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California State Senate

SENATOR
GILBERT CEDILLO
TWENTY-SECOND SENATE DISTRICT

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COLLEGE AND UNIVERSITY ADMISSIONS AND OUTREACH
ECONOMIC DEVELOPMENT

January 23, 2006

XC: Board Members 06-1-6
Chairman CEW 1/27/05
TJ MHS
KT Legal (AM/MT) SSD

cc:
Lori A. ✓
Rob O.
Patty Zwarts

Dr. Robert Sawyer, Chair
California Air Resources Board
1001 I Street
Sacramento, CA 95814

Orig to Bob S

RECEIVED
JAN 25 2006
AIR RESOURCES BOARD
CLERK OF THE BOARD

Subject: Rescind the Statewide Agreement with the Railroads

Dear Chairman Sawyer;

The California Air Resources Board (CARB) staff and Union Pacific Railroad Company (UPRR) and BNSF Railway Company entered into a Statewide Agreement that became effective on June 30, 2005. The Agreement, which obligates UPRR and BNSF to reduce emissions in and around California's rail yards and concerns have been raised that the process used to develop the Agreement was inadequate and the Agreement is weak, vulnerable, and limiting.

The process to develop the Agreement neglected to provide opportunities for collaboration or public participation. It was approved and executed by CARB staff, rather than the appointed governing Board, and it was developed and signed with little or no public, agency, or legislative input—despite ongoing local planning, rulemaking actions, and pending legislation on the same issues.

The closed process produced an agreement with ambiguous language and weak provisions. The Statewide Agreement imposes limitation on the Legislature, air districts, cities and counties, which limit our ability to control toxic diesel particulate pollution from growing goods movement sources in communities throughout California. Specifically, the goals, timetables, and lack of enforceability are inadequate, and the Statewide Agreement includes a termination clause that prevents state or local efforts from achieving additional diesel emission reductions needed throughout California. If the State Legislature pursues a bill to reduce diesel particulate pollution from the railroads, the Agreement could be jeopardized statewide. The instability of the

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Agreement weakens California's ability to reduce growing diesel emissions from expanding locomotive traffic, which is projected to double in the next two decades.

I recognize that CARB staff entered the State into this agreement before you were appointed to Chair of the CARB, and as the new Chair of one of the preeminent air quality agencies in the world, you have inherited this controversial issue. I encourage you to carefully review the adverse implications of ratifying or continuing the agreement. After a complete understanding of the substantive and procedural problems with the Agreement, I hope that you will lead the Board to consider rescinding the current Statewide Agreement and will expand opportunities for collaboration with the Legislature and the public.

At the October 27, 2005 CARB meeting the Board received numerous written submittals and the testimony of 74 witnesses. In response to concerns raised, CARB postponed Board action to ratify, amend or rescind the Agreement until its January 2006 meeting, now scheduled for January 27th in Sacramento. During the January 27th meeting, I respectfully request that you lead the Board to rescind the Statewide Agreement and work with the Legislature, air districts, and local government to craft a more robust and stable statewide agreement.

In the month of February the Legislature is considering holding a special hearing on the Statewide Agreement with the railroads. Thank you for your consideration of this request. If you would like to discuss this or any other issue further please contact me at (916) 651-4022.

Sincerely,

Gilbert Cedillo
Senator, 22nd District

cc: Governor Schwarzenegger
Senate Rules Committee Members
CARB Board Members