you. Thus, I believe that my allegations deserve a more careful evaluation. My concerns are supported by at least ten very fine physicians and scientists who have submitted public comments to CARB during the past year: John D. Dunn, M.D., J.D., from Texas; James E. Enstrom, Ph.D., from UCLA; Anthony Fucaloro, Ph.D., from Claremont McKenna College; Frederick W. Lipfert, Ph.D., from New York; Matthew A. Malkan, Ph.D., from UCLA; Henry I. Miller, M.D., from the Hoover Institution; Suresh H. Moolgavkar, M.D., Ph.D., from the University of Washington; D. Warner North, Ph.D., from Stanford University; Robert F. Phalen, Ph.D., from UC Irvine; and S. Stanley Young, Ph.D., from the National Institute of Statistical Sciences.

In order to make my allegations as directly relevant to UCLA as possible, I request that you further assess my allegations regarding Professor Froines, who has been a full-time faculty

member at the UCLA School of Public Health since 1981. To make my case against Professor Froines as strong as possible, I have used the Internet (Google.com, PubMed.gov, and www.ucla.edu) to formulate additional allegations of falsification that add to my original April 13, 2009 allegations (Attachment A).

Elinor W. Fanning, a UCLA toxicologist, and John R. Froines are the first two authors of a February 2009 peer-reviewed paper “Particulate Matter (PM) Research Centers (1999–2005) and the Role of Interdisciplinary Center-Based Research” *Environmental Health Perspectives* 2009;117:167–174 (<http://www.ehponline.org/members/2008/11543/11543.pdf>) (Attachment B). Quotes from the Abstract are: “Objective: The U.S. Environmental Protection Agency funded five academic centers in 1999 to address the uncertainties in exposure, toxicity, and health effects of airborne particulate matter (PM) identified in the “Research Priorities for Airborne Particulate Matter” of the National Research Council (NRC). . . . Data sources and synthesis: The collective publications of the centers served as the data source. To provide a concise synthesis of overall findings, authors representing each of the five centers identified a limited number of topic areas that serve to illustrate the key accomplishments of the PM Centers program, and a consensus statement was developed. **Conclusions: The PM Centers program has effectively applied interdisciplinary research approaches to advance PM science.**”

I have evidence that this paper does not “provide a concise synthesis of overall findings.” For instance, the section “*Life shortening associated with exposure to PM*” (page 170) is quite misleading. The first reference (Zanobetti et al. 2003) deals only with European cities and it provides no evidence that “life shortening” is “associated with exposure to PM.” The second reference (Laden et al. 2006) provides evidence that the relationship in between PM2.5 and total mortality in six Midwestern cities has declined since the 1970s and 1980s and was barely significant in the 1990s. The final two references (Pope et al. 2002 and Pope and Dockery 2006) provide evidence that the relationship PM2.5 and total mortality varies geographically and has weakened substantially over time. **A proper “synthesis of overall findings” should have stated that the current relationship between PM2.5 and mortality is very weak in the United States and may be nonexistent in states like California.**

In addition, UC Irvine Professor Robert F. Phalen published a October 2004 peer-reviewed paper “THE PARTICULATE AIR POLLUTION CONTROVERSY” *Nonlinearity in Biology, Toxicology, and Medicine* 2004;2:259–292 (<http://www.pubmedcentral.nih.gov/picrender.fcgi?artid=2659607&blobtype=pdf>). Quotes from page 289 of this detailed 34-page paper are: “Today, we are at an important crossroad with respect to the future of air-pollutant regulation. One road involves performing the needed research and making decisions on the basis of the science, with full consideration of the many trade-offs associated with new regulations. The other road involves adopting regulations driven by public fear, politics, and pressure groups. The first road is obviously the more beneficial one for protecting human health. . . . The second approach promises uncontrolled, chaotic, and rapidly changing rules. A great deal is at stake. Will science and reason, or expediency, fear, and ignorance, be the determinants of public health decisions?”

Professor Froines has been the Director of the Southern California Particle Center since it was initiated in 1999 with \$11 million in grants to UCLA from US EPA (grant R827352) and CARB (<http://www.scpcs.ucla.edu/news/PRucla11mil.pdf>) (Attachment C). Professor Phalen was an Investigator in the Center during 1999-2005 (<http://www.scpcs.ucla.edu/publications.html>). Both the Froines and Phalen papers received funding from US EPA grant R827352. However, in spite of the claim that the 2009 *EHP* paper gives a “synthesis of overall findings,” the Froines paper does not cite the Phalen paper. I believe that the Phalen paper was not cited because it raises serious and powerful doubts about PM science and regulations associated with PM. Thus, I allege that the 2009 *EHP* paper provides further evidence of falsification by Professor Froines through **omission** of relevant findings.

Finally, Professor Froines participated in the November 30, 2007-December 1, 2007 Impact Project “Moving Forward” Conference, that was co-sponsored and partially funded by three UCLA Centers (<http://www.scribd.com/doc/562980/Impact-Project-Moving-Forward-Agenda>) (Attachment D). Page 5 of the 28-page conference program states that the first objective of the Conference is to “Share research findings from scientific studies on the health effects of air pollution on children, the elderly, workers, and others.” However, based on my examination of the entire program, I believe that this “collaboration of community and university partners” did not accurately present the current PM health effects in Los Angeles and California. Instead, I believe the conference focused on “environmental justice” in response to hyped health effects associated with diesel vehicles used in goods movement throughout Los Angeles and California.

To address my concerns, I want to know if Professor Froines or other participants in “THE LATEST HEALTH RESEARCH FINDINGS” session (page 6) presented any of the epidemiologic evidence showing NO current relationship between PM_{2.5} and mortality in California. Also, I want to know if anyone presented data from the CDC WONDER mortality database (<http://wonder.cdc.gov/cmfi-icd10.html>) showing that during 2000-2005 Los Angeles County had an age-adjusted total death rate that was 11% lower than the national rate and lower than the rate in 47 of the 48 continental states (Attachment E). Based on this evidence, I do not see any premature death crisis in Los Angeles County or California. Finally, it strongly appears that US EPA research funds awarded to UCLA may have been used to support advocacy in connection with this conference. My understanding is that Federal research funds cannot be used for advocacy. In summary, I allege that this conference provides further evidence of falsification by Professor Froines and may implicate UCLA in taking an advocacy position on this issue.

Based on his approximately 25-year membership on the CARB Scientific Review Panel, his participation in the 2007 “Moving Forward” conference, his 2008 letter recommending Professor Nichols as CARB Chair (Attachment F), and his 2009 *EHP* paper on the UCLA PM Center (to mention just a few of his efforts) I allege that Professor Froines has engaged in a clear and consistent pattern of falsification regarding PM health effects in California. Furthermore, I strongly believe that if the proper appointment process had been followed and a scientist like Professor Phalen had been Chair of the Scientific Review Panel in 1998, diesel particulate matter would never have been declared a toxic air contaminant and CARB would not have approved the current diesel regulations.

William H. Cormier

June 30, 2009

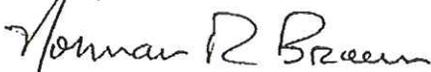
In accordance with the letter and spirit of the *UCLA Policy 993* and the *UC Standards of Ethical Conduct*, I implore you to further examine my allegations against Professor Froines. To help you in this examination, I request that you solicit the expertise of Linda Rosenstock, M.D., who is Dean of the UCLA School of Public Health (http://www.ph.ucla.edu/about_aboutdean.html). Professor Froines has his primary appointment in this school. I feel compelled to make this request because the actions of Professors Nichols and Froines have severely impacted me and thousands of other businessmen in California through what amounts to falsification of scientific studies. We now are burdened with draconian regulations that are destroying our ability to remain in business in California and that, based on our assessment of the available evidence, are not scientifically justified and are not imposed on businessmen in any other state or country. In the spirit of helping California businessmen survive and hopefully improve the California economy, I trust you will fully evaluate my allegations and the issues they raise.

Finally, in order to make sure that you understand how serious I am about this matter, I sent a detailed June 8, 2009 letter to Governor Arnold Schwarzenegger describing "California Air Resources Board's Part in Our Economic Collapse" (Attachment G). Also, I am the lead petitioner in a lawsuit regarding the CARB Scientific Review Panel, **Brown v. Adams**, which was filed in Sacramento County Superior Court on June 18, 2009 by the Pacific Legal Foundation (PLF). This lawsuit is summarized in a June 18, 2008 PLF news release (<http://community.pacificlegal.org/Page.aspx?pid=934>) (Attachment H). The entire 45-page lawsuit is posted on the PLF website (<http://community.pacificlegal.org/Document.Doc?id=305>). The nine petitioners in this lawsuit represent all affected businesses in California.

I repeat my earlier statement: sunlight is a great disinfectant and I intend to provide the light supported by research from credible and accomplished scientists. As a California businessman whose taxes have been used to fund the US EPA, CARB, and UCLA, I have the right to expect that \$11 million awarded to UCLA has been used to conduct objective research on "the uncertainties in exposure, toxicity, and health effects of airborne particulate matter (PM)." Furthermore, I have the right to expect that the scientist leading this research, Professor Froines, has objectively reported the current health effects of PM in California. I realize that my allegations may create some problems for your fine institution, but it would be a travesty to ignore this very strong evidence of a falsification (knowingly omitting data or results to misrepresent results in the research record) that is resulting in an economic calamity.

Thank you very much for your consideration.

Sincerely,



Norman R. Brown, President

cc: Dean Linda Rosenstock
School of Public Health
University of California, Los Angeles
650 Charles E. Young Drive South, Room 16-035 CHS
Los Angeles, CA 90095-1772

William H. Cormier

June 30, 2009

cc: cont'd

Chancellor Gene Block
University of California, Los Angeles
2147 Murphy Hall
Los Angeles, CA 90095-1405

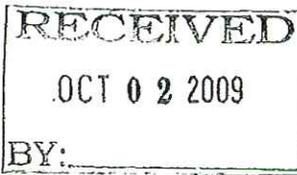
ATTACHMENT E

UNIVERSITY OF CALIFORNIA, LOS ANGELES

UCLA

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

SANTA BARBARA • SANTA CRUZ



ADMINISTRATIVE POLICIES & COMPLIANCE
2255 MURPHY HALL
BOX 951405
LOS ANGELES, CA 90095-1405
TEL (310) 825-4010
FAX (310) 825-3803

September 28, 2009

PERSONAL & CONFIDENTIAL

Norman Brown
Delta Construction Company
P.O. Box 277517
Sacramento, CA 95827

Re: Your June 30th Letter; Allegations of Unethical Conduct by Two UCLA Professors

Dear Mr. Brown:

This responds to your June 30th letter with attachments concerning your allegations of research and ethical misconduct by UCLA Professors Mary Nichols and John Froines that you had first raised in your letter of April 13, 2009. In my May 27th letter I informed you that UCLA had concluded that your concerns raised public policy issues only and not issues of potential research misconduct.

Your June 30th letter contained additional information, and you requested a reconsideration of the position previously communicated to you. In addition to my phone conversations with you, I have discussed your concerns with UCLA Vice Chancellor for Research Roberto Peccei, UCLA's Research Integrity Officer, and with UCLA School of Public Health Dean Linda Rosenstock, to whom you had sent a copy of your material. I regret the delay in formally responding to you, but as I had previously indicated, and confirm for you now, UCLA's position remains unchanged.

Your Concerns

Your concerns with Professor Mary Nichols arise in connection with her service as chair of the California Air Resources Board (CARB) and with Professor John Froines in connection with his service as chair of the Scientific Review Panel that advises CARB. You describe Professor Froines as having "played a major role" in designating diesel as a toxic air contaminant and in emphasizing the adverse health effects of diesel particulate matter on Californians. You assert that under the specific direction of Professor Nichols and Froines CARB has "excluded or attempted to diminish any data that conflicts with their agenda." You claim that Professors Nichols and Froines are most responsible for the diesel emission regulations which you regard as costly and unjustified. You identify ten prominent physicians and scientists, including two other faculty researchers from UCLA and one from UC Irvine that have submitted public comments to CARB expressing opinions which you assert are consistent with your concerns.

Norman Brown
September 28, 2009
page 2

As in your April 13th letter, you attempt to find support for your allegations in UCLA Policy 993 (Responding to Allegations of Research Misconduct) and a portion of the definition of "falsification" from that policy which refers to "... changing or omitting data or results (your emphasis), such that the Research is not accurately represented in the Research Record." You assert that "THIS IS EXACTLY WHAT HAS BEEN DONE" (again, your emphasis), claiming that under the direction of Professors Froines and Nichols "CARB has excluded or attempted to diminish any data that conflicts with their agenda."

You also express your strong belief that your claims should also be considered as allegations of unethical conduct under the UC Standards of Ethical Conduct, quoting from the Fair Dealing standard that members of the University community "are expected to conduct themselves ethically, honestly and with integrity in all dealings . . . both inside and outside the community" and from the Ethical Conduct of Research standard that those engaged in research are not to "... knowingly omit data or results to misrepresent results in the research record . . ." (your emphasis).

You purport to identify such "falsification" in the work of Professor Froines by referencing a paper he co-authored in the February 2009 volume of the *Environmental Health Perspectives* journal, a Southern California Environmental Health Sciences Center conference in which he participated in December 2007, a letter he wrote recommending the appointment of Professor Nichols as CARB chair which included as an attachment citations to scientists supporting a CARB staff report but, you assert, no mention of dissenting information, and, lastly, you fault him for his long tenure on the Scientific Review Panel which you assert violates California law. Your allegations against Professor Nichols are less clear. You assert serious misconduct generally but do not provide any specific allegations.

As stated in my previous reply to you, the arguments you present serve to document an ongoing scientific dispute that exists with respect to the health effects of diesel particulate matter in California. The information you have provided of this controversy, though credible, does not constitute evidence of scientific misconduct by Professors Froines or Nichols under any of our research integrity policies or the more general standards of ethical conduct you cite.

Applicable Standards

UCLA takes allegations of research misconduct seriously. As we have discussed, UCLA has a detailed process for evaluating research integrity issues. UCLA's policy is consistent with the applicable federal standards from which the terms and definitions in our policy are derived. Under these generally accepted standards, research misconduct is defined as falsification, fabrication, or plagiarism in the specific research record of a researcher.

In accusing Professor Froines of "falsification of scientific evidence," you cite the definition of falsification in our policy as "changing or omitting data or results, such that the Research is not accurately represented in the Research Record." Then you provide what you believe is evidence that Professor Froines has not properly credited or weighed the research of others or has overlooked other "dissenting" views, hypotheses or data explanations, or has sought to "diminish any data" that conflicts with his views, assuming that such examples constitute falsification under the policy definition. However, as defined in our policy, "Falsification" is concerned with what is contained in the "Research" and "Research Record" – the researcher's

Norman Brown
September 28, 2009
page 3

actual record of data or results, measurements, or observations, etc., resulting from the experimentation, demonstrations, evaluations, or surveys that are recorded in laboratory records, logs, and notes and are reported in the research papers, journal articles, or scientific presentations of the researcher.

Falsification is concerned with the scientific work of the researcher and is not concerned with the researcher's characterizations of the research of others, their hypotheses, theories, conclusions or interpretations of the data. A researcher has complete freedom in criticizing, reinterpreting, dismissing, or simply ignoring the work of other researchers. What a researcher cannot do is change, alter, fabricate or fail to report his own research results presented in support of his published research.

None of the examples you cite represent instances or evidence that Professor Froines changed, omitted, or otherwise falsified data in his published research or research records. Instead, you fault Professor Froines for failing to take proper account of the research findings of others and/or for not acknowledging or properly weighing such work. Even in that your criticism is not focused entirely on specific publications of Professor Froines but appears to include his actions as Scientific Review Panel chair, tending to attribute the recommendations of the full Scientific Review Panel to Professor Froines alone.

The University's principles of academic freedom, which are applicable here, do not distinguish between "interested" and "disinterested" scientific research, but differentiate instead between "competent" and "incompetent" research. A researcher is free to advance whatever scientific theories or hypotheses he chooses to advance, or to reach whatever conclusions, including public policy recommendations, he chooses to reach, whether or not such conclusions are perceived as "neutral" or "objective," provided that the researcher does not falsify, fabricate, or plagiarize the data on which such hypotheses or conclusions are based. If certain hypotheses or conclusions appear weak, unsupported by the data, or ignore more significant data or more competent research of other scientists, it is the responsibility of the community of researchers to challenge such conclusions and to propose more reasonable hypotheses. That is how science advances.

New Evidence of "Falsification"

The points made in my May 27th letter remain fully applicable and there is no need to restate them here. However, with respect to the additional information and arguments made in your June 30th letter concerning possible falsification of research data and your reference to the University's more general standards of ethical conduct as related to the same point let me briefly note the following.

You mention an article published in *Environmental Health Perspectives*, where Professor Froines is listed as one of eight co-authors who represent the five academic centers, one at UCLA, that have been funded by the Environmental Protection Agency to study the health effects of airborne particulate matter (PM). The article is intended to describe selected accomplishments of the several centers. It includes a section with the heading "Life shortening associated with exposure to PM" which you claim is misleading in its brief review of the results of several research papers. You also fault the article and Professor Froines for failing to mention a research paper by a UC Irvine professor, presumably done under the sponsorship of the UCLA

Particulate Matter Center, because the research paper, in your view, raises serious doubts about PM science and regulations associated with PM. You may be correct in your assumptions that the article is misleading in certain respects and that the omission of the UC Irvine research paper was deliberate, but neither circumstance provides evidence of falsification of research data or in any other way constitutes research misconduct by Professor Froines.

Regarding the December 2007 "Moving Forward" conference, at which Professor Froines was one of a number of presenters, you express your belief that this "collaboration of community and university partners" did not accurately present the current PM health effects in California. You ask whether any contrary epidemiological evidence was presented at the conference and speculate whether EPA funds awarded to UCLA may have been used to support "advocacy" in connection with the conference. Without referring to any specific statements or claims purportedly made by Professor Froines at the conference you assert that the conference provides further evidence of falsification by Professor Froines and may implicate UCLA in taking an improper advocacy position on the issue. However, you have not provided any evidence of falsification by Professor Froines of his research data, and your other allegation is vague and unsupported by any credible evidence.

In the attachment to your letter wherein you refer to a June 2008 letter from Professor Froines to California Senator Don Perata recommending Senate confirmation of Professor Nichols as CARB chair, you fault Professor Froines for failing to cite a single dissenting scientist among the 23 other scientists he identifies in the letter as supporting CARB findings and for failing to mention extensive efforts to reverse the CARB declaration concerning diesel PM. Again, however, you have not provided any evidence of falsification of research data by Professor Froines. This is a letter recommending an appointment and advocating a regulatory position; it is not research. There is nothing improper in Professor Froines advocating a regulatory position. Professor Froines is entitled to present his view of the weight of the relevant evidence, even if other qualified scientists may characterize the evidence quite differently and even if his views are ultimately determined to be incorrect. This is not evidence of research misconduct.

With respect to your concern that Professor Froines has served on the CARB Scientific Review Panel for over 20 years which you believe violates a requirement of Health and Safety Code Section 39670 stipulating that each Scientific Review Panel member be appointed to a three-year term, I previously pointed out to you that you should be directing such concerns not to UCLA but to the appointing authorities, the California Secretary for Environmental Protection, the California Senate Committee on Rules, and the Speaker of the California Assembly. It is to be noted that there does not appear to be any provision in the statute that would prevent a member from being reappointed to subsequent three-year terms. In any event, whether or not the appointing authorities have followed their own rules, Professor Froines has not done anything improper with respect to his continued appointment as a member of the Scientific Review Panel.

Lastly, none of your allegations of research misconduct can be fairly directed to Professor Nichols, if that is what you meant to imply in your arguments. (It is noted that your June 30th letter does not contain any new allegations against Professor Nichols.) As you know, Professor Nichols is not a scientist and has not published scientific research on the health effects of diesel PM. Criticism you wish to make of her performance as chair of CARB in appearing to favor one

Norman Brown
September 28, 2009
page 5

side of the debate over the other or in weighing certain scientific studies over others raises a public policy concern only that can be directed to the CARB appointing authority or, more generally, to the legislature. In any event, her conduct does not raise a research or ethical misconduct issue under our policies.

I acknowledge the difficult circumstances facing you and your industry as a result of the CARB regulations. I am not qualified to express a view on the underlying science of diesel PM but can appreciate the potential economic impacts to all Californians that you have described. Nevertheless, the fact that a public body like CARB may choose to rely on certain research or research results and discount or ignore other research or research results raises a public policy concern only. Concerns you have about the public policy decision-making process being followed by CARB should be directed to Sacramento.

I have appreciated the opportunity to discuss this matter with you personally. I have concluded that your concerns and the information you have provided are not evidence of falsification of research results or other research or ethical misconduct that would warrant any further inquiry under University policy.

Sincerely,



William H. Cormier
Director

cc: Chancellor Gene Block
Vice Chancellor, Research Roberto Peccei
Dean Linda Rosenstock



CONSTRUCTION CO., INC.

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

ATTACHMENT F

October 1, 2009

Richard J Jackson, M.D., M.P.H.
Professor and Chair, Environmental Health Sciences
School of Public Health
University of California, Los Angeles
Los Angeles, CA 90095-1772
dickjackson@ucla.edu

Dear Professor Jackson:

In reviewing the public comments to the California Air Resources Board regarding their diesel regulations, I note that you signed letters about the public health dangers of diesel pollution dated May 14, 2007 (http://www.arb.ca.gov/lists/ordies107/745-off-road_regulatory_comments.pdf) and December 4, 2008 (<http://www.arb.ca.gov/lists/truckbus08/426-public-health-letter--truck-and-bus-rule-dec-2008.pdf>). I have substantial evidence that contradicts several claims in these letters. Also, I have substantial evidence that two UCLA professors have engaged in unethical conduct in connection with their statements and actions regarding the public health dangers of diesel pollution in California.

I sent a detailed April 13, 2009 letter with ten attachments (39 total pages) to UCLA Chancellor Gene Block regarding "Alleged Unethical Conduct by UCLA Professors Mary D. Nichols and John R. Froines." I received a May 27, 2009 "PERSONAL AND CONFIDENTIAL" response from William H. Cormier of UCLA that did not satisfactorily address my allegations. Then, I sent a more detailed June 30, 2009 letter with eight attachments (54 total pages) to Mr. Cormier regarding Professor Froines. As of today, I have received no response to my June 30, 2009 letter. I have attached PDF copies of my letters to my email message and have mailed printed copies of my letters to the above address for you to read. You can request the May 27, 2009 UCLA response from Mr. Cormier, if you wish.

My letters make serious, well documented allegations of unethical conduct by Professors Nichols and Froines. As I explain in great detail in my letters, these allegations have a direct bearing on the California economy and on the ability of thousands of California businessmen like me to survive. Since I have not yet received a satisfactory response from UCLA, I request that you assess my allegations and then inform Chancellor Block, Professor Nichols, Professor Froines, and me of your assessment. Your response will indicate to me your interpretation of the UC Standards of Ethical Conduct and your concern for all California businesses that are adversely impacted by scientifically unjustified draconian regulations promulgated by Professors Nichols and Froines.

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

Sincerely yours,

A handwritten signature in black ink that reads "Norman R. Brown". The signature is written in a cursive, flowing style.

Norman R. Brown, President



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ATTACHMENT G

CONSTRUCTION CO., INC.

October 1, 2009

Henry Powell, M.D., Chair
henry.powell@ucop.edu
Daniel Simmons, J.D., Vice Chair
daniel.simmons@ucop.edu
Academic Senate
University of California
1111 Franklin Street, 12th Floor
Oakland, CA 94607-5200

Dear Professors Powell and Simmons:

As the leaders of the UC Academic Senate (<http://www.universityofcalifornia.edu/senate/leadership/>), I am requesting your assistance regarding alleged misconduct by two UCLA professors. I sent a detailed April 13, 2009 letter with ten attachments (39 total pages) to UCLA Chancellor Gene Block regarding "Alleged Unethical Conduct by UCLA Professors Mary D. Nichols and John R. Froines." I received a May 27, 2009 "PERSONAL AND CONFIDENTIAL" response from William H. Cormier of UCLA that did not satisfactorily address my allegations. Thus, I sent a more detailed June 30, 2009 letter with eight attachments (54 total pages) to Mr. Cormier regarding Professor Froines. As of today, I have received no response to my June 30, 2009 letter. I have attached PDF copies of my letters to my email message and have mailed printed copies of my letters to the above address for you to read. You can request the May 27, 2009 UCLA response from Mr. Cormier, if you wish.

My letters make serious, well documented allegations of unethical conduct by Professors Nichols and Froines. As I explain in great detail in my letters, these allegations have a direct bearing on the California economy and on the ability of thousands of California businessmen like me to survive. Since I have received no response from UCLA since May 27, 2009, I request that the UC Academic Senate evaluate my allegations in a timely manner and issue a public statement of your findings. I understand that the Assembly of the UC Academic Senate will meet on October 14, 2009 (<http://www.universityofcalifornia.edu/senate/assembly/>). Thus, I request some response (telephone call, email message, and/or formal letter) from you by October 15, 2009 regarding your ability to address my allegations. If no response is received by this date, I will assume that the UC Academic Senate is unwilling or unable to address my allegations.

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

Sincerely yours,

Norman R. Brown, President



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ATTACHMENT H

CONSTRUCTION CO., INC.

November 13, 2009

William H. Cormier, Director
Administrative Policies & Compliance
University of California, Los Angeles
2255 Murphy Hall
Los Angeles, CA 90095-1405

Re: Alleged Unethical Conduct by UCLA Professors Mary D. Nichols and John R. Froines

Dear Mr. Cormier,

For nine months I have been attempting to inform you of a carefully crafted pattern of unethical behavior by two of your professors. After a formal request (March 11, 2009) to meet (denied) followed by two letters (April 13, 2009 and June 30, 2009) containing general and specific charges, you have claimed non-responsibility of most egregious behavior by John Froines and Mary Nichols. This behavior has gone on for 25 years to date and needs to be stopped!

Your narrow interpretation of the meaning of ethics and professionalism (outlined in your September 28, 2009 response) for UCLA faculty now means to me that you have no intention of holding Professors Mary Nichols and John Froines to a standard of conduct a reasonable person would expect. My position all along has been that when they accepted appointments to serve the State of California they accepted as representatives of UCLA and would carry forth with the integrity of professional and academic conduct and inquiry that is the purported University tradition and mission.

Professor Froines wears the hat of Chair of the Scientific Review Panel due mainly to his position at UCLA. Wearing that hat has placed additional responsibilities on him that he has chosen to ignore. You have provided me with a nice presentation of how "science advances" in your letter, again discounting the power of the "gate-keeper" position that he holds, where he has essentially ignored any science that conflicts with his apparent biases. How can the "community of researchers...challenge such conclusions...to propose more reasonable hypotheses" when these presentations are disregarded and culminate in regulations that are arbitrary and capricious? THIS is his unethical behavior, not his "research" (I have not addressed specific research at this time). You claim that "a researcher has complete freedom in criticizing, reinterpreting, dismissing, or simply ignoring the work of other researchers". As just a "researcher" you are ostensibly correct. As the Chair of the SRP, he has additional obligations and by dismissing studies without comment that do not suit his pleasure, he is absolutely unethical and should be fired not only as a member of the SRP but also as a Professor of UCLA.

As gatekeeper, Professor Froines is intensely involved in the academic inquiry process. Your mistake is that you said that a **researcher** has complete freedom to criticize (fine, if honest), reinterpret (possibly, if done properly), dismiss (again, only if done properly) or ignore (nope) work of other researchers. My, my, Mr. Cormier, how could you so misunderstand the process? Maybe it is because of your law background; that there are always two sides to every argument in law and the truth is never the object of the exercise, but some kind of agreement, resolution or final authority written from previous case-law or regulations.

This statement applies also to Mary Nichols as she was just as involved in this behavior. As the Chairwoman of CARB she was well aware of this behavior and was in a position to stop, not encourage it.

In order to frame it, might I suggest that Albert Einstein, a pretty fair scientist, described the scientific process pretty well—one study that disproves any theory controls. In fact Froines and Nichols know that testability and falsifiability are important to the process, so no, Mr. Cormier, you can't ignore a study—it may be the killer study, and we wouldn't want to be bad scientists, would we?—not good for UCLA. Hard to argue UCLA faculty academic ethics if they cherry-pick data and reject any study that proves or even suggests that they might be wrong.

When John Froines and Mary Nichols sponsored and supported conduct that failed to provide the public with an impartial, objective, responsible scientific and economic inquiry on air pollution issues, they had forsaken their fiduciary duties. When they took on an advocacy role in the circumstance where they were supposed to provide fair and judicious analysis, they violated the norms that govern professional conduct in the public arena. In accepting these roles, they were not charged with (even if they insist otherwise) becoming champions for a position, but apostles for unprejudiced, dispassionate and even-handed review of the evidence and recommendations that properly weighed the evidence and the consequences of policy decisions.

Their duty, authority and accountability as public appointees was the compilation of all research on the health effects of potential toxics. Research is not just the work done to prepare original experiments or write papers, but includes the normal inquiries that are intended to obtain pertinent and relevant evidence so that intelligent and comprehensive analysis can provide for good policy making.

I have put forth evidence that demonstrates Mary Nichols and John Froines ignored or dismissed evidence that refuted their biases or at least created grave areas of dispute that should have inhibited any regulations. Through systematic cherry-picking (by a person with a phony PhD degree assisted by a real PhD who has a specialty in communication habits of ground squirrels) and refusing to competently review and consider the conflicting research on the issues, they failed their fiduciary committal in favor of political agendas that violated their duty to be impartial and a reliable source of scientific and policy advice for the State of California. Such conduct in a position of trust is unethical and unprofessional. Whatever their motives, John Froines and Mary Nichols were not appointed to act like political hacks and just throw out what they didn't want to hear and ignore the scientific evidence that proved their positions to be untenable or so weak which should require policy restraint.

As a businessman who had to learn epidemiology for this matter, my previous letters have provided my best effort to supply you with the evidence of the misconduct of John Froines and Mary Nichols. When I provided that information to you I assumed you and I would agree on the virtues that pertain and the ethical norms that govern the conduct of an academic official of a major university. I do not accept your narrow interpretation of professional conduct, since professionals should live a life of virtue and integrity. Furthermore, when they represent the University and are elevated to positions of importance because of their academic stature, the University's reputation goes with them (and, in this case, will suffer when they are exposed).

When a University Chancellor, Dean or Professor you know to be in a position of trust fails in a fiduciary duty there is a price to pay. John Froines and Mary Nichols were and are professors at UCLA, and their roles for CARB were significant and derivative of their UCLA stature. They had impact and consequence at CARB, and they were obligated to maintain the standards of proper academic inquiry; not descend into base political maneuvering, granting favors or showing partiality to the studies presented. They were obligated to be impartial, thorough and objective, not biased, taking sides, cherry-picking or ignoring evidence they didn't like.

My evidence sent to you showed that John Froines and Mary Nichols did ignore evidence and public comments they didn't like. John Froines did such a thing knowing more about the technical side of science, but Mary Nichols is an attorney well versed in the rules of evidence and proper assessment of opposing points of view. Both of these UCLA professors failed the State of California by ignoring conflicting evidence and pushing an agenda that has severe and damaging economic consequences to the people of California, consequences that prove the Fredric Bastiat warning about unintended or unforeseen consequences. People will suffer at the hands of the aggressive and unnecessary policy-making urged and facilitated by Professors Nichols and Froines, and now apparently abetted by the University of California, Los Angeles.

They committed violations of academic ethics and professionalism while functioning in positions of fiduciary responsibility for the State of California and its citizens. Their acts do and did have meaning and effect. As the representative for the University in these matters, I assumed you would understand the imperatives assumed for academic ethics and the virtues expected; prudence, honesty, fortitude, temperance, and justice come to mind. It certainly appears that you have by your letter of September 28, 2009 attempted to parse these charges into specific studies and/or specific research by Mr. Froines and missed the point by a mile.

You have outlined the University's denial of responsibility for the conduct of John Froines and Mary Nichols, on the narrow theory that your oversight only has to do with his research and not their ethics or behavior as academic professionals appointed to very high positions in the State. Not being privy to his research data (nor am I interested at this time), how could I refute your claim that Froines' "research data" is nothing less than impeccable? I am unaware of any such research by Ms. Nichols, but that issue is moot.

You completely missed (ignored?) my point. Dr. Froines' behavior reflects on the University and violates the University's commitment to integrity in academic inquiry. Specific charges of academic inquiry misconduct can be found on Pages 3 and 4 of my prior letter, ignored by you in your attempt to narrow my claim to his "research data". You and I both know that parsing and

splitting doesn't make the ethical and professional norms and standards disappear. Is it that you really have no answer to my underlying complaint that Mary Nichols and John Froines are unethical in their professional and academic conduct or would your true answer be most embarrassing to the University? Or is it that their "ethical standards" are "adjustable" and can be more "flexible" at UCLA? It would seem so, evidenced by your feeble attempts to avert my accusations.

How could you so misunderstand the process? Or is it that your position was written or demanded by others? Not being accusatory, but my four plus decades as a businessman have experienced a fair share of attorneys. Ethical behavior is seldom the predominant characteristic in the legal field.

The ethical and virtuous academic assesses the evidence. Evidence is not ignored or dismissed until properly evaluated. My evidence to you was that John Froines and Mary Nichols were involved in a systematic violation of academic ethics by not providing the State of California with an impartial, objective, thorough, and insightful process for evaluation of all scientific, political and economic evidence that would guide policy-making of great consequence.

Would you suggest that such an activity does not require the highest forms of academic integrity, ethics and professionalism?

On a separate and equally scandalous matter, both John Froines and Mary Nichols were consciously and intentionally involved in circumventing the rules on appointment for the Review Panel (the subject of my petition to the Sacramento Superior Court, *Brown v Adams*). They are both sophisticated individuals, both well aware of the statutory nature of CARB and the customs and practices for appointment and maintenance of scientific panels. Both Froines and Nichols knew of and sustained the clearly illegal activity of extending terms of panel members beyond the intent of the California legislature. It's as if they were academics in a third world tin pot dictatorship relying on corruption and the sense of entitlement for the sinecure of a panel position. Only fanatics and lackeys would stand for such chicanery, since it now has become an embarrassment to CARB that could have been avoided if Nichols and Froines had followed the letter and spirit of the statute creating CARB. Isn't intentional violation of the law and spirit of law a violation of UCLA faculty ethics? If it's not, what is -- criminal conduct?—My goodness, these are ethics rules for University Professors, not Chicago thugs. What does it take to get a UC faculty member disciplined?

I will not belabor the point any longer. You express a complete inability to accept the University's obligation to follow its own ethics code by attempting to reduce a very specific claim of extensive and proven unethical behavior down to "research data" and ethics of a "researcher". Needless to say, you are (intentionally?) missing the point and further discussion will probably not change your mind. But maybe you would reconsider if I propose that just possibly now you have put the University on the track in a way that may result in financial recovery for the many taxpayers and business entities that will suffer from the conduct of Mary Nichols and John Froines. You now are informed of their conduct and you refuse to act to temper their comportment.

William H. Cormier

November 13, 2009

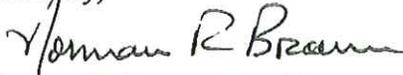
Your extended time taken to respond speaks volumes itself. It took quite a while (almost three months) to conjure up a most effete defense for this despicable behavior by your faculty members who hold prominent public positions. These professors have taken on important positions for the State of California and the resultant scientific and policy misconduct undertaken will cause inestimable damage to taxpayers, the economy, State and Local Governments, along with your University.

Your University President has made a plea for additional Federal Funding (UC Seeks Uncle Sam's Help, front page, Sacramento Bee, October 6, 2009). Although UC has received \$700 million from the federal government, it seems that you need more. California has cut funding to UC by 20% over the last year and one-half, according to this article, and the University is cutting classes, raising fees and furloughing professors. When businesses close doors, unemployment happens and tax payers become tax takers. UCLA will have a part in the continuing economic debacle as saved capital is destroyed via edict without competent scientific proof of health risks, with much of the blame put squarely on unethical behavior by Mary Nichols, Chairwoman of CARB and John Froines, Chairman of the Scientific Review Panel, both UCLA Professors. Maybe the bad actors will have to answer in court for their misconduct and unethical behavior in positions of public trust. Unfortunately, for all industries affected by these drastic regulations in California, including the financing of governments from the taxes extracted from these industries, the damage will have already been done.

And the University of California of Los Angeles will have had a part in this.

I have begun my search for someone within the UC system who recognizes the seriousness of my allegations. After reading your two responses (letters of May 27, 2009 and September 28, 2009 denying the specific and credible charges made) a number of times, I have concluded that future correspondence with your offices will be futile and I intend this to be my last letter to you. Originally, I was not going to respond further, being quite upset over UCLA's continued attempts to posture "non-responsibility" in ethical matters involving their own Professors. After one month to "cool down", I decided that you should be apprised of this one citizen's view of the University's very serious failings in this matter.

Sincerely,



Norman R. Brown, President

cc: Dean Linda Rosenstock
School of Public Health
University of California, Los Angeles
650 Charles E. Young Drive South, Room 16-035 CHS
Los Angeles, CA 90095-1772

Chancellor Gene Block
University of California, Los Angeles
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August 15, 2014

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

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

Dear Chancellor Block,

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sincerely yours,



Lee Brown
Executive Director, CCTA



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

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



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

April 20, 2017

Via Federal Express

Mr. Scott Pruitt
EPA Administrator
United States Environmental Protection Agency
EPA Headquarters
Mail Code 1101A
William Jefferson Clinton Building (North)
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Re: *Dalton Trucking v. EPA* (9th Circuit Case No. 13-74019)

Dear Administrator Pruitt:

I write as the owner of one of the ten petitioners in the referenced case, in which we challenge EPA's approval of California's application for waiver from the Clean Air Act's preemption of state regulation over mobile source emissions standards. Specifically, EPA granted a waiver to California in a Federal Register notice dated September 20, 2013, 78 Fed. Reg. 58090, et seq., allowing California to enforce its strict emissions standards for particulate matter and nitrogen oxides from nonroad diesel engines, such as tractors and excavators.

EPA rubber stamped the waiver application on the ground that California needed its own mobile source emissions program “as a whole,” without determining whether California needed the specific emissions standard for which the waiver application was made. I am not a lawyer, but I can read. The test that EPA applied to grant the waiver is contrary to the language of the Clean Air Act, which requires California to prove that it has “compelling and extraordinary circumstances” necessitating a waiver for the specific emissions standard for which the waiver application was made. California did not make that showing and according to the CDC, California is the 4th healthiest State in the Nation measured by premature death. If Federal Standards is adequate for 46 other States which are less healthy, then it should certainly be fine for California. When I commented on this during the public comment period, EPA responded by stating that California needed the waiver in order to comply with its State Implementation Plan in two air quality basins in the state. The problem is that California has 14 air quality basins, not two, yet EPA nevertheless granted a statewide waiver.

The issue is not academic to me. My father started our road construction business in 1943, and these California regulations are putting his legacy, and our entire company, out of operation. We cannot afford to retrofit our existing vehicles to meet the regulatory requirements, nor can we afford to purchase new ones, leaving us with no option but to lay off honest, hardworking people and close shop. My co-plaintiffs are in similar circumstances. The overall result of the waiver grant is that smaller companies relying on diesel equipment are going out of business while larger ones with available credit or cash are taking over market share, thereby decreasing competition and increasing prices across-the-board. In addition, individuals are precluded from starting a heavy construction company due to the fact

that they cannot purchase used equipment that don't meet these regulations and new equipment costs are too expensive. All this is transpiring because EPA improperly granted California's waiver application.

The 9th Circuit is hearing oral argument in the case on May 18, 2017, in San Francisco. Anything you can do to help EPA and its attorneys take a position that honors the actual language of the Clean Air Act would be greatly appreciated.

Sincerely,



Skip Brown
Owner

NOTE: My TALKING POINTS TO CARB
ON OCT 19, 2012 - IGNORED

EPA WAIVER OF PREEMPTION

Talking Points

October 19, 2012

By

Skip Brown, Owner, Delta Construction Co., Inc. Established 1943

California needs a Waiver of Preemption from the EPA to enforce new regulations on previously owned and legal when purchased off-road diesel equipment. It must have a “COMPELLING AND EXTRAORDINARY NEED” to qualify for such a waiver.

Regardless of this lack of waiver to date, CA has proceeded with implementation dates of regulations which have severely damaged financial capacities of owners of off-road diesel engines by making these engines illegal to use or sell in CA in the near future. A recent sale of one of Delta's equipment that had at least another 10 years of life left brought \$13,000, replacement cost new \$225,000.

Current and upcoming regulations have destroyed the value of Delta's asset base causing the loss of my banking and bonding relationships exceeding 20 years. Forced sales return only 5% of costs to replace and unemployment increases when owners do not replace sold equipment.

In an effort to analyze the “COMPELLING AND EXTRAORDINARY NEED” for granting the Waiver for CA regulations, I find that:

- It is not for health reasons; CA is 4th healthiest State in the Nation as measured by premature death according to the CDC. If Federal Standards is adequate for 46 other States which are “less healthy”, then it's certainly fine for CA.
- It is not due to air pollution studies; Since 2000, 10 separate analyses of CA specific studies have shown that there is no significant relationship between PM2.5 and premature death.
- It cannot be due to excessive amounts of PM2.5 emitted by off road diesel engines as CARB studies show that only 1% of all PM2.5 come from said engines. Even if there was a significant relationship of PM2.5 to premature death, there are much bigger emitters that should be dealt with before anyone considers regulating previously owned diesel engines.

- It is not when you view the significant economic impact on a substantial number of small entities as described in the Regulatory Flexibility Act. If these regulations can destroy my 69 year business, it can and will destroy thousands of others who have not survived nearly as long.
- And it is certainly not when one considers Mortality Associations resultant from decreases of income as compared with increases of airborne PM. The 4 healthiest Counties and the 4 unhealthiest Counties in CA have the same number of Particulate Matter Days (6-7) per year. Other Counties have PMD's in the 30's per year. There is no relationship of PMD's to premature mortality. The real cause of poor health is poverty. The average households with children in poverty in the 4 healthiest Counties is 13%, while the same average in the 4 unhealthiest is 31%. Here you find a direct relationship.

California is broke and these regulations will only exacerbate this condition, leading to increased poverty along with declining health of the residents. These regulations are counterproductive to the health of Californians. This supposed "improvement of health" is the sole reason for this regulation.

The only COMPELLING AND EXTRAORDINARY NEED that CA qualifies for is for the EPA to deny this Waiver of Preemption, due to the reasons above and many more articulated before me.



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

May 23, 2018

Via Federal Express

Mr. Scott Pruitt
EPA Administrator
United States Environmental Protection Agency
EPA Headquarters
Mail Code 1101A
William Jefferson Clinton Building (North)
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Re: Support for Proposed EPA Rule "Strengthening Transparency in Regulatory Science"

Dear Administrator Pruitt:

"Particulate Air Pollution as a Predictor of Mortality in a Prospective Study of U.S. Adults" is the 1995 study that was most responsible for the establishment by EPA of the fine particulate matter (PM2.5) National Ambient Air Quality Standard (NAAQS) in 1997, justified by the claim that PM2.5 causes premature deaths. This PM2.5 NAAQS set in motion a severely flawed regulatory process by EPA and the California Air Resources Board (CARB) that led to stringent PM2.5 regulations in California and the United States. One of these regulations is the 2008 CARB Truck and Bus Regulation, which was designed to reduce the diesel particulate matter component of PM2.5. EPA and CARB ignored strong protests from many experts that the 1995 PM2.5 study and other related 'secret science' studies were severely flawed and did not provide a valid public health justification for costly PM2.5 regulations, especially diesel PM regulations. Impacted businessmen like me provided evidence from vast personal experience that further challenged the validity of the PM2.5 regulations, particularly their retroactive application to legally purchased diesel vehicles and equipment.

Dr. James Enstrom, an accomplished environmental epidemiologist with a long career at the UCLA School of Public Health, recently obtained a valid version of the 1982 American Cancer Society Cancer Prevention Study (CPS II) data used in the 1995 study cited above. His independent reanalysis, which was published in a March 28, 2017 peer-reviewed article, "Fine Particulate Matter and Total Mortality in Cancer Prevention Study Cohort Reanalysis," found that PM2.5 was not causally associated with premature deaths. His evidence challenges the validity of the 1995 study and the 1997 PM2.5 NAAQS. His reanalysis demonstrates the importance of the proposed EPA Rule "Strengthening Transparency in Regulatory Science."

Consequences:

Facing bankruptcy of my 73 year family business due to the imposition that I must replace all of my previously owned and once legal diesel "assets" with new, I closed my doors in June, 2017. Applications to CARB for assistance in purchasing replacement equipment were denied due to the fact that I did not acquire enough annual hours or miles on my equipment to qualify for State assistance. My equipment was sold at auction and employees ranging to 40 years with me lost their jobs. I wrote prior EPA Administrations in 2010 and 2012 of the potential

consequences of excessive PM regulation to my firm and thousands like mine but was unanswered and obviously ignored. The EPA granted CARB the waiver of preemption requested.

Air Pollution Studies:

A serious medical investigation on air pollution would require at a minimum:

1. A biologically plausible toxicity mechanism—how does the toxin cause death or disease, and reliable data on exposure.
2. An appropriate endpoint, which could be death if it is determined to be really premature (impossible to do with observational population studies),
3. An adequate size association to get past the confounders in an observational population study.

No such study exists on airborne PM2.5 in the United States.

Five Cigarettes:

An October 2003 study published in the American Medical Association's Archives of Internal Medicine stated that the risk of sudden death among those who smoked as long as 10 years was zero. The EPA also says smoking a single cigarette can expose a smoker to 10,000 to 40,000 micrograms of PM2.5.

The amount of air inhaled by an adult breathing at rest is about 10 cubic meters per day or about 292,000 cubic meters over an 80-year life span (10 x 365 x 80). The amount of PM2.5 inhaled at the approximate current ambient level in California of 15 µg/m³ is about 4.38 grams in 80 years (292,000 x 15/1,000,000). According to the CARB, ambient diesel PM2.5 is 5% of the total airborne PM2.5, resulting in about 0.22 grams inhaled in 80 years (4.38 x .05), which is near the amount of PM2.5 that could be inhaled from smoking only five cigarettes (5 x 40,000/1,000,000). I was smoking two packs a day when I quit 50 years ago. Based on just common sense, these low levels of inhaled PM2.5 from diesel engines are not sufficient to kill anyone in California.

But the resultant regulations based upon secret studies were enough to put my company out of business; all to prevent a public exposure of PM2.5 equivalent to five cigarettes spread over 80 years.

Conclusion:

I strongly support the EPA Transparency Rule. Additional details in support of this rule and the need for EPA to base its regulations on transparent and verifiable data is contained in the attached November 9, 2017 Texas Public Policy Foundation "Petition in the Matter of National Ambient Air Quality Standards for Particulate Matter." My former business, Delta Construction Company, Inc., is the lead petitioner in this document

Sincerely yours,



Norman R. 'Skip' Brown, owner
Delta Construction Company, Inc.
Asphalt Consulting Services, LLC
SkipBrown@asphaltconsultingservices.com
916-761-1817

TESTIMONY OF NORMAN R. ("SKIP") BROWN
U. S. ENVIRONMENTAL PROTECTION AGENCY
CHARTERED CLEAN AIR SCIENTIFIC ADVISORY COMMITTEE (CASAC)
PUBLIC MEETING ON PARTICULATE MATTER
October 22, 2019

My name is Norman R. ("Skip") Brown. I am the former owner of Delta Construction Company, a family roadbuilding business started by my father in 1943 with operations in Northern California. My company was put out of business because EPA granted California a waiver from federal preemption under the Clean Air Act, allowing California to enforce its particulate matter emissions standards for off-road vehicles powered by diesel engines, such as tractors and excavators. Delta Construction did not have the capital or credit necessary to purchase the equipment necessary to comply with those stringent particulate matter emissions standards. At the same time, it was prohibited from operating its off-road vehicles because they were noncompliant. Although the California Air Resources Board (CARB) offered millions to large firms to replace non-compliant assets, Delta's equipment did not accumulate enough annual hours to qualify for assistance. My argument that parked equipment does not pollute failed to convince CARB to consider lenience. My fine for just one piece was \$1,000 per day just to own it, parked or not. That piece was sold at auction for the price of two rear tires due to the destruction of value caused by new regulations.

California's excuse for promulgating the off-road particulate matter standards was that it needed to curb emissions from off-road vehicles in order to comply with its State Implementation Plan for PM_{2.5} and 8-hour ozone. This was additionally supported via CARB's assumptions that PM_{2.5} from diesel engines was causing 3,500 deaths per year.¹ While California has 14 air quality control regions, only 2 were nonattainment for PM_{2.5} and ozone. Delta Construction performed its road building operations solely within the 12 air quality control regions that were in attainment with the State Implementation Plan. There was no need for California to impose *statewide* curbs of off-road emissions but as a result of those statewide regulations, Delta Construction went out of business.

Technical Discussion:

The underlying culprit in this story is the National Ambient Air Quality Standard (NAAQS) for Particulate Matter, which was put into effect by EPA on March 18, 2013, and which provides that the level of the primary NAAQS for PM_{2.5} is 12 micrograms per cubic meter ($\mu\text{g}/\text{m}^3$). That standard is now under a mandatory five-year review and it important for CASAC to understand that the assumption that all of the particulate matter in each size fraction are of equal toxicity on a mass basis is false, an assumption that was put into serious question by a former Chair of CASAC, Roger O. McClellan, in his 2016 peer reviewed article in RISK ANALYSIS titled, "*Providing Context for Ambient Particulate Matter and Estimates of Attributable Mortality.*" Indeed, recent scientific analysis has cast serious doubt on the evidence of a causal link

¹ Controlling Fine Particulate Matter under the Clean Air Act, March 2006

between PM_{2.5} and mortality, as set forth in Roger McClellan's work titled "*Role of Science and Judgment in Setting National Ambient Air Quality Standards: How Low Is Low Enough?*" where he questions the need for stringent PM_{2.5} standards. Moreover, in his 2016 paper, McClellan states that the assumptions upon which the current standard for PM_{2.5} is based need "careful review in the current PM review cycle." In that paper he questions the need for the current stringent PM_{2.5} standard, given the lack of credible evidence to establish a causal connection between ambient concentrations and mortality.

Others have pointed to the same problem with the current standard. For example, James E. Enstrom's paper titled, "*Fine Particulate Air Pollution and Total Mortality Among Elderly Californians*," published in *INHALATION TOXICOLOGY*, found no relationship between levels of fine particulate matter and mortality. Enstrom's research was based on 118,094 Californians enrolled in the American Cancer Society's cancer prevention study from 1973-2002. Another study performed by Anne E. Smith, published in *RISK ANALYSIS* in 2016, "*Inconsistencies in Risk Analysis for Ambient Air Pollutant Regulations*," challenges EPA's assumptions for quantifying risk estimates in setting NAAQS, focusing specifically on PM_{2.5}. These observations are confirmed in a paper by Louis Anthony Cox, Jr., which also challenges those estimates, "*Rethinking the Meaning of Concentration-Response Functions and the Estimated Burden of Adverse Health Effects Attributed to Exposure Concentrations*." These and other important factors are set forth in detail in an administrative petition filed with EPA on November 9, 2017, by the Texas Public Policy Foundation on behalf of several California companies and trade associations that have been unduly injured as a result of the NAAQS for PM_{2.5}. I include a copy of the petition to CASAC for your information.

Regardless of the above studies, the California Air Resources Board states that aerosol PM_{2.5} from diesel engines is causing 3,500 deaths per year. So we should discuss the relationship of airborne PM_{2.5} to premature death, along with a couple of sources of particulate matter.

Common Sense Discussion:

Simple epidemiological statistics associated with PM_{2.5} are just not relevant to the plausibility that it "causes" premature death. They can show "associations" but as Dr. John Dunn likes to say: "Ice cream and drowning are associated as they both are most likely to occur in the summer". But using plain facts along with common sense puts a stake in the heart of the claim of premature death caused by PM_{2.5}.

The amount of air inhaled by an adult breathing at rest is about 10 cubic meters per day or about 300 thousand cubic meters over an 80-year life span ($10\text{m}^3 \times 365\text{days} \times 80\text{years} = 292,000\text{m}^3$). The amount of PM_{2.5} possibly inhaled at the approximate current ambient level in the two worst air quality control regions of California having $15\ \mu\text{g}/\text{m}^3$ in 80 years is about 4.5 grams ($300,000\text{m}^3 \times 15\ \mu\text{g}/\text{m}^3 / 1,000,000\ \mu\text{g}/\text{gram} = 4.5\text{grams}$). **The amount of aerosol diesel PM_{2.5}, based on**

estimates by the California Air Resources Board that it is 4%² of total PM_{2.5}, is about 0.18 grams in 80 years (4.5grams x .04% = .18gram).

The EPA has stated that smoking a single cigarette could result in the inhalation of up to 40,000 micrograms (.04grams) of PM_{2.5}. **The amount of inhaled diesel PM_{2.5} over 80 years (0.18grams) is less than the PM_{2.5} inhaled from smoking just five cigarettes, or 0.20 grams (.04grams x 5cigarettes = .20grams).** Based on just common sense, these low levels of inhaled PM_{2.5} from diesel engines are not sufficient to kill anyone in California or anywhere else. Not only have I have been breathing California air but I have been exposed daily to PM_{2.5} from diesel construction equipment my entire life, not to mention that I smoked 2 packs of cigarettes (Lucky Strike) a day for 5 years (2packs x 365days x 5years x 20cigarettes per pack = 36,500 cigarettes), or 1,460 grams of PM_{2.5} (36,500cigarettes x .04grams per cigarette = 1,460grams) and I am still here at the age of 75. The absurdity of the inhalation of 0.18 grams of diesel particulate matter over 80 years can be a cause of premature death is ridiculous.

I am here, but my Company was destroyed for my contribution of the total aerosol diesel PM_{2.5} to the equivalence of five cigarettes smoked over 80 years. Common sense must conclude that epidemiological studies supposedly linking PM_{2.5} to premature death amount to nothing more than statistical noise!

Conclusion:

In short, Common Sense supported by the analyses of McClellan, Enstrom, Smith, and Cox provide more than enough reason to reconsider the necessity of the current extremely stringent PM_{2.5} standards. Given that the causal link between PM_{2.5} and mortality is not demonstrable or even logical, the EPA certainly should not tighten the primary annual or 24-hour NAAQS for PM_{2.5}; rather, EPA should consider making the standards less stringent. Had a less stringent standard been in effect a few years ago, I would not have had to close my 73-year family business. Please make sure that doesn't happen to others because of the pseudoscience underlying the current PM_{2.5} NAAQS.

Respectfully submitted,

Norman R. "Skip" Brown

² ibid