

MEETING
STATE OF CALIFORNIA
AIR RESOURCES BOARD

JOE SERNA, JR. BUILDING
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
BYRON SHER AUDITORIUM, SECOND FLOOR
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APPEARANCES

BOARD MEMBERS

Ms. Mary Nichols, Chairperson

Dr. John R. Balmes

Ms. Sandra Berg

Ms. Doreene D'Adamo

Ms. Lydia H. Kennard

Mrs. Barbara Riordan

Mr. Ron Roberts

Dr. Daniel Sperling

Dr. John Telles

STAFF

Mr. James Goldstene, Executive Officer

Ms. La Ronda Bowen, Ombudsman

Mr. Tom Cackette, Chief Deputy Executive Officer

Mr. Bob Fletcher, Deputy Executive Officer

Ms. Ellen Peter, Chief Counsel

Ms. Lynn Terry, Deputy Executive Officer

Ms. Lori Andreoni, Board Clerk

Ms. Sharon Anderson, Manager, Program Management and
Integration Section, OCC

Ms. Tabetha Willmon, Air Pollution Specialist, Program
Management and Integration Section, OCC

Ms. Edie Chang, Chief, Program Planning and Management
and Integration Section, OCC

APPEARANCES CONTINUED

STAFF:

Mr. Kevin Kennedy, Assistant Executive Officer, OCC

Ms. Kim Heroy-Rogalski, Manager, Off-Road Implementation
Section, Mobile Source Control Division (MSCD)

Mr. Tony Brasil, Chief, Heavy-Duty Diesel Implementation
Branch, MSCD

Mr. Michael Benjamin, Chief, Mobile Source Analysis
Branch, PTSD

Mr. Erik White, Assistant Chief, MSCD

Mr. Bob Cross, Chief, MSCD

Mr. Michael Terris, Senior Staff Counsel, Office of
Legal Affairs

ALSO PRESENT:

Ms. Karen Douglas, CEC

Mr. Javier Romero, California Workforce Investment Board

Mr. Hank Ryan, Small Business California

Mr. Juhan Canete, California Hispanic Chamber of
Commerce

Mr. Hank de Carbonel, Concrete Pumpers

Mr. Henry Hogo, South Coast AQMD

Mr. Damien Breen, Bay Area AQMD

Mr. Rasto Brezny, MECA

Mr. Michael Graboski, American Rental Association

Mr. John Lawson, Lawson Rock & Oil, Inc.

Mr. Skip Brown, Delta Construction Company

APPEARANCES CONTINUED

ALSO PRESENT:

Mr. Jon Cloud, J. Cloud Inc.

Mr. James Jack, Emission Control Technology Association

Mr. Michael Kennedy, AGC

Mr. James Lyons, AGC

Mr. Michael Steel, AGC

Mr. Tom Brown, AGC

Mr. Mike Shaw, EGCA/AGC

Mr. Eric Carleson, Associated California Loggers

Mr. Richard Lee, California Diesel Emissions

Mr. William Davis, SCCA

Ms. Betty Plowman, California Dump Truck Owners
Association

Mr. Dave Harrison, Operating Engineers

Mr. Jim Jacobs, Operating Engineers

Mr. Randal Friedman, U.S. Navy

Mr. Don Anair, Union of Concerned Scientists

Mr. Ned McKinley, U.S. Marine Corps

Mr. Michael Lewis, Construction Industry Air Quality
Coalition

Ms. Bonnie Holmes-Gen, American Lung Association of CA

Ms. Nidia Bautista, Coalition for Clean Air

Mr. Andy Katz, Breathe California

Mr. Nick Pfeifer, Granite Construction, Inc.

Mr. Matt Schrap, California Trucking Association

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P R O C E E D I N G S

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CHAIRPERSON NICHOLS: Ladies and gentlemen,
good morning. Happy Earth Day. We are about to begin
the April 22, 2010 public meeting of the Air Resources
Board, so I will call the Board to order, and as our
first order of business we will stand and say the Pledge
of Allegiance to the flag.

(Thereupon the Pledge of Allegiance.
was recited in unison.)

CHAIRPERSON NICHOLS: Will the clerk please
call the roll.

BOARD CLERK ANDREANI: Dr. Balmes?

BOARD MEMBER BALMES: Here.

BOARD CLERK ANDREANI: Ms. Berg?

BOARD MEMBER BERG: Here.

BOARD CLERK ANDREANI: Ms. D'Adamo?

BOARD MEMBER D'ADAMO: Here.

BOARD CLERK ANDREANI: Ms. Kennard?

BOARD MEMBER KENNARD: Here.

BOARD CLERK ANDREANI: Mayor Loveridge?
Mrs. Riordan?

BOARD MEMBER RIORDAN: Here.

1 BOARD CLERK ANDREANI: Supervisor Roberts?

2 BOARD MEMBER ROBERTS: Here.

3 BOARD CLERK ANDREANI: Professor Sperling?

4 BOARD MEMBER SPERLING: Here.

5 BOARD CLERK ANDREANI: Dr. Telles?

6 BOARD MEMBER TELLES: Present.

7 BOARD CLERK ANDREANI: Supervisor Yeager?

8 Chairman Nichols?

9 CHAIRPERSON NICHOLS: Here.

10 BOARD CLERK ANDREANI: Madame Chairman, we have
11 a quorum.

12 CHAIRPERSON NICHOLS: Thank you.

13 I trust all of you made your way through the
14 Earth Day festivities downstairs. For the last couple
15 of years CalEPA has combined take your child to work day
16 with Earth Day. And so the employees not only have
17 their children here, but they have a whole set of
18 exhibits and demonstrations going on. I believe the Air
19 Resources Board is responsible for three of those
20 exhibits. One of them I know relates to fuel cells, and
21 one of them is a "building a cloud" exhibit which is
22 supposed to be quite fun. So during the break I hope
23 that you'll all get a chance to go down and make your
24 way through it. You don't have to be a kid to
25 participate in the activities, and they really are

1 educational.

2 A couple of announcements for housekeeping
3 purposes. I want to make sure everybody knows that
4 there are emergency exits at the rear of the room and
5 that in the event of a fire alarm we're required to
6 evacuate this room and to go down the stairs and out of
7 the building until we hear the all clear signal and then
8 we can return to the room and resume the hearing.

9 Again, for anybody who is not familiar with the
10 procedures, we have staff outside the auditorium with
11 cards to sign up. If you wish to speak you are asked
12 but not required to include your name on the speaker
13 card. We do impose a three-minute time limit,
14 generally, on public comment simply so we can get to
15 everybody who wants to speak. So we appreciate it if
16 when you come up to the podium you state your full name
17 and then just speak in your own words rather than
18 reading a prepared text. If you have written comments,
19 they will be distributed to the Board.

20 -oOo-

21 CHAIRPERSON NICHOLS: Okay. With that, I
22 believe we go straight to our first agenda item which is
23 an update from the staff on the implementation of AB 32
24 Scoping Plan. We're going to hear from staff about
25 their progress since they last updated us in November of

1 2009. We are clearly approaching the home stretch as we
2 work to complete development and approval of all of the
3 greenhouse gas emissions reduction measures that were
4 identified in the Scoping Plan by the statutory deadline
5 which is the end of this year.

6 So it's obviously important for the Board and
7 the staff that we maintain our focus and make sure that
8 we are keeping our momentum. However, I think as is
9 evident from our meeting yesterday afternoon, we're also
10 in a situation that is somewhat more challenging than I
11 think anyone anticipated when the bill was passed, and
12 so the amount of attention to the relationship between
13 AB 32 and the state's economy has never been more
14 intense than it is right now. And I think that
15 yesterday's proceeding went a long way towards at least
16 clarifying what we know as well as what we don't know
17 about how models and other economists' tools can help us
18 understand better how we can craft our plans in a way
19 that addresses both the energy challenges that the state
20 has and also deals with the very difficult economic
21 times that we're in as well.

22 The report that we're about to hear is one of a
23 series of regular updates and is intended to be
24 informational only in terms of the activities of the
25 staff to date. It's not meant to be a rehash of

1 yesterday's economic symposium. I think that we aired
2 those issues quite adequately. And although I'm sure
3 we'll get new information from time to time, we've now
4 completed our review of the Economic Impact Analysis
5 Report and the review by the EAAC committee.

6 So with that, Mr. Goldstene, would you please
7 introduce this item.

8 EXECUTIVE OFFICER GOLDSTENE: Thank you,
9 Chairman Nichols. As you mentioned, today's update is
10 part of the ongoing series of updates to the Board on
11 our progress to develop measures that implement the
12 Climate Change Scoping Plan. As part of this month's
13 progress report we also wanted to update the Board on
14 many ongoing activities that complement the successful
15 integration of Scoping Plan measures into the
16 development of a green economy.

17 This includes working with partners on several
18 initiatives that include the American Reinvestment and
19 Recovery Act funds that will enhance early emissions
20 reductions, green technology development and venture
21 capital investment, the development of green jobs and
22 training and outreach to small businesses and local
23 governments.

24 Although these aren't the regulatory activities
25 normally associated with what we do, they are

1 nonetheless crucial to the success of AB 32.

2 I would now like to have Ms. Tabetha Willmon of
3 the Office of Climate Change begin the staff
4 presentation. Tabetha?

5 AIR POLLUTION SPECIALIST WILLMON: Thank you,
6 Mr. Goldstene.

7 Chairman and Board Members, it's my pleasure to
8 be here today to present our Climate Change Scoping Plan
9 Implementation Update.

10 Prior updates to the Board on the Scoping Plan
11 have focused mainly on the implementation status of the
12 regulations needed to achieve the 2020 emission
13 reduction goal. Today I'll provide a brief update on
14 our progress for implementing these measures including
15 an update on federal activity and a preview of upcoming
16 milestones.

17 I'll also touch on some of the important
18 nonregulatory activities that we and our partners are
19 undertaking to help pave the way for successful
20 implementation of AB 32.

21 As you know, the Climate Change Scoping Plan
22 includes over 70 measures to implement AB 32. To date
23 the Board's approved 14 of the 30 ARB regulations
24 identified in the Scoping Plan including all nine
25 Discrete Early Actions. Together the measures that have

1 already been approved, including those by other
2 agencies, will reduce our emissions by about 78 million
3 metric tons in the year 2020. This is almost half of
4 the emission reductions needed to get back to the 1990
5 levels.

6 The two regulatory measures that the Board
7 considered and approved since our last update in
8 November will provide over 8 tons of greenhouse gas
9 reductions towards the 2020 goal. But perhaps more
10 important, measures like these continue ARB's efforts to
11 reduce emissions from high global warming potential
12 gases, a small but growing part of climate changing
13 emissions, and emissions that will likely not be
14 included in the cap-and-trade regulation.

15 As we continue to develop and bring regulations
16 to the Board for approval, we'll occasionally need to
17 refine our approach. For example, following the June
18 2009 adoption of the cool cars regulation, issues were
19 raised regarding the regulation's potential effect on
20 public safety. After much consideration, last month ARB
21 staff decided to cease rulemaking on this measure and
22 instead will pursue an alternative performance-based
23 approach as part of our vehicle climate change program.

24 While situations like this require us to veer
25 slightly from our original path, we'll continue to

1 explore alternative approaches that will allow us to
2 make up these emissions reductions and to meet our
3 Scoping Plan goals.

4 As you know, California's climate change
5 program affects every sector of the economy and requires
6 that we work closely with other state and federal
7 agencies. At the state agency level, the eleven working
8 groups of the climate action team, or the CAT, are in
9 the process of preparing near-term implementation plans
10 for strategies that will be implemented this year. This
11 information will be incorporated into the CAT's 2010
12 report later, later this year.

13 The U.S. EPA has also been busy. Within the
14 last few weeks the EPA has finalized their regulations
15 on light-duty vehicles along with the Department of
16 Transportation's CAFE standards. And following our
17 nation's lead, the Canadian government recently
18 announced their intent to establish the same standards.

19 California is now looking to develop its next
20 round of standards for light-duty vehicles. U.S. EPA
21 recently finalized a reassessment of the Johnson memo
22 which will delay regulation of greenhouse gases from
23 large stationary sources until January 2nd, 2011. In
24 addition, EPA also finalized their federal mandatory
25 reporting rule which became effective late December.

1 Now, what about Congress? We've heard news
2 that a concept paper for legislation from Senators
3 Kerry/Graham/Lieberman may be coming out soon, so we'll
4 stay tuned on that.

5 As we head into the home stretch for bringing
6 Scoping Plan measures to the Board for consideration, we
7 are approaching several milestones. As we continue to
8 pursue rulemakings, we recognize the current economic
9 conditions and will take that into consideration during
10 regulatory development.

11 With that in mind, we're building on the
12 existing 20 percent renewable portfolio standard with a
13 33 percent renewable electricity standard. Together
14 these two measures will achieve about 21 million metric
15 tons of reductions in 2020. We've been working closely
16 with the Public Utilities Commission, California Energy
17 Commission and Cal-ISO as well as the public on
18 developing this proposal, and we're on schedule to bring
19 this item for board consideration this July.

20 Since your last update in November, ARB staff
21 have been collaborating with the Metropolitan Planning
22 Organizations for each of the 18 regions in California
23 to establish the SB 375 regional targets. In May the
24 MPOs will provide us with alternative scenarios on how
25 their regions can grow into the future. These scenarios

1 will help us develop the draft targets which we will
2 release in late June, and we expect Board consideration
3 of the targets in September.

4 CalRecycle in partnership with ARB continues to
5 fine-tune draft regulations for mandatory commercial
6 recycling. We anticipate formal rulemaking is going to
7 begin in mid 2010 with ARB scheduled to consider these
8 regs in October of this year.

9 Later this year the Board will also consider
10 the cap-and-trade regulation. This regulation we expect
11 to provide the largest reduction of greenhouse gas
12 emissions from the Scoping Plan measures with an
13 estimated 34 million metric tons of reductions. And
14 I'll discuss this regulation in the next slide.

15 The Board will finish the year with a number of
16 vehicle related regulations. Early last month we held a
17 workshop to kick off our regulatory development for the
18 next generation of cleaner cars. ARB is taking a new
19 approach called Advanced Clean Cars which links the Low
20 Emission Vehicle and Pavley standards into a single
21 regulatory frame work. One portion of this regulation
22 will focus on criteria pollutants, and the other will
23 focus on greenhouse gases.

24 As you know, staff has continued to work on
25 development of the cap-and-trade regulation over the

1 last several months. In late November the ARB released
2 a preliminary draft cap-and-trade regulation. This
3 document combines in one place the results of over a
4 year-long public process involving 22 workshops on
5 issues related to cap-and-trade design and builds on
6 more than two years of collaboration with partners of
7 the Western Climate Initiative.

8 We expect to initiate the next phase of our
9 rulemaking soon. The process we engage in will be a
10 deliberative approach that will provide businesses and
11 industries in the state with sufficient time to reduce
12 their emissions in a cost-effective manner without
13 unnecessary short-term costs.

14 We'll continue to invite stakeholder
15 participation throughout the process which involves
16 proposals for how allowances could be distributed, the
17 phase-in of covered sources into the program and market
18 oversight and enforcement. ARB is also developing
19 revisions to our existing mandatory reporting
20 requirements to align these with the federal program.

21 ARB is focusing attention on the development of
22 high quality offset protocols to incorporate rigorous
23 verification and enforcement provisions that are
24 necessary for compliance.

25 Finally, as part of the rulemaking process, ARB

1 is performing technical analyses to identify potential
2 environmental, health and economic impacts that might be
3 associated with the implementation of the cap-and-trade
4 program. We're planning to present a final draft
5 regulation to the Board later this year.

6 Another part of this presentation is the
7 revisit of our original AB 32 Scoping Plan economic
8 analysis. Some of you attended the Board Meeting
9 yesterday and heard presentations and feedback. But let
10 me quickly go over the activities for the past few
11 months.

12 ARB staff held a workshop to discuss the
13 modeling efforts for the updated economic analysis and
14 made several public presentations during the Economic
15 and Allocation Advisory Committee meetings. Late last
16 month we released an updated economic analysis which
17 forecasts robust economic growth as the State continues
18 implementing AB 32. The updated economic analysis was
19 prepared in close consultation with the Economic and
20 Allocation Advisory Committee's economic impacts
21 subcommittee. This subcommittee advised ARB staff
22 during the analysis and also contributed their own peer
23 review.

24 Yesterday ARB staff conducted a forum as part
25 of our Board Meeting to receive feedback on the updated

1 analysis and also to discuss other economic analyses of
2 the Scoping Plan. As our chairman mentioned, evident
3 from yesterday's discussion, many stakeholders continue
4 to focus attention on the Scoping Plan's implementation
5 and its relationship to the State's economy.

6 ARB's updated analysis confirms that full
7 implementation of the Scoping Plan is the right choice
8 for California to make an affordable transition to a
9 clean energy economy. ARB will continue to evaluate the
10 economic impacts of the Scoping Plan measures as they're
11 proposed for Board consideration.

12 Overall, the economic evaluation reassures us
13 that the State's greenhouse programs are moving in the
14 right direction, but this road is not without
15 challenges. I want to share information about some of
16 the nonregulatory activities that are underway to
17 support AB 32 and to smooth our transition away from
18 dependence on foreign nations and their fuel supply to a
19 more self-sustaining, low carbon economy.

20 We have good news. California has seen
21 increased venture capital investment in clean
22 technologies as well as an increase in number of green
23 businesses and green jobs, in spite of a slowing
24 economy.

25 Because the Scoping Plan covers so many

1 different areas of the State's economy, ARB has been
2 monitoring how the activities on the ground level
3 integrate; meaning, what does transportation, energy,
4 land use, solid waste, water and these other sector
5 measures mean for individuals, business owners and local
6 and regional governments? We're working to increase
7 knowledge and understanding of California's climate
8 change program at the ground level to ensure that our
9 programs are successful and deliver the emission
10 reductions needed to meet our near-term and our
11 long-term emission reduction goals.

12 Some of the activities I'll touch upon include
13 American Reinvestment and Recovery Act, or ARRA funding,
14 focusing our efforts on ways to expedite economic
15 recovery through workforce training and development as
16 we transition to clean energy jobs, reaching out to
17 small businesses on green opportunities and successes,
18 and working to provide local governments with guidance
19 and tools for climate action planning.

20 Because of the broad scope of these types of
21 activities, we're working closely with partners in the
22 public and private sectors, including other state
23 agencies, nongovernmental organizations, the Federal
24 Government and local governments to ensure coordination
25 in the programs we develop. And some of our partners

1 are here today to talk about their activities.

2 ARRA funds are not just being used for economic
3 growth but also to stimulate reductions in greenhouse
4 gas emissions through investment in green energy and
5 efficiency. Over \$800 million in ARRA funds has been
6 directed for building energy projects in California.
7 This includes the U.S. Department of Energy direct and
8 California Energy Commission distributed Energy
9 Efficiency Block Grants as well as State Energy Program
10 funds and Community Services and Development Department
11 weatherization funding.

12 ARB staff have been working with other state
13 agencies to track how the Recovery Act money will help
14 stimulate green economic growth. Much of the ARRA money
15 is being used to fund projects that could reduce
16 greenhouse gas emissions, which ultimately may mean more
17 reductions than we projected in the Scoping Plan.

18 As investment in clean technology and industry
19 increases, ARB staff and others are working to identify
20 the real jobs created throughout California in these
21 green businesses. I'd like to take a moment to
22 highlight some of the jobs being created in the clean
23 energy sector. These jobs will help strengthen our
24 local economy as well as offset job losses associated
25 with our transition from fossil fuels to renewable

1 sources.

2 Just this month we heard that a Spanish solar
3 development company called ODPE chose West Sacramento as
4 its location for their U.S. headquarters. They plan to
5 build the biggest solar plant of their kind in the
6 country by June 2011. This plant will add 250 jobs for
7 construction of the facility and another 75 to 120
8 permanent jobs to operate it.

9 Also, Genesis Solar plans to construct, own and
10 operate a concentrated solar electric generating
11 facility in Riverside County. This project will employ
12 up to 1000 people during the 37-month construction phase
13 and 45 full-time employees once the construction is
14 completed to operate and maintain the facility.

15 Another type of renewable energy, biofuels, is
16 being produced by Sapphire Energy which is an
17 algae-based fuel producer in San Diego. Sapphire has
18 proven its biofuel technology by having successfully
19 flown a Continental Airlines Boeing 737 on its
20 algae-based jet fuel with textbook results. It's also
21 driven a Toyota Prius cross country on algae-based
22 gasoline and diesel with equally impressive results.
23 Sapphire Energy has recently added 37 new jobs in San
24 Diego County.

25 Because we know there may be challenges to

1 developing these projects, it's important that we
2 understand the obstacles so we can help work to resolve
3 them. We believe that investment in clean industry and
4 technology will help spur economic growth in California.
5 Governor Schwarzenegger agrees, and part of his
6 California Jobs Initiative eliminates sales tax on green
7 technology manufacturing equipment thereby fostering a
8 more clean business friendly economy.

9 With job growth comes the need for worker
10 training. In response to broad environmental and clean
11 energy policies, California established the Green Collar
12 Jobs Council which ARB's Executive Officer is a member
13 of. ARB staff worked with the California Workforce
14 Investment Board, which is the oversight body for the
15 Green Collar Jobs Council, to help shape the direction
16 of the workforce development and support California's
17 green business and economy.

18 The Council has successfully pushed a regional
19 approach to the California Workforce Investment Board's
20 activities so that green workforce training responds to
21 the green regional economies.

22 One success from the Green Collar Jobs Council
23 is the Clean Energy Workforce Training program which
24 provides \$27 million to 34 workforce development
25 partnerships. This program will train approximately

1 5,000 to 6,000 workers for jobs in the energy
2 efficiency, renewable energy, and alternative and
3 renewable fuel and vehicle technologies.

4 Also, the California Workforce Investment Board
5 was awarded \$2.5 million in Regional Cluster of
6 Opportunity Grants. Ten workforce investment areas will
7 receive funds to develop more specific regional
8 information about the known and projected needs of the
9 employers so that workforce training can be more
10 targeted.

11 In addition, the U.S. Department of Labor
12 awarded their maximum grant of \$6 million to the
13 California Workforce Investment Board to support six
14 regional teams to develop energy efficiency and
15 renewable energy training programs.

16 California is working to strengthen its economy
17 by helping businesses with their bottom line, creating
18 jobs and enhancing workforce development. The Governor
19 recently established an Office of Economic Development
20 which is designed to serve as a centralized point for
21 helping businesses.

22 As you heard in the Ombudsman's report to the
23 Board in February, ARB has also focused on the role
24 small businesses play in implementing AB 32 and a green
25 economy. Last year we established the CoolCalifornia

1 Small Business awards program to recognize small
2 California businesses that have demonstrated leadership
3 and made notable voluntary achievements towards reducing
4 their climate impact. In December we recognized the
5 efforts of 21 California small businesses.

6 ARB has also identified numerous proactive
7 small businesses to serve as case studies. We've
8 delivered ARB's message on climate change, energy
9 efficiency and the green economy to over 30,000
10 individual businesses and to 1200 small business
11 associations representing hundreds of thousands of small
12 businesses.

13 These efforts culminated in an ARB-hosted small
14 business workshop which was held last month in
15 conjunction with the Green California Summit on the
16 green economy. The workshop included sessions that
17 featured small business owners describing the steps
18 they've taken to reduce economic and environmental costs
19 to their businesses, their employees and customers.

20 The workshop was well received by over 100
21 attendees, and we've had numerous requests to hold
22 similar workshops in other parts of the state.

23 Through venues such as these we continue to
24 promote the CoolCalifornia Small Business toolkit. Stay
25 tuned as we're working on an upcoming campaign to

1 increase the visibility of our CoolCalifornia toolkits.

2 In the next few slides I'll highlight a few
3 success stories from small businesses. I'd first like
4 to demonstrate how environmental experts and public
5 utilities worked together to help business and residents
6 in the Lennox area in Los Angeles County to reduce
7 energy use. This project demonstrated how small
8 businesses can participate in the benefits of AB 32.

9 For this project, ARB brokered discussions with
10 local leaders, Southern California Edison, the West
11 Basin Water District and the Golden State Water Company
12 to provide installation of energy and water conservation
13 resources such as new lighting, refrigeration and
14 heating, low-flush toilets and kitchen resources. This
15 collaboration provided up to \$10,000 in energy and
16 conservation improvements to each of the more than 90
17 businesses.

18 The goal is to demonstrate how small businesses
19 can easily achieve nearly 15 to 20 percent in energy
20 savings with retrofits by taking advantage of available
21 resources.

22 For Old Town Trolley Tours, clean
23 transportation is the key to their success. Over the
24 last 20 years, Old Town Trolley Tours in San Diego has
25 provided sightseeing tours using 27 trolleys and five

1 boats on wheels vehicles. They give tours to
2 approximately 500 to 1000 people per day.

3 Old Town Trolley's CEO instituted companywide
4 green policies which included implementing a recycling
5 program, creating a green team to educate the public on
6 sustainable practices, and they implemented energy
7 efficiency measures in their offices which reduced
8 electricity use by 33 percent. To pay for the retrofits
9 they used on-bill financing and rebates. These
10 proactive changes annually save over 300 tons of carbon
11 dioxide emissions from entering the atmosphere and \$1440
12 in annual lighting costs.

13 Another example in Sunnyvale is Savory & Sweet
14 Catering who has been working to make their company
15 green while also helping clients become more
16 environmentally friendly. Since 1993 this small
17 business has made it a point to combine deliveries so
18 they drive less, conserve energy, save water, recycle,
19 use environmentally-preferable products, reduce food
20 wastes, reduce paper usage, and they encourage
21 climate-friendly practices. These actions and others
22 have resulted in annual savings of 12 percent on fuel
23 costs and 10 percent of their electricity bills.

24 We recognize that local governments are
25 essential partners in helping California achieve our

1 greenhouse gas reduction goals, and we've been working
2 to help integrate local government activities into
3 successful AB 32 implementation. By developing on-line
4 inventory and climate planning tools, we can help local
5 governments start the process to inventory their
6 greenhouse gases and identify the most cost-effective
7 and appropriate strategies to save money while reducing
8 emissions.

9 We're working to develop a funding wizard which
10 will help local governments identify grants and other
11 funding available to them to plan and implement
12 greenhouse gas reduction activities. Over the next year
13 we will be incorporating these tools into the
14 CoolCalifornia Local Government Toolkit.

15 We're also working closely with other state
16 agencies, the Strategic Growth Council and U.S. EPA on
17 ways to encourage local government action. ARB has
18 assisted the Strategic Growth Council in developing
19 criteria for their sustainability planning grants which
20 will help local governments integrate sustainability
21 strategies into their planning elements. We're also
22 identifying successful models and strategies that can be
23 replicated by communities throughout California.

24 We know that cities and counties hold the key
25 to encouraging sustainability in local communities. For

1 instance, Sonoma County has been on the forefront of
2 climate planning and is noted for its regional planning
3 approach. The ten local governments within Sonoma
4 County set a mutual greenhouse gas target to reduce
5 emissions to 25 percent below 1990 levels by 2015.
6 They've published a regional Community Climate Action
7 Plan and have initiated countywide programs such as
8 their retrofit and renewables program for homeowners and
9 the business community. Sonoma estimates the program
10 will create significant local jobs, reduce greenhouse
11 gas emissions by 168,000 tons and add to the local
12 economy.

13 You can see that much has been accomplished
14 since December of 2008 when you considered the Scoping
15 Plan. Measures have been approved that achieve nearly
16 half the reductions to meet the 2020 goal, but the Board
17 will consider many significant emission reduction
18 measures this year.

19 We are also working to make sure that
20 California is ready for the transition to a low carbon
21 economy. And we will continue to respond to the
22 question: How does AB 32 affect me and what do I need
23 to do?

24 It's critical to provide outreach information
25 about our climate change program to those that will

1 ultimately see its effect -- homeowners, business
2 owners, employees and policymakers.

3 Our actions and leadership in both the
4 regulatory and nonregulatory arenas continue to have a
5 positive impact on the region, the nation and the world.

6 Thank you. This completes my presentation, and
7 we'll take any questions you have.

8 CHAIRPERSON NICHOLS: Thank you. Are there
9 questions at this point?

10 Sorry, I didn't have my mic on.

11 I note the Chairman of the Energy Commission is
12 in the audience, and I'm assuming she's here on this
13 topic.

14 EXECUTIVE OFFICER GOLDSTENE: She is, and I was
15 just going to introduce her or prompt you to introduce
16 her.

17 CHAIRPERSON NICHOLS: No, no, please do.

18 EXECUTIVE OFFICER GOLDSTENE: Well, Karen
19 Douglas, the Chairman of the Energy Commission, is here
20 to give us an overview of what they've been doing in
21 this regard.

22 CHAIRPERSON NICHOLS: Okay. Well, I think it
23 would be great to hear from our sister agency,
24 especially since I was just over in her territory this
25 morning kicking off a joint panel on carbon capture and

1 sequestration. So there's a lot going on here.

2 Welcome.

3 MS. DOUGLAS: Thank you so much for this
4 opportunity.

5 Chairman Nichols, Air Board Members, it's a
6 real honor to be here today to talk about what the
7 Energy Commission is doing to administer particularly
8 stimulus funds -- I'll touch briefly on some of our
9 other programs -- in a way that creates jobs and helps
10 advance State energy policy and helps all of you and
11 helps the State in meeting the goals of the Scoping
12 Plan.

13 I want to start by thanking the Air Board for
14 its leadership and its hard work on AB 32 and the
15 Scoping Plan. You've done a tremendous job, and we and
16 other agencies are doing everything we can to support
17 you and help you meet your goals.

18 I'll talk about some of the things we're doing,
19 but I wanted to recognize your achievements and also
20 express my appreciation for the close working
21 relationship and partnership we have had, the Energy
22 Commission with the Air Board, certainly on the time
23 that I've been on the commission and I know for a long
24 time, but I think the relationship is very good right
25 now and the need to work together is so important,

1 because as you all know, climate, energy, air quality,
2 these are inextricably linked as we move to pursue all
3 of these goals.

4 In terms of our ARRA work, we've done two
5 things. I'll talk about two categories of programs that
6 we're working on. There are the bread-and-butter
7 programs where we know exactly what to do and how to do
8 it and we can roll out money quickly. And these are for
9 things like energy efficiency retrofits. We've got one
10 program through block grants that gives direct grants to
11 small cities and counties and helps fund them to do
12 energy efficiency projects. So they are renovating
13 streetlights to put in less energy-intensive street
14 lights. They're improving buildings. They're putting
15 in new lighting systems in public garages. They're
16 doing tremendous work.

17 The block grant money is reaching literally,
18 between our program and the matching Department of
19 Energy program, every county in the state, virtually
20 every city in the state -- and we knocked on the door of
21 every city in the state and most of them took us up on
22 it and helped develop programs. And there are projects
23 taking place up and down the state everywhere. So this
24 is really exciting. Local governments have responded in
25 a tremendous way to this opportunity.

1 We funded \$20 million into our ECAA program.
2 The ECAA program is a low interest loan program for
3 energy efficiency retrofits, again for public buildings.
4 In many cases local governments matched their block
5 grant money with our ECAA loans in order to be able to
6 do a bigger, further-reaching project with more
7 benefits. So that's been tremendous.

8 The ECAA money is gone. Everything we had from
9 our initial program plus everything we added to it from
10 ARRA is gone. And when we started out this program we
11 were concerned about whether low interest loans would
12 fly, in this economic climate, in this time will people
13 be willing to do it. Well, they signed up in droves,
14 and it's really exciting to see, and we've got some very
15 good projects coming out of that.

16 We put \$25 million into a revolving loan
17 program at the Department of General Services for State
18 buildings. So this is the State counterpart to the ECAA
19 loan program which does not reach state buildings. This
20 is the first time that the State has had -- at least
21 first time in a very long time that the State has had
22 this kind of funding set aside dedicated to improving
23 the energy efficiency of State buildings.

24 And it's a tremendous opportunity, because
25 we've structured it as a revolving loan. And this is a

1 way -- DGS has had to do a lot of work to figure out how
2 to get through the market barriers. Just as there are
3 market barriers in the private sector side, there are
4 barriers in state government in terms of how buildings
5 are managed and lease operations with DGS and so on. We
6 have worked with DGS and the Department of Finance, they
7 have come up with a way of essentially repaying these
8 loans. The fund will be replenished.

9 As this model proves its worth, it's my hope
10 that we will be able to take another step and look at
11 leveraging private money in addition to utility funds,
12 look at other ways of increasing the investment in the
13 efficiency of state buildings as this model which has
14 worked and proven its worked in the ECAA program for
15 many, many years, makes its debut in State buildings.
16 So this is a very exciting opportunity.

17 In terms of the more innovative, far-reaching
18 programs, the first one I'll talk about is the Workforce
19 Training Program. The Energy Commission put \$20 million
20 of ARRA funds into the Workforce Training Partnership.
21 But with our partners -- and I'll read them. The
22 California Energy Workforce Training Program, it's a
23 collaboration of the Green Jobs Council, the Energy
24 Commission, the Employment Development Department, the
25 Workforce Investment Board, Community Colleges, the

1 Employment Training Panel. It's a tremendous -- and
2 others. It's a tremendous collaboration.

3 And we managed to with that investment find
4 leverage up to \$87 million and create the largest State
5 program for training clean energy workforce. It's a
6 tremendous, tremendous program. It's the first time
7 that the Energy Commission has had this kind of working
8 relationship and collaboration with State entities and
9 regional entities that do workforce training, and we've
10 just been amazed by the great work that has come out of
11 it and impressed.

12 And you'll hear from the Workforce Investment
13 Board, so I won't say too much. But what I will say is
14 that there are \$58 million going to training for
15 displaced workers, underemployed and new workforce
16 entrance. I have heard some stories and some
17 testimonials coming out of that that have just been
18 amazing to me and reminded me again and again why we
19 even do this work. It's tremendous the impact this
20 program has already had on people's lives.

21 These are regional partnerships, it's demand
22 driven, so the partners who get funding have to have an
23 employer's council. That helps ensure that what people
24 are being trained to do leads to jobs. And --

25 CHAIRPERSON NICHOLS: And reliable electricity.

1 Hang on just a second. Our video people are asking for
2 a time out so they may be experiencing some sort of a
3 problem.

4 MS. DOUGLAS: Was that the signal, the light
5 turns off when --

6 CHAIRPERSON NICHOLS: No, the lights are fine
7 but I think there's a lot of cable back there making me
8 wonder what's going on.

9 Karen, it would be helpful if you would get a
10 little closer to the mic or get it closer to you. You
11 have a soft voice. While they're waiting, I'm going to
12 ask you a question about the link back, because I hear
13 anecdotally that when I talk to businesses about what's
14 going on that they make a connection with AB 32 and some
15 of these other kinds of investments. But do you think
16 there are ways of explicitly monitoring and measuring
17 the impact of these programs on carbon in the state?
18 Are we able to do that?

19 MS. DOUGLAS: Oh, yes.

20 CHAIRPERSON NICHOLS: Are we trying to do it?

21 MS. DOUGLAS: These programs come with very
22 intense measuring, verification and evaluation
23 requirements. And so we have some of the most advanced
24 MVNE and auditing provisions that we have ever had for
25 programs on the ARRA money, and we're also using those

1 same protocols and applying them now to AB 118 and peer
2 funds.

3 So we're' doing a tremendous amount of MVNE.
4 As you know, translating electricity savings in
5 different parts of the state into greenhouse gas
6 reductions is an exercise that ARB has worked quite a
7 bit to develop methodologies for doing. So that's
8 somewhere between an art and a science.

9 But in terms of assessing energy saved, it's
10 absolutely there. And it's also -- there's also a
11 really important connection to people. The energy
12 efficiency area is a place where regular people can
13 contribute. They can put -- whether it's buying an
14 energy-efficient appliance.

15 And I would be remiss if I didn't say that
16 today our energy-efficient appliances, cash for
17 appliances program has launched. So if anybody in this
18 room or outside wants a high-efficient refrigerator,
19 room air conditioner or washing machine, you get an
20 extra incentive from the State, from the Energy
21 Commission so long as the money lasts, first come first
22 served. If anybody bursts out of the room as I say
23 that, that's because you're heading to your nearest
24 partner retailer to go get your appliance and get your
25 rebate.

1 So this is an area literally where people can
2 reduce their bills, reduce their costs, help stimulate
3 the economy and help us meet our greenhouse gas goals.
4 This is where ordinary people can play, can participate,
5 can help and can immediately benefit.

6 CHAIRPERSON NICHOLS: We got the thumbs up that
7 whatever the problem was is gone. So go on.

8 MS. DOUGLAS: Very good. I will just say one
9 more thing on workforce because you'll hear more about
10 it. We've got some money through the Employment
11 Training Panel that is going to help train or retrain
12 incumbent workers, again on green energy issues.

13 We put \$110 million into a competitive
14 solicitation for really innovative regional approaches
15 for breaking down market barriers to widespread
16 implementation of energy efficiency retrofits. That's
17 what I was just talking about. Retrofits pay for
18 themselves. They make sense to do today. But there are
19 market barriers that account for a lot of the reason why
20 more people aren't rushing out to do these retrofits.
21 There are barriers like availability of trained
22 workforce, standards, consumer outreach in education.
23 Consistent standards so that the standards in one city
24 in the same county are the same as the standards of the
25 other 87 cities, in a particular county I'm thinking

1 about.

2 So we've put out competitive money, and we've
3 now made awards and are working on contracts for some
4 really exciting programs that will bring benefits up and
5 down the state. These programs link quite directly in
6 many cases to the workforce training programs. And the
7 purpose is to break down market barriers and create a
8 sustainable higher level of retrofit activity in the
9 state so that the jobs that are here today because of
10 these programs are here tomorrow, in fact there are even
11 more of them as we succeed in breaking down these market
12 barriers, which the stimulus money has given us a
13 tremendous opportunity to help do.

14 We have put a significant amount of funding,
15 and again for the first time ever, in manufacturing
16 programs. As staff noted, the Legislature just passed
17 and the Governor just signed a bill removing the sales
18 tax for equipment for green energy or clean energy
19 manufacturing. The Energy Commission with partners at
20 -- our partners will come back to me, but with our
21 partners, and in the case of the 118 money it's the
22 Treasurer's office, and in the case of the ARRA money
23 we're working -- I'll remember who we're working with.

24 But we're doing low interest loans for clean
25 energy manufacturing, up to \$5 million loans. And I was

1 initially wondering how much interest there would be in
2 low interest loans for new or expanded manufacturing
3 facilities. We did a significant amount of outreach.
4 My sense is that there is tremendous interest.

5 And you asked about the direct link to AB 32.
6 Why do companies want to do manufacturing in California?
7 You hear so much criticism about the business climate in
8 this state. When we have asked that question, we hear
9 that in the clean tech area, we are in front in
10 development. So many of these clean technologies, there
11 is so much venture capital money that comes into the
12 state, the research and the development and the
13 innovation that comes out of the State is tremendous.

14 We are very advanced in deployment of clean
15 energy technologies through our retrofit programs,
16 through our renewable energy programs, through our air
17 quality laws, through so much of what we do we are
18 advanced in deployment. And for certain kinds of
19 technologies, given the market and given the location of
20 all the innovation that's going on here, it makes a lot
21 of sense to do certain types of manufacturing in
22 California. And there is a tremendous amount of
23 interest in it. So I have high hopes for the
24 manufacturing program.

25 CHAIRPERSON NICHOLS: So do you want to scoop

1 the Governor's announcement today or should I?

2 MS. DOUGLAS: Why don't you.

3 CHAIRPERSON NICHOLS: Okay. Well, we just got
4 the word that Sun Power, which has been one of the
5 long-standing solar roofing companies that has been
6 selling solar paneling in this state, they're based in
7 Sunnyvale, is announcing today that they're going to be
8 building their first U.S. manufacturing plant in
9 California. So that's what the Governor is doing for
10 his Earth Day celebration. And I think that just caps
11 what Karen was saying in terms of why they're doing it
12 is precisely because the market is now here, the
13 incentives are in place, obviously, to make it
14 attractive for them to do it. But it's great to see
15 this actually coming to fruition.

16 MS. DOUGLAS: It's tremendous. And my hope and
17 expectation is that we'll see more and more of it in the
18 near future as these programs roll out and as the impact
19 of the sales tax reduction comes into effect.

20 So the last thing that I wanted to make sure I
21 said is that every year the Energy Commission does an
22 Integrated Energy Policy Report or IEPR. This is the
23 update cycle for the Energy Commission. We are focusing
24 our IEPR on the ARRA investments that the Energy
25 Commission has made, particularly job creation and

1 program benefits that are coming out of it.

2 Many of these programs, the MVNE may not be
3 coming in, so it will be more describing the programs
4 and what's actually happening on the ground, likely or
5 projected benefits from that, job creation, what is a
6 green job, how the 118 program and the peer program
7 support that, and also the Energy Commission's work in
8 siting renewable energy plants, which I haven't really
9 talked about but which is a tremendous focus of ours
10 right now as well.

11 So that will be the focus of the IEPR. We're
12 working on that over the next four to six months. So
13 you'll expect to see workshops at the Energy Commission.
14 We'll certainly be reaching out to your staff and
15 others, and I hope that some of the work that we develop
16 through the IEPR will be of use to you as well in
17 this -- on this topic.

18 So with that I'll conclude my statements. I
19 really appreciated the chance to be here and enjoyed
20 seeing all of you and thank you again for your good
21 work.

22 CHAIRPERSON NICHOLS: Thank you. Thanks for
23 coming over. Okay. Next on the list to testify is
24 Javier Romero from the California Workforce Investment
25 Board.

1 MR. ROMERO: Chairman Nichols, thank you for
2 this opportunity. I'm here for Barbara Halsey, our
3 Executive Director who wished to be here but
4 unfortunately due to a prior commitment could not.

5 I'd like to start off by thanking Executive
6 Director Goldstene for your participation on the Green
7 Collar Job Council and your staff, Sharon Anderson.
8 They've been very helpful in working with the efforts.
9 And as you saw on one of the slides, you saw the slides
10 of the Clean Energy Workforce Training Program in which
11 Chairman Douglas spoke to you. And also you saw the
12 Regional Industry Cluster of Opportunity grant, and you
13 also saw the State Energy Sector Partnership.

14 Those three components are what we call our
15 Green Workforce Initiative. That initiative is the work
16 of the Green Collar Job Council to align the resources
17 at the State level to support the implementation and
18 development of the green economy.

19 I'd like to focus on the Regional Industry
20 Cluster of Opportunity grant opportunity. We have our
21 first action clinic on April 28th. The Clean Energy
22 Commission, AB 118, actually funded that opportunity as
23 well. Now, the purpose of that initiative is to fund
24 ten regional collaborations to conduct regional
25 diagnosis of their industry clusters.

1 You mentioned earlier, Chairman Nichols, that
2 the green economy and California's economy are
3 intertwined, and I think --

4 (Brief interruption)

5 We think that, as you know, our economy is made
6 up of regional economies. In order for us to get to
7 where those green job opportunities lie, we believe that
8 it needs to begin with some regional industry cluster
9 diagnosis. And so the Regional Cluster of Opportunity
10 grant process, what it will do is it will fund ten
11 regional collaborations that will engage in that kind of
12 diagnosis, and then they will identify those industry
13 clusters that are growing in their economy.

14 And then the second point will be that they
15 would, beyond that diagnosis, will engage those industry
16 clusters. And I mentioned that the alternative fuels
17 and re -- I'm sorry. They actually have funded four of
18 those projects. So how that will work is that when
19 those industry clusters are identified, the next phase,
20 they will then engage the employers that make up that
21 industry cluster, and then actually engage in some joint
22 priority setting to identify where are those
23 opportunities, and through that engagement with those
24 employers identify, we think, perhaps barriers, be it a
25 trained workforce, be it other issues, that need to be

1 addressed to help those -- first of all, for business
2 retention, but also growth.

3 And then after that, the third phase of that
4 grant process will be actually what we call investment
5 strategy in which I mentioned initially, the initial
6 step would be that regional diagnosis. Well, actually
7 that diagnosis is not done purely through the eyes of
8 local workforce investment boards but also through the
9 perspective of that regional collaboration that will be
10 made up of economic development organizations,
11 educational partners and business representatives. And
12 those business representatives will be industry cluster
13 employers.

14 And so when they devise -- first the diagnosis,
15 actually do some joint planning, then there will be some
16 investment strategies. They'll come from regionally.
17 And I think that's an opportunity we all have to
18 actually learn what are some of those -- you mentioned
19 the term, you heard anecdotally. Well, I think we will
20 actually know in specific regions what those
21 opportunities are, what are those barriers and actually
22 see how we could further organize our resources to
23 support those opportunities, to ensure that employers
24 make that transition to the green economy and actually
25 take advantage of those opportunities the green economy

1 provides.

2 And then the fourth part of that process will
3 be actually sustainability planning. Actually, okay,
4 we've developed a funding -- a strategy, investment
5 strategy, now let's get it done, actually align
6 resources, go get resources, identify regionally who are
7 our resources and so on.

8 So we're really excited about the Regional
9 Industry Cluster of Opportunity grant process. Each
10 benchmark, I mentioned the four phases, will culminate
11 in an action clinic, and that action clinic will not
12 only ensure that they're leveraging that first phase but
13 also pivots those regional teams for the next phase, and
14 so on.

15 And we would invite everybody to observe that
16 process. We will be sending invites to our Green Collar
17 Job Council members and our stakeholders of those
18 opportunities, those action clinics, so they can observe
19 and watch this process evolve.

20 CHAIRPERSON NICHOLS: Thank you. I assume that
21 in all of this you are not reinventing the wheel and
22 that you're building on things that already exist. But
23 I wonder if you are working directly in these regional
24 councils with the community colleges that are in those
25 regions, because they seem to be at the heart of this

1 type of training.

2 MR. ROMERO: Absolutely. Absolutely. And
3 those three components, what I called the Green Collar
4 Job Council refers to the Green Workforce Initiative, we
5 believe we've done things that will position those
6 systems -- community colleges, local workforce
7 investment boards, economic organizations -- to come
8 together and position to take advantage of the
9 opportunities in the green economy.

10 For example, Chairman Douglas mentioned the
11 Clean Energy Workforce Training Program requires an
12 employer council but also required that if the grantee
13 or the applicant was a local workforce investment board
14 they had to have a community college as a partner, and
15 vice versa. We then leveraged the Clean Energy
16 Workforce Training Program process to develop our State
17 Energy Sector Partnership proposal to DOL in which we
18 achieved the highest amount of \$6 million. And we
19 basically identified six regional collaborations based
20 on geography, maturity of collaboration and basically
21 opportunity, and used that, and now we've got the
22 \$6 million. So we're constantly building.

23 And the recog, those ten grantees, they also,
24 many of them, are Clean Energy Workforce Training
25 Program grantees as well. Some of them are SS -- State

1 Energy Sector Partnership regional teams.

2 So that's a strand, a strand you'll find
3 throughout is ensuring that the collaboration is there
4 amongst our State assets and also ensure that business
5 and the employer community is heavily involved, if not
6 driving.

7 CHAIRPERSON NICHOLS: Thank you.

8 Comment or question? Yes.

9 BOARD MEMBER RIORDAN: Question, and that is
10 the region, how large are these regional groups that
11 you're looking to set up?

12 MR. ROMERO: Initially the region, the
13 proposals, they came up with a proposed region. They
14 suggested that these few counties -- for example, Fresno
15 County Workforce Investment Board came in with
16 practically the whole Central Valley. However, the
17 regional -- the industry cluster diagnosis is going to
18 have a data-driven identification.

19 So basically the diagnosis will say if that
20 industry cluster is your target, this is what your
21 region should look like. So we anticipate that there
22 may be some counties that are complimentary or there may
23 be some counties that are not in the discussion that
24 need to be. So it will be data-driven, ultimately.

25 BOARD MEMBER RIORDAN: So you're willing to

1 look at some fairly substantial regional areas if you're
2 looking or willing to accept, say, the Central Valley,
3 correct?

4 MR. ROMERO: Right. But at the end of the day,
5 the industry cluster diagnosis will dictate what that
6 region should look like.

7 BOARD MEMBER RIORDAN: And who came to you
8 initially to offer that? What seems to be -- who
9 instigates this regional effort?

10 MR. ROMERO: This go-around, basically, we
11 started through a competitive process, the solicitation
12 for proposals, which targeted our local workforce
13 investment boards. So that being the State Workforce
14 Investment Board, we started with our local workforce
15 investment boards; however, we ensured that the
16 necessary partnerships were in place.

17 And the origins of this approach go far. I
18 mean, the Labor and Workforce Development Agency for a
19 long time has been working with the Economic Strategy
20 Panel that developed the California Regional Economies
21 Project that developed a methodology referred to as
22 Industry Clusters of Opportunity Methodology. We came
23 up with this approach with the Regional Industry Cluster
24 of Opportunity grant to actually implement that
25 methodology in a way which provides the mechanism in

1 which that methodology is actually driving program
2 policy investments.

3 BOARD MEMBER RIORDAN: Thank you.

4 CHAIRPERSON NICHOLS: Thank you. Any other
5 comments? Yes.

6 BOARD MEMBER BERG: Just one other quick
7 clarification. Are you depending on the stakeholders to
8 come to you and identify their regions, and are they
9 bringing you the data or is the Board establishing the
10 regions?

11 MR. ROMERO: I'm glad you mentioned that, and I
12 should cover that. We are working with Collaborative
13 Economics. I don't know if many of you have seen the
14 Many Shades of Green Next 10 report. That report was
15 put together by Collaborative Economics. Collaborative
16 Economics was the principal consultant with the
17 California Regional Economies Project. So we have
18 contracted with them to provide technical assistance
19 throughout the process and actually provide that
20 initial -- that regional diagnosis. So they will have
21 this objective source which will provide that analysis
22 for them.

23 CHAIRPERSON NICHOLS: Thanks. Okay. Next up
24 is Hank Ryan.

25 (Brief interruption)

1 MR. RYAN: I appreciate the opportunity to
2 speak before CARB, and this is a day that I'm really
3 glad to be here to be able to talk about these issues,
4 Earth Day being one where we really need to get the job
5 done.

6 I want to cover four areas briefly, two that I
7 think show advancement to their challenges. First of
8 all, from the business point of view, we are, I think,
9 wanting to do our best to save energy because that's
10 going to make us more competitive. However, we've been
11 doing that in a blind fashion up until now because we
12 don't have the ability to really see what we're using
13 closely enough.

14 Smart Meters are being installed across the
15 state now that are going to help with that, and I was
16 pleased to get an e-mail from Ralph Cavanagh at NRDC
17 noting that Google would now be addressing the
18 commercial sector in this so-called software dashboards
19 that would allow us to see how our ice machines are
20 doing and what they're using and when so we can control
21 that.

22 That is very important because when we just get
23 a bill that says what we used and we don't know the
24 different components of our business, we can't control
25 it. And as small businesses and medium businesses and

1 large businesses, if we can define what that is, we will
2 address it. So I think that's important, and it's
3 coming fast, and it's going to really help us invest,
4 knowing what we're doing.

5 There was a discussion of funding wizards, and
6 the ECAA dollars that are now gone to help cities and
7 towns and state projects. I would be remiss if I didn't
8 mention on-bill financing, and that is something that
9 we've worked on both for small businesses but also for
10 the institutional sector, meaning taxpayer-funded
11 entities. And I believe all three utilities are going
12 to be offering on-bill financing to government entities
13 at zero percent interest and up to a million dollars per
14 meter. So that can really help these cities and
15 counties which we clearly know now are having trouble
16 with funding. So that's a major plus.

17 It was discussed that understanding the
18 obstacles so as to be able to work through them is
19 important, and I want to address just two areas that I
20 think are worth mentioning.

21 The coordination of agencies within the State,
22 I think, is incredibly important. A simple example is
23 that a couple years ago we went to the Department of
24 Alcoholic Beverage Control for the simple reason that
25 food service equipment, and for businesses to take

1 advantage of those incentives, it's a really tough go.
2 There is not a real connection between food service and
3 efficiency. There hasn't been. A lot of new advances
4 have occurred.

5 But we thought, you know, what if when you're
6 applying for your liquor permit that when you go to
7 DABC, which you have to do, if those incentives are
8 right there in the window for you to pick up and take
9 advantage of before you've purchased all your equipment.
10 And the challenge was whether DABC would help cooperate.

11 Well, we met with Steve Hardy, and this was a
12 couple years ago, and we talked about that initiative
13 which we've made happen with PG&E starting a pilot
14 program which demonstrated that those pamphlets are
15 being taken. But DABC went farther in offering that
16 whenever there is a transaction that occurs, whether it
17 be a new permit or a transfer, the utilities can get
18 that information so they can then get out to those
19 businesses right away.

20 Now, we haven't implemented that yet, but I
21 think it demonstrates what can occur if the government
22 agencies simply -- if we're all rowing in the same
23 direction. So I think it provides one example of how to
24 move that forward.

25 Finally, Supervisor Roberts brought up what I

1 think is perhaps one of the most important issues
2 yesterday when he talked about permitting and the issues
3 of those blockages. He talked about an algae pond in
4 San Diego for that industry down there that they simply
5 couldn't get permits for. I think that's a real
6 challenge, and I think that's something that we need to
7 address. It's very important to address, because it
8 also goes to the mind-set of "we can't do this" that
9 many businesses feel in California.

10 I'll give you an example of one way that we've
11 tried to help to break through, and hopefully have made
12 some progress.

13 A small business person came to us and joined
14 Small Business California with the idea of building
15 something called aquaponics using a facility in
16 Watsonville that incorporates greenhouses that are no
17 longer used productively because the floral industry has
18 fallen to globalization here in California. The flowers
19 that are coming up from South America are just -- they
20 can't compete.

21 So the square footage in greenhouses and the
22 taxes being paid to the City of Watsonville are leaving
23 this business person in a tough position. And so they
24 went to Fish and Game to look at something called
25 aquaponics which raises Tilapia -- which you buy at

1 Costco for \$5.99 a pound from Indonesia -- in a
2 closed-loop system so that those food miles, so to
3 speak, can be brought down and that product can be
4 produced in Watsonville.

5 Well, initially Fish and Game said, sorry, we
6 will now allow -- that is on our list of fish that you
7 cannot work with, and so we can't help you. Well, the
8 distinction of the ability for those fish to get into
9 the environment in normal agriculture and aquaponics,
10 which is truly a closed-loop system, we felt was
11 something that we should bring forward. So we've asked
12 to meet with Fish and Game and also with the natural
13 resources folks at the Legislature to come at it from
14 both ends to say maybe this is a question worth
15 listening to.

16 Well, fortunately two days ago Fish and Game
17 came back with an e-mail that said, you know what, we
18 think this is a question worth listening to. Now, I
19 don't know if our help made that happen. I think the
20 letter that was drafted by the business really got the
21 job done. But I think it just, again, provides another
22 example where we need to find those areas where
23 obstacles do exist, identify where the distinctions can
24 help move us forward, and in that way we'll be
25 successful.

1 I appreciate the opportunity to speak.

2 CHAIRPERSON NICHOLS: Thank you. Thank you for
3 your role in that particular success story. It sounds
4 like being part of Small Business California is a good
5 deal. It's a commercial for your organization.

6 Okay. Juhan Canete from the California
7 Hispanic Chamber of Commerce.

8 MR. CANETE: Thank you, Madame Chair, and thank
9 you members of the CARB board for allowing me to speak
10 today.

11 My name is Juhan Canete, Executive Director of
12 California Hispanic Chamber of Commerce. The Chamber is
13 the largest Hispanic regional business organization in
14 the nation representing over 720,000 Hispanic-owned
15 businesses through a network of 65 chambers and business
16 associations throughout California.

17 We've been following the development of AB 32
18 policies for a number of years now, and as specific
19 regulations take shape, one thing has become clear.
20 There will be an enormous impact on employment and on
21 energy and other costs. It's also very clear that if
22 California pursues these policies on its own without
23 similar efforts taking place at the same time by other
24 states, the Federal Government and the rest of the
25 world, we will have spent billions and risked all those

1 jobs and made absolutely no impact on global warming.

2 Even our potential partners in the regional
3 cap-and-trade program, the Western Climate Initiative
4 states, have decided now is not the time to embark on
5 such a program. They recognize that their economies
6 cannot sustain the cost.

7 And from our perspective, California should
8 strongly consider holding off on the solo cap-and-trade
9 program and wait until there are enough partners for us
10 to protect the competitiveness of California businesses
11 and actually have some meaningful impact on greenhouse
12 gas emissions.

13 The Federal Government is apparently ready to
14 announce its climate change policy, and we believe it's
15 in California's interest to examine the national
16 proposal and try to work in cooperation with the Federal
17 Government and other states to arrive at a uniform
18 national policy that will level the playing field for
19 all concerned, and again, provide the best chance for
20 meaningful emissions reductions.

21 As it stands now, the higher energy costs
22 related to California's AB 32 plans will
23 disproportionately impact small businesses and
24 low-income communities, a sector heavily represented by
25 our Hispanic Chamber's membership.

1 And because AB 32 targets carbon-intensive
2 industries, small businesses and suppliers will be
3 disproportionately impacted as well, and additionally
4 good-paying blue collar union jobs that have a high
5 percentage of Latino workers and workers who haven't had
6 the advantage of advanced higher education. Again,
7 these are people from our community, so we are
8 understandably concerned about this, this issue.

9 We urge you to proceed with caution and work to
10 coordinate with other state and national efforts to
11 achieve the most cost-effective and environmentally
12 beneficial program possible.

13 And I thank you for your time.

14 CHAIRPERSON NICHOLS: Thank you. And I think
15 that's good advice. We do need to be coordinated. We
16 appreciate that.

17 BOARD MEMBER ROBERTS: Could I --

18 CHAIRPERSON NICHOLS: Sorry I butchered your
19 name. Yes. Just a moment, sir. Excuse me.

20 BOARD MEMBER ROBERTS: One of the comments, not
21 one of the comments, several, yesterday when we were
22 doing the economic analysis, and I don't know if you
23 were able to see that, but one of the things there
24 seemed to be a strong consensus on San Diego going -- or
25 excuse me, California going alone. California going

1 alone is a far more expensive way to do this. So what
2 you're saying is absolutely right, and I hope you keep
3 saying it.

4 MR. CANETE: Thank you.

5 CHAIRPERSON NICHOLS: Okay. Hank de Carbonel.

6 As far as I know, this is the last witness who
7 signed up on this item.

8 MR. De CARBONEL: Yeah. My name is Hank
9 de Carbonel with the Concrete Pumpers. Certainly an
10 auspicious day today. It's not just Earth Day, it's not
11 just the meeting of the Board, but it's Lenin's
12 birthday. You know, the other Lenin, the crazy one, the
13 one the Germans sent back to destroy their country. He
14 had a fellow named Lysenko who produced their five-year
15 plans, primarily in agriculture.

16 Mr. Lysenko was not a farmer, was not an
17 agricultural expert, but he was excellent with the paper
18 and pencil, and his plans always failed and his plans
19 led to people dying of starvation and living in
20 miserable conditions. The result was Mr. Lysenko had to
21 start with a new piece of paper. However, other people
22 died. So he was frequently wrong but never in doubt.

23 Now, on the Scoping Plan, there is no cost in
24 there for getting the electricity from these wonderful
25 gadgets to where the electricity is needed.

1 I might point out to you I read a story the
2 other day about in Europe there are two-tiered plans for
3 energy. So if you're producing green energy you get to
4 charge more for it than the conventional coal or
5 nuclear-powered energy. They found an energy company
6 that was producing alternate energy and getting paid a
7 premium for it from solar cells. Somebody finally got
8 around to noticing they were producing a lot of solar
9 electricity at night which seemed to be somewhat
10 difficult, a new technological break-through of some
11 kind. They went out and found they were running diesel
12 generators to power the lights to power the solar panels
13 so they could get the electricity at a supreme power.
14 So it's a law of unintended consequences.

15 And as we see constantly, government agencies
16 have a problem. They can't quite keep up with the speed
17 of private industry. And we've heard these glowing
18 reports today constantly of all the wonderful things
19 that are happening on the energy front and subsidization
20 and the incentive programs and all these things. I'm
21 curious, if these things are so wonderful and so great
22 and so bountiful, why do they have to be subsidized?
23 Why can't these people support their own ideas that are
24 so technically advanced?

25 And I would also suggest to you that this

1 money, these subsidies, these tax credits, these loans,
2 these low interest loans, the State can't print money,
3 unlike the feds. So this money that gets spent is
4 somebody's money. It's the taxpayers' money.

5 So when you go out and start making choices on
6 who's the winners and who's the losers, I don't think
7 that's CARB's role, I don't think that's cap-and-trade's
8 role. Cap-and-trade right now, carbon credits in
9 Chicago as of a couple days ago are about a dime. In
10 Europe they're about \$24. Now, if I'm buying or
11 selling, it's going to make a big difference where I buy
12 or sell.

13 That's what I have to say.

14 CHAIRPERSON NICHOLS: If you want to finish
15 up -- okay, thank you, sir.

16 Good reminder that not everybody is a believer.
17 It's also, I think, worth mentioning that one of the
18 reasons why we're here, why AB 32 was created in the
19 first place, is because there already are subsidies for
20 dirty energy. They've existed for a long time, and they
21 include our lungs and our air and our communities.

22 So for a long time, I think, entities of
23 government have been trying to find ways to bring on the
24 newer, cleaner stuff, but it always lacks competition
25 because the thumb is on the scales for the other older,

1 dirtier energy sources.

2 And if you listen, I don't know if you have
3 placed any credibility with them, but if you listen to
4 the oil industry, they'll tell you that they're poised
5 and ready to bring on cleaner energy sources, in fact
6 they're investing in them. They're just not going to
7 invest very much until government makes a decision as to
8 what it wants, sets the rules and then gets out of the
9 way.

10 I think that's the right policy. I don't think
11 our job is to pick winners and losers. I think our job
12 is to specify what's needed from an environmental
13 perspective and then try to get there in as economically
14 efficient manner as possible, which certainly does not
15 include us trying to run the program.

16 So that's been the philosophy, I think, from
17 the very beginning on this board. It certainly is the
18 Governor's philosophy. And I hope, sir, that as you
19 stay tuned, because I can see that you're now spending a
20 lot of time with us, that you will see that that
21 actually is how we're going about doing our work.

22 All right. That was the list of all the
23 witnesses.

24 Anybody have any additional questions or
25 comments at this point?

1 BOARD MEMBER TELLES: There was comments today
2 and yesterday about how some of these green businesses
3 are slowed down by permitting and all that. And I'm
4 aware of that also in San Joaquin Valley. But is there
5 local, state and federal coordination of this, and is
6 there a fast-track way to do this?

7 I mean, yesterday Supervisor Roberts mentioned
8 that they basically lost an industry in San Diego County
9 that is going to be a green industry, and we hear all
10 that we have for funding for some of these things, which
11 I also agree that's taxpayer dollars, and that funding
12 has to be used correctly, but if we don't facilitate
13 this, it's not going to work.

14 EXECUTIVE OFFICER GOLDSTONE: There used to be
15 a Trade and Commerce Agency in State government that was
16 eliminated that used to do a lot of that work to help
17 with the streamlining of permitting. I think Tabetha
18 can give us a quick report on the new entity that the
19 Governor just created that helps try to expedite
20 permitting that was just announced the other week.

21 Tabetha?

22 AIR POLLUTION SPECIALIST WILLMON: Yeah. I
23 think we in California recognize that we need to help
24 businesses. We need to create a place for them to go, a
25 single, unified point.

1 Governor Schwarzenegger recently created the
2 Office of Economic Development, and he's tying in all of
3 the different state agencies so this can be a
4 centralized point for businesses to go to deal with such
5 issues as permitting challenges, the different
6 challenges that they're going to encounter as we're
7 trying to recover our economy, so particularly as we're
8 transitioning to a green economy.

9 BOARD MEMBER TELLES: Should we perhaps just
10 send a letter there also just reemphasizing the
11 importance of this? I mean, I'm sure he's aware, but...

12 CHAIRPERSON NICHOLS: I think it's a fine idea,
13 I really do.

14 BOARD MEMBER TELLES: I mean, this whole
15 economic analysis is kind of predicated upon the fact
16 that there's going to be green jobs, but if other state
17 agencies kill the green jobs, it's not going to work.
18 And I think that is a priority, not just something to
19 talk about.

20 CHAIRPERSON NICHOLS: Early on, if I may just
21 respond a little bit further, as part of the Climate
22 Action Team, Secretary Adams has convened a
23 cabinet-level group of all the other agencies that have
24 a piece, either because like the Energy Commission they
25 can channel funds or because they could stand in the

1 way. And sometimes they do.

2 One of the biggest obstacles, though, is the
3 number of state, federal and local agencies that all
4 have a role in permitting. And although people have
5 talked about it for years, the only way that we found to
6 actually expedite permitting is kind of a brute-force
7 system where you get everybody into a room and put them
8 on a schedule and make them do their job faster.

9 That is now happening with respect to solar
10 energy in California because I think it finally got to
11 the point where everybody recognized that we were our
12 own worst enemies in some respects in terms of being
13 able to take advantage of the solar energy we have in
14 California. So there is actually a working group of
15 people assigned by Secretary of Interior, the Governor's
16 office, all the state agencies and federal agencies that
17 either are land owners or have a role in the permitting
18 to take a list of projects and work through them.

19 Not every project is going to succeed, because
20 sometimes they were sited in the wrong place or they
21 really do have impacts that are not possible to
22 mitigate. But many of them will, and it's going to be
23 something that we will see getting done, I think, by the
24 end of this year.

25 But I'm sure those of you with local government

1 experience in particular have things to say about how
2 well or badly this all works.

3 Barbara?

4 BOARD MEMBER RIORDAN: Well, I think, Madame
5 Chairman, you hit on it. You just have to get everybody
6 together.

7 I don't know the particulars, and forgive me
8 for this, but I know there is a solar effort in part of
9 our desert and it's had some bumps and it's had some
10 problems. And I think the locals need to be brought
11 into the process very early on, and that's going to
12 change depending on where the facility is sited. But in
13 my case, lets take San Bernardino County, and that is in
14 an unincorporated area so we're talking about the
15 county. We need to have those people sitting at the
16 table as well.

17 So I want to encourage you to perhaps ask that
18 the local people be there working this through. Because
19 we have just a whole host of federal and state issues,
20 but the local people need to be a part of it because
21 they can undo a lot of good if they aren't brought into
22 the process early on.

23 CHAIRPERSON NICHOLS: Thank you.

24 Yes, Dr. Balmes.

25 BOARD MEMBER BALMES: Well, I'm neither a small

1 business person nor a person with experience at local
2 government, but perhaps because I'm an academic I'm
3 particularly frustrated or have been particularly
4 frustrated with university bureaucracy.

5 CHAIRPERSON NICHOLS: You have your own
6 bureaucracy to deal with.

7 BOARD MEMBER BALMES: So I just wanted to add
8 my voice to the chorus here. I really think that the
9 brute-force approach may be necessary here. I mean,
10 given the economic crisis, given the dissatisfaction
11 with the populous with regard to government, we have to
12 make government deliver for small business in this
13 regard. So I just wanted to add my voice to what's
14 already been said.

15 CHAIRPERSON NICHOLS: Thank you. Yes.

16 BOARD MEMBER ROBERTS: I'm not sure where
17 though start here.

18 CHAIRPERSON NICHOLS: I'm sorry, you've got
19 three minutes. (Laughter)

20 BOARD MEMBER ROBERTS: It's not necessarily
21 state agencies, it's the whole gamut of state rules and
22 regulations that are killing us. Try to go put in a
23 windmill; you will think you're starting World War III.
24 I went just through a battle just to put up a windmill
25 test tower which is a pole that might be three or four

1 inches in diameter that's hardly visible, and you start
2 to set off all sorts of concerns.

3 Environmentalism has been co-opted in terms of,
4 in many instances, becoming a weapon to stop things from
5 getting done, and it's being used against the very
6 things that we need. It isn't just solar. We still
7 have problems with solar. I don't know where this
8 committee is. But it's not just building a plant,
9 you've got to transmit the electricity, unless we're all
10 going to move out to the desert. But the plants are
11 generally in remote areas and you need transmission
12 lines. And transmission lines, you know, there are
13 people who imagine you can put these underground for the
14 whole way. We do everything possible to run up the cost
15 in an unrealistic way, and the time that's required to
16 achieve these.

17 The Sapphire Energy that was mentioned, their
18 two-scale facility is in New Mexico. It's there because
19 California couldn't move. It's not just a matter if you
20 have the land. I mean, there are plenty of places where
21 it could have been done in California, but if you're
22 working on research or you're a company, it isn't like
23 government. They have to move and they have to move
24 quickly. Government has a different kind of luxury in
25 terms of, well, we can get to it. And we have

1 structured a whole series of policies and governmental
2 agency procedures that are absolutely having a
3 devastating effect.

4 And I mentioned the smugness that was part of
5 the California, oh, we're the Golden State, you know,
6 we've got all these bright people. That playing field
7 is changing dramatically, and we are losing big time.
8 And for the economists who yesterday claimed that don't
9 worry about it because all the money that goes out of
10 state will come back automatically, I'm still -- I
11 couldn't sleep last night thinking about that comment,
12 which is, you know, it is so arrogant and so misdirected
13 and so wrong. And I just can't believe it.

14 But what strikes me most is when I heard
15 yesterday and I heard today, we are in effect -- we
16 are -- in the interests of driving the nation into a
17 policy we are taking a lot of risk in California to go
18 out front on this in the hopes that first we will drive
19 the nation into following us and then the nation will
20 drive whose left in the world to doing this. But if it
21 doesn't happen at a federal level, we will have exposed
22 California businesses, taxpayers, jobs and the
23 California economy to what could be a nightmare
24 scenario. (Applause)

25 CHAIRPERSON NICHOLS: Well, that's a cheerful

1 note.

2 Yes, Sandy.

3 BOARD MEMBER BERG: It feels to me like we
4 really have an opportunity. If we look at the role of
5 businesses and stakeholders, MGOs and communities over
6 the last 40 years, it has tended to be more conflictual.
7 But it feels to me that we are on the cusp of an
8 opportunity for people to come together and figure out
9 what is in the best interest, in fact, working
10 collaboratively rather than in this conflictual nature.

11 And so as we look at the importance of AB 32
12 and what we really do want to achieve in California, it
13 has become really apparent to me if these stakeholders
14 cannot come together in a way to be able to assess what
15 is in the best interest of California and to be able to
16 work together to achieve common goals, that is really
17 going to be the test. And I think that this board can
18 have a great deal of influence in getting people to the
19 table and asking them point blank what is it we want to
20 accomplish. And that's what tends to break through
21 barriers in a way that in fact can create breakthroughs
22 that can return and continue California, which I think
23 is on a very great path.

24 CHAIRPERSON NICHOLS: Well, I think that's a
25 good segue, perhaps, into the next stage. You know,

1 we're definitely in a time when the public, according to
2 all the polls and all the news stories you read, is
3 extremely divided, and these things are very divisive.
4 And the language that we use as one part of this can
5 help or hurt in that situation.

6 And I think it is very important, and your
7 comments are very well taken in this sense, that, you
8 know, we're not here because of anything other than the
9 fact that we were all chosen for a purpose, which is to
10 carry out the laws of the State of California. And I
11 know everyone here is very dedicated to that and to
12 doing it in a way that we feel, based on our own
13 history, experience and beliefs, meets all the best
14 interests, best goals of the people of the state of
15 California.

16 We're not here -- serving on this board is not
17 a stepping stone, as far as I know, to any other office.
18 It certainly hasn't proven that way in the past, anyway,
19 although some of our past members have gone on to other
20 things. Being on the Air Board also presents us with
21 tough situations. But what's made this board a success
22 over the years, and I am very proud of the reputation
23 that it has earned, historically. Under all different
24 kinds of conditions and all different kinds of
25 economies, California has been able to remain a bright

1 spot when it comes to balancing the environment and
2 economic progress together.

3 We were the first to find smog and we were the
4 first to seriously start to address it, and while doing
5 it we did it in a way that created industries and
6 created all kinds of opportunities that have then spread
7 to the rest of the country. If we can't do that with
8 respect to climate change and energy policy, then that
9 would be a terrible failure. I don't think any of us
10 wants to be party to that.

11 So we're going to have to find a way to work
12 through this that will lead to success, and certainly
13 just sort of a blind attitude that says we know what's
14 best, or we're number one because we're California,
15 isn't what's going to get us there.

16 So I think your admonishment to us is very
17 helpful and I really appreciate that.

18 Just in the interest of factual clarity, this
19 desert renewable energy task force that I alluded to
20 before is only working on a list of plants that have
21 applied for permits to build on federal land in the
22 desert, although they are looking at -- they have
23 another list. But they've started with the ones that
24 are on BLM land and that are all near transmission
25 lines.

1 So some of the issues that have affected other
2 efforts that have popped up in the past have been
3 avoided. But they actually have enough plants that
4 they're working on -- I'm turning to Mr. Goldstene to
5 correct me if I'm wrong about this, but I believe that
6 when they briefed us on their work the other day that
7 they had 25 --

8 EXECUTIVE OFFICER GOLDSTENE: 22.

9 CHAIRPERSON NICHOLS: 22 plants and enough
10 megawatts to basically fill every possible transmission
11 avenue that we have to more than get to the goals of
12 2020 that are in our plan.

13 So there's a lot of activity going on out
14 there. People are making investments and trying to move
15 these projects forward, and they do believe that they've
16 got a bench of projects that can make it.

17 BOARD MEMBER ROBERTS: I applaud those efforts,
18 don't misconstrue. I don't want anybody to misconstrue.
19 That's exactly what's needed, and I guess it's
20 frustrating when you see a Legislature that is faced
21 with all these problems. And recently they exempted a
22 new football stadium in L.A. from environmental review
23 at the same time as the State is burning down and they
24 don't address these more fundamental, important issues.
25 If there isn't something schizophrenic going on here,

1 it's just beyond me.

2 CHAIRPERSON NICHOLS: Duly noted. Duly noted.

3 All right. Well, I think that we've had a discussion on
4 this item. We have another major item before us, but I
5 think this is probably a good time to take a brief
6 break. We'll take a 15-minute break. Anybody who wants
7 to go down and look at the Earth Day exhibits, build a
8 fuel cell in your spare time. We'll get back in 15
9 minutes. Thank you.

10 (Recess)

11 CHAIRPERSON NICHOLS: Thanks everybody. Okay.

12 Our next item today is an update regarding the
13 regulation of in-use off-road diesel vehicles and the
14 in-use on-road diesel vehicles, otherwise known as the
15 off-road regulation and the truck and bus regulation.

16 These regulations will both significantly
17 reduce the public's exposure to diesel particulate
18 matter and oxides of nitrogen emissions. The off-road
19 regulation which was approved by the Board on July 26,
20 2007, will apply to over 150,000 off-road diesel
21 vehicles operating in California. And the truck and bus
22 regulation, which was approved on December 12, 2008,
23 will affect nearly a million on-road vehicles operating
24 in California each year.

25 When the regulations are fully implemented, we

1 expect them to prevent thousands of premature deaths and
2 provide the State billions of dollars in economic
3 benefit in avoided premature death and health costs.
4 However, since the time the regulations were approved,
5 the State remains in a significant economic recession
6 which has required that the Board continue to evaluate
7 the economic and emission impact of the recession on the
8 affected fleets.

9 The last time we heard from staff regarding the
10 truck and bus regulation was in December of 2009 when
11 staff presented an assessment of the effects of the
12 recession on the emissions from trucks and busses. At
13 that meeting there was consensus on the Board that given
14 the gap between where we thought emission levels would
15 be and where emissions actually are as a result of the
16 down economy, there was room to provide some short-term
17 relief in the truck and bus regulation.

18 We asked that any proposed changes be focused
19 on smaller businesses providing greater relief to those
20 that were most in need, increase the overall
21 affordability of the regulation, and continue to meet
22 the State's emission reduction goals and obligations.
23 We originally directed staff to return with a proposal
24 in April, but as we will hear later, that date has been
25 shifted back a few months to allow for additional work

1 to look at potential longer-term changes to the rules as
2 well.

3 Now, also in December 2009 the Associated
4 General Contractors organization provided us with an
5 emissions inventory report that argued that due to the
6 recession the off-road regulation was no longer needed
7 to meet federal air quality standards and therefore
8 could be delayed significantly. At that time we
9 directed staff to return with an assessment of what
10 impact the current state of the economy had or has had
11 on off-road diesel vehicle emissions and to see whether
12 further changes to the off-road regulation could be
13 made.

14 In considering further changes to the off-road
15 regulation, it's important to remember that the Board
16 has already approved a number of amendments going back
17 to July 2009 providing short-term relief to off-road
18 fleets that are affected by the recession. While
19 staff's current findings show that emissions from
20 off-road diesel vehicles are in fact lower than what we
21 thought they would be, the question before us today is
22 to what extent we should consider additional changes to
23 the regulation in light of the economy.

24 As we move forward to consider potential
25 changes to both regulations, I'd like to ask all of us

1 to keep three requirements in mind.

2 First of all, the Board's mission, as we all
3 know but need to remind ourselves, is to protect public
4 health. We must remember the needs of the breathers of
5 California and the need to constantly make progress
6 toward achieving clean air.

7 Second, the need to respond to adverse economic
8 conditions. We also must recognize that unfavorable
9 economic times make it more difficult for industry to
10 comply with our regulations and still function and
11 provide employment in California. And, as we are
12 frequently reminded, unemployment is also a risk to
13 health.

14 Finally, third, the need to move forward and
15 make decisions even though there is always uncertainty
16 concerning estimates of emissions as well as economic
17 predictions. Our task is to make the best decisions we
18 can even in the face of uncertainty.

19 So with that I'd like to ask Mr. Goldstene to
20 introduce this item.

21 EXECUTIVE OFFICER GOLDSTENE: Thank you,
22 Chairman Nichols.

23 Today you will hear about staff's continuing
24 efforts to evaluate the current effects on the economy
25 from emissions from vehicles subject to the off-road

1 regulation and the truck and bus regulation. As part of
2 that effort, staff has evaluated what emission
3 reductions are needed from these two source categories
4 relative to our obligations under California's 2007
5 State Implementation Plan.

6 Through this evaluation staff has concluded
7 that additional relief in both regulations is possible
8 while still meeting our SIP obligations.

9 In making this determination, staff has also
10 identified specific principles that it intends to follow
11 in evaluating potential regulatory relief. These
12 include ensuring any changes maintain the important
13 health benefits the regulations already provide,
14 ensuring that we maintain the progress we need to attain
15 federal air quality standards, and that the amendments
16 provide real economic relief to those hardest hit by the
17 recession.

18 Since we were last before you on these topics
19 in December 2009, staff has been active in working with
20 stakeholders on these issues. In January staff held
21 three workshops to solicit feedback on proposed changes
22 to the truck and bus regulation to provide short-term
23 relief to truck operators. We'll tell you more about
24 what we learned at those workshops and how we intend to
25 move forward in providing such relief.

1 Also in January the Associated General
2 Contractors of America, or AGC, petitioned ARB to delay
3 the off-road regulation by two full years citing the
4 economy and accuracy of the off-road emissions
5 inventory.

6 In February, in response to the AGC petition
7 and to allow additional time for U.S. EPA to consider
8 California's authorization request for the off-road
9 regulation, I issued a delay of enforcement of the
10 March 1st, 2010 performance requirements of the off-road
11 regulation.

12 This delay of enforcement has suspended the
13 requirement for off-road fleets to comply with either
14 filter or turnover requirements pending further notice.
15 However, the regulations for reporting, labeling and
16 reducing idling do remain in place.

17 Also, on March 11th I conducted an Executive
18 Officer Hearing to hear directly from stakeholders
19 firsthand regarding the effect the recession has had on
20 their business and whether additional relief from the
21 off-road regulation beyond what the Board has already
22 provided was necessary. Staff's presentation will
23 summarize what we heard that day.

24 I'll now ask Ms. Kim Heroy-Rogalski of the
25 Mobile Source Control Division to begin the staff

1 presentation.

2 Kim.

3 OFF-ROAD IMPLEMENTATION SECTION MANAGER

4 HEROY-ROGALSKI: Thank you, Mr. Goldstene, and
5 good morning. I manage the Off-Road Implementation
6 Section here; however, today I'll be speaking about both
7 the off-road and the truck and bus regulations.

8 So here is an outline of what I'll talk about
9 today. First, I'll give you an overview and discuss
10 principles that staff propose to follow as we consider
11 changes to both regulations.

12 Second, I'll summarize recent and ongoing
13 improvements to our estimates of emissions and what they
14 mean for our State Implementation Plan or SIP
15 commitments.

16 Third, I'll update you on the status of the
17 off-road regulation including the March Executive
18 Officer Hearing and options for amending the regulation.

19 Next, I'll update you on the status of the
20 truck and bus reg including what we learned at the
21 workshops held in January and recent extensions we've
22 made to some of the reporting and compliance dates, as
23 well as options for amending the regulation.

24 And finally, I'll describe the actions and
25 timeline that staff is proposing you direct us to

1 pursue.

2 Okay. So first, let me start with the big
3 picture. The net effect of the recession and other
4 refinements to our inventory estimates have reduced
5 emissions statewide below what we previously predicted.
6 There is, therefore, room for some relief for both the
7 off-road and on-road regulations. Even if we relax both
8 rules some, we can still meet our SIP commitments and
9 protect public health.

10 To identify an equitable proposal that can
11 reduce the compliance costs for both rules while still
12 meeting our SIP commitments and reserving the overall
13 health benefits, we believe it makes the most sense to
14 consider both rules simultaneously.

15 While staff has not yet analyzed and vetted all
16 potential changes with stakeholders, we do have some
17 principles we suggest to guide the process.

18 So here are the ten guiding principles that we
19 suggest.

20 First, continue incremental progress toward
21 cleaner air.

22 Second, ensure whatever changes we make do not
23 negatively impact public health. In other words, we
24 don't want levels of harmful emissions to be higher than
25 we anticipated they would be with the regulations in

1 place.

2 Third, meet our SIP commitments.

3 Fourth, be cognizant of ARB's goals to reduce
4 greenhouse gases. Where possible, provide incentives to
5 reduce greenhouse gases along with the toxic and
6 criteria pollutants targeted by the two regulations.

7 Fifth, look to improve the cost-effectiveness
8 of the regs as much as possible.

9 Sixth, try to lower peak year costs; that is,
10 spread the costs out more evenly over time.

11 Seventh, consider offering relief to fleets
12 impacted by both regulations and be sensitive to their
13 cumulative impact.

14 Eighth, try to provide the most relief to the
15 fleets hardest hit by the recession.

16 Ninth, ensure we maintain our emissions
17 benefits as the economy recovers.

18 And finally, tenth, to support and incentivize
19 clean technologies, recognizing that we'll need these
20 technologies in the long term.

21 So I've mentioned SIP deadlines and commitments
22 several times, so before moving forward, let me just
23 provide a little context regarding the most pressing SIP
24 deadlines.

25 The two regions that drove development of the

1 off-road and truck and bus regulations are the South
2 Coast and San Joaquin Valley. Both must attain the fine
3 particulate matter standard by 2014 and the ozone
4 standard by 2023. ARB submitted the SIPs containing
5 measures for off-road and on-road diesel vehicles to
6 U.S. EPA several years ago.

7 Both South Coast and San Joaquin need large
8 emission reductions to achieve attainment, on the order
9 of a cut in half to 2006 NOx levels. Reducing emissions
10 from trucks and off-road vehicles is key to achieving
11 this as they account for 40 to 50 percent of the total
12 NOx in these regions, and even greater NOx reductions
13 will be needed to meet the 2023 eight-hour ozone
14 deadline.

15 So, speaking of emissions, I'd like to turn now
16 to a summary of recent work to improve our estimates of
17 emissions and their impact on public health.

18 Since we last addressed the Board in December
19 of last year, we've made progress on a number of fronts.

20 First, we've reviewed the analysis that AGC
21 brought before the Board in December.

22 Second, a researcher at U. C. Berkeley
23 published a study late last year concluding that ARB's
24 estimates of off-road emissions were too high. Our
25 staff has dug into this work and we will share our

1 findings.

2 Third, we've worked to build the effects of the
3 recent recession into our inventory estimates.

4 Fourth, we've incorporated the results of a
5 recent field study on trucks and updated our
6 understanding of how truck emissions vary regionally.
7 This is particularly important in the South Coast.

8 Finally, I'll speak briefly regarding recent
9 work to fine-tune our quantification of the health
10 effects of fine PM.

11 So, back in December representatives from AGC
12 presented you with a forecast of emissions from sources
13 covered by the off-road regulation. They took the
14 vehicle population that had been reported to ARB as of
15 early last fall and then projected it forward using the
16 growth assumptions in ARB's off-road model. Their
17 estimate showed that off-road emissions would remain
18 below rule targets for most future years, even if there
19 was no regulation.

20 We commend AGC for examining what the recession
21 has meant for off-road emissions and the regulation's
22 targets. However, we believe the vehicle population AGC
23 used was too low for two reasons.

24 First, fleets have continued to report their
25 off-road vehicles since AGC made their projections.

1 Second, AGC assumed that all fleets had
2 reported all their vehicles as required.

3 Including an estimate of vehicles and fleets
4 that have not yet reported, we now believe there were
5 about 175,000 vehicles in California last year which is
6 within 10 percent of our original estimate.

7 ARB staff this week received an update to AGC's
8 analysis, and we've begun looking at this new
9 information. Staff believe AGC's new methodology is
10 similar to the approach we are following, although there
11 are some differences in the base assumption. Staff will
12 continue to consider this new information and how it can
13 be used in our update to the inventory.

14 So, overall, the vehicle population has turned
15 out to be slightly lower than we expected, which doesn't
16 have a very significant impact on our emission
17 estimates. However, for other reasons, which I'll
18 discuss next, we do believe off-road emissions are lower
19 than previously predicted.

20 Okay. So first, a little background on how we
21 build emission inventories.

22 For regulatory development and planning
23 purposes, ARB needs an emissions inventory with
24 specificity in vehicle population, age and horsepower.
25 This is considered a bottom-up approach because it

1 begins by looking at individual vehicles and then sums
2 up their emissions to the combined statewide emissions.
3 This is the basis for both ARB's and U.S. EPA's off-road
4 emission inventories.

5 An alternative approach is a fuel-based
6 analysis. In this method the total consumption of fuel
7 across the State from relevant sources -- in this case,
8 off-road vehicles -- is determined. From that
9 information the emissions for the entire statewide fleet
10 are estimated without considering how many vehicles are
11 using the fuel or how much each one is working. This is
12 a top-down approach because it begins by looking at a
13 statewide indicator and then estimates emissions across
14 the State.

15 While this methodology is less detailed than a
16 bottom-up approach, it does provide a good cross check
17 on the numbers generated using a bottom-up method.

18 In December of last year, U.C. Berkeley
19 Professor Rob Harley published a study using a
20 fuel-based top-down method to validate ARB estimates of
21 off-road vehicle emissions. Professor Harley concluded
22 that ARB's estimates were too high by a factor of 3 to
23 4. ARB staff has evaluated Professor Harley's analysis
24 and concluded that Professor Harley, who used federal
25 construction fuel estimates for California, left a

1 significant amount of fuel out of his analysis. The
2 paper did not account for taxable fuel use in off-road
3 vehicles nor for all equipment categories covered by the
4 off-road regulation such as mining, et cetera.

5 However, staff does believe that Harley's work
6 has identify a likely overestimate in ARB's previous
7 numbers. Staff believes that previous emission
8 estimates were too high by a factor of 1.4 to 2, and
9 we've adjusted our estimates accordingly for the
10 inventory work described today.

11 We're continuing to research which ARB
12 inventory model inputs may have led to this overestimate
13 -- emission factors, load factors, et cetera -- and we
14 continue to work to reconcile the top-down method with
15 our bottom-up approach.

16 ARB staff has also been working to account for
17 the impact of the current severe recession on off-road
18 emissions. Staff examined statistics related to
19 construction from United States and California
20 government agencies as well as data on new equipment
21 sales financed. These indicators have all fallen since
22 2006 with the drop ranging from 30 to 80 percent.
23 Overall, we estimate a roughly 50 percent drop in
24 off-road vehicle activity since 2006, and staff is
25 building that into our emission estimates.

1 Since staff last briefed you extensively
2 regarding the on-road truck emissions inventory in
3 December, we've made two important improvements to our
4 emission estimates.

5 First, we've created a special inventory
6 category for construction trucks. These roughly 76,000
7 trucks out of about 475,000 trucks total have
8 experienced a reduction in activity similar to that
9 experienced by other construction sources.

10 Second, we've used results from a two-year
11 field study as well as Caltrans roadway count data to
12 develop region-specific emission estimates for trucks.
13 This analysis indicates greater truck mile travels --
14 greater truck miles traveled and emissions in South
15 Coast than previously thought.

16 Okay. So putting all these improvements
17 together, what does this all mean? This slide
18 summarizes the results. For simplicity purposes, we've
19 combined NOx and PM2.5 together here into NOx equivalent
20 emissions. That weights the contribution of both
21 pollutants to ambient PM2.5 levels. We're showing a
22 situation here for trucks and off-road vehicles
23 combined.

24 As you can see, due to the overestimate
25 illuminated by the fuel-based method, we're revising our

1 off-road emission estimates down. The recession has
2 also brought off-road emissions down significantly while
3 having a smaller effect on truck and bus emissions. And
4 finally, South Coast truck emissions are higher than
5 previously estimated.

6 Overall, in the South Coast in 2014 we now
7 expect NOx equivalent emissions to be 21 to 42 tons per
8 day lower than we previously predicted.

9 Okay. So that means whatever additional relief
10 we propose, including changes to both regulations,
11 should increase emissions no more than a margin of 21 to
12 42 tons per day. And ARB inventory staff will be
13 working to narrow this range over the next several
14 months.

15 For the SIPs already submitted, the largest
16 emission reductions are needed in the South Coast, and
17 the most challenging year for showing attainment is
18 2014. So to estimate the magnitude of changes we can
19 make to both regs, we focused on South Coast emissions
20 in 2014. And I've presented this situation here for
21 South Coast in 2014; however, we expect there to be a
22 margin in the San Joaquin Valley as well.

23 Okay. So since December of last year, in
24 addition to the work I've summarized on this slide,
25 we've also been working to refine our estimates of the

1 health effects of fine particulate matter.

2 So on February 26 ARB hosted a symposium on the
3 science behind the methodology used to estimate PM2.5
4 related to premature deaths in California. We invited
5 scientists from academic institutions, government
6 agencies and the private sector, and over 20 scientists
7 participated.

8 The information gained from that symposium is
9 being used to inform our revision of the PM mortality
10 staff report. For consistency, ARB is adopting the U.S.
11 EPA methodology for estimating mortality which has been
12 extensively peer reviewed.

13 We plan to release a draft report in May
14 followed by a public comment period. And also of note
15 is that the section on diesel PM exposure assessment
16 will undergo formal peer review through the University
17 of California before staff releases the final report in
18 July.

19 ARB staff will use the new method for
20 estimating PM2.5-related deaths as we evaluate various
21 alternatives or changes to the two regulations.

22 Okay. So now I'll provide more of an update on
23 the off-road regulation. I'll give you some brief
24 background on the reg and then talk more about
25 developments over the past few months, and I'll give you

1 staff's current thinking regarding amendments to the
2 regulation.

3 Okay. First, a little background. The Board
4 approved the off-road regulation in July of 2007.
5 Provisions limiting unnecessary idling and requiring
6 disclosure with vehicle sales became effective in 2008.
7 All fleets were required to report their vehicles to ARB
8 last year.

9 The first requirements to reduce emissions
10 through vehicle turnover and installing exhaust
11 retrofits were scheduled to take effect on March 1st of
12 this year for large fleets only. However, as you'll
13 hear later, ARB has temporarily delayed enforcement of
14 these requirements.

15 Beginning this year and each year thereafter
16 until 2020, the regulation requires large fleets to
17 either meet fleet averages for NOx and PM or meet annual
18 turnover and retrofit requirements.

19 For medium and small fleets, similar
20 requirements begin in 2013 and 2015, although small
21 fleets are exempt from all turnover requirements.

22 In July of 2009, the Board approved changes
23 that provided relief to fleets affected by the
24 recession, as directed by Assembly Bill 8 2X.

25 The relief already implemented for off-road

1 fleets provided several different credits and a delay.

2 First, the changes gave PM and NOx BACT credit
3 to fleets that have shrunk or reduced the number of
4 hours they operate their vehicles in the past two or
5 three years. This includes fleets that are simply using
6 their vehicles less in addition to those fleets that
7 have retired vehicles. The retirement credit gives
8 fleets that have shrunk a break, but it does not prevent
9 fleets from adding back as economic conditions improve.

10 Second, the amendments allowed all large fleets
11 to delay some of their 2011 and 2012 turnover and
12 retrofit requirements until 2013.

13 These changes were approved by the Board at its
14 July 2009 meeting. When the Board met in December of
15 last year you asked us to report back this month
16 regarding how many fleets have been able to take
17 advantage of the AB 8 2X relief. Fleets were required
18 to report their reduced horsepower and reduced activity
19 by April 1st, which was three weeks ago. So to date
20 just over half of large fleets have reported using one
21 or both of the credit options in AB 8 2X. And those
22 claiming reduced activity have claimed an average
23 reduction of about 40 percent; those claiming retirement
24 credit have claimed an average reduction of about 30
25 percent. And remaining fleets haven't reported any

1 credits.

2 We are still receiving reports and we've
3 informally extended the deadline for accepting reduced
4 activity applications until the end of this month.
5 We'll be using this information to further refine our
6 inventory estimates as we move forward.

7 Okay. So to put this in context, for the
8 average fleet claiming credit, these credits will delay
9 any requirement to retrofit vehicles for two years and
10 any requirement to turn over vehicles by four years. So
11 it's clear that AB 8 2X has offered many fleets a
12 significant delay.

13 So in January of this year AGC petitioned ARB
14 for a two-year delay of all turnover and retrofit
15 requirements. In February our Executive Officer issued
16 an advisory delaying enforcement of the 2010 performance
17 requirements. This delay gave ARB further time to
18 determine whether additional relief was appropriate, and
19 it also recognized that U.S. EPA has not yet granted the
20 authorization that would allow ARB to enforce the
21 regulation's performance requirements.

22 To promote further discussion and hear
23 firsthand from affected fleets, the Executive Officer
24 held a hearing on March 11th which I will summarize
25 next.

1 At the March 11th hearing, AGC invited several
2 presenters including Dr. Lynn Reaser, an economist from
3 Point Loma Nazarene University. Dr. Reaser showed that
4 construction industry sectors are down from 30 to nearly
5 80 percent from their peak around 2005. She also
6 predicted a slow recovery through 2015 and mentioned
7 that just in the past month there has been a small
8 uptake in both housing activity and construction jobs.

9 The executive officer also heard from a number
10 of fleet owners, industry representatives and other
11 stakeholders firsthand on the depth of the recession and
12 its impact on their businesses, their income and their
13 employees.

14 Fleets suggested a variety of potential changes
15 to the regulation. First, many requested a two- to
16 five-year delay, and some asked that we allow fleets to
17 comply by turnover rather than retrofitting, and
18 specifically that we wait until Tier IV engines become
19 available.

20 Second, several suggested providing additional
21 credits for fleets impacted by the recession along the
22 lines of AB 8 2X, and third, many suggested we make the
23 reg's requirements more gradual and ensure the
24 requirements are not too front-loaded.

25 Finally some fleets described the significant

1 resources they had already spent to comply before the
2 enforcement delay was announced and asked that we
3 recognize these actions in whatever amendments we
4 pursue.

5 So based on all these comments and our work
6 implementing the regulation over the past several years,
7 input from our off-road implementation advisory group
8 and the principles that I outlined earlier, we've laid
9 out some objectives for changes which I'll discuss next.

10 The AB 8 2X amendments and this year's
11 enforcement delay have already provided short-term
12 relief for fleets subject to the off-road reg. And
13 staff's objectives for longer-term changes include:

14 1) Allow fleets more flexibility to comply via
15 turning over to cleaner vehicles and engines, thus
16 allowing less reliance on exhaust retrofitting. We see
17 an opportunity for more fleets to comply by moving to
18 final Tier IV vehicles once they're available which is
19 expected in 2014 or 2015. This could allow us to pursue
20 greater NOx reductions in the long term and could allow
21 many fleets to comply with less disruption to their
22 current business models.

23 2) Ensure fleets that have already taken
24 actions and spent money to comply receive appropriate
25 credit under the revised regulation.

1 3) Maintain the structure of the existing
2 regulation as much as possible as thousands of fleet
3 owners across the state have already been trained to
4 work within that structure.

5 Finally, at the same time we'd like to simplify
6 the regulation as much as possible where it's
7 complicated or unclear.

8 So on the next slide we've laid out some
9 changes we'd like to analyze and consider further.

10 First, we want to evaluate various lengths of
11 delay in regulation implementation.

12 Second, we'd like to look at reducing the
13 annual turnover and/or retrofit requirements, especially
14 before 2015.

15 Third, we want to evaluate expanding the low
16 use exemption, which would remove requirements to turn
17 over or retrofit vehicles that are used relatively few
18 hours each year.

19 Staff will also carefully be considering
20 additional suggestions from stakeholders including those
21 received at the workshops we're planning to hold in May
22 and June.

23 Okay. So let's turn now from off-road to
24 on-road.

25 On December 11, 2008, the Board approved the

1 truck and bus regulation. As the regulation stands now,
2 starting January 1st, 2011, fleets will be required to
3 begin to meet PM filter requirements so that by 2014 all
4 engines will are required to have a PM filter. The
5 regulation then requires owners to reduce NOx emissions
6 by accelerating engine or vehicle replacement or by
7 retrofitting engines starting February 21, 2013, so by
8 2023 all engines will have a 2010 or later model year
9 engine or equivalent.

10 The truck and bus regulation originally
11 required reporting by March 31st of 2010, and fleets
12 with agricultural vehicles and those with two-engine
13 sweepers were required to meet that deadline. For all
14 other fleets, however, ARB has issued a regulatory
15 advisory extending that reporting deadline until early
16 next year.

17 When the truck and bus regulation was approved,
18 the Board directed us to monitor the economy and report
19 back in December '09 on the impact of the recession on
20 emissions. At that December board hearing staff
21 presented the results of an analysis that showed that
22 vehicle activity and emissions are both below the levels
23 estimated when the regulation was developed.

24 The Board determined that additional
25 flexibility could be provided for fleets adversely

1 affected by the economy.

2 In January staff held three public workshops to
3 solicit input on proposed amendments. At the workshops
4 some stakeholders requested that the proposed amendments
5 be delayed until a broader analysis of the impact of the
6 recession on statewide emissions and the SIP could be
7 completed.

8 Staff began the SIP analysis and then
9 determined it made sense to consider potentially broader
10 changes to the on-road regulation together with
11 potential off-road regulation changes. And therefore,
12 staff decided to delay proposing changes to the on-road
13 reg in lieu of more substantial changes that could be
14 considered.

15 So as part of the package of regulatory changes
16 that we plan to work on over the next four or five
17 months, we plan to propose the short-term relief that
18 the Board directed us to make in December.

19 At the workshops in January, three options for
20 short-term relief were discussed. The option preferred
21 by stakeholders was one that deferred PM filter
22 requirements for all fleets for up to two years. This
23 option would provide the most relief to smaller fleets
24 such that it would defer all PM requirements for two
25 years for fleets with 20 or fewer trucks.

1 The Executive Officer also notified fleets that
2 the first compliant state to meet the PM and NOx
3 requirements, which was going to be January 1st of 2011,
4 will be pushed back by several months to reflect this
5 later date for board consideration of proposed
6 amendments.

7 So in addition to the short-term relief
8 described on this slide, we plan to consider longer term
9 changes as well.

10 In December we believed we couldn't meet our
11 SIP obligations if any amendments were extended past
12 2014. However, now, due to the emissions inventory work
13 that I described earlier, we believe there is a margin
14 that will enable staff to consider additional
15 flexibility in 2014.

16 However, when considering potential changes,
17 it's important to keep in mind that if the whole truck
18 and bus regulation were delayed for a year that would
19 likely consume the entire 21 to 42 ton per day margin
20 discussed earlier such that we wouldn't be able to make
21 any changes to the off-road regulation or any other
22 changes to the truck and bus regulation.

23 So, our changes to the truck and bus regulation
24 need to be more surgical. Concepts that staff would
25 like to explore include an increase in the mileage

1 threshold, a more gradual PM retrofit rate, a more
2 gradual vehicle upgrade rate, and allowing credits to
3 extend past 2014. And, of course, we'll take
4 stakeholder input from our January and upcoming
5 workshops into account as well.

6 So to work out what package of changes to both
7 regulations to propose, we propose to follow the steps
8 outlined next.

9 First, there is still work to be done to refine
10 our emissions inventory. Especially for off-road, we
11 need to continue to reconcile fuel-based estimates with
12 ARB's models. As we perform this work, we'll have an
13 open review process and plan to work with U.S. EPA staff
14 as well as other stakeholders.

15 What I've described to you today regarding
16 regulatory changes is really just a skeletal outline of
17 the type of changes we would like to consider. We plan
18 to create detailed alternatives and then evaluate their
19 cost and emissions impact and use the principles laid
20 out at the beginning of the presentation to judge their
21 merit. We plan to hold a series of workshops to obtain
22 public input on these alternatives.

23 At the end of the day, we intend to propose a
24 package that fits within the final estimate of the SIP
25 margin, that maintains the health benefits of both

1 rules, that improves both regulations, that's equitable
2 and provides the most relief possible.

3 So to get there we're proposing to follow the
4 timeline shown here. We plan to hold a series of
5 workshops in May to present and solicit comments on our
6 inventory approach and to initiate a discussion of
7 long-term regulation changes.

8 In June we plan to hold another series of
9 workshops to get feedback on more fleshed-out
10 alternatives and to present our preliminary inventories
11 for rule assessment.

12 By August of 2010 we plan to release staff's
13 proposal for amendments with proposed revisions to both
14 the off-road and truck and bus regulations to be
15 considered by the Board in September of 2010.

16 Thank you. That concludes my presentation.

17 CHAIRPERSON NICHOLS: Thank you. And before we
18 turn to the public, just to be clear then, what the
19 Board needs to do at the conclusion of this is to direct
20 the staff to go off and pursue this revision to the
21 regulation and, if possible, give some additional
22 guidance as well.

23 Okay. Thank you very much. I've just been
24 handed a list, and it is long, not surprisingly. So why
25 don't we try to at least get to a few before we take a

1 lunch break, if that's okay with everybody.

2 Let's begin with Henry Hogo from the South
3 Coast Air Quality Management District, and I see you
4 have slides.

5 MR. HOGO: Good morning, Chairman Nichols.

6 CHAIRPERSON NICHOLS: Good morning.

7 MR. HOGO: How about now? Can you hear me?
8 How about now?

9 Good morning, Chairman Nichols, Members of the
10 Board. For the record, I'm Henry Hogo, Assistant Deputy
11 Executive Officer of our Mobile Source Division at the
12 South Coast AQMD.

13 I wanted to provide some brief comments
14 relative to staff's recommendation to amend the off-road
15 regulation and the on-road truck and bus regulation.

16 The two regulations represent the most
17 significant mechanisms to reduce heavy-duty diesel
18 vehicle emissions beyond new tailpipe emission
19 standards. These emission reductions are critically
20 needed in order for the South Coast Air Basin to attain
21 federal air quality standards by 2014 and beyond.

22 More importantly, we must reduce residential
23 exposure to diesel emissions as early as possible. We
24 recognize the impacts the economy has had on emissions.
25 However, we must also be cognizant that at some point

1 the economy will pick up and economic activities will be
2 the same or greater in the future.

3 I have a couple of slides that show the impact
4 of the economy and emissions, if we can go to the next
5 slide, please.

6 This first slide shows air monitoring data of
7 elemental carbon since 2004 in the South Coast Air Basin
8 at five air monitoring stations throughout the South
9 Coast region. And what will also show on this slide is
10 the cargo throughput over the last -- essentially since
11 1994. And what you see here is a very interesting trend
12 that elemental carbon does follow economic activity.
13 And with that in mind, we expect that as the economy
14 turns around, this is a true marker of diesel emissions.

15 Next slide please.

16 This slide shows the economic forecast that the
17 Port of Los Angeles and Long Beach put out last year.
18 And what you see in sort of the red and purple was the
19 original forecast back in 2007 with a very strong
20 increase in economic activity.

21 The latest forecast is shown in yellow, and
22 what you see here is that by 2014 we'll be at the 2006
23 level, but eventually the economy is going to continue
24 to grow and we'll have more economic activities.

25 Sorry, I have to hold onto it.

1 CHAIRPERSON NICHOLS: I know. I was hoping
2 maybe they would just change that whole microphone out
3 since we have a bunch of them here that other people --
4 if they could do that. I hope that will work. Don't
5 touch that microphone.

6 MR. HOGO: Okay. The South Coast staff is
7 concerned that while short-term relief is
8 understandable, given the state of the economy, we must
9 be mindful that additional reductions will be needed in
10 the longer term to meet ever tighter air quality
11 standards.

12 As older vehicles continue to be used for
13 longer periods of time, these vehicles must be cleaned
14 up. We urge that any analysis of short-term regulatory
15 relief include analysis of the mid and longer term
16 impacts of that relief. ARB must look at what longer
17 term regulatory actions are needed as part of any
18 proposals coming out later this year.

19 I'm almost done.

20 Lastly, we must continue to place a high
21 priority in providing funding flexibility to allow for
22 early deployment of the newest 2010 engines and Tier III
23 and Tier IV off-road engines. And we really want to
24 stress funding flexibility. Given the way the
25 guidelines for the Moyer Programs are set up, a lot of

1 these vehicles are not eligible for public funding given
2 this short time frame.

3 We recognize the funding that can go to smaller
4 fleets because of the longer time frame, but we still
5 have -- most of the large fleets are the ones that are
6 really affected by this funding flexibility. So we urge
7 some look at that.

8 CHAIRPERSON NICHOLS: Okay. Can I just ask the
9 staff, before you go on, aren't we looking at another
10 set of revisions or updates to the guidelines?

11 CHIEF DEPUTY EXECUTIVE OFFICER CACKETTE: Yes,
12 we are coming to you I think early next year.

13 CHAIRPERSON NICHOLS: Okay, so there is some
14 potential there. Okay. Thanks.

15 MR. HOGO: We just look forward to working with
16 staff through the public process, and I'll be happy to
17 answer any questions you may have.

18 CHAIRPERSON NICHOLS: Thank you. I don't think
19 there are any questions. I'm going to take the liberty,
20 which I don't usually do, of going out of order, because
21 there is one other air district that's on the list, I
22 think only one, and that's the Bay Area.

23 So I'd just as soon call you down also and that
24 way we will have heard from our partners in the local
25 air districts.

1 MR. BREEN: I think I have some slides as well,
2 please. Damien Breen.

3 Good morning, Madame Chair, Members of the
4 Board.

5 My name is Damien Breen and I'm Director of
6 Strategy Incentives with the Bay Area Air Quality
7 Management District.

8 Next slide, please.

9 Firstly, I'd like to compliment you and your
10 staff on your willingness to take input from the
11 industry, the air districts and the public on the
12 implementation of this regulation. I think this
13 demonstrates your sensitivity to fairness, equity and
14 the economic burdens that are on industries in
15 complying with these regulations.

16 But with that said, we are significantly
17 concerned regarding the impacts that this will have on
18 public health. 80 percent of the toxic health risk in
19 the Bay Area has been determined by our programs to come
20 from on-road trucking. The reason for that is we have
21 20 percent of the state's population, and as you can see
22 by the diagram there, they are located on highways that
23 are around the ring of the bay. And that population is
24 exposed to approximately 20 percent of the total
25 statewide diesel particulate matter and that comes from

1 goods movement. And with over 30,000 heavy-duty
2 vehicles alone registered in the Bay Area, it is a
3 significant issue for us.

4 Next slide, please.

5 In contemplating what you're looking at, you
6 have to realize that any rollback of these regulations
7 will have an impact on public health, but we believe
8 that that impact can be decreased by providing increased
9 flexibility in the use of grant funding.

10 One of the things that I wanted to do here this
11 morning was talk a little bit about the lessons that we
12 learned from the last regulation that we implemented;
13 that's the Drayage Truck Program that we just got
14 through -- well, we're nearly through. And what we saw
15 there was that in dealing with that particular
16 community, we had a confluence of a number of things
17 that really impacted the ability of those truckers to
18 upgrade their equipment.

19 One of the things that we saw is that those
20 truckers needed increased access to capital. And what
21 we'd like you to consider as part of your upgrades to
22 your incentives programs is that we could look at some
23 negotiated loan guarantee programs that would provide
24 these truckers with low interest loans and loan
25 guarantees.

1 Obviously, in implementing the Drayage Truck
2 Rule we weren't dealing with the same type of population
3 of trucks that we're talking about when you talk about
4 the on-road rule. We retrofitted or replaced less than
5 10,000 trucks as part of that program, and it had a huge
6 impact on the actual supply system here in the state.

7 So as you look at these rollbacks, what we'd
8 encourage you to do is not create another bottleneck
9 similar to what we saw with Drayage trucks. Currently
10 your staff is proposing a two-year rollback, and we see
11 that as possibly creating a situation whereby we don't
12 have enough available vehicles or retrofits to actually
13 help the industry comply.

14 So in order to address that, what we'd
15 encourage you to do is look at providing us maximum
16 flexibility in our grant programs to address emissions
17 from these vehicles. We'd also like you to consider
18 possibly some bulk purchase at the state level of trucks
19 that would help drive down the costs for industry,
20 because this is a very costly provision for them.

21 And then in terms of the application that these
22 industries have to go through, we'd look for you to
23 simplify them so that we could get the funding out there
24 quicker and reduce the health risk from this category.

25 And I'll answer any questions you may have.

1 CHAIRPERSON NICHOLS: Thank you. Those are
2 interesting suggestions. We appreciate it, and we will
3 keep them in mind.

4 Okay. Rasto Brezny of MECA, and then Michael
5 Graboski from the American Rental Association.

6 MR. BREZNY: Thank you, Chairman Nichols and
7 Members of the Board. I'm Rasto Brezny with the
8 Manufactures of Emission Controls Association.

9 Our members have worked with -- our members
10 have worked with your staff to verify most of the
11 retrofit devices on ARB's approved list. Last time I
12 checked this includes about 27 Level 3 DPF devices for
13 off-road and on-road equipment. To get where we are
14 today has taken over 20 years of technology development
15 and investment in order to demonstrate and prove out
16 these technologies and commercialize them. Continued
17 investment, however, relies on some level of regulatory
18 stability.

19 We certainly understand the strain that today's
20 economy has put on businesses of all sizes including
21 many of our members. MECA has supported ARB's economic
22 relief amendments that were adopted last year and your
23 efforts to make funding available for fleets to upgrade
24 their vehicles. We believe that further consideration
25 for relief should incorporate some relief for the

1 manufacturers that have invested to verify these devices
2 and allow fleets to comply with these regulations.

3 If further delays to these regulations are
4 considered, we believe that a phased-in delay is the
5 most prudent approach. This approach is valuable for
6 two reasons. The retrofit industry creates jobs, and
7 regulatory stability ensures that retrofits are
8 available when they're needed in the future.

9 With regard to jobs, one independent economic
10 analysis suggests that a full-time job is either created
11 or preserved for every three to seven retrofits that are
12 installed. Applying this type of analysis to the
13 off-road rule would suggest that somewhere in the range
14 of 11 to 26,000 jobs would be created in the first three
15 years.

16 Applying this to the on-road rule would suggest
17 21,000 jobs would be generated. This includes jobs
18 associated with sales, manufacturing, installation and
19 maintenance of retrofit devices, many of which would be
20 in the State of California.

21 So before I close I just want to say that these
22 devices have been proven safe, durable and effective in
23 tens of thousands of retrofits for both on-road and
24 off-road vehicles. There are always isolated cases
25 where technology may have some issues; however, most of

1 these have been attributed to either the maintenance or
2 performance of the engine rather than the devices
3 themselves.

4 So I want to thank you for this opportunity,
5 and MECA is committed to working with ARB and all
6 stakeholders to make sure that these goals are achieved.
7 Thank you.

8 CHAIRPERSON NICHOLS: Before we go on,
9 Supervisor Roberts had a question about one of the
10 slides, and I think we should just take that now so we
11 get it out of the way.

12 BOARD MEMBER ROBERTS: I'll be very quick, but
13 slide number 5 deals with South Coast and San Joaquin
14 Valley, but on the map you have San Diego County colored
15 in, and I wanted to find out if you were just testing
16 me.

17 MALE VOICE: Wishful thinking.

18 ASSISTANT CHIEF WHITE: I'll take that one,
19 Supervisor Roberts. You very astutely noticed that we
20 got a little too carried away with our shading.

21 BOARD MEMBER ROBERTS: Okay.

22 CHAIRPERSON NICHOLS: The map will be fixed in
23 future editions.

24 BOARD MEMBER ROBERTS: I thought maybe there
25 was some secret plan that was going to be unveiled.

1 CHAIRPERSON NICHOLS: Take all the old dirty
2 trucks and send them to San Diego. You caught them.
3 Okay. Thank you for raising that.

4 Michael Graboski and then John Lawson.

5 DR. GRABOSKI: Good morning. I'm Dr. Mike
6 Graboski from the American Rental Association, and I
7 signed up neutral about this issue because until a few
8 minutes ago I didn't know what staff was going to say.

9 We've been honest with you, the Board and the
10 staff, and we've been supportive of the regulations.
11 But I'm here to tell you that the rental businesses
12 today are hurting just like everybody else. We see a
13 storm ahead because both the on- and off-road rules
14 impose requirements that few rental businesses are going
15 to be able to satisfy going forward. And I'm going to
16 explain to you why.

17 Our business model is based on replacement.
18 Our fleets are some of the cleanest in the state,
19 however our businesses tell us that they have not been
20 able to invest in new equipment since about 2008. The
21 fleets have aged, and when the economy recovers we will
22 resume buying new equipment because that's our business
23 model. But modeling some of our cleaner fleets have
24 shown that while they may be compliant through 2013,
25 we're going to fail in 2014 for both rules even assuming

1 recovery and investment gets back underway.

2 We have an economist, IHS Global Insight, and
3 they believe that the economy is going to bottom this
4 year and they believe or they have stated that real
5 rental revenues will have fallen by about 58 percent
6 since 2007 for the current year. They also think that
7 there is going to be a V recovery and that real revenue
8 is going to reach back to 2007 levels sometime in 2014
9 or maybe 2015. That's more optimistic than some other
10 studies I've seen.

11 What our businesses tell us is that they will
12 be probably delayed a year from when the economy reaches
13 recovery stage until they can go ahead and make
14 investments necessary to new equipment because their
15 balance sheets have been so severely damaged and their
16 fleet values are so greatly depressed. Others say that
17 we're too optimistic. But I don't know, and I don't
18 know what your crystal ball says.

19 The problem with our picture is that the V, the
20 top of the V, the recovery is coincident with when the
21 attainment demonstration has to be made. And if we
22 guess wrong, the rules that are here are going to really
23 mortally wound our businesses.

24 So I would suggest that you can't rush to fix
25 things again with the uncertainty in recovery timing and

1 the impact on emissions. So we would propose that you
2 stay the rules, and since waivers haven't been granted,
3 there is no current harm, don't enforce them when the
4 waivers are awarded.

5 And unless you have certainty regarding
6 attainment, ask EPA to extend that attainment date. The
7 recession has invalidated the plan, and a clear path to
8 attainment doesn't exist. And perform an honest
9 analysis of the emissions, a realistic analysis, and
10 create certainty for business. And only revise the
11 rules when you've done that. Thank you.

12 CHAIRPERSON NICHOLS: Mr. Graboski, I just have
13 an informational question for you. What is the size of
14 your organization, and what's the profile of the rental
15 companies?

16 DR. GRABOSKI: American Rental Association is
17 231 businesses in California, approximately 500 separate
18 stores. We have fleets anywhere from small fleets to
19 very, very large fleets. Some of the larger fleets
20 which are national chain fleets like Hertz and United
21 have horsepowers in the range of 300,000 horsepowers in
22 their fleets.

23 CHAIRPERSON NICHOLS: So it's really the full
24 range then of sizes.

25 DR. GRABOSKI: The full range, that's exactly

1 right. National chains and the large independents
2 compete. National chains will survive because they'll
3 be able to move equipment in and out. But the large
4 independents that have many stores, some up to 20
5 stores, only function -- many of them only function in
6 California, and they're feeling a lot of heat right now.

7 What we did was we took their actual DOORS
8 fleets and we used Global Insight's predicted investment
9 projections based on revenue projections. We didn't put
10 any time frame delay in. And we find that even the
11 very, very cleanest, large fleets that in the 2007-2008
12 time frame had an age of, let's say, three years, now
13 have an age of five years, next year will have an age of
14 six years without investment money to recover. And if
15 you try and roll that forward in time, even assuming
16 that you're going to have money to buy back, you can't
17 pass the 2014 and 2015 regs.

18 So we could greatly decrease the size of our
19 fleets, but then what happens is that there is
20 insufficient equipment available when business picks
21 back up in order to sustain the investment that's
22 necessary for the business.

23 CHAIRPERSON NICHOLS: Understood. And we
24 appreciate the fact that your industry actually has the
25 newest, cleanest vehicles, as you said.

1 DR. GRABOSKI: Right, and we're in trouble.

2 CHAIRPERSON NICHOLS: Thank you.

3 Mr. Lawson and then Jon Cloud.

4 MR. LAWSON: John Lawson, Lawson Rock & Oil,
5 Fresno, California, home of the dirty air.

6 I'd like to thank the Board for letting me
7 speak. I have a different plan just that I'd like for
8 you guys just to look at.

9 CHAIRPERSON NICHOLS: Okay, the clerk will take
10 a copy of that and give it to the Board then.

11 BOARD MEMBER BERG: Mr. Lawson could you let us
12 know where your business is, where you're from, please.

13 MR. LAWSON: I said Fresno, California.

14 BOARD MEMBER BERG: Oh, thank you.

15 CHAIRPERSON NICHOLS: Okay, go ahead. You can
16 start the clock now.

17 MR. LAWSON: I'd like to recommend from Lawson
18 Rock & Oil that you don't delay this on-highway trucking
19 clean air act, because California and especially in our
20 area has such dirty air, and there's a lot of people
21 moving forward on this project, and there's a lot of
22 people that say it will never happen. So the "never
23 happens" when you delay it will do nothing again, and it
24 just compounds the problem, and it makes it a lot worse.

25 And then Caltrans is part of the State of

1 California, just like the CARB is, and if you guys could
2 get with Caltrans and give an incentive to the clean air
3 trucks working on the Caltrans jobs for the contractors
4 and all your transportation needs get the clean air
5 trucks on them to give incentives. It isn't just money,
6 it's incentives to keep these trucks working.

7 And I also hear you say that we're in a
8 recession. Yes, we are in a recession, and there's 25
9 to 30 percent of the trucks that aren't working. Those
10 are the old trucks. Those are the ones that when it
11 comes back are going to be the gross polluters. So
12 you're just kidding yourself by prolonging this project.

13 That's what I've got to say.

14 CHAIRPERSON NICHOLS: Okay.

15 MR. LAWSON: And if anybody ever has any
16 questions on that they have my card here on that.

17 CHAIRPERSON NICHOLS: Do you have a question?
18 Yes.

19 BOARD MEMBER D'ADAMO: Could you, to the extent
20 that you feel comfortable, explain how your business,
21 your model for compliance? In light of the fact that
22 the economy is down and it's so challenging for many
23 people, how has it been that you can comply or plan on
24 complying?

25 MR. LAWSON: I have approximately 250 power

1 units. As of this month I have approximately 125 clean
2 air trucks, which is a 7, 8, 9 or 10. I already have
3 some 10s with the new urea deal. They get better fuel
4 mileage. When you're getting three to four-tenths
5 better fuel mileage you can cost show that it is a lot
6 more economical to run those than it is -- just say, for
7 instance -- let's just use a number. It's better to run
8 a 7 percent fuel mileage than it is a 5, 5 miles a
9 gallon versus 7 miles a gallon on an old truck.

10 So it's cost-effective to get into the new
11 trucks, and it will help everybody in the end. It will
12 clean the air up, it will save fuel. Chevron won't make
13 as much money, but who cares.

14 BOARD MEMBER D'ADAMO: And what product are you
15 hauling and, generally speaking, what range?

16 MR. LAWSON: I haul in California, Nevada,
17 mainly. I haul petroleum products, aggregate, produce,
18 a lot of different things.

19 BOARD MEMBER D'ADAMO: Thank you.

20 BOARD MEMBER TELLES: I have a question.

21 CHAIRPERSON NICHOLS: One more question, yes.

22 BOARD MEMBER TELLES: Many of your trucks are
23 compliant, and you're not the only one in California
24 that's in that position, and there are other people even
25 in the Central Valley that are in the same position.

1 And is there -- I mean, going forward with this the way
2 it's planned, would it jeopardize you because it would
3 make other trucks that aren't compliant more
4 competitive?

5 MR. LAWSON: Could you say that one more time.

6 BOARD MEMBER TELLES: What I'm trying to ask
7 is: By being compliant are you not as competitive in
8 the marketplace as other trucking industries that you
9 compete against?

10 MR. LAWSON: Well, sure, that's true. If
11 you've got \$110,000 Class A truck versus a \$10,000
12 Class A truck, you're not going to be as competitive.
13 But, you're going to have to get there sooner or later
14 with the \$110,000 truck, so the sooner you start and the
15 longer range you put it over, the better off you are.
16 But the \$10,000 truck is your gross polluter.

17 So you're in a slight disadvantage. The fuel
18 mileage saving helps you immensely. The \$10,000 truck
19 will get 5 miles to the gallon. The \$110,000 truck will
20 get approximately 7 miles to the gallon. It varies. On
21 my tankers I get better mileage than on my ag trucks or
22 some of the others. But it's always a lot better with a
23 newer truck, and especially with the new SCR.

24 Does that answer your question, Mr. Telles?

25 BOARD MEMBER TELLES: Yes.

1 CHAIRPERSON NICHOLS: Okay. Thank you very
2 much for taking the time.

3 Skip Brown and then James Jack.

4 MR. BROWN: Good morning, and thank you for
5 this opportunity. I'm going to say to Mr. Lawson, it's
6 good to be big.

7 I believe that the diesel regulations are a
8 fraud on four levels, at least: Scientific, economic,
9 legal and moral.

10 On the scientific level it's already seen that
11 the regulations or assumptions are wrong by 2 to 400
12 percent.

13 And on the health issues, we see that
14 Dr. Jerrett on February 26 agreed with Dr. Enstrom,
15 which I found was astounding, that there is no
16 relationship between particulate matter and deaths in
17 California.

18 On the economic issues there has been plenty of
19 people that stood up here to tell you about the economic
20 condition in California. You already know that, and the
21 fact that most of us will not be able to make it under
22 these regulations. We'll meet the regulation through
23 attrition. The fact of the matter is there is no
24 economy right now.

25 Under legal issues, this is the first time that

1 CARB has addressed owned assets. In the past you've
2 cleaned up the air by addressing new purchased assets,
3 but now you're addressing owned assets. People have
4 assets that they own at this time and you're going to
5 regulate them out of existence. This is a taking. This
6 will wind up with a lot of lawsuits for the State of
7 California, and this is not productive.

8 In December CARB in trying to justify its
9 regulation posted a bunch of factoids. These factoids
10 -- the definition of factoids is something fictitious or
11 unsubstantiated that is presented as fact devised
12 especially to gain acceptance through repetition. CARB
13 has been doing this for several years, and I find it
14 quite offensive that you maintain that particular
15 attitude.

16 Under the moral issues, there are 42,000 deaths
17 annually on today's highways. A study by the
18 Transportation Construction Coalition found that
19 50 percent or 21,000 of these deaths have been
20 attributed to unsafe road conditions. What's CARB's
21 answer to this? We'll devastate the equipment that is
22 necessary to rebuild these road conditions.

23 There's \$217 billion annual cost on road
24 conditions in California but we can't spend money on the
25 roads; we have to spend it on the devastation of assets.

1 So conclusions, first I want to thank you for
2 actually putting my letter that I sent to you on
3 February 17th on your web site. I would advise or
4 suggest that all folks get ahold of that letter and
5 print it out. I have 14 issues on there that I believe
6 that deserve an answer. These are issues that CARB has
7 swept under the rug, has ignored to answer, and I think
8 these issues need to be addressed. I pointed them out
9 in my letter, and I would love to see someone answer
10 these 14 issues.

11 And thank you very much for your time.

12 CHAIRPERSON NICHOLS: Okay. James Jack.

13 MR. CLOUD: Chairman Nichols, my name is Jon
14 Cloud. Did you call my name earlier?

15 CHAIRPERSON NICHOLS: I'm sorry, I did. I
16 apologize. We skipped right by you.

17 MR. CLOUD: I was doodling. My own fault.

18 CHAIRPERSON NICHOLS: Go right ahead.

19 MR. CLOUD: Sorry about that.

20 You know, when I come to these meetings I'm
21 never quite sure what I'm going to say, and with three
22 minutes to start, I'd better be mindful of what I'm
23 going to say.

24 I think you're going to hear a lot of things on
25 the technical aspect of this today, so I'm going to step

1 back from that a little bit and put a face to this thing
2 and what this actually -- what this rule means to those
3 of us in the industry.

4 I think I was going to start today where I left
5 off at the EPA meeting last week. I happened to be
6 fortunate enough to be in D.C. last week and I stayed
7 for the EPA meeting. I told the three members at the
8 EPA meeting what these regulations mean to me: It's a
9 dream killer. It's a dream killer for me and my family
10 on our American dream.

11 Our business's only way to comply with these
12 regulations was to downsize. And I'm not sure if we'll
13 ever actually be able to grow back to a large-size fleet
14 considering the cost of what it would do for our family.

15 Here's where the dream killer comes into this
16 deal. Two weeks ago today, as a matter of fact, I was
17 standing in Independence Hall in Philadelphia with my
18 daughter's 8th grade class and 75 other 8th graders.

19 Some of you may recall Independence Hall. It's
20 the place where the words:

21 We find these truths to be self-evident,
22 that all men are created equal, endowed
23 by their Creator with certain unalienable
24 Rights, amongst these are life, liberty
25 and the pursuit of happiness.

1 A few years later some of the same men who
2 wrote those words penned the words:

3 We the People of the United States, in
4 order to form a more perfect union, to
5 establish justice, to ensure domestic
6 tranquility, to provide for the common
7 defense, support the general welfare, do
8 ordain -- and to secure the blessings of
9 liberty for ourselves and our posterity,
10 do ordain and establish this
11 Constitution.

12 This is a dream killer to me. When I say this
13 law is a dream killer, I believe in the American dream.
14 And the words "the pursuit of happiness" actually meant
15 something to me.

16 I realized these rules were going to be a
17 problem about three years ago when in a meeting in
18 San Diego County one of your staff members in answering
19 a question from me that some of these rules are going to
20 put people out of business, they won't be able to afford
21 it, one of your staff members looked at me and 250
22 other people and said, "You know what? Some of you are
23 just going to have to go out of business and find
24 something else to do."

25 That's not an American dream; that's a

1 nightmare, that a regulator can look at someone and
2 basically say that to them. And I wonder, the people
3 who penned the words, "We the people", who penned the
4 words, "We find these truths to be self-evident, that
5 you are endowed by your Creator with certain unalienable
6 Rights," would they consider that a taking? Would they
7 tell that regulator, you can't do that? You can't pass
8 an ex post facto law that outlaws the equipment that I
9 bought under state regulations that was legal two years
10 ago and then have the audacity to look me in the eye and
11 say, well, you might just have to go out of business?

12 We have a problem here. And I would hope this
13 Board would direct the staff to actually look at real
14 science, look at facts, take into consideration what
15 those in this industry who are going to be affected by
16 this and who may well have to go out of business have to
17 say about it, and look at some real science.

18 Thank you for your time.

19 CHAIRPERSON NICHOLS: Okay. Sorry. You are?

20 MR. JACK: James Jack.

21 CHAIRPERSON NICHOLS: Okay. Go ahead.

22 MR. JACK: Thank you, Madame Chair and Members.

23 My name is James Jack. I'm here today on
24 behalf of the Emission Control Technology Association.

25 First and foremost, I want to thank you and

1 your staff for the presentation this morning. Your
2 staff has done an extraordinary job of laying out a
3 comprehensive framework for moving forward on this
4 regulatory issue. We know there is a long road ahead,
5 but we look forward to continuing to partner with the
6 Board and its staff to get there.

7 One of the things that we want to strongly urge
8 the Board to consider as we move forward is the changes
9 that -- the impacts that changes to the regulation will
10 have on the investment that clean technology
11 manufacturers have made in California.

12 When California started regulating diesel
13 emissions, these regulations spurred companies to make
14 significant investments in research and development that
15 have resulted in new pollution control patents and new
16 pollution-reducing devices such as the diesel
17 particulate filters. The manufacturers of these
18 retrofit devices have developed clean technology
19 solutions that will help the State meet its clean air
20 goals, also providing equipment owners a more
21 cost-effective way to comply with the regulations by
22 allowing them to retrofit instead of replace their
23 equipment.

24 Further changes to the regulation, however, put
25 manufacturers of clean technology equipment at risk.

1 They've built their business models, secured investment
2 capital, and deployed significant resources in
3 California based on the regulations that this state has
4 adopted. Their ability to generate a return on that
5 capital for their investors, shareholders and employees
6 is dependent upon the State meeting the regulatory
7 commitments it has made.

8 Significant changes to the environment will put
9 this investment at risk and will threaten the economic
10 viability of these manufacturers in California. The
11 manufacturers are unable to sustain their investment,
12 many will be forced to leave the marketplace altogether,
13 stifling the growth of California's green economy and
14 leaving California fewer choices to meet its clean air
15 goals.

16 More importantly, such changes in the
17 regulatory environment could send a chilling message to
18 other clean technology innovators who are looking to
19 California as an incubator for clean technologies and to
20 be the engine for the nation's green economy.

21 So in closing, we look forward to continuing to
22 partner together with the Board and its staff as we move
23 forward on this regulatory issue. Thank you.

24 CHAIRPERSON NICHOLS: Thank you. We now have
25 five people who have signed up, all of whom, I think,

1 are together with the Associated General Contractors
2 organization. And it's 12:25. So do you want to take
3 them all before the break or defer them? I don't think
4 we want to split in the middle of it. One way or the
5 other. So it's up to the Board.

6 Let's hear from them? All right. We will hear
7 from Michael Kennedy, Michael Steel, James Lyons, Tom
8 Brown and Mike Shaw, and then we're going to take a
9 lunch break.

10 MR. KENNEDY: Thank you, Madame Chair, Members
11 of the Board. I appreciate the chance to be here today.
12 I have a couple of slides that we'll try to bring up.

13 As you know, for some time AGC has focused on
14 the emissions inventory that provided the foundation for
15 this rule. We did that because we don't quarrel with
16 the balance you tried to strike between the economy and
17 environmental protection. We do believe in improvement
18 in air quality in California. We have wives, we have
19 children, and have neighbors in this state. And we're
20 not asking you and we do not ask you to relax your
21 objectives.

22 What I'm going to do today is just turn to the
23 last page of the book. AGC has just completed an update
24 of its 2009 inventory of emissions from the regulated
25 fleets. What you have in front of you is a slide

1 summarizing where the latest information leads us on NOx
2 emissions from the regulated fleet.

3 The red line in this graph represents the
4 original emissions inventory that the staff conducted.
5 The white line represents the goals you have set for our
6 fleets. And the yellow line is what the best
7 information available today tells us about where the
8 emissions are actually going to be.

9 Now, I talk about the best information
10 available today. We're talking about the DOORS data
11 that was not available at the time this rule was
12 developed, I'm talking about data indicating that there
13 are approximately 7.5 percent of the vehicles in the
14 fleet who operate low use. And I'm talking about data
15 made available by your Board of Equalization and the
16 U.S. Department of Energy on diesel fuel consumption in
17 the State of California.

18 If I can go to the second slide, please.

19 This is a similar slide for particulate matter.
20 Again, the red line represents the original emissions
21 inventory on which you based your decision to adopt this
22 rule. The white line represents the environmental
23 objectives that you set for our fleets. And the yellow
24 line indicates where we are today.

25 Before going on, I want to emphasize just one

1 small point. The yellow line on these graphs does not
2 represent anything relating to the downturn in the
3 economy. The emissions projections that you have in
4 front of you here and that we have provided to each of
5 you individually are based on the same activity levels
6 and growth factors that your staff used to develop their
7 original emissions inventory. This is reflective of
8 changes coming out of the DOORS data, the low-use
9 equipment and a reconciliation between the model and the
10 diesel fuel consumption. We do not advocate that you
11 abandon the model, but we do find it necessary to adjust
12 it.

13 I wish I had time to explain all of this today.
14 I don't. I've got three minutes. I've got 30 seconds
15 left.

16 AGC is available. We will meet with you
17 individually. We will meet with you as a group. We
18 will meet with you over the web. We will meet with you
19 by telephone. We would expect you to have questions.
20 We would expect a certain degree of skepticism. We are
21 committed to transparency. There is no question that
22 you can ask that we will not answer.

23 Finally, I just want to make it clear that by
24 all accounts we have a large cushion, we have an
25 opportunity to provide some direction to where we go

1 from here, and I urge you to provide that direction
2 today.

3 Madame Chair, if I may?

4 CHAIRPERSON NICHOLS: Well done.

5 MR. KENNEDY: I would just ask you, it is our
6 recommendation that you slide the schedule for this rule
7 for 5 years, and I want to underscore that merely
8 delaying enforcement of this rule will not achieve your
9 objectives. As recently as last week a local contractor
10 sold seven more pieces of construction equipment and
11 laid off three more mechanics. Unless or until the
12 schedule itself is slid, merely delaying enforcement
13 will not affect the economic outcome. Business people
14 see the water building behind the dam, they know it's
15 going to break.

16 Thank you very much. I'll be glad to answer
17 any questions you may have.

18 CHAIRPERSON NICHOLS: Thank you. Mr. Steel and
19 then Mr. Lyons.

20 MR. LYONS: Actually, we've been asked to
21 change the order. I'm Mr. Lyons, if that's okay.

22 CHAIRPERSON NICHOLS: That's fine. You can be
23 whoever you want to be.

24 MR. LYONS: Thank you. Appreciate that.

25 I am Jim Lyons with Sierra Research. We're the

1 company that has done the updated emissions inventory.
2 It's only recently been made available to CARB staff. I
3 understand they're looking at it. I just wanted to make
4 a couple of points about what we've done that I didn't
5 hear out of the staff presentation.

6 First, unlike the December inventory, this one
7 has been updated with an additional dose, if you will,
8 of DOORS data from February. Our vehicle population is
9 about 150,000, not the 100,000 or so we had in December.
10 And we have looked at this issue of the top-down or
11 fuel-based calibration of the off-road model.
12 Specifically, what we've done is we have accounted for
13 things like the use of clear fuel in off-road equipment
14 that was a criticism of the Millstein and Harley paper.
15 We've accounted for the use of fuel in all the equipment
16 subject to the rule.

17 And I'll just conclude by saying while the
18 staff has got their adjustments of a factor of about 1.4
19 to 2, our analysis indicates that that factor is about
20 3.5. So we would feel that you have even more cushion
21 than the staff has led you to believe. Thank you.

22 CHAIRPERSON NICHOLS: Okay. Thanks. So now
23 Michael Steel and then Tom Brown.

24 MR. STEEL: Good morning. Thank you.

25 Just a couple of points. Very pleased to hear

1 today that the staff now agrees that the previous
2 inventory is too high. We have a difference of opinion,
3 as Jim just pointed out, in terms of how far off the
4 inventory is.

5 One thing that kind of concerns me, though, is
6 that I heard that this issue sort of first came up when
7 Professor Harley's report came out. I think I heard
8 them say December. It was actually September of last
9 year. But actually Professor Harley was not the first
10 person to raise this issue about the adequacy or
11 accuracy of the off-road model. That was raised by
12 Professor Robert Sawyer back in 2000. It was also
13 raised earlier by Dr. Harley before this rule was even
14 adopted in a contract paper that he wrote for the Air
15 Resources Board back in 2004.

16 So this issue of the off-road model having a
17 problem in terms of the fuel analysis has been out
18 there. I'm glad we're finally hearing about it today
19 before the Board.

20 I also want to comment on this enforcement
21 relief. The enforcement relief is a statement by staff
22 that they will not enforce the rule until EPA grants the
23 waiver. And as they have acknowledged, they have no
24 legal authority to enforce the rule until EPA grants the
25 waiver.

1 On the same day that they announced this
2 enforcements day, which is a sham, they wrote a letter
3 to the EPA urging immediate granting of the waiver. So
4 on the one hand they're sending out this message to the
5 community that relief is forthcoming; on the other,
6 they're begging EPA to withdraw the relief.

7 What staff's slides show this morning is also
8 that what we have been telling you, which is the way
9 that fleets are complying with this rule is by
10 shrinking, is true. They say that 55 percent of the
11 fleets are taking advantage of the shrinking fleet
12 low-use exemptions. And as we have pointed out, that is
13 an economic disaster for the industry. You don't cope
14 by getting smaller and smaller and smaller and
15 eventually disappearing.

16 Now, we can have more delay and more time for
17 study, that's all well and good. But the industry needs
18 some clear direction from you today, and the staff needs
19 clear direction. I was very pleased that Chairman
20 Nichols started out by saying that the job today is to
21 provide clear direction to the staff and that you have
22 to make decisions despite the uncertainties.

23 The clear direction that staff needs is to
24 provide relief and to provide relief that pushes this
25 schedule out. By simply saying that we will provide

1 some deferral of the deadline until 2013, 2015, whatever
2 you might pick, but then you have to catch up, you've
3 got a giant balloon payment due, is just inviting
4 disaster. And from a business perspective, if you know
5 that you're going to have to catch up in three years,
6 you've got to start making those expenditures now when
7 you can least afford it.

8 Thank you.

9 CHAIRPERSON NICHOLS: Is that okay? All right.
10 Thank you.

11 Tom Brown and then we'll finish up with Mike
12 Shaw.

13 MR. BROWN: Madame Chair and Board Members,
14 thank you in allowing me to address the Board today.

15 You know, as stakeholders in the industry and
16 stakeholders in this regulation, we are truly committed
17 in providing accurate data. We believe as submitted by
18 Sierra Research the most recent report sheds new light.
19 While we understand staff continues to review and
20 examine this data, we also want to remind the Board and
21 staff of the sensitivity of this regulation and the
22 impact to the construction industry.

23 The impact alone to Operating Engineers, the
24 brothers and sisters that operate equipment, is upwards
25 of 38 to 40 percent of unemployment. Those are

1 devastating numbers. These individuals now find
2 themselves wondering how are they going to pay for their
3 health insurance, how are they going to pay for the
4 bills by not having a job, keeping in mind these are
5 well-paid individuals that on the average cost an
6 employer somewhere between \$65 to \$72 an hour. So these
7 folks are people that generate a fair income. They're
8 not the ones that you would say that were overextended
9 and got themselves in trouble.

10 Another concern is the exodus of businesses in
11 California. Small business is the backbone of America,
12 the entrepreneurs of our nation. Whether it be the
13 recession or the financial inability to make the
14 immediate investments in equipment, it's totally unfair
15 to these individuals and their firms during these times.

16 The model utilized and most recently submitted
17 by Sierra Research clearly shows that we have achieved
18 these goals the staff and the Board have set out long
19 before they were needed.

20 Respectfully, we request the Board's schedule
21 be deferred to 2015 of this regulation. Thank you.

22 CHAIRPERSON NICHOLS: Thank you, Mr. Brown.

23 Mike Shaw, you're the last word for the group.

24 MR. SHAW: Good morning. My name is Mike Shaw.
25 I'm a San Diego County resident. I'm a contractor,

1 grading contractor, and equipment owner. And I think
2 that one of the things that's become apparent today is
3 that you have a flawed model from which this regulation
4 has been built on. It's going to be an academic
5 discussion with some very bright people to determine
6 maybe how flawed the model is. You say between 40 and
7 100 percent; we think perhaps as much as 300 percent or
8 more.

9 And again, these bright people are going to
10 come up with a resolution for this over time and come to
11 an agreement. That's pretty neat.

12 Now, on the other side of the table you have
13 people out here, people like me that have taken steps
14 towards compliance. I'm a compliant contractor now,
15 after having spent between \$5 and \$6 million on new
16 engines and retiring over 45 pieces of equipment, 28,000
17 horsepower. It's really encouraging to me to hear today
18 in this room that maybe we were off only 100 percent,
19 and maybe I only had to spend \$2.5 instead of the
20 \$5 million I've already spent, and maybe I could have
21 kept 20 of those tractors that I had to get rid of to
22 become compliant today.

23 So I'm a little discouraged about this process.
24 And I think it's very important that before anything
25 else happens you come to the bottom line on this thing.

1 We still have to make these moves to comply because they
2 take a lot of time and a lot of planning and cost a lot
3 of money. So this has got to be fixed before you move
4 on.

5 Bottom line on this thing, I think that -- it's
6 my belief, and I've reviewed the Sierra information for
7 as well as I can read it. Looks pretty good to me. I
8 don't think there's any question you can't push this
9 thing back 5 years to 2015 and still get everything that
10 you want. Those are my comments.

11 CHAIRPERSON NICHOLS: Okay. Thank you. We're
12 going to take a lunch break and come back to the rest of
13 the witnesses here. We've got another dozen or so to
14 go.

15 (Lunch Recess)

16 CHAIRPERSON NICHOLS: The rest of the Board
17 Members are in the back finishing up lunch, but they can
18 listen on the sound system that we have.

19 We're ready to get back into session. Again, I
20 do want to note for the record that we held a closed
21 session during lunch and were briefed by the Attorney
22 General's office and our own lawyers about litigation
23 that is pending but no action was taken, no decisions
24 were made by the Board.

25 So we are now ready to resume the hearing, and

1 the next witness that we have is Eric Carleson from
2 Associated California Loggers followed by Richard Lee.

3 MR. CARLESON: Eric Carleson, Associated
4 California Loggers. Good afternoon. Three minutes,
5 three previous transcript excerpts and a little bit
6 more.

7 Transcript from January 22nd, 2009.

8 Chairperson Nichols: We would like to ask the
9 staff in conjunction with the economic review that they
10 will be working on anyway to put a special focus on the
11 issue of the logging trucks and this industry and to
12 come back with recommendations that would deal
13 specifically with their situation.

14 Transcript December 9, 2009.

15 Board Member Balmes: I'd like to go back to a
16 year ago when we heard a lot of testimony from the
17 logging industry. We heard some again today. And some
18 of you will recall that I was concerned about that
19 specific impact in the logging industry. And I think
20 that we should consider perhaps an exemption to the
21 25,000 mile limit. As far as I'm concerned, logging is
22 a type of agriculture. And I think the impacts have
23 been specifically tough in that region that does have
24 relatively clean air. So I propose that there also be
25 considered some kind of --

1 Chairperson Nichols: Reclassification.

2 Board Member Balmes: -- another classification
3 for the logging industry.

4 Chairperson Nichols: Okay. Let's add that to
5 the list of potential to-dos.

6 Transcript December 9, 2009.

7 Chairperson Nichols: We've heard from -- I'd
8 like to actually reference communication that I had,
9 even though this is not ex parte, per se, with Wes
10 Chesbro who represents Mendocino County and who has been
11 an effective spokesperson for the idea that the rural
12 counties need to be given special consideration as we
13 look at some changes to this rule. So I just want to
14 note that that input has been received. And as I told
15 Assembly Member Chesbro, we would think long and hard
16 about what we could do to address that issue.

17 My question through the chair to the CARB staff
18 would be what progress has been made on acting on the
19 request of the chairperson, Members of the Board and
20 Assembly Natural Resources Chair Wes Chesbro with regard
21 to these requested changes for consideration?

22 CHAIRPERSON NICHOLS: We have to direct the
23 staff to answer the question, and we will put that on
24 the list of things for this meeting. Okay?

25 MR. CARLESON: Thank you.

1 With a little time left, my final point would
2 simply be in January 2009 CARB staff made
3 recommendations against relief in attainment area rural
4 California on the basis of modeling in Eureka,
5 overriding actual monitoring data from the adjacent
6 Mendocino County Air District. We formally request the
7 CARB staff refine its modeling of Eureka, given recent
8 revelations regarding flaws in modeling of the off-road
9 rule.

10 Thank you very much.

11 CHAIRPERSON NICHOLS: Thank you. Do you want
12 to address the logging issue at this time or save it to
13 the list of items for the end?

14 Erik, looks like you're ready to speak.

15 ASSISTANT CHIEF WHITE: Yeah, we can mention a
16 few things. I can say that as we've continued to look
17 at the regulation, we do continue to look at the impacts
18 on logging. Certainly the first compliance dates for
19 the agricultural trucks, including logging trucks, have
20 not yet taken effect, so we're using that time to
21 continue to look at it.

22 Some of the comments, though, that we just
23 heard came before we presented you with last January a
24 somewhat comprehensive assessment in terms of the
25 localized impacts associated with PM exposure. And we

1 used the logging trucks because we had very good real
2 data that were not going to be impacted by our emission
3 inventory revisions that we did to the statewide
4 industry and inventory as a whole, which clearly show
5 that we still need to be concerned about potential
6 changes in the PM requirements associated with logging
7 trucks and understand the localized impacts.

8 As we look at potential changes moving forward
9 for September and working within our goal of maintaining
10 the health benefits of the regulation, we'll definitely
11 add logging trucks as part of that work.

12 CHAIRPERSON NICHOLS: So it's on the list of
13 items that will be addressed by the September --

14 ASSISTANT CHIEF WHITE: Correct.

15 CHAIRPERSON NICHOLS: -- rule.

16 ASSISTANT CHIEF WHITE: And as we do that we'll
17 be looking at agricultural trucks and reporting on the
18 reporting that we've received as well, so this fits in
19 very nicely.

20 CHAIRPERSON NICHOLS: Good. All right. Thank
21 you. Richard Lee and then William Davis.

22 MR. LEE: As a citizen of the State of
23 California, I'm here on behalf of those most afflicted
24 by the truck and bus rule; namely, all of us.

25 As much as air pollution is a purported concern

1 of this board, my personal concern is with the toxic
2 thought pollution emanating from this building. In the
3 spirit of cooperating with the Board to clear the air, I
4 have several questions. These are not rhetorical
5 questions, rather this is a heads-up that I will be
6 sending each of you as Members of the Board a letter
7 requesting your individual, clear and honest answers to
8 the following.

9 Number 1, are you aware that the scientific
10 basis for the truck and bus rule is a fraud?

11 Number 2, are you aware that the technology
12 propounded to solve the nonexistent health problem
13 caused by diesel emissions is a fraud?

14 Number 3, are you aware that the truck and bus
15 rule's regulatory taking of the property and the
16 livelihoods of truck and bus owners without fair and
17 just compensation is a violation of their 5th Amendment
18 and due process rights?

19 Number 4, is not the implementation of the
20 truck and bus rule a crime in progress for which CARB
21 can be sued out of existence?

22 Number 5, are you aware that U.S. Code Title 18
23 part 1, chapter 1, section 4, is called a misprison of
24 felony? This is where knowledge of a crime can really
25 put one on the spot. Failure to report that crime or if

1 you're, say, in charge of those who commit a crime, is a
2 crime.

3 Number 6, were I not to act to counter these
4 crimes, would I not be complicit with these crimes?

5 I can and will back up all these statements of
6 fraud and wrongdoing. The truck and bus rule is not
7 acceptable.

8 Mary Nichols, your apologies are not
9 acceptable. What is acceptable is your resignation.

10 CHAIRPERSON NICHOLS: All right. We will hear
11 next from William Davis.

12 MR. DAVIS: Do I have to?

13 CHAIRPERSON NICHOLS: You can only go up from
14 there.

15 MR. DAVIS: Good afternoon, Chairman Nichols,
16 Members of the Board and those of you dining in the back
17 room.

18 My name is Bill Davis. I'm the Executive Vice
19 President of the Southern California Contractors
20 Association. And my job, the way I look at it anyway,
21 in dealing with this agency is to be cooperative,
22 informative and constructive as an advocate for our
23 industry. I am not among those who describe your staff
24 or yourselves as folks with cloven hooves and horns, and
25 we hope to keep moving forward in that direction.

1 And in that spirit I'd like to wish each of you
2 a happy Earth Day. I didn't hear anybody do that today
3 which sort of surprised me considering the celebration
4 that's going on outside and inside the building. I
5 don't think I'll mention Lenin's birthday, because it
6 just doesn't seem to play.

7 Normally I have some reference to literary or
8 historical fact, but this time I was struck by Chairman
9 Nichols' comments that you can be whoever you want to
10 be, and since I've always wanted to be Cary Grant at his
11 peak, that's where I'm going to leave it.

12 But one of the things that you also said today,
13 Chairman Nichols, is that in making decisions about
14 these regulations that you have to consult with your
15 feelings and your beliefs on a personal basis. And as
16 an attorney, and I think Ms. Kennard is also an
17 attorney, we were sort of hoping that you guys would
18 consider yourselves a jury. A jury has to put aside
19 their personal feelings and beliefs and decide the case
20 on the facts.

21 Our industry would prefer that you use the
22 standard for criminal juries, beyond a reasonable doubt,
23 but we'd settle for preponderance of evidence. And as
24 with this microphone, we don't believe that this
25 regulation can be a "one size fits all" document. We

1 think this rule should offer maximum flexibility and
2 maximum incentives for our industry. More flies with
3 honey than vinegar, my mother used to say, and I think
4 that there is something in that.

5 For example, if you were to grant the AGC's
6 request for the past -- excuse me. And change the
7 requirements for the regulation to 2015, it would put
8 everybody in the pool for Moyer money and other kinds of
9 grants, not the SOON program at South Coast which is a
10 seven-year program, but everybody else. We think that
11 that incentive would be a good incentive to get large
12 and medium fleets to retrofit early.

13 We have concerns about having an active and
14 vibrant industry in California that helps provide
15 technological solutions to these problems as well.

16 There are some other issues with staff comments
17 this morning. We don't actually use the recession word
18 in construction; we call it a depression when you're
19 down 50 percent from where you were five years ago. We
20 don't expect to return to those levels, which is 2005,
21 any time soon.

22 And there are several others. I guess I'll
23 have to submit them in writing to you.

24 CHAIRPERSON NICHOLS: Okay, if you have
25 additional issues....

1 MR. DAVIS: One in particular is with regard to
2 the AB 8 2X amendments. We need to remove the balloon
3 payment requirements that are in the current amendments.
4 Those exist for emissions that apparently do not. Thank
5 you.

6 CHAIRPERSON NICHOLS: Okay. Thank you.

7 Betty Plowman and then Dave Harrison.

8 MS. PLOWMAN: Hello to you all. In the spirit
9 of kumbayaism, as Bill just expressed, let me say that
10 perhaps my biggest thanks to you all is for making me
11 more aware of what's happened out there in our world,
12 and California specifically, which is why in February
13 when the county health rankings were published I was
14 immediately drawn by the figures. And I guess most
15 important that jumped out at me was the fourth
16 healthiest county which was Santa Clara.

17 Fourth healthiest with three interstate
18 freeways, 286, 80, 880, Highway 101 and eight
19 expressways. According to what I had heard at these
20 meetings, everybody in Santa Clara County ought by now
21 to be dead. However, they are the fourth healthiest in
22 the State.

23 Of equal what got me, and I can sure identify
24 with that logging man, was Del Norte County who is the
25 unhealthiest in the State. The most premature deaths.

1 Del Norte sits at the top of California bordered by the
2 Pacific Ocean, zero particulate days, zero ozone days,
3 they're dying like flies up there. While a lot of
4 things were taken into consideration, a huge factor in
5 this is poverty and unemployment.

6 So once again, as our gracious state enacts
7 more regulations that do kill the California economy --
8 Supervisor Roberts, you're number 15. Pretty good going
9 down there in San Diego. I'm Solano County, I'm 28.
10 But I'm watching us fall apart daily. I'm watching the
11 businesses leave. I'm watching the same thing, that you
12 can't get permits. That's as far as I'll go with that.

13 I have a minute left, and I will say that there
14 are some programs that I have brought up numerous times
15 that I want to touch on again, and that was something
16 that we could do here and now to clean up our air.
17 Because frankly I resent the gentleman that says he
18 doesn't want to compete with the \$10,000 trucks. The
19 trucks you're putting out of business are not
20 necessarily the \$10,000 trucks. Some of them are
21 \$150,000 trucks that people paid for just a few short
22 years ago which are now not compliant. I know because I
23 test these trucks for smog. I tested them yesterday. I
24 want to tell you that I tested a '94 with an opacity
25 reading of 7.1. These are clean trucks. They don't

1 need to go.

2 If in fact we have a small percentage of
3 low-hanging fruit, 10 to 15 percent of the trucks are
4 polluters. Let's test these trucks. Let's get them out
5 of here. I don't want to see them any more than anyone
6 else. I will be the first one to call 1 800 END SMOG
7 when I see a polluting truck. But to throw the entire
8 state out is wrong. Thank you.

9 CHAIRPERSON NICHOLS: Thank you, Ms. Plowman.

10 Dave Harrison and Jim Jacobs from the Operating
11 Engineers.

12 MR. HARRISON: Bill beat me to the punch. I
13 thought I was going to be able to wish you a happy Earth
14 Day first.

15 Members of the Board, staff: Dave Harrison,
16 Operating Engineers Director of Safety, Local 3.

17 Before I go into what I was going to say, I
18 wanted to make a small point. Just last week Toyota
19 closed their NUMMI plant down in Fremont laying off 5500
20 Californians. And I come in here today and I see a
21 Toyota on display out in front of the CalEPA building.
22 A little disheartening.

23 I'm here once again to participate in the
24 regulatory process and help to ensure that the off-road
25 rule is implemented in a responsible manner. You still

1 have a rule that's unsafe, unreasonable and financially
2 crippling, and you still do not have a waiver to legally
3 implement that rule.

4 As it currently stands, a request from the
5 industry, labor and management has been made to postpone
6 the regulation for three to five years. We've asked for
7 this from the very beginning and are still asking for
8 it. It's frustrating because we've asked for an
9 extension of the entire rule two years ago. And now
10 we've got folks like Caltrans, Granite Construction,
11 some other folks, the gentleman that spoke earlier that
12 have spent millions of dollars to comply with a rule
13 that you can't legally enforce. And we told you so two
14 years ago. So welcome to our frustration.

15 We're also asking that when you postpone the
16 rule you postpone the entire rule -- reporting, initial
17 compliance and all your target dates, as AGC has asked.
18 If you only postpone the compliance dates and not the
19 target dates, you've essentially created an impossible
20 goal and are forcing our contractors to climb what was
21 once a steep hill to now a shear cliff. They call that
22 compression and it doesn't work. It's going to double
23 and triple the problem.

24 We believe that improved air quality is a must,
25 but we do not believe that it should be achieved at the

1 pure expense of Californians. AGC has given you a fresh
2 look. The economy has given you reduced activity and
3 reduced inventory. You have the tools to achieve your
4 goals; you now just have to choose to use them.

5 Thank you.

6 CHAIRPERSON NICHOLS: Mr. Jacobs.

7 MR. JACOBS: Good afternoon, Madame Chair,
8 staff, Members of the Board.

9 Madame Chair, you said this morning that
10 California is a bright spot. And I absolutely agree
11 with that, but I'm afraid that it's about to burn out.
12 We keep having these meetings, and it just seems like
13 we're spinning our wheels. We're stuck in the mud.
14 We've spent a tremendous amount of time and money
15 bringing our ideas, our concerns, opening up our books
16 and our companies to you. You've thrown us some bones,
17 but I'm tired of coming down here and begging. I don't
18 want to beg anymore. Our members are out of work. I
19 don't know how much longer I'll have a job, because our
20 members aren't working and that kind of involves me,
21 also.

22 All this being said, I came up with a plan also
23 today that doesn't involve asking anybody for their
24 resignations, all the people up there. But it does
25 involve -- let's just put it this way. Let's just drop

1 this whole plan, fire your staff and give the money that
2 you would normally spend on your budget to the
3 California state school system. Let's educate our next
4 group of kids coming forward. I think that's the
5 smartest way we can invest in the future of this state,
6 and that's how we need to move forward. Thank you.

7 CHAIRPERSON NICHOLS: Randal Friedman will be
8 next and then Don Anair.

9 MR. FRIEDMAN: Madame Chair, Board Members:
10 Randal Friedman on behalf of Navy Region Southwest, and
11 I'll wish you a happy Navy Earth Day, be the first to do
12 that.

13 As you can see routinely on CNN, we continue to
14 be very busy both in our national defense and
15 humanitarian missions. So I'm not here to talk about
16 the recession, because our activity level continues to
17 be very high. What I'm here to talk about and we did
18 submit written comments on behalf of all the military
19 services are issues unique to our status as a federal
20 agency and of the military.

21 And those reasons, which I won't elaborate,
22 they're in our letter, have presented compliance
23 challenges to us that make it impossible at this point
24 to meet the deadlines. We've been working diligently,
25 we continue to work diligently, but in our best

1 assessment we need until 2014 to get on the compliance
2 track for the reasons that we discuss in the letter.

3 And certainly I can answer any questions.

4 I like the approach the staff is taking. We
5 certainly support taking another look at this. I'd also
6 like to thank all the technical work AGC has done to
7 highlight this issue, and I urge you to consider all
8 this testimony and the work they've done. And in that
9 mix, again, please don't forget the Federal Government
10 and the military, because we have our unique set of
11 issues that, again, has nothing to do with the
12 recession, but at this point we have some very difficult
13 obstacles and we are seeking some help from you.

14 Thank you.

15 CHAIRPERSON NICHOLS: Thank you.

16 Don Anair and then Ned McKinley.

17 MR. ANAIR: Good afternoon. I'm Don Anair.
18 I'm an analyst with the Union of Concerned Scientists.

19 I'm mostly here today just to support the
20 process that ARB has laid out moving forward on this
21 issue. I think it's important that we establish what
22 the inventory and the inventory budget is for these
23 changes that are forthcoming and we use that information
24 to decide what kind of changes are appropriate.

25 One of the challenges with the changes that

1 have been proposed by staff for the truck rule, the
2 delay in the retrofits, staff has assured us that those
3 changes do meet the emissions budget, but we haven't
4 seen the actual emissions inventory data from those
5 changes. And I think it would be helpful in workshops
6 that are forthcoming to present the emissions impacts of
7 the presented changes of these workshops so we can
8 actually see what different options are available and
9 what the actual emissions impacts and therefore the
10 health impacts would be going forward.

11 I'd also like to offer a suggestion on the
12 implementing or doing a sensitivity analysis on the
13 economic impacts of the emissions inventory going
14 forward. We've heard today from different folks about
15 how they expect the economy to recover, and clearly
16 there's different opinions on this and there's different
17 evidence to support different rates of recovery. And I
18 think it would be useful to have a sensitivity analysis
19 on the inventory to see what we're really looking at.

20 We wouldn't want to have a pessimistic view of
21 the economic recovery and therefore make changes that
22 would result in excess emissions and therefore impact
23 public health and also prevent us from meeting the SIP
24 requirements.

25 And finally, I think the ten guiding principles

1 that have been laid out by staff are appropriate and
2 they're good. Especially maintaining the health
3 benefits, we continue to make that our top priority.
4 Thank you.

5 CHAIRPERSON NICHOLS: Thank you. Ned McKinley.

6 MR. MCKINLEY: Good afternoon, Chairman, Board
7 Members. My name is Ned McKinley. I'm here on behalf
8 of Major General Anthony Jackson, the Commanding General
9 for Marine Corps Installations West. Thank you for the
10 opportunity to come and talk and give some very brief
11 comments to add on to what Andy Friedman my Navy
12 counterpart has said.

13 Major General Jackson is in command of six
14 bases in California. There's about 42,000 horsepower at
15 these bases that is subject to the off-road rule. We
16 are committed to full compliance, we will get there, but
17 as Randy said, we do have some challenges. The federal
18 budgeting process is probably the first one to bring up,
19 and in terms of hitting that timeline that definitely is
20 a challenge for us under the current regulation.

21 Another challenge is based on global events,
22 the money that we are seeking for compliance, about \$60
23 million for the off-road rule as well as other ARB
24 regulations, that \$60 million winds up competing with
25 other money -- Marine Corps budget and the Department of

1 Defense budget. And that is definitely subject to
2 change based on international events.

3 We have been talking to your staff. We very
4 much appreciate them working with us and listening to
5 our concerns. We've given some recommendations for
6 things that could help. I don't think it could get us
7 all the way there but it could help. Some things
8 involve, for example, the low-use designation of 100
9 hours. We have many vehicles that are just over that.
10 And if there is some kind of adjustment along those
11 lines, those kinds of adjustments could help us.

12 Just in closing, I just want to say that in the
13 case of the Marine Corps, we have about 40 percent of
14 our combat power at those bases. Even more important,
15 most marines come through California to train. What
16 this means is that California is absolutely essential to
17 us. We really can't go anywhere else to do what we do
18 here, and we've got to make it work here. So we are
19 committed to a long-term and a collaborative
20 relationship with the State of California.

21 So we look forward to working with you and with
22 your staff as you look at changing this rule.

23 Thank you.

24 CHAIRPERSON NICHOLS: Thank you very much.

25 Michael Lewis and then Bonnie Holmes-Gen.

1 MR. LEWIS: Good afternoon. I wanted to talk
2 to you about a couple of things today. I'm with the
3 Construction Industry Air Quality Coalition. And I
4 wanted to say that I think it's time to overhaul this
5 regulation, not just tinker around the edges. I'm a
6 little disappointed that the staff didn't come up with
7 some more specific things for you to get your teeth into
8 today, so I'm going to give you several.

9 First and foremost, on your guiding principles
10 you need a new number one. It needs to be: Get the
11 numbers right. Nowhere in any of what's been presented
12 to you today is anybody suggesting that they're going to
13 spend time to get the numbers right, and that's what you
14 need to do. This rule was based on a whole set of
15 assumptions and numbers in the beginning that we now
16 have correctly. We have fuel, we have fleet makeup, we
17 have low use, we have load factors, and those numbers
18 all need to be updated and gotten right. Because until
19 they're right, you're asking us to spend hundreds of
20 millions of dollars, billions of dollars, to reduce
21 phantom emissions, and we're not going to do that.

22 Secondly, I don't think it's fair to combine
23 the savings that we've realized in emissions for this
24 rule with the trucking rule. We've joined with the
25 other trucking associations, and we are about to

1 undertake an analysis of the truck rule model, very
2 similar to the one that AGC did, and we believe that
3 we're going to be able to demonstrate significant
4 reduced emissions as a result of that analysis, and that
5 needs to be taken into account separately.

6 With regard to your instructions today, I would
7 suggest you do the following. You need to tell your
8 staff to revise this rule to keep the reporting, keep
9 the idling, keep the sales disclosure, and put everybody
10 on the same timeline as the small fleets, the 2015.
11 That will get us the certainty.

12 The second step is to tell your staff to go
13 back and fix the model. They're not going to do that by
14 September. It's probably going to take until sometime
15 in 2012 to do that. But you need to update the model,
16 you need to reflect the fleet changes, you need to
17 review the load factor data which we believe is also
18 inflated. You need to revisit those growth assumptions.
19 None of those things were changed in the AGC analysis.
20 And if you add those in, that bottom line on their chart
21 drops off the page. And I think it's important to get
22 those numbers right and to revisit them and fix this
23 rule before it would go into effect in 2015.

24 Finally, we've been working on that draft
25 bubble concept that I've told you about. We have some

1 language. We're testing it on some fleets right now. I
2 would like to inject that in this process at some point,
3 perhaps for that later round of changes, it's going to
4 involve some changes on your part, because we're going
5 to want to include portable equipment, forklifts and
6 perhaps some other rules in that bubble. And that's
7 going to cause some dislocation in your organization,
8 but I think it will be worthwhile.

9 I'm just concerned that this rule has
10 needlessly cost us millions of dollars already, it's put
11 quite a few contractors out of business, and it's very
12 important that we get the numbers right and use that
13 data as the basis for moving forward.

14 Thank you.

15 CHAIRPERSON NICHOLS: Thanks. We are really
16 looking forward to that proposal, too.

17 MS. HOLMES-GEN: Good afternoon, if I can zip
18 ahead here. Bonnie Holmes-Gen -- I think I'm next --
19 with the American Lung Association of California.

20 CHAIRPERSON NICHOLS: Could you speak up or
21 into the mic. Don't play with it or it will just balk.

22 MS. HOLMES-GEN: All right. I won't touch it.
23 Can you hear me now?

24 CHAIRPERSON NICHOLS: Yes. Thank you.

25 MS. HOLMES-GEN: Okay, I'll start over again.

1 Bonnie Holmes-Gen with the American Lung Association in
2 California, and of course the American Lung Association
3 has been a strong supporter of your Board's development
4 and adoption of these regs, of the truck and bus and the
5 off-road equipment regulation, due to the serious health
6 impacts from exhaust from dirty diesel engines. And we
7 believe these measures are critical public health
8 measures, critical to clean up the air quality, clean up
9 air pollution in our state, and critical to our ability
10 to comply with our Federal Clean Air Act obligations.

11 And we just don't want to lose sight of the
12 fact that diesel soot is a carcinogen, and we are
13 suffering in the state of California -- asthma attacks,
14 hospitalizations, emergency room visits and early death
15 from exposure to diesel soot.

16 We believe strongly that we have to move
17 forward to implement these regulations. And we
18 appreciate the need to understand and calculate the
19 effects of the economy on diesel fleets and the need for
20 some additional flexibility to address the economic
21 impacts, and we have stated that in our previous
22 testimony before the Board. And we've been especially
23 open to flexibility for small operators. But we do
24 continue to oppose any across-the-board delays in the
25 regulations. We don't think that's the way to go.

1 We greatly appreciate the Chair's comments at
2 the beginning of the hearing focusing on the importance
3 of the public health benefits, and we agree with the ten
4 guiding principles that the Board has put out today.

5 And I would like to emphasize that in looking
6 at options for additional flexibility, we want to make
7 sure you don't lose sight of the need, of course, to get
8 these near-term public health benefits in addition to
9 meeting our SIP obligations, and that we do need to
10 reduce dirty diesel soot now because communities are
11 suffering now from illness and death that's directly
12 related to this soot exposure.

13 The SIP deadline is an important measure of how
14 we're doing, but again we also need to look at the
15 near-term community health impacts.

16 In terms of next steps, we agree with the steps
17 that you've laid out to get additional analysis, to
18 understand the emissions budget, but we do believe that
19 in developing specific recommendations that the Board
20 should continue to focus on flexibility, again, for
21 smaller businesses, smaller operators. And we think
22 that the Board has already given a great deal of
23 flexibility, especially with regard to the off-road
24 regulation.

25 We also believe that it's extremely important

1 that we continue to focus on what we can do and how we
2 can partner with you to help owners of diesel trucks and
3 buses and construction equipment through making the
4 maximum use of the incentive funding that's available
5 and working harder to seek some additional funding.

6 And we need to make sure that we're strongly
7 promoting the use of these funds. We appreciate the
8 work that the Board has done in getting the Prop 1B
9 funds out and the Carl Moyer funds, and we especially
10 appreciate the Board's leadership in working with the
11 air districts in that regard. So we want to continue to
12 partner with you on that effort. Thank you.

13 CHAIRPERSON NICHOLS: Thank you very much.
14 Nidia Bautista and then Andy Katz.

15 MS. BAUTISTA: Good afternoon, Chair and
16 Members of the Board. I'm a little short for this tall
17 microphone, so I'll do my best.

18 CHAIRPERSON NICHOLS: I'm sorry, we should have
19 a box.

20 MS. BAUTISTA: I need the Barbara Boxer box.
21 I'm Nidia Bautista, Policy Director at the
22 Coalition for Clean Air. I just have a few short
23 comments.

24 I want to emphasize the comments that my
25 colleagues also made. What we want to ensure is while

1 we appreciate the need for some flexibility, and we've
2 stated that previously, we want to ensure that any
3 decisions that are being made, that there is
4 corresponding data for that decision. And I really
5 appreciate the staff's mention of a surgical, the
6 surgical approach, basically, here, in that the same way
7 a surgeon might, you know, be sharing with you, these
8 are the cuts that need to happen, they would also
9 provide you the corresponding health data that's related
10 to those cuts. And that's basically what we're asking
11 from the staff.

12 And we really urge the Board to direct the
13 staff to provide that so that when we're making
14 decisions about any relief that's going to be provided
15 that it's very clear what the health benefits are that
16 correspond to those reductions, or the health
17 dis-benefits in this case.

18 Ideally we're staying within the means of that
19 budget and we are hopeful that that's what's going to
20 happen, but the reality is that, you know, if we're just
21 approached with these are the choices but that data is
22 not available, then it makes it very unclear to us and
23 we don't have the confidence to know what exactly we're
24 -- the choice that we are making.

25 And specifically, that's the diesel -- the

1 localized diesel risk -- excuse me -- exposure as well
2 as the SIP commitments, and not just for the South Coast
3 but also for the San Joaquin Valley which is also very
4 important since the diesel truck rule in particular is
5 such a critical piece of the San Joaquin Valley's
6 emissions. Thank you.

7 CHAIRPERSON NICHOLS: Thank you. Andy Katz and
8 then Nick Pfeifer.

9 MR. KATZ: Good afternoon, Chair Nichols and
10 Board. I'm Andy Katz with Breathe California, and I
11 want to agree with the concerns expressed by Coalition
12 for Clean Air and American Lung Association and Union of
13 Concerned Scientists.

14 We think that it's critical, as your proposed
15 guiding principles state, to maintain the public health
16 benefits in both regulations.

17 And it's important to do that because people
18 are constantly exposed to diesel pollution that causes
19 asthma attacks, that causes premature death, cancer and
20 cardiac impacts. So these health benefits are critical
21 to maintain.

22 With the reductions in emissions coming from
23 the recession, there is some reason to adjust the
24 regulation in very specific, surgical changes, but it's
25 important to stay fact-based, it's important to have

1 very clear and undisputed quantification of these
2 changes so that advocates on the clean air side and
3 industry can look at the changes and realize that this
4 is actually what's happening because of the economy.

5 And more importantly, as the economy rebounds,
6 that there is a mechanism to adjust. Because we need to
7 have these health benefits, and if the economy rebounds
8 we need to have a mechanism to keep track and keep
9 progress with these health benefits.

10 So there is an important reason to make sure
11 that this is a very careful approach and that the
12 options are not just put out in terms of overall delays,
13 because that would actually not help some of the small
14 fleets that we're hearing are struggling, and that would
15 actually go too far and cause a loss of the health
16 benefits without providing the economic benefits that
17 you're interested in providing at the same time.

18 So I do want to encourage for a safeguard to
19 make sure that there is a way to address the economy
20 rebounding as well as preserving the health benefits in
21 this rule.

22 Thank you.

23 CHAIRPERSON NICHOLS: Thank you.

24 Nick Pfeifer and then Matt Schrap, and that
25 would be the end of my list.

1 MR. PFEIFER: I'm Nick Pfeifer with Granite
2 Construction. Granite owns a fleet of about 900 pieces
3 of off-road equipment, and also owns a fleet of about
4 900 on-highway trucks, so I'd like to think we have a
5 pretty good understanding of exactly what fleets are up
6 against with both of these rules.

7 I also serve on the ORIAG and TRAC committees
8 and have been engaged with CARB staff for the last five
9 years or so as these things have been developed.

10 I would like to thank staff for noting some of
11 our comments over the last couple of months in their
12 presentation, but would like to stress two specific
13 items that I'd like to be considered with any
14 amendments.

15 The first is that they need to protect
16 proactive and compliant fleets. Some items here that I
17 just want to hit on, there needs to be fair and
18 equitable enforcement of these rules as they're on the
19 books to protect fleets that have taken actions and
20 invested money in complying.

21 With regard to any amendments, there needs to
22 be recognition of and reward for early action similar to
23 what was done with the AB 2X credits rewarding the early
24 repowers, things like that.

25 And then lastly, there needs to be adequate

1 time between any amendments and the compliance dates
2 that those amendments affect so that fleets can adjust
3 their compliance strategies.

4 It's a very complex thing. There's budget
5 cycles. You have to invest money years in advance of
6 the compliance date. So there needs to be time for
7 fleets to adjust their strategies.

8 This being said, Granite operates in the same
9 construction industry that the rest of the people who
10 have testified today operate in. The industry, the
11 market is down in California. There is no disputing
12 that. And so we feel there needs to be some relief
13 given so that there is some breathing room there.

14 Looking at it from Granite's perspective with a
15 diverse fleet of equipment of not only on-road and
16 off-road but portable equipment and everything else, the
17 single largest hurdle for us compliance-wise is the 2014
18 on-highway DPF deadline. That's what construction
19 companies run up against because it's such a
20 black-and-white deadline. And for many vocational
21 trucks, there is not a retrofit option. Given, there's
22 been a lot of developments in retrofit technology, but
23 the trucks just do not lend themselves to retrofit.

24 So to close I would say that we definitely
25 think there is a lot of merit in the bubble concept

1 that's been floated out there. That would allow fleets
2 to manage the compliance with these rules the same way
3 that they manage their fleet as one big fleet of
4 equipment.

5 And just to reiterate, the two items I'd like
6 to stress is the need to protect proactive and compliant
7 fleets; and secondly, to allow some economic relief over
8 the foreseeable future.

9 Thank you.

10 CHAIRPERSON NICHOLS: Thank you. And the last,
11 Mr. Schrap.

12 MR. SCHRAP: Last, but certainly least as I'm
13 usually referred to. My name is Matt Schrap. I'm
14 Director of Environmental Affairs at the California
15 Trucking Association. I appreciate the opportunity to
16 come and address the Board here. I will keep these
17 comments extremely brief knowing that we're on the
18 downward side of this today.

19 I'd like to start by, I guess, reiterating some
20 things that Mr. Lewis had said from the CIAQC
21 organization.

22 It is important to get these numbers right.
23 And if anything that I've taken away today besides
24 knowing how many plastic bags a consumer uses in one
25 year is that I have renewed vigor to have a third-party

1 analysis done for the on-road side, because it's clear
2 that we're only going to be as good as the facts that
3 we're going to be able to have.

4 And I would agree with, also, my
5 environmentalist colleagues that fact-based data is what
6 we need to work with here.

7 There's a couple things from the on-road side
8 that I'd like to address. Although this was very
9 off-road heavy, some of the proposed short-term relief
10 amendments, I think, are a little confusing when the
11 staff refers to deferring PM filter requirements for all
12 fleets for up to two years, and then going on in another
13 bullet directly after that it says defer all PM filter
14 requirements for fleets with 20 or fewer trucks. And I
15 can be sensitive to the fact that smaller fleets are
16 having a hard time complying, but I can guarantee that
17 across the board in our entire membership, everybody is
18 struggling to comply with ARB regs, from the Drayage
19 regs, the TRU regs, to this on-road reg as well as the
20 many other regulations we will be facing in the future
21 such as hybridization and whatnot.

22 I'm encouraged by the Bay Area and South Coast
23 Air Quality Management Districts to request more
24 flexibility in the funding, but I would have to say that
25 any of these conditional considerations that are taken

1 in for short-term relief, something, as my colleague
2 from Granite had mentioned, needs to be taken into
3 account for those fleets who have been extremely
4 proactive in retrofitting their fleets or replacing
5 their fleets.

6 We're working in a very interesting competitive
7 environment here in California where we have in-state
8 and out-of-state fleets competing for the same cargo.
9 So those in-state fleets that have made substantial
10 investments leading up to this regulation only to have
11 it pushed out even further are still competing in the
12 same rate structure they were prior to that.

13 So I would just say if you could direct staff
14 to look at one other potential relief option, which
15 would be for the long-term as well, which would be to
16 provide some early incentive-type credit, that is
17 encouraging to see, could extend past 2014.

18 But I just wanted to mention that, and with
19 that I will close. And thank you again.

20 CHAIRPERSON NICHOLS: Thank you very much.

21 That concludes the list of witnesses on this
22 item.

23 Staff, do you have any additional comments
24 before we turn back to the Board discussion?

25 EXECUTIVE OFFICER GOLDSTENE: We'll just talk

1 about a few of the items that were raised and then take
2 questions.

3 CHAIRPERSON NICHOLS: Speak up. You're all
4 being soft. Either I'm losing my hearing or you really
5 are all speaking softly.

6 ASSISTANT CHIEF WHITE: No one ever accused me
7 of not talking loudly.

8 I just want to say I think as we sat today and
9 heard the testimony we heard a number of very good
10 suggestions of things for us to look through. I was
11 also encouraged that there seemed to be a great deal of
12 support around the principles that we've laid out.

13 And I think, especially with these last
14 commenters, the need to get the numbers right, I think I
15 can safely say at the staff level we firmly believe we
16 need to get the numbers right. And that the decisions
17 we -- the proposals we have moving forward certainly
18 reflect the best data that we have available, and we
19 plan to work with the stakeholders on those numbers so
20 that by the time we come back with you we have numbers
21 that those that are engaged in this process have had a
22 chance to look at, to understand, to comment on as we
23 move forward.

24 CHAIRPERSON NICHOLS: Isn't it also the case
25 that one of the people that you wanted to bring in was,

1 in fact, the author of the article that originally
2 criticized the ARB's inventory, Mr. Harley, Professor
3 Harley?

4 ASSISTANT CHIEF WHITE: We certainly plan to
5 continue to have conversations. We have talked with him
6 quite a bit already about how his work was performed,
7 and we'll continue to have discussions with him as we
8 move forward and we start to look at the issue of fuel
9 use and how that pairs up with the emission estimates
10 that we developed through our own emission inventory
11 methodology.

12 CHAIRPERSON NICHOLS: And obviously there's
13 other technical experts out there that work with the
14 trucking industry, and they'll be involved in looking at
15 the numbers as well.

16 ASSISTANT CHIEF WHITE: Yes.

17 CHAIRPERSON NICHOLS: Good. Okay. Well, I'm
18 sure there are questions and comments from the Board.
19 It's clear that there is a need for a new look at these
20 two rules, and I do think the idea that they need to be
21 looked at together and perhaps even more broadly in the
22 case of some of the other rules that might be implicated
23 by a bubble concept for larger fleets or
24 construction-oriented fleets is a really healthy one.

25 I just wanted to say a couple of things. This

1 is not a planned presentation, particularly, but I think
2 that overall the staff deserves to be commended for not
3 only recognizing reality when it is obvious that we've
4 got a serious problem and also that there is a need for
5 change, but really for trying to think in a positive,
6 forward direction and lay out the principles as opposed
7 to just making proposals.

8 I think this is a good approach to let the
9 public know what the criteria and the principles are
10 that you're using as you're designing the rule so that
11 everybody can be involved in a very open way. I think
12 that's very helpful.

13 I also think that one of the hallmarks of an
14 organization that is strong is that when your facts are
15 challenged that you do go out and look at them and try
16 to make sure that you've got it right. And I think that
17 the fact that you're doing that now and that you are
18 working to get it right and not just defend what was
19 there before but actually try to understand how it
20 happened is also healthy.

21 My own view is that having attempted to
22 construct a bottoms-up inventory, as you did in the
23 beginning, was a good idea. If you had tried to rely
24 only on a top-down extrapolation from fuel sales, you
25 would have been justly criticized for not trying to go

1 out and get real data.

2 So the fact that you built your model based on
3 real data was a good idea, and the fact that there is
4 another way of looking at this which now causes you to
5 go back and say maybe there were some problems with that
6 data is only to be expected. But obviously there are
7 also consequences there in the real world.

8 And I appreciate very much the willingness of
9 so many people from the industry to stay with the
10 process and to help us get it right, which they have
11 done. And I recognize that during that interim period
12 people have had to make decisions, and some have made
13 investments, and that we want to make sure that people
14 who did step out early and make investments in
15 anticipation of future rules or just because it was the
16 right thing to do, that those people should be protected
17 and not feel like they have been punished for doing the
18 right thing. So I think that's an important
19 consideration, and I know it's part of your list.

20 I want to say also just a word to the people
21 who come here, and some of them have been here before
22 and I'm sure they'll be back again.

23 One of the things that makes this a country
24 where we celebrate Earth Day and not Lenin's birthday is
25 the fact that this Board does listen to and welcome

1 people even when they come in and insult us or attack
2 us. This is a public space and you are entitled to come
3 here and you can say anything you want when you are here
4 short of things that are actually illegal like threats.

5 But having said that, I think it's also as a
6 participant in the process helpful if at least from time
7 to time you would also try to at least recognize that
8 what we're doing here is only one piece of what goes on
9 in government and in the world of the State of
10 California, particularly when it comes to issues like
11 public health.

12 You know, we didn't make this stuff up. We are
13 here because we have data that's given to us about the
14 state of air pollution research. Does that mean that we
15 believe that air pollution is the only thing that's
16 going on in the world? No, we don't. Do we believe
17 that air pollution is the most important threat to
18 people's health? We know that's not true. We know
19 there's many things including genetics as well as
20 stresses and occupational illnesses and how people live
21 their lives that affect their health and their death
22 rates. And I don't believe anybody has ever tried to
23 say that air pollution was the only reason why people
24 die, because I think we know that everybody dies no
25 matter what.

1 So we don't really need to have to debate that
2 issue every time we're dealing in a regulatory context.
3 We can just sort of stipulate that this is just the
4 problem that we are here to deal with, which is the air
5 pollution problem, and try to do our best with it in the
6 context of knowing what else is going on in the real
7 world. And if that means that we have to be humble
8 about how much we can accomplish, well, that's a fair
9 thing to tell us. We need to be reminded of this.

10 So having said that, I do think we want to
11 direct the staff, as they proposed, to go back and to
12 consult with the public along the lines that they've
13 described and to come back with a broad set of proposals
14 for changes to the rule that reflect the current
15 emissions inventory and likely projections. And if
16 there's additional comments or questions or things that
17 people heard that they feel aren't included, maybe Board
18 Members would like to now add to that list of things
19 they would like to see the staff considering.

20 So I see Ms. D'Adamo, her pencil up in the air.

21 BOARD MEMBER D'ADAMO: Just real quickly I just
22 want to reiterate my support for the rule, and I concur
23 with all of your comments, Chairman. And think it seems
24 that staff is headed in the right direction anyway to
25 already take some of the comments that were raised. But

1 just to quickly go through the ones that I've written
2 down. That we need to get the inventory right. I think
3 we need to have a budget. It looks like you're already
4 working with the stakeholders, but as I was involved
5 with the ag portion of the rule, it was really helpful
6 to have a budget going in so that then you provide that
7 information to the stakeholders and hear from them about
8 what works best, and of course including the
9 environmental community in that because of the exposure
10 issues.

11 As far as for those that have already complied,
12 I don't think we just need to protect them; I think we
13 need to reward them and somehow provide incentives for
14 additional early action because there is going to be a
15 window there where the rules don't kick in, in some
16 cases, for a while.

17 And then something that I think one witness
18 brought up, and that has to do with incentive funds. I
19 think it would be helpful to look at the incentive funds
20 as you go through and look at compliance dates so that
21 we can open up the window of opportunity for as many
22 people as possible.

23 And then I did have just one question seeking
24 clarification on the diesel particulate retrofits, a
25 two-year delay. What does that mean in terms of any

1 reduction in the number of vehicles that would have to
2 be touched twice? So if we extend that date, will it
3 result in a certain number of vehicles not having to
4 deal with the retrofit requirement at all and instead --
5 because some of the categories don't have that
6 requirement until the out years anyway.

7 HEAVY-DUTY DIESEL IMPLEMENTATION BRANCH

8 CHIEF BRASIL: This is Tony Brasil, I'm the
9 Branch Chief overseeing the truck rules.

10 I can't respond with specific numbers, but
11 clearly given the rule, the 2013/2014 time frame, and in
12 particular the 100 percent PM filter requirement, fleets
13 would benefit and reduce the potential for having to
14 replace a truck that would have a filter within a
15 four-year cycle.

16 That would reduce the potential for that to
17 happen and would, in fact, reduce the number of vehicles
18 that they would have to touch twice, as you've said.
19 And then we would quantify that in looking at any
20 provisions like that and identify how that would change
21 the costs of compliance.

22 BOARD MEMBER D'ADAMO: I clearly understand
23 that, and I know we already adopted the rule. Everyone
24 understands the public health implications and why we
25 need retrofits. But the thing that I think just doesn't

1 sit right with the industry and just common sense, is if
2 you look at just that investment you put into it,
3 retrofit, and then you have to turn around a few years
4 later and touch the truck again or get rid of it. So
5 anything that can be done to increase those numbers so
6 that the truck can just be dealt with one time, I think,
7 would be a good thing.

8 CHAIRPERSON NICHOLS: Okay. Yes, Mr. Roberts.

9 BOARD MEMBER ROBERTS: I'd like to just make a
10 couple points here quickly.

11 First of all, I support the rule, and I've been
12 involved with diesel as a toxic for a long, long time.
13 I also, and this may seem strange, but I want to
14 compliment staff on something that happened today and
15 that was bringing forward, even though there is quite a
16 divergence in what we thought was there and what you're
17 finding out, I feel much better when we hear about that
18 in an open meeting and we're advised of it and we're
19 acknowledging, hey, we had something that we were off,
20 irrespective of how much it is. It means we've got some
21 work to do, but I think it's far more reassuring whether
22 you're a regulator or the regulatees, you'll have a
23 little more comfort when you have confidence that you're
24 being treated honestly and fairly. And I think that's
25 happening here.

1 And while I'm disappointed that we were off, I
2 want to acknowledge that the way it's been handled, I'm
3 appreciative. We've got some work to do, obviously. It
4 suggests and you suggested in your staff reports that
5 we're going to go back and we're going to use the other
6 model as a check on where we are, and maybe we can start
7 to refine these numbers. But I think that clearly is
8 critical.

9 We're in kind of a suspended period now because
10 you don't have a waiver and we can't sort of put this
11 into practice right now anywhere. I think at least from
12 some of the testimony it sounded like there was a little
13 bit of concern that if somehow we got the waiver that
14 overnight we might put this in to implement this. I
15 don't think that's the case, and I guess I want to hear
16 that that's not the case, that we're going to -- except
17 for those things you said, the licensing, the idling and
18 the reporting, we're going to hold off and we're going
19 to revisit this and we're going to get it worked out
20 before we go ahead and do any implementation. Is that
21 -- am I incorrect?

22 EXECUTIVE OFFICER GOLDSTENE: We would make
23 sure that the industry would have plenty of lead time
24 after the granting of the authority from EPA.

25 BOARD MEMBER ROBERTS: Okay. So anybody that's

1 out there nervous will have an opportunity to at least
2 see that we work our way through the issues that have
3 been raised.

4 I personally want to say that I'm concerned
5 when I hear -- and I hear it constantly no matter where
6 -- that somehow we need to draw distinctions between
7 larger firms and smaller firms. All the firms are
8 suffering with this economy right now. There might be
9 one firm or two firms that are -- in the whole state
10 that aren't, but this is not a haves and have-nots.
11 Everybody is suffering.

12 And I would be very concerned about drawing
13 distinctions based on some guess as to who belongs as a
14 small firm and who belongs as a large firm. I'll just
15 say that for me personally, and I'll be looking at
16 anything we do along those lines. I want to see that we
17 get -- I want to ultimately get the rule, but I want to
18 see that our companies are largely intact and have an
19 opportunity to do business here and continue to do
20 business here in California.

21 CHAIRPERSON NICHOLS: Good. Yes, Dr. Telles.

22 BOARD MEMBER TELLES: I was maybe a little --
23 more than a little disturbed to know that on the eve of
24 launching this regulation the staff comes up with an
25 estimate of an inventory that's twice of what their

1 original estimate was. And to me it would be very
2 important to find out what the process, where the
3 process fell down in estimating this.

4 I'm sure it's a difficult thing to do, but to
5 be off by close to 200 percent and then the industry
6 here estimates about 350 percent, I think that that's --
7 that's -- I hate to say the word failure, but I think
8 it's a failure of the organization to not be that close,
9 I mean to be off by 200 percent and have such an
10 important regulation regulating an industry and to be
11 off that much, it's just a little bit incredible to me.

12 But having said that, I think it would be
13 worthwhile to look into the three recommendations made
14 by the Association of General Contractors in their
15 letter of April 14, 2010 to us. And I think you have a
16 copy of that letter. I think it would be important to
17 have staff look at those three recommendations, run it
18 through, and see if those would significantly affect the
19 outcome of this.

20 I'm talking about the recommendations one as
21 they apply -- the small fleet requirement to all the --
22 all the fleets, clarify existing exemptions and
23 regulations to make it clear that exempt vehicles should
24 not be included in the calculation of fleet averages or
25 compliance with target rates.

1 And I think this is even more important, to
2 create a safe harbor, financial safe harbor for firms
3 which are at financial risk.

4 I don't know how the rest of the Board feels
5 about that, but I think it's worthwhile looking into
6 that. In the San Joaquin District we do have safe
7 harbor provisions not to jeopardize any business by our
8 regulations and we have special provisions for that. I
9 think it would be important to do that at a state level,
10 too.

11 CHAIRPERSON NICHOLS: Professor Sperling, and
12 then we'll move down to this side.

13 BOARD MEMBER SPERLING: I just want to say that
14 I think it's unfair to criticize the staff for this
15 analysis. I think that the approach they used was the
16 appropriate one originally using a bottom-up analysis.
17 That's the way they should have done it, and
18 circumstances changed. It's a difficult, very difficult
19 analysis. This is very difficult data to be working
20 with. So I just want to say that a criticism of the
21 analytical efforts is unfounded, I think.

22 CHAIRPERSON NICHOLS: All right. Everybody
23 down here, so we'll just start with you.

24 BOARD MEMBER RIORDAN: Thank you, Chairman
25 Nichols.

1 I certainly do agree with many of my colleagues
2 and what they have said, particularly in looking at
3 early incentives and giving serious consideration to
4 those who have already done a lot of the work.

5 I also think that early incentives help us with
6 encouraging innovation and all the things that have to
7 do with the emissions control systems that people have
8 invested in, and a lot of those are companies here in
9 California.

10 So if we could do something to kind of
11 encourage that and to help that along, I think that's a
12 good thing. Unlike maybe Dr. Telles, I really have to
13 know a lot about what a, quote, safe harbor is. I think
14 that understanding -- I understand where you're coming
15 from, to help people who have great hardship, but I also
16 know that you really have to have an analysis of the
17 business and how it's working and who is taking what as
18 a write-off and who has used this for whatever.

19 I think where I'd rather go is to giving a lot
20 of consideration to low mileage vehicles, increasing
21 that opportunity, and low-use vehicles. A lot of
22 companies are parking a lot of equipment, and it seems
23 to me as long as it stays parked it certainly should be
24 given some consideration for compliance until it's
25 brought back into use and then maybe a particular amount

1 of time before it has to be cleaned up.

2 So I'd rather see something like that that's a
3 little bit easier to monitor and to know that you've not
4 gotten into the books of a company.

5 I just think that staff has done a good job of
6 moving forward and working this through. Who would have
7 known many years ago that this was going to happen in
8 terms of the construction industry? It was one of the
9 strongest industries in California not that many years
10 ago. So we need to kind of look at this. And it feeds
11 all of the other industries that we're talking about,
12 too, but it certainly is key to the construction
13 industry.

14 And finally, I think what we would benefit from
15 is as you go about comparing the, for instance this last
16 report that came in from the Sierra Research, something
17 that would give us a pretty simple thumbnail review of
18 the differences and why it has occurred, because I know
19 sometimes it's assumptions, sometimes it's little tweaks
20 that have occurred that we need to understand, and not
21 all of us are modelers, I want to say that after hearing
22 yesterday's presentation. Not all of us are modelers.
23 We need it to be sort of said in very simple terms.
24 Some of us. Not all of us, but some of us.

25 Thank you.

1 CHAIRPERSON NICHOLS: Okay. Dr. Balmes.

2 BOARD MEMBER BALMES: Well, I think I'll start
3 by following up on Ms. Riordan's comments about
4 modeling. Yesterday we had various models presented in
5 terms of the economic analysis, and the modelers came
6 from different perspectives. But when all was said and
7 done, I think we left that meeting with relative
8 confidence that all the models were sort of in the same
9 ballpark. And I would encourage staff to work with AGC
10 to try to see if we can reconcile the models. I'm sure
11 it's due to different input data, different assumptions.

12 But if we could have some kind of workshop like
13 we had yesterday for the economic analysis where we
14 could get everybody in the same room and try to
15 understand why the models are so different, I think that
16 would give confidence to the Board about moving forward
17 with any recommendation that staff puts forward. That's
18 just a suggestion.

19 I liked several of the suggestions of the Bay
20 Area Air Quality Management District to try to improve
21 access to funds to deal with either retrofitting or
22 buying new trucks, and I think access to capital has
23 been a big issue. And so I don't know whether we could
24 do anything to come up with a negotiated loan guarantee
25 program with low interest rates, but that sounded like

1 an excellent idea.

2 I've heard from several trucking firms that
3 have come to speak to me about that. As nice as our
4 various initiative programs are, without access to
5 capital, they can't do much with them. So if we can do
6 something, I'd like to see us move in that direction.

7 I also am concerned about a bottleneck as we've
8 already had with the Drayage Truck, so that whatever
9 changes to the rule, implementation of the rule that we
10 make, I don't want to see us all of a sudden in two
11 years or three years have a bunch of people trying to
12 get trucks that aren't available.

13 And I'll add to the -- I think it's probably
14 close to unanimous so far -- opinion of my colleagues
15 that we have to give credit for firms that have already
16 made efforts to comply. I think it's only fair and the
17 right thing to do, and as Ms. Riordan said, would
18 encourage innovation and appropriate behavior by others.

19 So I think I would add to or echo what
20 Supervisor Roberts said. I think what I heard today,
21 the staff saying publicly that maybe the estimates we
22 had before are off, and by a fairly large margin, is
23 healthy. And I think we should just build from that
24 healthy start to work with those that have presented a
25 different model and try to figure out the differences so

1 that we can move forward more or less together as
2 opposed to constant conflict.

3 CHAIRPERSON NICHOLS: Great. Ms. Berg.

4 BOARD MEMBER BERG: Thank you. I will make it
5 unanimous amongst the Board members. I agree on the
6 early movers, that they absolutely should be rewarded
7 for the investment they have made.

8 I think a couple of -- I'm not going to
9 reiterate what my other fellow Board Members have said
10 that I think are very important, but I think we have to
11 be mindful, since we're doing two rules, we're looking
12 at two rules simultaneously, that we have to be very
13 mindful to apply the emissions credits appropriately to
14 where they belong. Because otherwise there is just
15 going to be a sense from one industry to another that
16 one has given and didn't get credit for it.

17 So I think we need to be able to justify how we
18 are identifying those emissions credits, even though I'm
19 in full agreement that we need to look at the rules
20 together in order not to make a mistake of missing the
21 SIP by looking at them separately.

22 Secondly, I've attended a lot of the workshops,
23 and I've heard a lot of this testimony, and I know the
24 difficulty on both sides of the fence. But I think it
25 is absolutely critical that we do not come back with a

1 plan that only postpones the day of reckoning. So it is
2 critical, in my opinion, that we are not coming up with
3 a program that is going to have a balloon payment in
4 2000 -- whatever years you want to talk about -- 13, 14,
5 15. And I feel really, really strongly about that.

6 And secondly, I think that we really have to
7 look at the issues of the cost of the PM and the cost of
8 the NOx. One of the things that just made this rule so
9 burdensome is trying to do both at the same time. And I
10 would really recommend that following Board Member
11 D'Adamo's comment of trying to touch the truck once or
12 the unit once is the ideal situation. But if that's not
13 possible, the useful life of the expenditure is
14 something also that we need to look at.

15 So obviously we have a PM deadline by 2015, and
16 we have to be mindful of that, of course, and on target
17 for that, but I think that we have some room on the NOx,
18 and we need to take a look at that.

19 And then finally, one of the things we just
20 haven't talked about, and that is there is a deflation
21 of the asset value because of this rule, and that has
22 not allowed the access to capital on top of the
23 financial market collapse. And so where we can take a
24 look at the incentive and whatever I can do to help
25 through the Incentive Advisory Group to see how we can

1 be more proactive on the incentive funding, or as
2 Dr. Balmes suggested, on a low interest loan guarantee
3 program, and I know that our Executive Officer has
4 offered to also take a look at how we could structure
5 such a program, maybe we need to step up through the
6 Incentive Advisory Group's actions towards that as part
7 of the solution as well. So I want to offer assistance
8 on that.

9 Thank you, staff. I know this has been
10 gut-wrenching, and I don't want to not acknowledge that
11 and the long hours, and I really do appreciate your
12 efforts.

13 CHAIRPERSON NICHOLS: Thank you for your
14 comments.

15 Just a quick question. We recently signed a
16 loan agreement with EPA for \$5 million in ARRA funding
17 for loan guarantee programs. What are those applicable
18 to?

19 CHIEF DEPUTY EXECUTIVE OFFICER CACKETTE:
20 Right. We actually have two loan guarantee programs.
21 We have one in place for trucks now that we paid out of
22 the 118 funds that we had, and then just the day before
23 yesterday we signed a grant agreement for a loan
24 guarantee program for off-road, which is \$5 million
25 guaranteed.

1 But that should generate quite a bit of loan
2 money, probably seven times that much actual loan money.
3 So that will be in place within a few months. But right
4 now we're not expecting them to be used widely because
5 people are kind of waiting to see what happens with the
6 rule.

7 CHAIRPERSON NICHOLS: Right.

8 CHIEF DEPUTY EXECUTIVE OFFICER CACKETTE: So I
9 think their value will occur as soon as we nail down how
10 exactly we want to go forward.

11 CHAIRPERSON NICHOLS: But it is important just
12 to recognize that we do have the ability to make it
13 possible for people to get lower interest loans --

14 CHIEF DEPUTY EXECUTIVE OFFICER CACKETTE: Yes.

15 CHAIRPERSON NICHOLS: -- because of having
16 those guarantees. And that should be factored into the
17 thinking. I think that's a very good point that
18 Ms. Berg made.

19 BOARD MEMBER KENNARD: I'm the final
20 commentary. I have two comments.

21 One is I think I might be singular, again, on
22 this board of having sat in a staff position. And so
23 I'm very sensitive to the difficulty staff has. It's
24 easy for all of us to sit here as Monday morning
25 quarterbacks and say we got it wrong, and in fact

1 science is not exact, as we all know, and if any of you
2 out there could have anticipated this ever-changing
3 world that we are now faced with, I'd like to know you,
4 because I think it all hit us by surprise. And of
5 course in this context it changed the numbers
6 dramatically.

7 So I can't stress enough my support of staff in
8 terms of not having a failure, but in fact the dynamics
9 of the numbers change because of the marketplace and
10 market conditions.

11 My second comment is that I think if we look at
12 this in a much broader context, this is a great case
13 study for all of us in terms of being flexible to make
14 changes as our world changes and as how economics and
15 other conditions change what we may have done two or
16 three or five years ago. And to that point, as we are
17 decelerating this particular rule, we might have to look
18 forward in another context of accelerating a rule where
19 the numbers are going far beyond what we had thought.

20 So I just want to provide that bit of
21 commentary that the dynamics of the market will impact
22 us both negatively and positively.

23 CHAIRPERSON NICHOLS: Fair point.

24 All right. I think that has covered everyone
25 who wanted to make additional comments. We don't need a

1 formal closure of the record. The staff has presented
2 =us with recommendations for how they want to proceed in
3 terms of the timeline. We've given them some additional
4 direction, I think, in terms of the Board's priorities
5 for how you would like to look at this, and so just say
6 go forth and get to work, and thank you very much.

7 That will conclude this item. We do have a
8 time always for general public comment if there are
9 people who are here because they just want to say
10 something that's not related to any of the items that
11 we've heard today, we do allow time for that.

12 Oh, we have a board member comment. Okay.

13 Yes, you're so right. Board member comment comes first.

14 BOARD MEMBER BALMES: One thing I wanted to ask
15 the staff to look into is with the new NOx air quality
16 standard there is going to be near-road monitoring. And
17 I'm sure staff is well aware of that and is working hard
18 along with everything else to try to figure out how to
19 approach that. But I was hoping that we could get a
20 briefing on that in the near future.

21 DEPUTY EXECUTIVE OFFICER TERRY: Sure. And
22 just a little teaser is that staff has actually analyzed
23 what the federal requirement would be and it's, I think,
24 on the order of 16 or so monitors.

25 CHAIRPERSON NICHOLS: How many?

1 DEPUTY EXECUTIVE OFFICER TERRY: 16. 16, 20,
2 something in that range. And there's very specific
3 siting, so we have a pretty good idea of where those
4 monitors must go, so we're happy to share that.

5 BOARD MEMBER BALMES: And then also what would
6 be monitored, because I'm sure we will be monitoring
7 things other than NOx.

8 DEPUTY EXECUTIVE OFFICER TERRY: Yes.

9 CHAIRPERSON NICHOLS: Okay. So could we just
10 have that as an informational item? Sounds like you
11 could do it at the next Board Meeting.

12 EXECUTIVE OFFICER GOLDSTENE: We could do it at
13 the Board Meeting or we could send a report to the
14 Board. Do you want a Board presentation?

15 CHAIRPERSON NICHOLS: I think if you want to
16 prepare a brief written report and then put it on the
17 agenda, and then if people have any questions they can
18 delve into it a little further.

19 Okay. Any other board member comments before I
20 turn to the audience?

21 Okay. Any public comment?

22 Seeing none, we will be adjourned. Thank you
23 very much.

24 (Whereupon the meeting adjourned at 2:12 p.m.)

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CERTIFICATE OF REPORTER

I, DIXIE L. COOKSEY, a Certified Shorthand Reporter of the State of California, do hereby certify:

I am a disinterested person herein; that the foregoing hearing was reported in shorthand by me, a Certified Shorthand Reporter of the State of California, and thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said hearing nor in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 3rd day of May 2010.

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